



**APPENDIX C:
AGENCY CORRESPONDENCE**

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U.S. Department
of Transportation
**Federal Highway
Administration**

Colorado Division

August 15, 2011

12300 W. Dakota Ave., Ste. 180
Lakewood, Colorado 80228
720-963-3000
720-963-3001

Mr. Tim Carey
U.S. Army Corps of Engineers
Denver Regulatory Office
Omaha District
9307 S. Wadsworth Blvd.
Littleton, CO 80128-6901

Subject: North I-25 National Environmental Policy Act (NEPA)/Section 404 of the Clean Water Act (404) Merger Concurrence that the Preferred Alternative Appears to be the Least Environmentally Damaging Practicable Alternative (LEDPA) (Concurrence Point Number 3)

Dear Mr. Carey:

Pursuant to the National Environmental Policy Act/Section 404 of the Clean Water Act (404) Merger process for transportation projects in Colorado, we are requesting formal concurrence from the Corps of Engineers that the Preferred Alternative as identified in the Final Environmental Impact Statement (FEIS) and 404(b)(1) analysis appears to be the Least Environmentally Damaging Practicable Alternative. Comments received from your office on the Draft EIS in December 2008 indicated that the Package A appeared to be the LEDPA. Since the Draft EIS was released, the Project Team has met many times with the stakeholders and have identified the Preferred Alternative, which is now fully evaluated in the FEIS in addition to the No Action, and Packages A and B. The Preferred Alternative is a combination of elements from Packages A and B that were evaluated in the Draft EIS. Additional work has been performed to avoid and minimize impacts to the aquatic resources.

On September 2, 2010 a meeting was held at the USACE to present and summarize the information supporting that the Preferred Alternative appeared to be the Least Environmentally Damaging Practicable Alternative. Attached are the meeting notes from that meeting. Since September of 2010, numerous meetings have been held and documents prepared. The justification for this conclusion was submitted to your staff in the document titled "Evaluation of 404(b)(1) Guidelines for the North I-25 EIS Project, August 1, 2011." Additional information was submitted in a December 8, 2010 document, was contained in the Preliminary Final EIS of January 2011 which your office reviewed, and was included in documents submitted in July and August of this year.

The analyses contained in the 404(b)(1) Evaluation and the FEIS demonstrate that the Preferred Alternative appears to be the Least Environmentally Damaging Practicable Alternative based primarily on the following:

- ▶ The Preferred Alternative acres of wetland impact are clearly less than the other two practicable alternatives (18.2 acres for the Preferred Alternative compared to 21.9 acres for Package A and 21.3 acres for Package B). The difference in impacts is more pronounced when the impact is expressed in

cubic yards. The Preferred Alternative would require 38,406 cubic yards of fill in a wetland or other water of the US, compared to 51,630 cubic yards for Package A and 54,382 cubic yards for Package B.

- ▶ All of the alternatives have impacts to other resources. Impacts are similar in severity and magnitude especially when considering a project of this size. Impacts are shown below:

Analysis of Alternatives Using USACE Measures from the NEPA/404 Merger Agreement

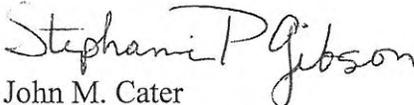
Criteria	Package A	Package B	Package C
<i>T&E Species Impacts (PMJM)</i>	0.8 acre	0.8 acre	0.7 acre*
<i>Aquatic Ecosystem Impacts</i>	Most impacts: 21.87 acres 51,630 cubic yards	Moderate impacts: 21.29 acres 54,382 cubic yards	Least Impacts: 18.18 acres* 38,406 cubic yards*
<i>Impacts to Natural Environment</i>			
▪ Raptor nests	49	43*	57
▪ Wildlife movement corridors	13	7*	14
▪ Sensitive wildlife habitat	2.0 acres	2.4 acres	1.9 acres*
▪ Aquatic habitat	1.8 acres	2.3 acres	1.5 acres*
▪ Bald eagle foraging habitat	204 acres*	231 acres	231 acres
▪ Prairie dog colonies	60 acres*	97 acres	86 acres
▪ Northern leopard frog	20 acres	21 acres	17 acres*
▪ Common garter snake	20 acres	21 acres	17 acres*
▪ Sensitive fish species	0.4 acre*	0.4 acre*	0.4 acre*

* = Build Alternative that performs the best or has the least environmental impacts.

