

January 20, 2016

Colonel Jason E. Kelly
District Commander
Norfolk District, U.S. Army Corps of Engineers
803 Front Street
Norfolk, VA 23510

VIA U.S. MAIL & EMAIL

Re: Comments on U.S. Route 460 Joint Permit Application (NAO-2008-03470)

Dear Colonel Kelly:

The Southern Environmental Law Center (SELC) would like to provide the following comments on the Joint Permit Application (JPA) submitted by the Virginia Department of Transportation (VDOT) for the proposed U.S. Route 460 project between Zuni and Suffolk. SELC is a non-partisan, non-profit organization that works throughout Virginia and the Southeast to promote transportation and land use decisions that protect our natural resources, strengthen our communities, and improve our quality of life.

SELC has closely followed proposals to build a new Route 460 for over 15 years. During that time, we have consistently advocated for focusing improvements on the existing Route 460 corridor, as each study completed for this project has shown this to be an effective, but far less costly and less harmful option to address transportation issues in the corridor than building a new highway.

We appreciate the Corps of Engineers' careful review of various iterations of this project over the years, and we are pleased that VDOT is no longer pursuing the destructive and wasteful proposal to build a 55-mile new Route 460—a proposal whose \$1.8 billion price tag and severe wetlands impacts (over 600 acres) were clearly not justified by the limited benefits it would provide along this lightly-traveled corridor.

Not surprisingly, the 16-mile project VDOT is currently proposing in the JPA—which would require the construction of 12 miles of new highway bypasses—would cost less and have fewer wetlands impacts than the 55-mile version. But the new proposal would still cost almost \$450 million and would be one of the most destructive projects the Corps has ever permitted in Virginia. The main questions remain whether this particular proposal is the “least environmentally damaging practicable alternative” (LEDPA) to meet the needs of this corridor, and whether this new proposal is justified in light of its substantial cost and impacts on wetlands, streams, and historic resources. As discussed below, we believe the answer to each of these questions is clearly “no,” based largely on the availability of options to upgrade the existing Route 460 corridor that would meet the project’s purpose and need at a lower cost and with far fewer environmental impacts. We therefore urge you to reject this application.

I. VDOT'S 16-MILE PROPOSAL IS CLEARLY NOT THE LEAST ENVIRONMENTALLY-DAMAGING ALTERNATIVE

Under guidelines developed by the U.S. Environmental Protection Agency (EPA) to implement Section 404(b)(1) of the Clean Water Act (which the Corps' regulations provide must be applied in its review of discharge permits¹), "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences."² In short, the Corps of Engineers may only grant a Section 404 discharge permit for the "least environmentally-damaging practicable alternative" (LEDPA) for a project.

The JPA submitted by VDOT, as well as previous environmental reviews for this project, clearly show that building new highway bypasses along Route 460—as VDOT is currently proposing—would not be the "least environmentally-damaging" option to improve this corridor, since it would cause significantly greater impacts on aquatic and other environmental resources than upgrading the existing highway (an alternative that also meets the "practicability" requirement, as discussed in Section II below).

A. Aquatic Resource Impacts of VDOT's Proposal

In its JPA, VDOT proposes to build a new four-lane highway that would bypass existing Route 460 for 12 miles between Suffolk and Windsor, and to reconstruct a 4-mile section of the existing highway from Windsor to Zuni, including a large new bridge over the Blackwater River. While we appreciate the efforts that have been made in recent months to modify the design of this proposal to reduce its impacts on aquatic resources, the JPA indicates that these impacts would still be substantial.

VDOT now estimates that the project would permanently impact 39.8 acres of wetlands,³ roughly 2.5 acres per mile. This includes the conversion of "high value" forested wetlands—defined as being comprised of 10% or more of Atlantic white cedar, bald cypress, water tupelo, or overcup oak⁴—to lower quality emergent wetlands in a number of areas where new highway segments would bridge these wetland areas.⁵ The JPA indicates that overall, 12.1 of the 39.8 acres impacted would be higher-quality "Category II" wetlands, which it acknowledges cannot be adequately compensated for by the purchase of mitigation credits due to the significant ecological functions they serve and the "relatively unique nature of these resources in Virginia."⁶ To the best of our knowledge, 39.8 acres of wetlands impacts would still make this one of the

¹ See 33 C.F.R. § 323.6(a) (providing that the Corps' district engineer "will review applications for permits for the discharge of dredged or fill material into waters of the United States in accordance with guidelines promulgated by the Administrator, EPA, under the authority of section 404(b)(1) of the CWA"); see also 33 C.F.R. § 320.4(a) (providing that "[f]or activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the [EPA's] 404 (b)(1) guidelines").

