

MEMORANDUM

State Environmental Administrator
Virginia Dept. of Transportation
1201 E. Broad St.
Richmond, VA 23219

FROM: Ann Rogers
P.O. Box 14224
Roanoke, VA 24038

RE: Comments on Draft Environmental Impact Statement (DEIS) for Proposed 1-73

Please accept these comments in behalf of Virginians for Appropriate Roads (VAR) and Sierra Club. VAR and Sierra Club will be submitting additional comments under separate cover. Please consider all comments that are submitted from VAR and Sierra Club.

The following is a numbered list of deficiencies in the DEIS for 1-73 (DEIS). For each deficiency, I have indicated whether it is a deficiency in statement of (1) impact or (2) alternative. I have based my critique of the DEIS upon reading of the DEIS, I-73 Location Study Technical Memorandums, as well as three sets of regulations governing the writing of Environmental Impact Statements. Those regulations include:

- 40 CFR 1500-1508
- 23 CFR 771
- FHWA Technical Advisory T 6640.8A

Note: *Comments from EPA, the US Corps of Engineers, and others are quoted throughout this letter. Comments from these agencies have not been addressed here but are addressed separately in the responses to those agencies.*

1. The DEIS fails to report 1-73's impacts to prime farm land.

The DEIS underreports the amount of prime farm land in Franklin County and Henry County. This underreporting of the amount of prime farm land in Franklin and Henry County is likely to result in an underreporting of the amount of prime farm land taken in the construction of 1-73 and the subsequent induced development impacts of 1-73 on prime farm land.

The 1-73 Location Study Technical Memorandum titled, "Land Use Socioeconomic and Farmlands", October, 2000, states: "Soils mapping for Franklin and Henry counties has been completed; however, the surveys have not been published. Analysis of the farmlands for Franklin and Henry counties is therefore more limited. Overall, the total amount of prime farmland in the three counties is limited." Table 3.S1 in this technical memorandum states that there are estimated 8,338 acres

of prime farm land in Franklin County. Table 3.5-1 cites "GIS Mapping for the 1-73 Location Study" as the source of this information.

In May, 1999, I visited the Franklin County Soil Survey, located at 1297 State Street, Rocky Mount, Virginia. There, the soil survey's engineering staff provided me with results of the latest survey of prime farm land in Franklin County. The following is a synopsis of the new data on prime farm land in Franklin County as given to me by the Franklin County Soil Survey:

<u>Prime farm land types in Franklin County</u>	<u>Acres</u>
Wintergreen Loam	1,467
Wintergreen-Thurmont Complex 2 to 7% slope	192
Elsinboro-Colescreek Complex 2 to 7% slope	934
Colescreek-Delanco Complex 2 to 7% slope	721
Clifford Fine Sandy Loam 2 to 7% slope	8,265
Clifford Fine Sandy Loam 7 to 15% slope	87,645
Clifford Fine Sandy Loam 15 to 25% slope	52,005
Clifford Fine Sandy Loam 25 to 45% slope	40,427
Minnieville Loam 2 to 7% slope	476
Orenda Loam 2 to 7% slope	22
Mirerock Gravelly Loam 2 to 7% slope	395
Total prime Farm land in Franklin County	192,549

VDOT has underrepresented the amount of prime farm land in Franklin County by approximately 100,000 to 185,000 acres (depending on whether we include Clifford Fine Sandy Loam with slope greater than 15%).

Peter Stokely's September 14, 2000 letter to VDOT recommends that the loss of annual farm production caused by 1-73 be calculated for the life of the project and added to the project cost. DEIS Section 4.2.5 Farmland and Forestry Consequences, and Table 4.2-8 address farmland conversion impacts of the TSM and build options. Table 4.2-8 includes a column listing "Farmland Production Value Lost". That table does not indicate the time period over which the listed losses would occur. The DEIS should be amended to address the losses over the life of the project, as per Mr. Stokely's request. These losses should be added to the project cost, as per Mr. Stokely's request.

Section 4.2.5.3 says: "The FPPA [Farmland Protection Policy Act] states that 'increasingly higher levels of consideration for protection' be given to farmlands impacted by projects that have a Farmland Conversion Impact Rating exceeding a total score of 160. Options 1, 1a, and 4 exceed a score of 160. All other options were below 160 and need not be further evaluated for farmland protection. Avoidance for Options 1, 1a, and 4 was not considered an appropriate strategy to mitigate or reduce the Farmland Conversion Impact Rating due to prevalence of prime soils throughout the study area."

This passage from Section 4.2.5.3 of the DEIS reveals a grievously disturbing aspect of VDOT's apparent willingness to ignore public laws. The passage begins by quoting the Farmland Protection Policy Act which calls for "increasingly higher levels of consideration for protection" to prime, unique, and important soils. The passage then states that no consideration will be given to avoiding impacts to prime soils located in three of the build options. This passage essentially says that VDOT knows of the law that protects farmland, but that they have chosen merely to give lip service to that law. VDOT should be reminded that the Congressional intent which plays so heavily in their argument for building a new terrain interstate version of I-73 was also at work in the writing of the Farmland Protection Policy Act.

The mention of a prevalence of prime soils throughout the study area" would appear to be in contradiction with a statement in Land Use Socioeconomic and Farmlands that "overall, the total amount of prime farmland in the three counties is limited".

The Natural Resources Technical Memorandum does make vague mention of mitigation for prime farm land by saying, "Should one of the Build Alternative options be selected, all practicable measures will be employed during design phases to minimize effects to soils mapped as prime farmland soils." This is clearly non-responsive because we have no idea what is meant by "all practicable measures" and whether "practicable" in this sense addresses the intent of the Farmland Protection Policy Act.

WHAT MITIGATION AND/OR AVOIDANCE WILL BE PROVIDED FOR PRIME FARM LAND AFFECTED BY I-73? IF NONE. THIS DEIS IS IN VIOLATION OF FEDERAL LAW.

TYPE OF DEFICIENCY: IMPACTS

SUGGESTED CORRECTIVE ACTION:

(1) Use new soil survey data from Franklin and Henry Counties. If VDOT does not have adequate information, they should not substitute grossly outdated estimates without clearly stating that the old estimates are being used in lieu of new, accurate information, and that higher quality information will be forthcoming when available. The present statement about prime farm land affected by I-73 is misleading and would appear to be a violation of NEPA's requirement for high quality documentation.

(2) After supplying correct, up-to-date information about prime farm land in Franklin and Henry Counties, please proceed with needed documentation on the project's impacts on prime farm land as required by:

- FHWA Technical Advisory T 6640.8A which states: "Where [prime unique, that of statewide importance, that of local importance] farmland would be impacted, the draft EIS should . . . identify measures to avoid or reduce the impacts. Form AD 1006 (Farmland Conversion Impact Rating) should be processed . . . and a copy included in the draft EIS. Where the Land Evaluation and Site Assessment score (from Form AD 1006) is 160 points or greater, the draft EIS should discuss alternatives to avoid farmland impacts.
- The Federal Farmland Protection Policy Act, which requires full disclosure of impacts to farm land affected by transportation projects using federal funding.

(3) Address EPA's request for a calculation of farmland productivity losses through the life of the project, and add this figure to the total cost of the various build options.

Response: *Issues related to Farmlands have been addressed in the DEIS and Technical Memorandum pursuant to the requirements of FHWA's Technical Advisory T 6640.8A and have been concurred in by the various resource agencies charged with farmland protection. The farmland acreage for Franklin County listed in Table 3.2-2 is not for the entire county; it is for the study area only. Further, if the larger figures were used, it would only serve to dilute the impacts that have been identified and lower the impact ratings since the impact acreage would be compared to a larger acreage figure.*

The EIS states that due to the prevalence of farmland in the study area, minimizing impacts to farmland by shifting the alignment is not practicable. Shifting alignments to minimize impacts create impacts elsewhere. Alternatives that avoid adverse farmland impacts (those with a rating that exceeds 160) are those alternatives with a rating that does not exceed 160. Further, should an alternative with a rating that exceeds 160 be selected, all practicable measures for minimizing impacts will be explored during final design. Practicable measures include design features such as retaining walls to minimize cut and fill slopes and safety appurtenances that reduce the amount of clear space needed. Because the amount of design work that can be conducted during the environmental process is restricted by regulation, the commitment to explore these measures during final design has been made.

It should be further added that the assessment of farmland impacts is based on a 600-foot location corridor instead of the actual construction footprint. Therefore, it is expected that during final design when the construction width of the corridor is established (minimum 250 feet), the impacts to farmland resources would be reduced considerably.

Finally, The value of farmland production value lost was included in Table 4.2-8. It will not be added to the capital cost estimate of the project simply because it does not represent a capital cost. Further, only including the cost of lost farmland production is arbitrary. All indirect costs or benefits would need to be calculated and included. For example, as demonstrated in the EIS, there would be fewer fatalities associated with a build alternative. In conducting cost-benefit analyses, a figure of \$2.5-3 million is often assigned to each fatality. If we were to be consistent, then we would need to credit the cost savings associated with reduced fatalities to the project. Notwithstanding, these types of issues are taken into account in a benefit-cost analysis, which has been prepared for the approved location corridor.

2. The DEIS fails to adequately report secondary and cumulative impacts.

The DEIS fails to adequately consider secondary and/or cumulative impacts of 1-73. In an August, 1998 letter to Mr. Ken Wilkinson, VDOT, Roy Denmark, EPA, said:

One of the stated project purposes for this proposal is to foster economic development along the Rt. 220 corridor. This proposal will not only result in direct impacts to the natural and built environment but will, by design, change development patterns and the rate of development along Rt. 220. Indeed the 1995 Comprehensive Plan for Franklin County explicitly recognizes this fact by stating, "Traffic patterns will change dramatically, as will the role of Rt 220 for commuters. The current growth of highway oriented business along Rt 220 may be altered by an impetus to locate businesses and services at future Interstate Interchanges". These changes will be both positive and negative to the natural and human environment. EPA believes that the DEIS must take a serious look at these secondary effects. This should include an

acknowledgment that this type of new facility will foster these effects and include an innovative and realistic approach to predicting them.

Our reason for asking for this type of analysis is our belief that cumulative and secondary impacts from certain Federal actions can have a significant impact on the human environment. These cumulative and secondary impacts can be both positive and adverse and have typically not been effectively addressed in DEIS's for major federal actions. For projects like 1-73, the cumulative and secondary effects may be larger than the direct impact of the highway itself. As envisioned by the National Environmental Policy Act (NEPA), the positive and negative impacts of a proposed action should be thoughtfully examined and summarized for decision makers. Secondary impacts to land development patterns, existing business, traffic patterns, natural resources, water quality and quantity should be evaluated. This will prevent surprises and allow decision makers to visualize the future condition of the study area with or without this facility and understand what elements of this future condition this proposal may act as a catalyst for.

This section of the DEIS should also include an analysis of the impacts on traffic, natural resources and the built environment of the proposed westward extension of this 1-73 to West Virginia. In addition the DEIS should include an analysis of the impacts of the proposed direct link from 1-73 to the Smith Mountain [Lake] Resort.

