

PMSTPCOL NPEmails

From: Last, George V [george.last@pnl.gov]
Sent: Wednesday, September 01, 2010 10:07 AM
To: STPCOL
Subject: FW: FHA's ROD
Attachments: ttc35_rod[1].pdf

----- Forwarded Message

From: "Hendrickson, Paul L" <paul.hendrickson@pnl.gov>
Date: Tue, 31 Aug 2010 17:10:54 -0700
To: "Scott, Michael J" <michael.scott@pnl.gov>
Cc: George Last <george.last@pnl.gov>
Subject: FHA's ROD

----- End of Forwarded Message

Hearing Identifier: SouthTexas34NonPublic_EX
Email Number: 3175

Mail Envelope Properties (C8A3AC12.27EB5%george.last)

Subject: FW: FHA's ROD
Sent Date: 9/1/2010 10:06:56 AM
Received Date: 9/1/2010 10:07:03 AM
From: Last, George V

Created By: george.last@pnl.gov

Recipients:
"STPCOL" <STP.COL@nrc.gov>
Tracking Status: None

Post Office: pnl.gov

Files	Size	Date & Time
MESSAGE	273	9/1/2010 10:07:03 AM
ttc35_rod[1].pdf	209885	

Options
Priority: Standard
Return Notification: No
Reply Requested: No
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**U.S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration
Texas Division Office**

RECORD OF DECISION

**TRANS-TEXAS CORRIDOR – 35
OKLAHOMA-MEXICO/GULF COAST ELEMENT**

**TIER ONE ENVIRONMENTAL IMPACT STATEMENT
EIS Number: FHWA-TX-EIS-05-01-F**

July 2010

FHWA Texas Division Office
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A. Decision

The Federal Highway Administration (FHWA) selects the No Action Alternative in this Trans-Texas Corridor-35 (TTC-35) Tier One Record of Decision (ROD). A study area for the TTC-35 project will not be chosen and the TTC-35 project is concluded. As shown in the TTC-35 Tier One Final Environmental Impact Statement (FEIS), transportation needs exist within the Interstate 35 (I-35) corridor. Those needs will have to be addressed by transportation projects other than TTC-35 and as those projects are proposed, they will need to be studied through their own planning and environmental processes.

B. Alternatives Considered

Alternatives considered in the Tier One EIS include: No Action Alternative, Transportation Systems Management (TSM), Travel Demand Management (TDM), upgrading of an existing facility, and corridor alternatives.

No Action Alternative

The Tier One No Action Alternative assumes the construction of other roadway projects within the study area currently planned and programmed in the State Transportation Improvement Program and Metropolitan Planning Organization Metropolitan Transportation Plans. The Tier One No Action Alternative for railways equates to maintenance of existing facilities, operations, and could include minor changes of capacity and commercial facilities which will be evaluated under separate NEPA processes. Under the No Action Alternative, a study area will not be identified for future TTC-35 projects, the TTC-35 project will not proceed to Tier Two environmental processes and the TTC-35 project will officially end.

Transportation Systems Management (TSM) and Travel Demand Management (TDM)

TSM is defined as a set of transportation policies or strategies aimed at reducing traffic congestion and improving roadway mobility without major capital expenditures to increase physical roadway traffic capacity. TDM includes strategies that are designed to reduce the number of vehicles on roadways, particularly during peak travel periods.

Because the TTC-35 Tier One action constitutes a corridor-level analysis meant to identify a Tier Two study area that provides the best opportunity to meet the project needs and minimize the potential for environmental effects, it was determined that TSM and TDM are more appropriately considered as possible transportation solutions during an alignment-level analyses.

Upgrading of an existing facility

Upgrade of an existing facility is defined as a single facility or a contiguous set of existing north-south oriented facilities that could be reasonably upgraded to meet the complete TTC-35 vision expressed in the *Crossroads of the Americas: Trans Texas Corridor System Plan*.

Because the TTC-35 Tier One action constitutes a corridor-level analysis meant to identify a Tier Two study area that provides the best opportunity to meet the project needs and minimize the potential for environmental effects, it was determined that upgrade of an existing facility is more appropriately considered as a possible transportation solution during alignment-level analyses.

Reasonable Corridor Alternatives

The Tier One EIS developed and evaluated 12 Reasonable Corridor Alternatives (RCA) based on each alternative's ability to meet the TTC-35 project need and purpose and its potential to affect the environment. The Tier One RCAs represent broad geographical areas that follow a north-south directional flow and would serve as the study area in which future TTC-35 alignments-level alternatives could be developed.