² 40 C.F.R. § 230.10(a); see also *B&B P'ship v. U.S.*, 133 F.3d 913 (4th Cir. 1997); *Precon Devel. Corp. v. U.S. Army Corps Eng'rs*, 658 F. Supp. 2d 752 (E.D. Va. 2009).

³ JPA at 7-1.

⁴ *Id.* at 6-1.

⁵ See *id.* at 7-1, Exhibits 6A & 7A.

⁶ See *id.* at 9-7.

most destructive projects that the Corps has ever permitted in Virginia.⁷ It is also nearly *four times* the 10 acres of wetlands impacts estimated to be required to construct the 2014 Draft Supplemental Environmental Impact Statement’s (SEIS) “Alternative 4”—which would keep improvements to the existing corridor—for this portion of Route 460.⁸

VDOT’s proposal also would impact 6,874 linear feet of streams—substantially more than the 5,400 linear feet estimated for the Draft SEIS’s Alternative 4 for this area.⁹ Moreover, it appears that roughly 2/3 of the impacts from VDOT’s proposal would occur within the critically important, yet threatened Chesapeake Bay watershed,¹⁰ implicating VDOT’s obligations under Virginia’s Watershed Implementation Plan for the historic Chesapeake Bay Total Maximum Daily Load. The other 1/3 of the impacts would occur within the Chowan River watershed,¹¹ a major tributary to Albemarle Sound—one of the largest estuaries on the East Coast. Also of significance is the fact that, as the JPA indicates, VDOT’s proposed new northern bypass around Windsor would impact tributaries of Lake Prince, Lake Burnt Mills, and Western Branch, which supply drinking water for Norfolk (and in the case of Lake Prince, for Virginia Beach as well), while the southern bypass of Route 460 in the eastern part of the corridor would cross tributaries of Lake Meade and Lake Speight, drinking water supplies for Portsmouth.¹²

B. Other Environmental Impacts of VDOT’s Proposal

VDOT’s current, 16-mile proposal is also likely to have significant impacts on a number of non-aquatic resources that—to the best of our knowledge—have not yet been studied for this proposal. The 2014 Draft SEIS showed that proposals to build a new Route 460 in this corridor would directly impact hundreds of acres of forested habitat and farmlands,¹³ and could put considerable additional natural resources (of all types) at risk due to indirect effects and induced growth.¹⁴ No similar analysis was conducted for the impacts of the particular proposal VDOT now seeks to have permitted.

In addition, we have yet to see any analysis—either in the Draft SEIS or elsewhere—of the potential impacts that building the proposed new highway would have on increasing greenhouse gas emissions by spurring additional driving and destroying wetlands and forests that can absorb and store carbon. Nor have we seen any analysis of the likely impact of the proposal to reduce the region’s natural resiliency to storm events and flooding by destroying wetlands and forests. These and other climate change-related issues were raised by the EPA in its scoping

⁷ By comparison, in the Draft SEIS, the Corps reported that in over 500 permit approvals it has issued for the Blackwater and Nottoway River watersheds since 1999, it has only authorized a *total* of ~105 acres of wetlands (and other) fill. See 2014 Draft SEIS at 4-39.

⁸ See HDR & WRA Technical Memorandum, “Hybrid Comparison Analysis West of Zuni to Route 58” at 3 (Jan. 2, 2015) (hereinafter “2015 Technical Memo”).

⁹ See JPA at 7-1; VDOT Table – “DSEIS Alternative 4 versus Hybrid B versus Hybrid X Comparison” (Dec. 9, 2014) (obtained via Freedom of Information Act request).

¹⁰ See JPA at 9-4 (indicating that 6,519 of the 8,860 stream credits required for VDOT’s proposal would be in the “Hampton Roads Sub-Basin,” which falls within the Chesapeake Bay’s watershed).

¹¹ *Id.* (showing that the remaining 2,341 credits required would be in the “Blackwater River Sub-Basin,” which falls within the Chowan River watershed).