CDOT and FHWA request concurrence that the Preferred Alternative appears to be the Least Environmentally Damaging Practicable Alternative in accordance with the 404(b)(1) guidelines and approved merger process.

If you have any comments or concerns about this request, please contact Monica Pavlik at 720-963-3012.

Sincerely,


 For John M. Cater
 Division Administrator

Enclosure: NEPA/Section 404 Merger Concurrence Meeting Minutes

cc w/o enclosure: Ms. Carol Parr, CDOT



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 SOUTH WADSWORTH BLVD.
LITTLETON, COLORADO 80128-6901

August 16, 2011

Mr. John M. Cater
Division Administrator
Colorado Division
Federal Highway Administration
12300 West Dakota Avenue, Suite 180
Lakewood, CO 80228

Mr. Terry J. Rosapep
Regional Administrator, Region 8
Federal Transit Administration
12300 West Dakota Avenue, Suite 310
Lakewood, CO 80228

Mr. Johnny Olson, P.E.
Region 4 Transportation Director
Colorado Department of Transportation
1420 2nd Street
Greeley, CO 80632

**RE: North I-25 Environmental Impact Statement; NEPA/Section 404 Merger Process
Concurrence Point Number 3**

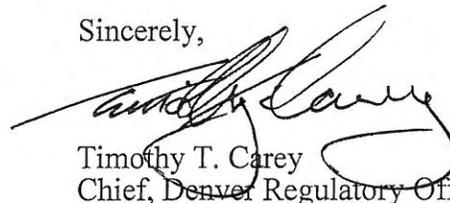
Dear Messrs. Cater, Rosapep and Olson:

I'm writing this letter in response to Mr. Cater's correspondence of August 15, 2011, same subject as above. In Mr. Cater's letter, he requested that the U.S. Army Corps of Engineers (Corps) provide formal concurrence that the Preferred Alternative appears to be the Least Environmentally Damaging Practicable Alternative (LEDPA), based on procedures contained in the "National Environmental Policy Act/Clean Water Act Section 404 (NEPA/404) merger process and agreement for transportation projects in Colorado".

After a thorough review of the North I-25 Final Environmental Impact Statement and the Evaluation of 404(b)(1) Guidelines, which was provided on August 1, 2011, the Corps concurs that the Preferred Alternative, Package C, appears to be the LEPDA. Our formal determination of Package C being the LEDPA will occur if a Section 404 permit is issued.

Thank you for the opportunity to participate in this collaborative effort. If you have any questions, please call me at (303) 979-4120.

Sincerely,



Timothy T. Carey
Chief, Denver Regulatory Office

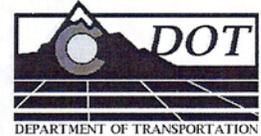
CF:
Ms. Carol Parr, CDOT
Ms. Monica Pavlik, FHWA

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STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

4201 East Arkansas Avenue
Denver, Colorado 80222
(303) 757-9011



September 12, 2011

William Allison
Director
Air Pollution Control Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80222

RE: North I-25 EIS Conformity Demonstration for Record of Decision

Dear Mr. Allison,

The Colorado Department of Transportation (CDOT) is preparing the Record of Decision for the fiscally constrained Phase 1 of the North I-25 Environmental Impact Statement (EIS), which has identified and evaluated multi-modal transportation improvements along the 61-mile I-25 transportation corridor extending from the Fort Collins/Wellington area to Denver.

