



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

SEP 07 2012

Mr. John Simkins  
Federal Highway Administration – Virginia Division  
400 North 8<sup>th</sup> Street, Suite 750  
Richmond, Virginia, 23219

Re: Environmental Assessment, Coalfields Expressway, Section II  
Wise, Dickenson, and Buchanan Counties, VA

Dear Mr. Simkins:

In accordance with the National Environmental Policy Act (NEPA) of 1969, Section 309 of the Clean Air Act and the Council on Environmental Quality regulations implementing NEPA (40 CFR 1500-1508), the U.S. Environmental Protection Agency (EPA) has reviewed the Coalfields Expressway, Section II Environmental Assessment (EA) in Wise, Dickenson, and Buchanan Counties, VA.

This Environmental Assessment (EA) evaluates the changes to Section II of the proposed Coalfields Expressway (CFX, U.S. Route 121) between the proposed Pound Bypass and the proposed Route 460 Connector. The Draft Environmental Impact Statement (DEIS) for the Virginia portion of the CFX project was signed in 2000; the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) were completed in 2001. Since that time, under provisions of the Virginia Public-Private Transportation Act (PPTA), Virginia Department of Transportation's (VDOT) PPTA private partners have proposed revisions to the selected corridor that was presented in the 2001 FEIS and ROD (Alternative F1). VDOT is now proposing those revisions, the PPTA Alternative, and this is the preferred alternative presented in the EA.

In 2002, VDOT entered into a Comprehensive Agreement (Agreement) and Design-Build Contract with PPTA private partners. Under the Agreement, VDOT would acquire title to the lands needed for project right-of-way and provide funds for costs of design and construction. The PPTA partners would design and build the project and would provide equity contributions toward the cost of the project. Additionally, the Agreement provided for adjustments to the proposed alignment of the roadway to take advantage of the potential value of the PPTA partners' coal reserves and expertise in recovery of said reserves to offset a portion of the CFX construction costs. Coal companies would extract the coal and leave mined locations graded and

suitable for roadway construction, thereby saving roadway construction costs. According to the EA, the PPTA Alternative is within the study area of the original FEIS but shifts 2-3 miles from the preferred corridor identified in the FEIS.

Section II of the CFX is approximately 26 miles long. According to the EA, because of the terrain, the construction and right-of-way limits could not be constrained within a 750 foot-wide corridor as presented in the FEIS. The limits of CFX Section II include two smaller sections referred to as the "Pound Connector" and "Doe Branch". The Pound Connector would include a 5-mile long section from CFX Section I in Wise County to a point in Dickenson County just west of Route 721. The Doe Branch Section would include a 4.8-mile long section from Route 80 in Dickenson County to CFX Section IIIA and the Route 460 Connector in Buchanan County.

According to the EA, the PPTA Alternative would meet the needs for the project area: Legislative Initiative, Mobility and Safety, Economic Development. The proposed CFX Section II project under study involves many stakeholders and is highly complex because of the proposed use of surface mines to construct the highway. The United States Army Corps of Engineers (USACE) is evaluating a Clean Water Act (CWA, Act) Section 404 Individual Permit (IP) application submitted by Paramount Coal, for discharge of fill material into waters of the U.S. in conjunction with the construction of the Doe Branch Surface Mine, for which EPA has provided comments in response to the Public Notice issued in October 2010. It is important to note that the CFX was not identified as a post-mine land use in the Public Notice.

EPA has several concerns regarding the project. These issues involve the context of the CFX Section II project, the Purpose and Need statement for the CFX Section II project, the timing of the project to address the needs, alternatives considered, impact comparisons of alternatives, cumulative impacts analysis and environmental justice concerns. Additionally, we are concerned about the use of a mine plan, or future mine plans, that have not been permitted (or gone through a detailed NEPA analysis) being incorporated into the highway projects. We are also concerned about the impacts, including water quality, aquatic resource, and watershed impacts of the mine(s), as well as the analysis of the mining operations under the Clean Water Act to ensure that the provisions of the Act are met. Comments are enclosed with this letter. It should be clear that the FEIS prepared in 2001 did not foresee nor consider that the road would be incorporated into post-mining land use plans. The specific alignment of the preferred alternative selected in the EA is outside the corridors identified in the EIS.

