

RECORD OF DECISION

United States Department of Transportation
Federal Highway Administration

NC 119 Relocation I-85/40 to South of SR 1918 (Mrs. White Lane) Mebane, Alamance County

Federal Aid Project No. STP-119(1)
State Project No. 8.1470901
WBS Element 34900.1.1
TIP Project No. U-3109

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1.0 DECISION

This Record of Decision (ROD) identifies the selected alternative for the proposed Relocation of NC 119 near Mebane in Alamance County, North Carolina. In accordance with the National Environmental Policy Act (NEPA) and the requirements set by the Council of Environmental Quality (CEQ) (40 CFR 1505.2), this ROD identifies: 1) the selected alternative; 2) all alternatives considered by the Federal Highway Administration (FHWA) and the factors (e.g., environmental consequences, cost, and social and economic impacts) that were considered during evaluation of the alternatives; 3) measures adopted to avoid and minimize harm; 4) monitoring and enforcement programs for the implementation of mitigation measures; and 5) comments on the Final Environmental Impact Statement (FEIS).

The proposed action addresses the relocation of NC 119 from its I-85/I-40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane in Alamance County. Improvements to a portion of SR 1997 (Corridor Road) also are proposed as a part of this project. It includes realigning SR 1997 east of its existing location and connecting it to SR 1973 (Tate Avenue) in the vicinity of MoAdams Creek, the City of Mebane Wastewater Treatment Plant, and the City of Mebane Maintenance Yard. In addition, SR 1970 (Roosevelt Street) would be tied into the proposed SR 1997 realignment just north of the City of Mebane Maintenance Yard (see Figure 1).

The primary needs of the proposed action include the following:

- Capacity deficiencies
- Lack of connectivity within the local community
- Lack of efficient north-south routes through Mebane due to development patterns.

The primary purposes of the proposed action include the following:

- Reduce traffic congestion in downtown Mebane
- Improve access to the local area
- Provide Alamance County a primary north-south route.

The FEIS identified a Preferred Alternative – Alternative 9. Alternative 9 proposes to construct a four-lane roadway with a 30-foot wide grass median primarily on new location, from the realignment of SR 1962 (Third Street Extension) north to SR 1918 (Mrs. White Lane). Between I-85/I-40 and the realignment of SR 1962, the project would widen existing NC 119 to six lanes. The location of Alternative 9 is shown in Figure 1.

2.0 ALTERNATIVES CONSIDERED

Alternatives considered in the Environmental Impact Statement included the No-Build Alternative, Transportation Systems Management (TSM) Alternative, Transportation Demand Management (TDM) Alternatives, Mass Transit Alternatives, three Detailed Study Alternatives, as well as the “Improve Existing NC 119” Alternative and an “East Side” Alternative. As discussed in the FEIS,

the No-Build, TSM, TDM, Mass Transit Alternatives, “Improve Existing NC 119” Alternative, and “East Side” Alternative do not meet the purpose and need for the project.

Three Detailed Study Alternatives were selected for further study from ten Preliminary Corridor Alternatives. The Preliminary Corridor Alternatives, including the three Detailed Study Alternatives, were discussed in the Draft Environmental Impact Statement, approved August 31, 2007, and the Final Environmental Impact Statement, approved June 11, 2009. Alternative 8 follows the same alignment as Alternative 9, beginning at the existing NC 119/I-85/I-40 interchange and crossing US 70 just west of the Craftique Furniture Company and west of SR 1950 (Allen Baynes Road). This alternative continues northwest as it crosses SR 1921 (Mebane Rogers Road) and runs parallel to Alternative 9 as it passes to the west and north of the historic property boundary of the Cates Farm, and passes through the water supply watershed critical area of the Graham-Mebane Reservoir. The alignment ties back into existing NC 119 near SR 1918 (Mrs. White Lane). Alternative 10 follows the same alignment as Alternatives 8 and 9 until just south of SR 1921, where it turns further east and runs parallel to Alternatives 8 and 9 as it passes through the northwestern corner of the historic Cates Farm property (within the NRHP boundary) and to the east (outside) of the water supply watershed critical area. The alignment ties back into existing NC 119 near SR 1918.

Several opportunities were provided to the public to offer input on the project alternatives. In addition to three Citizens Informational Workshops, numerous small group meetings, and several Steering Committee Meetings, a pre-hearing open house was held on January 15, 2008, prior to the formal corridor public hearing held that same evening. Public comments provided at the corridor public hearing are detailed in Chapter 8 of the FEIS.

The Section 404/NEPA Merger Team met on June 19, 2008, and selected Alternative 9 as the Least Environmentally Damaging Practicable Alternative (LEDPA) recognizing that it is the alternative that minimizes impacts to a water supply watershed critical area, historic property, and streams. Based on the findings of the DEIS, comments received on the DEIS, and comments from citizens at the public meetings and corridor public hearing, the NCDOT endorsed Alternative 9 as its Preferred Alternative.

2.1 Basis for Selection

The selection of Alternative 9 as the Preferred Alternative was based primarily on minimizing impacts to a water supply watershed critical area, historic property, and streams. The project’s Section 404/NEPA Merger Team agreed that Alternative 9 is the Least Environmentally Damaging Practicable Alternative (LEDPA) based on the following:

- The three Detailed Study Alternatives have the same basic corridor location and the same proposed access control with only slight variations in their alignments in the vicinity of the historic Cates Farm (between SR 1921 [Mebane Rogers Road] and SR 1917 [White Level Road]). These small variations would have no affect on the traffic assignments or operational characteristics of any of the three alternatives.

- Approximately 1.0 mile of Alternative 8 and 0.7 miles of Alternative 9 are within the water supply watershed critical area of the Graham-Mebane Reservoir. Alternative 10 lies outside of the water supply watershed critical area.
- Alternatives 9 and 10 would require the acquisition of right-of-way from the historic Cates Farm. Alternative 8 passes to the west and north (outside) of the historic property boundary of the Cates Farm. For Alternative 9, approximately 12.6 acres of land would be acquired of the approximately 100 acres listed on the National Register of Historic Places (NRHP). Alternative 10 would acquire approximately 13.4 acres of the area listed on the NRHP. An additional 4.6 acres of the farm would be isolated from the remaining historic property with Alternative 9, compared to 23.4 acres with Alternative 10.
- For both Alternative 9 and Alternative 10, the proposed roadway would likely be visible and audible from the Cates farmhouse. However, the potential visual impacts are less with Alternative 9 than with Alternative 10, because it is located further west of the farmhouse than Alternative 10. In addition, Alternative 9 would not require the removal of any structures associated with the Cates Farm, while Alternative 10 would remove one structure. However, the structure is not a contributing element of the historic property.
- Modifications to existing roadways intersecting proposed NC 119 are virtually the same for each of the Detailed Study Alternatives, with the exception of the SR 1921 (Mebane Rogers Road) intersection. Alternative 8 requires no realignment of SR 1921, while Alternatives 9 and 10 would realign SR 1921 to accommodate its proposed intersection with NC 119. Alternative 10 would require a more substantial realignment of SR 1921 than Alternative 9 to accommodate the proposed intersection.
- Although a portion of the Cates Farm property (not including the house, outbuildings, and approximately 50 acres) is currently for sale; historic preservation regulations apply based on the current status of the property. Therefore, until development begins, the entire property is subject to Section 106 of the National Historic Preservation Act of 1966 and Section 4(f) of the Department of Transportation Act of 1966.
- The NC Division of Water Quality (NCDWQ) expressed concern about Alternatives 8 and 9 impacting the water supply watershed critical area of the Graham-Mebane Reservoir and asked about citizen comments on this issue. While several citizens at the Corridor Public Hearing were not in favor of an alternative that impacted the watershed critical area, there were also verbal and written comments from citizens requesting that NCDOT avoid the Cates Farm historic property.
- The Section 404/NEPA Merger Team reviewed the impacts of the Detailed Study Alternatives on streams in the project study area. Alternatives 9 and 10 have the fewest stream impacts. Alternatives 9 and 10 cross 16 perennial streams, while Alternative 8 crosses 18 streams. Alternative 9 impacts approximately 3,178 linear feet of streams along the proposed corridor, while Alternatives 8 and 10 impact approximately 3,454 and 3,328 linear feet of streams, respectively.

Based on the reasons described above, the Section 404/NEPA Merger Team, including NCDOT, FHWA, US Army Corps of Engineers, US Environmental Protection Agency (USEPA), NCDWQ, US Fish and Wildlife Service, NC Wildlife Resources Commission, and the North Carolina State Historic Preservation Office (HPO) concurred that Alternative 9 is the LEDPA. The NCDOT discussed each of the verbal and written comments received at the Public Hearing during a Post Hearing Meeting. At this May 7, 2008, meeting, the NCDOT selected Alternative 9 as its Preferred Alternative.

2.2 Description of the Selected Alternative

The location of Alternative 9 is shown in Figure 1. Alternative 9 begins at the existing NC 119/I-85/I-40 interchange and continues north on existing alignment for a distance of approximately 0.36 miles. Full control of access is proposed at the I-85/I-40 interchange. From this point northward, the project proceeds on new alignment, passing to the west of the West End community. Limited control of access or access only at existing secondary roads (SRs) is proposed south of US 70. The alternative then turns northwest, crossing US 70 just west of the Craftique Furniture Company and west of SR 1950 (Allen Baynes Road). Transitioning back to the northeast, the alternative passes through the northwestern corner of the Cates Farm property (within the NRHP boundary) and passes through the water supply watershed critical area of the Graham-Mebane Reservoir. The alignment ties back into existing NC 119 near SR 1918 (Mrs. White Lane). North of US 70, limited control of access is proposed. This alternative will require a section of SR 1921 (Mebane Rogers Road) to be realigned at its intersection with NC 119.

Overpasses would be provided at SR 1963 (Holt Street), the North Carolina Railroad (NCRR), and US 70. In addition, a connector road would provide access from proposed NC 119 to US 70.

The existing bridge at the NC 119/I-85/I-40 interchange will be replaced to include additional travel lanes needed to accommodate projected traffic volumes. In addition to replacing the bridge, several of the interchange ramps will be widened to include additional travel lanes. However, this widening will not extend onto I-85/I-40. The existing traffic signals will remain; however, additional right-of-way, in the vicinity of the interchange ramps, will be required to accommodate the proposed designs.

Existing SR 1962 (Third Street Extension) and NC 119 (Fifth Street) in the vicinity of Alternative 9 will be realigned to create a four-way intersection. In addition, another segment of SR 1962 in the vicinity of the US Post Office will be realigned to intersect the proposed NC 119 approximately 1,400 feet north of existing SR 1962. Secondary Road 1972 (Smith Drive) will be extended to tie into the proposed NC 119 in the vicinity of the North Carolina Industrial Center (NCIC), thus providing access for the West End community. As part of Alternative 9, the section of US 70 between the proposed NC 119 overpass and SR 1982 (St. Luke's Church Road) will be widened to a four-lane facility. Alternative 9 restricts access between NC 119 and SR 1980 (Holmes Road) to right-in/right-out movements only. A service road will be provided immediately north of the northeast quadrant of the I-85/I-40 interchange to provide right-in/right-out access to several parcels. In addition, SR 1951 (Woodlawn Road) will be realigned to intersect Alternative 9 approximately 520 feet south of where existing SR 1951 will intersect the proposed roadway.

Two access points will be provided from the Alternative 9 alignment in the vicinity of the NCIC to provide access for the NCIC to both the northern and southern portions of their property. One access point is located across from the Fieldstone community, while the other is located on the northern side of the NCIC, across from the SR 1972 (Smith Drive) intersection, south of the Duke Power easement.

In addition to improvements to NC 119, Alternative 9 proposes to extend SR 1997 (Corrigidor Road) from SR 1962 (Third Street), past the Mebane Arts and Community Center, City of Mebane Wastewater Treatment Plant, and City of Mebane Maintenance Yard, to SR 1973 (Tate Avenue) in the West End community. Secondary Road 1970 (Roosevelt Street) will also tie into the extension of SR 1997 (Corrigidor Road), providing additional connectivity within the West End community.

Alternative 9 includes modifications to several major intersecting cross streets. Table 1 lists some of the major features of the preliminary design for the Preferred Alternative.

**Table 1
Modifications to Intersecting Roadways**

Location	Alternative 9
I-85/I-40	Add lanes to ramps and overpass
SR 1980 (Holmes Road)	Right-in/right-out at existing NC 119
Existing NC 119 (Fifth Street)	T-turn around at proposed facility
Realignment of SR 1962 (Third Street Extension) and Fifth Street (NC 119)	Signalized intersection
Existing SR 1962 (Third Street Extension)	T-turn around on either side of proposed facility
Realignment of SR 1962 (Third Street Extension) near Post Office	Signalized intersection
SR 1972 (Smith Drive)	Signalized intersection
SR 1963 (Holt Street); NC Railroad; US 70	NC 119 overpass
Proposed US 70 Connector Road	Signalized intersection
US 70	Widen to four-lanes between proposed roadway and connector road
SR 1949 (Edgewood Church Road)	T-turn around near US 70
SR 1951 (Woodlawn Road)	T-turn around on either side of proposed roadway
Realignment of SR 1951 (Woodlawn Road)	Right-in/right-out at proposed facility
SR 1921 (Mebane Rogers Road)	Realign to accommodate proposed intersection with NC 119
Existing NC 119 (First Street)	Realign to connect to proposed roadway; Signalized intersection; T-turn around near northern project terminus
SR 1917 (White Level Road)	No Change
SR 1918 (Mrs. White Lane)	No Change

Location	Alternative 9
SR 1997 (Corrigidor Road)	Realign to connect to SR 1973 (Tate Avenue)
SR 1970 (Roosevelt Street)	Extend to connect to extension of SR 1997 (Corrigidor Road)

Typical sections proposed along the alternative are shown in Figure 2. The roadway typical section proposed near the beginning of the project varies in width due to projected traffic volumes. At the southern end of the project, a six-lane curb and gutter facility is proposed with additional turn-lanes located at the I-85/I-40 interchange. Continuing north from the interchange, a six-lane curb and gutter facility with a 30-foot median is proposed. The curb and gutter typical section, which extends from the beginning of the project to south of the Fieldstone community and US Post Office, will include 5-foot wide sidewalks. Near the realignment of SR 1962 (Third Street Extension), the six-lane curb and gutter facility will transition to a six-lane shoulder section with a 30-foot median for a short distance before transitioning again to a four-lane roadway with a 30-foot grass median in the vicinity of the Fieldstone community and US Post Office, located north of the realignment of SR1962. For the remainder of the project, a four-lane roadway with a 30-foot wide grass median will be constructed on new location to the west of Mebane. All of the proposed typical sections contain 12-foot wide travel lanes. The proposed right-of-way required for the new location section will range from approximately 150 to 300 feet in width.

