

Phase I National Gateway Clearance Initiative
CSX Transportation, Inc. Clearance Improvements between
Northwest Ohio and Chambersburg, Pennsylvania

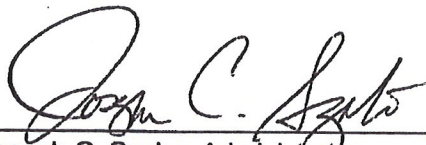
Administrative Action
Finding of No Significant Impact
Determination of Applicability of Programmatic Section 4(f) Evaluation

U.S. Department of Transportation
Federal Railroad Administration
And
Federal Highway Administration

Submitted pursuant to the National Environmental Policy Act of 1969, as amended
[42 U.S.C. § 4332(2)(c)]
and Section 4(f) of the U.S. Transportation Act of 1966, as amended
[49 U.S.C § 303]

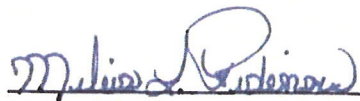
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1. Type of Action

This document is a Federal Highway Administration (FHWA) and Federal Railroad Administration (FRA) administrative action, Finding of No Significant Impact (FONSI).

The FRA and FHWA in collaboration with the states of Ohio, Pennsylvania, West Virginia, and Maryland and CSX Transportation, Inc. (CSX) have determined that the Phase I National Gateway Clearance Initiative will have no significant adverse impact on the human or natural environments. This FONSI is based on the September 2010 Environmental Assessment (EA)¹, which was independently evaluated by the FHWA and FRA and determined to adequately and accurately discuss the need, environmental issues, and impacts of the proposed project, and appropriate mitigation measures. The EA provides sufficient evidence and analysis for determining that an Environmental Impact Statement (EIS) is not required.

2. The Proposed Action

2.1 Project Overview

The National Gateway Clearance Initiative is a freight rail transportation improvement program to achieve a minimum of 21 feet of clearance along the CSX rail corridor so that double-stacked intermodal railcars can be transported between Mid-Atlantic States and their ports to Midwest markets (Figure 1). Phase I of the National Gateway Clearance Initiative includes federally funded clearance improvements and other rail improvements between Northwest Ohio and Chambersburg, Pennsylvania, as described below. The U.S. Department of Transportation (U.S. DOT) awarded a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant to the National Gateway Freight Rail Corridor. The FHWA and FRA are partnering to administer the implementation of the TIGER grant on behalf of the U.S. DOT and in collaboration with the states of Ohio, Pennsylvania, West Virginia, and Maryland and CSX.

This grant award will be utilized by the four states and CSX for the proposed action to increase the vertical clearance at thirty (30) obstructions along Phase I of the rail corridor from the intermodal yard near North Baltimore, Ohio, to the intermodal yard at Chambersburg, Pennsylvania. The FHWA and FRA have concluded that these two railroad yards are logical termini, that the corridor has independent utility, and that completion of this Phase I will not foreclose reasonable alternatives for future phases of the National Gateway initiative. In addition to the TIGER grant, the State of Ohio has pledged state funds to increase the vertical clearance at four obstructions and American Recovery and Reinvestment Act (ARRA) funds for eight other obstructions (six clearance obstructions and two interlockings). The proposed action, the rail corridor clearance improvements between these two intermodal yards, is referred to as Phase I. The forty (40) clearance obstructions and proposed improvements included in the Phase I corridor are depicted in Figure 2. The work proposed for the Phase I federally-funded projects to achieve vertical clearance includes removing four bridges, raising four bridges, modifying four bridges, modifying the liners of eight tunnels and open cutting three tunnels, and lowering or realigning tracks at seven obstructions. One interlocking (rail crossover) will be constructed to facilitate the efficient movement of trains through various improvement

¹ FRA and FHWA. 2010. Environmental Assessment and Section 4(f) Evaluation for Phase I National Gateway Clearance Initiative. Signed September 16, 2010.

locations. Finally, in Pennsylvania where tunnels are proposed for open cutting, three CSX-owned properties will be utilized as excess material placement areas. It should be noted that the states' TIGER federal funding request did not include the Northwest Ohio Terminal near North Baltimore, Ohio or the CSX Chambersburg Terminal in Chambersburg, Pennsylvania and that no federal funding was provided in the TIGER grant award for these facilities. The direct impacts of these facilities were considered in the permitting process for the facilities and these direct impacts are far removed in space from any direct impacts of the proposed action.

