



12 Tier 1 Record of Decision

12.1 DECISION

Based on the information contained in this US 50 Corridor East Tier 1 Final Environmental Impact Statement, the Federal Highway Administration selects the Preferred Alternative for the US 50 Corridor East. The Federal Highway Administration finds that this Preferred Alternative is in the best overall public interest, uses all practicable means to restore and enhance the quality of the human environment, and avoids or minimizes any possible adverse effects. The Federal Highway Administration has reviewed and considered all comments received on the project during the review period after the Notice of Availability of the US 50 Corridor East Tier 1 Draft Environmental Impact Statement appeared in the Federal Register.

John M. Cater, P.E.
Division Administrator, Colorado Division
Federal Highway Administration

12/11/17

Date

12.2 STATUTE OF LIMITATIONS

A notice will be published in the Federal Register, pursuant to 23 United States Code §139(l), indicating that the Federal Highway Administration has taken the final action to approve the US 50 Corridor East Tier 1 Final Environmental Impact Statement and Record of Decision. Claims seeking judicial review of this federal action must be filed within 150 days after the publication date of the notice.

12.3 SINGLE TIER 1 FINAL ENVIRONMENTAL IMPACT STATEMENT AND TIER 1 RECORD OF DECISION DOCUMENT

The Moving Ahead for Progress in the 21st Century Act (MAP-21) was signed into law on July 6, 2012. Section 1319(b) states that, to the maximum extent practicable, lead agencies are directed to develop a single document that consists of an FEIS and ROD, unless certain conditions exist. Those conditions are:

1. The FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
2. There are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

The title page of the US 50 Corridor East Draft EIS stated FHWA will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Pub. L. 112-141, 126 Stat. 405, Section 1319(b) unless FHWA determines statutory criteria or practicability considerations preclude issuance of the combined document pursuant to Section 1319. Since neither statutory criteria nor practicability considerations preclude the issuance of a combined document, and none of the criteria or conditions in MAP-21 stated above exist, a single Tier 1 Final EIS/ROD has been issued for the US 50 Corridor East study.

12.4 ALTERNATIVES CONSIDERED

In the US 50 Corridor East Tier 1 FEIS, Chapter 3, Alternatives Considered, discusses the process used to develop and evaluate transportation solutions that were considered for the US 50 corridor. The chapter provides a description of the four-step screening process that was used to identify and evaluate the regional corridor locations, the transportation modes, facility types, and through-town versus around-town options for US 50.

The alternatives development process involved the public, communities along the US 50 corridor in the Lower Arkansas Valley, and various state and federal agencies. It included consideration of a number of different potential transportation solutions that were screened using criteria related to the project purpose

and need. The solutions remaining after the screening process formed the range of reasonable alternatives that were retained for additional evaluation and consideration.

12.5 IDENTIFICATION OF SELECTED ALTERNATIVE AND SUMMARY OF IMPACTS

To identify the Selected Alternative, the Build Alternatives around communities underwent additional screening.

Identification of the Selected Alternative was based largely on its ability to minimize environmental and social impacts. This evaluation focused on environmental effects to three broad categories:

- Rural and agricultural environment
- Natural environment
- Community and built environment

“Selected Alternative” Versus “Preferred Alternative”

Throughout the FEIS, Chapter 1 through Chapter 11 of this document and the associated appendixes, the alternative that best met the screening criteria was referred to as the “Preferred Alternative” as an indication that it was the desired option. However, as part of the Record of Decision, the Preferred Alternative is formally adopted and, from here forward, it is referred to as the “Selected Alternative.”

Criteria to screen around-town Build Alternatives were developed to support community values, based on comments received from agencies and the public, as well as regulatory requirements. Public workshops also were held in each of the 10 communities along the US 50 corridor to determine what resources were important to the local economy and quality of life (see Chapter 7, Community Outreach and Agency Involvement, and Appendix C, Agency and Public Involvement).

