

Attachment J

**Additional Comments Received after the
Final EIS Comment Period**



STATE OF DELAWARE
DEPARTMENT OF AGRICULTURE
2320 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901

MICHAEL T. SCUSE
SECRETARY

HARRY D. SHOCKLEY
DEPUTY SECRETARY

TELEPHONE (302) 698 - 4500
DE ONLY (800) 282 - 8685
FAX (302) 697 - 6287

Mr. Mark Tudor, Project Director
Delaware Department of Transportation
800 Bay Road
Dover, DE 19901

January 29, 2008

Re: Rt. 301 Project, Strawberry Lane Connector & FEIS comments.

Dear Mr. Tudor:

Regarding the Strawberry Lane Connector options, the Delaware Department of Agriculture is in full support of Option 1 Modified. It is crucial for our agency to bring forth and protect the interests of the agriculture industry in Delaware. Based on the Quantitative Impact Comparison Matrix provided, Option 1 Modified protects agriculture, and minimizes impacts to the Clay farm, wetlands, forestland, and subaqueous lands.

As the Rt. 301 Project enters this next phase, the Delaware Department of Agriculture will continue to closely work with the project team and workgroup members to protect the right to farm. We are committed to the agriculture industry, and farms in the Farmland Preservation Program. We ask that the same review and consideration given to the Clay farm be given to the Gibson farm, and the Steele farm. The Gibson farm, located between Choptank and Bunker Hill road has been an active participant in the Farmland Preservation Program for over a decade. Though some impacts may be unavoidable, it is important to carefully study all alternatives that may provide the affected landowners with some degree of reparation; Since the Gibson farm is not permanently preserved, the permanent preservation of the areas not impacted by this project may be an avenue to be considered, after consultation with the owner.

Impacts to the Steele farm, which is also along Choptank road, are a major concern to our agency. The careful study of alternatives to minimize these impacts is essential in this process, and it is our agency's responsibility as a member of the working group to ensure that such alternatives are considered.

If our agency is able to provide any information that may be helpful during this detailed study phase, please contact me.

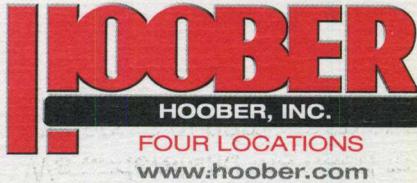
Sincerely,

Milton Melendez
Planner
Delaware Department of Agriculture
(302) 698-4534
Milton.Melendez@state.de.us

cc:
Michael T. Scuse, Secretary of Agriculture
Michael H. McGrath, Chief of Planning



Visit our website at: www.state.de.us/deptagri



February 1, 2008

State of Delaware
Department of Transportation
P.O. Box 778 – 800 Bay Road
Dover, Delaware 19903

Attention: Mark C. Tudor, Project Engineer

Dear Mr. Tudor,

As the manager of Hooper, Inc, I would like to state our case for locating the US 301 local access to Strawberry Lane along the corridor laid out in Option 1 dated March 2007. This option takes the access road through the woods immediately behind the planned weigh station.

As an agricultural enterprise we are dedicated to the preservation of prime farmland. Option 1 for the Strawberry Lane access saves acres of valuable farmland that New Castle County preserved for agriculture at significant expense. We understand the need to preserve "wetlands". But we believe that more than five acres of prime farmland has greater value than less than an acre of wetlands.

We greatly appreciate the State's decision to build the local access to Strawberry Lane. Please do the right thing and use Option 1 from the March 2007 map as the route for this road.

Thank you for your consideration,

Yours truly,

Charles A. Hooper, Vice President
Hooper, Inc
P.O. Box 107, 1130 Middletown-Warwick Rd
Middletown, DE 19709

CC – William Powers

Response to Milton Melendez:

As a result of requests received, Option 1 Modified is included as a part of the Selected Alternative. This option will closely parallel existing US 301, avoiding impacts to the preservation easement and reducing forest impacts to 1.6 acres. (Refer to **ROD, pages 61 to 65**).

Project commitments include the evaluation of the Spur Road alignment in the vicinity of the Steele property in an effort to reduce impacts (See **Attachment B, Commitment C-50**)

Response to Charles Hooper:

As a result of requests received, Option 1 Modified is included as a part of the Selected Alternative. This option will closely parallel existing US 301, avoiding impacts to the preservation easement and reducing forest impacts to 1.6 acres. Refer to **ROD, pages 61 to 65**.



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. Box 778
DOVER, DELAWARE 19903

CAROLANN WICKS, P.E.
SECRETARY

February 26, 2008

Mr. Dennis Clay
1034 Middletown-Warwick Road
Middletown, DE 19709

Dear Mr. Clay:

This is in reference to the proposed Strawberry Connector associated with the US301 and our previous discussions on the location of the connector. We have worked further with the environmental resource agencies and have received concurrence to move the Strawberry Lane Connector close to existing US301. The attached graphic shows this recommendation. This revised alignment will be detailed in the Record of Decision for the project.

I hope this recommendation addresses the concerns that you and others have raised in previous meetings. Thank you for your input and working with us on this issue, and we look forward to working with you as the US301 Project moves into design and ultimately construction.

Please contact me at (302) 760-2275 if you have any questions or need additional information.

Sincerely,

Mark Tudor
Group Engineer
North Project Development

MT:mtw
Enclosure

cc: The Honorable Bruce Ennis, State Senator (w/enclosure)
The Honorable Bethany Hall-Long, State Representative (w/enclosure)
The Honorable Christopher Coons, New Castle County Executive (w/enclosure)
The Honorable William Powers, New Castle County Councilman (w/enclosure)
Chuck Hooper, Hooper Inc. (w/enclosure)
Darrel Cole, Director, Public Relations
Drew Boyce, Assistant Director, Project Development, North



From: Andye Daley [mailto:andy13@atlanticbb.net]

Sent: Thu 2/21/2008 11:48 AM

To: Lofink Vincent (LegHall)

Cc: Lavelle Greg (LegHall); Stone Donna (LegHall); Mulrooney Michael (LegHall); Hocker Gerald (LegHall); Manolakos Nick T (LegHall); Venables Robert (LegHall); Blevins Patricia (LegHall); McDowell Harris (LegHall); gsimpson@udel.edu; scj56y@aol.com; Adams Nick A. (Auditors); rcathcart@desu.edu; Amick Steven (LegHall); Ennis Bruce (LegHall)

Subject: Bond Bill Members Highly Important Notifacation.

All Bond Bill Members,

Very important development in the Rt 301 By-Pass front. Please Read!

Last Thursday night DelDOT submitted an amendment to WILMAPCO's TIP.

First of all, we all know that WILMAPCO needs to do several appropriate things before they put a project on their "Priority list" they need to know the Air quality situation and if it meets these requirements. These test have NOT been done yet..... and need to be done before they get approval.... Second and even more important in this day an age... they need to show how they will pay for a project....

Last we all heard Del DOT's plan and desire, was to have the feds pay for 80% of this project.

This appears to have been thrown out the window... maybe perhaps they will not get the desired Record of Decision they have been hoping for.....About one month ago DelDOT submitted their FEIS (Final Environmental Impact Statement). We in the Coalition sent in 15 pages of comments against them in specific the "Spur" and the need of that road facility. Most notable the fact that the "Spur" has a footprint of a FOUR LANE Highway. They need to justify that for Federal Funding. Perhaps that's where the Feds had a problem.....

But more notably, in the FEIS they suggested that the 20% dollar amount, coming from Delaware, would be paid for by Bonds to be paid back with the Toll Revenue made on the very Road they are building. We in the Coalition have found (from FOIA e-mails right from DelDOT employees) that DelDOT has overestimated their Toll Revenue predictions by over 40%. That's with them paying only 20%.

Now the recent developments Suggests that We Delaware Taxpayers pay for **80% of this project through State money and Bond**. That's a grand total of \$ 682 MILLION Dollars. \$602 Million paid through these said BONDS. Are you kidding me? If DelDOT over predicted the 20% amount by over 40% can you imagine what the % is on 80%. How can we possible pay this back.... Leasing the Road.... If this is the way they will get Leasing of the Rt 301 road..... need I say more?

DelDOTs plan: **\$21 Million Federal Funds only for ROW (right of Way Acquisition)**
\$80.6 Million from the Transportation Trust Fund (TTF) Which in 2005 had a 1.5 Billion dollar Short fall
(who knows what the short fall is now.)
\$602 Million Bonds from Predicted Toll Revenue on the Constructed Road.

This is the poorest lack of judgment We in the Middletown Corridor Coalition have ever seen in Delaware. Our Lawmakers need to take note.... If this Road project is approved no other DelDOT road project can possibly be done for approximately 8-10 years. No 202 (Concord Pike Fix...), No I 95 Fix... No SR1 fix.... need I go on? All Del DOT needs for this Council to approve this getting on the TIP.... This needs to be stopped.....

Please help us and take a stand against this. There is a Meeting of this Council April 10th At 6:30 pm. We need to show in force. It is open to the public and we NEED to be there. It's at the WILMAPCO building 850 Library Ave. Suite 100, Newark DE 19711.

DelDOT is trying to put this in under the wire with no one there. For more information call me 302-378-2807 or 856-261-7400(cell)

Thank you,

Andye Daley
Middletown Corridor Coalition
302-378-2807

----- Original Message -----

From: Tudor Mark (DeIDOT)

To: Amick Steven (LegHall); Ennis Bruce (LegHall); Cathcart Richard (LegHall); Hall-Long Bethany (LegHall); Lofink Vincent (LegHall)

Cc: Wicks Carolann (DeIDOT); Taylor Brett (DeIDOT); Cole Darrel (DeIDOT); Reeb Ralph (DeIDOT)

Sent: Mon Feb 25 16:29:40 2008

Subject: US301 -WILMAPCO Workshop

State Elected Officials - As you may be aware, we received guidance from FHWA in late January 2008 that for FHWA to provide a Record of Decision (ROD) for the US301 Project (approve an alignment), the Project needs to be included in WILMAPCO's Long Range Transportation Plan and shown that it is "fiscally constrained" (in other words, the State has done a general assessment of costs and potential revenue sources and has indicated what projects can fit within these constraints within the WILMAPCO region). Currently, US301 is listed in the Long Range Plan, but until a good assessment of an alignment was completed, it was not recommended to be included in the "fiscally constrained" list. We had known that we would need to go through this process at some point in time, but the very recent guidance provided by FHWA indicated this needs to be completed at this time before a ROD is issued, and only after that point can the project proceed into final design, r/w acquisition, and ultimately construction.

One of the first steps in including this in the Long Range Plans is a workshop hosted by WILMAPCO's Public Advisory Committee (PAC), tonight from 4-7pm. As part of this workshop, WILMAPCO has asked us to provide information on conceptually how DeIDOT would anticipate the project would be funded over the the next 10 years. Attached is information that we have provided for the workshop. Generally speaking, it discusses the current estimates for the project (both in "today's" dollars and based upon inflation). It notes since the goal is to minimize impacts to the Statewide Capital Transportation Plan (CTP), the proposed approach would be to utilize bonds that are supported by tolls proceeds, at some point in the future. It also discusses the path forward.

Also please note that one of the requirements to include a major project like US301 in the Long Range Plan is that it passes air quality conformity. US301 was tested for air quality conformity in the past couple of months and passed for inclusion in next year's CTP, but this information needs to be finalized also for FY08 because of these recent guidelines.

There will be other steps that WILMAPCO anticipates taking over the next couple of months, and we will keep you advised on key issues that develop. Secretary Wicks has indicated that you can contact her directly if you have any additional questions at this time.

Thank you for your continued involvement in this important project.