EPA envisions an approach that combines documentation typically found in a DEIS with data from case studies and other data bases to predict secondary effects over time. EPA will be happy to work with you and your consultant to outline a cost effective plan to study secondary effects”

Secondary and cumulative impacts are addressed in the DEIS, yet the treatment of the subject is inadequate and incorporates methodologies which result in understatement of impacts. According to Section 4.12 the DEIS, in order to calculate secondary and cumulative impacts, “a one-mile radius was used at each interchange to compare the existing development with planned growth. A one-mile radius is equivalent to approximately 2000 acres . . . per interchange. The sum of the acreage for each option is considered the impact areas for this analysis. Using this approach, acreage of developable and undevelopable land was quantified for each build option. Developable land was defined as all agricultural/forest land not considered prime agricultural property or designed as wetlands.”

Prime agricultural and wetlands were each analyzed under the same criteria as developable land.

Response: *Prime agricultural land and wetlands were not treated the same as developable land. They were treated just the opposite; it was assumed that wetlands, prime agricultural land and parkland/public land would not be developed. This is stated in Section 4.12.1 and borne out in Table 4.12-1.*

Additionally, for the Blue Ridge Parkway, a one-mile buffer on each side of the Parkway was used to compare the existing development with planned growth. Thus, the land within a one-mile radius of each planned corridor, and within one mile on either side of the Parkway, was analyzed for potential changes in development density caused by 1-73.

Problems with this approach are identified as follows:

This section claims that “the secondary impacts from any of the proposed build options would be minimal and the cumulative effects [on the Blue Ridge Parkway] from any of the proposed build options would be minimal”. The DEIS makes these claims based on analysis of a “future land use map” (presumably this refers to Figures 3.1-4a through 49 in the Land Use Socioeconomic and Farmland Technical Memorandum). According to this map, much of the land in the impact areas is already slated for development. Therefore, concludes the DEIS, the secondary/cumulative impacts in these areas will be minimal, since a significant portion of the land in the impact areas would have been developed whether or not 1-73 is built.

The reasoning behind these claims is questionable. First of all, we cannot assume that these lands will actually be developed without the construction of 1-73. It is well known to VDOT that Comprehensive Plans written by local governments and planning districts serve only as generalized blueprints, and that actual decisions regarding how and where development occurs are often made with scant regard to the writings in the Comprehensive Plans. This is not to denigrate the Plans but rather acknowledge that they are not legally binding when it comes to predicting future land use patterns, and land that is thus planned for development should not be excluded from the baseline data in VDOT's calculation of 1-73's impact on land use.

Response: *We disagree. Secondary impacts, or indirect effects, are defined by CEQ as effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Secondary impacts are often determined by subjecting the impact to the "but-for" test. In other words and in this case, but for the project, the changes in land use would not occur. If a locality has already zoned land for a particular use in their comprehensive plans without giving any consideration to Interstate 73, then that change in land use does not pass the "but-for" test and is rightfully excluded from the calculations of Interstate 73's impact on land use. While comprehensive plans may not be legally binding, they are the best source of information that we have of a localities intentions regarding future development.*

Secondly, VDOT's method of predicting secondary/cumulative impacts fails to acknowledge the tremendous impetus for new development that results from building a new road through previous undeveloped land. Land that is in the impact areas would have a much greater likelihood of being developed with 1-73, whether or not that land is slated for development in a Comprehensive Plan.

Response: *First, VDOT's method of predicting secondary impacts is based upon recommendations from EPA. Second, while building a new interstate through undeveloped land makes it more attractive for development, it is not a guarantee that development will occur as evidenced by the many rural interstates that exist around the country. As stated in the draft EIS, an improved transportation system is a tool that localities can use to attract development, however, it is not a guarantee. While improved transportation accessibility in a corridor may indeed make land more attractive for development, other factors such as water and sewer lines, quality of schools and other public services, presence of undevelopable land (e.g. wetlands, floodplains, parks, slope conditions, etc.), land acquisition and development costs, impact fees and zoning ordinances, access to a skilled work force, etc. play major roles in shaping where and when development will take place, its nature and its intensity.*

Recent studies indicate that the association between road construction and urbanization and development has been historically over-stated and that roads are, at best, an inefficient means for inducing or encouraging development in the absence of a combination of other necessary development factors like those mentioned above. (Hartgen, et al, 1990; Hartgen, 2003a) In a study of potential links between road construction and urban sprawl in Ohio; investigators concluded that major road improvements appear to "accommodate, rather than spur, growth" and that approximately 70 percent of population growth during the 1990s occurred within census tracts that had no major road improvements (Hartgen, 2003b). Before-and-after studies of seven new road links in Great Britain indicate that there was little overall growth in cases of bypasses and that growth seen in several cases was more connected with external changes than the road schemes themselves (Bly, 1998). Recently, at the direction of Congress, FHWA completed the Economic Development Highways Initiative, which reached a similar conclusion. Over 200 state, local, and regional officials, including many elected officials, were consulted by FHWA. The overall results of the initiative support the general linkage between highway improvement and economic development, and validate the contention that highway improvements are a necessary but not sufficient condition for capturing economic growth potential." FHWA also recently completed research titled The Economic Development Impacts of Mostly Rural Interstates. The research looked at the impact of several rural interstates on economic development including Interstate 81. While the research seeks to discourage inappropriate extrapolation of

the studies, its conclusion regarding the relationship between an improved transportation system and economic development is consistent with the other research referenced above. Specifically, the research concluded, "It is difficult to look at the results of this research and agree with those proponents of developing new interstate highways who envision increased employment all along any corridor with an Interstate. Similarly, it is difficult to agree with those opponents of developing new interstate highways who envision increased sprawl and lower income jobs all along any corridor with an Interstate. The results of this research imply that counties with partially successful employment expansion programs will have more successful programs if there is an interstate nearby. For counties where economic development is inhibited by a lack of developable sites or other barriers, the results of this research imply that a new interstate may result in little improvement in the economic development picture." These recent studies conclude that development within an area is a complex phenomenon whose direct relationship to highways has been brought into question and that allowable population growth will be primarily determined by local zoning.

Thirdly, VDOT fails to acknowledge that Franklin and Henry Counties have actually written plans for new-terrain 1-73 into their Comprehensive Plans, and that this "future" 1-73 has inspired Franklin County to imagine that much of its rural land might some day be converted to industrial/suburban use. Without the anticipation of 1-73, however, much of this proposed development of rural Franklin County would not have shown up in the Comprehensive Plan. Franklin County's Comprehensive Plan speaks about a planned industrial park in Burnt Chimney, an area now devoted to agricultural, recreational, and residential use, which coincides with a planned 1-73 interchange. VDOT's proposed Burnt Chimney interchange contains a great deal of land that Franklin County would consider for future commercial and industrial use. This is not accidental, but rather likely a result of the notion that 1-73 would some day be drawn through the Burnt Chimney area. The appearance of the Burnt Chimney industrial park in Franklin County's Comprehensive Plan is one of 1-73's earliest secondary/cumulative impacts, and it is inappropriate for VDOT to say that growth in development is already planned in this area with or without an interstate facility, since "without an interstate" is no longer an option in the Franklin County Comprehensive Plan.

The statements about prime farmland in the section on secondary and cumulative impacts needs to be revised to include the latest Franklin County soil survey information. Please see item 1, above, which discusses the need to incorporate the new soil survey data and the potential for the new data to significantly alter conclusions about 1-73's capacity to consume prime farm land.

Pages 4.12-4 and 4.12-5, which are included in the segment on secondary/cumulative impacts, contain long meandering paragraphs the subject of which is difficult to determine. It would seem that these paragraphs are devoted to discussion of the economic impact of 1-73 as a secondary impact. I would urge VDOT to rewrite this section so that the topic of each paragraph is easily identifiable and clearly focused. If VDOT intends for this section to be a summary of predictions about economic development impacts of 1-73, it fails absolutely. Topics strung together like Christmas lights include:

- Vague reference to the analysis conducted for the Transamerica Corridor which the DEIS seems to be saying discusses the economic development aspects of highways predicated upon "travel time savings, economies in fuel and maintenance, and the economic benefit of reductions in fatalities, personal injury and property damages that accrue to a safer transportation corridor". It is not clear how this ties in with 1-73.
- Two economic impact analyses that were written in 1994 to provide a rationale for the 1-73 corridor location process in Virginia, but again, the message is quite vague.
- The phasing of construction and development of 1-73 in other states "that" may effect the level of timing[?] and economic development [?].
- "Recent research" by the U.S. Dept. of Transportation regarding job creation from money invested in the National Highway System. What is the name of the study? The reader has an uneasy feeling that we are being asked to accept this research as evidence that 1-73 will bring economic development.

TYPE OF DEFICIENCY: IMPACTS

SUGGESTED CORRECTIVE ACTION: Respond to EPA's request made in 1998 for an analysis of secondary and cumulative impacts of 1-73, and as required by NEPA. Examples of the kinds of secondary and cumulative impacts that should be considered for 1-73 include:

- Loss of job access on the part of residents of the City of Roanoke as the new suburban job growth spawned by 1-73 is inaccessible to residents of the City of Roanoke dependent on the City's fixed route bus system.
- Loss of viability of businesses located on U.S. 220 due to rerouting of truck and auto traffic onto the new-terrain 1-73. T 6640.8A states: "Where there are foreseeable economic impacts, the draft EIS should discuss the following for each alternative commensurate with the level of impacts: . . . the impacts on the economic vitality of existing highway-related businesses . . . and the resultant impact, if any, on the local economy."
- 1-73's impacts to the Roanoke River caused by additional flooding and siltation.
- Cumulative impacts, along with the planned Army Corps of Engineers channelization, on the Roanoke River and the endangered fish in the Roanoke River.
- Loss of tree cover and soil permeability caused by the development induced by 1-73, and its impacts on the Pigg, Blackwater and Roanoke Rivers.
- Losses to tourism industry caused by 1-73 impacts to the Blue Ridge Parkway, Mill Mountain and other similar scenic assets.
- Loss of water quality at Smith Mountain Lake, the surface of which is a publicly-owned recreation facility.
- Loss of tax base and capital to Cities of Roanoke and Martinsville induced by availability of new rural parcels suitable for industrial and commercial development. T 6640.8A says: "Where there are foreseeable economic impacts, the draft EIS should discuss the following for each alternative commensurate with the level of impacts: . . . the loss of business or employment resulting from building an alternative on new location bypassing a local community impacts of the proposed action on established business districts"
- Increase in traffic on 1-81 induced by serving as a feeder for 1-73; the effect of these increases on the safety and efficiency of 1-81.