The Preferred Alternative identified from this study includes commuter rail transit service from Fort Collins to the anticipated FasTracks North Metro end-of-line; express and commuter bus service among Fort Collins, Greeley and Denver; I-25 widening to 6-lanes with toll express lanes (TEL) in key areas; and improvements to several I-25 interchanges: improved operating level of service, improved safety and replacement/repair of aging infrastructure.

Regional Conformity

Because there is not enough money in the fiscally constrained and air quality conforming 2035 RTPs for either Denver Regional Council of Governments (DRCOG), or North Front Range Metropolitan Planning Organization (NFR), only the portion of the Preferred Alternative that is included in the fiscally constrained and air quality conforming 2035 Regional Transportation Plans (RTP) can be approved by FHWA in the ROD. Multiple conformity analyses were performed by DRCOG and NFR.

Phase 1 of the Preferred Alternative includes local interchange improvements and limited TEL development and interstate widening as included in the fiscally constrained DRCOG *2035 Metro Vision Regional Transportation Plan* (February 16, 2011) and NFRMPO *2035 Regional Transportation Plan* (on docket for September 15, 2011). The remainder of the Preferred Alternative would be built after 2035 under Phases 2 and 3. The projects included as Phase 1 of the Preferred Alternative will be constructed in the RTPs later staging years, demonstrating air quality benefits in 2030-2035. Funding for Phase 1 is included in the *State Transportation Improvement Program* (STIP) for outlying years.

Project Level Conformity

Carbon Monoxide: To determine localized air quality impacts for Phase 1 of the Preferred Alternative, CDOT analyzed 5 interchanges in the EIS study area that would operate a deficient level of service in future years, had highest traffic volumes and the greatest idle time delays per vehicle:

- Harmony Road and I-25 (Fort Collins SIP)
- Evans Bus Station at 31st Street and US 85 (Greeley SIP)

- Sugar Mill Transit Station at SH 119 and County Line Road (Longmont SIP)
- SH 7 and I-25 (Denver SIP)
- Thornton Parkway and I-25 (Denver SIP)

These interchanges were evaluated by worst case emissions scenarios using CAL3QHC carbon monoxide (CO) hotspot modeling using 2035 traffic volumes and 2005 emissions factors provided by APCD. This modeling methodology is used for Phase 1 of the Preferred Alternative to determine any potential exceedance of CO National Ambient Air Quality Standards (NAAQS) and to ensure that no interim build years emissions levels could be worse than what was modeled. Some of these interchanges will not be built under Phase 1 construction, but instead will be constructed as part of Phases 2 and 3 after 2035. To assure that the unimproved congestion levels would not lead to an interim violation of the NAAQS, these interchanges were modeled under No Action parameters of 2035 traffic with unimproved roadway configurations and idle time delays.

The highest 8-hour CO emissions concentration generated from hotspot analyses of the Phase 1 of the Preferred is 8.4 ppm, under the NAAQS of 9 ppm. This modeled site is one of the unimproved interchanges that will be rebuilt under Phases 2 or 3 after 2035. Thus, Phase 1 of the Preferred Alternative is not expected to cause an exceedance of the PM₁₀ NAAQS as a result of implementation of Phase 1 of the Preferred Alternative.

Particulate Matter: A qualitative PM₁₀ hotspot analysis was conducted for the Denver PM₁₀ Maintenance Plan Area. Analyses included comparison of the Denver area PM₁₀ Maintenance Plan grid concentrations and monitoring results; and comparative analyses of several expected emissions generating facilities (parking lots, maintenance yards, interchanges) to be built under Phase 1 of the Preferred Alternative. No PM₁₀ monitor in the area has exceeded the 150 ug/m³ NAAQS.