Mark Tudor
DeIDOT US301 Project Director

3/6/2008

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From: Cole Darrel (DeIDOT)
Sent: Friday, March 07, 2008 11:22 AM
To: Lavelle Greg (LegHall)
Subject: RE: Bond Bill Members Highly Important Notifacation.

Rep. Lavelle;

Sorry took so long to get back to you.

The "other" is the revenue expected from toll bonds, as proposed right now. Obviously, this type financing is still simply proposed at this point, and would need Legislative action next year, which also means it would need the new Governor's OK as well.

As far as the timing, what you read in the News Journal and heard below from some residents isn't accurate. The intent for a possible toll facility was noted at the initial June 2005 public workshop sessions and at the additional five rounds of public workshop sessions, including the January 2007 public hearing sessions. Plans for a toll facility were also contained in the December 2006 Draft Environmental Impact Statement and the November 2007 Final Environmental Impact Statement, both public documents available for review and comment. We've also discussed this possibility freely and openly with the public and reporters throughout this involved process.

It was interesting to me in that the News Journal reporter that covered the story this time was new to the project. The regular transportation reporter told me days later that she was surprised his story angle was portrayed as it was because she has been aware of the toll discussion for some time, and would not have written it that way.

Also, two different Working Groups, which included members from DeIDOT, law enforcement, elected officials, and other technical staff (including representatives from the Maryland State Highway Administration), were established during the project development process. These Working Groups were primarily focused on the issue of heavy truck diversions, and developed a series of recommendations to help manage these diversions through a combination of truck restrictions on local roads and targeted enforcement efforts. A network of truck restrictions has been proposed on the roadways around the mainline US 301 toll plaza, located near the MD / DE state line, and is expected to encourage truck traffic (which is primarily moving through the Middletown area) to stay on new US 301 and minimize its potential to avoid the toll and then access existing US 301 and the roads in Middletown. To ensure adequate compliance with these truck restrictions, additional law enforcement efforts are also being pursued. We believe implementing these recommendations will further minimize US 301 through truck traffic in Middletown.

We will work to establish a tolling structure and toll rates to minimize diversions to alternate routes, including existing US 301, while optimizing the revenues from the new toll facility.

I hope that helps answer some of the below.

Darrel W. Cole
Director, Office of Public Relations

3/10/2008

RESPONSES TO MIDDLETOWN CORRIDOR COALITION COMMENTS

MCC Comment:

To: Lofink Vincent (LegHall)

Cc: Lavelle Greg (LegHall); Stone Donna (LegHal); Mulrooney Michael (LegHall); Hocker Gerald (LegHall); Manolakos Nick T (LegHall); Venables Robert (LegHall); Blevins Patricia (LegHall); McDowell Harris (LegHall); gsimpson@udel.edu; scj56y@aol.com; Adams Nick A. (Auditors); rcathcart@desu.edu; Amick Steven (LegHall); Ennis Bruce (LegHall)

Subject: Bond Bill Members Highly Important Notifacation.

All Bond Bill Members,

Very important development in the Rt 301 By-Pass front. Please Read!

Last Thursday night DelDOT submitted an amendment to WILMAPCO's TIP.

First of all, we all know that WILMAPCO needs to do several appropriate things before they put a project on their " Priority list" they need to know the Air quality situation and if it meets these requirements. These test have NOT been done yet..... and need to be done before they get approval.... Second and even more important in this day an age... they need to show how they will pay for a project....

Response: The regional air quality conformity analysis, including the US 301 project, has been completed. The US 301 project meets the air quality requirements.

MCC Comment: *Last we all heard Del DOT's plan and desire, was to have the feds pay for 80% of this project... This appears to have been thrown out the window...*

Response: DelDOT's goal has consistently been to implement US 301 while minimizing its impact on the State Transportation Trust Fund (TTF) and the Statewide Capital Transportation Plan (CTP), while not affecting DelDOT's bond rating or capacity to sell bonds for CTP projects. Thus, DelDOT's goal has been to minimize the use of state and federal funds and maximize the use of bonds supported by toll revenues. A funding concept that utilizes bonds, supported by the toll revenues appears to best meet the funding goal.

The option of funding US 301 with toll revenues was presented to the public as early as the initial June 2005 Public Workshop sessions, at four follow up workshop sessions and the January 2007 Public Hearing. The option was also presented in the Draft and Final Environmental Impact Statement, which were available for public review and comment at several convenient locations, as well as on the project website.

MCC Comment: *...maybe perhaps they will not get the desired Record of Decision they have been hoping for.....*

Response: Not Required

MCC Comment: *About one month ago DelDOT submitted their FEIS (Final Environmental Impact Statement). We in the Coalition sent in 15 pages of comments against them in specific the "Spur" and the need of that road facility.*

Response: The Final Environmental Impact Statement (FEIS) was circulated on December 14, 2007. The comment period ended on January 14, 2008. Responses to FEIS comments are contained in Sections I and J of this ROD.

MCC Comment: *Most notable the fact that the "Spur" has a footprint of a FOUR LANE Highway. They need to justify that for Federal Funding. Perhaps that's where the Feds had a problem.....*

Response: The median width of the proposed Spur Road is 62 feet and would accommodate the addition of one lane in each direction. However, such widening is not anticipated in the design period, i.e. prior to year 2030. This long-term widening would require a new bridge across the C&D Canal and major improvements to SR 896, north of the C&D Canal.

Prior to undertaking such widening, a new assessment of the impacts associated with such widening would be required, including environmental analysis and documentation, public outreach, and consultation with the environmental resource and regulatory agencies, i.e. a process similar to that undertaken over the past three years for the current US 301 project development effort.

An evaluation of the Spur Road median width will be undertaken during the final design phase. This commitment is included in the Record of Decision.

MCC Comment: *But more notably, in the FEIS they suggested that the 20% dollar amount, coming from Delaware, would be paid for by Bonds to be paid back with the Toll Revenue made on the very Road they are building.*

Response: The following is from page S-25 of the December 2007 FEIS:

“Summary of Costs and Financial Analysis

The US 301 project is proposed to be funded primarily through toll revenue bonds supported by tolls at four potential toll collection facilities along the build alternatives: 1) both directions at a US 301 mainline plaza located just north of the Delaware-Maryland Line; 2) north serving (to and from the north) interchange ramps at Levels Road; 3) north serving ramps at existing US 301 north of Armstrong Corner Road; and 4) north serving ramps to Jamison Corner Road. However, preliminary projections indicate that the toll revenues may not be adequate to completely fund the total

estimated cost of the project. State Transportation Trust Funds (TTF), TTF revenue Bonds, Federal funds, or Federal Grant Anticipation Revenue Vehicle (GARVEE) Bonds could be used to provide the remaining required funds. Options involving these and other potential funding sources will be evaluated.”

MCC Comment: *We in the Coalition have found (from FOIA e-mails right from DelDOT employees) that DelDOT has overestimated their Toll Revenue predictions by over 40%. That's with them paying only 20%.*

Response: The email in question discusses in general the state of the practice regarding toll revenue modeling, but does not indicate that the US 301 revenue estimates are “overestimated”. Rather, the email states that the regional demand model used to develop the US 301 toll revenue estimates has several key characteristics identified in NCHRP Synthesis 364 as vital for developing accurate toll revenue forecasts. The email indicates that DelDOT has used best practices and a conservative approach when evaluating the potential revenue from US 301 as a toll facility.

MCC Comment: *Now the recent developments Suggests that We Delaware Taxpayers pay for 80% of this project through State money and Bond. That's a grand total of \$ 682 MILLION Dollars. \$602 Million paid through these said BONDS. Are you kidding me? If DelDOT over predicted the 20% amount by over 40% can you imagine what the % is on 80%.*

Response: The approach to funding the US 301 project has been, and will continue to be, comprehensive and conservative. For example, a joint detailed review of all project costs has recently been completed by FHWA and DelDOT. The total estimated cost of the US 301 project is \$595 million in 2007 \$'s and \$704 million in Year of Expenditure (YOE) \$'s, including projections for inflation. This projected cost includes design, right-of-way and construction, along with allowances for contingencies, change orders and claims. A Project Management Plan and a Draft Initial Financial Plan have also been prepared. These must be approved by FHWA before proceeding to construction. These efforts demonstrate the level of detailed analysis and advance effort required before proceeding with a major project such as US 301.

MCC Comment: *How can we possible pay this back.... Leasing the Road.... If this is the way they will get Leasing of the Rt 301 road..... need I say more?*

Response: The bonds would be supported by toll revenues from those using US 301. Ramp tolls for local automobile users are anticipated to be similar to the SR1 ramp tolls. Truck tolls are anticipated to be similar to, but somewhat less than, those at the I-95 Newark Toll Plaza. A significant volume of out-of-state trucks are projected to use New US 301 and the Spur Road. These trucks are projected to generate a considerable portion of the toll revenues. In addition, these through trucks will be removed from local roads, thus reducing congestion and improving safety.

There are no current plans to lease the US 301 project.

MCC Comment: *DelDOTs plan: \$21 Million Federal Funds only for ROW (right of Way Acquisition)*

\$80.6 Million from the Transportation Trust Fund (TTF) Which in 2005 had a 1.5 Billion dollar Short fall

(who knows what the short fall is now.)

\$602 Million Bonds from Predicted Toll Revenue on the Constructed Road.

Response: The estimated cost of the New US 301 project is \$704 million in Year of Expenditure (YOE) Dollars:

	<u>YOE*</u> (millions \$'s)	<u>Years of Expenditure</u>
Final Design	\$32	2008-2011
Right-of-Way	\$119	2008-2011
Construction	\$553	2010-2016
Total	\$704	2008-2016

* Includes Inflation

The following sources are proposed under the funding concept:

<u>Funding Source</u>	<u>YOE*</u> (millions \$'s)
State (TTF)	\$81
Federal (FHWA)	\$21
Bonds	\$602
	\$704

* Includes inflation

Funding has been included in the amended 2008-2011 Transportation Improvement Program (TIP), the 2009-2012 Capital Transportation Plan and the Regional Transportation Plan (RTP – long range fiscally constrained plan). These amendments were approved by the WILMAPCO Council on April 18, 2008.

MCC Comment: *This is the poorest lack of judgment We in the Middletown Corridor Coalition have ever seen in Delaware. Our Lawmakers need to take note.... If this Road project is approved no other DelDOT road project can possibly be done for approximately 8-10 years. No 202 (Concord Pike Fix...), No I 95 Fix... No SR1 fix.... need I go on?*

Response: See prior response on funding goal for the US 301 Project.

MCC Comment: *All Del DOT needs for this Council to approve this getting on the TIP.... This needs to be stopped.....*

Response: On April 10, 2008, the WILMAPCO Council, the Regional Transportation Planning Organization, approved amendments to the 2008-2011 and draft 2009-2012 Transportation Improvement Programs (TIPs), the Regional Transportation Plan (Long-Range Plan), the Capital Transportation Plan (CTP) and the associated Regional Air Quality Conformity, to include the US 301 Project.

MCC Comment: *Please help us and take a stand against this. There is a Meeting of this Council April 10th At 6:30 pm. We need to show in force. It is open to the public and we NEED to be there. It's at the WILMAPCO building 850 Library Ave. Suite 100, Newark DE 19711.*

DelDOT is trying to put this in under the wire with no one there. For more information call me 302-378-2807 or 856-261-7400(cell)

Response: WILMAPCO conducted an open process, including two public workshops, in considering the amendments to the 2008-2011 and draft 2009-2012 Transportation Improvement Programs (TIPs), the Regional Transportation Plan (Long-Range Plan), the Capital Transportation Plan (CTP) and the associated Regional Air Quality Conformity, to include the US 301 Project. The material regarding these amendments was available for public viewing and downloading from the WILMAPCO web site, www.wilmapco.org. WILMAPCO's public advisory committee (PAC) reviewed and recommended approval of the public outreach effort to the WILMAPCO Council, which approved the amendments on April 10, 2008.