C. Basis for Decision

During the preparation of the TTC-35 Tier One Draft EIS (DEIS), Texas Department of Transportation (TxDOT) received comments concerning a possible reduction in land values caused by the selection of a study area for a future TTC-35 facility(ies). As a result of comments received on the potential effect of the speculation on land values within a selected corridor alternative (Tier Two study area), TxDOT conducted a review of studies from across the United States on land value changes occurring after the development of other major transportation projects. The results of their study were included in the TTC-35 Tier One DEIS. No definitive conclusions could be drawn from the review as the studies showed that following project completion, transportation projects can have either a positive or a negative effect on the value of surrounding property. This study is found in Appendix D-2 of the TTC-35 Tier One DEIS.

TxDOT received additional comments during the circulation of the TTC-35 Tier One DEIS reiterating the concern that selecting a Tier One study area would negatively impact property values within that area. Additionally, TxDOT received comments expressing a concern that property may potentially be taken for TTC-35 in the future. Although uncertainty regarding impacts to property is a common issue with any transportation project development, in the specific case of the TTC-35 project, the magnitude of this potential impact was unprecedented because:

- the size of the study area - 400 to 500 miles in length and 5,000 to 6,000 square miles in area;
- the number of the potentially affected people - approximately 1 million people; and,
- the length of time needed to develop the project - 50 years.

Based on further consideration of these concerns and the fact that TxDOT has dropped the multimodal "one-size fits all" Trans-Texas Corridor solution to addressing transportation challenges in the I-35 corridor, the No Action Alternative was recommended as the Preferred Alternative in the TTC-35 Tier One FEIS.

The transportation needs existing within the I-35 corridor will continue to be addressed under existing Federal and State planning laws and regulations.

D. Measures to Minimize Harm

The Council on Environmental Quality National Environmental Policy Act regulations require that agencies identify in the ROD whether all practical means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why. The regulations further state that a monitoring and enforcement program shall be adopted and summarized where applicable for any

mitigation. Mitigation measures are the practical means to avoid, minimize and reduce impacts, and compensate for unavoidable impacts.

The TTC-35 Tier One FEIS concludes that there is no environmental harm caused by the selection of the No Action Alternative. Therefore, mitigation measures are not required and were not developed as part of the TTC-35 Tier One FEIS.

E. Comments on the TTC-35 Tier One FEIS

The Notice of Availability on the TTC-35 Tier One FEIS was published in the Federal Register on April 26, 2010, and in the Texas State Register on April 23, 2010. An announcement extending the comment period to May 25, 2010, was published in the Federal Register on April 30, 2010. During the public review period, FHWA received ninety-one comments on the TTC-35 Tier One FEIS. The comments are categorized as follows:

- One comment from an elected official;
- Four comments from agencies;
- One comment from a Native American Tribe; and
- Eighty-five comments from private citizens.

One elected official, the Mayor Pro Tem from the City of Duncanville in Dallas County, submitted a comment during the TTC-35 review period for the FEIS. The Mayor Pro Tem expressed support for Reasonable Alternative 5. The response to this comment is that the No Action is being selected in the TTC-35 ROD so the TTC-35 project ends. Needs that exist within the I-35 corridor would be addressed by other projects. As projects are proposed, they would be studied through separate and independent planning and environmental processes and associated public involvement.

Four agencies including the United States Environmental Protection Agency, United States Army Corps of Engineers Galveston and Fort Worth Districts, and the Texas Parks and Wildlife Department submitted comments during the TTC-35 Tier One FEIS review period. The United States Environmental Protection Agency rated the TTC-35 FEIS as Lack of Objections (LO) based on the identification and selection of the No Action Alternative as the Preferred Alternative. Both the United States Army Corps of Engineers Galveston and Fort Worth Districts acknowledged the No Action recommendation by the Texas Department of Transportation and stated their involvement in the process was concluded. The Texas Parks and Wildlife Department supported the selection and recommendation of the No Action Alternative as the Preferred Alternative.

The Ysleta del Sur Pueblo Native American Tribe submitted a comment during the review period. The Tribe acknowledged receipt of the TTC-35 Tier One FEIS but did not have any specific comments on the project. The letter from the Tribe was recorded as a comment for the project record.

Eighty-five comments were received from the general public. The comments were summarized into the following categories:

- Suggestion that FHWA withdraw the Notice of Intent rather than select the No Action Alternative;
- Support for the No Action Alternative;
- Lack of need for the project;
- Preference for using existing facilities;
- Criticism of the public involvement process;
- Concern about toll roads; and
- Concern about policy issues such as immigration, terrorism and border security.