In general, EPA supports the reuse of impacted land and understands the need for economic development opportunities in the area. However, given the complicated issues associated with this project, the EA lacks sufficient detail to fully analyze the impacts and does not appear to consider a full range of reasonable alternatives. The purpose of the EA is to evaluate the existing information and determine if an EIS is warranted. Given the new information, such as the use of mined land and the shift to a corridor not studied in detail in the original EIS, we believe it may be appropriate for Federal Highway Administration (FHWA) and USACE, as co-lead federal agencies, to prepare an Environmental Impact Statement as it is not

clear that that the Environmental Assessment, as currently drafted, would serve as the basis for supporting a Finding of No Significant Impact.

Thank you for the opportunity to offer these comments. If you have any questions please do not hesitate to contact Ms. Barbara Okorn, staff contact, at 215-814-3330, or Ms. Barbara Rudnick, NEPA Team Leader, at 215-814-3322

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey D. Lapp". The signature is written in a cursive style and is positioned above the printed name.

Jeffrey D. Lapp, Associate Director  
Office of Environmental Programs

Enclosure



## **Enclosure**

### **EPA's Technical Comments for the Coalfields Expressway, Section II Environmental Assessment in Wise, Dickenson, and Buchanan Counties, VA.**

#### **General Comments**

- We recommend that the environmental issues related to both the proposed mine (Doe Branch) and other potential mines as well as the highway need to be evaluated comprehensively as one integrated project; but analysis and comparison should also be developed for independent projects. The EA does not provide an adequate analysis of the potential environmental impacts from the combined (highway/surface mine) projects as compared to independent (highway and surface mine) projects.
- The Doe Branch Surface Mine is not discussed until the Cumulative Impacts Section. It is unclear if the impacts and resources presented throughout the report include the impacts from the mine. This should be made clear in the environmental documentation.
- We note that much of the analysis is based upon an assumption that the mine, including the proposed valley fills, will be constructed in the configuration described in the Doe Branch CWA Section 404 permit application. To date, we have not received any supplemental documentation indicating that the mine has gone through the CWA 404(b)(1) Guidelines avoidance and minimization evaluation process. As the mine and valley fills have not yet been permitted, for Doe Branch or any other projected fill as displayed on the maps in the EA, it is premature to assume that the highway will be using the mined land footprint as submitted.
- It is unclear in the documentation whether additional future surface mines will be utilized to construct portions of the highway.
- Please provide details for all the impacted resources.
- Total project impacts should be clearly explained in detail as well as impacts from the roadway and mine.
- Threatened and endangered species coordination information should be included/ referenced in the document. In addition, the project team should closely coordinate with state and federal agencies.
- Every effort should be made to avoid the use of stormwater management facilities in streams or wetlands. The EA should include a discussion about the use of stormwater management methods and where they intend to be situated.
- The EA should make clear if the road may impact the Jefferson National Forest.

#### **Project Context**

- The EA lacks the overall context of the status and progress of the CFX as a whole. We suggest that information on the entire CFX be included in the NEPA document, as well as

the length and status of each segment, and the level of NEPA documentation planned or undertaken for each segment. For example, the position of this segment in relation to the complete alignment, status of the other segments, if the shift of this segment from the one studied in the EIS will change any other segment of the highway; a schedule for completion of this and other sections of the highway should also be included.

- The schedule for the entire project (including mine activities and highway) should be included and clearly explained.
- The PPTA process should be explained in greater detail. This discussion should include the parties involved and how the mined land will be used. For example, is there only one mine involved? What portions of the road are proposed in conjunction with likely surface mining projects?
- The cost of the entire project should be discussed including the state, federal, and private shares.

### **Purpose and Need**

- The EA should better explain any changes in the Purpose and Need that resulted from modifications to the scope of the study. It is important to note that the FEIS and ROD for the CFX did not anticipate the use of surface mines in the construction of the highway.
- We recommend that the “purpose and need” for the CFX Section II be discussed and clearly explained, recognizing that as originally envisioned in the 2001 FEIS, the CFX could be developed without the mine.
- We also recommend that the purpose and need discussion be updated to include current traffic and other data.
- The purpose and need for the Doe Branch Surface Mine needs to be presented as well. If additional future surface mines are proposed to be used, their purpose and need should also be included.