MCC Comment: *Thank you,
Andye Daley
Middletown Corridor Coalition
302-378-2807*

Additional Information Responding to Middletown Corridor Coalition Comments

The following are responses prepared by DelDOT to comments raised at the March 6, 2008 WILMAPCO workshop (see letter dated March 10, 2008 to Secretary Wicks from Executive Director Zegeye). These responses were provided as a handout at WILMAPCO's March 19, 2008 public workshop regarding the amendments to the RTP (2030 – fiscally constrained long range plan, the 2008-2011 TIP and draft 2009-2012 TIP regarding US 301, including an update of the regional air quality conformity analysis.

Note: Pages 11 of 18 to 18 of 18 are not repeated here – see **Attachment E** of this **ROD** for Attachment 1, the October 5, 2007 letter to legislators from Secretary Wicks.

The funding concept for the project was described in the responses to questions raised at the March 6, 2008 WILMAPCO Council meeting, see the following **pages 16-28** of this **Section J**. The responses were provided as a handout at the March 19, 2008 WILMAPCO public workshop. The funding concept was also presented at the April 10, 2008 WILMAPCO Council meeting and is briefly outlined on **pages 28-30**.

Also included in Attachment J:

April 10, 2008 letter from DNREC to WILMAPCO Executive Director Zegeye (**page 37**)

April 23, 2008 letter from EPA Director Katz to Administrator Raza, FHWA (**page 39**)

April 24, 2008 letter from Administrator Raza and Administrator Thompson, FHWA, to Secretary Wicks (**page 51**)

April 25, 2008 letter from Administrator Raza, FHWA, to Secretary Wicks (**page 53**)

Wilmington Area Planning Council

850 Library Avenue, Suite 100
Newark, Delaware 19711
302-737-6205; Fax 302-737-9584
From Cecil County: 888-808-7088
e-mail: wilmapco@wilmapco.org
web site: www.wilmapco.org

WILMAPCO Council:
Stephen Kingsberry, Chair
*Delaware Transit Corporation
Director*

Joseph L. Fisona, Vice-chair
Mayor of Elkton

James M. Baker
Mayor of Wilmington

Christopher A. Coons
*New Castle County
County Executive*

John F. Klingmeyer
Mayor of New Castle

Brian Lookhart
Cecil County Commissioner

Michael W. Nixon
*Maryland Dept. of Transportation
Manager, Office of Planning*

Lee Ann Walling
*Delaware Office of the Governor
Policy Advisor for Environment
and Quality of Life Policy*

Carolann Wicks
*Delaware Dept. of Transportation
Secretary*

WILMAPCO Executive Director
Tigist Zegeye

March 10, 2008

Carolann Wicks
Secretary
Delaware Department of Transportation
DeIDOT Secretary
P. O. Box 778
Dover, DE 19903

Dear Ms. Wicks:

WILMAPCO Council voted on March 6 to release the proposed US 301 amendment to the FY 2008-2011 Transportation Improvement Program for public comment from March 7 through April 7. We have had a number of questions raised about the project and would like to receive answers prior to the public workshop scheduled for March 19.

Funding Questions:

- Why are \$641 million bond proceeds shown on the financial plan spreadsheet when the project year of expenditure description shows \$602 million of project funds coming from bonds?
- What is the expected time period to pay back the bond debt service?
- Where would funds to pay off the debt come from if tolls revenue is not sufficient to pay back debt?
- Why doesn't the financial plan spreadsheet show the repayment of bond debt beginning in FY 2011?
- Will this amount of bond funding be inconsistent with Section 95 of Senate Bill 155, which shows a spending cap of \$50 million debt that DeIDOT can take on in a single fiscal year?
- Where is the accrual of bond interest shown on the financial plan spreadsheet? Does the bond debt owed increase without income during the years of construction?
- What is the assumed interest rate on the debt?
- What is the budgetary review process, legislative process and anticipated timeline of getting authorization for the use of bond funds?
- Once legislative authorization is obtained, what is the process for seeking bond revenue?
- What methods and assumptions were used to project toll revenue for facility?
- Why has DeIDOT requested this amendment now and what is Council's roll in reviewing the proposal?

March 19, 2008

Air Quality Questions:

- Why does projected PM2.5 increase in 2030?
- What steps will DelDOT and DNREC take to meet future draft emissions budgets?
- What projects and in service years were included in the FY 2008-2011 and FY 2009-2012 TIP and 2030 RTP model runs?
- What accounts for the large drop in PM 2.5 emissions between the FY 2002 base year and FY 2010?
- On what goals and criteria are emissions budgets based?
- Why was a hot spot analysis not completed for the US 301 project?

Design, Operations and Maintenance Questions:

- What are the expected maintenance and operations costs of the road, once opened?
- What is the expected annual usage of the new facility and what is the expected future annual usage for the non-toll facility?
- Can model runs showing Average Daily Traffic from TIP/CTP be available for public review?
- What public outreach took place for the Spur route?
- What improvements will be needed on the Summit Bridge and SR 896 to accommodate projected traffic and what upgrades will be made to the existing US 301 roadway?
- What benefits are obtained from building the Spur in addition to the connection to SR 1?

Schedule for Outreach and Council Action

WILMAPCO Council approved the release of the draft amendments to the 2030 RTP, proposed US 301 amendment to the FY 2008-2011 TIP and draft FY 2009-2012 TIP for public comment from March 7 through April 7. During this time period, staff will host two public workshops: the first on March 19 from 4-7 p.m. in Middletown Town Hall and the second April 7 from 4-7 p.m. at WILMAPCO.

The PAC will make a recommendation to Council based on public outreach at their April 7 meeting, 7 p.m. at WILMAPCO. The TAC and Air Quality Subcommittee will have a joint meeting April 10, 10 a.m. at WILMAPCO to make a recommendation to Council. Finally, the Council will take action at a meeting on April 10, 6:30 p.m. at WILMAPCO. Following Council approval, WILMAPCO will submit the new RTP and TIP to FHWA and FTA.

WILMAPCO would like a presentation by DelDOT on the proposed Financial Plan amendment at the April 10 AQ/TAC and Council meetings. In addition, we would appreciate answers to the questions included in this letter from DelDOT prior to the March 19 workshop. Thanks for your cooperation in making this an effective public comment period and having sufficient information to help Council make their decision on April 10.

Sincerely,

Tigist Zegeye
Executive Director

Enclosures

Cc: Ralph Reeb, DelDOT
Mark Tudor, DelDOT
Heather Dunigan, WILMAPCO



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION

800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

CAROLANN WICKS, P.E.
SECRETARY

March 19, 2008

Tigist Zegeye
Executive Director
Wilmington Area Planning Council
850 Library Avenue, Suite 100
Newark, DE 19711

Dear Ms. Zegey:

Attached please find responses to the questions raised in your March 10, 2008 letter (copy attached for easy reference) concerning the US 301 Project. We understand that these responses will be used as a handout at your Public Workshop this evening.

Per your request, we will be prepared to present the proposed Financial Plan amendment at the April 10 AQ/TAC and Council meetings.

We believe the attached responses to your questions and our presentations on April 10, 2008 provide sufficient information for the Council to make their decision on the proposed amendments.

Should you have additional questions, or if we can be of further assistance, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Carolann Wicks".

Carolann Wicks
Secretary

cc: Ralph Reeb
Kathy English
Mark Tudor

FUNDING QUESTIONS

1. *Why are \$641 million bond proceeds shown on the financial plan spreadsheet when the project year of expenditure description shows \$602 million of project funds coming from bonds?*

Response: The \$641 of bond proceeds listed on the plan is a current estimate provided by DelDOT's financial advisors. The bond proceeds and interest earned on these proceeds will be sufficient to fund the cost of the project, capitalize and fund interest expense during project construction, fund a debt service reserve, purchase a bond insurance policy, pay underwriting and issuance expenses and provide for a small contingency. The interest rate paid on the bonds, interest earned on the reinvestment of bond proceeds, the timing and amount of the construction draws are variables that will either increase or decrease this estimate.

2. *What is the expected time period to pay back the bond debt service?*

Response: 40 years

3. *Where would funds to pay off the debt come from if tolls revenue is not sufficient to pay back debt?*

Response: Annual debt service on the toll revenue bonds has been structured proportionally to the projected net toll revenue generated by the toll facility. Net revenues available to pay debt service are at least 125% of the annual debt service requirement in any given year over the 40 year amortization of the bonds. This debt service structure provides a minimum 25% revenue cushion relative to the annual debt service requirements on the bonds in every year. Should net toll revenues fall below the 25% cushion, the debt service reserve fund could be drawn upon to fund debt service, however, this constitutes a technical default and is clearly undesirable. In the event, net toll revenues are less than 100% of debt service obligations, and the debt service reserve fund has been depleted, TTF funds would be required to satisfy debt service requirements on the bonds.

4. *Why doesn't the financial plan spreadsheet show the repayment of bond debt beginning in FY 2011?*

Response: Bond interest will be paid from bond proceeds and interest earnings until the toll facility opens.

5. *Will this amount of bond funding be inconsistent with Section 95 of Senate Bill 155, which shows a spending cap of \$50 million debt that DelDOT can take on in a single fiscal year?*

Response: This issue does not relate to the US 301 project, but to the FY 2008 spending cap. A separate concurrence will be required for the US 301 project.

6. *Where is the accrual of bond interest shown on the financial plan spreadsheet? Does the bond debt owed increase without income during the years of construction?*

Response: Debt service has been structured proportionally to the projected net revenue generated by the toll facility and increases over time. The deposit to the capitalized interest account will be funded with bond proceeds. This deposit along with interest earnings will be sufficient to pay interest on the bonds during construction. After construction, net toll revenue is forecast to be 125% of the annual debt service requirements.

7. *What is the assumed interest rate on the debt?*

Response: Interest rate assumptions are based upon the issuance of insured revenue bonds. Current interest bonds:

- MMD AAA Index + 25bps
 - Capital appreciation bonds - MMD AAA GO Index + 100 bps
 - Second issue interest rates + 50bps.
 - Serial bonds range from 3.9% to 4.8%
 - Second issue serial bonds 4.4% to 5.3%
 - Capital appreciation 4.9% to 5.8%, second issue.
-

8. *What is the budgetary review process, legislative process and anticipated timeline of getting authorization for the use of bond funds?*

Response: Assuming the bonds are issued by the Delaware Transportation Authority, it appears that new legislation is not required. However, Section 1405(1) of Title 2 requires the General Assembly to approve the project funding, and all bonds must be approved by the State's bond issuing officers. DelDOT intends to present the funding concept plan for US 301 to the General Assembly during the current legislative session.

The following is a potential schedule for the proposed US 301 funding concept:

April 2008:	DelDOT presents funding concept for US 301 to the Legislature
September 2008:	DelDOT initiates investment grade traffic and revenue analysis
March 2009:	DelDOT completes investment grade traffic and revenue analysis
April 2009:	DelDOT updates financial analysis based on current cost estimates, implementation schedule, cash flow requirements and economic conditions anticipated at this time
May 2009:	Funding plan presented to Governor, Secretary of Finance, Office of Management and Budget Director, Controller General, and/or others for comments and concurrence
June 2009	Funding plan presented to Legislature for concurrence
Summer 2009	Plan of Finance presented to the rating agencies for detailed review. See response #9 for additional information
Fall 2009	Initial bond sale (may involve more than one bond sale – will depend on economic conditions at the time)

9. Once legislative authorization is obtained, what is the process for seeking bond revenue?

Response: Upon legislative concurrence, the TTF financing team, including financial advisor, bond counsel and investment banker(s), would execute the plan of finance. The rating agencies would undertake a comprehensive review of the US 301 project, including the project design, timetable, plan of finance, preliminary bond offering document, pro-forma financial statements and an investment grade traffic and revenue study from a nationally recognized firm. Meetings would be scheduled with each of the rating agencies to review the project and answer any questions related to the project and/or plan of finance. Upon assignment of a credit rating, the TTF financing team will evaluate the efficacy of purchasing a municipal bond insurance policy to insure the timely payment of principal and interest due to bond holders. Municipal bond insurance, if required, would be obtained via a competitive bid process. Upon receipt of an underlying credit rating and a commitment for bond insurance, the TTF would market the bonds to investors. This process is estimated to take 3 to 4 months.