The result of this analysis generally narrowed down the around-town Build Alternatives to a single preferred alignment, except in Fowler and Swink. At these two locations, no preferred alignment could be identified because both north and south around-town alignments were comparable in effects on the community and natural environment and their ability to meet the purpose and need of the project. Therefore, both alternatives at Fowler and Swink are being carried forward for Tier 2 analyses.

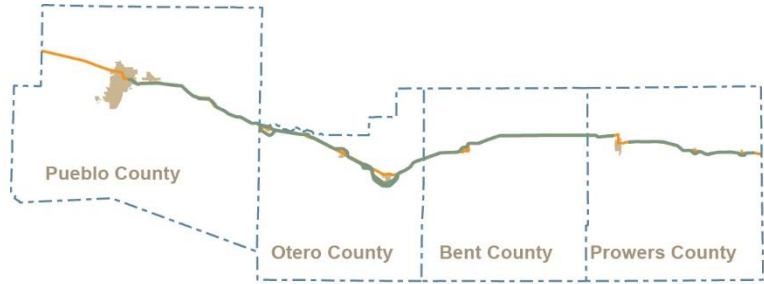
Table 12-1 summarizes the identified Selected Alternative that resulted from the additional screening of these alternatives. Figure 12-1 illustrates the Selected Alternative on a map for each of the four counties—Pueblo, Otero, Bent, and Prowers.

Table 12-1. Summary of Selected Alternative

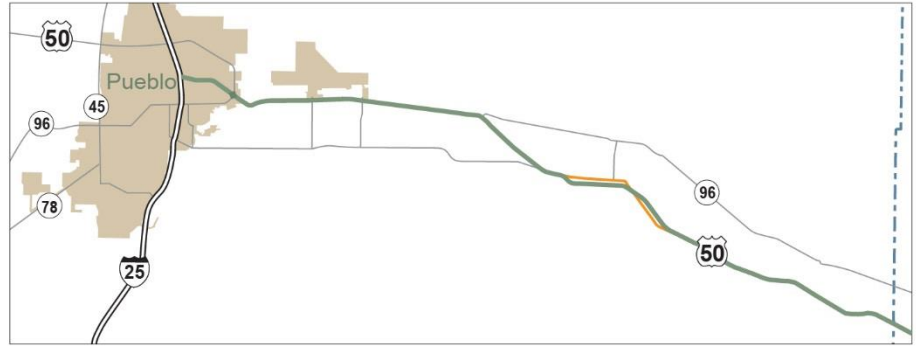
Category	Selected Alternative Components
Regional Corridor Location	Existing Regional Corridor
Transportation Mode	Highway
Facility Type	Four-Lane Rural Expressway
Selected Alternative	Pueblo—Alternative 2: Pueblo Existing Alignment
	Pueblo to Fowler—Alternative 2: Fort Reynolds Realignment
	Fowler—Alternative 1: Fowler North and Alternative 2: Fowler South
	Fowler to Manzanola Alternative (on or near existing alignment)
	Manzanola—Alternative 1: Manzanola North
	Manzanola to Rocky Ford Alternative (on or near existing alignment)
	Rocky Ford—Alternative 1: Rocky Ford North
	Rocky Ford to Swink Alternative (on or near existing alignment)
	Swink—Alternative 1: Swink North, and Alternative 2: Swink South
	La Junta—Alternative 2: La Junta South
	La Junta to Las Animas Alternative (on or near existing alignment)
	Las Animas—Alternative 1: Las Animas North
	Las Animas to Lamar Alternative (on or near existing alignment)
	Lamar to Granada Alternative (on or near the existing alignment)
	Granada—Alternative 2: Granada South
Granada to Holly Alternative (on or near existing alignment)	
Holly—Alternative 2: Holly South	