The projected cost to complete the clearance improvements proposed for Phase I is \$183 million. This cost will be covered by a combination of federal, state, and private funds (CSX). The U.S. DOT awarded the National Gateway Freight Rail Corridor \$98 million in TIGER grant funding. As part of the National Gateway Clearance Initiative, the State of Ohio pledged \$30 million (\$20 million in ARRA funds and \$10 million in state funds) in funding, and the Commonwealth of Pennsylvania pledged \$35 million in a Transportation Assistance Program (TAP) grant. The state funds will be utilized for the proposed clearance improvements in Phase I, in each respective state. In addition, CSX has approved up to \$20 million in capital funding to cover the remaining portion of the clearance work, if needed.

It should be noted that Ohio has separately advanced improvements to ten obstructions and two track support locations (interlocking) with funding outside the proposed action supported by the TIGER grant award. Four bridge projects are moving forward under a \$10 million state allocation. The improvements will be permitted in accordance with state and federal requirements. Additionally, in Ohio, improvements to six obstructions and the two interlockings have received a \$20 million commitment of Ohio ARRA funds. These eight improvements were approved by FHWA and Ohio Department of Transportation as Categorical Exclusions (CEs). The ten Ohio bridges are structurally deficient and therefore their replacement or removals possess independent utility. The two interlocking projects were necessitated by adjoining projects. Moreover, they do not constrain the decision to build or not build the remainder of National Gateway Phase 1. These projects are not included in this FONSI.

2.2 Purpose and Need

The **need** for the project is to improve the existing rail transportation capacity and is demonstrated by the following:

- The Freight Rail Plans for the states of Ohio, Pennsylvania, and Maryland, which support the following:
 - Estimated volumes of intermodal freight are projected to increase.
 - The level of service along the major freight rail routes will decline if improvements are not completed.
 - One key improvement to the rail infrastructure identified is removing chokepoints such as low clearance obstructions that impede the use of double-stack containers.
- Other issues that intersect with the noted need to improve the existing rail transportation capacity include:

- Freight transportation capacity, especially highway capacity, is expanding too slowly to keep up with projected demand.
 - The U.S. is increasingly dependent on foreign oil; freight trains are three times more fuel efficient than long haul trucks.
 - Greenhouse gas (GHG) emissions from freight transportation are tied closely to freight energy use. Both are growing because energy efficiency improvements in the truck freight sector have not kept pace with growth in demand.
- Completion of the project will result in incremental benefits that address the projected increasing freight capacity demands, as well as providing other gains for the U.S., such as:
 - Improving railroad capacity, thus providing a cost-effective alternative to long-haul trucking.
 - Improving U.S. economic competitiveness by reducing the use of inefficient long-haul trucking and increasing use of the more efficient existing rail corridor, which will reduce GHG emissions and the nation's dependence on oil.
 - Saving in shipper and logistics costs by increasing existing freight capacity.
 - Reducing long-haul congestion on the highway system and thus improves highway safety for the traveling public.
 - Creating short-term construction jobs, over half of which are in economically distressed areas.

The **purpose** of the proposed action is to remove obstacles to vertical clearance and complete other necessary improvements to provide for safe passage of double-stacked intermodal containers between the Northwest Ohio Terminal and the CSX Chambersburg Terminal. Completion of the proposed action will double intermodal capacity on the existing corridor without increasing noise, emissions, or the number of trains. Instead, completion of the proposed action allows any given train to more efficiently carry freight.

3. Alternatives

3.1 Build Alternative/Preferred Alternative

The *CSX Clearance Improvement Feasibility Study between Greenwich, Ohio and Chambersburg, Pennsylvania; Baltimore, Maryland and Weldon, North Carolina* (AECOM 2007) details obstructions in the corridor that prohibit the use of double-stacked freight trains and potential alternatives to clearing the identified obstructions and describes a proposed action at each individual project location. The identified goal in the feasibility study was to achieve vertical clearance improvements by providing a minimum 21-foot vertical clearance standard to allow for unimpeded passage of second generation, domestic double-stacked containers. The obstructions identified in the feasibility study can generally be separated into two categories: bridges and tunnels. There are four general methods for increasing the vertical clearance of a bridge: raise the existing bridge; modify the bridge superstructure (modify or replace); remove the bridge; or lower the tracks beneath the bridge. For tunnels, there are two general methods for increasing the vertical clearance: open cutting the tunnel (remove the overburden over the tunnel) or modifying the tunnel liner. Track lowering within existing tunnels was considered, however this method was dismissed as it would involve interrupting existing railroad service for extended periods during construction. Except for open cutting a

tunnel, these improvements are generally minor in nature, will consist of reconstructing existing infrastructure, and will generally occur within an existing right-of-way (ROW). The Build Alternative is the Preferred Alternative for this proposed action.