Even though the majority of secondary/cumulative impacts for 1-73 cannot be described strictly numerically, they should be described nonetheless so that 1-73 decision makers and the public are apprised of the enormity of 1-73's probable footprint in our lives and in the lives of our children and grandchildren. NEPA Title I Sec. 102(B) directs agencies to consult with EPA's Council on Environmental Quality (CEQ) to "insure that presently unquantified environmental amenities and values . . . be given appropriate consideration in decision making along with economic and technical considerations." The DEIS, and particularly the section on secondary/cumulative impacts, fails to deal with unquantified environmental amenities and values affected by 1-73. This should be corrected if the DEIS for 1-73 is to be fully compliant with NEPA.

Response: *We have responded to EPA's request from 1998 for an analysis of secondary and cumulative impacts for 1-73. The approach used for the secondary/cumulative impact analysis in the DEIS (i.e. one-mile impact radius around interchanges) was based on the approach suggested by Peter Stokley of EPA at a meeting with FHWA and VDOT prior to the release of the DEIS to the public. Additional information has been added to the final EIS regarding secondary and cumulative impacts as well as the biological assessment.*

3. The 1-73 corridor location and the preferred design were selected outside the NEPA process. VDOT actively thwarted the public's involvement in the decision making process for corridor location and preferred design for 1-73, in spite of huge expenditures of time and money spent on simulating public participation.

40 CFR 1502.5 states: "The [Environmental Impact] Statement shall be prepared early enough so that it can serve practically as an important contribution to the decision making process and will not be used to rationalize or justify decisions already made...."

Public Involvement Techniques for Transportation Decision-making, FHWA (Washington), 1996, provides guidance for transportation agencies in developing an effective public involvement process. Says the guide:

“Acting in accord with basic democratic principles means that public involvement is more than simply following legislation and regulations. In a democratic society, people have opportunities to debate issues, frame alternative solutions, and affect final decisions in ways that respect the roles of decision-makers. Knowledge is the basis of such participation. The public needs to know details about a plan or project to evaluate its importance or anticipated costs and benefits.... Through continued interaction with the entire community, agencies build community support and, more importantly, **assure that the public has the opportunity to help shape the substance of plans and projects** [emphasis added]. In summary, public agencies act as public servants.”

Additionally, Public Involvement Techniques for Transportation Decision-making calls for:

"Continuous contact between agency and non-agency people throughout transportation decision-making, from the earliest stages, as one or more transportation problems are identified, through defining purpose and need or planning principles, through the development of a range of potential solutions, and up to the decision to implement a particular solution", and,

"Focusing participation on decisions rather than on conducting participation activities because they are required".

Finally, the Guide adds, "A focus on the wide range of possible decisions gets agencies past simply offering the public passive opportunities to comment on proposals just before formal decision-making."

In a November 26, 1999 letter to Ann Rogers, VAR, Edward Sundra, FHWA Virginia Division, Richmond, VA said: {From my understanding, VDOT has already identified the interstate design standard as their preferred design for the build alternatives and as such, has presented 1-73 as an interstate facility to the public."}

It would appear that VDOT had clearly made decisions about design standards prior to the writing of the EIS and that VDOT is using the EIS to justify those decisions.

In a September 14, 2000 letter to Earl T. Robb, VDOT, Peter Stokely, EPA suggested that in the EIS, VDOT describe the corridor location process that took place in 1994. Said Mr. Stokely,

After the review of 12 corridors in Virginia, the Commonwealth Transportation Board (CTB) made the decision (March 1994) to locate the 1-73 project in the Rt 220 corridor. While there was a public participation process during this time, at least some members of the public feel that they were not given adequate time to review and comment on these corridors. This was expressed in March of 1994 in a letter from Virginia Delegate James Shuler to the FHWA.

At some point after the March 1994 CTB decision, VDOT determined that a freeway design was to be constructed. This decision was again made outside the NEPA process and it was difficult to find in the DEIS when or why this decision was made.

EPA recommends that the DEIS summarize the background and specific rationale for dropping each of the other 11 corridors and provide a regional map showing the locations of all 12 corridors....

In response to Mr. Stokely's suggestion, VDOT did address the 1994 corridor location process in Sections 2.2, Alternatives Development and Alternatives Eliminated from Study on pp. 2-1 to 2-3 of the DEIS. On page 2-1 VDOT briefly mentions the analysis of 13 potential corridors in Virginia conducted by Virginia Employment Commission, the choice of a corridor by Commonwealth Transportation Board, and 1-73 public information meetings that were held to during January and February, 1994. On page 2-2, VDOT provides a very brief summary of an alternative identification and screening process.

The 1994 decision to bring 1-73 into Roanoke and the decision build the project to full Interstate standards has been described in detail in a report written in behalf of Virginians for Appropriate Roads and submitted to Harold Peaks, FHWA, Washington in July, 2000. That report titled, "Report to FHWA on the Public Participation Process for 1-73 in Virginia is attached to these comments. To date, FHWA has not provided written or verbal response to this report and has otherwise failed to indicate a position on the issues it raises, in spite of VAR's numerous letters and phone calls to FHWA's Office of Human Environment and Office of NEPA Facilitation seeking dialog on the subjects raised in the report.

The report provides a detailed local perspective on the 1994 decision making process for 1-73's location and preferred design. Please refer to that report in its entirety, with attachments, as VAR's statements of how and why VDOT's decisions about corridor location, alternatives, and preferred design are all critically flawed from the perspective of public perspective. Moreover, please consider "Report to FHWA on the Public Participation Process for 1-73 in Virginia" as VAR's assertion that the decision making process on corridor location, alternatives and design for 1-73 (a) was conducted outside the NEPA process, (b) is a substantive violation of NEPA, and (c) renders invalid all subsequent decision making regarding 1-73 based upon assumptions made and alternatives discarded during that process including any Record of Decision which is made based on the present DEIS for 1-73.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION:

- **Reopen** the public participation process for 1-73 as recommended in "Report to FHWA on the Public Participation Process for 1-73 in Virginia"
- **Reevaluate** decisions made between 1994 and 1998 regarding corridor location, alternatives, and design that were outside NEPA and actively sidestepped public participation.
- **Reject** this DEIS in its entirety because it considers only a miniscule fragment of the alternatives that should have been considered but which were discarded through a NEPA violating decision making process.

Response: *The feasibility study is not a NEPA study. Feasibility studies, planning studies, technical studies, etc. in and of themselves are not NEPA documents subject to CEQ's requirements for purpose and need, alternatives development, analysis of environmental impacts, and public involvement. Instead, the decision to prepare a feasibility study using federal funds is an action subject to the requirements of NEPA, but that action meets the criteria for a categorical exclusion under section 1508.4 of CEQ's regulations and section 771.117(a) of FHWA's regulations. These are actions that do not require any further NEPA approvals by FHWA because they do not involve or lead directly to construction nor do they involve significant impacts. Had VDOT not used federal funds, for the feasibility study, then a CE determination would not have been required either. Further, feasibility studies do not result in implementable projects; they don't establish a location that FHWA takes action on nor do they establish a project that will be developed through final design, right-of-way acquisition, and construction. The feasibility study carried out by VDOT only sought to narrow down the area over which VDOT would study the location of I-73 further. VDOT could have simply established the study area for I-73 without conducting a feasibility study or public involvement process and still not violated any federal laws.*

There are no NEPA public involvement requirements for actions that meet the criteria for a categorical exclusion; any public involvement performed for categorically excluded actions (preparation of a feasibility study in this case) is above and beyond what NEPA requires. In similar fashion, MPOs often prepare feasibility studies to determine what types of improvements to include in their long range plans. The preparation of those feasibility studies are subject to NEPA if they use federal funds to prepare them (as indicated above with the reference to CEQ's and FHWA's regulations), not the subject or content of the feasibility studies, themselves. For example, if the Hampton Roads MPO prepares a feasibility study to determine whether or not it is practical to implement light rail in the region, the physical preparation of the feasibility study itself would be subject to NEPA, not the light rail project that is the subject of the feasibility study. Notwithstanding, as stated in Section 2.2 (Alternatives Development and Alternatives Eliminated from Study) of the DEIS, VDOT conducted the corridor feasibility study which evaluated 13 broad corridors or locations for the proposed I-73 in Virginia and in January and February of 1994, five public information meetings were held on the feasibility study (even though not required by NEPA). Approximately 1200

citizens attended these meetings which were held in Abington, Whytheville, Blacksburg, Roanoke, and Martinsville. In March of 1994, after VDOT completed the feasibility study, the Commonwealth Transportation Board selected a proposed location for the I-73 corridor that entered Virginia from West Virginia on Route 460 west of Narrows, and which generally followed Routes 460 and 220 to the North Carolina State line. However, in late 1994, the cities of Roanoke and Salem and the County of Roanoke expressed a desire that the location of I-73 be improved by routing it along I-581 and I-81 because they saw its benefit as a tool to facilitate economic development. In December of 1994, VDOT prepared a supplemental report for I-73 that determined it feasible to refine the location of I-73 using I-581 and I-81. The CTB approved the revised location and with the passage of the NHS Designation Act of 1995, Congress included the CTB-approved corridor for Interstate 73 in legislation which was the impetus for the draft EIS. It is important to also note that CTB and their decision-making process is not subject to NEPA, which has been validated by the 4th Circuit Court; NEPA only applies to federal decisions and federally-funded actions.

In 1997, the I-73 Location Study was initiated by VDOT. The public continued to have the opportunity to be heard and to be informed. Citizens were encouraged to convey their knowledge to the study team and to gain an understanding of the planning process required for the project. The study team incorporated the following methods to maintain effective and constructive communications:

Public Awareness Initiatives and Information Resources

An extensive mailing list was developed from: 1) registration forms completed by citizens who attended public information meetings; 2) comment sheets from stakeholder interviews; 3) requests placed through the I-73 Location Study telephone "hotline"; 4) email requests; and 5) submissions made on the I-73 Location Study website. The mailing list provided the major audience for the I-73 Location Study newsletter. The I-73 Location Study website, email service, and telephone "hotline" all served as public gateways to information about the I-73 project.

Newsletter, Brochures, Fliers

Printed information about the I-73 Location Study was disseminated to the public in the form of brochures, newsletters, and fliers. Circulation of these materials was as follows:

- Information Brochures 9,300
- Fliers 1,250
- January 1998 Newsletter 6,690
- May 1998 Newsletter 9,275
- March 1999 Newsletter 6,600

Website

A website accessible to the general public and devoted to the location study is maintained at www.vdot.state.va.us. It serves as a vehicle for the dissemination of information and for sharing comments and questions. The site recorded approximately 500,000 "hits" as of October 2000.

Email

Comments about the location study and requests for information can be made via email to saleminfo@vdot.state.va.us. Approximately 121 emails were received as of January 2000.

Toll Free Information "Hotline"

Requests for information about the location study can be made toll free at 1-888-I73-PLAN. The service also instructs callers on how to get involved. As of January 2000, the "hotline" received approximately 1,972 calls.