Legend

- Selected Alternative
- Existing U.S. 50
- City / Town
- County



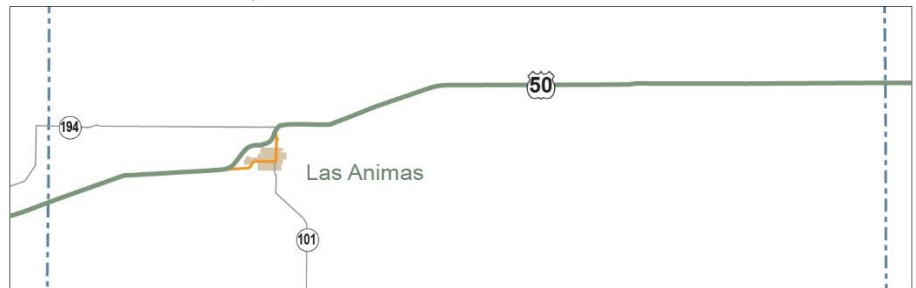
Pueblo County



Otero County



Bent County



Prowers County

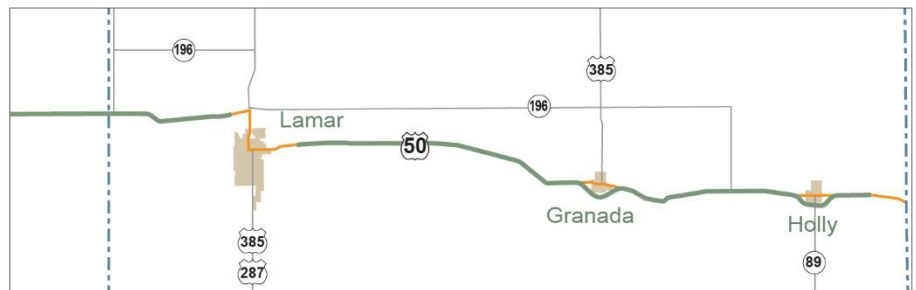


Figure 12-1. Selected Alternative

Impacts from the Selected Alternative are summarized in Chapter 6, Identification of Preferred Alternative and Summary of Impacts.

12.6 LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE

This US 50 Corridor East Tier 1 FEIS analysis includes potential impacts to waters of the U.S., including wetlands. According to Section 404 of the Clean Water Act, the alternative screening process cannot eliminate an alternative that would have less adverse impact on the aquatic ecosystem, known as the Least Environmentally Damaging Practicable Alternative (LEDPA) (Section 404(b)(1) of the Clean Water Act). The USACE has given concurrence, in a letter dated November 2, 2015 (see Appendix C, Agency and Public Involvement), that screening processes documented in the US 50 Corridor East Tier 1 FEIS and the identification of the Selected Alternative do not eliminate the LEDPA. After the US 50 Tier 1 FEIS/ROD is signed, CDOT will request the USACE to provide a letter indicating the Selected Alternative's compliance with Section 404(b)(1) of the Clean Water Act, as outlined in the 404 Merger Agreement. During Tier 2 studies, further evaluation will be completed to make a determination that the LEDPA is not eliminated through those individual NEPA processes.

12.7 ENVIRONMENTALLY PREFERABLE ALTERNATIVE

As part of CEQ regulations (40 CFR §1505.2[b]), CDOT is required to identify the Environmentally Preferable Alternative. This is the alternative that causes the least damage to the biological and physical environment; it also represents the alternative that best protects, preserves, and enhances historic, cultural, and natural resources. The identification of the Environmentally Preferable Alternative may involve difficult judgements, particularly when one environmental value must be balanced against another.

To determine the Environmentally Preferable Alternative, all alternatives were compared to one another based on the benefits and impacts they will have to the resources identified in Chapter 4, Affected Environment, Environmental Consequences, and Mitigation, of this document. Table 12-2 compares each alternative's rural and agricultural, natural, and community and build environment impacts. Note that this table only compares the through-town and around-town build alternatives because all alternatives that run between towns share the same impacts—with the exception of Section 2: Pueblo to Fowler, which is included below. Additional details and discussion about this comparison is provided in Section 1.2, Screening of and Decisions Regarding Build Alternatives, of this document's Chapter 6, Identification of Preferred Alternative and Summary of Impacts. Based on this comparison, the Selected Alternative was determined to be the Environmentally Preferable Alternative because it causes the least overall damage to the natural and physical environmental resources while still meeting the purpose and need for this project.