¹² See, e.g., JPA at 7; 2014 Draft SEIS at 38-40, 52.

¹³ See 2014 Draft SEIS at 3-5 to 3-6.

¹⁴ See *id.* at 4-34.

comments on the Draft SEIS.¹⁵ In addition, the Council on Environmental Quality (CEQ) recently issued draft guidance explaining the importance of considering these and other climate-change related factors in environmental reviews, as well as indicating it is well within agencies' current abilities to conduct meaningful analysis of these issues.¹⁶

The JPA also indicates that some significant potential impacts from the 16-mile proposal have yet to be verified. For example, it appears that the northern bypass of Windsor in VDOT's proposal would come within a few hundred feet of the William Scott Farmstead, an 18th century rural historic property listed on the National Register of Historic Places. In the JPA, VDOT makes an initial finding that its proposal will have "no adverse effect" on this property, but notes that it has yet to coordinate this finding with the Virginia Department of Historic Resources.¹⁷ Given the close proximity of the proposed bypass to this property, its noise, visual, and other potential indirect effects on the historic setting and view shed of this historic resource must be carefully considered in both an analysis of indirect "adverse effects" under Section 106 of the National Historic Preservation Act, as well as a "constructive use" analysis under Section 4(f) of the Department of Transportation Act.

Careful consideration is also needed regarding threatened and endangered species that the JPA indicates have suitable habitat within the project corridor. While we are pleased that VDOT's current proposal will no longer cross in close proximity to the Piney Grove Preserve and habitat for the federally-endangered Red-Cockaded Woodpecker, the JPA still indicates that the project has the potential to impact habitat for a number of threatened and endangered species.¹⁸ These include the Dismal Swamp Southeastern Shrew and the Northern Long-eared Bat, regarding both of which the Draft SEIS indicated that the new highway bypass alternatives along Route 460 could have substantially greater effects on their respective habitat.¹⁹ Additional analysis and coordination with the Department of Game and Inland Fisheries (DGIF) is needed to assess and minimize impacts to these and other listed species.

Each of these impacts could be avoided or substantially reduced by focusing improvements on the existing highway, rather than building the large new bypasses through this region's rural areas that VDOT proposes. Moreover, in the following section, we outline proposed modifications to the Draft SEIS's Alternative 4 that would significantly reduce the impacts of upgrading the existing highway on properties and historic resources in the Town of Windsor, the primary concern with the "improve existing" alternatives considered in past environmental reviews.

II. UPGRADING EXISTING ROUTE 460 WOULD MEET THE PURPOSE AND NEED AND IS A "PRACTICABLE" ALTERNATIVE

As noted above, the Corps may only grant a Section 404 discharge permit for the "least environmentally-damaging practicable alternative." Regarding the "practicability" element of

¹⁵ See Comments of Jeffrey Lapp, U.S. EPA in Chapter 7 of the Draft SEIS.

¹⁶ See CEQ, "Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews," 79 Fed. Reg. 77802, 77823 (Dec. 24, 2014).

¹⁷ JPA at 12-2.

¹⁸ *Id.* at 11-5 to 11-7.

¹⁹ See 2014 Draft SEIS at 3-127 to 3-130 (showing far greater acreage of suitable habitat within each new highway build alternative compared to Alternative 4, which was focused on improvements to the existing highway).

this standard, the EPA’s Section 404(b)(1) guidelines provide that “[a]n alternative is *practicable* if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.”²⁰ The guidelines further provide that if a project is not “water dependent” (i.e., does not require access or proximity to, or location within, a “special aquatic site” to fulfill its basic purpose), then “practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise.”²¹ The term “special aquatic site” is defined to include wetlands, among other aquatic resources.²²

Thus, for a non-water dependent highway project such as the Route 460 proposal, there is a presumption that a practicable alternative that will not impact (or will impact fewer) wetlands exists. The wisdom of this presumption is evident in this case, given the available options to upgrade the existing highway. As noted above, VDOT’s Draft SEIS Alternative 4 would have far less adverse impacts than its proposed project. Additional options to improve the existing highway would have even less impacts, using a more compact footprint to limit impacts on the Town of Windsor while still bringing Route 460 up to modern design standards and meeting each element of the project’s purpose and need.

