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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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JUN 04 2003

Robert Arnold
Division Administrator
Federal Highway Administration
Leo W. O'Brien Federal Building
Clinton Avenue and N. Pearl Street
Albany, New York 12207

Dear Mr. Arnold:

The Environmental Protection Agency (EPA) has reviewed the final environmental impact statement (EIS) for the U.S. Route 219 improvement project, located between Springville and Salamanca, Erie and Cattaraugus Counties, New York. This review was conducted in accordance with Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609, PL 91-604 12(a), 84 Stat. 1709), and the National Environmental Policy Act.

The purpose of the project is to improve traffic conditions and address safety deficiencies on 28 miles (45 km) of U.S. Route 219, and to enhance regional and local economic opportunities. In addition to the no action alternative, two build alternatives were retained for further consideration: 1) upgrading the existing U.S. Route 219 to include four travel lanes generally along the existing alignment, with bypasses proposed in Ellicottville, Salamanca, and possibly Ashford Hollow; and 2) construction of a new four-lane freeway generally east of and parallel to existing U.S. Route 219, with right and left shoulders, a median, seven interchanges, and five large bridges. The final EIS identifies the freeway as the preferred alternative.

As outlined further below, our review of the final EIS leads us to conclude that both alternatives provide the desired traffic, safety and economic benefits. However, the freeway alternative would have much greater adverse effects on wetlands, as well as other important resources. Accordingly, the freeway would not be the alternative that would be acceptable for a Clean Water Act (CWA) Section 404 wetlands fill permit. We therefore recommend that the Federal Highway Administration not proceed with a Record of Decision (ROD) for this project unless the upgrade alternative is selected, or the ROD satisfactorily addresses the issues identified in this letter.

We identified many of the same issues in July of 1998, when we sent a letter with our comments rating the draft EIS with "Environmental Concerns-Insufficient Information" (EC-2). In that letter, we raised concerns about the purpose and need and alternatives for the project and the project's impacts to wetlands and air quality. We also advised that, should FHWA select the freeway as the preferred alternative, the final EIS should detail the rationale for its selection in accordance with the CWA §404 (b)(1) Guidelines, given that the upgrade alternative would have less adverse impacts to wetlands.

Both Alternatives Provide Transportation and Economic Benefits, but Freeway May Not Accomplish All Aspects of Project Purpose and Need

The final EIS indicates that the freeway alternative was selected as the preferred because it would provide local and regional economic benefits, remove a "corridor gap" to increase the area's ties to both the Buffalo region and the Canadian trade resulting from NAFTA, and improve access from the region to points south. The final EIS did not include a similar discussion with regard to the benefits of the upgrade alternative. However, since the upgrade alternative would be similar in size and design (four lanes, median and shoulders, with the same level of service) as the freeway, we assume that the upgrade alternative would provide similar benefits. We note that on page 4-195, the final EIS confirms that both alternatives would provide the needed transportation improvements and improve the area's economic potential. The upgrade alternative would, however, do so with far less impact to almost every environmental and community resource in the area and for approximately 50% less in construction costs.

Furthermore, in our letter on the draft EIS, we commented that the freeway alternative improved U.S. Route 219 only up to the Pennsylvania border and questioned the outcome of the traffic once it passed into Pennsylvania. The final EIS states that there are no plans to upgrade U.S. Route 219 from a two lane roadway once it enters Pennsylvania. Accordingly, it is unclear how the freeway alternative accomplishes the objective of improving connections to points south and to the Buffalo area. We are also very concerned that the freeway alternative proposes to leave the existing Route 219 unimproved and that although the local traffic would observe reduced congestion the issues of safety and non-standard roadway geometry in the area would remain unaddressed. Therefore, we question whether or not the freeway alternative fully accomplishes all aspects of the project purpose and need if a corridor gap for US Route 219 and the inadequate safety and road geometry conditions on the existing Route 219 remain.

Freeway Would Have Substantially Greater Adverse Effects on Wetlands

We are very concerned that the final EIS does not address how the freeway alternative, as the preferred alternative, would comply with the CWA 404 (b)(1) Guidelines, which in our draft EIS comment letter we indicated was necessary. In fact, we do not believe that it has been demonstrated that the freeway alternative could be considered the Least Environmentally Damaging Preferred Alternative (LEDPA) according to Section 404 of the CWA and, therefore, would be ineligible for a CWA §404 permit. Our determination is based upon the fact that the freeway alternative would have wetland fill of 32.1 acres (12.5 acres forested), while wetland losses due to the upgrade would be 11.6 acres (3.3 acres forested). The freeway would traverse 128 perennial and intermittent streams with 14 bridges and 114 culverts. Each culvert would eliminate about 330 feet of stream habitat for a total 37,000 liner feet of affected stream habitat. The upgrade alternative would cross 59 streams, and require few new bridge crossings or culverts since most already exist. Lastly, the freeway would result in a much larger amount of unmitigated stream loss than the upgrade plan and of particular concern is that the freeway would require realignment of about 2000 feet of Great Valley Creek, which is a tributary to the Allegheny River. Therefore, the Route 219 upgrade is much less damaging to wetlands and other aquatic areas; is a practicable and feasible alternative which achieves the project purpose of improved Level of Service and safety on Route 219; and would appear to be considered the LEDPA.