10. What methods and assumptions were used to project toll revenue for facility?

Response: The basic assumptions developed for analysis purposes are noted in the following table:

2007	
PROJECT COST	\$704 million
TOLLS	
Mainline Toll Barrier ⁽¹⁾	
2-axle toll - 2016*	\$4.00
5-axle toll - 2016*	\$9.00
Ramp Tolls ⁽¹⁾	
2-axle toll - 2016	
Levels Road	\$1.00
US 301 (N. of Armstrong Corner)	\$0.65
Jamison Corner Road	\$0.35
5-axle toll - 2016*	
Levels Road	\$7.90
US 301 (N. of Armstrong Corner)	\$7.90
Jamison Corner Road	\$7.90
TRAFFIC GROWTH RATES (Compound, Annual)	
2016 - 2036	3.1%
2037-2056	2.1%
TOLL GROWTH RATES (Compound, Annual)	
2016 - 2036	3.5%
2037-2056	2.0%
O&M (2016 - Inflation Adjusted - 3.25%)	\$5 million
Maint. Cap. Ex. (2016 - Inflation Adjusted - 3.25%) <i>(\$ millions)</i>	\$1.5 million

*Tolls at I-95 Newark = \$4.00/\$9.00 (Oct. 2007) = Assumed for US 301 in January 2016

⁽¹⁾ Implementation Schedule:

Final Design	2008-2011	Construction	2010-2015
ROW Acquisition	2008-2011	Operational	2016

License plate surveys and trucker interviews indicate that about 75% of the total projected traffic and 95% of the heavy truck traffic on US 301 at the DE/MD Line is out of state traffic. Therefore, out of state traffic, especially through truck traffic, is projected to fund a significant portion of the project costs. New US 301 is projected to remove this through traffic from local roads in the rapidly developing Middletown area.

11. Why has DeIDOT requested this amendment now and what is Council's role in reviewing the proposal?

Response: In late January FHWA provided DeIDOT with guidance that indicated the US 301 project needs to be in WILMAPCO's "fiscally constrained" Long Range Plan before the FHWA can issue a Record of Decision (ROD). This has required DeIDOT to work with WILMAPCO to include this information at this time, as compared to later in the process when federal funds would be anticipated to be utilized in Federal Fiscal Year 2009.

WILMAPCO to explain their role.

12. Why does projected PM 2.5 increase in 2030?

Response: The increase in the number of miles people are forecasted to drive begins to overwhelm the current technology and mitigation measures. This has been the experience with the Clean Air Act since it was first passed in the '70's. The budgets in the outer years have seemed very difficult to attain but technological and other improvements have been advanced in order to reach the goals and the improvements that have been made in terms of reaching the National Ambient Air Quality Standards (NAAQS) have been made while we have continued to enjoy a strong economy.

13. What steps will DeIDOT and DNREC take to meet future draft emissions budgets?

Response: The most effective steps will probably continue to be taken by manufacturers of automobiles and fuels. In addition DeIDOT and DNREC will continue to test motor vehicles to ensure they are functioning as they were designed, to support the creation of walkable communities, continue to build sidewalks and bike paths so more people can travel safely for more purposes without using a motor vehicle, and continue to provide the most comprehensive transit service we can afford.

14. What projects and in service years were included in the FY 2008-2011 and FY 2009-2012 TIP and 2030 RTP model runs?

Response: This list and an accompanying map are being prepared and will be available from WILMAPCO shortly/by end of March.

15. What accounts for the large drop in PM 2.5 emissions between the FY 2002 base year and FY 2010?

Response: This drop is largely due to the EPA required use of cleaner diesel fuel and modifications to diesel engines.

16. On what goals and criteria are emissions budgets based?

Response: The US EPA has established **National Ambient Air Quality Standards (NAAQS)** based on scientific studies that relate concentrations of certain chemical compounds in the air we breathe to health problems such as asthma. The goal is to have the concentrations of these compounds be below the standard.

The criteria are based on modeled relationships that attempt to equate emissions from all sources to measurable concentrations. The idea is that if the total amount of emissions is below the budget level the air quality standards are likely to be attained. All of this is included in the State Implementation Plan and is continually monitored and periodically revised.

17. Why was a hot spot analysis not completed for the US 301 project?

Response: Appropriate project level air quality analyses were conducted for the US 301 project, and described in the Final Environmental Impact Statement (FEIS) on page III-70 and pages III-73 to III-80. In summary:

- A project level PM_{2.5} analysis was not performed because the project is not a project of air quality concern. Although the 2030 percentage of total truck traffic (including diesel trucks) on new US 301 is projected to exceed the eight percent guidance maximum (7-9 percent on most segments of the roadway; 20 percent at the state line), the average vehicles per day is less than half the minimum 125,000 AADT recommended for the analysis (the highest ADT is projected at 56,700). Because the new US 301 does not encourage new diesel truck traffic, but merely shifts the diesel truck traffic from existing US 301 to the new roadway, it does not represent a significant increase in diesel truck traffic. Therefore, a PM_{2.5} analysis is not included for the project. (FEIS, page III-70)
- A project level CO hot spot analysis was performed for the project, with air quality receptors at 25 locations located throughout the project area and at two signalized intersections. The air quality analysis indicates that carbon monoxide impacts resulting from the No-Build Alternative OR the implementation of any of the build alternatives, including the Preferred Alternative, would not result in a violation of the 1-hour concentration or the 8-hour concentration, at any air quality receptor location, in any analysis year. (FEIS, pages III-73 to III-74)

The FEIS is available on the project website.

DESIGN, OPERATIONS & MAINTENANCE

18. What are the expected maintenance and operations costs of the road, once opened?

Response: Operation and maintenance costs are estimated at \$5 million per year at the time of opening and inflated at 3.25% per year after the opening. Also, \$1.5 million per year at the time of opening, inflated at 3.25% per year after opening, has been included for Maintenance Capital Expenses. These two costs would be funded from US 301 toll revenues and not DeIDOT's Highway Operating budget. These costs are subtracted from the gross toll revenues, with the net toll revenues projected at 1.25x debt service. In addition, \$6.7 million has been included in the US 301 Construction Cost Estimate for construction of a new maintenance facility for the US 301 project.

19. What is the expected annual usage of the new facility and what is the expected future annual usage for the non-toll facility?

Response: Projected year 2030 average daily traffic volumes were developed for the new US 301 toll facility and a number of existing roadways in the study area as part of the US 301 Project Development Environmental Impact Statement. The following average daily traffic forecasts were developed for the year 2030 on these key roadway segments for the Preferred Green North + Spur Alternative:

	Link	2030 ADT
Toll-Facility	Toll US 301 at Mainline Toll Plaza	16,800
	Toll US 301, North of Levels Rd Interchange	56,700
	Toll US 301, West of SR 1	43,500
	Spur Road	22,500
Non-Toll Facility	Existing US 301, between SR 299 and SR 896	21,300

20. Can model runs showing Average Daily Traffic from TIP/CTP be available for public review?

Response: The US 301 Project Development Travel Analysis Technical Report details the procedures used to develop the forecasts for the Environmental Impact Statement (EIS) for the US 301 project. These procedures were developed based on the methodology presented in the National Cooperative Highway Research Program 255: Highway Traffic Data for Urbanized Area Project Planning and Design; which is recognized as the accepted practice for developing future traffic volumes for planning and design purposes.

The US 301 Project Development Travel Analysis Technical Report is referred to on *Page 3-196* of the **FEIS** and is available for review, upon request to DeIDOT Public Affairs.

21. What public outreach took place for the Spur route?

Response: The following is noted in Attachment 1, October 5, 2007 letter from Secretary Wicks to Senator Amick and Representatives Cathcart and Hall Long regarding public outreach associated with the Spur Road.

“PROCESS

The US 301 project has and continues to follow the National Environmental Policy Act (NEPA) process. In addition to the extensive environmental aspects involved in following NEPA, there has been an unprecedented level of community involvement throughout the project development process. These efforts included:

- *A stakeholder listening tour involving elected officials, residents, business owners, farmers, emergency service providers and other members of the community*
- *Six rounds of public workshops/hearings were conducted in June 2005 (2 sessions), September 2005 (3 sessions), December 2005 (3 sessions), February 2006 (2 sessions), April 2006 (2 sessions) and January 2007 (2 sessions). Each workshop/hearing session was held for three hours except for the two January 2007 workshops/hearings, which were open for 6 hours each.*
- *Communities near of the four retained alternatives were offered the opportunity to meet individually with the project team. The project team met with each community that requested a meeting, meeting several times with a number of those communities.*
- *The project team employed a comprehensive Web site (2.85 million hits and 95,000 visits as of August 2007), a toll-free “hotline” number and mailed thousands of notices and newsletters when appropriate.*

- *A Project Office was opened in Middletown that provided residents additional opportunities to talk to Project Team members, get additional information, and provide input.*

It is important to note that the Spur Road was introduced at the December 2005 workshops. The Spur Road became part of the Green and Purple alternatives because of the feedback we received from the public and because the results of our origin and destination traffic survey and confirming traffic projections indicated that 1/3 of the existing US 301 traffic was coming from or going to a location north of the Summit Bridge. It is also important to note that the current 2-lane Spur alignment was identified over 40 years ago as a potential alignment for the 4-lane US 301 highway. The alignment has been illustrated in many different ways, including on subdivision plans, New Castle County records, parcel maps, and DelDOT Public meetings and documents throughout the 1990's). Even if you do not include the three workshop sessions during which the Spur Road was introduced in December 2005, there were still three rounds of workshop/hearings (including numerous meetings) over a period of 13 months in which the Spur Road was subject to public scrutiny and comment. The contention by some that the Spur Road was a "late addition" is not supported by the facts.

The Spur Road was part of the alternatives being considered during the many meetings held to solicit public input. With each of the alternatives, there were people who were supportive and those who were against for various reasons. Each meeting was designed to answer questions from the previous meeting, while working toward a preferred alternative that would result in the best transportation solution that minimizes impact to communities and environmental resources. At the January 2007 Public Workshop/Hearing Sessions, the Middletown Corridor Coalition (MCC) recommended the Spur Road be deleted and replaced by an upgrade of existing US 301. Although this recommendation was made at the end of a lengthy public process, we evaluated this alternative in detail and have reevaluated our data and assessment of this alternative per your request. These efforts are summarized above and noted in the responses to date to the MCC, which are included on the project Web site. It is my position that we have more than adequately addressed the questions raised by the MCC."

22. *What improvements will be needed on the Summit Bridge and SR 896 to accommodate projected traffic and what upgrades will be made to the existing US 301 roadway?*

Response: No improvements are necessary to Summit Bridge and SR 896 during the design period (year 2030), with the preferred alternative, Green North + Spur Road. The level of service (LOS) on Summit Bridge is projected to be LOS D during peak hours, which is still considered acceptable, for the Green North + Spur Road Alternative.