A. Alternative Options for Improving Existing Route 460 in the Town of Windsor

Environmental reviews for the Route 460 project—including the most recent 2014 Draft SEIS—have consistently found that upgrading the existing Route 460 would meet the purpose and need of this project, and the JPA again acknowledges this finding.²³ However, previously proposed alternatives to upgrade existing Route 460 have been dismissed or at least called into question primarily due to their impacts on towns along the Route 460 corridor. Specifically regarding the section of the corridor addressed in this JPA, the Corps noted in an early 2015 letter²⁴:

VDOT and FHWA have indicated in meetings that making improvements to existing Route 460 through Windsor (Alternative 4) would not be practicable, due to the substantial impacts to existing homes, businesses, schools and other important components of the community. USACE agrees that Alternative 4 through Windsor is not practicable.

This preliminary conclusion by the Corps was ill-founded. As we have noted in our previous comment letters on this project, including our comments on the 2014 Draft SEIS,²⁵ previous alternatives VDOT has identified for upgrading Route 460 have been far more extensive than needed to address the problems on the existing highway, resulting in unnecessary impacts on communities along the corridor, such as Windsor.

²⁰ 40 C.F.R. § 230.10(a)(2) (emphasis added); *see also James City County v. U.S. EPA*, 955 F.2d 254 (4th Cir. 1992).

²¹ *Id.* at § 230.10(a)(3); *see also Precon Devel. Corp., Inc. v. U.S. Army Corps of Eng’rs*, 658 F. Supp. 2d 752 (E.D. Va. 2009).

²² *See* 40 C.F.R. § 230.3(m) & § 230.41.

²³ JPA at 2-2 & 2-3; *see also* 2014 Draft SEIS at 2-5.

²⁴ Letter from Colonel Paul Olsen, Norfolk District to Secretary Aubrey Layne, Jr., Virginia Secretary of Transportation (Jan. 9, 2015).

²⁵ Letter from Trip Pollard & Travis Pietila, SELC to Angel Deem, VDOT et al. (Nov. 17, 2014).

The Federal Highway Administration (FHWA) encourages flexibility in applying highway design standards, noting in its regulations that an agency should take into account “the constructed and natural environment of the area” and the “environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity.”²⁶ In addition, FHWA has indicated that it is moving in the direction of encouraging even greater flexibility in the case of lower-speed highways—those designed for speeds of less than 50 miles per hour—such as US Route 460 through Windsor. In a draft guidance document issued in October 2015, FHWA proposes to no longer require design exceptions for most of its “controlling criteria” (including lane and shoulder widths) as applied to these lower-speed highways, placing “a greater focus on flexibility to address the social, economic and environmental impacts of design.”²⁷

With these considerations in mind, we attach a report prepared by engineer Walter Kulash, P.E. that identifies the shortcomings of the Draft SEIS’s Alternative 4 proposal for the Town of Windsor and proposes a “Modified Alternative 4” that would better respond to Windsor’s existing conditions (and restrictions) while still upgrading the highway to modern design standards.²⁸ As outlined in this report, the 105-foot typical section proposed in the Draft SEIS’s Alternative 4 for the Town of Windsor—which calls for a 16-foot median, 12- and 13-foot travel lanes, and a 14-foot sidewalk and planting area—requires far more right-of-way than is necessary to comply with current VDOT design guidelines, and is fundamentally unresponsive to the existing context in Windsor.²⁹ As a result, Alternative 4 would require the taking of a large number of properties, significant encroachment on the Town’s historic district, and—if a “raised median” were used to divide eastbound and westbound traffic—would unnecessarily restrict access to the Town’s businesses.³⁰

In contrast, the attached report shows an example of a more context-sensitive design for a “Modified Alternative 4” through Windsor that would still comply with current standards in the *VDOT Road Design Manual*. Among other things, Modified Alternative 4 would incorporate a 13-foot two-way left-turn lane instead of a 16-foot median, reducing its width while still separating turning traffic from through lanes and accommodating continued mid-block turning movements into Windsor businesses.³¹ It would also include reduced lane widths allowed by the *VDOT Road Design Manual* for town centers such as this, as well as varying widths for sidewalk and landscaping areas to better respond to the specific conditions in this area.³² Modified Alternative 4 would significantly reduce the right-of-way width through Windsor, requiring far fewer property takings and eliminating impacts on the Town’s historic district, while still meeting the purpose and need for improvements in this corridor (as discussed further below).