The following four obstructions have been recommended for **bridge removal**:

- Ohio, Youngstown, Mahoning County, Abandoned Railroad Bridge
- Pennsylvania, Coraopolis, Allegheny County, Overhead Walkway Bridge
- Pennsylvania, Pittsburgh, Allegheny County, West End J&L Tunnel, Bridge Removal
- Maryland, Mexico Farms, Allegany County, CSX Railroad Bridge

The following four obstructions have been recommended for **bridge raising**:

- Ohio, Kent, Portage County, Abandoned Railroad Bridge and ABCR Railroad Bridge (obstructions share abutment)
- Pennsylvania, McKees Rocks, Allegheny County, Ohio Central Railroad Bridge (A track lowering is still being assessed at this location.)
- Pennsylvania, Sand Patch, Somerset County, Blue Lick Truss

The following four obstructions have been recommended for **bridge modification**:

- Pennsylvania, Garrett, Somerset County, Church Street Bridge (SR 2037) (This bridge will be replaced.)
- Pennsylvania, Pittsburgh, Allegheny County, Chartiers Creek Bridge (The superstructure of this bridge will be modified.)
- Pennsylvania, Pittsburgh, Allegheny County, East End J&L Tunnel, Bridge Modification (Portions of the structure will be removed.)
- Pennsylvania, Hyndman, Bedford County, Railroad Bridge (The superstructure of this bridge will be modified.)

The following eight obstructions have been recommended for **tunnel liner modification**:

- Pennsylvania, Pittsburgh, Allegheny County, Pennsylvania, J&L Tunnel
- Pennsylvania, Confluence, Somerset County, Brook Tunnel
- Pennsylvania, Sand Patch, Somerset County, Sand Patch Tunnel
- Pennsylvania, Fairhope, Somerset County, Falls Cut Tunnel
- West Virginia, Paw Paw, Morgan County, Carothers Tunnel
- Maryland, Allegany County, in the vicinity of Magnolia, West Virginia, Graham Tunnel
- West Virginia, Hansrote, Morgan County, Stuart Tunnel
- West Virginia, Hansrote, Morgan County, Randolph Tunnel

The following three obstructions have been recommended for **tunnel open cutting**:

- Pennsylvania, Confluence, Somerset County, Benford Tunnel

- Pennsylvania, Confluence, Somerset County, Shoo Fly Tunnel
- Pennsylvania, Pinkerton, Somerset County, Pinkerton Tunnel (Tunnel liner modifications are also being assessed at this location.)

The following three areas have been recommended for **excess material placement** from tunnel open cutting operations:

- Pennsylvania, Confluence, Somerset County, Excess Material Placement Area
- Pennsylvania, Rockwood, Somerset County, Black Township Excess Material Placement Area
- Pennsylvania, Sand Patch, Somerset County, Excess Material Placement Area

Any excess materials generated during the tunnel liner modifications and grading/cut activities that cannot be used within the CSX ROW or at the three CSX-owned excess material placement areas will be managed appropriately in accordance with applicable federal, state, and local laws, ordinances, and regulations.

The following seven obstructions have been recommended for **grade adjustment (track lowering)**:

- Ohio, Akron, Summit County, Thornton Street
- Ohio, Akron, Summit County, Overhead Walkway
- Ohio, Kent, Portage County, W&LE Railway Bridge
- Ohio, Kent, Portage County, Main Street Bridge
- Ohio, Ravenna, Portage County, NS Railroad Bridge
- Pennsylvania, Pittsburgh, Allegheny County, Smithfield Street Bridge
- Pennsylvania, McKeesport, Allegheny County, Walnut Street (SR 0048) Bridge (Boston Bridge)

No public at-grade crossing closures or modifications to existing grade crossings are proposed under the Preferred Alternative.