Improvements to existing US 301 are currently under way in the Westown area to address proposed local development. Additional improvements to existing US 301 from Peterson Road to Mount Pleasant, other than potential minor intersection improvements, are not anticipated at this time

23. What benefits are obtained from building the Spur in addition to the connection to SR 1?

Response: The following benefits are anticipated as a result of the construction of the Spur Road:

Purpose and Need Component	2030 Predicted vpd with Spur Road
Congestion Relief	Significantly reduces traffic on Choptank Road (by 57 percent) and on existing US 301 (by 25 percent) Provides an attractive alternate route for through and longer distance trips, freeing up roadway capacity for local trips on the existing roadway network in the Middletown area
Safety Improvements	Provides a divided, limited access highway facility for use by 22,000 vpd Reduces the number of trucks on the existing roadway network, decreasing the potential for severe crashes Results in an additional 14 percent reduction in crashes on the local roadway network
Manage Truck Traffic	Carries approximately 2,000 trucks per day in 2030 Separates through trucks from local automobile traffic Reduces total truck traffic on local roadways, including existing US 301, MD 213, and Choptank Road

Adding the Spur Road to the Green Alternative improved the ability of this alternative to better meet the project's Purpose and Need, regarding reducing congestion, improving safety, and managing truck traffic.

Congestion Relief

The initial Green and Purple Alternatives were projected to significantly reduce traffic on a number of the key east-west roadways in the study area (SR 299, Boyds Corner Road). One of the key benefits to adding the Spur Road to these Alternatives was to reduce the projected traffic on the two key north-south roads which serve Summit Bridge: existing US 301 and Choptank Road. The Spur Road would provide a third route choice for this traffic and would significantly reduce traffic on both Choptank Road and existing US 301. The Spur Road would connect directly to the new US 301 mainline (near the Armstrong Corner area) and would be an attractive route for both long-distance through traffic (including trucks) entering from Maryland and traffic generated in the Westtown area of Middletown which could access the new US 301 and the Spur Road at the Levels Road interchange. The traffic projections for the Spur Road confirmed its role as an attractive alternative route. By carrying a projected volume of over 22,000 vehicles per day, the Spur Road would reduce traffic on Choptank Road by 57 percent from 14,500 to 6,200 vehicles per day (vpd) and would reduce traffic on existing US 301, north of Boyds Corner Road, by 25 percent from 37,200 to 27,900 vpd. The table below summarizes these findings.

Road Segment	2030 Predicted vpd, with Spur Road	2030 Predicted vpd, without Spur Road	% Reduction in vpd with Spur Road
Existing US 301, north of Boyds Corner Road	27,900	37,200	25%
Choptank Road, north of Churchtown Road	6,200	14,500	57%
Spur Road	22,000	--	--

The Spur Road also has emergency and incident management benefits, by providing an additional option to re-route drivers to Summit Bridge in the event of an incident on either existing US 301 or Choptank Road.

Safety

In addition to the congestion relief, the addition of the Spur Road to the Green and Purple Alternatives provides safety benefits. Without the Spur Road, a significantly higher volume of traffic would use existing US 301 and Choptank Road, two undivided roadways that lack access controls. Undivided roadways which lack access control are often associated with higher crash rates than access-controlled, divided roadways. Existing US 301 has a history of serious, often fatal crashes. While the original Green and Purple Alternatives were found to somewhat reduce the traffic projected for existing US 301 and Choptank Road, when compared to the No-Build Alternative, provision of the Spur Road would significantly reduce projected traffic on existing US 301 and Choptank Road (undivided roadways lacking access controls).

Since January 2000, 18 people have died in crashes on existing US 301 between the state line and the C&D Canal, including 5 on the dualized section between Boyds Corner Road and Summit Bridge, where a reduction of through traffic, including an estimated 2,000 trucks per day, would occur with provision of the Spur Road. The most recent fatal crash occurred in July 2007 at the intersection of US 301 and Old Summit Bridge Road. This intersection was also identified as a Highway Safety Improvement Program (HSIP) site, indicating that accidents have been occurring at a rate that is higher than the statewide average. Fatalities have occurred at a rate of one every 4½ months. The fatal crash rate of 2.4 crashes per 100 MVMT on existing US 301, south of the C&D Canal, exceeds the Delaware statewide fatal crash rate of 1.5 crashes per 100 MVMT by over 50 percent. In the seven-year period between January 2000 and December 2006, nearly 250 crashes (a rate of over three per month) have occurred on existing US 301 south of the C&D Canal, resulting in injuries to motorists, pedestrians and bicyclists. The Spur Road would significantly reduce traffic, especially heavy truck traffic, on existing US 301 from north of Armstrong Corner Road to Summit Bridge, including the 4-lane section from Boyds Corner Road to Summit Bridge, with a history of severe accidents.

The Spur Road would provide a fully access-controlled facility, designed to meet or exceed DelDOT standards, with a 62'-wide median. The potential for several serious crash types (angle and left turn collisions) would be eliminated on this type of roadway, and the potential for head-on, crossover collisions would be significantly reduced by the width of the median. Due to its design, the Spur Road would thus provide a significantly safer facility than existing US 301 and Choptank Road. A safety analysis conducted for this project, which estimated the potential number of crashes under each alternative, based on existing crash rates in the study area and statewide averages for similar facilities, found that the Spur Road would further reduce crashes on the existing roadway network by approximately 14 percent compared to alternatives without the Spur Road.

Managing Truck Traffic

The third component of the project purpose and need, managing truck traffic, is directly related to congestion and safety in the project area. The Spur Road would help manage truck traffic by providing a direct, fully access-controlled, divided roadway from the state line to the Summit Bridge, thus reducing traffic, especially through truck traffic, on existing US 301 from Armstrong Corner Road to Summit Bridge..

Currently, at the Delaware/Maryland state line, trucks comprise 27 percent of the traffic on existing US 301. These trucks, which are predominantly through traffic with destinations along the I-95 corridor, mix with local commuter traffic and increase congestion on the local road network, thus increasing the number of severe crashes involving a heavy truck and a passenger automobile. An O&D traffic survey conducted at a travel plaza along existing US 301 found that approximately 95 percent of the long-haul and interstate truck traffic on existing US 301 was destined for points to the northeast along the I-95 corridor. The mainline portion of the Green North Alternative would serve a significant portion of that demand. However, the remaining portion of that long-haul truck traffic is destined for points to the north, and would utilize Summit Bridge and the SR 896 corridor. Additionally, a portion of the shorter distance truck trips would want to utilize the Summit Bridge. Under the original Green and Purple Alternatives, truck traffic would have to exit new US 301 in the Armstrong Corner Road area and utilize existing US 301 to access Summit Bridge.

This through truck traffic would continue to mix with local traffic on the existing roadway network. Without the Spur Road, a significant number of these trucks would utilize existing US 301; another portion would divert to other routes, including MD 213 in Maryland (a roadway similar to existing US 301 which is also not conducive to heavy volumes of truck traffic).

The traffic projections developed for the Spur Road verify its utility in managing truck traffic. The Spur Road is projected to carry approximately 2,000 trucks per day in 2030. This reduction in truck traffic on existing US 301 and other local roads would provide additional congestion relief by freeing up roadway capacity on the local road system for use by local drivers and would enhance safety by reducing the number of potential conflicts between heavy trucks travelling through the project area and passenger vehicles.

Funding Goals and Concept

- ◆ To implement US 301 while minimizing its impact on the Transportation Trust Fund (TTF) and the statewide Capital Transportation Plan (CTP)
- ◆ To not negatively affect DelDOT’s strong bond rating (Moody’s: Aa3 and S&P: AA+) or its capacity to sell bonds to fund CTP projects
- ◆ To have those who use New US 301 pay for it
- ◆ A funding concept that utilizes bonds, supported by toll revenues, appears to best meet the funding goals

Funding Concept

Estimated Cost		Years of Expenditure
\$32	Final Design	2008-2011
\$119	Right-of-Way	2008-2011
\$553	Construction	2010-2016
\$704	Total*	2008-2016

Sources of Funds	
\$602	Bonds supported by Toll Revenues
\$81	Transportation Trust Funds (TTF)
\$21	Federal-aid Highway Funds
\$704	Total

* **Note:** Total Cost in Year of Expenditure (YOE) millions of dollars, includes projected inflation, based on Joint FHWA/DelDOT Cost Review (January 7-10, 2008).

Financial Analysis Assistance

- ◆ Traffic and Revenue Projections – URS Corp
 URS Corp, a nationally recognized firm with experience projecting traffic and revenues and working with bond rating agencies on similar toll projects
 URS Corp has prepared prior traffic and revenue reports for the I-95 Newark Toll Plaza and SR 1, for DelDOT’s CTP bonds
- ◆ Financial Analysis – Public Financial Management (PFM)
 PFM is a nationally recognized independent financial advisory firm to State and Local Governments in the transportation and toll road sector
 PFM serves as Financial Advisor to the State and DelDOT
 PFM has advised DelDOT on developing the funding concept for US 301

Toll Revenue Projection Assumptions

- ◆ The basic assumptions used in the analysis are noted in the table below:

PROJECT COST	\$704 million
TOLLS	
Mainline Toll Barrier	
2-axle toll – 2016	\$4.00
5-axle toll - 2016	\$9.00
Ramp Tolls	
2-axle toll - 2016	
Levels Road	\$1.00
US 301 (N. of Armstrong Corner Road)	\$0.65
Jamison Corner Road	\$0.35
5-axle toll - 2016	
Levels Road	\$7.90
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Jamison Corner Road	\$7.90
TRAFFIC GROWTH RATES (Compound, Annual)	
2016 - 2036	3.1%
2037-2056	2.1%
TOLL GROWTH RATES (Compound, Annual)	
2016 - 2036	3.5%
2037-2056	2.0%
O&M (2016 - Inflation Adjusted - 3.25%)	\$5 million
Maint. Cap. Ex. (2016 - Inflation Adjusted - 3.25%) <i>(\$ millions)</i>	\$1.5 million

Tolls at I-95 Newark = \$4.00/\$9.00 (Oct. 2007) = Assumed for US 301 in January 2016

Operation & Maintenance (O&M) Cost Assumptions

- ◆ \$6.7 million has been included for construction of a new maintenance facility for the US 301 project
- ◆ O&M Costs: \$5 million; inflated at 3.25% per year after the road opens
- ◆ Capital Expenses (Major Maintenance): \$1.5 million; inflated at 3.25% per year after the road opens
- ◆ O&M costs would be funded annually from US 301 toll revenues and NOT from DelDOT's Highway Operating budget

Bonds Supported by Toll Revenues

- ◆ 40 years – Term of bonds
- ◆ Net bond proceeds and the interest on the bond proceeds will fund:
 - Cost of the project
 - Interest expense due to bond holders during construction

Debt service reserve (surety policy)

Bond insurance policy

Issuance expenses

Small contingency

◆ Items that could affect the Finance Plan (positive or negative):

Total Cost of the project

Timing and amount of draws (Design, ROW, and Construction)

Interest rates on the bonds

Interest rates on the reinvestment of bond proceeds (during construction)

Bond Debt Service / Coverage Factor

- ◆ Bond debt service has been structured proportionately to the projected net toll revenue generated by New US 301
- ◆ Bond debt service increases over time as traffic and revenues grow
- ◆ Net revenues available to pay debt service are at least 125% of the annual debt service requirements for any given year
- ◆ Net toll revenues provide a 25% cushion (coverage factor)

Note: Gross Revenues minus US 301 Operating and Maintenance (O&M) costs and Capital Expenditures = Net Revenues

FHWA Preliminary Review Comments on DelDOT's Draft Initial Financial Plan

- ◆ FHWA considers DelDOT's funding concept for the US 301 project, and the assumptions upon which it is based, to be reasonable (see **pages 31-33** for the April 8, 2008 letter to DelDOT from FHWA)
- ◆ Tolling is but one of the market-driven/transportation pricing concepts supported by USDOT and FHWA
- ◆ Several states currently have projects proposed to be implemented in a manner similar to US 301, for example, Maryland's \$2.4 billion Intercounty Connector (between I-270 and I-95)



U.S. Department
of Transportation
Federal Highway
Administration

DelMar Division
(302) 734-5323

J. Allen Frear Federal Building
300 South New Street, Suite 2101
Dover, Delaware 19904-6726

April 8, 2008

Refer to: HDA-DE

Robert Taylor, P.E.
Chief Engineer
Delaware Department of Transportation
Dover, Delaware

Subject: Preliminary Review of the US 301 Draft Initial Financial Plan; State Project 25-113-01

Dear Mr. Taylor:

Please reference your December 7, 2007 Draft Initial Financial Plan for US 301 from the DE/MD Line to SR1, south of the C & D Canal, submitted in accordance with Section 1904(a) of SAFETEA-LU and FHWA Financial Plan and Guidance dated January 2007. As you know, FHWA is currently preparing a Record of Decision (ROD) for the Project, therefore we will defer our approval action of the Draft Initial Financial Plan (IFP) until after the ROD. However, based on our preliminary review of the IFP we find that it was prepared in accordance with FHWA guidance and the proposed financing plan is reasonable.