Additionally, the final EIS does not address the freeway alternative's indirect impacts to wetlands. For example, the freeway alternative will further impact the Hebdon Hollow wetland by isolating the wetland complex with the new freeway alignment to the east, and the existing route 219 to the west, Beaver Meadows Road to the south, and Hebdon Road, which also bisects the wetland, to the north. According to the final EIS this wetland has high functions and values that we believe will be degraded or lost due to the isolation that will occur with the construction of the new freeway alternative. Also, the final EIS discusses that there will be some road cuts that are associated with the freeway alternative and that surface and sub surface flows may be interrupted. However, the final EIS does not address in any detail the issue of indirect impacts to these wetlands in the project area that maybe affected through either isolation, and/or change in hydrology, surface or subsurface flow. Since these issues were not quantified in the final EIS, we believe that the freeway alternatives impacts to wetlands will be greater than the 32 acres of direct fill to wetlands.

Freeway Would Have Substantially Greater Adverse Impacts on Farmlands

In addition to the impacts to wetlands, the freeway alternative has significantly greater impact to other important area resources such as farmlands. The final EIS discusses that the freeway alternative has an impact to farmland nearly 2-3 times that of the upgrade alternative and the freeway alternative has a Federal Farmland Protection Policy Act rating of 158 which approaches the Federal Farmland Protection Policy Act significance rating of 160. Similar to the lack of discussion on indirect wetland impacts the final EIS does not discuss indirect impacts to farmlands, such as farms that are bisected by the freeway alternative, making the isolated portion of the farm more likely to be abandoned or not as productive. Therefore, the impacts to farmlands may also be under-rated.

EIS Analysis of Induced Growth and Related Environmental Impacts is Insufficient

The final EIS addresses the issue of induced growth and presents a methodology for determining the amount of area that could experience induced growth. However, we have identified at least two deficiencies: 1) the final EIS does not tie the induced development discussion back to the economic analysis; and 2) the final EIS lacks quantification of the expected effects from that induced growth. The final EIS indicates that there is the potential for several thousand new long term local jobs to be created as a result of either alternative, the freeway alternative generating more than the upgrade. Yet, the document does not correlate the amount of induced growth with the economic indicators of population and employment. Therefore, a question that arises is whether the 474 acres of the induced development is sufficient to accommodate the 11,000 new long term jobs for the area.

Further, the final EIS indicates that the freeway alternative has the greatest potential for inducing growth since it would provide access to new undeveloped properties. The document goes on to discuss the potential for induced growth around the interchanges of the new freeway alignment. However, with the exception of indicating the overall acreage of the developable land, the final EIS does not actually analyze the effects on the environment. Also, the final EIS is inconsistent in its treatment of the constraints to development in these areas. For example, the final EIS states that the Great Valley interchange area has 141 acres of developable land around the interchange, which would include the active gravel mine that the document asserts could be reclaimed for development; yet the map on page 4-211 also indicates there is a large wetland in that area,

which is not discussed or included in the impact assessment although it is surrounded by other developable areas. Another example is the Peterson Road interchange area, where the map indicates that there is a wetland on the west side of the roadway that would be bounded by the roadway and the developable area. Given its location, we expect that this wetland would be developed as well since it would be completely surrounded with development. There are several other similar situations that are indicated in the maps provided on pages 4-204 to 4-215; however, the final EIS does not provide any rationale as to why these areas would not be threatened with development. Therefore, we believe that the effects on wetlands from the freeway alternative could be much greater than has been indicated in the final EIS. Since the final EIS did not quantify the wetlands that are in these areas we can not determine how much more wetlands acreage potentially would be affected.

Cumulative Impacts Analysis is Insufficient

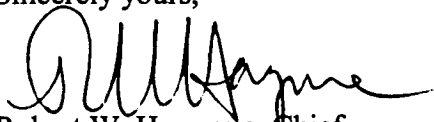
In a related matter, the cumulative impacts analysis in the final EIS is not resource specific and only focuses on future existing land use plans by the municipalities. The cumulative effects analysis should have, for example, discussed other past, present and reasonably foreseeable impacts to wetlands and other waters of the U.S., historic properties and archeological resources, and prime farmlands, which would be of critical importance to this area.

Conclusion

Based on our review of the final EIS, we conclude that both the freeway and upgrade alternatives provide desired traffic, safety and environmental benefits, but that the freeway alternative has much greater adverse impacts to wetlands and other important resources. We also believe that the freeway alternative would not be the alternative that would be acceptable for a CWA Section 404 permit. Therefore, EPA objects to the selection of the freeway alternative as the preferred alternative to be pursued for implementation. Consequently, we recommend that the Federal Highway Administration not proceed with a Record of Decision for this project unless the upgrade alternative is selected, or the ROD satisfactorily addresses the issues we have raised.

We are available to meet with you and your staff to discuss our outstanding concerns about this project. If you have any questions concerning our comments, or would like to schedule the aforementioned meeting, please contact David Carlson of my staff at (212) 637-3502.

Sincerely yours,



Robert W. Hargrove, Chief
Strategic Planning and Multi-Media Programs Branch

cc: R. Armstrong, Seneca Nation of Indians
USACE, Buffalo District