2.3 Cost Estimates

During the preparation of the FEIS, construction cost estimates were updated for each of the Detailed Study Alternatives. These estimates are presented in Table 2.

**Table 2
Build Alternative Cost Estimates**

Detailed Study Alternative	Length (miles)	Right-of-Way Cost (\$)*	Construction Cost (\$)*	Utility Relocation Cost (\$)*	Total Cost (\$)
8	5.6	\$30,942,500	\$68,700,000	\$2,402,000	\$102,044,500
Section A	3.3	23,875,000	48,000,000	\$1,589,000	73,464,000
Section B	2.3	7,067,500	20,700,000	\$813,000	28,580,500
9 (Preferred)	5.6	\$31,017,500	\$68,500,000	\$2,402,000	\$101,919,500
Section A	3.3	23,875,000	48,000,000	\$1,589,000	73,464,000
Section B	2.3	7,142,500	20,500,000	\$813,000	28,455,500
10	5.6	\$31,415,000	\$70,100,000	\$2,402,000	\$103,917,000
Section A	3.3	23,875,000	48,000,000	\$1,589,000	73,464,000
Section B	2.3	7,540,000	22,100,000	\$813,000	30,453,000

Note: * Construction cost in 2009 dollars. Utility and Right-of-Way costs in 2007 dollars. Right-of-way cost revised to include SR 1951 (Woodlawn Road) realignment.

The NCDOT has developed a draft 5-year work program that contains the projects, programs, and services that NCDOT will accomplish from 2010–2014 to improve safety, mobility, and the physical condition of the State’s transportation network. The 5-year work program is anticipated to be adopted by the NCDOT Board of Transportation in May, 2010. TIP Project U-3109 is not included in the 5-year work program.

The relocation of NC 119 in Mebane is included in the North Carolina Department of Transportation’s (NCDOT) 2009-2015 State Transportation Improvement Program (TIP) in two sections. Section A extends from the existing I-85/I-40/NC 119 interchange to north of US 70. Section B extends from north of US 70 to existing NC 119 south of SR 1918 (Mrs. White Lane). The NCDOT 2009-2015 TIP includes \$675,000 for prior years costs and \$1,927,000 for mitigation in federal fiscal year 2012. For Section A, the NCDOT 2009-2015 TIP includes \$11,938,000 for right-of-way in federal fiscal year 2011, \$11,937,000 for right-of-way acquisition in federal fiscal year 2012, \$795,000 for utilities in federal fiscal year 2011, \$794,000 for utilities in federal fiscal year 2012, \$13,050,000 for construction in federal fiscal years 2013, 2014, 2015, and future years. Section B is currently unfunded; however the NCDOT 2009-2015 TIP includes \$6,600,000 for right-of-way for future years, \$813,000 for utilities for future years, and \$24,500,000 for construction for future years.

2.4 Summary of Impacts

Evaluation criteria in the FEIS included socioeconomic impacts (land use and transportation planning, public services and facilities, relocations (residential, business, church), community cohesion, community access, and environmental justice), economic effects, utility impacts, cultural resources (historic architectural and archaeological), visual impacts, air quality, traffic noise impacts, hazardous waste sites, soils and mineral resources, prime and important farmland impacts, water resource impacts (water quality, streams, floodplains and floodways, and water supply watershed critical area), biotic community impacts, aquatic community impacts, Section 404 jurisdictional issues (wetlands), protected species, Section 4(f) resources, construction impacts, and indirect and cumulative effects. Each of these topics is discussed in Chapter 4 of the FEIS.

The primary reasons for the selection of Alternative 9 as the Preferred Alternative were the minimization of land taken and separated from a property listed on the NRHP (Cates Farm) and thus protected by Section 4(f) of the Department of transportation Act of 1966, as amended (23 CFR 774), while also minimizing the crossing of the critical area of the Graham-Mebane Reservoir water supply watershed. Minimizing stream and wetland impacts were also important considerations. A summary of impacts associated with the Preferred Alternative is presented in Table 3.

Table 3
Summary of Environmental Impacts

Impact Category (Reference to Section in FEIS)	Alternative 9
<i>PROJECT FACTORS</i>	
Mainline Length (miles)*	5.6
Construction Cost (\$)***	68,500,000
Utility Relocation Cost (\$)***	2,402,000
Right-of-Way Cost (\$)***	31,017,500
TOTAL COST (\$)	101,919,500
<i>SOCIOECONOMIC FACTORS</i>	
Residential Relocations (4.1.2.2)	46
West End Community (4.1.2.3)	4
White Level Community (4.1.2.3)	6
Woodlawn Community (eastern half) (4.1.2.3)	10
Business Relocations (4.1.3.2)	5
Parks Impacted (4.1.2.1)	0
Schools Impacted (4.1.2.1)	0
Churches Displaced (located in West End Community) (4.1.2.1)	1
Cemeteries Impacted (4.1.2.1)	0
Noise Impacts (# receptors approaching or exceeding criteria) (4.2.2.3)	11
Noise Impacts (# receptors with substantial noise level increase) (4.2.2.3)	3
<i>INFRASTRUCTURE (4.1.4)</i>	
Major Electric Power Transmission Line Crossings	2
Water and Sewer Facility Impacts (Water Tower)	1
Fiber Optic Cable Crossings	1
<i>CULTURAL RESOURCE FACTORS (4.1.5.1)</i>	
Historic Sites with Adverse Effect	1
Impacted Section 4(f) Resources	1
<i>NATURAL RESOURCE FACTORS</i>	
Federally Listed T&E Species Impacted (4.3.5)	0
Perennial Stream Crossings (4.2.6.3)***	16
Impacts to Streams (linear feet) (4.2.6.3)	3,178
Wetlands (acres) (4.3.3.1)	0.249
Length in water supply watershed critical area (miles)****	0.7
Length in water supply watershed protected area (miles)****	1.7

Impact Category (Reference to Section in FEIS)	Alternative 9
Estimated Impacts to Terrestrial Communities (4.3.1.1)	
Oak-Hickory Forest (acres)	61.7
Secondary Pine Forest (acres)	3.4
Maintained / Disturbed (acres)	120.1
TOTAL COMMUNITY IMPACTS (acres)	185.2
PHYSICAL FACTORS	
Floodplains (acres) (4.2.6.4)	3.15
Floodplains (linear feet of crossing) (4.2.6.4)	1,029
Floodway (linear feet of crossing) (4.2.6.4)	519
Prime and Unique Farmland (acres) (4.2.5)	153.48
Hazardous Materials Sites Within Corridor (4.2.3)	2
Ambient Air Quality CO Standards Exceedances (#) (4.2.1.2)	0

Notes: Estimate of impacts based on construction limits (slope stakes), unless otherwise noted.

* Mainline lengths are approximate.

** Construction cost in 2009 dollars. Utility and Right-of-Way costs in 2007 dollars. Right-of-way cost revised to include SR 1951 (Woodlawn Road) realignment.

*** Total stream crossings do not include the bridge structure recommended at Mill Creek or UT 15 (UT to Mill Creek), which lies within the Alternative 10 corridor and would be spanned by the recommended bridge at Mill Creek.

**** Water supply watershed critical area and water supply watershed protected area lengths are approximate.

3.0 SECTION 4(F)

There is one resource within the boundaries of Alternative 9, the Cates Farm, which is protected under Section 4(f) of the Department of Transportation Act. The Cates Farm is a historic property listed on the NRHP under Criterion A (Agriculture) for the importance of its dairy operation within the agricultural context of Alamance County, as developed for the property's period of significance (1905-1947), and under Criterion B for its association with Charles F. Cates, founder of the Cates Pickle Manufacturing Company and a leader in business, civic, and agricultural affairs. The study area contains a few publicly-owned recreational lands, but none of these lands are within the boundaries of Alternative 9.

Alternative 9 will require the acquisition of right-of-way from the Cates Farm (Figure 1). Approximately 12.6 acres of land will be acquired of the approximately 100 acres listed on the NRHP. An additional 4.6 acres of the farm will be isolated from the remaining historic property. Alternative 9 was developed to minimize the land taken and separated from the Cates Farm while also minimizing the crossing of the critical area of the Graham-Mebane Reservoir water supply watershed.

For Alternative 9, the proposed roadway is anticipated to be visible and audible from the farmhouse. However, it will not require the removal of any structures associated with the Cates Farm. The HPO initially determined that Alternative 9 will have an "adverse effect" on the property in their

concurrence form dated June 6, 2002, which is included in the FEIS. A subsequent concurrence form, dated August 21, 2007, confirms the HPO's previous finding and is also included in the FEIS.

Several alignments that avoid the Cates Farm were studied during the project planning process. These alternatives required the acquisition of right-of-way from one or more historic properties in the area, had significant relocations of residences or businesses, impacted the West End community, or had additional impacts to the water supply watershed critical area of the Graham-Mebane Reservoir. For these reasons, earlier alignments were eliminated from further study.

In accordance with 23 CFR 771.135(i), the FHWA provided the FEIS and Section 4(f) Evaluation to the Department of the Interior, Office of Environmental Project Review, for coordination and comment on July 9, 2009. A copy of this letter is included in Appendix B. A minimum of 45 days was established by the Administration for receipt of comments. No comments have been received from the Department of Interior within the comment period.

4.0 WATER SUPPLY WATERSHED CRITICAL AREA

Approximately 0.7 miles of the Preferred Alternative lies within the water supply watershed critical area (WCA) of the Graham-Mebane Reservoir. North Carolina regulations limiting development within WCAs are intended to protect public health by reducing the extent of water treatment needed for drinking water. Highway runoff may contain higher concentrations of metals such as lead, zinc, iron, chromium, cadmium, nickel, and copper, which result from the ordinary wear of brakes, tires, and other vehicle parts. In addition, de-icing can leave residues of salt on the highway surface. Best management practices (BMPs), such as detention ponds, vegetated filter strips, and swales, can be used to minimize the adverse effects of highway runoff; however, the effectiveness of BMPs varies by several factors, including type of BMP, climate, soil type, and other environmental variables.

The potential impacts of the project on the WCA were evaluated by the Section 404/NEPA Merger Team in June 2008. The NCDWQ representatives expressed an unwillingness to provide the Clean Water Act Section 401 Certification necessary to permit Alternative 8, which would avoid the Cates Farm historic property, but have greater impact on the WCA than Alternative 9. They reiterated the direction under state water supply regulations, which are based on the federal Safe Drinking Water Act, to avoid construction of new roads within the WCA "to the extent practicable." The minutes of the Merger Meeting are included in Appendix B.

The NCDWQ representatives expressed a preference for an alternative which would avoid the WCA entirely. However, they indicated they would be willing to permit Alternative 9 due to its reduced footprint within the WCA (14.9 acres compared to 21.4 acres for Alternative 8) and the fact that it crosses two fewer streams.

5.0 MEASURES TO MINIMIZE HARM

Measures to minimize harm through coordination, avoidance, minimization, mitigation, and environmental commitments are discussed in detail in the FEIS in Chapter 4 and in the Project Commitments ("Greensheet") included in Appendix A of this document.

5.1 Relocations

Alternative 9 impacts 46 homes, 5 businesses, and one church (St. Luke's Christian Church). The church is located at the intersection of US 70 and James Walker Road in the West End community. The relocation of the church is necessary to provide a connection between Alternative 9 and US 70. In discussions with NCDOT in 2000, 2001, and 2008, church officials stated a preference for relocation along US 70 rather than having the proposed NC 119 located close to the church, as it would limit future plans to expand church facilities.

The NCDOT has determined that there are suitable business sites and comparable replacement housing within the study area for displaced homeowners, tenants, and businesses. The NCDOT will provide relocation assistance to residences and businesses displaced during acquisition of right-of-way in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) and the North Carolina Relocation Assistance Act (GS-133-5 through 133-18).

In addition to relocations, the Preferred Alternative will impact access to several businesses. Additional measures that will be considered during the final design phase to further minimize these impacts include the following:

- Property owners on S. Fifth Street requested full access onto S. Fifth Street from the back of their property (Dogwood Properties & Dev. Corp.). However, providing access would not provide the necessary intersection spacing of 1,200 feet required by NCDOT. In order to help mitigate this impact, the NCDOT will consider providing a right-in/right-out access into the Dogwood Properties & Dev. Corp. property from S. Fifth Street.
- Property owners on S. Fifth Street requested that access to their property (Cambridge Center LLC) be shown more clearly. The NCDOT will work with Cambridge Center LLC to determine access to the property, including the consideration of right-in/right-out onto S. Fifth Street from the proposed roadway.
- A business owner expressed concern regarding the impacts to his property (Troutman Dentistry) at the intersection of SR 1962 (Third Street) and SR 1979 (Foust Road) due to the realignment of Fifth Street (NC 119). The NCDOT agreed to evaluate the design in the vicinity of Dr. Troutman's property during the final design phase to see if it is possible to reduce impacts to the property.
- During final design, the NCDOT will evaluate whether right-in/right-out access to the Brookhollow Shopping Center can be provided from a design and safety perspective to facilitate access to local businesses in the shopping center.

5.2 Historic Architecture

As mentioned previously, Alternative 9 will impact one NRHP listed historic property, Cates Farm, which is protected under Section 4(f) of the Department of Transportation Act. Alternative 9 will require the acquisition of approximately 12.6 acres of right-of-way from the Cates Farm, isolating an

additional 4.6 acres from the rest of the farm. The roadway will be visible and audible from, at a minimum, the western half of the property including the cluster of buildings comprising the farmstead.

Subsequent to the selection of Alternative 9 as the Preferred Alternative, the NCDOT has held several meetings with representatives from FHWA, HPO, Cates Farm Executrix, and Marsha A. Ritchie Trust to initiate development of mitigation measures for the Cates Farm. The mitigation measures are included in the Memorandum of Agreement (MOA) between the FHWA and the HPO for the NC 119 Relocation project and include:

- Photodocumentation of the Charles F. and Howard Cates Farm prior to the initiation of work
- Preservation and restoration of landscape features, utilizing native plants
- Refinement of design including lowering the roadbed by approximately 2 to 3 feet below the grade shown in the preliminary design in the vicinity of Mill Creek in order to minimize visual impacts.

The Final MOA is included in Appendix C.

5.3 Noise Impacts

The noise analysis was conducted in accordance with FHWA requirements as detailed in 23 CFR Part 772. FHWA's Traffic Noise Model (TNM) 2.1 was used in conjunction with the NCDOT's 2004 Traffic Noise Policy to estimate traffic noise impacts associated with each Detailed Study Alternative and analyze potential noise abatement measures. According to the FHWA Noise Abatement Criteria (23 CFR Part 772), Alternative 9 will incur the fewest traffic noise impacts of the Detailed Study Alternatives with impacts to 10 residences and 1 business. Eight of the eleven receptors affected by Alternative 9 that approach or exceed noise abatement criteria for both Categories B and C experience a noise level increase of less than 5-dBA. When real-life noises are heard, it is difficult to detect noise level changes of 2-3 dBA. A 5-dBA change is more readily noticeable. Based upon the NCDOT Traffic Noise Abatement Policy, which is outlined in Table 4.7 (Noise Abatement Criteria – Criteria for Substantial Increase) of the FEIS, Alternative 9 has three anticipated substantial noise level impacts.