DelDOT is proposing to fund the project using a combination of funding sources that includes bonds supported by toll revenues and Federal and Delaware transportation trust funds. We understand that DelDOT is coordinating the proposed financial plan with the statewide long range transportation plan and the Statewide Transportation Improvement Program. This coordination will evaluate and ensure that there are no adverse impacts to the transportation capital program in the State during the Financial Plan analysis period. Our initial opinion is that since the majority of funding will be coming from the bonds supported by the toll revenues and that in absence of the project these financing sources would not exist, the proposed financing plan would not have an adverse impact on the transportation capital program for Delaware. Once the Long Range Plan has been adopted by WILMAPCO and the 2008 STIP has been amended by DelDOT and approved by FHWA, our preliminary review indicates that the STIP will be fiscally constrained.

Our guidance requires that a Major Project financial plan should not assume any funding sources that require future legislative (local, state and or federal) approval. Based on our discussions with your staff, it is our understanding that DelDOT does not need legislative approval, beyond Delaware's annual budgetary process, to issue toll revenue supported bonds for this project. Therefore, we believe that your proposed financial plan meets this particular requirement of the FHWA guidance.

~~NOV 14 2007~~
**AMERICAN
ECONOMY**

We want to note that the proposed funding approach has been used by other states to mitigate limited transportation revenues. Tolling is but one of the market-driven/transportation pricing concepts supported by USDOT and FHWA. Several states currently have projects proposed to be implemented in a similar manner, for example, over fifty percent of Maryland's \$2,445 million Intercounty Connector (between I-270 and I-95) comes from bonds supported by toll revenues.

We offer the following specific comments regarding the contents of the Draft IFP:

Cost Estimate:

As a result of the FHWA/DelDOT Joint Cost Estimate Review (January 7-10, 2008), the estimated project cost is \$704 million, in Year of Expenditure (YOE) dollars. This figure is noted in the proposed amendments to the RTP, the 2008-2011 TIP and the Draft 2009-2012 TIP. We would suggest that similar FHWA/DelDOT Joint Cost Estimate Reviews be conducted for the US 301 Project at the appropriate times in the future.

Implementation Plan:

We understand the US 301 Project Implementation Strategies Group, in which FHWA has participated, will continue to refine potential construction contract limits and schedules to ensure the implementation of this major project would occur in an effective and efficient manner. The refinements to date would somewhat accelerate the schedule and cash flow indicated in the IFP, thus reducing overall inflation costs. We compliment DelDOT on the efforts to date by the US 301 Project Implementation Strategies Group.

Financing and Revenues:

The sources of funds noted in the IFP are consistent with those reflected in the amendments to the RTP, the 2008-2011 TIP and the Draft 2009-2012 TIP. Current DelDOT projections indicate \$602 million in bonds supported by toll revenues, \$81 million in TTF and \$21 million in Federal-aid Highway Funds, thus traffic and toll revenue projections are a key component of your funding concept.

The IFP indicates that DelDOT has been assisted by a nationally recognized firm with considerable experience projecting traffic and revenues and working with bond rating agencies on similar toll projects. The firm has also prepared prior traffic and revenue reports for the I-95 Newark Toll Plaza, associated with DelDOT's CTP bonds. The IFP also notes assistance from your financial advisor, in preparing the preliminary financial analysis for the US 301 Project.

Cash Flow:

The cash flow provided in the IFP appears appropriate for the preliminary construction contracts, schedule and cost estimate, included therein.

Risk Identification and Mitigation Factors:

This area of the IFP needs additional details. However, we are aware that the US 301 Project Implementation Strategies Group has identified a number of project risks and mitigation factors. These items were also the subject of the FHWA/DelDOT Joint Cost Estimate Review effort. Items such as borrow material, structures, right-of-way acquisition, years of inflation and actual inflation rates, among others, are anticipated risks that would need to be managed. At the same time, identified opportunities to reduce costs include such initiatives as accelerating right-of-way acquisition, using wetland mitigation sites to provide borrow

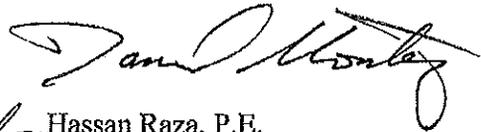
material, taking advantage of lessons learned from SR1 and the use of advanced technology in construction, to name a few.

Summary:

Through our preliminary review of the Draft Initial Financial Plan we find that the assumptions upon which it is based, to be reasonable. We look forward to the next step in the funding analysis process, preparation of the Investment-Grade Traffic and Revenue Report. As you know, the Financial Plan will be subject to yearly updates.

Should you have questions concerning this matter, please contact Dan Montag at 302-734-1719.

Sincerely yours,



for Hassan Raza, P.E.
Division Administrator

cc: Carolann Wicks, Secretary
Kathy English, Director of Finance
Ralph Reeb, Director of Planning
Drew Boyce, Assistant Director, North Project Development
Mark Tudor, Project Director, US 301 Project Development
Project File: 25-113-01
Reading File

From: "King Robert (DeIDOT)" <Bob.King@state.de.us>
To: "Laing Gary L (DeIDOT)" <Gary.Laing@state.de.us>; "Westhoff James (DeIDOT)" <James.Westhoff@state.de.us>; "Cole Darrel (DeIDOT)" <Darrel.Cole@state.de.us>; "Helen German" <hgerman@rkkengineers.com>
Sent: Wednesday, February 27, 2008 7:12 AM
Subject: FW: 301 By-Pass as a Toll Road

Robert King
Community Relations Officer - PR
Delaware Department of Transportation
(302) 760-2074

From: Diane LaRoche [mailto:dilaroche1@gmail.com]
Sent: Tuesday, February 26, 2008 9:11 AM
To: DOT Public Relations (DeIDOT)
Subject: 301 By-Pass as a Toll Road

I am a resident of Springmill in Middletown. Although not a Delaware native, I have lived here since 1986, and watched the building of SR1. I have seen the amount of car and truck traffic that still uses Rt. 13 to avoid the tolls on that highway.

This morning's News-Journal presented us with the information that the new by-pass will be a toll road. This is very depressing news to me. Making this by-pass a toll road will not help at all with the truck traffic in Middletown. They will continue to come through the center of our Town to avoid paying those tolls, just as they do now to avoid tolls on SR1 and I95. These trucks have an extremely negative impact on the quality of life in Middletown. The noise and air pollution are unbelievable. They are a hazard to all as they speed through town, (or chug through slowing down other traffic), grinding through all their gears, and parking along the sides of the highway to go to the restaurants that line the highway. When they use their (illegal in Town limits!) engine exhaust braking system, they can be heard for miles and miles!

The by-pass was the only relief we had to look forward to, and now, with this "toll" decision, any relief has probably been taken from us.

Why don't you consider building a smaller version for a start, just around the Town, to get truck traffic out of town?

Then, as time and funding allowed, build the rest of it in the future? I'm sure this would satisfy all the residents of the developments north of Middletown who are being threatened by the by-pass as it is currently proposed. It would give them a reprieve. Sincerely, Diane LaRoche

2/27/2008

RESPONSE TO DIANE LAROCHE EMAIL

The News Journal article of February 26th was a surprise to DelDOT and FHWA. The headline would lead the reader to believe that it was announced for the first time that New US 301 would be a toll road.

The intent to implement New US 301 as a toll facility has been noted throughout the project development process (Spring 2005 – today). This intent was noted at the initial June 2005 public workshop sessions and at the additional five rounds of public workshop sessions, including the January 2007 public hearing sessions. Plans for a toll facility were also contained in the December 2006 Draft Environmental Impact Statement and the November 2007 Final Environmental Impact Statement, both public documents available for review and comment. Finally, the intent regarding a toll facility was also noted during the presentation and follow-up question and answer sessions with the Springmill community on August 19, 2005 and February 17 and December 4, 2006.

There will be no “toll free” access between New US 301 and existing US 301. For example, if northbound through traffic enters Delaware from Maryland on existing US 301, that traffic will pay a toll at the mainline plaza which will be constructed near the state line. That traffic would then remain on US 301 to SR1, south of the C & D Canal, or use the Spur Road to gain access to Summit Bridge

The revenue collected from the tolls is expected to be the primary funding source for repaying the bonds used to fund the construction of New US 301 and to cover operating costs. Therefore, it is in the best interests of the project to attract traffic to use the toll facility; more traffic on the toll road will result in more revenue and a more financially sound project. To that end, a tolling structure and toll rates are anticipated to be established to minimize diversions to alternate routes, including existing US 301, while optimizing the revenues from the new toll facility. For trucks, in particular, the toll structure will strongly discourage trucks from leaving US 301 to bypass the mainline plaza. Clearly, it would be in the project’s best interest to include design features on this new facility that encourage its use and increase the potential toll revenues.

Throughout the US 301 Project Development effort, the project team has been aware of the potential effects of toll diversions (particularly of truck toll diversions) on local communities and has worked to mitigate these potential effects. Two different Working Groups, which included members from DelDOT, law enforcement, elected officials, and other technical staff (including representatives from the Maryland State Highway Administration), were established during the project development process. These Working Groups were primarily focused on the issue of heavy truck diversions, and developed a series of recommendations to help manage these diversions through a combination of truck restrictions on local roads and targeted enforcement efforts. A network of truck restrictions has been proposed on the roadways around the mainline US 301 toll plaza, located near the MD/DE state line, and is expected to encourage truck traffic (which is primarily moving through the Middletown area) to stay on new US 301 and minimize its potential to avoid the toll and then access existing US 301 and the roads in Middletown. To ensure adequate compliance with these truck restrictions, additional law

enforcement efforts are also being pursued. Implementing these recommendations would further minimize US 301 through truck traffic in Middletown.

The Working Groups also examined the potential for passenger cars to divert around the toll facilities. Based on the toll rates assumed in our analyses for passenger cars (similar to SR1 Ramp Tolls), these types of diversions were not projected to be significant. Projections indicate that motorists traveling through Middletown on the US 301 corridor would choose tolled US 301, because of convenience, just as most travelers choose I-95 rather than alternate routes. The Toll Diversion Working Group material can be found on DelDOT's website, <http://www.deldot.gov/>.