Designated Public Information Meetings

Nine public participation meetings with an aggregate attendance of 3,476 were held since January 1998. The second phase of meetings focused on the proposed I-73 location alternatives. Citizens met at local schools or community conference centers. The meetings were presented in a systematic format with VDOT consultant staff available for question and comment. Attendees were first presented an I-73 Location Study brochure and comment sheet. The comment sheets presented standard questions and allowed room for an open response. Following the brochure and comment sheet was an informative video presentation and an opportunity to examine a standard set of exhibits, including maps, project schedules, and proposed

alternatives. After viewing the materials, citizens completed the comment sheets or recorded their oral comments and questions at audio recording stations.

The vehicles to promote the meetings included: 1) press releases to newspaper, radio, and television media; 2) newsletter distribution; 3) advertisements in local newspapers; and 4) 167,000 post card mailings.

January 1998 - 1,233 attendees, 3 meetings

Collinsville, Henry County
Rocky Mount, Franklin County
Roanoke, Roanoke Valley

May and June 1998 - 2,243 attendees, 6 meetings

Collinsville
Rocky Mount
Roanoke
Salem
Blue Ridge, Botetourt County
Goodview, Bedford County

Community Meetings

Approximately sixty-two community meetings with a total attendance of 2,625 addressed issues involving the I-73 Location Study. Meeting organizers could request from the VDOT Salem District, a speaker who presented a standard discussion and a consistent message.

4. The purpose and need do not support the need for a new freeway design in the study corridor.

In a September 14, 2000 letter to Earl T. Robb, VDOT, from Peter M. Stokely, EPA Virginia Field Office, Mr. Stokely said:

This proposal has two major elements; one is the Congressional intent to establish National Highway corridors and the other is local goals and objectives related to safety and mobility. The document does an adequate job of outlining the need for local mobility and safety improvements to Rt 220. A number of alternatives may be available to address this issue.

The National Highway corridor portion of the Purpose and Need discusses issues regarding long distance mobility and economic development. Much of the economic information comes from studies of potential economic activity. These studies are generally heavily caveated with statements regarding the uncertainty of economic development predictions due to the multitude of factors that determine when and where development will occur, and that the recognition that highways have a role, but not necessarily a dominant role in economic development. In fact other studies have shown that the rate or return on highway capital has declined drastically since the 1950's and according to the Congressional Budget Office and FHWA maintenance of existing highways is more efficient and brings more economic development than any form of new construction (CBO The Economic Effects of Federal Spending on Infrastructure and Other Investments, June 1998 and FHWA Contribution of Highway Capital to Output and Productivity Growth in the US Economy and Industries, August 1998).

. . . The pre-DEIS [and EIS] outlines existing employment data and projections for the Rt. 220 corridor. The projections assume some sort of improvements were considered.... The pre-DEIS [and EIS] indicates this improved linkage "should" stimulate growth in most of the employment sectors. When preparing to spend over one billion dollars on a project that will have major environmental consequences the intended results should be more clear than "[should]".

. . . Major economic trends in the study area are given. Particularly relevant is the job losses in Henry County. This is followed by a statement that the ability to move supplies and products to and from other regions using a good transportation network is key to maintaining existing jobs and supporting growth. While this may be true in general, this does not provide justification for a new freeway style facility (as chosen by VDOT) as the only possible solution. It does not explain how this new freeway will improve the situation in the southern part of the corridor which is located near and can be further linked with an upgraded Rt. 220 to the existing upgraded facility in North Carolina.

While EPA realized it may be difficult to make the link between new highways and specific economic growth projections and locations, however, considering the magnitude of the

environmental impacts of a new interstate style facility, we believe it is incumbent on VDOT to make this case more convincingly. EPA recommends a cost benefit analysis be performed on each of the alternatives including an upgrade of existing Rt. 220 (beyond the TSM alternative).

A September 1, 2000 letter to Roberto Fonseca-Martinez, FHWA Virginia Division, from Nicholas L. Konchuba, Army Corps of Engineers, Norfolk District, noted that in the pre-DEIS "no purpose and need was provided for an interstate facility and . . . needs and problems only related to the Rt. 220 corridor...." Continued the letter:

While Chapter 1 of the pre-DEIS does provide the legislative history that led to the 1-73 study . . . it does not clearly identify existing problems which need to be addressed by an interstate-level facility as opposed to another type of transportation facility.

The document should establish why an interstate level facility is necessary. It is stated . . . that a purpose for the project is to 'improve operations, access and capacity for vehicular and freight movement through the corridor and to other locations in the Michigan to South Carolina target market.' While the document provides supporting information for the needs identified in the Route 220 corridor, it does not provide information concerning the Michigan to South Carolina 'target market' or why an interstate level facility is needed. Page 1-1 includes a list of 'interstate concerns which led to the designation of the 1-73 Corridor,' but information to support those concerns is not provided.

Information supporting the need for an interstate facility is necessary, because a decision was made to not evaluate any improvements to Route 220 that do not meet interstate standards Therefore, the desire for an interstate-level facility drove development of this alternatives, yet the need for an interstate-level facility is not clear. This is particularly true in light of the [fact] . . . that Ohio is not considering construction of an 1-73 (due to funding problems), and West Virginia has completed a Final EIS to upgrade an existing highway, but not to interstate standards. Apparently the need for an interstate facility from Michigan to South Carolina is not apparent in other states along the corridor, and if a segment of an interstate facility is constructed in Virginia, it may not be part of a larger whole.

. . . [A] . . . list of interstate concerns is followed by a list of needs along the Route 220 corridor. A clear connection between these two sets of needs is not established. The document goes on to provide supporting information for the needs in the Route 220 corridor, but not for the 'interstate concerns'. For example, it is stated . . . that the percentage of trucks on Route 220 is as high or higher than those experienced on Virginia's interstates. There is no discussion, however, of whether there is a threshold of truck traffic above which an interstate is generally recommended or necessary. Again, the information supports safety, economic, and other needs in the corridor, but does not clearly support why an interstate-level facility is necessary....

Both Mr. Stokely and Mr. Konchuba's remarks, although they were written in response to the pre-DEIS, apply to the DEIS, since the DEIS was not radically altered in response to these comments. Therefore, I offer Mr. Stokely and Mr. Konchuba's remarks as my remarks.

The DEIS fails utterly to provide a rationale for a new Interstate facility. Indeed, the claim for the need for a new Interstate facility seems a cynical, calculated violation of the public trust in light of the fact that the old road, U.S. 220, is currently on the National Highway System and is eligible for the same construction funds that would be used to build I-73. U.S. 220 has been on the National Highway System and eligible for NHS construction funds since 1991. Yet Virginia chose to spend its share of the NHS funds on other transportation projects. Any claim for the need for a new interstate facility is specious without Virginia's having attempted first to fix what ails U.S. 220 with a state-of-the-art, context-sensitive upgrade.

VDOT thwarted attempts by VAR to raise local awareness about upgrading U.S. 220 through access management. Please refer to "Report to FHWA on the Public Participation Process for I-73 in Virginia" for a detailed description of VDOT's active suppression of VAR's attempts to increase public awareness about access management on U.S. 220 as a potential build solution for I-73.

The FHWA Technical Advisory T 6640.8A states, "Before selecting an alternative on new location for major projects in rural areas, it is important to demonstrate that reconstruction and rehabilitation of the existing system will not adequately correct the identified deficiencies and meet the project need." VDOT has not demonstrated the improvements to U.S. 220 will not meet the transportation and safety criteria in the Purpose and Need. This should be accomplished before claiming need for a new-terrain Interstate facility.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION: Either provide an adequate justification for a new freeway built to Interstate standards, or else make the decision to build I-73 as a state-of-the-art, context sensitive upgrade of U.S. 220 which provides improvements above and beyond the isolated spot improvements of the TSM option.

Response: *Congressional intent is important to this study and one of the reasons the project is being studied. If it weren't for Congress' designation of I-73 as a high priority corridor and the demonstration money that they provided to study I-73, VDOT would not have prepared an EIS. The DEIS states that FHWA believes that the designation by Congress of "I-73" indicates the congressional intent that this route would be an Interstate highway. Further reinforcing this intent, Congress has amended existing legislation and passed additional legislation designating the section of I-73 from Charleston, South Carolina to Portsmouth, Ohio as a future part of the Interstate system subject to the conditions that the section to be added meets Interstate design criteria and connects to an existing Interstate segment. This language comes from Mr. Fred Skaer, Director of FHWA's Office of National Environmental Policy Act Facilitation in Washington, D.C. in an electronic message to Ms. Rebecca Bier dated 1/22/99. He cited the "Interstate 73" designation by Congress and several laws enacted since ISTEA by Congress strengthened the identification of I-73 as an Interstate highway. Notwithstanding, the draft EIS also acknowledges the flexibility afforded by Congress to the states. Although this does not rule out other design standards which some states are pursuing, those decisions are left to the individual states. Therefore, even though Congress has provided the states with flexibility, they have expressed their intent through legislation as referenced above and have provided states with the legal mechanism to designate the route as part of the Interstate system should they meet the conditions noted, even though the Interstate System has been essentially completed. Accordingly, the draft EIS identifies the Interstate design standard as the "preferred design alternative" for I-73 in Virginia in keeping with the documented purpose and need which includes congressional intent. Notwithstanding, the draft EIS further clarifies that the Interstate design is being used to assess impacts and compare alternatives for purposes of selecting a location, a worst-case scenario if you will; the actual design and design related features won't be approved until after final design which cannot be initiated under FHWA regulations until after a Record of Decision is issued.*

Further, there has been a lot of confusion over design standards and the DEIS attempted to clarify the issue for the public. First, it needs to be pointed out that the designation 'urban or rural principle arterial' is the functional classification of the roadway. Roadways are designed to meet the functional classification. The 'interstate' classification is not a functional class of roadway. Instead, all Interstate facilities are functionally classified as principle arterials, and Interstates are designed to principle arterial design standards.

As stated in the DEIS, any major improvements to US Route 220 would need to be done to principle arterial standards. Although AASHTO has a separate design standard for roads classified as interstates, VDOT does not have a separate interstate design standard. Instead, interstates are covered by VDOT's "freeway" design standard, which is a subcategory of the principal arterial design standard. The other subcategory is "other principal arterials". Both the "freeway" and "other principle arterials" design standard is further broken down into 'level', 'rolling', and 'mountainous' based upon the terrain where the facility would be located. This terrain-specific break down effects the design speed, maximum degree of curvature, and stopping sight distance; it is important to also point out that these terrain-specific standards are not design exceptions. However, the lane width, shoulder width, median width and clear zone width for both "freeways" and "other principal arterials", those design features that establish the direct impacts, are the same. This was depicted in Figure 2.3-1 of the draft EIS to demonstrate that there is no appreciable difference between the "freeway" profile (i.e. interstate) or the "other principal arterial" profile; both require a minimum right-of-way of 250 feet. As further documented in the draft EIS at page 2-13, whether I-73 is designed to freeway standards (i.e. interstate) or other principal arterial standards, there does not appear to be any discriminating advantage or disadvantage, environmentally, between the two design standards.