Traffic noise abatement is not recommended and no noise abatement measures (e.g., sound barriers) are proposed as part of the project. This is because the receptors are dispersed, rather than clustered so that noise walls would not be feasible and reasonable. The majority of the potentially impacted receptors are located in the southern portion of the project study area near the I-85/I-40 interchange. Although full control of access is proposed at this interchange, the impacted receptors are scattered on either side of existing NC 119 in this area. In addition, several of these receptors are anticipated to be relocated or are businesses, which usually prefer visibility from the highway rather than noise abatement. Additional impacted receptors are scattered throughout the project study area in the vicinity of US 70 and SR 1921 (Mebane Rogers Road).

5.4 Natural Resource Impacts

Avoidance and minimization measures associated with wetland and stream impacts were discussed and agreed upon by the Section 404/NEPA Merger Team (Concurrence Point 4a). The Merger Team agreed that in areas of wetland impacts, the side slopes of the proposed roadway would be reduced to 2:1 and that stormwater Best Management Practices and hazardous spill basins would be evaluated at Concurrence Point 4b. The Concurrence Point 4a meeting is discussed in Section 8.1.2 Merger Team Meetings of the FEIS.

5.4.1 Wetlands

Efforts were made during development of the preliminary designs to preserve and protect wetlands in accordance with Executive Order 11990. The alignment for Alternative 9 crosses a wetland located adjacent to MoAdams Creek where the direct impacts would be the least, staying as much on the eastern edge of the wetland as possible while not encroaching upon a parallel section of MoAdams Creek to the west. The alignment skirts between two wetlands located just north of US 70 while avoiding impacts to Craftique Furniture Company. In addition, the alignment associated with the extension of SR 1997 (Corrigidor Road) impacts the western edge of two wetlands, located adjacent to an unnamed tributary to MoAdams Creek, to avoid impacting the City of Mebane WWTP operations. Additional jurisdictional impacts will be further minimized by a reduction in side slopes to 2:1 in the areas of wetland impacts. Once final surveys of the project area are available, the preliminary design can be revised to further minimize impacts to the human and natural environments.

5.4.2 Surface Waters

Alternative 9 will impact 3,178 feet of streams, the least of the three Detailed Study Alternatives. Impacts to streams were minimized by adjusting the preliminary design, where possible, and incorporating a bridge over Mill Creek.

As discussed previously, the Preferred Alternative passes through the water supply watershed critical area of the Graham-Mebane Reservoir. The NCDOT must use the BMPs outlined in *Best Management Practices for Protection of Surface Waters*. Because Alternative 9 crosses waters classified as High Quality Waters (HQW), NCDOT also must adhere to sediment and erosion control BMPs as described for HQW in *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) throughout design and construction of the project. This will also apply for any area that drains to streams having Water Supply Critical Area (WS CA) classification.

The NCDOT will implement the appropriate sediment and erosion control measures as detailed in the most recent version of the North Carolina Erosion and Sediment Control Planning and Design Manual and the most recent version of Permit No. NCS000250. During the final design phase of Alternative 9, the NCDOT will investigate and implement appropriate stormwater treatment measures as detailed in the most recent version of NCDWQ Stormwater Best Management Practices Manual, which may include grassed swale treatment, preformed scour holes, pipe end-treatments, and level spreaders to the extent practicable. In addition, the NCDOT will develop a stormwater management plan and obtain a State Stormwater Permit prior to construction.

The NCDOT has committed to the implementation of hazardous spill protection measures at stream crossings on highways functionally classified as rural or urban arterials and within one-half mile of the water supply watershed critical area during final design of Alternative 9. The NCDOT's *Guidelines for Drainage Studies and Hydraulic Design* (1999) specifies the criteria regarding the location and design of hazardous spill basins.

A mitigation plan for jurisdictional impacts to wetlands and streams will be developed during the Section 404/401 permitting process. The NCDOT began evaluating the project corridor for suitable on-site mitigation locations in August 2008. If on-site mitigation locations are infeasible or insufficient to mitigate all project impacts, mitigation will be provided by the North Carolina Ecosystem Enhancement Program (NCEEP) through their Memorandum of Agreement with the NCDOT and the USACE. The NCDOT will continue to coordinate with NCDWQ, USACE, and USEPA regarding mitigation through the Section 404/NEPA Merger process.

6.0 MONITORING AND ENFORCEMENT PROGRAM

Coordination will be maintained with all environmental regulatory and resource agencies during final design, permitting, right-of-way acquisition, and construction to ensure that avoidance, minimization, and compensatory mitigation measures are implemented. The NCDOT and FHWA will enforce all pertinent specifications and contract provisions in accordance with the intent of the FEIS and the welfare of the public.

7.0 ENVIRONMENTAL COMMITMENTS

Environmental commitments are shown in Appendix A, Project Commitments ("Greensheet").

8.0 COMMENTS ON THE FINAL EIS

The Final Environmental Impact Statement (FEIS) for the project was approved on June 11, 2009, and circulated to environmental regulatory and resources agencies for comments. Chapter 7 of the FEIS, incorporated by reference, includes a full list of agencies and organizations that received copies of the document. Comments on the FEIS were received from the following federal and state resource agencies:

Federal Agencies

United States Environmental Protection Agency (USEPA) – August 14, 2009

State Agencies

North Carolina Department of Administration – August 18, 2009

North Carolina Department of Environment and Natural Resources – August 18, 2009

North Carolina Department of Cultural Resources – State Historic Preservation Office (HPO)
– July 17, 2009

North Carolina Department of Environment and Natural Resources – Division of Water
Quality (NCDWQ) – August 4, 2009

North Carolina Wildlife Resources Commission (NCWRC) – August 7, 2009

North Carolina Department of Crime Control & Public Safety – Emergency Management
Division (Intergovernmental Review Form) – July 14, 2009
North Carolina Department of Agriculture and Consumer Services – July 13, 2009

Copies of these letters are included in Appendix D. Excerpts of the substantive comments from these agencies and responses to those comments from the North Carolina Department of Transportation are included below.

8.1 FEDERAL AGENCIES

United States Environmental Protection Agency (USEPA), Region 4

Letter Date: August 14, 2009

Comment: “EPA concurred with other Merger team agencies on the selection of the Least Environmentally Damaging Practicable Alternative (LEDPA) on June 19, 2008. Alternative 9 was selected as the ‘Preferred Alternative’ and LEDPA. EPA is not listed as one of the Merger team agencies concurring on the LEDPA (Page S-6 of the FEIS).”

Response: The NCDOT acknowledges that USEPA is a participant on the Merger Team and that they concurred on the selection of Alternative 9 as the LEDPA on June 19, 2008. The NCDOT apologizes for the omission in the FEIS and has included USEPA in all detailed references to the Merger Team in the ROD.

Stream and Wetland Impacts

Comment: “DSA 9 has the least impacts to jurisdictional streams and wetlands. However, EPA has environmental concerns regarding commitments to further avoid and minimize these impacts as well as compensatory mitigation.” “EPA notes in the FEIS that NCDOT began evaluating the project corridor for suitable on-site mitigation locations in August of 2008.”

Response: Avoidance and minimization measures associated with wetland and stream impacts were discussed and agreed upon by the Section 404/NEPA Merger Team (Concurrence Point 4a) in June 2008. The Merger Team agreed that in areas of wetland impacts, the side slopes of the proposed roadway would be reduced to 2:1 and that stormwater Best Management Practices and hazardous spill basins would be evaluated at Concurrence Point 4b. Available information regarding the NCDOT’s evaluation for suitable on-site mitigation locations will be presented and discussed at upcoming Section 404/NEPA Merger Team meetings. Additionally, the NCDOT will continue to coordinate with USEPA during preparation/review of the mitigation plan.

Environmental Justice

Comment: “The FEIS describes the demographic characteristics of each of these communities (pages 4-15 and 4-16) and provides demographic information relative to the State of North Carolina, Alamance County, and the project study area. In EPA’s December 3, 2007, DEIS comment letter, we requested that the summary table be revised to

include the anticipated number of low-income and minority displacements compared to the total number of relocations. This information was not included in the EJ section of the document. We note that Table S.2, the Summary of Environmental Impacts includes residential relocations for the West End Community (4), White Level Community (6) and Woodlawn Community (10). The table does not include the relocations for the Fieldstone Community or Fieldstone apartments.”

Response: As discussed in Identification of Environmental Justice Populations under Section 4.1.2.4 Environmental Justice of the FEIS, the proportions of minority and ethnic populations, as well as low-income populations, residing in the demographic study area are similar to the proportions in Alamance County and the State of North Carolina. However, the proportion of minority residents, as well as low-income residents, varies greatly among the communities within the demographic study area. While the Census data point particularly to the White Level community and portions of downtown Mebane, the West End community and the eastern half of the Woodlawn community also have minority populations that may be affected by the proposed action.

Based on the above discussion and in response to USEPA’s DEIS comment letter, the summary table (Table S.2) was revised to include the displacement effects to low-income and minority populations at the community level, focusing on West End and White Level community displacements, as well as the eastern half of the Woodlawn community. The Fieldstone Community/Fieldstone Apartments was not included in the table because there are no relocations in the Fieldstone Community or Fieldstone Apartments. The number of relocations in the communities having minority populations also can be found in Displacements and Relocations under Section 4.1.2.4 Environmental Justice of the FEIS.

Noise Receptor Impacts

Comment: “EPA notes the comments on Noise Abatement and Mitigation Measures in Section 4.2.2.4 of the FEIS. EPA believes that NCDOT and FHWA have not provided a reasonable justification for not fully considering ‘other mitigation measures considered’, including the use of vegetative barriers and earthen berms. NCDOT and FHWA are making the continued argument that the purchase of additional right-of-way is necessary to make vegetative barriers ‘effective’ to achieve the 5-dBA reductions in predicted noise level increases. EPA concurs with NCDOT and FHWA that these measures are not nearly as effective as providing noise walls. However, any potential traffic noise reduction (as little as 1 dBA) near residential communities utilizing vegetative screening and earthen berms is beneficial and should be considered as a form of environmental stewardship.”

Response: The noise analysis was conducted in accordance with FHWA requirements as detailed in 23 CFR Part 772, as well as NCDOT guidelines on highway noise, *NCDOT Traffic Noise Abatement Policy* (September 2004). The *NCDOT Traffic Noise Abatement Policy* states that “it generally is not considered reasonable to provide abatement if the difference between existing and design year noise levels is 3 dBA or less, as this is considered a barely perceptible change.” The policy goes on to say that “Studies have shown that a 200 feet depth of dense vegetation can reduce noise levels by 10 dBA. It is often impractical to plant this quantity of vegetation to achieve such reductions.” Purchasing

additional right-of-way to provide an earth berm or vegetative buffer that would reduce the noise by as little as 1 dBA, would exceed the cost per benefitted receptor. The cost of purchasing the additional right-of-way would not be considered a cost effective or reasonable expenditure of funds. The Section 404/NEPA Merger Team met on June 19, 2008, to select a Least Environmentally Damaging Practicable Alternative (LEDPA) (Concurrence Point 3) and to discuss avoidance and minimization (Concurrence Point 4a) for the proposed project. The NCDOT will continue to work with the USEPA throughout the Section 404/NEPA Merger process.

Prime and Important Farmlands

Comment: “EPA notes the comments on Pages S-22, 3-32 and 3-33, and 4-46 and 4-47 of the FEIS concerning prime and important farmlands. EPA notes that the farmlands indicated as being ‘prime and unique’ farmland did not score above 160 points on the Form AD-1006 by NRCS. NCDOT should verify the criteria for prime and unique farmland at Title 7 Part 658.” “The FEIS does not provide an analysis concerning the 153.5 acres of impacts to agricultural lands from Alternative 9 and that may be part of a Voluntary Agricultural District (VAD).” “The FEIS also states that Alamance County has 240,623 ‘farmable’ acres of which 179,301 acres are active farmland.” “The figures presented in the FEIS do not appear to be accurate according to the Alamance County Farmland Protection Plan that in 2002 lists Alamance County with 97,793 acres of active farmland with 831 active farms. The FEIS does not identify how many active farms Alternative 9 will impact. The Alamance County Farmland Protection Plan is also not cited in the list of local plans and regulations in Section 4.4.5 of the FEIS.”

Response: The USDA Farmland Conversion Impact Rating Form AD-1006, which is used to determine impacts to prime and unique farmland, per 7 CFR Part 658 was completed according to the instructions provided on the USDA – Natural Resources Conservation Service (NRCS) website and submitted to the District Conservationist at NRCS for completion of various sections. Additionally, a final form was provided to the District Conservationist at NRCS and is on file with their office. No comments from the District Conservationist were received on the final form.

The Alamance County, North Carolina - Farmland Protection Plan is divided into two separate sections, one of which is the Alamance County Agricultural Land Use Plan (2007). This document includes a discussion of the voluntary agricultural districts (VAD). An agricultural district is initiated when interested landowners submit a proposal to the Alamance County Agricultural Advisory Board. The district shall contain a minimum of 5 acres for horticultural use, 10 acres of agricultural use, and 20 acres for forestry use. According to the Farmland Preservation Districts map dated February 20, 2008, included in the Plan, and as stated in Section 4.4.11.2 Regional and Local Planning of the FEIS, the farm preservation districts are located within the northern portion of the North sub-area. Therefore, there was no farm preservation districts included within or near the Relocation of NC 119 project study area as of early 2008. However, based on the revised Farmland Preservation Districts map dated October 2008, a farm preservation district has since been established that includes a portion of the Cates Farm. This VAD is located immediately east of Alternative 9. Alternative 9 does not directly impact any part of the VAD.

The farmable acres included in the FEIS are correct; however, the active farmland included in the FEIS is incorrect, but was corrected in Chapter 8.0 of this document. According to the Alamance County Agricultural Development Plan (2007) which is included in the Alamance County, North Carolina – Farmland Protection Plan, Alamance County consists of 831 active farms with 97,793 acres of active farmland. Regarding the accuracy of figures in the FEIS, Figure 3.7 in the FEIS includes soil types within the project study area, including soils considered to be Prime or of Statewide Importance. This figure does not include all of the soils in Alamance County nor does it reference the active farmlands within the County or project study area.

Requesting the identification of active farms along a project corridor requires a Freedom of Information Act (FOIA) request. The USDA withholds this information, pursuant to 5 U.S.C. § 552 (b) (3) 37 of the FOIA and Section 1619 of the 2008 Farm Bill.

The Food, Conservation, and Energy Act of 2008, Title I – Commodity Programs, Subtitle F – Administrative, Section 1619.