To maintain rail traffic during improvements at the tunnels in West Virginia and Maryland, rail traffic must be shifted from one track to another. To facilitate this movement of rail traffic, one new interlocking (rail crossovers) is proposed:

- West Virginia, Magnolia, Morgan County, Magnolia Interlocking

3.2 No Build Alternative

This alternative has been studied, and it does not correct the situation that creates chokepoints to the efficient movement of double-stacked freight containers through the corridor. The No Build Alternative does not meet the purpose and need of the proposed action. The No Build Alternative assumes normal track maintenance retaining the existing conditions along the National Gateway Phase I corridor. This alternative was analyzed to provide a baseline condition for comparison and evaluation of the proposed action.

4. Summary of Project Impacts

4.1 Project Impacts

This section presents a summary of the potential impacts of the Preferred Alternative.

Land Use and Right-of-Way

- The majority of the individual improvement locations occur within CSX railroad ROWs. For a few individual obstruction improvements, minor land acquisition is necessary and/or temporary construction easements are necessary; however, local land use patterns will not change as a result of the implementation of this action. The proposed action will not change the cohesion of the neighborhoods in the specific states or communities along the route.
- All acquisition activities will be conducted in accordance with the Uniform Relocation and Real Property Acquisitions Policy Act, as amended. Table 1 notes the property acquisitions and easements required for the proposed action.
- The Preferred Alternative will not result in significant impacts to Land Use within or around the project area.

Table 1: Property Acquisitions and Easements

| Project Name | State | Temporary Easement Area (acres) | Permanent Right-of-Way (acres) |
|---|--------------|--|---------------------------------------|
| Main Street Bridge, Kent - BG117.30 | Ohio | -- | 0.631 |
| BG 115.80/115.67 - Kent Hike & Bike Trail/ ABCR RR Bridge | Ohio | 2.01 | -- |
| NS Railroad Bridge, Ravenna - BG110.80 | Ohio | 0.57 | 0.39 |
| BG 76.60 Abandoned Railroad Bridge | Ohio | 3.83 | -- |
| Church Street Bridge, Garrett - BF 220.00 | Pennsylvania | -- | 0.50 |
| Benford Tunnel, Confluence - BFJ 5.00 | Pennsylvania | -- | 1.65 |
| Shoo Fly Tunnel, Confluence - BF 236.80 | Pennsylvania | -- | 4.65 |
| Pinkerton Tunnel, Pinkerton - BF 235.40 | Pennsylvania | -- | 20.16 |
| CSX Railroad Bridge in Mexico Farms | Maryland | -- | 3.12 |

Environmental Justice - At two obstruction locations, Thornton Street and the Overhead Walkway Bridge both in Akron, Ohio, minority and/or low-income populations were identified in the obstruction vicinity. The proposed action at these two obstructions is track lowering that will be completed within the rail ROW and will not result in any significant adverse impact to the adjacent residents. The proposed action will improve the existing infrastructure within its existing alignment and thus will not change the cohesion of the neighborhoods and communities within the vicinity. To minimize construction impacts to the communities at these two locations, work will be completed during daylight hours, and the contractor will follow standard control measures that minimize fugitive dust.

Socio-Economics

- Job creation for the proposed action has been estimated using metrics established by the White House Council of Economic Advisors in which \$92,136 of government spending creates one job-year. Using these metrics, it is estimated that by the end of 2013, Phase I of the National Gateway Clearance Initiative will create more than 3,600 jobs, including nearly 1,300 jobs in economically distressed areas.
- Phase I of the National Gateway Clearance Initiative is projected to have the beneficial impact of reducing highway congestion by allowing for double-stacked freight trains and reducing the need for long-haul trucks on the region's highways. Completion will allow more freight to move on any given train, which will reduce carbon dioxide emissions by 1.19 million tons and save nearly 102 million gallons of fuel.
- The proposed action will provide relief to congested rail and highway corridors by enabling trains to more efficiently carry freight. This will directly reduce highway congestion and reduce highway maintenance costs. Benefits associated with reduced truck traffic over the next 20 years include public roadway congestion cost savings of nearly \$33.6 million and public roadway pavement cost savings of over \$59 million.

Maintenance of Traffic - The majority of work is limited to rail projects with no vehicular traffic detours or maintenance of traffic required. Two Pennsylvania obstructions will have traffic detours: J&L Tunnel in Pittsburgh and Church Street (SR 2037) in Garrett. Traffic plans (e.g., detours and traffic management measures) will be developed and coordinated with state and local representatives to help manage traffic interruptions during the construction period. No significant rail traffic impacts are anticipated.