²⁶ See 23 C.F.R. § 625.3(a)(1).

²⁷ See FHWA, News Release, “FHWA Move to Encourage Highway Design Flexibilities Kicks Off with Changes for Lower Speed Roads” (Oct. 7, 2015), available at <https://www.fhwa.dot.gov/pressroom/fhwa1566.cfm>.

²⁸ Walter M. Kulash, P.E., *Modification of Alternative 4 – US Route 460 Windsor, VA* (Jan. 20, 2016) (hereinafter “Kulash Report”).

²⁹ *Id.* at 1-3.

³⁰ *Id.*

³¹ *Id.* at 3-5.

³² *Id.* at 3-6.

B. Benefits of the Modified Alternative 4

Modified Alternative 4 would have a number of advantages over VDOT's current 16-mile proposal, and it would result in additional benefits over the Draft SEIS's Alternative 4 as well (which, again, was previously found to meet the purpose and need for this project). The clearest benefit of Modified Alternative 4 is the substantial reduction in environmental impacts from VDOT's current proposal, since it would focus improvements on the existing corridor rather than building a highway in a new location. In this respect, it is similar to Alternative 4, but because its right-of-way width is further reduced within the Town of Windsor, its environmental impacts would be even less than those of this Draft SEIS alternative.³³

Cost is another important factor. In the JPA, VDOT now estimates that its proposal would cost \$448 million—a significant increase from the range of \$375 to 425 million estimated for this proposal in early 2015.³⁴ In contrast, an early 2015 analysis estimated that building the Draft SEIS's Alternative 4 on this segment of Route 460 would cost \$312 million,³⁵ and an alternative to upgrade existing Route 460 with a reduced right-of-way through Windsor—such as the Modified Alternative 4—should cost substantially less given its lower property acquisition and construction costs.³⁶

Modified Alternative 4 could also reduce the significant economic impacts that building VDOT's preferred alternative is likely to have on the Town of Windsor. The Draft SEIS's *Traffic and Transportation Technical Report* estimated that by building a non-tolled northern bypass around the town (as is proposed in VDOT's preferred alternative), traffic passing Windsor businesses along existing Route 460 in the year 2017 would plummet from 17,400 vehicles per day in the No-Build scenario to just 2,400 vehicles per day with the northern bypass in place—an 86% decrease.³⁷ Keeping improvements to existing Route 460 would avoid this result.

The attached report indicates that the Modified Alternative 4 would perform at least as well as the Draft SEIS's Alternative 4 in meeting each element of the purpose and need for this project, and better for a number of them.³⁸ Some of the key benefits of this proposal in meeting the purpose and need elements include³⁹:

- Upgrading existing Route 460 to modern design standards to improve safety;
- Removing left-turning vehicles from through traffic by adding a central two-way left-turn lane, thus reducing vehicle conflicts and improving traffic flow;
- Eliminating flooding issues through reconstruction of the existing highway;
- Retaining mid-block turning movements to access Windsor businesses and spread turning movements out along the corridor; and

³³ *Id.* at 6.

³⁴ *See, e.g.*, Presentation by Angel Deem, VDOT to the Commonwealth Transportation Board, "U.S. Route 460 Corridor Improvements Project Supplemental Environmental Impact Statement" (Jan. 13, 2015), *available at* http://www.ctb.virginia.gov/resources/2015/jan/pres/Presentation_Agenda_Item_1.pdf.

³⁵ 2015 Technical Memo at 3.

³⁶ *See* Kulash Report at 12.

³⁷ 2014 Draft SEIS, *Traffic and Transportation Technical Report* at 56.

³⁸ Kulash Report at 11-12.

³⁹ *See id.*

- Expanding capacity for hurricane evacuation by adding a central turn lane, allowing for four undivided outbound evacuation lanes.