This statute prohibits the release of information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department.

Therefore, the number of active farms impacted by Alternative 9 is not included in this document.

A discussion of the Alamance County, Farmland Protection Plan was inadvertently omitted from Section 4.4.5 Local Plans and Regulations of the FEIS. A discussion of this plan will be included in Chapter 9.0 of this document.

Critical Water Supply

Comment: “Alternative 9 will increase impervious surfaces by approximately 5.1 acres within the water supply watershed critical area of the Graham-Mebane Reservoir. NCDOT has not proposed any alternative minimization strategies such as pervious concrete or porous pavement, concrete/asphalt within the water supply watershed critical area to help offset (i.e. mitigate) for the 5.1 acres of impact.” “NCDOT should investigate alternative pervious materials prior to issuance of the ROD.”

Response: Comment noted. The NCDOT Pavement Management Unit has indicated that porous pavement materials have been utilized for a few parking lots in North Carolina. However, this type of pavement is not suitable for roadways with heavy truck traffic. The porous pavement cannot withstand the weight of the trucks.

8.2 STATE AGENCIES

North Carolina Department of Environment and Natural Resources (NCDENR), Division of Water Quality, Transportation Permitting Unit (NCDWQ)

Letter Date: August 4, 2009

Comment: “As the project is located within the Critical Area of a Water Supply, NCDOT will be required to design, construct, and maintain hazardous spill catch basins. Applicable locations include stream crossings on highways functionally classified as rural or urban arterials and within ½ mile of the critical area of the water supply, and in other areas on a site-by-site basis. The number of catch basins installed should be determined by the design of the crossings, so that runoff would enter said basin(s) rather than flowing directly into the stream, and in consultation with NCDWQ.”

Response: The NCDOT has committed to the implementation of hazardous spill protection measures at stream crossings on highways functionally classified as rural or urban arterials and within ½ mile of the water supply watershed critical area during final design of Alternative 9. The NCDOT’s *Guidelines for Drainage Studies and Hydraulic Design* (1999) specifies criteria regarding the location and design of hazardous spill basins. The NCDOT will coordinate with NCDWQ throughout the design process and continue to work with NCDWQ and USACE for Concurrence Points 4b (review development of drainage design with 30 percent hydraulic design) and 4c (review completed drainage design and permit drawings with 100 percent hydraulic design).

Comment: “In accordance with 15A NCAC 2H .0506(h), the DWQ may require compensatory mitigation at a 1:1 ratio for losses of intermittent streams in WS-II waters including Back Creek and Mill Creek and their unnamed tributaries for impacts equal to or exceeding 150 linear feet.”

Response: According to Item II of the NCDWQ Public Notice dated August 14, 2009, the NCDOT understands that mitigation may be required for impacts with a cumulative total of greater than 150 linear feet of intermittent and/or perennial streams.

Comment: “The environmental document should provide a detailed and itemized presentation of the proposed impacts to wetlands and streams with corresponding mapping. If mitigation is necessary as required by 15A NCAC 2H .0506(h), it is preferable to present a conceptual (if not finalized) mitigation plan with the environmental documentation. Appropriate mitigation plans will be required prior to issuance of a 401 Water Quality Certification.”

Response: Comment noted. The NCDOT will continue to coordinate with NCDWQ, USACE, and USEPA regarding mitigation through the Section 404/NEPA Merger process.

Comment: “NCDWQ is very concerned with sediment and erosion impacts that could result from this project. The NCDOT shall address these concerns by describing the potential impacts that may occur to the aquatic environments and any mitigating factors that would reduce the impacts.”

Response: Impacts to aquatic communities as a result of the proposed project are discussed in Section 4.3.2 in the FEIS. In addition, Section 4.2.6.1 in the FEIS includes measures to optimize sediment and erosion control during construction to protect water quality for aquatic organisms. Hazardous spill catch basins will be provided at stream crossings within ½ mile of the water supply watershed critical area. As a participant in the Section 404/NEPA Merger process, NCDWQ will have several more opportunities to review and comment on drainage designs and permit drawings.

North Carolina Department of Agriculture and Consumer Services, Agricultural Services

Letter Date: July 13, 2009

Comment: “The footprint of the proposed relocation of NC 119 from the I-85/40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane north of Mebane in Alamance County has potential of irreversible damage and increases the loss of prime farm and forest land thereby negatively impacting agricultural environmental balance in the immediate area.” “Farm and forest lands are natural resources with no mitigation process. These agribusiness resources cannot be replaced nor relocated once converted to other uses. The proposed Mebane bypass placement will go through several farms near existing Voluntary Agricultural Districts (VAD) designed to recognize and protect key agricultural production centers for future generations and economy security.” “Careful consideration of farm and forest land condemnation is warranted given the potential for loss of local tax revenue.” “Based on the secondary, cumulative, and direct impacts, this project will have an adverse impact on the agricultural, environmental, and economic resources in the proposed area.”

Response: Alternative 9 was developed to minimize the land taken and separated from the Cates Farm while also minimizing the crossing of the critical area of the Graham-Mebane Reservoir water supply watershed. North of US 70, limited control of access or access only at existing secondary roads is proposed. Therefore, in the vicinity of the Cates Farm, access to the new roadway is proposed at SR 1921 (Mebane Rogers Road) and north of Cates Farm where the new roadway ties back into existing NC 119. This access control is expected to limit the amount of secondary impacts due to development.

Plans for the development of a portion of the Cates Farm were discussed during early meetings with the Cates Farm Executrix, as well as in meetings with Remax Realty and 1st American. Initially, the owner’s development concept involved developing the back (northern) part of the property while maintaining the buildings and front of the property. The Cates Farm Executrix stated that the property would be developed regardless of the NC 119 Relocation project. During the meetings with Remax Realty and 1st American, the NCDOT learned that in addition to developing the northern part of the Cates Farm, there are also plans

to develop the western and southern part of the property, while still maintaining the buildings and a small northeast portion of the property. A “For Sale” sign has been located in the front portion of the Cates Farm property for more than a year. Additionally, according to the Marsha A. Ritchie Trust representative, the house, outbuildings, and approximately 50 acres included in the Trust will remain in agricultural use.

Several measures to minimize harm to the Cates Farm were discussed throughout the project planning process and will be implemented during final design based on coordination with the FHWA, HPO, and representatives of the Cates Farm. These include minimizing the cross-section – reducing the proposed roadway median through the Cates Farm as long as a design exception is not required. Other potential minimization measures for the project, including those that will minimize impacts to continuing agricultural practices, will be determined during the final design stage based on coordination with the FHWA, HPO, and representatives of the Cates Farm.

The NCDOT acknowledges that there is a growing conversion of agricultural land to residential in the Mebane area. However, the NC 119 Relocation project is not anticipated to encourage this conversion of land. According to Section 4.4.10.1 Potential for Land Use Changes of the FEIS, the majority of the area north of US 70 is located in the water supply Watershed Critical Area or Balance of Watershed overlay districts and development would be restricted by the State, and local regulations that limit densities and types of land uses in the area. Therefore, substantial changes in land use patterns are not anticipated for the northern portion of the study area (north of US 70) with or without the proposed project. This area is expected to remain as low-density residential, agricultural, and open space uses.

9.0 REVISIONS TO THE FEIS

The following are revisions to the FEIS for the NC 119 Relocation, approved June 2009.

9.1 Preferred Alternative

9.1.1 Section 2.8.2 (Updates to the Preferred Alternative Engineering Design Since the DEIS) Revisions

Additional minor design revisions to address access concerns and minimize impacts to property owners will be considered during the final design phase.

9.2 Impacts to the Physical Environment

9.2.1 Section 4.2.3 (Hazardous Material and Waste Sites) Revisions

A re-evaluation of the two facilities containing potential hazardous materials/waste sites located along Alternative 9 will be completed once right-of-way plans are complete.

9.3 Prime and Important Farmland

9.3.1 Section 4.2.5.1 (Farmland Protection Policy Act) Revisions

The amount of active farmland in Alamance County should be revised to reflect the correct value. The last paragraph under this section should be modified as shown below, with revisions noted in *bold italics*.

In general, the Detailed Study Alternatives, including the Preferred Alternative, would have some impact on the agricultural activities in the project study area; however, the total acreage of farmland that would be acquired for the project (150 acres [Alternative 10] to 153 acres [Alternatives 8 and 9]) is not considered to be substantial as compared to the overall agricultural activity in Alamance County (240,623 farmable acres, of which **97,793** acres are active farmland as defined in the Farmland Protection Policy Act of 1981).

9.4 Indirect and Cumulative Effects

9.4.1 Section 4.4.5 (Local Plans and Regulations) Revisions

The following text should have been included under Section 4.4.5 (Local Plans and Regulations) as Section 4.4.5.7 (Alamance County, North Carolina – Farmland Protection Plan) in the FEIS.

The purpose of the Alamance County, North Carolina - Farmland Protection Plan is to analyze and understand the foundations of Alamance County's agricultural economy and to create a Farmland Protection Plan that will address a suite of issues facing today's farmers in the County today as well as setting the stage for agricultural growth in the future (Alamance County, North Carolina – Farmland Protection Plan, 2007).

The project output is intended to encourage long-term policy formation in support of agriculture while providing a specific short-term framework to guide local programs regarding specific agricultural economic development and land use initiatives. Because the Farmland Protection Plan addresses divergent issues ranging from land planning to industrial development, the plan is divided into two separate sections: The Alamance County Agricultural Land Use Plan (2007) and The Alamance County Agricultural Development Plan (2007).

Each component of the Plan is intended to support agriculture as a continuing and economically productive land use. The result of the process is a series of findings relative to agricultural business and land use conditions. The plan includes 11 recommendations for action to improve these conditions in advancement of both the agricultural industry and local communities.

The "Agricultural Development Plan" uses a study of empirical data, case studies, in-depth interviews with key industry players, and an analysis of industry trends to establish a 10-year strategic vision for Alamance County agriculture including a series of short-term action items.

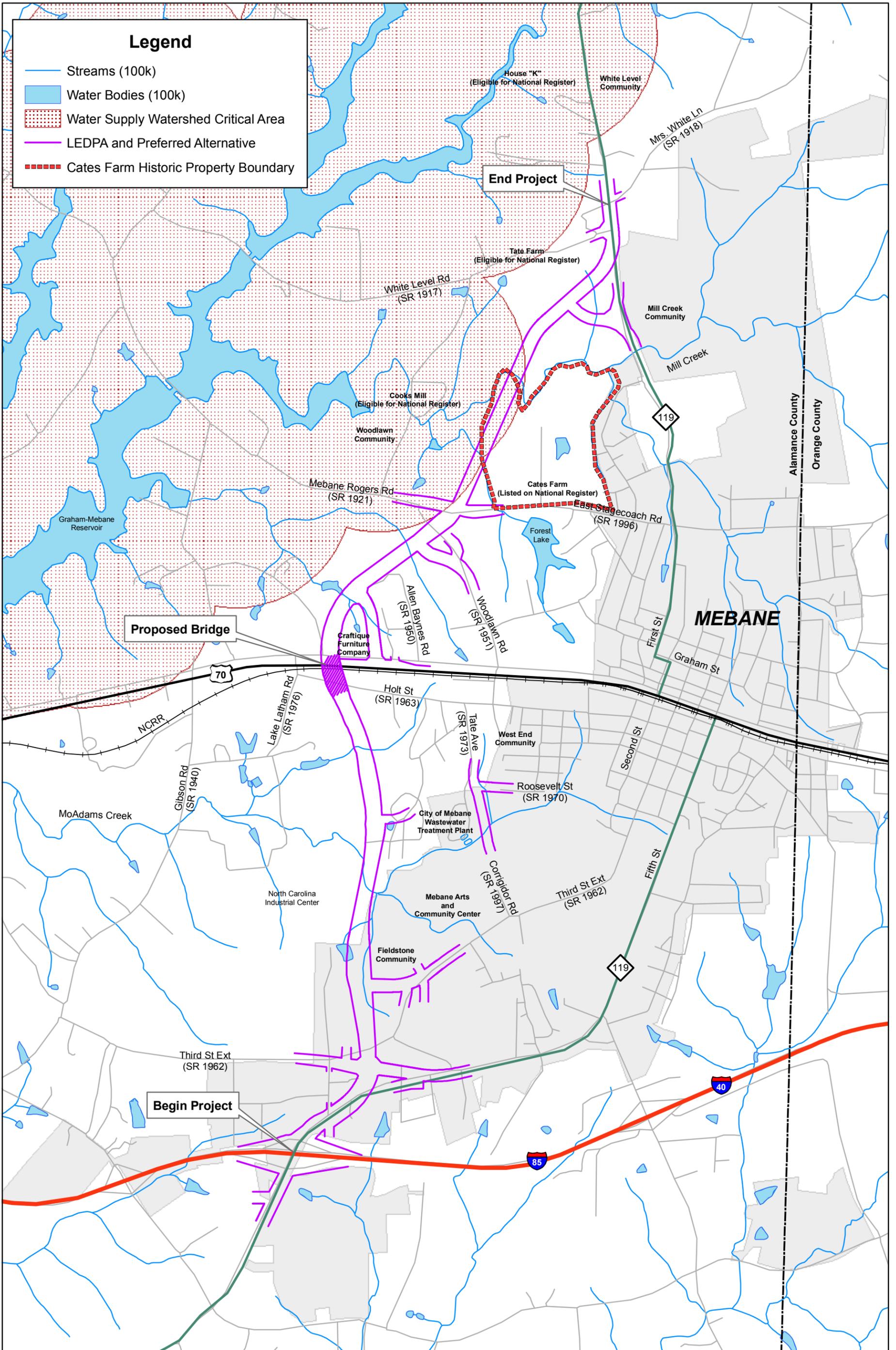
The “Agricultural Land Use Plan” analyzes land use trends in Alamance County and their implications for the County’s agricultural industry. For comparative purposes, housing and population trends for counties within a 40-mile radius are provided as well as comparative agricultural and farmland statistics for adjacent counties. This Plan also includes a discussion and definition of voluntary agricultural districts (VAD). An agricultural district is initiated when interested landowners submit a proposal to the Alamance County Agricultural Advisory Board. The district shall contain a minimum of 5 acres for horticultural use, 10 acres of agricultural use, and 20 acres for forestry use. The Plan also includes a Farmland Preservation Districts map dated February 20, 2008.

9.5 Agency Coordination

9.5.1 Section 8.1.2 (Merger Team Meetings) Revisions

A review by the Section 404/NEPA Merger Team of the drainage design and permit drawings (Concurrence Points 4b and 4c) will occur after approval of the ROD.