Table 12-2: Comparison of Build Alternative Environmental Impacts

		Build Alternative(s) with Fewer Potential Impacts (indicated by a checkmark)		
		Rural and Agricultural Environment	Natural Environment	Community and Built Environment
Section 1: Pueblo	Alternative 1: Pueblo Airport North			
	Alternative 2: Pueblo Existing Alignment	✓	✓	✓
	Alternative 3: Pueblo SH 47 Connection	✓		
	Key Differences	Alternative 2 and Alternative 3 would take less farmland and ranch lands (131 and 103 acres for Alternative 2 and Alternative 3, respectively, compared with 352 acres for Alternative 1) or alter fewer agricultural operations as compared to Alternative 1, which would fragment existing grazing land.	The existing US 50 (Alternative 2) is already a developed transportation corridor. The other corridors would consume and fragment prairie habitat, with two to nine miles of new roadway.	The existing US 50 corridor (Alternative 2) is already fully integrated with the Pueblo area road network. The other corridors would increase traffic, noise, and vehicular emissions in existing neighborhoods by diverting US 50 traffic onto SH 47. Alternative 1 is the preferred corridor in the 2035 long-range plan, but it is not funded and is anticipated to have a notable impact on existing land use by converting agricultural land to a transportation use.



Table 12-2. Comparison of Build Alternative Environmental Impacts (continued)

		Build Alternative(s) with Fewer Potential Impacts (indicated by a checkmark)		
		Rural and Agricultural Environment	Natural Environment	Community and Built Environment
Section 2: Pueblo to Fowler	Alternative 1: Fort Reynolds Existing Alignment	✓	✓	
	Alternative 2: Fort Reynolds Realignment	✓	✓	✓
	Key Differences	The Build Alternatives would have similar impacts to farmland, the realignment option having a slightly higher impact to agricultural productivity due to potential alignment through alfalfa/corn-producing farmlands.	Both Build Alternatives would require crossing the Arkansas River; Alternative 1 would replace the existing structure and Alternative 2 would require a new crossing. Both have comparable potential to affect wetland and riparian resources, and Alternative 2 has a slightly higher potential for wildlife impacts due to additional ground disturbance for the realignment. However, there are no key differences between the two options.	Alternative 2 would improve safety while also minimizing potential impacts to the community and built environment by having greater opportunity to avoid the acquisition of homes and businesses, shift traffic away from noise-sensitive receptors, and avoid adversely affecting the historic Huerfano bridge.
Section 3: Fowler	Alternative 1: Fowler North	✓		✓
	Alternative 2: Fowler South		✓	✓
	Key Differences	Alternative 1 would affect fewer acres of farmland and ranch lands (89 acres, compared with 146 acres in the south) and is less likely to interfere with agricultural operations.	Alternative 2 has fewer acres of wetland/riparian area (approximately 1 acre, compared with 25 acres in Alternative 1), and this acreage is of lesser ecological value than the acreage in the north corridor, which is very close to the Arkansas River. Alternative 1 is located in a 100-year floodplain, whereas Alternative 2 is not.	Alternative 1 is much closer and more visible to town, providing a better gateway. Alternative 2 avoids effects to the publicly owned golf course, as well as the need for two costly bridges over the historic railroad tracks.

Table 12-2. Comparison of Build Alternative Environmental Impacts (continued)