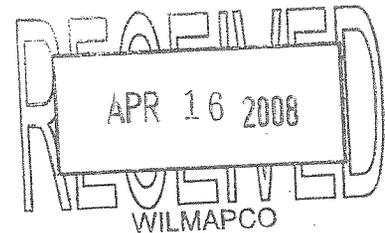
STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
DIVISION OF AIR & WASTE MANAGEMENT
156 S. STATE STREET
DOVER, DELAWARE 19901

AIR QUALITY MANAGEMENT
SECTION

TELEPHONE: (302) 739 - 9402
FAX No.: (302) 739 - 3106

April 10, 2008

Ms. Tigist Zegeye
Executive Director
Wilmington Area Planning Council
850 Library Avenue, Suite 100
Newark, DE 19711



Dear Ms. Zegeye:

This letter is to inform you that we have completed our review of the conformity analysis, using the Mobile 6 model, of the 2030 WILMAPCO Regional Transportation Plan and the 2009-2012 Transportation Improvement Program (TIP).

Relative to the pollutant ozone, the budget of record for New Castle County is the old 1-hour ozone budget of 15.08 and 21.28 tons per day for VOC and NO_x, respectively. For fine particulate matter (PM_{2.5}) a budget has not yet been established, so a 2002 baseline of 208.6 tons per year and 11,799.10 tons per year for fine particulate matter and NO_x, respectively, are used as budgets for transportation conformity purposes.

However, in June 2007 and in April 2008 the Secretary of the Department of Natural Resources and Environmental Control (DNREC) issued Orders which finalized new budgets as part of Delaware's 8-hour Ozone and PM_{2.5} State Implementation Plans (SIPs). These budgets were identified as being necessary for Delaware to attain compliance with the 8-hour Ozone and PM_{2.5} ambient air quality standards by the Clean Air Act deadline of 2010. The new 8-hour ozone budgets for New Castle County are 9.89 and 19.23 tons per day for VOC and NO_x, respectively, and 86.9 and 4904 tons per year for PM_{2.5} and NO_x respectively. These budgets are significantly lower than the budgets of record identified above, and have been submitted to the EPA for approval.

The DNREC Air Quality Management Section has worked with DelDOT on determining the emissions associated with the 2030 WILMAPCO Regional Transportation Plan and the 2009-2012 TIP. DNREC and DelDOT agree that the methods and data used are acceptable, and the results indicate:

- Conformity with both the budget of record and Delaware's 2007 Ozone Attainment Demonstration SIP for 2010, 2020, and 2030.

Ms. Tigist Zegeye
April 10, 2008
Page Two

- Conformity with both the 2002 baseline and Delaware's 2008 fine particulate matter Attainment Demonstration SIP for 2010 and 2020.
- Conformity with the 2002 baseline for 2030, but not in conformance with Delaware's 2008 fine particulate matter Attainment Demonstration SIP for 2030.

The fine particulate matter emissions in 2030 are projected to exceed Delaware's attainment demonstration budget by about 0.8 tons per year. This amount is relatively small, and DNREC and DelDOT have committed to work together to identify measures which DelDOT has committed to implement, such as truck stop electrification and diesel retrofit projects, to address this 2030 issue. These measures, once identified, will be given high priority. Accordingly, DNREC does concur that the 2030 WILMAPCO Regional Transportation Plan and the 2009-2012 TIP do conform to Delaware's SIP.

Thank you for your cooperation.

Sincerely yours,



Ronald A. Amirikian
Planning Branch Manager

cc: James Werner, DNREC
Ali Mirzakhali, P.E., DNREC
Philip Wheeler, DNREC
Ralph Reeb, DelDOT
Michael Duross, DelDOT
Mark Glaze, DelDOT
Martin Kotsch, EPA Region 3
Tashia Clemons, FHWA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

APR 23 2008

Mr. Hassan Raza
Federal Highway Administration
Delaware Division Administrator
300 South New Street, Suite 2101
Dover, Delaware 19904

Dear Mr. Raza:

The United States Environmental Protection Agency (EPA) has reviewed the amended 2030 Regional Transportation Plan and 2008-2011 Transportation Improvement Program 8-Hour Ozone and PM_{2.5} Conformity Determinations for New Castle County, Delaware as requested by your office on April 14, 2008. EPA reviewed the conformity determinations in accordance with the procedures and criteria of the Transportation Conformity Rule contained in 40 CFR Part 93.

Enclosed, please find EPA's detailed evaluations titled, "Technical Support Document for Review of the Amended 8-Hour Ozone and PM_{2.5} Conformity Determination for the New Castle County, Delaware Portion of the WILMAPCO 2030 Regional Transportation Plan and FY 2008-2011 Transportation Improvement Program".

If you have any questions, please contact Ms. Carol Febbo, Chief, Energy, Radiation, and Indoor Environment Branch at 215-814-2076 or Mr. Martin Kotsch at 215-814-3335.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith M. Katz".

Judith M. Katz, Director
Air Protection Division

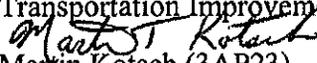
Enclosures

cc: Tigist Zegeye (WILMAPCO)
Tashia Clemons (FHWA)
Phil Wheeler (DNREC)
Mark Glace (DelDOT)

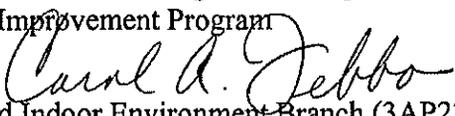
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

April 21, 2008

SUBJECT: Technical Support Document for Review of the Amended 8-Hour Ozone and PM2.5 Conformity Determinations for the New Castle County, Delaware Portion of the WILMAPCO 2030 Regional Transportation Plan and FY 2008-2011 Transportation Improvement Program

FROM:  Martin Kotsch (3AP23)

TO: Administrative Record of EPA's Review of the Amended 8-Hour Ozone and PM2.5 Conformity Determinations for the New Castle County, Delaware Portion of the WILMAPCO 2030 Regional Transportation Plan and FY 2008-2011 Transportation Improvement Program

THRU: Carol Febbo, Chief 
Energy, Radiation and Indoor Environment Branch (3AP23)

The purpose of this document is to review the amended transportation 8-Hour Ozone and PM 2.5 conformity determinations for the New Castle County Delaware portion of the WILMAPCO 2030 Regional Transportation Plan (RTP) and FY 2008-2011 Transportation Improvement Program (TIP) and to determine whether or not the conformity determinations meet the requirements of the Clean Air Act and the applicable regulations promulgated thereunder at 40 C.F.R. Part 93. EPA Region III received the WILMAPCO conformity determinations for the RTP and TIP under a request dated April 14, 2008 from the Delaware Division Office of the Federal Highway Administration (FHWA). The conformity determinations were prepared by the WILMAPCO Metropolitan Planning Organization (MPO).

The New Castle County area is a moderate 8-hour non-attainment area for ozone with the same geographical boundaries as its previous 1-hour non-attainment area. For the 8-hour conformity analysis, the 2005 Attainment SIP budgets for the 1-hour standard are applicable for use in the 8-hour conformity analysis per 93.109(e) of the conformity rule since there are no current adequate or approved 8-hour mobile budgets.

The New Castle County area is a part of the larger Philadelphia-Wilmington non-attainment area for the PM2.5 annual standard. WILMAPCO utilizes its own transportation model for New Castle County portion of the larger non-attainment area. Its conformity determination results will be combined with the remaining non-attainment area which will then allow FHWA to make a conformity determination for the entire non-attainment area when all the affected MPOs have completed their individual conformity determinations for their own respective planning areas.

We have reviewed the conformity determination in accordance with the procedures and criteria of the Transportation Conformity Rule contained in 40 CFR Part 93, Sections 93.102(b)(1), 93.102 (b)(2)(iv), 93.102(b)(2)(v), 93.102(b)(3), 93.106, 93.108, 93.110, 93.111, 93.112, 93.113(b), 93.113(c) 93.118 and 93.119.

**EVALUATION OF CONFORMITY DETERMINATIONS FOR THE NEW CASTLE COUNTY
PORTION OF THE WILMAPCO PLAN AND TIP SUBMITTED TO EPA BY FHWA ON
APRIL 14, 2008**

GENERAL CRITERIA APPLICABLE TO BOTH PLAN AND TIP

SECTION of 40 CFR Part 93	CRITERIA	Y/N	COMMENTS
93.110	<p>Are the conformity determinations based upon the latest planning assumptions?</p> <p>(a) Are the conformity determinations, with respect to all other applicable criteria in §§93.111 - 93.119, based upon the most recent planning assumptions in force at the time of the conformity determinations?</p> <p>(b) Are the assumptions derived from the estimates of current and future population, employment, travel, and congestion the most recently developed by the MPO or other designated agency? Are the conformity determinations based upon the latest assumptions about current and future background concentrations?</p>	<p>Y</p> <p>Y</p> <p>Y</p>	<p>(a, b) The conformity determinations are based upon the latest planning assumptions in force and approved by the MPO at the time of the determinations. The travel demand model was updated in 2005. Year 2005 vehicle registration data was used in the analysis. The analyses utilized socio-economic data based upon the year 2000 U.S. Census demographic data and projected to each of the analysis years and adopted in March 2006.</p>

	(c) Are any changes in the transit operating policies (including fares and service levels) and assumed transit ridership since the previous conformity determination discussed?	Y	There have been no changes in any operating policies or assumptions for ridership since the last conformity determination.
	(d) The conformity determinations must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.	Y	The conformity determinations included reasonable transit service and fare assumptions as well as assumptions about tolls associated with bridges and roadways.
	(e) The conformity determinations must use the latest existing information regarding the effectiveness of the TCMs and other implementation plan measures which have already been implemented.	Y	There are no TCMs in the SIP. However, the following implementation plan measures were accounted for in the conformity analyses: the Federal Motor Vehicle Control Program (FMVCP), reformulated gas, Reid Vapor Pressure of 7.8 psi for all analysis years, Stage II vapor recovery, I&M, On Board Diagnostics and anti-tampering programs.
	(f) Key assumptions will be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by §93.105	Y	Key assumptions have been included in the documents and supporting materials used for interagency and public consultation. They were included in the materials made available during the public review period.
93.111	Are the conformity determinations based upon the latest emissions model?	Y	The conformity determinations were based upon emission factors developed using MOBILE6.2, the currently-approved EPA mobile emissions model.

93.112	Did the MPO make the conformity determinations according to the consultation procedures of the conformity rule or the state's conformity SIP?	Y	Consultation has occurred among all appropriate agencies in accordance with the Federal Conformity Rule. The MPO provided a public comment period from March 7, 2008 until April 7, 2008 on the amended RTP and TIP. Two public hearings were held during the public comment period. There were no public comments received on the amended RTP or TIP Conformity Determination.
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SPECIFIC CRITERIA APPLICABLE TO THE PLAN			
SECTION of 40 CFR PART 93	CRITERIA	Y/N	COMMENTS
93.102(b)(2)(iv)	Has the EPA and the State made a finding that NOx is an insignificant contributor to the direct mobile PM emissions or does any applicable implementation plan (or implementation plan submission) fail to establish an approved (or adequate) NOx budget as part of a PM 2.5 reasonable further progress, attainment or maintenance strategy?	N	NOx is included in the PM emission analysis
93.102(b)(2)(v)	Has the EPA or State made a finding that VOCs, SOx or NH(3) as precursors to be a significant contributor to the mobile PM emissions or has an applicable implementation plan (or implementation plan submission) establish an approved (or adequate) budget for VOCs, SOx or NH(3) as part of a PM 2.5 reasonable further progress, attainment or maintenance strategy?	N	VOCs, SOx and NH(3) as precursors are not included in the PM emissions analysis
93.102(b)(3)	Has the EPA or the State made a finding that re-entrained road dust is a significant contributor to the PM mobile emissions or has an applicable implementation plan (or implementation plan submission) establish an approved (or adequate) budget that includes re-entrained road dust as part of a PM 2.5 reasonable further progress, attainment or maintenance strategy?	N	Re-entrained road dust is not included in the PM emissions analysis