In sum, the attached report provides an example of an alternative for upgrading existing Route 460 that would meet the needs of this corridor, would be “practicable” to implement, and would have far less impacts on aquatic and other environmental resources than VDOT’s proposal to construct new highway bypasses along much of this stretch of Route 460. As a result, it is clear that the alternative proposed by VDOT in this JPA is not the “least environmentally damaging practicable alternative,” and therefore should not be granted a discharge permit. The alternative explored in the attached report also demonstrates that VDOT has not taken “all appropriate and practicable steps to avoid and minimize adverse impacts” of this project, as is required under the Compensatory Mitigation Rule.⁴⁰

III. VDOT HAS PROVIDED INSUFFICIENT JUSTIFICATION FOR THE NEED TO BUILD A MAJOR NEW HIGHWAY ALONG THE ROUTE 460 CORRIDOR

Additional concerns with this JPA regard the scale of VDOT’s proposal given the limited traffic problems facing this lightly-traveled corridor, as well as the very limited amount of information that has been provided to the public about the analysis of alternatives for this proposal.

A. Limited Traffic Issues on Existing Route 460

One of our biggest concerns with the scale of the proposals for a new Route 460 to date, including VDOT’s current \$448 million proposal, is the lack of compelling evidence provided of the need to build such a large, destructive new highway facility in order to address the limited transportation needs of this corridor. The 2014 Draft SEIS made clear that traffic congestion is generally not an issue along Route 460 in this area, stating that “[t]he need to address congestion is not a central component of the Purpose and Need for this project, as it is not a systemic problem along the existing Route 460 corridor.”⁴¹

The most recent data from the Hampton Roads Transportation Planning Organization (HRTPO) confirms this assessment. In 2014, HRTPO reported weekday traffic volumes for most segments of this 16-mile part of Route 460 of between 9,000 and 17,000 vehicles per day, only topping 20,000 at its eastern connection to the Suffolk Bypass.⁴² It also reported that the traffic counts for many of these segments had actually *decreased* since 2011.⁴³ HRTPO

⁴⁰ See 33 C.F.R. § 332.1(c)(2); see also Corps of Engineers & U.S. EPA, “Compensatory Mitigation Rule: Questions and Answers” at Q11, available at http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/comp_mitig_finalrule_qa.pdf (stating that “[p]roposed impacts must be avoided to the maximum extent practicable; remaining unavoidable impacts must then be minimized, and finally compensated for to the extent appropriate and practicable”); see also *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps Eng’rs*, 781 F.3d 1271 (11th Cir. 2015).

⁴¹ 2014 Draft SEIS at 2-20.

⁴² See HRTPO, *Draft: Volumes, Speeds, and Congestion on Major Roadways in Hampton Roads* (Oct. 2015), available at <http://www.hrtpo.org/uploads/docs/100815CTAC-Enclosure%208-Volumes,%20Speeds,%20and%20Congestion%20on%20Major%20Roadways%20in%20Hampton%20Roads-Draft%20Report.pdf>.

⁴³ *Id.*

indicated that congestion levels during AM and PM peak periods remained “low” for each segment along this stretch, with the exception of only the segment between Route 258 and Route 460’s six-leg intersection with Court Street in Windsor, at which congestion was found to be “moderate.”⁴⁴

While the Draft SEIS projected that the average traffic volumes for this part of Route 460 will increase to between 20,000 and 25,000 vehicles per day by the year 2040 (in the “No Build” condition), these volumes still appear to be well within the capacity of this corridor, as evidenced by the fact that the Draft SEIS reports all of these segments continuing to operate at levels-of-service “A” or “B” in 2040.⁴⁵ Although the Draft SEIS reports level-of-service issues for a few specific movements at the Route 460/US 58 interchange in 2040,⁴⁶ this is far from indicating the need for a large-scale capacity expansion across this full 16-mile corridor.

There are clearly some transportation issues along Route 460 in this area, such as the need for safety improvements and to address flooding. However, these issues can be effectively addressed through more limited, and more targeted, improvements to the existing corridor (and in fact, VDOT’s 16-mile new proposal would leave such issues along much of the existing corridor unaddressed, as it would simply build a new highway around them). At the same time, as noted in the Draft SEIS and in Section II above, improvements to the existing corridor can improve traffic flow, freight movement, and emergency evacuation capacity—additional elements of the project’s purpose and need.

B. Limited Information on VDOT’s Alternatives Analysis

Very limited information has been provided to the public comparing this 16-mile proposal to alternatives for this more limited section of Route 460, and information on some key factors that has been missing from the few analyses we have been able to review.