Your comment, along with similar comments made by others, have failed to demonstrate where an appreciable difference in impacts would occur if a non-freeway (or "other principle arterial") design standard was used versus a freeway design standard. This would have to be done to make a case that there are other reasonable alternatives that have not been considered. Therefore, FHWA has not eliminated a wide range of feasible alternatives by basing the impact assessment on the principle arterial design standard for freeways. The impact of alternatives developed to "other principle arterial" design standards is adequately covered by the existing alternatives under consideration.

5. No viable alternatives to the freeway design were carried forward for detailed study in the DEIS.

In a September 14, 2000 letter to Earl T. Robb, VDOT, from Peter M. Stokely, EPA Virginia Field Office, Mr. Stokely said:

In the Build Alternatives section [of the pre DEIS and DEIS] it is indicated up front that this project will be a freeway design, but as stated above, no strong justification for this design decision over other highway designs was given in the previous Chapter. In addition, no information has been provided that indicates when or why VDOT decided that a freeway design was needed until the section entitled Lesser Design Options. Even in this section, no date is given indicating when this decision took place relative to the public participation process.

It is unclear to the reader that this proposal does not need to be built to freeway standards. This fact is buried in the text in various places but should be made prominent in the beginning of the document.

Although VDOT and FHWA may believe it was Congress'

intent for a freeway style facility to be built in Virginia, the law only states that principal arterial routes be established . . . Principal arterial routes can include both freeways and other principal arterials. Indeed, West Virginia chose not to build a freeway for its portion of I-73 and has been found to be in compliance with the intent of the legislation.

No alternative falling in scope between the TSM and freeway style alternative was developed. This lack of a range of alternatives will limit the public and others' ability to make informed decisions that balance cost, environmental impacts and economic development potential. For example, the TSM alternative, although it includes dozens of items, is not a full upgrade of the existing Rt. 220 to an access controlled facility. Such an upgrade of the existing Rt. 220 may provide the safety and mobility aspects outlined in the purpose and need at far less cost and impact. The justification for not including this type of alternative is found . . . [in the pre DEIS and DEIS], but is not backed up with any factual data or by the purpose and need. Therefore it remains unclear how much of the purpose and need could be addressed by an upgrade of the existing Rt. 220 to less than freeway standards. This type of alternative may have less environmental impact than a new interstate. A Rt. 220 upgrade alternative should be developed so the public

and others
can make a fully informed decision regarding the Rt. 220 corridor....

Mr. Stokely's comments above, although written in response to the pre-DEIS, apply to the DEIS. since VDOT made no substantive changes in their treatment of alternatives in response to Mr. Stokely's comments. Therefore, I submit Mr. Stokely's comments on alternatives as my comments.

U.S. 220 is already classed by VDOT as a rural principal arterial. Therefore, in its present form it is already in compliance with the design standards for inclusion in the National Highway System. As a matter of fact, U.S. 220 - in its present form - has been included in the National Highway System and eligible for National Highway Systems funds for improvements and upgrades since 1991. Virginia's Commonwealth Transportation Board has chosen not to spend NHS funds for upgrading U.S. 220. Now they are calling for \$1 billion to build a new-terrain Interstate highway to replace U.S.220. This is faulty decision-making and constitutes a grievous betrayal of the public trust.

Please refer to the attached letter from VAR to Transportation Secretary Rodney Slater dated October 31, 1999 regarding the lack of reasonable alternatives for 1-73 and how the process by which VDOT informed the public about 1-73 prevented consideration of all reasonable alternatives, including any systematic upgrade of U.S. 220.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION: Rewrite the section on alternatives to include full disclosure of how we might upgrade U.S. 220 to less than freeway standards. Make the decision to spend National Highway Systems funds to upgrade the existing U.S. 220 corridor as we could and should have done since the appearance of U.S. 220 in the National Highway System in 1991.

Response: See previous response. The DEIS considered a full upgrade of Route 220 to a principle arterial design for freeways. The DEIS attempted to explain that there was no appreciable difference between the profile for a freeway design and what others would consider a lesser design, namely, "other principle arterials"; both require a minimum of 250 feet of right-of-way. See Figure 2.3-1 of the draft EIS.

While Route 220 is functionally classified as a rural principle arterial and is on the National Highway System, the road itself does not meet current design standards for rural principle arterials. Any major improvements to Route 220 would require the facility be upgraded to current rural principle arterial design standards. Further, there are no National Highway System design standards. Therefore, Route 220 was not included in the National Highway System because it met National Highway System design standards, it was included in the National Highway System because it was functionally classified as a principle arterial which was the prevailing criteria at the time the NHS was designated by Congress.

6. The DEIS fails to consider the potential for a rail alterative to 1-73.

There is an active intermodal freight rail line that is basically contiguous with 1-73 all the way from Detroit, Michigan to Charleston, South Carolina. Please refer to the attached map of the Norfolk Southern Intermodal Network, and the map of 1-73. These two maps show the same general path taken by the NS rail line and 1-73: Detroit-to-Michigan routes with sharp eastward jags into the vicinity of Roanoke.

The following is an excerpt of a May 30, 1999 article in the Roanoke Times discussing industry -inducing benefits of the rail infrastructure:

Norfolk Southern and CSX are not the only ones who stand to gain from the breakup of Conrail, now less than 48 hours away.

So do the localities of Western Virginia, which may see an influx of companies attracted by the railroad's expanded service, according to NS.

The key may be a projected increase in trains from four a day to 12 on the Shenandoah route that runs 181 miles from Front Royal to Roanoke. That could lure new companies to Western Virginia, NS officials say.

"This gives us a strong edge as we work toward promoting economic development," said Dan Motley, NS Industrial development manager in Western Virginia and West Virginia.

The nation's fourth-largest rail carrier sees industrial development along its tracks as a key to its future. New industry means new revenue for railroads. And NS, which had \$1.03 billion in total operating revenue last year, has been successful at helping businesses locate to its geographic advantage. Its 36-person industrial development department, the largest in the rail industry, has had a hand in many of the largest economic deals throughout the NS rail network.

In each of the past four years, new industries on NS lines have contributed between \$101 million and \$120 million in revenue every year. Throughout its system in 1998, the railroad worked with state and local authorities to locate 72 new industries and support the expansion of 29 others along its lines. As a result of these developments, the railroad gained nearly 476,056 carloads of freight a year.

In the first quarter this year, NS located 19 new industries and supported the expansion of 12 others along its lines, gaining 21,789 carloads of freight....

Virginia Dept. of Rail and Public Transportation (VDRPT) offers a Rail Industrial Access Program whereby localities can receive grants from VDRPT to pay for rail access for projects that create new jobs in Virginia. Recent recipients of this grant, as described in the Summer, 2000 edition of

Virginia Commerce Quarterly, the newsletter of the Virginia Economic Development Partnership, include the following:

- SMI Steel Products' expansion into Prince Edwards County
- Nylstar's expansion in Henry County
- Tower Automotive's expansion in Botetourt County
- Progress Park, a new regional industrial park in Wytheville

There is a great deal of interest in building the intermodal freight rail infrastructure in the Roanoke Valley. In September, 1999, Congressman Bob Goodlatte requested and received information from local transportation activists about sources of funding for the development of intermodal freight rail infrastructure in the vicinity of Roanoke. He received information about two programs: The Transportation and Community and System Preservation Pilot Program (in TEA-21), and Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing, which provides a loan guarantee. Mr. Goodlatte's voting record for rail funding in Virginia shows that he is seriously standing behind his stated interest in rail development in Virginia

The Roanoke Regional Chamber of Commerce supports active development of intermodal freight rail in Roanoke and surrounding areas.

Senator John Edwards asked for and received Virginia General Assembly funding for a study of a rail alternative to the widening of 1-81. In response, Norfolk Southern came forward with a proposal for developing the rail infrastructure that parallels 1-81, and in a truly pioneering move, indicated willingness to form a public/private partnership with the state for funding of 1-81's rail alternative.

Specific rail-related improvements called for in the 1-81 corridor that would also help lower the need for 1-73 include:

- a) terminal (tracks in the train yard) improvements in Roanoke which would allow trains on different routes to pass through without delay, increasing the effectiveness of freight rail in our region as an alternative to trucks, including the rail corridor parallel to U.S. 220
- b) an intermodal freight center in Roanoke, which would permit greater utilization of the rail corridor that runs parallel to U.S. 220
- c) tunnel enlargement on Christiansburg Mountain to allow double-stack container trains on both tracks. Truck drivers interviewed in a recent Roanoke Times article stated that they use U.S. 220 to avoid having to cross Christiansburg Mountain on 1-81.

- d) Norfolk Southern says that for about \$150 million, the restricting tunnels between Roanoke and Cincinnati could be enlarged to handle double-stack intermodal container trains, which could then compete for the truck traffic on existing 1-77 and proposed 1-73.
- e) Norfolk Southern says their 1-81 rail proposal will even affect traffic between Charlotte and Wytheville on 1-77 which could ostensibly relieve truck traffic on U.S. 220.

A rail alternative to 1-73 south of Roanoke is still very challenging from a rail infrastructure and rail operating practices perspective, but a successfully-implemented rail alternative in the 1-81 and Route 460 West corridors could assure the public that rail is a vital alternative to trucks and that in the long run, public partnering with the rail industry can eliminate a multitude of inappropriate

road building initiatives by upgrading rail corridors to the mutual benefit of citizens and railroad stockholders

Sections of the above narrative on a rail alternative for 1-73 are based on emails received from Michael Testerman, Virginia Association of Railway Patrons, Richmond, VA.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION: The DEIS for 1-73 should provide a comparison of the industry-enhancing infrastructure of rail and its cost to the taxpayers and environment, with the cost and environmental impact of building a new 1-73, in the section on "alternatives". Rewrite the section of the DEIS on Alternatives to include analysis on how improvement of the rail infrastructure in the 1-81 and 1-73 corridors could significantly relieve truck traffic on U.S. 220, induce economic development in Franklin and Henry Counties, and consequently eliminate the need to build 1-73 as a freight corridor. Please consult with Leo Bevon, Va. Dept. of Rail and Public Transportation; Michael Testerman, Virginia Association of Railway Patrons; Bill Schafer, Director of Corporate Affairs, Norfolk Southern; and Wiley Mitchell, legal consultant for Norfolk Southern, for more information of how improving the rail infrastructure in the 1-81 and U.S. 220 corridors might alleviate truck traffic on U.S. 220, enhance industry in Martinsville/Henry County, and provide a reasonable alternative to building a new 1-73

Response: *Both a commercial rail and transit rail alternatives have been addressed in the final EIS. NEPA requires federal agencies take into account a range of reasonable alternatives to address the purpose and need of a project on major actions. These alternatives may very well include other modes of transportation if they meet the purpose and need. Rail alternatives are not reasonable from several perspectives. First, Congress designated I-73 as a high priority corridor for inclusion in the National Highway System. Railroads or rail systems, by law, are not a component of the National Highway System. Second, at 23 USC 109(h), Congress directs the FHWA to consider the economic, social and environmental effects relating to any proposed project on any Federal-aid system, and to make final project decisions in the best overall public interest. Privately owned railroads are not part of the Federal-aid system, and any improvements to such railroads would, in fact, be outside the jurisdiction and control of FHWA and at the discretion of the railroad companies. In conducting the I-81 study, FHWA could not identify any available federal highway funding categories that could be used to implement privately owned railroad improvements. Third, the final EIS documents the results of the Virginia Intermodal Transfer Facility Study that was prepared in 2000 to help determine the possibility of reducing heavy truck traffic on long haul highways in Virginia. Generally, the study found there to be few circumstances that make rail a viable alternative to freight trucking. This has been reinforced by the I-81 study, which has demonstrated that at most, there would be 3.5% diversion of trucks from I-81 to rail; not enough to effect the purpose and need for improving I-81. Consideration was given to dropping rail from consideration early on in the I-81 study because initial results showed that it did little to address the purpose and need of that project, but it was carried forward for other reasons. Fourth, given the rural nature of most of the study area, it lacks the density to support mass transit options involving rail.*

7. The DEIS fails to identify critical impacts and fails to consider important alternatives through inappropriate use of a 600-foot wide planning corridor for both Interstate and less-than-Interstate grade highways.