		Build Alternative(s) with Fewer Potential Impacts (indicated by a checkmark)		
		Rural and Agricultural Environment	Natural Environment	Community and Built Environment
Section 5: Manzanola	Alternative 1: Manzanola North	✓	✓	✓
	Alternative 2: Manzanola South			
	Key Differences	Both alternatives impact approximately the same amount of farmland and ranch land (about 78 acres), but the acreage in Alternative 1 is of lower quality than the acreage in Alternative 2. Farmland and ranch land in Alternative 1 includes no vegetable-quality land, and 28 percent of it is grazing quality, while Alternative 2 includes 14 acres of vegetable-quality land and only 6 percent is grazing quality.	Both alternatives have approximately the same amount of wetland/riparian area (5 acres in Alternative 1 and 4 acres in Alternative 2), but the acreage in Alternative 1 is of lesser ecological value than in Alternative 2. About 75 percent of the resource in Alternative 2 is Category I (best functional value), compared to 20 percent in Alternative 1.	Alternative 1 has fewer homes that would be impacted (nine, compared to 18 in Alternative 2). Alternative 1 also received more support at community meetings.
Section 7: Rocky Ford	Alternative 1: Rocky Ford North	✓	✓	✓
	Alternative 2: Rocky Ford South	✓	✓	
	Key Differences	The Build Alternatives have comparable impacts to farmland and ranch lands. No key differences.	Both alternatives have comparable wetland/riparian acreage and functional value, with Alternative 2 having three acres more of potential wetland/riparian impacts. Alternative 1 is closer to the Arkansas River (between 0.5 mile and 0.8 mile), but it is not close enough in proximity to affect the area.	Alternative 1 avoids multiple crossings of historic canals and railroads that would occur in Alternative 2. Alternative 1 is much closer to the city and provides better access to the fairgrounds and the city's proposed industrial park.



Table 12-2. Comparison of Build Alternative Environmental Impacts (continued)

		Build Alternative(s) with Fewer Potential Impacts (indicated by a checkmark)		
		Rural and Agricultural Environment	Natural Environment	Community and Built Environment
Section 9: Swink	Alternative 1: Swink North	✓		✓
	Alternative 2: Swink South		✓	✓
	Key Differences	Alternative 1 includes less and lower-quality farmland and ranch lands than Alternative 2 (15 acres difference). Alternative 1 would use land with limited development potential due to adjacent floodplains.	Alternative 2 has less wetland/riparian acreage than Alternative 1 (1 acre versus 7 acres) and most of the acreage in Alternative 1 has high functional value.	Alternative 2 includes fewer homes and businesses (11 versus 21) than Alternative 1; however, Alternative 2 is adjacent to the town’s school facilities. The school district is a major employer, and their facilities are key community assets.
Section 10: La Junta	Alternative 1: La Junta North	✓		
	Alternative 2: La Junta South	✓	✓	✓
	Alternative 3: La Junta South		✓	✓
	Alternative 4: La Junta South		✓	
	Key Differences	Alternative 3 and Alternative 4 would have the greatest impacts to agricultural lands, amounting to a loss of 65 and 48 acres of productive farmland (i.e., vegetables, corn, and alfalfa). Alternative 1 and Alternative 2 have fewer effects to agricultural land and productivity, totaling 23 and 42 acres of loss to productive farmland.	Alternatives 2–4 have comparable impacts, with Alternative 4 having the fewest potential impacts to wetland/ riparian areas (11 acres). They are the least harmful to the natural environment. Alternative 1’s two crossings of the Arkansas River and impacts to the associated wetlands/riparian area represent a major ecological impact that is avoidable by keeping the highway south of the river.	Alternative 1 would not produce the east-west thoroughfare that is desired. Alternative 4 would be twice as long as the current route of US 50 through La Junta (six miles versus the current three miles). This would add time to a trip through La Junta, instead of reducing it. Alternative 2 and Alternative 3 have comparable impacts, but Alternative 2 is located closer to the city, providing a better “gateway” to the central business district.

Table 12-2. Comparison of Build Alternative Environmental Impacts (continued)