93.106(a) (1)	Are the horizon years correct?	Y	The years 2010, 2020 and 2030 are appropriate horizon years for both 8-hour ozone and PM2.5. For PM2.5, 2010 is within the first 5 years of the plan.												
93.106(a) (2)(i)	Does the plan quantify and document the demographic and employment factors influencing transportation demand?	Y	Appendix D of the Plan discusses demographic and employment forecasts for New Castle County.												
93.106(a) (2)(ii)	Is the highway and transit system adequately described in terms of the regionally significant additions or modifications to the existing transportation network which is envisioned to be operational in the horizon years?	Y	The highway and transit system is adequately described in terms of regionally significant additions or modifications to the existing transportation network, which the transportation plan envisions to be operational in the horizon years.												
93.108	Is the Transportation Plan fiscally constrained?	Y	The MPO and FHWA have found the Plan to be fiscally constrained.												
93.113(b)	Are Transportation Control Measures (TCMs) being implemented in a timely manner?	N/A	There are no TCMs in the SIP.												
93.118	For areas with SIP budgets: Is the Transportation Plan, TIP or Project consistent with the motor vehicle emissions budget(s) in the applicable SIP?	Y	For New Castle County, projected emissions for 2010, 2020 and 2030 are less than the 2005 Attainment SIP emission budgets (in parentheses) as shown below: <table border="1"> <thead> <tr> <th><u>Year</u></th> <th><u>VOC</u></th> <th><u>NOx</u></th> </tr> </thead> <tbody> <tr> <td>2010</td> <td>10.71 (15.08)</td> <td>13.28 (21.28)</td> </tr> <tr> <td>2020</td> <td>6.66 (15.08)</td> <td>5.19 (21.28)</td> </tr> <tr> <td>2030</td> <td>6.49 (15.08)</td> <td>4.38(21.28)</td> </tr> </tbody> </table>	<u>Year</u>	<u>VOC</u>	<u>NOx</u>	2010	10.71 (15.08)	13.28 (21.28)	2020	6.66 (15.08)	5.19 (21.28)	2030	6.49 (15.08)	4.38(21.28)
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93.119	For areas without emission budgets: Does the Transportation Plan, TIP or Project demonstrate contribution to emission reductions?	Y	There are no PM2.5 SIP budgets for the area, therefore an interim test of using the less than base year (2002) test analysis was conducted and the results are showed below. Under 93.109 (e), this interim test is permissible as the												

		<p>analysis for the area . The base year emissions are based on emissions modeling done by DELDOT and agreed upon by DNREC and are shown in tons per year. The analysis shows that the PM2.5 non-attainment area passes the interim emissions test.</p> <table data-bbox="971 541 1487 905"> <tr> <td>2002 Base Year</td> <td>2010 Analysis</td> </tr> <tr> <td>208.6tpy (Direct PM)</td> <td>97.76tpy (Direct PM)</td> </tr> <tr> <td>11799.1tpy (NOx)</td> <td>4724.0tpy (NOx)</td> </tr> <tr> <td>2002 Base Year</td> <td>2020 Analysis</td> </tr> <tr> <td>208.6 tpy (Direct PM)</td> <td>89.60tpy (Direct PM)</td> </tr> <tr> <td>11799.1 tpy (NOx)</td> <td>1826.3 tpy (NOx)</td> </tr> <tr> <td>2002 Base Year</td> <td>2030 Analysis</td> </tr> <tr> <td>208.6 tpy (Direct PM)</td> <td>96.58 tpy Direct PM)</td> </tr> <tr> <td>11799.1tpy (NOx)</td> <td>1516.5tpy (NOx)</td> </tr> </table>	2002 Base Year	2010 Analysis	208.6tpy (Direct PM)	97.76tpy (Direct PM)	11799.1tpy (NOx)	4724.0tpy (NOx)	2002 Base Year	2020 Analysis	208.6 tpy (Direct PM)	89.60tpy (Direct PM)	11799.1 tpy (NOx)	1826.3 tpy (NOx)	2002 Base Year	2030 Analysis	208.6 tpy (Direct PM)	96.58 tpy Direct PM)	11799.1tpy (NOx)	1516.5tpy (NOx)
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SPECIFIC CRITERIA APPLICABLE TO THE TIP			
SECTION of 40 CFR Part 93	CRITERIA	Y/N	COMMENTS
93.102(b)(2)(iv)	Has the EPA and the State made a finding that NOx is an insignificant contributor to the direct mobile PM emissions or does any applicable implementation plan (or implementation plan submission) fail to establish an approved (or adequate) NOx budget as part of a PM 2.5 reasonable further progress, attainment or maintenance strategy?	N	NOx is included in the PM emission analysis
93.102(b)(2)(v)	Has the EPA or State made a finding that VOCs, SOx or NH(3) as precursors to be a significant contributor to the mobile PM emissions or has an applicable implementation plan (or implementation plan submission) establish an approved (or adequate) budget for VOCs, SOx or NH(3) as part of a PM 2.5 reasonable further progress, attainment or maintenance strategy?	N	VOCs, SOx and NH(3) as precursors are not included in the PM emissions analysis
93.102(b)(3)	Has the EPA or the State made a finding that re-entrained road dust is a significant contributor to the PM mobile emissions or has an applicable implementation plan (or implementation plan	N	Re-entrained road dust is not included in the PM emissions analysis

	submission) establish an approved (or adequate) budget that includes re-restrained road dust as part of a PM 2.5 reasonable further progress, attainment or maintenance strategy?											
93.108	Is the Transportation Improvement Program fiscally constrained?	Y	The MPO and FHWA have found the plan to be fiscally constrained.									
93.113(c)	Are TCMS being implemented in timely manner?	N/A	There are no TCMS in the SIP.									
93.118	For areas with SIP budgets: Is the Transportation Plan, TIP or Project consistent with the motor vehicle emissions budget(s) in the applicable SIP?	Y	<p>For New Castle County, projected emissions for 2010, 2020 and 2030 are less than the 2005 Attainment SIP emission budgets (in parentheses) as shown below in tons per day:</p> <table border="1"> <tr> <td>2010</td> <td>10.71 (15.08)</td> <td>13.28 (21.28)</td> </tr> <tr> <td>2020</td> <td>6.66 (15.08)</td> <td>5.19 (21.28)</td> </tr> <tr> <td>2030</td> <td>6.49 (15.08)</td> <td>4.38(21.28)</td> </tr> </table>	2010	10.71 (15.08)	13.28 (21.28)	2020	6.66 (15.08)	5.19 (21.28)	2030	6.49 (15.08)	4.38(21.28)
2010	10.71 (15.08)	13.28 (21.28)										
2020	6.66 (15.08)	5.19 (21.28)										
2030	6.49 (15.08)	4.38(21.28)										
93.119	For areas without emission budgets: Does the Transportation Plan, TIP or Project demonstrate contribution to emission reductions?	Y	There are no PM2.5 SIP budgets for the area, therefore an interim test of using the less than base year (2002) test analysis was conducted and the results are showed below in tons per year (tpy). Under 93.109 (e), this interim test is permissible as the area had choice of either the less than base year test or build/no greater than build analysis for the area . The base year emissions are based on emissions modeling done by DELDOT and agreed upon by DNREC and are shown in tons per year. The analysis shows that the PM2.5 non-attainment area passes the interim emissions test.									

			<p>2002 BaseYear 2010 Analysis 208.6tpy (Direct PM) 97.76tpy (Direct PM) 11799.1tpy (NOx) 4724.0tpy (NOx)</p>
			<p>2002 Base Year 2020 Analysis 208.6 tpy (Direct PM) 89.60tpy (Direct PM) 11799.1 tpy (NOx) 1826.3 tpy (NOx)</p>
			<p>2002 Base Year 2030 Analysis 208.6 tpy (Direct PM) 96.58tpy (Direct PM) 11799.1tpy (NOx) 1516.5py (NOx)</p>

CONCLUSION

Pursuant to FHWA's April 14, 2008 request, we have reviewed the New Castle County, Delaware Portion of the WILMAPCO amended 2030 Regional Transportation Plan and FY 2008-2011 Transportation Improvement Program. We have determined that the TIP and Plan meet the requirements of the Clean Air Act and the applicable regulations promulgated thereunder at 40 C.F.R. Part 93.



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

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April 24, 2008

Reply to: HDA-DE

The Honorable Carolann Wicks, P.E.
Secretary, Delaware Department of Transportation
800 Bay Road
P.O. Box 778
Dover, Delaware 19903

RE: Wilmington Conformity Determination of the Fiscal Year 2008 - 2011

Dear Ms. Wicks

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have completed our review of the Conformity Determination of the Fiscal Year 2008 – 2011 Transportation Improvement Program (TIP), and the 2030 Regional Transportation Plan (RTP). Our review has been coordinated with the regional office of the United States Environmental Protection Agency (U.S. EPA). The EPA has documented their review of the TIP and the RTP in a letter to the FHWA's Delaware Division Office dated April 23, 2008 (copy enclosed). The U.S. EPA's review concluded that your transportation conformity determination meets the requirements of the Clean Air Act (CAA) and the applicable regulations promulgated thereunder at 40 C.F.R. Part 93.

We find that the program of projects contained in the TIP and RTP are based upon a transportation planning process that meets the requirements of 23 C.F.R. Part 450 Subpart A, B, and C; 23 U.S.C. Sections 134 and 135; and 49 U.S.C. Sections 5303-5305.

We find that the analysis adopted by the Wilmington Area Planning Council (WILMAPCO), April, 2008, demonstrates conformity of the above-mentioned TIP and RTP, and that the conformity determination has been performed in accordance with the Transportation Conformity Rule (40 CFR Part 93). In accordance with the provisions of Section 134, Title 23 U.S.C. this approval does not constitute a final commitment of Federal funds. Federal funding for these projects is finalized when project authorization is requested of FHWA or upon submission of a grant application to FTA. Each project authorization and grant application must also meet appropriate project level requirements.

If you have any questions concerning this approval please contact Tashia Clemons, FHWA Delaware Division, on 302/734-5324, or Keith Lynch, FTA Region III, on 215/656-7056.

Sincerely yours,



Hassan Raza
Division Administrator
Federal Highway Administration


for Letitia A. Thompson
Regional Administrator, Region III
Federal Transit Administration

Enclosure

cc:

Kathy English, Director, Finance, DelDOT
Ralph Reeb, Director, Planning, DelDOT
Tigist Zegeye, Executive Director, WILMAPCO
Keith Lynch, FTA Region III
Basharat Siddiqi, FHWA, Delaware
Tashia Clemons, FHWA, Delaware Division



U.S. Department
of Transportation
Federal Highway
Administration

DelMar Division
(302) 734-5323

J. Allen Frear Federal Building
300 South New Street, Suite 2101
Dover, Delaware 19904-6726

April 25, 2008

Refer to: HDA-DE

Secretary Carolann Wicks
Delaware Department of Transportation
Dover, Delaware

To the Attention of: Kathy English, Director of Finance

Subject: Amendment to the Fiscal Year 2008 Delaware Statewide Transportation Improvement
Program Control # 08-02

Dear Secretary Wicks:

We have completed our review of Amendment Number 08-02 to the Fiscal Year (FY) 2008 Statewide Transportation Improvement Program (STIP), to include Project 25-113-01, US 301, Maryland State Line to SR 1. The proposed project in the submittal does not affect the conformity status in the State's non attainment areas.

We accept this amendment and find that it was developed based on a continuing, cooperative, and comprehensive transportation planning process. This letter constitutes approval of Amendment Number 08-02 into Delaware's FY 08 STIP.

If you have any questions regarding this STIP amendment, please contact Tashia Clemons at (302) 734-5324.

Sincerely yours,

for Hassan Raza
Division Administrator



cc:

TClemons
BSiddiqi
KArhin
JCasas
File # 734