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North Carolina Department of Transportation
 Project Development & Environmental Analysis Branch
 Proposed Relocation of NC 119 from I-85/40 to South of SR 1918
 Mebane, Alamance County
 TIP Project No. U-3109

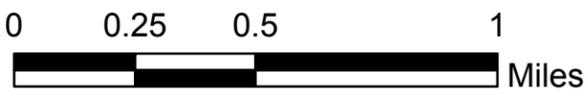
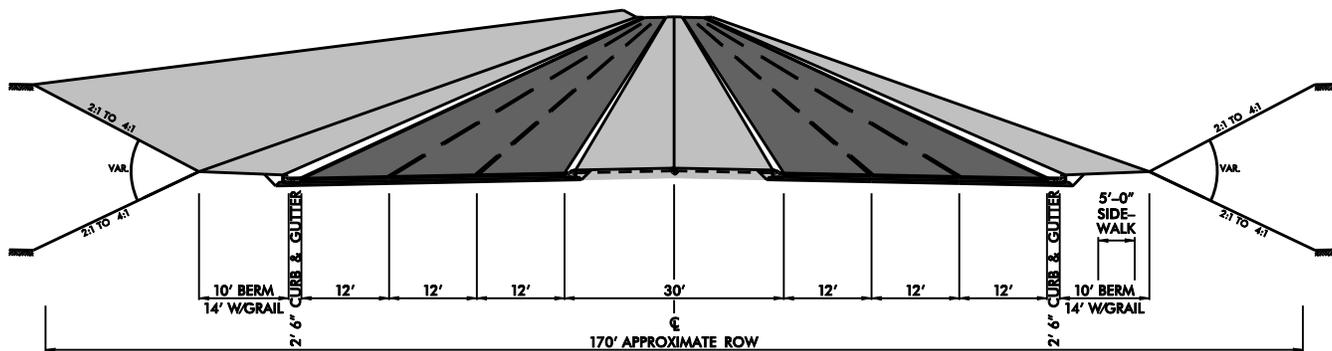
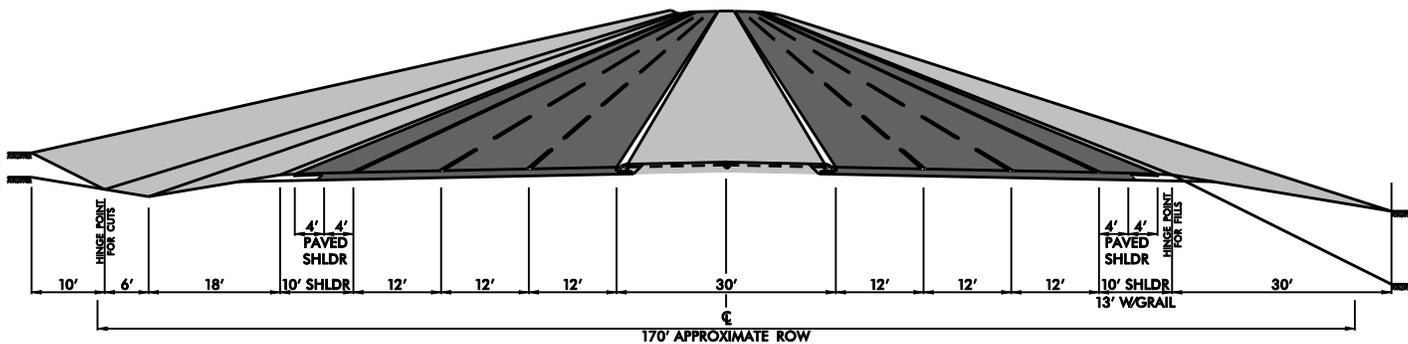


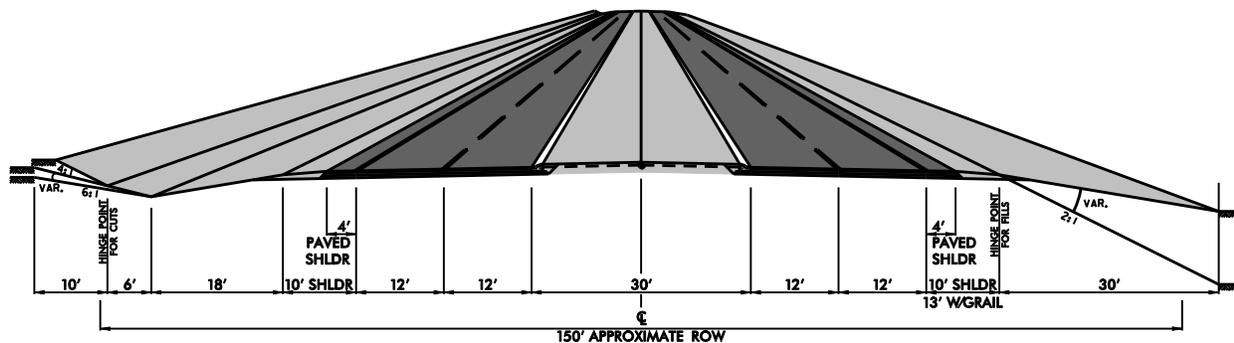
Figure 1
 Project Location



PROPOSED NC 119 TYPICAL SECTION
WITH GRASS MEDIAN
6 LANE WITH CURB & GUTTER



PROPOSED NC 119 TYPICAL SECTION
WITH GRASS MEDIAN
6 LANE SHOULDER



PROPOSED NC 119 TYPICAL SECTION
WITH GRASS MEDIAN
4 LANE SHOULDER

NOT TO SCALE



North Carolina Department of Transportation
Project Development & Environmental Analysis Branch

Proposed Relocation of NC 119 from I-85/40 to South of SR 1918
Mebane, Alamance County
TIP Project No. U-3109

FIGURE 2
TYPICAL ROADWAY CROSS-SECTIONS

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APPENDIX A

PROJECT COMMITMENTS

PROJECT COMMITMENTS

NC 119 RELOCATION

From I-85/40 to South of SR 1918 (Mrs. White Lane)
Mebane, Alamance County

WBS Element 34900.1.1

Federal Aid Project No. STP-119(1)

State Project No. 8.1470901

TIP PROJECT NO. U-3109

In addition to the standard Section 404 Individual Permit Conditions, any Section 404 Special Conditions, Regional Conditions, State Consistency Conditions, NCDOT's Guidelines for Best Management Practices for Protection of Surface Waters, General Certifications, and Section 401 Conditions of Certification, the following special commitments have been agreed to by NCDOT:

Project Development & Environmental Analysis Branch / Right of Way Branch

- The NCDOT will continue to coordinate with St. Luke's Christian Church throughout the project and work with the church to develop a detailed plan on the timing and means of the relocation prior to right-of-way acquisition.

Project Development & Environmental Analysis Branch / Highway Division 7 Office

- This project involves an environmentally sensitive area, identified on the preliminary design plans. No earthwork, staging, or storage of any kind should occur within this environmentally sensitive area.

Project Development & Environmental Analysis Branch - Human Environment Unit

- The NCDOT, in consultation with the North Carolina State Historic Preservation Officer (HPO), the Eloise W. Cates Estate, and the Marsha A. Ritchie Trust, will develop and implement a landscape plan for the portion of the historic Cates Farm directly impacted by the project.

Hydraulics Unit / Roadway Design Unit

- Investigate a spanning (three-sided) bottomless culvert at major stream crossing Site 2 (Unnamed Tributary to Mill Creek [UT14]).

Hydraulics Unit

- Hazardous spill protection measures will be provided at stream crossings within ½ mile of the water supply watershed critical area of the Graham-Mebane Reservoir during final design of Alternative 9.
- Coordinate with the NC Floodplain Mapping Program (FMP), the delegated state agency for administering the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program, to determine status of project with regard to

applicability of NCDOT'S Memorandum of Agreement with FMP (dated 6/5/08), or approval of a Conditional Letter of Map Revision (CLOMR) and subsequent final Letter of Map Revision (LOMR).

Highway Division 7 Office

- This project involves construction activities on or adjacent to FEMA regulated streams. Therefore, the Division shall submit sealed as-built construction plans to the Hydraulics Unit upon completion of project construction, certifying that the drainage structures and roadway embankment that are located within the 100-year floodplain were built as shown on the construction plans, both horizontally and vertically.

APPENDIX B

PROJECT CORRESPONDENCE



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

July 9, 2009

Office of Environmental Policy & Compliance
United States Department of the Interior S-2462-MIB
1849 C Street
Washington, D. C., NW 20240

Dear Sir:

SUBJECT: Federal Final Environmental Impact Statement and Final Section 4(F) Evaluation for NC 119 Relocation, I-85/40 to South of SR 1918 (Mrs. White Lane), Mebane, Alamance County, Federal Aid Project No. STP-119(1), State Project No. 8.1470901, WBS Element 34900.1.1, TIP Project No. U-3109

Attached for your information are 12 copies of the approved Final Environmental Impact Statement and Final Section 4(F) Evaluation for the subject highway improvement project. The distribution of the Final Environmental Impact Statement and Final Section 4(F) Evaluation is being made on behalf of the Federal Highway Administration in accordance with 23 CFR 771.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory J. Thorpe".

Gregory J. Thorpe/Ph.D., Manager
Project Development and Environmental Analysis Branch

GJT/plr

Attachments (12)

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS
1548 MAIL SERVICE CENTER
RALEIGH NC 27699-1548

TELEPHONE: 919-733-3141
FAX: 919-733-9794

WEBSITE: WWW.NCDOT.ORG

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

November 19, 2008

Phone: 919-463-5488
Fax: 919-463-5490

SUBJECT: NEPA/404 Merger Team Meeting Minutes (Concurrence Point 3) for the Relocation of NC 119 from the I-85/40 Interchange to South of SR 1918 (Mrs. White Lane) in Mebane, Alamance County, Federal Aid No. STP-119(1), State Project No. 8.1470901, WBS Element 34900.1.1, TIP Project No. U-3109

PREPARED BY: Aileen S. Mayhew, P.E. *ASM*
Baker Engineering

A NEPA/404 Merger Team meeting for the subject project was held on June 19, 2008, at 3:00 p.m. in the Board Room of the Transportation Building in Raleigh. The following people were in attendance:

Felix Davila	Federal Highway Administration (FHWA)
Andrew Williams	US Army Corps of Engineers (USACE)
Chris Militscher	US Environmental Protection Agency (USEPA)
Gary Jordan	US Fish and Wildlife Service
Brian Wrenn	NCDENR Division of Water Quality
Amy Euliss	NCDENR Division of Water Quality
David Wainwright	NCDENR Division of Water Quality
Travis Wilson	NC Wildlife Resources Commission
Renee Gledhill-Earley	Department of Cultural Resources - HPO
Patty Eason	NCDOT - Division 7
Tony Houser	NCDOT - Roadway Design Unit
David Anderson	NCDOT - Structure Design Unit
Jerry Snead	NCDOT - Hydraulics Unit
Aketa Emptage	NCDOT - Office of Civil Rights - Title VI
Mike Stanley	NCDOT - TIP Development Unit
Derrick Beard	NCDOT - Traffic Control Unit
Atefe Northcutt	NCDOT - TPB
Eric Midkiff	NCDOT - Project Development and Environmental Analysis
Derrick Weaver	NCDOT - Project Development and Environmental Analysis
Jennifer Fuller	NCDOT - Project Development and Environmental Analysis
Ed Lewis	NCDOT - Project Development and Environmental Analysis - PICS
Mary Pope Furr	NCDOT - Project Development and Environmental Analysis - Historic Architecture
Rachelle Beauregard	NCDOT - Project Development and Environmental Analysis - NEU
Greg Price	NCDOT - Project Development and Environmental Analysis - NEU
Glenda Gibson	Gibson Engineers
Jim Buck	Baker Engineering
Suzanne Young	Baker Engineering
Aileen Mayhew	Baker Engineering

The purpose of the meeting was to discuss and select a Least Environmentally Damaging Practicable Alternative (LEDPA) and to discuss avoidance and minimization. Andy Williams began the meeting with a brief overview of the proposed project followed by introductions and brief comments from Jennifer Fuller. At this time, Aileen Mayhew continued with a slide presentation that followed the Concurrence Point 3 handout previously mailed to team members. The presentation included a general description of the project and

discussed the public hearing, water supply watershed critical area, concurrence team history, and the NCDOT recommended alternative. An agenda was also distributed (attached).

Chris Militscher inquired whether responses to the agency comments on the DEIS, specifically those from USEPA, were going to be presented at the meeting. He explained that USEPA's primary concern is Mobile Source Air Toxics (MSATs) and noted that a project specific analysis was not performed to determine the effect of MSATs on specific receptors, similar to how noise analyses are conducted. He commented that no sensitive receptors along Alternatives 8, 9, or 10 were identified in the DEIS and asked for verification that there are no sensitive receptors along the project. He then stated that USEPA is aware of the guidance from FHWA that requires project specific analyses for MSATs only for projects with traffic volumes above a threshold; however, they would have preferred an analysis for this project regardless of the traffic volumes. In response, the NCDOT and Baker Engineering explained that the three detailed study alternatives basically follow one alignment from the beginning of the project to the vicinity of Cates Farm and then run parallel to each other for the remainder of the project. While there are some receptors scattered along the project that experience an increase in noise, they were not aware of any sensitive air quality receptors (daycares, nursing facilities, etc.) located in the area where the alternatives vary. Information regarding sensitive receptors along the project will be verified and included in the FEIS. If there are no sensitive receptors, a statement to that effect will be included in the FEIS, which will conclude the analysis.

The NCDOT briefly explained that they selected Alternative 8 as their preferred alternative because it was the only alternative that avoided impacting the Cates Farm, which is listed on the National Register of Historic Places. Amy Euliss noted that a portion of the Cates Farm property is currently for sale and that the home and associated structures would not be impacted by Alternatives 9 or 10, although the viewshed would be impacted. Renee Gledhill-Earley explained that the HPO has to follow the historic preservation regulations according to how the property is right now and until development begins, the entire property is protected. The NCDWQ explained their concerns about Alternatives 8 and 9 impacting the watershed critical area and asked about citizen comments received thus far. A comment was made that while several citizens at the Public Hearing were not in favor of an alternative that impacted the watershed critical area; there were also verbal and written comments from citizens requesting that NCDOT avoid the historic property. The NCDWQ indicated that they could not agree with NCDOT's preferred alternative. There was discussion regarding State regulations requiring the watershed critical area be avoided unless there is no "practicable" alternative, versus Federal regulations requiring the historic property be avoided unless it is not "prudent and feasible." A comment was made that the State regulation supporting the watershed critical area is based on the Federal Safe Drinking Water Act. The NCDWQ stated that Alternative 8 would be difficult for them to permit. Brian Wrenn added that the stormwater controls required for watershed critical areas would apply to this project regardless of whether the selected alternative crosses the critical area. The NCDWQ preferred Alternative 10, but the HPO said they couldn't agree with that alternative. The NCDWQ also had concerns about secondary and cumulative impacts of the proposed road. Jim Buck stated that the portion of the project in the vicinity of the Cates Farm is proposed to have full control of access, which would limit opportunities for induced development. The NCDOT reiterated that no secondary or cumulative impacts directly off this road are anticipated.