		Build Alternative(s) with Fewer Potential Impacts (indicated by a checkmark)		
		Rural and Agricultural Environment	Natural Environment	Community and Built Environment
Section 12: Las Animas	Alternative 1: Las Animas North	✓	✓	✓
	Alternative 2: Las Animas South		✓	
	Key Differences	Alternative 1 would impact 40 acres less and lower-quality farmland and ranch lands than Alternative 2.	Alternative 2 has less wetland/riparian acreage than Alternative 1 (23 acres versus 40 acres), but Alternative 2 would require building a new bridge across the Arkansas River versus replacing an existing bridge over the river.	Having a convenient gateway into town is important to Las Animas, where many businesses and historic districts line the highway. Alternative 1 provides a convenient eastbound connection to downtown. Alternative 2 would not connect as well with the existing street system.
Section 15: Granada	Alternative 1: Granada North	✓		
	Alternative 2: Granada South		✓	✓
	Key Differences	Alternative 2 impacts more farmland and ranch lands than Alternative 1 (62 acres, compared to 48 acres), and would affect land with higher productive value.	Both alternatives have comparable potential impacts to wetland/riparian areas (5 acres with Alternative 1 and 2 acres with Alternative 2) and no key issues with the Arkansas River; however, Alternative 2 is preferable because of its avoidance of the Granada State Wildlife Area.	The numbers and differences are small, but Alternative 2 includes fewer historic resources and noise receptors than the north corridor, and would not require railroad crossings.

12.8 SECTION 4(F) ANALYSIS

Chapter 5, Section 4(f) Evaluation, of the US 50 Corridor East Tier 1 FEIS describes the level of detail and information needed to demonstrate avoidance and minimization of impacts to land and properties that are subject to Section 4(f) protection. This ROD only selects the alignment for US 50. Final decisions about specific properties afforded Section 4(f) protections are not made in this document. Decisions about Section 4(f) properties will be made during Tier 2 studies. This approach to evaluating Section 4(f) properties reflects these concepts and provisions in the federal regulations.

At the time Tier 2 studies are prepared, additional evaluations will be made of all feasible and prudent alternatives that avoid or minimize the use of Section 4(f) resources and reflect all possible planning to minimize harm to them.

12.9 MEASURES TO MINIMIZE HARM

Chapter 8, Mitigation Strategies, describes all specific practicable measures developed to minimize environmental harm (CEQ, 40 CFR §1505.2[c]). Through development of the alternatives process, many resources were avoided in locations along the US 50 corridor. Through-town options, which would have improved US 50 on its current alignment through the municipalities along the highway, were eliminated from further consideration because they did not fully meet the purpose and need of the US 50 Corridor East Tier 1 EIS. In addition, the through-town options had a greater potential than around-town options to affect community resources, including historic resources; require significant property acquisitions; reduce access to important community facilities and services; and create direct impacts to a small number of agricultural resources, parklands, recreational resources, Section 6(f) and Section 4(f) resources.

Because the roadway footprint will not be identified until Tier 2 studies, this US 50 Corridor East Tier 1 FEIS analysis cannot identify effects to specific resources or develop specific mitigation actions. Also, the build-out period for Tier 2 studies is estimated to be decades, not years, and best management practices for mitigation activities could change during this time frame. Therefore, mitigation strategies, not mitigation activities, have been developed for natural environment resources, general mitigation, mitigation banking, early mitigation, and partnering opportunities. Tier 2 studies will identify specific resources or specific mitigation actions to be taken to ensure all practicable environmental measures to minimize harm are implemented.

12.10 MONITORING AND ENFORCEMENT

Due to the nature of this Tier 1 study, there is not enough information available at this time to make regulatory or permitting approvals; therefore, there are no formal monitoring or enforcement procedures identified for the US 50 Corridor East Tier 1 FEIS/ROD. Tier 2 studies will include all monitoring or enforcement programs that may be needed, and address measures discussed in Chapter 8, Mitigation Strategies, of the US 50 Corridor East Tier 1 FEIS/ROD.