VDOT uses a 600-foot wide planning corridor for both Interstate and less-than-Interstate grade highways. This prevents us from distinguishing between the impacts of an Interstate and those of a less-than-Interstate grade corridor, such as a principal arterial standards that are the basis for the TSM option for 1-73. It is nonsensical to expect the same 600-foot wide corridor to describe the impacts of two such drastically unequal designs.

It also gives VDOT rationale to ignore an option for improving U.S. 220 that is greater than TSM but less than Interstate standards. VDOT's reasoning is that since such a systematic upgrade of U.S. 220 has the same 600-foot wide corridor at the planning stage as an Interstate, there is no reason to consider that kind of upgrade as a reasonable alternative. We are offered by VDOT, instead of that upgrade, an Interstate drawn on top of U.S. 220. Drawing an Interstate on top of U.S. 220 makes no sense whatsoever, since it destroys an inordinate amount of commercial and industrial development in Franklin and Henry Counties, which is counterproductive in the extreme given 1-73's purpose of inducing economic development.

An upgrade of U.S. 220 south of Rocky Mount using principal arterial standards and controlled access, combined with semi-controlled-access principal arterial upgrades north of Rocky Mount, may well serve the needs of the region without bringing unwanted impacts to the natural and built environment associated with full Interstate standards.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION: Eliminate the one-size-fits-all 600-foot wide planning corridor that stifles comparison of impacts of various road designs. Use a planning corridor for non-Interstate principal arterial standards that is narrower than that used for full Interstate standards and reflects the actual footprint of these standards. Reopen the consideration of alternatives to include controlled access principal arterial standards south of Rocky Mount joined with a principal arterial semi-controlled access upgrade south of Rocky Mount. Limit access in areas where it is appropriate and does not impose catastrophe on U.S. 220 businesses and on the natural environment. Be creative in the design of this hybrid highway. Use design flexibility as permitted for both 1-73 and U.S. 220 as National Highway System roads. Work that design flexibility into the planning process so that we can see how the hybrid highway would work. Don't keep the public in the dark any longer regarding non-Interstate build options for 1-73.

Response: *A 600-foot corridor was not used for the TSM improvements. As documented in the DEIS, TSM improvements would occur primarily within existing right-of-way and impacts were determined based on that. This is why the impacts associated with the TSM improvements are similar to the No-Build Alternative. As further discussed in the DEIS, not all impacts were calculated using a 600 foot corridor. Noise impacts were considered up to 1,000 feet on either side of the corridor. Section 106 impacts were assessed up to 500 feet on either side of the corridor. Visual impacts, likewise, were not limited to a 600-foot corridor. As explained above and in the DEIS, both the freeway design and the "lesser" 'other principle arterial design' require a minimum of 250 feet of right-of-way and both standards have the same requirements for slope, shoulder width, lane width, and median width (see Figure 2.3-1 from the draft EIS). Accordingly, the DEIS concludes that the impacts associated with a freeway design and "other principle arterial design' would not be appreciable. In using a 600-foot corridor, VDOT is not only accounting for construction impacts represented by the slope, shoulder width, lane width, and median width of the roadway, but the cut and fill slopes; the extent of cut and fill slopes cannot be quantified until final design is conducted, but the 600 foot corridor should account for the impacts from those slopes regardless of how extensive they are. Overall, VDOT does not anticipate that they will need the full 600-foot location corridor to construct the project once the cut and fill slopes are determined, but if they do, they have at least accounted for the impacts. Further, FHWA regulations prevent final design work from being conducted during the NEPA process. As a result, there are many design details of the project that are not known during the NEPA process that a 600-foot corridor accounts for. When final design commences and these details become clear, then the location of the roadway alignment within the 600-foot corridor can be established relative to environmental features adjacent to the alignment. The 600-foot corridor, then, allows designers to consider shifts to the roadway alignment during final design to further avoid or minimize impacts to environmental resources within that 600-foot corridor without having to reopen the NEPA process since the impacts of the larger 600-foot corridor have already been considered.*

8. The stakeholder interview conducted in 1998 used leading questions and forced an interpretation of 1-73 as a new terrain interstate, never mentioning a full range of reasonable alternatives.

The questions asked in the stakeholder interviews of 1998 (listed Appendix C) were rigged to force the interviewees to make statements that sounded as if they were supporting a new Interstate build option for 1-73. Only two questions out of a total of 28 were asked that gave interviewees the opportunity to comment

negatively about a proposed new Interstate. Nowhere in the list of 28 questions was there any mention of building 1-73 as a TSM option or otherwise building the project to less-than-Interstate standards.

I believe that if VDOT were to conduct the same stakeholder interview today, they would encounter much criticism of the biased phrasing of the questions. The affected public, including stakeholders and non-stakeholders, have educated one another on the full range of design options available to us for the construction of 1-73 -- in spite of VDOT's deliberate efforts to keep us ignorant on this subject.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION: Reopen the public participation process for 1-73 and provide the public full disclosure of a full range of options rather than the silence on reasonable alternatives that VDOT has maintained consistently throughout the public participation process. Examine an option that is somewhat higher grade than TSM but that remains on the existing U.S. 220 alignment.

Response: *See previous responses regarding reasonable alternatives and the freeway design standard versus other principle arterial design standards. The broad range of options to be considered was developed through input from several sources: public input received during a series of open house meetings, input from local jurisdictions, stakeholder interviews, and input from the I-73 Study Team (the I-73 Study Team includes VDOT staff and VDOT's consulting staff for this project). Open forum Citizen Information Meetings for the region were held in the City of Martinsville, the Town of Rocky Mount, and the City of Roanoke. Over 1,200 citizens attended these meetings at which attendees were asked to suggest alternatives. For those who had a preference for a Build Alternative, a map was provided and the attendees were asked to draw alternative routes. The Study Team received over 750 Build Alternative suggestions from the public. Other alternatives received from the public included requests that nothing should be done at all, known as the No-Build Alternative, or that existing U.S. Route 220 be improved but not to interstate standards, known as the Transportation System Management (TSM) Alternative. In summary, the suggested alternatives included:*

No-Build Alternative

Transportation System Management (TSM) Alternative

New Interstate I-73 (Build) Alternative

The No-Build Alternative and the TSM Alternative received equal consideration during the environmental analysis and in the DEIS. The Build Alternative, in addition to new location options, included an option to improve existing U.S. Route 220 to freeway (i.e. principle arterial) design standards.

9. The DEIS fails to mention that ginseng, a federally protected plant grows in the study area.

TYPE OF DEFICIENCY: impacts

SUGGESTED CORRECTIVE ACTION: Rewrite the section on impacts to species to include a statement that American ginseng, *panax quinquefolium*, a commercially valuable native American herbaceous plant, grows in abundance in the Blue Ridge Mountains traversed by all 1-73 study options. Destruction of ginseng's habitat will not only weaken the stronghold of an endangered species, but also limit economic activity of local residents engaged in collecting ginseng, which last year brought collectors \$500 per pound dried root wholesale.

Response: *Wild ginseng (*Panax quinquefolium*) is not a federally listed threatened or endangered species and as such is not subject to scrutiny under FHWA's NEPA guidelines. However, it is listed as threatened under Virginia's Endangered Plant and Insect Species Act of 1979. Virginia listed wild ginseng to regulate its harvest and export under guidelines of the Convention on International Trade in Endangered Species (CITES) Treaty. Therefore, wild ginseng is protected from over-harvesting and not due to habitat loss.*

10. Impacts to important federally-endangered species are left out of the DEIS and should be included.

VAR has concerns in regard to the large number of federally endangered and threatened species in the 1-73 study area. According to the Virginia Dept. of Conservation and Recreation, the 1-73 study area had not been comprehensively surveyed for species as of June, 1998 VAR requests that the methods for species surveying used by VDOT in the 1-73 study corridor be genuinely comprehensive, systematic, and scientifically sound, and include surveys for species considered likely to exist in the paths of 1-73 study options, as well as those already known to exist in those paths.

We enumerate species of concern as follows:

Eastern cougar- U.S. Fish and Wildlife Information Service data shows average annual population of the eastern cougar for the last five years to be between 1 and 10 in Bedford and Botetourt Counties. Historically, the eastern cougar was found throughout Virginia, yet is now believed to be extirpated. According to U.S. Fish and Wildlife, an approved restoration plan recommends the following actions: (a) find and delineate cougar populations; (b) study and provide protection for cougars that are found; (c) develop a permanent management plan. The existence of such a restoration plan indicates that every effort should be made to protect this important mammal.

Indiana bat - This animal is stated by the U.S. Fish and Wildlife Information Service to be likely in Roanoke County and Roanoke City.

Bald eagle - This threatened species is known to exist in Roanoke, Franklin, and Bedford Counties, and is likely to exist in Botetourt County, Roanoke City, and Salem City (all localities in 1-73 study area).

Peregrine falcon - This endangered species is described by U.S. Fish and Wildlife Information Service to be likely in Botetourt, Bedford, Franklin, and Roanoke Counties.

Roanoke logperch - As a federally endangered fish found nearly exclusively in waters that will receive polluted runoff from i-73, the Roanoke logperch deserves special attention. Please see VAR comments under separate cover on this matter.

Vultures - The black vulture and turkey vulture are protected by the Migratory Bird Treaty Act of 1918, which requires a depredation permit from U.S. Fish and Wildlife Service to trap, kill, relocate or handle the protected birds or their nests. The 1-73 study area is heavily populated by turkey vultures, whose nests and habitats would be likely to be destroyed by many of the build options for 1-73.