Daily corridor-wide VMT for Phase 1 of the Preferred Alternative would increase approximately 42 to 43 percent compared to existing 2005 conditions. The worst case daily traffic volumes along I-25 would range between 246,400 and 253,500 vpd in 2035 at the southern terminus of the project near I-25 and 84th Avenue. These traffic volumes are lower than those currently experienced at the interchange at I-25 and I-70, where violations of the NAAQS have not been monitored or modeled in the SIP.

Fugitive dust emissions associated with Phase 1 of the Preferred Alternative are calculated to be approximately 76.5 tons of controlled dust per day.

Based on the PM₁₀ maintenance plan modeling results and the comparison to another location with similar characteristics to the project, the project is not expected to cause an exceedance of the PM₁₀ NAAQS as a result of implementation of Phase 1 of the Preferred Alternative.

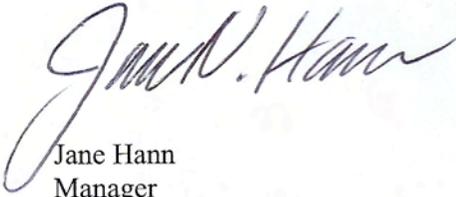
Mobile Source Air Toxics: A quantitative analysis of mobile source air toxic (MSAT) emissions from the Preferred Alternative was completed using the MOBILE6.2. The dominant emissions concern is diesel particulate matter emissions associated with added bus and commuter rail service. The Preferred Alternative express bus service, commuter bus service and commuter rail, would remove an estimated 11,500 vehicles daily from the roadway network in the year 2035. However, the reduction associated with vehicles removed from the roadways by the Preferred Alternative transit options would account for only approximately 0.02 percent of the total regional study area VMT.

Commuter and express bus service included under Phase 1 of the Preferred Alternative would remove an estimated 6,300 vehicles daily from the roadway network in the year 2035. Vehicles removed from the roadways by Phase 1 transit options would account for 0.01 percent of the total regional study area VMT.

The North I-25 Preferred Alternative Phase 1 will provide air quality benefits from improved interchange operations from less congestion and idling emissions and from increased transit routing and ridership.

If you concur with the results of the air quality analysis and the conclusions regarding conformity for the North I-25 Preferred Alternative and Phase 1, please sign below and return this letter by September 24, 2011.

Thank you.
Very truly yours,



Jane Hann
Manager
Environmental Programs Branch

I Concur: William Allison 19 Oct 2011
Date

Enclosure: North I-25 Air Quality Technical Report

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STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

4201 East Arkansas Avenue
Denver, Colorado 80222
(303) 757-9011



October 12, 2011

William Allison
Director
Air Pollution Control Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80222

RE: North I-25 EIS Conformity Demonstration for Record of Decision

Dear Mr. Allison,

The Colorado Department of Transportation (CDOT) is preparing the Record of Decision for the fiscally constrained Phase 1 of the North I-25 Environmental Impact Statement (EIS), which has identified and evaluated multi-modal transportation improvements along the 61-mile I-25 transportation corridor extending from the Fort Collins/Wellington area to Denver. Your concurrence on the regional- and project-level conformity compliance for Phase 1 of this project was received on September 26, 2011.

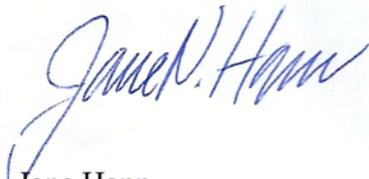
To demonstrate that the North I-25 project would not cause significant air quality impact and would comply with the current State Implementation Plan when it is fully constructed, the entire North I-25 Preferred Alternative with all of the proposed improvements was modeled in a separate, non-fiscally constrained 2035 regional travel demand modeling run prepared using a combined travel model covering the entire scope of the project area.