On the analysis of alternatives, the JPA provides only a brief summary of the 2014 Draft SEIS’s alternatives analysis, from which VDOT developed potential “hybrid alternatives” for further consideration.⁴⁷ Although the Draft SEIS mentioned that hybrid alternatives would be considered, the public has only been able to practically review the relative costs and benefits of the alternatives for the full 55-mile corridor from Petersburg to Suffolk that were presented in the Draft SEIS. The cost-benefit considerations for a 16-mile project such as the one currently being proposed are clearly far different than those for a 55-mile corridor. Yet to date, as far as we are aware, little more than summary conclusions about the benefits of VDOT’s preferred alternative have been presented to the public about the analysis of options for this truncated section of the corridor.⁴⁸ In fact, this also appears to be all that was formally presented to the Commonwealth

⁴⁴ *Id.*

⁴⁵ See 2014 Draft SEIS, *Traffic and Transportation Technical Report* at 56 (Sept. 2014).

⁴⁶ See *id.* at 39.

⁴⁷ JPA at 4-1.

⁴⁸ See, e.g., VDOT Presentation and Materials for May 2015 Public Meetings, *available at* <http://www.route460project.org/meetings/default.asp>.

Transportation Board (CTB) before it voted to approve the location for this 16-mile proposal in early 2015.⁴⁹

Further, the limited alternatives analysis we *have* reviewed for this 16-mile section of the corridor—mainly from an early 2015 technical memorandum obtained through a Freedom of Information Act request— lacks important information. For example, the analysis of traffic safety, travel time savings, and hurricane evacuation potential in this 2015 technical memo only focused on benefits to the 16-mile portion of the corridor covered by the proposed project, failing to explain the potential effects of having eight lanes of traffic under VDOT’s preferred alternative—the existing four-lane Route 460 plus a four-lane bypass of Windsor—funnel down to the existing four lanes to the west of Zuni.⁵⁰ These issues were a major concern for the Town of Windsor when it drafted a resolution in March 2015 opposing construction of a northern bypass around the Town as proposed for this 16-mile project.⁵¹

In addition, as noted above in Section I, there are a number of non-aquatic resource-related impacts that, to the best of our knowledge, have not yet been evaluated for this 16-mile proposal, such as impacts on forested habitat, farmland, and greenhouse gas emissions, as well as the indirect and induced growth effects of this proposal. These are important considerations, and this proposal should not move forward without adequate evaluation and public review of the relative costs and impacts of this proposal compared to alternative options to improve this section of the corridor.

CONCLUSION

We appreciate the Corps’ continuing careful review of the Route 460 project, given its potential to substantially impact wetlands, streams, and other important environmental, historic, and community resources in this region. As we have outlined in this letter, we believe VDOT’s current 16-mile proposal—as with previous proposals to build large new highways along this corridor—is unnecessarily costly and destructive given the limited transportation needs of this corridor. In light of available options to upgrade the existing Route 460 that would meet the project’s purpose and need with substantially less adverse impacts, it is clear that VDOT’s proposal is not the “least environmentally damaging practicable alternative” for this project. Accordingly, we urge you to reject this application.

⁴⁹ Presentation of Angel Deem, VDOT to the CTB, “U.S. Route 460 Corridor Improvements Project Supplemental Environmental Impact Statement” (Jan. 13, 2015), *available at*

http://www.ctb.virginia.gov/resources/2015/jan/pres/Presentation_Agenda_Item_1.pdf.

⁵⁰ See 2015 Technical Memo, *supra* note 8.

⁵¹ Windsor Town Council, “A Resolution Expressing Concern Regarding The Construction Of Northern Route 460 Bypass Around The Town Of Windsor” (Mar. 10, 2015), *available at* <http://www.windsor-va.gov/page/2015-town-council-agendas-and-minutes/>.

Thank you for your consideration of these comments.

Sincerely,

Handwritten signature of Trip Pollard in black ink.

Trip Pollard
Senior Attorney

Handwritten signature of Travis Pietila in black ink.

Travis Pietila
Associate Attorney

cc: Alice Allen-Grimes, Norfolk District, U.S. Army Corps of Engineers
Ed Sundra, FHWA Virginia Division
Irene Rico, FHWA Virginia Division
Jeff Lapp, EPA Region 3
Aubrey Layne, Virginia Secretary of Transportation
Charlie Kilpatrick, Virginia Commissioner of Highways
Angel Deem, VDOT Environment Division
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Julie Langan, Virginia Department of Historic Resources