TYPE OF DEFICIENCY: impacts

SUGGESTED CORRECTIVE ACTION: Conduct surveys of species considered likely to exist in the paths of 1-73 study options, as well as those already known to exist in those paths, including all the species listed above. Ensure that all needed documentation required by the Migratory Bird Treaty Act is carefully addressed. Do not assume that there are no vultures in the 1-73 study area

Response: *See our responses to endangered specie issues raised by Ms. Belinski on behalf of VAR. Databases maintained by the U.S. Fish and Wildlife Service, the Virginia Department of Game and Inland Fisheries, and the Virginia Division of Natural Heritage indicate that no confirmed records of the "eastern cougar" or mountain lion (*Felis concolor cougar*) or the Peregrine falcon (*Falco peregrinus*) exist within the study area. Recent confirmed sightings of the bald eagle (*Haliaeetus leucocephalus*) in portions of Roanoke County and Franklin County contained within the study area post-date the DEIS. The Virginia Department of Game and Inland Fisheries has since confirmed that, although sightings of foraging eagles have been documented within portions of the study area, no nesting sites are present within a three-mile radius of any alternatives under consideration. Databases maintained by the Virginia Department of Game and Inland Fisheries and the Virginia Division of Natural Heritage indicate that no confirmed records of the "Indiana bat" or "social miotis" (*Myotis sodalis*) exist within the study area. Population distribution maps maintained by the Virginia Department of Game and Inland Fisheries (as updated through 4 December 2001) confirm that the nearest county within which the species has been confirmed is Montgomery County.*

No major caves or mine tunnels, which could serve as suitable habitat, have been identified within the 600-foot study corridor of any of the alternatives under consideration.

As stated in Section 3.7.6.1 (Federal Listed Threatened or Endangered Species) of the document, populations of the Roanoke logperch are reported to occur in the project study area. Figures 3.7-36 through 3.7-40 show that Segment 371 of Build Alternative Option 4 and Segment 382 of Build Alternative Options 3 (a segment which also corresponds to a portion of the TSM Alternative) are the only alternatives where proposed construction would occur over a segment of a watercourse within which a population of Roanoke logperch has been documented to occur (in this case, the Roanoke River and the Pigg River, respectively). The TSM Alternative and Segment 382 of Build Alternative Options 3 are located over a segment of the Pigg River where previous surveys indicate the presence of "adequate, but not optimal" Roanoke logperch habitat (Angermeier, 1999). Stream crossings associated with all other Build Alternative Options and other portions of the TSM Alternative are located outside any one-mile-diameter areas containing known populations of the Roanoke logperch.

Table 4.7-6 of the DEIS provides a comparative assessment of potential impacts to threatened and endangered species (or their suitable habitat) for all alternatives under consideration for purposes of decision-making. When it comes to decision-making, the range of alternatives considered in a DEIS are not subject to the provisions of The Endangered Species Act (i.e. surveys, biological assessments and formal consultation). Instead, the Endangered Species Act is invoked once a preferred alternative is identified. Section 3.4 of USFWS's Endangered Species Consultation Handbook states that "Biological assessments are not required to analyze alternatives to proposed actions." Accordingly, following the identification of the preferred alternative by the Commonwealth Transportation Board, the FHWA, VDOT and resource agencies such as the US Corps of Engineers, Fish and Wildlife Service, EPA, and Department of Environmental Quality, reviewed the location of the preferred alternative in the field and discussed issues related to wetlands, water quality, and endangered species. Based on coordination with state and federal agencies, surveys were conducted for the James spiny mussel and Roanoke logperch at select stream crossings of the preferred alternative. In addition, surveys were conducted for the Smooth coneflower at locations where suitable habitat existed. Based on the results of these surveys, a single population of the Roanoke logperch was located in the vicinity of the Pigg River crossing of I-73. On November 25, 2002, the USFWS concurred that sufficient surveys for federally listed species had been performed. They also indicated that the construction of I-73 is likely to affect the population of the Roanoke logperch in the Pigg River and that formal consultation would be required. The USFWS went on to recommend that formal consultation be initiated subsequent to the release of the final EIS. Additional surveys were conducted on the revised alignment through the City of Roanoke and Roanoke County resulting from efforts to avoid the Southeast Roanoke Historic District. A biological assessment has been prepared for the Roanoke logperch and included in the final EIS.

11. Assure that segments 395 and 396, which have been eliminated from any study corridor for I-73 are not going to reappear at some time past the publication of the EIS. Such a reintroduction of a study segment would be unlawful.

Response: For various reasons or flaws, segments 395 and 396 did not make it into the EIS for further analysis. While we anticipate that these segments will not receive any additional consideration, assurance cannot be granted at this level of VDOT. Such assurance can only be granted at the political level. Should segments 395 or 396 be resurrected for consideration for whatever reason, they would be considered a change to the project and be addressed through CEQ's and FHWA's re-evaluation procedures to determine the need for a supplemental EIS.

12. The DEIS exaggerates the percentage of truck traffic on U.S. 220 compared to other highways.

Table 3.1-3 on page 3.1-6 compares truck traffic on U.S. 220, based on 1996 and 1997 data, with truck traffic on I-81, I-95 and I-295 based on 1990 data. It is well known that the amount of truck traffic has increased drastically on our Interstates during the past 10 years. The percentage of truck traffic on I-81 could by now be twice as high as the figure quoted in this Table. Much attention has been given to I-81 over the past several years. VDOT should check the latest I-81 studies to get up-to-date information on the percentage of truck traffic, so that the comparison with truck traffic on U.S. 220 is reasonable.

TYPE OF DEFICIENCY: procedural

SUGGESTED CORRECTIVE ACTION: see above passage.

Response: *As stated in Section 3.1.2 (Existing Volumes and LOC) of the document, trucks comprise between 20 and 28 percent of U.S. Route 220's daily traffic within the study area. This percentage is much higher than what is experienced on similar rural principal arterials. Businesses and manufactures located south and within the study area contribute to these volumes. In addition, U.S. Route 220 serves as the key access road in the study area to the north, providing businesses with access to I-81 and its links to I-64, I-66, and I-77. Based on the latest data from the I-81 study, trucks represent 26% of the traffic on I-81 (average for the entire corridor) and 21% in the vicinity of Roanoke.*

13. The DEIS fails to consider mass transit as a reasonable alternative.

2000 Census data reveals that the Roanoke Valley MSA now has population exceeding 200,000. FHWA Technical Advisory T 6640.8A states: "Mass transit . . . should be considered on all proposed major highway projects in urbanized areas over 200,000 population." The DEIS fails to consider mass transit among the alternatives considered for 1-73. In this case, since the purpose and need for 1-73 is economic development, perhaps a reference to a rail alternative would be the most reasonable approach to this question.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION: Include discussion of a mass transit option for 1-73, since the Roanoke Valley MSA's population exceeds 200,000 as of the 2000 Census.

Response: *See previous response regarding rail alternatives. Nobody has made a case that mass transit is a reasonable alternative.*

14. The DEIS fails to consider the cumulative impact of highway investments such as building 1-73 as a new-terrain Interstate option, on the overall paucity of federal and local funds for mass transit

\$1 billion, a low estimate of the cost of building new-terrain 1-73, could be used to much greater efficiency providing mass transit. That sort of money could underwrite a public/private partnership to establish and operate a world-class system of jitneys (public transportation) in the Roanoke Valley which would enable commuters to get to and from Roanoke City, transit-dependent

Roanoke City residents to make a reverse commute to jobs in the suburbs, and the elderly and disabled persons to access food, medical treatments, and social and cultural events both within and without the City of Roanoke. The preponderance of transportation investment in Virginia is on new highway construction. Funneling money into highways makes it impossible to seek adequate mass transit solutions, because the high cost of building highways critically drains funds from all other forms of transportation. Transit dependent elderly, handicapped, nondrivers, low-income individuals, and those too young to drive are being harmed by 1-73 and similar highway projects because (1) behemoth highway budgets consume an inordinate share of the state and federal transportation coffers, and (2) transit-dependent groups can't use projects such as 1-73 because they don't drive.

T 6640.8A calls for a discussion of impacts on "the elderly, handicapped, nondrivers, transit dependent and minority and ethnic groups."

TYPE OF DEFICIENCY: impacts

SUGGESTED CORRECTIVE ACTION: The DEIS should consider the cumulative impacts of 1-73 and similar new highway construction projects on the state's inability to provide adequate transportation services for our transit-dependent elderly, handicapped persons, inner city residents, low-income persons, and those too young to drive.

Response: *When Congress apportions federal funding for transportation, they provide a separate pot of money for highways and a separate pot for transit. This distribution between highways and transits is made at the Congressional level irrespective of priorities established at the state level or decisions made by the State regarding specific projects. Therefore, decisions made on I-73 by VDOT will have no appreciable effect on transportation decisions made at the national level. Once funds are distributed to a state, it is up to each State to establish their transportation priorities and in urbanized areas (MPOs), to do so in cooperation with metropolitan planning organizations. The needs identified by the State and the MPOs often exceed the resources at their disposal to implement them. As a result, they establish transportation priorities through long range transportation planning which requires public involvement. Presently, no funding has been identified for the construction of I-73 and the funding that has been set aside to study I-73 has come from Congress. Therefore, the decision to study I-73 in Virginia has had no effect on transit funding or the decisions made regarding transit. Finally, when federal funds come to a state, the use of those funds is limited in terms of where those funds can be spent and the types of activities they can be spent on. The money apportioned for transit must be spent on transit-related improvements and resources while the money apportioned for highways must be spent on highway-related improvements and resources. Therefore, if Virginia decides to proceed with the development of I-73, they would have to prioritize that highway need with the other highway needs that have been identified throughout the state and weigh those priorities against the available highway funding. It is also important to point out that there are not only separate pots of money for highway and transit, separate agencies make the decisions related to highway and transit. Highway decisions are made and priorities are established by the Virginia Department of Transportation in cooperation with the MPOs based upon the highway funding available to them. Transit decisions are made and priorities established by the Virginia Department of Rail and Public Transportation in cooperation with the MPOs and the transit providers based upon the transit funding available to them.*

With the passage of the Intermodal Surface Transportation Efficiency Act of 1991, Congress provided the states with the mechanism to allow the transfer of funds from the highway pot to the transit pot and vice-versa. Since 1991, VDOT has transferred \$ 148 million in highway funds to transit and \$0 in transit funds to highway. This has occurred because VDOT recognizes the importance of transit to Virginia's overall transportation system, and this has occurred despite the well-documented shortfalls in highway funding in Virginia, which has led some areas to seek taxing authority for highway improvements while other areas have sought the authority to sell bonds to address their roadway needs. Still others have pursued the development of major projects under Virginia's Public-Private Transportation Act because of highway funding shortfalls.

Therefore, despite the highway needs that exist statewide, Virginia has kept transit as a high priority by transferring money to transit. If VDOT elects to pursue the development of I-73, that decision will have ramifications for other highway projects in Virginia, but it is not likely to effect transit decisions that are made.

15. The DEIS fails to consider impacts to the German Baptist community located along Rt 116 and vicinity in Franklin County.

Says T 6640.8A: "The discussion [in the DEIS] should address whether any social group is disproportionately impacted and identify possible mitigation measures to avoid or minimize any adverse impacts. Secondary sources of information such as census and personal contact with community leaders supplemented by visual inspections normally should be used to obtain the data for this analysis. However, for projects with major community impacts, a survey of the affected area may be needed to identify the extent and severity of impacts on these social groups."