### **Alternatives Analysis**

- We recommend that the NEPA document include a full assessment of both the mining and highway alternatives including independent locations, a range of scale, avoidance, and minimization designs, and comparable corridors. The document should address whether there are highway alternatives that do not depend upon the mine, or potential unidentified mines, other than the original CFX alignment (or within the original CFX alignment using a right-of-way (ROW) compatible to the current need), and if so, those should be considered.
- Mine configurations should be presented that are not reliant on the proposed highway as the intended use of land post-mining.
- Options to address safety or other needs should be analyzed in the event the highway as presented is not built for a number of years. For example, it may be possible to improve

existing roads (fixing sight distances, shoulders, turn lanes, signals, stop signs, etc) to address safety concerns on an interim basis.

### **Comparison of impacts between alternatives**

- An accurate comparison of impacts between the original CFX alignments and the current preferred alternative should be provided. Consideration and a comparison of alignments of roughly equal corridor widths should be made. It is not clear from the EA if this is the case.
- In addition to the impacts analyzed in the EA, we recommend that other potential impacts be analyzed, including potential impacts to drinking water sources by construction or other activities associated with the project and fugitive dusts and other air emissions associated with construction or transport of materials.
- It should be stated if the homes of at risk residents might be displaced and if so, what would be the number of displacements.

### **Secondary development assessment and alternatives**

- We recommend that the impacts of potential secondary development be evaluated as well as alternative scenarios including additional development in or adjacent to existing developed and previously disturbed areas.
- One of the needs for the proposed roadway is to support economic development. We recommend that additional information be provided on potential users of future development. In addition, the analysis should include impacts to businesses located on existing roads that will be bypassed by most traffic and the potential that some existing businesses may not be able to remain competitive and may need to close.

### **Cumulative Impact Analysis (CIA)**

- The CIA should include impacts from the entire CFX, as well as associated mining activities. The analysis should include the King Coal Highway, other transportation networks and mines in the study area. The analysis should include all past, present, and reasonably foreseeable future projects, including intermodal facilities, mines, future development, timber operations, roads, etc. The analysis should include aquatic and terrestrial habitat impacts, water quality, as well as other issues.
- Based on the information provided, the project will cause extensive habitat loss, loss of forest, fragmentation, loss of aquatic resources, etc. We caution that the inclusion of mitigation measures should not be mistaken for or used to assume the absence of adverse impacts, and that the information presented does not necessarily support an argument that the environmental impacts will be reduced below a level of significance.
- The CIA should clearly identify spatial and temporal boundaries, a trends analysis for resources in the study area to identify if resources (and their functions) have been compromised, and a projection of resource impacts from future activities. A comparison

of cumulative impacts should be presented between alternatives. Potential mitigation or changes to actions alternatives should be considered.

### **Environmental Justice/Community Coordination/Social Impacts**

- Based on the limited information provided, we recommend that there be a new community involvement plan and plan for communication and outreach to communities of Environmental Justice concern. Steps should be taken to insure the meaningful participation and involvement of minority and low-income populations in the decision making, access to information, availability to data, and other processes associated with the development, planning, and assessment of this proposed project.
- It should be noted that the demographic assessment is intended to identify areas of potential concern with respect to minority and low income populations. That assessment alone should not be used to predict if there may be adverse or disproportionate impacts upon minority and/or low-income populations.
- The demographic data will help to focus on areas of potential concern where there may be at-risk populations that may be exposed to adverse and/or disproportionate impacts. However, efforts should be made to carefully identify what those potentially adverse or disproportionate impacts might be, where they might be localized, how they might be mitigated, and to what extent they might impact the at-risk populations. Efforts should also be made to assess and characterize the potential benefits of the project on those at risk populations as well. Assessment of the impacts, displacements, disruptions of business, impacts to sources of drinking water, fugitive dusts, noise, blasting and other activities associated with the processes and practices to be undertaken should be fully assessed with respect to the potential to impact at-risk populations.

### **Mitigation**

- We suggest clarity be provided on how or when mitigation responsibilities will be apportioned between co-lead federal agencies and that all necessary mitigation has been identified.
- We recommend that mitigation measures be better defined in the NEPA documentation. This should include mitigation for temporary impacts and mining impacts.
- The incorporation and use of any adaptive management plans (AMPs) should be discussed in the EA. For example, AMPs for compensatory mitigation, acid mine drainage, for construction and monitoring of the surface mine, invasive species, water quality, etc.
- A comprehensive mitigation plan for all natural resource impacts for the entire length of road should be prepared.