Thirty-six of the eighty-five public comments suggested that FHWA withdraw the Notice of Intent rather than select the No Action Alternative. This was the only issue submitted during the TTC-35 Tier One FEIS review period that was not previously addressed in the TTC-35 Tier One FEIS. The response to this comment is that the issuance of the ROD by the FHWA finalizes the National Environmental Policy Act (NEPA) process. As a result of the selection of the No Action Alternative in this ROD, the TTC-35 project ends.

Responses to the other categories of comments were previously addressed in the TTC-35 Tier One FEIS. The number of comments received in each category and the responses to these comments are discussed below.

Eight of the comments received on the TTC-35 Tier One FEIS specifically mentioned support for the No Action Alternative. No response is required for this comment.

Seventeen comments indicated a concern about potential environmental impacts and/or property rights. This comment was previously addressed in the TTC-35 Tier One FEIS. The response to this comment is that the No Action Alternative is being selected in this TTC-35 Tier ROD. As a result, no effects to the environment or property will result and the TTC-35 project ends.

Four comments questioned the need for the project. This comment was previously addressed in the TTC-35 Tier One FEIS. The response to this comment is that the No Action Alternative is being selected in this TTC-35 Tier One ROD and the TTC-35 project ends. Needs that exist within the I-35 corridor would be addressed by other projects. As projects are proposed, they would be studied through separate and independent planning and environmental processes and associated public involvement.

Seven comments expressed a desire to use existing facilities and rights-of-way rather than construct a new location facility. This comment was previously addressed in the TTC-35 Tier One FEIS. The response to this comment is that the No Action Alternative is being selected in the TTC-35 Tier One ROD and the TTC-35 project ends. Needs that exist within the I-35 corridor would be addressed by other projects, potentially including upgrades to existing facilities. As projects are proposed, they would be studied through separate and independent planning and environmental processes and associated public involvement.

Five comments received criticized the public involvement processes used during the development of the TTC-35 Tier One Environmental Impact Statement. This comment was previously addressed in the TTC-35 Tier One FEIS. The response to this comment is that the TTC-35 project included a

public involvement program that complied with 23 CFR 771 and 43 TAC 2.5 through 2.9. The public involvement program employed numerous public involvement techniques to gather public input including:

- A project website (<http://www.keeptexasmoving.org/projects/ttc35/>);
- A toll-free hotline (1-877-TRANS-TX (1-877-872-6789));
- Three separate rounds of public meetings held at key stages in the decision-making process and that included one hundred and seventeen public meetings; and,
- Fifty-four public hearings that were held after the release of the TTC-35 Tier One DEIS.

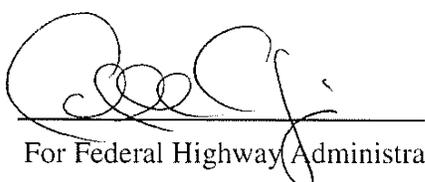
Opportunities were provided for the public to submit comments via the project website, email, and through postal delivery throughout the project development process. Slightly over 12,100 comments were received and considered in the decision-making process between the Notification of Intent to develop an environmental impact statement and the signing of this Record of Decision. In addition, the TTC-35 Tier One FEIS included responses to all substantive comments received during the comment period on the TTC-35 Tier One DEIS.

Twenty comments indicated concern about toll roads and/or misuse of gas tax revenues. This comment was previously addressed in the TTC-35 Tier One FEIS. The response to this comment is that such funding decisions are policy-level decisions made by the FHWA and the Texas Department of Transportation outside of the NEPA process. Furthermore, since the ROD selects the No Action Alternative for TTC-35 no funding will be required for TTC-35 because the project ends.

Twenty comments pertained to issues outside the realm of the NEPA process such as terrorism, immigration, and border security. This comment was previously addressed in the TTC-35 Tier One FEIS. The response to this comment is that these are state and national policy issues beyond the scope of the NEPA analysis for a transportation project.

F. Conclusion

FHWA and TxDOT have completed the environmental process in accordance with Federal law and regulation by receiving public input and coming to an official record of decision with the selection of the No Action Alternative in this TTC-35 Tier One ROD. A study area for the TTC-35 project will not be chosen and the TTC-35 project is formally concluded. This decision complies with all applicable Federal and State laws and regulations.

Approving Official:  Date: July 20, 2010
For Federal Highway Administration