The use of a project-defined travel model, which combined the Denver Regional Council of Governments and North Front Range Metropolitan Planning Organization coverage of the entire affected project area, was determined to be the appropriate course of action in an interagency air quality consultation meeting held on November 17, 2009. The results of this travel modeling effort were submitted to APCD on October 26, 2010, emissions modeling conducted by APCD, and emissions modeling results transmitted to CDOT on November 9, 2010.

These modeling results indicated that all currently applicable conformity emissions tests would still be met if the Preferred Alternative were to be constructed in its entirety before 2035.

If you concur with the results of the non-fiscally constrained air quality analysis and the conclusion that there would not be any significant regional air quality impacts once all phases of the project are funded and completed for the North I-25 Preferred Alternative, please sign below and return this letter by October 28, 2011.

Thank you.
Very truly yours,



Jane Hann
Manager
Environmental Programs Branch

I Concur:  20 Oct 11
William Allison Date

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

4201 East Arkansas Avenue
Denver, Colorado 80222
(303) 757-9011



November 1, 2011

William Allison
Director
Air Pollution Control Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80222

RE: North I-25 Conformity Demonstration for Record of Decision

Dear Mr. Allison,

On October 12, 2011 we sent to you a letter (see attached) that had the same subject line that requested your concurrence with a finding that there would not be any significant regional air quality impacts once all phases of the project are funded and completed for the North I-25 Preferred Alternative. In that letter, in the first paragraph, we referred to a date of September 26 as when your office provided concurrence on the regional and project level conformity compliance for Phase 1 of the project. That date was incorrect. The correct date is actually October 19.

We apologize for this inaccuracy.

Please call with any questions you may have.

Thank you.
Very truly yours,

A handwritten signature in blue ink, appearing to read "Jane Hann", is written over the typed name.

Jane Hann
Manager
Environmental Programs Branch

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U.S. Department
of Transportation
**Federal Highway
Administration**

Colorado Division

October 28, 2011

12300 W. Dakota Ave., Ste. 180
Lakewood, Colorado 80228
720-963-3000
720-963-3001

Mr. Willie R. Taylor
Director, Office of Environmental Affairs
Department of the Interior
1849 C Street, N.W., Room 2340
Washington, DC 20240

Subject: North I-25 Revised Section 4(f) Evaluation

Dear Mr. Taylor:

Enclosed are 9 copies of the North I-25 Revised Section 4(f) Evaluation for your review. The previous version of this document was submitted to your office with the North I-25 Final EIS to be timed with the Notice of Availability that was published August 19, 2011. The Final EIS included the documentation to finalize the Section 106 of the National Historic Preservation Act consultation on historic properties with the State Historic Preservation Officer (SHPO). Due to this consultation, the FHWA has modified the effects determination of three properties, the Schmer Farm, Mountain View Farm, and the Bein Farm from *no adverse effect* to *adverse effect*. Due to these changes, these three properties will have uses that do not meet the definition of *de minimis* impact as originally presented. These properties have been evaluated for prudent and feasible avoidance alternatives and included in the Overall Least Harm Discussion.

The Revised Section 4(f) Evaluation references the North I-25 Final EIS in many places. The North I-25 Final EIS is available at the following website:
<http://www.coloradodot.info/projects/north-i-25-eis>. If you desire copies on CD, please contact this office at the phone number below.

Please provide any comments on the document to the Federal Highway Administration, Colorado Division (Attn: Monica Pavlik), at the address shown above, no later than December 15, 2011. If you have any questions, please contact Ms. Monica Pavlik, of this office, at 720-963-3012.