Although formal monitoring and enforcement procedures cannot be adopted at this time, early mitigation strategies have been developed to ensure that appropriate and effective mitigation measures can be developed during Tier 2 studies. These early mitigation strategies include working with CPW to conduct and implement the findings of a wildlife crossing study for US 50; participating in, supporting, and fostering long-term noxious weed management efforts, including continuing to manage noxious weeds along the US 50 right of way; participating in, supporting, and fostering coordinated efforts to manage aquatic nuisance species in the project area; and, in certain circumstances, pursuing actions targeting natural preservation of highly functional habitats. Furthermore, CDOT and FHWA will continue to pursue the mitigation strategies outlined in the SHPO PA, which includes continuing to make good-faith and reasonable efforts to avoid, minimize, or mitigate effects to National Register listed, eligible, or likely eligible historic properties; implementing processes that are in accordance with the principles of Context-Sensitive Solutions; and meeting with consulting parties to discuss appropriate mechanisms for avoiding, minimizing, and mitigating adverse effects. Even though these activities do not provide specific mitigations for any particular US 50 project impact, any outcomes from such activities will be documented by CDOT and FHWA and periodically reviewed by the Agency Working Group. This will provide continued management of the US 50 corridor until Tier 2 studies can be completed while also providing valuable information for future mitigation commitments. More details about mitigation strategies are discussed in Chapter 8, Mitigation Strategies, of the US 50 Corridor East Tier 1 FEIS.

12.11 PUBLIC INVOLVEMENT

Chapter 7, Community Outreach and Agency Involvement, of the US 50 Corridor East Tier 1 FEIS describes the public involvement program that was undertaken to ensure that concerned citizens, interested groups, civic organizations, and businesses along the US 50 East corridor were provided with opportunities to give input to the project team throughout the environmental review process. On January 30, 2006, FHWA published a Notice of Intent in the Federal Register to announce its intent to prepare the Tier 1 EIS.

Community outreach and agency involvement activities included preparation of a Communication Handbook to ensure that the outreach efforts comprised a variety of techniques to communicate with the public and solicit input about project-related issues. Public involvement activities included the formation of project working groups, public meetings, mailings of more than 1,200 newsletters and postcards to households and businesses along the corridor, a project website with key project information, an information telephone line, call-in spots on radio shows, a Speakers' Bureau, ads in local newspapers, dissemination of Spanish/English fliers within communities, and press releases at key milestones. Due to the bilingual community living and working throughout the corridor, Spanish translators were available on an as-needed basis.

To establish clear expectations for the role of agencies and community representatives in decision making, an Agency Charter Agreement and Community Memorandum of Agreement was drafted to describe responsibilities. Further, formal agreements with resource agencies were prepared, including a Tier 1 Programmatic Agreement for Section 106 of the NHPA between CDOT, FHWA, and the Colorado State Historic Preservation Office and a NEPA/Clean Water Act Section 404 Merger Process and Agreement for Transportation Projects in Colorado between CDOT, USACE, and FHWA with participation from EPA and USFWS. Copies of these agreements may be found in Appendix C, Agency and Public Involvement, of this document.

The US 50 Corridor East Tier 1 Draft EIS was approved on May 6, 2016. A Notice of Availability was published in the Federal Register on June 10, 2016, and availability was announced in flyers mailed to residents along the project corridor in Pueblo, Otero, Bent, and Prowers counties. The US 50 Corridor East Tier 1 Draft EIS was made available for public review in multiple formats and locations. Documents were distributed to local libraries, city town halls, CDOT's offices in Pueblo and Colorado Springs, and at the FHWA office in Lakewood, Colorado. The complete document also was uploaded to the CDOT project website, which was noted in the mailed flyers.

Between June 13, 2016, and July 29, 2016, a total of four public hearings were held, one in each of the project counties, to obtain comments on the US 50 Corridor East Tier 1 Draft EIS. Comments were collected through the public hearings, a project email address, from a phone line, and through the U.S. Postal Service. Substantive comments on the Tier 1 Draft EIS were addressed in the US 50 Corridor East Tier 1 FEIS. Responses to comments received can be reviewed in Chapter 7, Community Outreach and Agency Involvement, of this document. A Notice of Availability for this Tier 1 FEIS and Tier 1 Record of Decision will be published in the Federal Register.



12.12 COMMENTS ON THE FEIS/ROD

Because the FEIS and ROD for this project are being combined into one document and because of the limited changes incorporated between the DEIS and this FEIS/ROD, there is no formal comment response provided for this document. During Tier 2 studies, there will be additional opportunities to provide comments before any construction is initiated. To see comments and responses to comments on the US 50 Tier 1 DEIS, see Chapter 7, Community Outreach and Agency Involvement, of this document.

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