At this time, Chris Militscher asked if NCDWQ and HPO could agree with Alternative 9 as a compromise. Alternative 9 avoids and minimizes impacts to both the watershed critical area and the Cates Farm. Renee Gledhill-Earley stated that Alternative 9 has an adverse effect on the Cates Farm and that FHWA would have to support this decision since the Cates Farm is a Section 4(f) resource. Felix Davila indicated that he would support Alternative 9 as the LEDPA, but that he would need to verify with FHWA's lawyers that a Section 4(f) document could be prepared stating there is no practicable and feasible alternative to impacting the Cates Farm.

Some of the reasons why Alternative 9 was selected as the LEDPA included:

- Compromise - minimizes impacts to both resources (watershed critical area and Cates Farm)
- Fewer stream crossings than Alternatives 8 or 10
- Less linear feet of stream impacts than Alternatives 8 or 10

The Concurrence Point 3 form was circulated and signed by the Merger Team. The signature sheet states that the Project Team concurs with the selection of "Alternative 9" as the LEDPA. A copy of the signed concurrence sheet is attached.

At this time, the Merger Team began discussing avoidance and minimization for the proposed project. Aileen Mayhew gave a brief slide presentation that presented minimization efforts to date. There was a comment that 2:1 side slopes in the wetland areas should be included in the minimization efforts. There was also discussion among the team members regarding incorporating additional minimization / mitigation efforts for the Cates Farm into the project. It was agreed that these efforts would be investigated during Concurrence Point 4B.

The Concurrence Point 4A form was circulated and signed by the Merger Team. The signature sheet states that in areas of wetland impacts, the side slopes be reduced to 2:1 and that storm water Best Management Practices and hazardous spill basins will be evaluated at Concurrence Point 4B. It also states that the Cates Farm on-site stream restoration project will also be discussed and evaluated at Concurrence Point 4B. A copy of the signed concurrence sheet is attached. There being no further business, the meeting was adjourned.

If any meeting participants have any comments, questions, or edits to this memorandum, please contact Aileen Mayhew at (919) 459-9021 or by email at amayhew@mbakercorp.com.

cc: Doug Galyon, NCDOT
Mike Mills, NCDOT - Division 7
Ted Bisterfeld, EPA
Earlene Thomas, NCDOT, TPB

APPENDIX C

MEMORANDUM OF AGREEMENT

**MEMORANDUM OF AGREEMENT
BETWEEN THE
FEDERAL HIGHWAY ADMINISTRATION
AND THE
NORTH CAROLINA
STATE HISTORIC PRESERVATION OFFICER
FOR
NC 119 RELOCATION
I-85/40 TO SOUTH OF SR 1918 (MRS. WHITE LANE)
MEBANE, ALAMANCE COUNTY, NORTH CAROLINA
TIP PROJECT NO. U-3109
FEDERAL AID PROJECT NO. STP-119(1)**

WHEREAS, the Federal Highway Administration (FHWA) has determined that the relocation of NC 119 from the I-85/40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane in Alamance County, including improvements to a portion of SR 1997 (Corrigidor Road) and SR 1970 (Roosevelt Street) (the Undertaking) will have an adverse effect upon the Charles F. and Howard Cates Farm, a property listed on the National Register of Historic Places (NRHP); and

WHEREAS, the Undertaking will alter the historic setting of the Charles F. and Howard Cates Farm by 1) requiring the acquisition of 12.6 acres of right-of-way; 2) isolating an additional 4.6 acres from the rest of the farm; and 3) creating a roadway visible from, at least, the western half of the property and the cluster of buildings comprising the farmstead, including the occupied main house; and

WHEREAS, the FHWA has consulted with the North Carolina State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the North Carolina Department of Transportation (NCDOT), the Eloise W. Cates Estate, and the Marsha A. Ritchie Trust (the latter two sharing the ownership of the parcels contained within the National Register boundary of the Charles F. and Howard Cates Farm) have participated in the consultation and been invited by FHWA and the North Carolina SHPO to concur in this Memorandum of Agreement (MOA); and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation (Council) of the adverse effect and the Council has declined to comment or participate in the consultation;

NOW, THEREFORE, FHWA and the North Carolina SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on the historic property.

STIPULATIONS

The FHWA shall ensure that the following measures are carried out:

- I. **Photodocumentation of the Charles F. and Howard Cates Farm**
Prior to the initiation of construction, NCDOT shall record the Charles F. and Howard Cates Farm and its surroundings in accordance with the attached "Historic Structures and Landscape Recordation Plan" (Appendix A). NCDOT shall deposit copies of the documentation with the SHPO, NCDOT Historic Architecture Group, the Eloise W. Cates Estate and the Marsha A. Ritchie Trust within three (3) years of the execution of this MOA.

- II. **Preservation and Restoration of Landscape Features**
NCDOT, in consultation with the North Carolina SHPO, the Eloise W. Cates Estate, and the Marsha A. Ritchie Trust, shall develop and implement a landscape plan for that part of the Charles F. and Howard Cates Farm directly impacted by the undertaking (specifically, the top of the roadway slope). The plan will utilize materials from native plant communities and replace existing fencing as necessary to reestablish a natural appearance and composition, as well as help screen the farm from the proposed roadway. NCDOT Roadside Environmental Unit shall inventory the existing features and coordinate with the property owners. NCDOT Historic Architecture Group and the North Carolina SHPO shall review and comment on the resultant plan.

- III. **Refinement of Design**
NCDOT Roadway Design Unit shall lower the proposed roadbed approximately two to three feet below the roadway design grade in the vicinity of Unnamed Tributary (UT) to Mill Creek to reduce the visibility of vehicles on the proposed roadway from the farm.

IV. Treatment of Isolated Acreage

Future use of the 4.6 acres isolated from the rest of the Charles F. and Howard Cates Farm by the undertaking is unknown at this time. NCDOT may purchase the acreage as an uneconomical remnant or provide it with a service road. If purchased, NCDOT shall insure that incompatible activities, such as billboard placement, do not occur on the land.

V. Unanticipated Discovery

In accordance with 36 CFR 800.11(a), if NCDOT identifies any additional cultural resource(s) during construction and determines it (them) to be eligible for the NRHP, all work will be halted within the limits of the NRHP-eligible resource(s) and the FHWA and SHPO contacted. If after consultation with the Signatory and Concurring Party(ies) additional mitigation is determined necessary, the NCDOT, in consultation with the Signatory and Concurring Party(ies), will develop and implement appropriate protection/mitigation measures for the resource(s). Inadvertent or accidental discovery of human remains will be handled in accordance with North Carolina General Statutes 65 and 70.

VI. Dispute Resolution

Should any of the Signatory or Concurring Party(ies) object within thirty (30) days to any plans or documentation provided for review pursuant to this MOA, the FHWA shall consult with the objecting party(ies) to resolve the objection. If the FHWA or objecting party(ies) determines that the objection cannot be resolved, the FHWA will forward all documentation relevant to the dispute to the Council. Within thirty (30) days after receipt of all pertinent documentation, the Council will either:

- 1) Provide the FHWA with recommendations which the FHWA will take into account in reaching a final decision regarding the dispute, or
- 2) Notify the FHWA that it will comment pursuant to 36 CFR Section 800.7(c) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the FHWA, in accordance with 36 CFR Section 800.7(c)(4) with reference to the subject of the dispute.

Any recommendations or comment provided by the Council will be understood to pertain only to the subject of the dispute; FHWA's responsibility to carry out all of the actions under this agreement that are not the subject of the dispute will remain unchanged

VII. Amendments

If any Signatory to this MOA believes that its terms cannot be carried out or that an amendment to the terms must be made, that (those) party(ies) shall immediately consult with the other party(ies) to develop amendments in accordance with 36 CFR 800.6(c)(7). If an amendment cannot be agreed upon, the dispute resolution process set forth in Stipulation VI will be followed.

VIII. Termination

Any Signatory to this MOA may terminate the agreement by providing notice to the other parties, provided that the Signatories and Concurring party(ies) will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this MOA will require compliance with 36 CFR 800. This MOA may be terminated by the execution of a subsequent MOA that explicitly terminates or supersedes its terms.

IX. Duration

Unless terminated pursuant to Stipulation VIII above, this MOA will be in effect until FHWA, in consultation with the other Signatory and Concurring Party(ies), determines that all of its terms have satisfactorily been fulfilled or if NCDOT is unable or decides not to construct the Undertaking.

Execution of this Memorandum of Agreement by FHWA and the North Carolina SHPO, its subsequent filing with the Council, and implementation of its terms evidence that FHWA has afforded the Council an opportunity to comment on the Undertaking and that FHWA has taken into account the effects of the Undertaking on the historic property.

AGREE:

Federal Highway Administration

For John F. Sullivan III 10/28/09
John F. Sullivan III, P.E. Date
Division Administrator

State Historic Preservation Officer

Jeffrey J. Crow 10/20/09
Jeffrey J. Crow Date
North Carolina State Historic Preservation Officer

FILED:

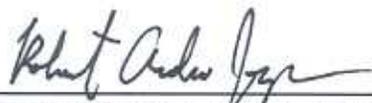
By: _____ Date
Advisory Council on Historic Preservation

**MEMORANDUM OF AGREEMENT
BETWEEN THE
FEDERAL HIGHWAY ADMINISTRATION
AND THE
NORTH CAROLINA
STATE HISTORIC PRESERVATION OFFICER
FOR
NC 119 RELOCATION
I-85/40 TO SOUTH OF SR 1918 (MRS. WHITE LANE)
MEBANE, ALAMANCE COUNTY, NORTH CAROLINA
TIP PROJECT NO. U-3109
FEDERAL AID PROJECT NO. STP-119(1)**

Execution of this Memorandum of Agreement by FHWA and the North Carolina SHPO, its subsequent filing with the Council, and implementation of its terms evidence that FHWA has afforded the Council an opportunity to comment on the Undertaking and that FHWA has taken into account the effects of the Undertaking on the historic property.

CONCUR:

North Carolina Department of Transportation



Robert Andrew Joyner, P.E.
Human Environment Unit Head

10/12/09

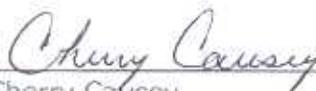
Date

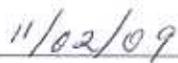
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CONCUR:

Eloise W. Cates Estate


Cherry Causey
Executrix


Date

**MEMORANDUM OF AGREEMENT
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NORTH CAROLINA
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CONCUR:

Marsha A. Ritchie Trust

Marsha Ritchie Altmeyer

Date

APPENDIX A

**Historic Structures and Landscape Recordation Plan
NC 119 Relocation
I-85/40 to South of SR 1918 (Mrs. White Lane)
Mebane, Alamance County, North Carolina
TIP Project No. U-3109
Federal Aid Project No. STP-119(1)**

Photographic Requirements

- Overall views of the Charles F. and Howard Cates Farm and its immediate surroundings;
- Overall views of the farmstead and related fields and woodland;
- Elevations and oblique views of all component buildings, structures, and landscape elements and details of representative structural and ornamental features.

Photographic Format

- All images will be captured, labeled, and stored according to the North Carolina State Historic Preservation Office's "Policy and Guidelines for Digital Photography for Historic Property Surveys, National Register Nominations and NRAC PowerPoint Presentations, Revised November 2008."

Copies and Curation

- One (1) set of all photographic documentation will be deposited with the North Carolina Division of Archives and History/State Historic Preservation Office, to be made a permanent part of the statewide survey and iconographic collection;
- One (1) set of all photographic documentation will be deposited in the files of the Historic Architecture Group of NCDOT;
- One (1) set of all photographic documentation will be provided for representatives of the Eloise W. Cates Estate and the Marsha A. Ritchie Trust.

APPENDIX D

REVIEW COMMENTS ON THE FEIS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

RECEIVED
Division of Highways

Date: August 14, 2009

AUG 18 2009

Dr. Gregory J. Thorpe, Ph.D.
Manager, Project Development and Environmental
Analysis Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1501

Preconstruction
Project Development and
Environmental Analysis Branch

SUBJECT: Federal Final Environmental Impact Statement for the NC 119 Relocation,
I-85/I-40 to South of SR 1918, Mebane, Alamance County, North
Carolina; TIP Project No.: U-3109; FHWA-E40818-NC; CEQ No.:
20090240

Dear Dr. Thorpe:

The U.S. Environmental Protection Agency Region 4 (EPA) has reviewed the subject document and is commenting in accordance with Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The North Carolina Department of Transportation (NCDOT) and the Federal Highway Administration (FHWA) are proposing to construct an approximate 5.6-mile, multi-lane, median-divided facility from I-85/I-40 south of SR 1918 (Mrs. White Street) in Mebane, Alamance County.

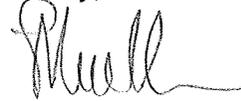
EPA's comment letter of December 3, 2007, on the Draft Environmental Impact Statement (DEIS) is included in Appendix I to the FEIS. The proposed project has also been in the NEPA/Section 404 Merger 01 process. EPA concurred with other Merger team agencies on the selection of the Least Environmentally Damaging Practicable Alternative (LEDPA) on June 19, 2008. Alternative 9 was selected as the 'Preferred Alternative' and LEDPA. EPA is not listed as one of the Merger team agencies concurring on the LEDPA (Page S-6 of the FEIS).

EPA has attached detailed technical review comments on the FEIS (See Attachment A). EPA continues to have environmental concerns regarding avoidance and minimization measures to jurisdictional wetlands and streams, impacted noise receptors and water supply watershed critical areas.

EPA staff, including Mr. Christopher Militscher and Ms. Kathy Matthews of EPAs' Wetlands Section will continue to work with you and FHWA and other agencies on the continued environmental coordination and Merger 01 process activities for this

project. EPA also requests a copy of the Record of Decision (ROD) when it becomes available. Please feel free to contact Mr. Militscher of my staff at (919) 856-4206 or Ms. Matthews at (919) 541-3062 should you have specific questions concerning EPA's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mueller", with a long horizontal flourish extending to the right.

Heinz J. Mueller, Chief
NEPA Program Office

Cc: J. Sullivan, FHWA
K. Jolly, USACE
B. Wrenn, NCDENR-DWQ

Attachment A
FEIS Detailed Review Comments
NC 119 Relocation
Mebane, Alamance County
U-3109

Overall Project Impacts

Table S.2 of the FEIS includes the summary of environmental impacts for the Preferred Alternative (i.e., DSA 9) as well as the other two detailed study alternatives (i.e., DSA 8 and 10). DSA 9 includes 46 residential relocations, 5 business relocations, 1 church relocation, 14 noise receptors impacts (3 receptors with substantial noise level increases), 1 historic site with an 'Adverse Effect', 1 impacted Section 4(f) resource, 3,178 linear feet of stream impacts, 0.25 acres of wetland impacts, 0.7 miles of new roadway located in a designated critical water supply watershed, 1.7 miles of new roadway in a protected area water supply watershed, 65.1 acres of impact to terrestrial forests, 2 hazardous material sites impacted, and 153.5 acres of prime and unique farmlands impacted.