Sincerely,

John M. Cater
Division Administrator

Enclosures: One Hard Copy Revised 4(f) Evaluation/Section 4(f) and Eight on CD

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U.S. Department
of Transportation
**Federal Highway
Administration**

Colorado Division

November 9, 2011

12300 W. Dakota Ave., Ste. 180
Lakewood, Colorado 80228
720-963-3000
720-963-3001

Mr. John M. Fowler
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW
Washington, DC 20004
Attn: Ms. Carol Legard, FHWA Liaison

Subject: Notification of Additional Adverse Effects on the North I-25 EIS

Dear Mr. Fowler:

This letter is to notify your office of three additional properties found to be adversely affected by the North I-25 undertaking. This project was using a document substitution process to accomplish much of the National Environmental Policy Act requirements with the Section 106 requirements. The Final Environmental Impact Statement (EIS) included the documentation to consult on the effects to historic properties under Section 106 of the National Historic Preservation Act. Based on this consultation specifically with the State Historic Preservation Officer (SHPO), FHWA has modified the effects determination of three properties: Bein Farm (5WL.5203), Mountain View Farm (5LR.11242), and Schmer Farm (5LR.11209) from *no adverse effect* to *adverse effect*.

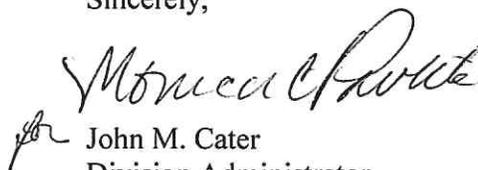
With this amendment to our notification of *adverse effect*, per 36 CFR 800.6(a), we are inviting you to participate in resolving the adverse effects. Resolution of adverse effects will be documented in a Programmatic Agreement per 36 CFR 800.14(b) due to the complexity and long term nature of this undertaking. Please respond within 15 days if you would like to participate.

Documentation attached to this letter includes a description of the properties and a discussion of how the undertaking will affect each of the properties by alternative. Attached is a table listing historic properties within our study area that have been determined to have a finding of *adverse effect* [36 CFR 800.5(a)] or *no adverse effects* [36 CFR 800.5(b)].

Most of the background information regarding past consultation, Area of Potential Effect, etc. [information identified under 36 CFR 800.11(e)] was transmitted with the Final EIS in our original notification of adverse effect. The North I-25 Final EIS is available at the following website: <http://www.coloradodot.info/projects/north-i-25-eis>. If you desire copies on CD, please contact this office at the phone number below.

Please let FHWA know if your agency would like to be involved in the resolution of adverse effects as a result of this project. If you have any questions or concerns, please notify Monica Pavlik at 720-963-3012.

Sincerely,


John M. Cater
Division Administrator

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United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Denver Federal Center, Building 67, Room 118
Post Office Box 25007 (D-108)
Denver, Colorado 80225-0007



December 6, 2011

9043.1
ER-08/1118

John Cater
Colorado Division Administrator
Federal Highway Administration
12300 W. Dakota Avenue, Ste. 180
Lakewood, CO 80228

Dear Mr. Cater:

Thank you for the opportunity to comment on the Revised Section 4(f) Evaluation for the I-25 Transportation Corridor Improvements (61 miles from Fort Collins/Wellington Area to Denver), Colorado. The Department of the Interior (Department) has reviewed the document, and hereby submits these comments to you as an indication of our thoughts regarding this project.

SECTION 4(f) EVALUATION COMMENTS

The Department appreciates that our previous comments were considered. We acknowledge that you are in the process of preparing a Memorandum of Agreement (MOA) to minimize adverse effects to historic properties in consultation with the Colorado State Historic Preservation Office. Following concurrence from all necessary and appropriate parties on the MOA, the Department would concur there is no feasible or prudent alternative to the Preferred Alternative selected in the document, and that all measures have been taken to minimize harm to these resources.

We appreciate the opportunity to review this document. Should you have questions regarding these comments, please contact Cheryl Eckhardt, National Park Service, at 303-969-2851.

Sincerely,

Robert F. Stewart
Regional Environmental Officer

cc:
FHWA – Monica Pavlik (monica.pavlik@fhwa.dot.gov)
CDOT – Carol Parr (carol.parr@dot.state.co.us)
SHPO CO – Ed Nichols (ed.nichols@chs.state.co.us)

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