Title VI of the 1964 Civil Rights Act assures that "individuals are not excluded from participation in, denied the benefit of, or subjected to discrimination on the basis of . . . religion."

German Baptists, popularly known as Dunkards, hold a prominent position in the farming community in Franklin County. A group of German Baptists located along Rt. 116 in the County will take a direct hit from a politically preferred route for I-73. Representatives of this community have said that if I-73 comes through their area, they will have to move. Yet because of their religious beliefs, the German Baptists refuse to

participate in political action of any sort. VAR is in the process of locating and mapping German Baptist farms and businesses throughout Franklin County.

TYPE OF DEFICIENCY: impacts

SUGGESTED CORRECTIVE ACTION: Consult with VAR to obtain a map of German Baptist land holdings that will be taken by new terrain options for 1-73. This map has been prepared in consultation with the German Baptist community by Franklin County members of VAR. Give a thorough and accurate report of the impacts to this religious minority in the DEIS for 1-73. Document the impacts that leaving Franklin County will have on this sect's economic well-being.

Response: First, regarding Title VI of the Civil Rights Act, VDOT has not done anything to exclude the German Baptists from participating in the I-73 study nor have they discriminated against them based on their religion. The German Baptists have been provided the same opportunities as every other group in the study area regardless of race, national origin, or religion. If an individual or group makes a conscious decision to not participate in the public involvement process for religious or any other reason, it does not mean that they are being excluded from participation. Notwithstanding, in response to VAR's attempts to designate the Oak Hill Old German Baptist Brethren Community as a Rural Historic Landscape and Traditional Cultural Property, interviews were conducted with representatives of the German Baptists by VDOT to get a better understanding from them of their beliefs and the impact of the project on their community and practices. These interviews were invaluable because they provided information that contradicted what others had been saying about the German Baptist community. The results of these interviews have been summarized in the final EIS.

16. The DEIS fails to consider the impacts of loss of tree cover caused by the construction of 1-73 and by the development induced by 1-73.

Please see attached document, "Urban Ecosystem Analysis, Roanoke Area, Virginia. This report published some time after 1997, gives an overview of the impacts to stormwater runoff, air quality, and carbon storage caused by loss of tree cover in the Roanoke region over the past 15 years.

1-73 will remove hundreds of thousands of trees from the Roanoke and surrounding regions, with resultant increases in stormwater runoff and losses in air quality and carbon storage. The effect of the removal of these trees in the construction of 1-73, and the effect of massive tree loss resulting from the development induced by 1-73, should be addressed in this DEIS, and should be calculated over the life of the project. The DEIS should also analyze loss of soil permeability caused by addition of pavement and development such as buildings and parking lots. Without such analyses, this DEIS makes a mockery of the term environmental impact statement".

TYPE OF DEFICIENCY: impacts

SUGGESTED CORRECTIVE ACTION: Using "Urban Ecosystem Analysis, Roanoke Area, Virginia" as a model, conduct an analysis of the tree loss from the construction of 1-73 and from the development induced by 1-73. This analysis must include how tree loss caused by 1-73 and 1-73's induced development will impact: stormwater runoff factors/soil permeability, air quality, and carbon storage. Calculate how the loss of soil permeability may cause increased flooding in flood prone waters crossed by 1-73.

Response: *Although the DEIS does not address the loss of tree cover, it addresses impacts to forested lands and by default, impacts to tree cover. The DEIS states that implementation of a build alternative will directly impact 0.2 to 0.4 percent of the regional total for forested habitat. Very little of this loss would occur in the Roanoke urban area relative to the rest of the study area. As discussed in section 1.2 (Methods and Assumptions) of the November 1999 Natural Resources Technical Memorandum, these values are based on the 600-foot study corridor that was used as part of the overall environmental assessment. Because no build alternative will occupy the entire 600-foot study corridor, actual impacts are expected to be less than those cited in the DEIS. The DEIS acknowledges that habitat fragmentation comprises a significantly greater concern to wildlife as compared to direct displacement of habitat by paved surfaces and maintained rights-of-way. Practicable mitigation measures to minimize effects of habitat fragmentation are*

discussed in the final EIS. Where feasible, passageways for terrestrial wildlife will be maintained beneath proposed bridges to help minimize effects of wildlife corridor bisection. Secondary and cumulative impacts resulting from land use changes associated with implementation of a build alternative are discussed in section 4.12 of the DEIS. Additional information has been added to the final EIS to address these issues. Regulation of development outside highway rights-of-way will remain the responsibility of local governments under their respective planning ordinances.

In addition, all local governments located within the project study area are responsible for planning and zoning within their respective jurisdiction. Local governments in Virginia derive their authority to plan from Section 15.1-446.1 of the Code of Virginia which outlines the State's directives for local comprehensive planning. Comprehensive plans include existing and future zoning, infrastructure improvements, economic and community development, and environmental constraints for both public and private lands located within the boundaries of the governing body.

17. 1-73 will negatively impact the Roanoke region's scenic values, tourism industry, and business-attracting quality of life.

Building 1-73 through the Roanoke Valley will have a devastating impact on the region's scenic values, tourism industry, and quality of life that are a key factor in attracting "clean" industry such as the high tech sector. Special scenic and tourism assets that will be impacted by 1-73 include the Blue Ridge Parkway, Mill Mountain, and the Jubal Early House, among many others.

The following are excerpts from an article that appeared in the Summer 2000 "Virginia Commerce Quarterly".

"Governor Jim Gilmore recently announced spending of travelers in Virginia totaled more than \$12.36 billion for 1999. This figure represents a 6.1% increase over 1998, and a 4.8% increase over 1997 spending. The announcement came during the Governor's 2000 Conference on Travel and Tourism held in Richmond.

'These economic gains are proof our tourism efforts are paying off,' Governor Gilmore said. 'Virginia is an attractive destination for people from literally all walks - from history buffs to nature lovers to families and couples seeking a relaxing getaway - Virginia has it all. I remain committed to new tourism opportunities for Virginia and further promoting all we already have to offer.'

Travel and tourism accounted for more than 200,000 jobs for Virginians in 1999, an increase from the 1998 figure of more than 195,000."

Wreaking havoc on the Roanoke Valley's scenic and historic resources, 1-73 will have an injurious effect on the area's tourism economy.

TYPE OF DEFICIENCY: impacts

SUGGESTED CORRECTIVE ACTION: Provide an analysis of 1-73's impacts to the area's tourism industry and quality of life factors caused by impacts to the Blue Ridge Parkway, Mill Mountain, Jubal Early House, and other scenic and natural amenities in the 1-73 study area.

Response: *It is acknowledged that a statement should have been added to indicate that the listed tourist attractions are near the various options and that these options provided improved access to these locations. It is only stated that the No-Build Alternative would not improve regional access to any of the identified activity centers, industrial parks, enterprise zones, tourist attractions or other economic incentive areas within the study area. The TSM Alternative would do little to improve this access. Information on how the various options improve and encourage tourism is provided in the Land Use Technical Memorandum, and this information has been included in the FEIS. Given that none of the aforementioned resources (Blue Ridge Parkway, Mill Mountain, Jubal Early House) are directly impacted under Federal protection guidelines for these types of resources it is safe to say that 1-73 will enhance access and provide a safer alternative to these destinations. Significant special events such as NASCAR and related motor sports in Martinsville draw substantive tourist dollars into the local community. The provision of an Interstate facility*

to serve these events facilitates not only tourism but provides an improvement to safety, emergency response and evacuation concerns.

The visual quality analysis for the I-73 Location Study considered the potential impacts on existing visual resources including parks, vista, rural scenery, and other landmarks and landscapes including the Blue Ridge Parkway, the Appalachian trail, Roanoke Mountain and Mill Mountain. The results of this analysis showed that there are visual impacts associated with each of the Build Alternative options. The highest visual impacts from the road occur in Option 1a. The alternative, which has the least potential for visual impact, is the TSM Alternative. The Build Alternative option with the lowest visual impact is Option 3b. The options that have the greatest potential for extent of visual impact on national and regional scenic resources (National Parks), are Options 1 and 1a. The options that have the lowest potential for extent of visual impact to national and local scenic resources are Options 2, 2a, and 2c. This analysis was discussed in greater detail in Sections 3.5 and 4.5 (Visual Quality) of the DEIS and the Visual Quality Technical Memorandum

18. The DEIS fails to consider the effect of hazardous materials spills on Smith Mountain Lake as a public water supply.

Increasingly, Smith Mountain Lake is being used and planned for use as a public water supply. All of the land area used by any portion of I-73 drains into streams and rivers that ultimately drain into Smith Mountain Lake. When the east-west portion of I-73 is built, there is likelihood that hazardous materials trucks detoured off I-77 onto Route 460 to avoid the tunnels on I-77 will be routed through the Roanoke Valley. Hazardous materials spills anywhere on I-73 would have some likelihood of washing into Smith Mountain Lake.

TYPE OF DEFICIENCY: impacts

SUGGESTED CORRECTIVE ACTION: Consider the impacts of hazardous materials spills and other polluted runoff entering Smith Mountain Lake via feeder stream and rivers from I-73, and the subsequent impacts to the region's ability to use Smith Mountain Lake as a public water supply.

Response: *Where the proximity of the road to local water supplies creates a concern with respect to hazardous material spills, stormwater management facilities would be designed to not only capture the stormwater runoff from the roadway but be designed to hold the contents of a tanker car in the event of a hazardous material spill. With that said, the alternative located nearest Smith Mountain Lake was not selected for further development.*

19. The DEIS fails to consider law enforcement strategies to improve safety on U.S. 220.

Please see attached "Report to FHWA on the Public Participation Process for I-73 in Virginia". That report quotes a Roanoke Times article discussing the fact that U.S. 220 isn't Franklin County's worst traffic safety problem. The article quotes local law enforcement personnel discussing the idea that the smaller rural roads in Franklin County have a much higher fatal accident rate. We are assuming that U.S. 220's safety problems are strictly a function of road design and traffic density. We must consider that part of U.S. 220's safety problem may stem from its location in Franklin County, where dangerous driving habits may be part of the County's culture of freewheeling rural insouciance.

TYPE OF DEFICIENCY: alternatives

SUGGESTED CORRECTIVE ACTION: Study U.S. 220's traffic safety problems from the perspective of the overall traffic safety problem in Franklin County. Include in the reasonable alternatives a law enforcement strategy or other strategy that deals with driver behavior in the County, as a means to reduce accidents and fatalities on U.S. 220.

Response: *Law enforcement strategies would only address the safety component of the purpose and need and do nothing to address economic growth, improve access, enhance mobility and transportation linkage, and address Congressional intent. As such, it cannot be considered a reasonable alternative that deserves further consideration. Further, the geometric deficiencies of Route 220 contributes to the*

accident rate, which is one reason the project seeks to upgrade Route 220 to current design standards or remove traffic from Route 220 by way of a new location build alternative.