Stream and Wetland Impacts

DSA 9 has the least impacts to jurisdictional streams and wetlands. However, EPA has environmental concerns regarding commitments to further avoid and minimize these impacts as well as compensatory mitigation. EPA anticipates that some of the issues concerning avoidance and minimization can be further addressed through the Merger 01 process at Concurrence Point 4A. EPA notes in the FEIS that NCDOT began evaluating the project corridor for suitable on-site mitigation location in August of 2008. These preliminary investigations should also be addressed and further evaluated at the Concurrence Point 4A meeting and also coordinated with Ms. Kathy Matthews of EPA's Wetlands Section.

Environmental Justice

EPA notes that the West End Revitalization Association (WERA) filed a complaint with the U.S. Department of Justice in 1999 under Title VI of the 1964 Civil Rights Act and Executive Order 12898 on Environmental Justice claiming that the City of Mebane, area transportation groups and NCDOT had discriminated against the West End Community with respect to the NC 119 Relocation Project and other issues. In addition, EPA also received and responded to environmental justice (EJ) complaints from WERA. Through our competitive grants process, EPA provided West End with several grants including an EJ Collaborative Problem-Solving Cooperative Agreement grant to help address some of the environmental concerns they were facing in their community. The EJ grant provided funds to install water and sewer services in 40 homes in the West End.

Following the concerns that were raised by the West End Community and others during the public involvement process, EPA notes the outreach efforts that were made to improve the public involvement process with respect to integrating potential EJ communities into the decision-making process. NCDOT held several public meetings and citizen workshops. They prepared a Community Impact Assessment and held a series of one-on-one meetings with citizens. NCDOT also conducted a community facilitation program designed to increase citizen involvement and to identify project-related issues. In addition, a NC 119 Relocation Steering Committee was also formed with a diverse group of citizens to help improve the information exchange between the communities and NCDOT representatives, distribute project related information (via newsletters or websites), etc. EPA recommends that NCDOT continue to work with the communities to ensure that they are informed of project-related changes and major project milestones.

The FEIS discusses potential impacts to communities and businesses within the project area. Table 4.2 provides an estimate of the relocations by each study alternative. The Preferred Alternative (“LEDPA”) will result in approximately 46 residential, 5 business and 1 church relocation. Each of the proposed build alternatives have similar relocations impacts and the level of project impacts has not changed from the DEIS to FEIS. However, EPA recognizes the early planning efforts to eliminate some preliminary alternatives that had significantly higher impacts to minority and low-income populations.

There are six (6) neighborhoods or areas (Fieldstone, West End, Downtown Mebane, Woodlawn, Mills Creek and White Level) within the immediate project vicinity. The FEIS describes the type and number of residential relocations that are proposed in each of these areas. For examples, the FEIS indicates that 16 residential displacements are required south of Fieldstone community or Fieldstone apartments, 4 residential displacements are projected within the West End Community, no relocations are project in Downtown Mebane, 10 residential displacements are proposed within the Woodlawn community, no relocations would be experienced by the Mills Creek neighborhood, and 6 displacements are proposed in the White level community.

The FEIS describes the demographic characteristics of each of these communities (Page 4-15 and 4-16) and provides demographic information relative to the State of North Carolina, Alamance County and the project study area. In EPA’s December 3, 2007, DEIS comment letter, we requested that the summary table be revised to include the anticipated number of low-income and minority displacements compared to the total number of relocations. This information was not included in the EJ section of the document. We note that Table S.2, the Summary of Environmental Impacts includes residential relocations for the West End Community (4), White Level Community (6) and Woodlawn Community (10). The table does not include the relocations for the Fieldstone community or Fieldstone apartments.

Other impacts including visual, noise, community cohesion, critical water supply and potential cumulative effects from other proposed transportation improvement projects within the vicinity are discussed in various levels of detail. In addition, the FEIS

also includes discussions that compare project-related impacts between EJ and non-EJ populations. Overall, EPA believes that good efforts were made to disclose project-related impacts in the FEIS and to improve the public involvement process to help address potential EJ concerns. Every effort also should be made during final design to further minimize residential relocations and visual and noise impacts to the extent practical. Any project-related commitments in this regard should be incorporated into the ROD.

Noise Receptor Impacts

EPA notes the comments on Noise Abatement and Mitigation Measures in Section 4.2.2.4 of the FEIS. EPA believes that NCDOT and FHWA have not provided a reasonable justification for not fully considering ‘other mitigation measures considered’, including the use of vegetative barriers and earthen berms. NCDOT and FHWA are making the continued argument that the purchase of the additional right-of-way is necessary to make vegetative barriers ‘effective’ to achieve the 5-dBA reductions in predicted noise levels increases. EPA concurs with NCDOT and FHWA that these measures are not nearly as effective as providing noise walls. However, any potential traffic noise reduction (as little as 1 dBA) near residential communities utilizing vegetative screening and earthen berms is beneficial and should be considered as a form of environmental stewardship.

EPA is very interested in discussing this matter in greater detail at the Merger 01 CP 4A, Avoidance and Minimization meeting. Efforts to ‘adjust’ the horizontal and vertical alignments within the project corridor to minimize impacts should also consider any potential noise reductions for impacted receptors.

Prime and Important Farmlands

EPA notes the comments on Pages S-22, 3-32 and 3-33, and 4-46 and 4-47 of the FEIS concerning prime and important farmlands. EPA notes that the farmlands indicated as being ‘prime and unique’ farmland did not score above 160 points on the Form AD-106 by NRCS. NCDOT should verify the criteria for prime and unique farmland at Title 7 Part 658. Section 4.2.5.2 of the FEIS addresses local farmland policies and that Alamance County has a Voluntary Preservation Farmland Program. The FEIS does not provide an analysis concerning the 153.5 acres of impacts to agricultural lands from Alternative 9 and that may be part of a Voluntary Agricultural District (VAD). Farmland impacts to VADs should be avoided and/or minimized to the extent practicable (G.S. 106-735; The Agricultural Development and Farmland Preservation Enabling Act). The FEIS also states that Alamance County has 240,623 ‘farmable’ acres of which 179,301 acres are active farmland. The presence of ‘prime farmland soils’ in an area does not necessarily translate into ‘farmable acres’ or active farmlands. The figures presented in the FEIS do not appear to be accurate according to the Alamance County Farmland Protection Plan that in 2002 lists Alamance County with 97,793 acres of active farmland with 831 active farms. The FEIS does not identify how many active farms Alternative 9

will impact. The Alamance County Farmland Protection Plan is also not cited in the list of local plans and regulations in Section 4.4.5 of the FEIS.

Critical Water Supplies

Alternative 9 will increase impervious surfaces by approximately 5.1 acres within the water supply watershed critical area of the Graham-Mebane Reservoir. NCDOT has not proposed any alternative minimization strategies such as pervious concrete or porous pavement, concrete/asphalt within the water supply watershed critical area to help offset (i.e., Mitigate) for the 5.1 acres of impact. These alternative paving structure materials have additional environmental benefits than just groundwater recharge, including reduced stormwater runoff and pollution. Other States have used such materials for roadways with substantial success. NCDOT should investigate alternative pervious materials prior to the issuance of the ROD.

Mobile Source Air Toxics (MSATs)

EPA notes in the FEIS that there are no identified near-roadway sensitive receptors, such as day care facilities, schools and hospitals.



North Carolina Department of Administration

Beverly Eaves Perdue, Governor

Britt Cobb, Secretary

August 18, 2009

Mr. Gregory Thorpe
N.C. Dept. of Transportation
Project Dev. & Env'l Analysis
1548 Mail Service Center
Raleigh, NC 27699-1534

Re: SCH File # 10-E-4220-0009; FEIS; Proposal relocation of NC 119 from the I-85/40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane in Alamance County. TIP #U-3109

Dear Mr. Thorpe:

The above referenced environmental impact information has been submitted to the State Clearinghouse under the provisions of the National Environmental Policy Act. According to G.S. 113A-10, when a state agency is required to prepare an environmental document under the provisions of federal law, the environmental document meets the provisions of the State Environmental Policy Act. Attached to this letter for your consideration are the comments made by agencies in the course of this review.

If any further environmental review documents are prepared for this project, they should be forwarded to this office for intergovernmental review.

Should you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in cursive script that reads "Valerie W. McMillan".

Valerie W. McMillan, Director
State Environmental Review Clearinghouse

Attachments

cc: Region G
Region K

Mailing Address:
1301 Mail Service Center
Raleigh, NC 27699-1301

Telephone: (919)807-2425
Fax (919)733-9571
State Courier #51-01-00
e-mail valerie.w.mcmillan@doa.nc.gov

Location Address:
116 West Jones Street
Raleigh, North Carolina



North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

MEMORANDUM

TO: Valerie McMillan
State Clearinghouse

FROM: Melba McGee 
Environmental Review

RE: 10-0009 FEIS for the proposed NC 119 Relocation
Mebane in Alamance County

SUBJECT: August 18, 2009

The Department of Environment and Natural Resources has reviewed the proposed information. The applicant is encouraged to continue to work with our agencies as this project moves forward.

Thank you for the opportunity to review.

Attachments

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

COUNTY: ALAMANCE

F02: HIGHWAYS AND ROADS

STATE NUMBER: 10-E-4220-0009
DATE RECEIVED: 07/10/2009
AGENCY RESPONSE: 08/05/2009
REVIEW CLOSED: 08/10/2009

MS RENEE GLEDHILL-EARLEY
CLEARINGHOUSE COORDINATOR
DEPT OF CULTURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE
MSC 4617 - ARCHIVES BUILDING
RALEIGH NC



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DENR LEGISLATIVE AFFAIRS
DEPT OF AGRICULTURE
DEPT OF CULTURAL RESOURCES
DEPT OF TRANSPORTATION
PIEDMONT TRIAD COG

PROJECT INFORMATION

APPLICANT: N.C. Dept. of Transportation
TYPE: National Environmental Policy Act
Final Environmental Impact Statement

DESC: Proposal relocation of NC 119 from the I-85/40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane in Alamance County. TIP #U-3109

CROSS-REFERENCE NUMBER: 94-E-4220-0908 08-E-4220-0115

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: NO COMMENT COMMENTS ATTACHED

SIGNED BY: Renee Gledhill-Earley

DATE: 7.17.09

ER 94-8152
A- (NC) DATA 7/15/09
← Done for this. RLB 7/17/09

Done 7/27/09



JUL 14 2009



North Carolina Department of Cultural Resources
State Historic Preservation Office
Peter B. Sandbeck, Administrator

Beverly Eaves Perdue, Governor
Linda A. Carlisle, Secretary
Jeffrey J. Crow, Deputy Secretary

Office of Archives and History
Division of Historical Resources
David Brook, Director

July 17, 2009

MEMORANDUM

TO: Gregory Thorpe, Ph.D., Director
Project Development and Environmental Analysis Branch
NCDOT Division of Highways

FROM: Peter Sandbeck *ASB for Peter Sandbeck*

SUBJECT: FEIS for proposed relocation of NC 119 from I-85-40 interchange to NC 119 near SR 1918, I-3109, Alamance County, ER 94-8152



We have reviewed the above referenced Final Environmental Impact Statement (FEIS) and believe it accurately reflects the findings of effect and consultation regarding the historic properties in the Area of Potential Effects.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, contact Renee Gledhill-Earley, environmental review coordinator, at 919-807-6579. In all future communication concerning this project, please cite the above referenced tracking number.

cc: Mary Pope Furr, NCDOT
SCH



North Carolina Department of Environment and Natural Resources

Division of Water Quality
Coleen H. Sullins
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

August 4, 2009

MEMORANDUM

To: Melba McGee, Environmental Coordinator, Office of Legislative and Intergovernmental Affairs

From: Amy Euliss, Division of Water Quality, Winston Salem Regional Office

Subject: Comments on the Final Environmental Impact Statement related to proposed NC 119 Relocation from existing I-85/40 to Existing South of SR 1918 (Mrs. White Lane), Alamance County, Federal Aid Project No. STP-119(1), State Project No. 8.1470901, TIP U-3109.

This office has reviewed the referenced document dated May, 2009. The NC Division of Water Quality (NCDWQ) is responsible for the issuance of the Section 401 Water Quality Certification for activities that impact Waters of the U.S., including wetlands. It is our understanding that the project as presented will result in impacts to jurisdictional wetlands, streams, and other surface waters. NCDWQ offers the following comments based on review of the aforementioned document:

1. This project is being planned as part of the 404/NEPA Merger Process. As a participating team member, NCDWQ will continue to work with the team.
2. MoAdams Creek and its unnamed tributaries, are class C; NSW waters of the State. Back Creek and its unnamed tributaries are class WSII; HQW, NSW waters of the state, with the exception of UT23 which is C, NSW. Mill Creek and its unnamed tributaries are WS-II; HQW, NSW, CA waters of the state, with the exception of UT28 to Mill Creek which is WS-II HQW, NSW. Haw Creek and its unnamed tributaries are WS-V, NSW waters of the state. NCDWQ is very concerned with sediment and erosion impacts that could result from this project. NCDWQ recommends that highly protective sediment and erosion control BMPs be implemented to reduce the risk of nutrient runoff to MoAdams, Back, Mill, Haw Creek, and their unnamed tributaries. NCDWQ requests that road design plans provide treatment of the storm water runoff through best management practices as detailed in the most recent version of NCDWQ's *Stormwater Best Management Practices*.
3. Review of the project reveals the presence of surface waters classified as Water Supply Critical Area in the project study area. Given the potential for impacts to these resources during the project implementation, NCDWQ requests that NCDOT strictly adhere to North Carolina regulations entitled "Design Standards in Sensitive Watersheds" (15A NCAC 04B .0124) throughout design and construction of the project. This would apply for any area that drains to streams having WS CA(Water Supply Critical Area) classifications.
4. As the project is located within the Critical Area of a Water Supply, NCDOT will be required to design, construct, and maintain hazardous spill catch basins. Applicable locations include stream crossings on highways functionally classified as rural or urban arterials and within ½ mile of the

critical area of the water supply, and in other areas on a site-by-site basis. The number of catch basins installed should be determined by the design of the crossings, so that runoff would enter said basin(s) rather than flowing directly into the stream, and in consultation with NCDWQ.

5. Review of the project reveals the presence of surface waters classified as WS II; High Quality Waters of the State in the project study area. This is one of the highest classifications for water quality. Pursuant to 15A NCAC 2H .1006 and 15A NCAC 2B .0224, NCDOT will be required to obtain a State Stormwater Permit prior to construction except in North Carolina's twenty coastal counties.
6. In accordance with 15A NCAC 2H .0506(h), the DWQ may require compensatory mitigation at a 1:1 ratio for losses of intermittent streams in WS-II waters including Back Creek and Mill Creek and their unnamed tributaries for impacts equal to or exceeding 150 linear feet.
7. The environmental document should provide a detailed and itemized presentation of the proposed impacts to wetlands and streams with corresponding mapping. If mitigation is necessary as required by 15A NCAC 2H.0506(h), it is preferable to present a conceptual (if not finalized) mitigation plan with the environmental documentation. Appropriate mitigation plans will be required prior to issuance of a 401 Water Quality Certification.
8. Environmental impact statement alternatives shall consider design criteria that reduce the impacts to streams and wetlands from storm water runoff. These alternatives shall include road designs that allow for treatment of the storm water runoff through best management practices as detailed in the most recent version of NCDWQ's *Stormwater Best Management Practices Manual*, July 2007, such as grassed swales, buffer areas, preformed scour holes, retention basins, etc.
9. After the selection of the preferred alternative and prior to an issuance of the 401 Water Quality Certification, the NCDOT is respectfully reminded that they will need to demonstrate the avoidance and minimization of impacts to wetlands (and streams) to the maximum extent practical. In accordance with the Environmental Management Commission's Rules {15A NCAC 2H.0506(h)}, mitigation will be required for impacts of greater than 1 acre to wetlands. In the event that mitigation is required, the mitigation plan shall be designed to replace appropriate lost functions and values. The NC Ecosystem Enhancement Program may be available for use as wetland mitigation.
10. In accordance with the Environmental Management Commission's Rules {15A NCAC 2H.0506(h)}, mitigation will be required for impacts of greater than 150 linear feet to any single perennial stream. In the event that mitigation is required, the mitigation plan shall be designed to replace appropriate lost functions and values. The NC Ecosystem Enhancement Program may be available for use as stream mitigation.
11. Future documentation, including the 401 Water Quality Certification Application, shall continue to include an itemized listing of the proposed wetland and stream impacts with corresponding mapping.
12. NCDWQ is very concerned with sediment and erosion impacts that could result from this project. NCDOT shall address these concerns by describing the potential impacts that may occur to the aquatic environments and any mitigating factors that would reduce the impacts.
13. NCDOT is respectfully reminded that all impacts, including but not limited to, bridging, fill, excavation and clearing, and rip rap to jurisdictional wetlands, streams, and riparian buffers need to be included in the final impact calculations. These impacts, in addition to any construction impacts,

temporary or otherwise, also need to be included as part of the 401 Water Quality Certification Application.

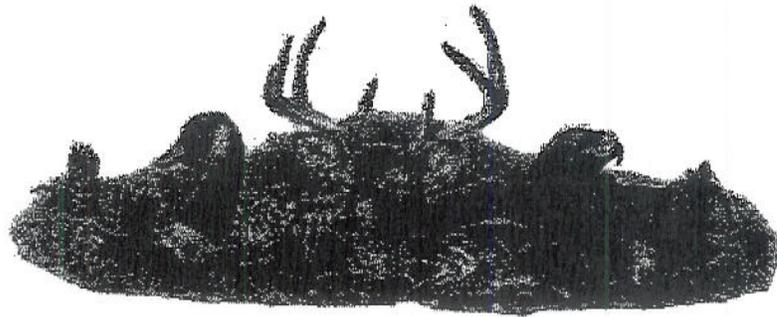
14. Where streams must be crossed, NCDWQ prefers bridges be used in lieu of culverts. However, we realize that economic considerations often require the use of culverts. Please be advised that culverts should be countersunk to allow unimpeded passage by fish and other aquatic organisms. Moreover, in areas where high quality wetlands or streams are impacted, a bridge may prove preferable. When applicable, NCDOT should not install the bridge bents in the creek, to the maximum extent practicable.
15. Whenever possible, NCDWQ prefers spanning structures. Spanning structures usually do not require work within the stream or grubbing of the streambanks and do not require stream channel realignment. The horizontal and vertical clearances provided by bridges shall allow for human and wildlife passage beneath the structure. Fish passage and navigation by canoeists and boaters shall not be blocked. Bridge supports (bents) should not be placed in the stream when possible.
16. Bridge deck drains shall not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of NCDWQ's *Stormwater Best Management Practices*.
17. Sediment and erosion control measures should not be placed in wetlands or streams.
18. Borrow/waste areas should avoid wetlands to the maximum extent practical. Impacts to wetlands in borrow/waste areas will need to be presented in the 401 Water Quality Certification and could precipitate compensatory mitigation.
19. The 401 Water Quality Certification application will need to specifically address the proposed methods for stormwater management. More specifically, stormwater shall not be permitted to discharge directly into streams or surface waters.
20. Based on the information presented in the document, the magnitude of impacts to wetlands and streams may require an Individual Permit (IP) application to the Corps of Engineers and corresponding 401 Water Quality Certification. Please be advised that a 401 Water Quality Certification requires satisfactory protection of water quality to ensure that water quality standards are met and no wetland or stream uses are lost. Final permit authorization will require the submittal of a formal application by the NCDOT and written concurrence from NCDWQ. Please be aware that any approval will be contingent on appropriate avoidance and minimization of wetland and stream impacts to the maximum extent practical, the development of an acceptable stormwater management plan, and the inclusion of appropriate mitigation plans where appropriate.
21. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills.
22. If temporary access roads or detours are constructed, the site shall be graded to its preconstruction contours and elevations. Disturbed areas shall be seeded or mulched to stabilize the soil and appropriate native woody species shall be planted. When using temporary structures the area shall be cleared but not grubbed. Clearing the area with chain saws, mowers, bush-hogs, or other

mechanized equipment and leaving the stumps and root mat intact allows the area to re-vegetate naturally and minimizes soil disturbance.

23. Placement of culverts and other structures in waters, streams, and wetlands shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by NCDWQ. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact NCDWQ for guidance on how to proceed and to determine whether or not a permit modification will be required.
24. If multiple pipes or barrels are required, they shall be designed to mimic natural stream cross section as closely as possible including pipes or barrels at flood plain elevation, floodplain benches, and/or sills may be required where appropriate. Widening the stream channel should be avoided. Stream channel widening at the inlet or outlet end of structures typically decreases water velocity causing sediment deposition that requires increased maintenance and disrupts aquatic life passage.
25. If foundation test borings are necessary; it shall be noted in the document. Geotechnical work is approved under General 401 Certification Number 3687/Nationwide Permit No. 6 for Survey Activities.
26. Sediment and erosion control measures sufficient to protect water resources must be implemented and maintained in accordance with the most recent version of North Carolina Sediment and Erosion Control Planning and Design Manual and the most recent version of NCS000250. .
27. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water.
28. While the use of National Wetland Inventory (NWI) maps, NC Coastal Region Evaluation of Wetland Significance (NC-CREWS) maps and soil survey maps are useful tools, their inherent inaccuracies require that qualified personnel perform onsite wetland delineations prior to permit approval.
29. Heavy equipment should be operated from the bank rather than in stream channels in order to minimize sedimentation and reduce the likelihood of introducing other pollutants into streams. This equipment shall be inspected daily and maintained to prevent contamination of surface waters from leaking fuels, lubricants, hydraulic fluids, or other toxic materials.
30. Riprap shall not be placed in the active thalweg channel or placed in the streambed in a manner that precludes aquatic life passage. Bioengineering boulders or structures should be properly designed, sized and installed.
31. Riparian vegetation (native trees and shrubs) shall be preserved to the maximum extent possible. Riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.

NCDWQ appreciates the opportunity to provide comments on your project. Should you have any questions or require any additional information, please contact Amy Euliss at (336) 771-4959.

cc: Andy Williams, US Army Corps of Engineers, Raleigh Field Office
Federal Highway Administration
Kathy Matthews, Environmental Protection Agency (electronic copy only)
Chris Militshcer, Environmental Protection Agency (electronic copy only)
Travis Wilson, NC Wildlife Resources Commission
Brian Wrenn, NCDWQ Wetlands/ 401
File Copy

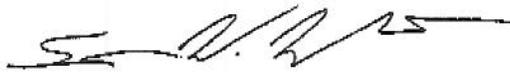


☒ North Carolina Wildlife Resources Commission ☒

Gordon Myers, Executive Director

MEMORANDUM

TO: Melba McGee
Office of Legislative and Intergovernmental Affairs, DENR

FROM: Travis Wilson, Highway Project Coordinator
Habitat Conservation Program 

DATE: August 7, 2009

SUBJECT: North Carolina Department of Transportation (NCDOT) Final Environmental Impact Statement (FEIS) for the proposed NC 119 relocation from I-85/40 to south of SR 1918, Mebane, Alamance County, North Carolina. TIP No. U-3109 SCH Project No. 10-0009.

Staff biologists with the N. C. Wildlife Resources Commission have reviewed the subject FEIS and are familiar with habitat values in the project area. The purpose of this review was to assess project impacts to fish and wildlife resources. Our comments are provided in accordance with certain provisions of the National Environmental Policy Act (42 U.S.C. 4332(2)(c)) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d).

We have reviewed the data provided in the FEIS. The FEIS reflects NCWRC comments from prior meetings and coordination. This project will continue to go through the Section 404/NEPA Merger process. Additional agency coordination will occur through concurrence points 4b and 4c in the Section 404/NEPA Merger process. Thank you for the opportunity to comment. If we can be of any further assistance please call me at (919) 528-9886

cc: Gary Jordan, U.S. Fish and Wildlife Service, Raleigh
Sue Homewood, DWQ
John Thomas, USACE
Chris Militscher, EPA

Mailing Address: Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721
Telephone: (919) 707-0220 • Fax: (919) 707-0028

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

COUNTY: ALAMANCE

F02: HIGHWAYS AND ROADS

STATE NUMBER: 10-E-4220-0009

DATE RECEIVED: 07/10/2009

AGENCY RESPONSE: 08/05/2009

REVIEW CLOSED: 08/10/2009

MR. RODGER W. DURHAM
CLEARINGHOUSE COORDINATOR
CC&PS - DIV OF EMERGENCY MANAGEMENT
FLOODPLAIN MANAGEMENT PROGRAM
MSC # 4719
RALEIGH NC

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DEPT OF CULTURAL RESOURCES
DEPT OF TRANSPORTATION
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PROJECT INFORMATION

APPLICANT: N.C. Dept. of Transportation
TYPE: National Environmental Policy Act
Final Environmental Impact Statement

DESC: Proposal relocation of NC 119 from the I-85/40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane in Alamance County. TIP #U-3109

CROSS-REFERENCE NUMBER: 94-E-4220-0908 08-E-4220-0115

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: NO COMMENT COMMENTS ATTACHED

SIGNED BY:

Thomas Eladivallade

DATE:

7/14/09

*Page 50 of Vol. I references NCFMP 100T H30A and CLOMR/LOMR
OK as documented E*



RECEIVED

JUL 10 2009

N.C. Floodplain Mapping Program

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

COUNTY: ALAMANCE

F02: HIGHWAYS AND ROADS

STATE NUMBER: 10-E-4220-0009
DATE RECEIVED: 07/10/2009
AGENCY RESPONSE: 08/05/2009
REVIEW CLOSED: 08/10/2009

MS HOLLY GILROY
CLEARINGHOUSE COORDINATOR
DEPT OF AGRICULTURE
1001 MSC - AGRICULTURE BLDG
RALEIGH NC



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PROJECT INFORMATION

APPLICANT: N.C. Dept. of Transportation
TYPE: National Environmental Policy Act
Final Environmental Impact Statement

DESC: Proposal relocation of NC 119 from the I-85/40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane in Alamance County. TIP #U-3109

CROSS-REFERENCE NUMBER: 94-E-4220-0908 08-E-4220-0115

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If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: NO COMMENT COMMENTS ATTACHED

SIGNED BY: Holly Gilroy

DATE: 7-14-09



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Agricultural Services

Dewitt Hardee
Environmental Program
Manager

Ms. Valerie McMillan
State Clearinghouse
N.C. Department of Administration
1301 Mail Service Center
Raleigh, North Carolina 27699-1301

July 13, 2009



State #: 10-E-4220-0009
RE: Mebane Bypass

Dear Ms McMillan:

The footprint of the proposed relocation of NC 119 from the I-85/40 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane in Alamance County has potential of irreversible damage and increases the loss of prime farm and forest land thereby negatively impacting agricultural environmental balance in the immediate area. The US DOT and the NCDOT should give additional consideration of alternative routing and / or implemented designs that reduce to loss of farm and forest land activities due to negative environmental and economic impacts the placement of the road's footprint. Limiting public access onto bypasses, providing friendly and accessible agricultural crossover points for agricultural equipment and livestock in conjunction with the use of agricultural easements at access points and along the proposed right ways would lessen the negative impacts on the adjacent farms and forest land.

Farm and forest lands are natural resources with no mitigation process. These agribusiness resources cannot be replaced nor relocated once converted to other uses. The proposed Mebane bypass placement will go through several farms near existing Voluntary Agricultural Districts (VAD) designed to recognize and protect key agricultural production centers for future generations and economy security. Transportation planning priorities should considered highway placement and its potential negative impact on VAD and land resources. These plans should also negate the formation of incompatible and inaccessible land units that degrades agricultural production capabilities.

Agricultural production incomes from locally grown products have a considerable multiplier influence. It is estimated that for every 40 acres converted from agricultural production, one agribusiness job and its associated economic activity is lost indefinitely. Additional acreage loss is most likely to occur beyond the Mebane bypass footprint due to the subdivision and reduced agricultural production capacity from development pressures. Furthermore the cost of services needed for these types of land uses are minimal and thus a net

E-mail: maximilian.merrill@ncmail.net
1001 Mail Service Center, Raleigh, North Carolina, 27699-1001 (919) 733-7125 • Fax (919) 716-0105
TTY: 1-800-735-2962 Voice: 1-877-735-8200
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contributor to county budgets. Alamance County has instituted a countywide farmland protection plan which further delineates this issue. Careful consideration of farm and forest land condemnation is warranted given potential for loss of local tax revenue. Both current and future cost for the conversion land from production agriculture is needed for an accurate evaluation which is not accurately recognized by the Farmland Conversion Impact Rating using Form AD 1006.

Based on the secondary, cumulative, and direct impacts, this project will have adversely impact the agricultural environmental and economic resources in the proposed area. The total negative impact on the environmental and agribusiness economy will be proportionately related to the total acres of farm and forest land taken out of production. Increased division of land units and its reduced accessibility for agricultural production will also increase the negative impact on agriculture.

Respectfully,



Dewitt Hardee
Environmental Program Manager

APPROVAL



for John F. Sullivan III, P.E., Division Administrator
Federal Highway Administration



Date