Air Quality - The General Conformity Rule applies to all federal actions not addressed by the transportation conformity rule. Therefore, in accordance with 40 Code of Federal Regulations (CFR) 93.153 and 93.158, emissions of ozone precursor compounds nitrogen oxide (NO_x) and volatile organic compounds (VOCs) and particulate matter less than or equal to 2.5 microns in diameter (PM_{2.5}) and PM_{2.5} precursor compounds (sulfur dioxide [SO₂] and nitrogen oxides [NO_x]) were analyzed in a General Conformity analysis, for obstructions within non-attainment areas. Results of the air analysis were compared to the de minimis thresholds. The worst case for emissions is expected to be the first year of operation. The estimated releases of CO (carbon monoxide), PM_{2.5}, NO_x, SO₂, and VOCs are well below the general conformity

thresholds of 100 tons per year. Based on the air analysis, the proposed action meets the requirements of the Clean Air Act and will not result in any significant impacts to air quality.

Noise - The proposed action will not cause an increase in rail traffic noise levels because it will not provide additional mainline tracks on new alignment, it will not change the maximum operating speed of the track, and it will not substantially change the shielding effects of the surrounding area. At one obstruction, Church Street (SR 2037) in Garrett, Pennsylvania, a minor change of less than 3 feet will be made to the vertical alignment of the roadway. At a second obstruction, J&L Tunnel in Pittsburgh, Pennsylvania, 26th Street will be shifted to better align two skewed intersections (with Tunnel Boulevard and South Water Street). No changes will be made to the roadway capacity. These minor changes to alignment do not meet FHWA's Highway Traffic Noise Analysis and Abatement Policy and Guidance (1995) - Type I, project criteria. Traffic noise levels will not change as a result of the proposed improvements at these two roadway locations. The project will not result in any significant noise impacts.

Vibration - Vibration from freight trains is generally dominated by the diesel locomotive, which is the prevailing weight on most trains and considerably heavier than most of the rolling stock. For example, locomotives weigh approximately 200 tons and container stack railcars weigh approximately 73-110 tons at a maximum or only 56 percent of the weight of a locomotive. Other factors contributing to elevated vibration levels from freight train passbys, other than weight, include travel speed, stiffness of the suspension system, condition or trueness of the wheels, condition or type of rail, track type, and type of ground. Therefore, the potential vibration effects resulting from the introduction of double-stacked container cars along the existing corridor are minimal based on the lower weight of the container cars compared to other cars or the locomotive engine, and the project will not result in the introduction of any significant vibration impacts.

Hazardous Materials - The vast majority of the individual improvements are contained within the CSX ROW, and based on a records review, no hazardous materials should be encountered during construction of these improvements. No significant impacts related to the use or discovery of hazardous materials is anticipated. Should hazardous materials be encountered prior to or during the construction phase of the proposed action, any identified waste will be managed according to applicable federal, state, and local laws, ordinances, and regulations.

- In Ohio, based on Ohio Department of Transportation - Office of Environmental Services (ODOT-OES) Guidelines, further environmental site assessments or special material management may be warranted at the W&LE Railway Bridge track lowering at Kent and the Abandoned Railroad Bridge/ABCR Railway Railroad Bridge superstructure raising also at Kent. Both of these Portage County projects had stained soil. A Phase II Environmental Site Assessment, limited to soil characterization, will be conducted on the stained soils found in these projects prior to the project bid letting to determine if a plan note for special material management and proper disposal is required in the construction plans.
- In addition, the construction plans for the W&LE Railway Bridge will have a plan note for special management for contaminated groundwater, which is known to occur 5 feet below the surface, and the project will lower the tracks 1.5 feet, potentially encountering this contaminated water.

Excess Materials - Any excess materials generated during the grading/cut activities that cannot be used within the current CSX-owned ROW or within designated excess material placement areas will be managed appropriately in accordance with applicable federal, state, and local laws, ordinances, and regulations. Materials excavated during construction are expected to be considered nonhazardous.

Floodplains - Based on a review of the National Flood Insurance Program Mapping, portions of individual obstruction work locations are within the 100-year flood boundary; however, no fill material will be placed in the regulated floodplain at any of the proposed work locations, and there will be no significant impacts to floodplains under the Preferred Alternative.

Jurisdictional Wetlands - The proposed action at CSX Railroad Bridge, Mexico Farms, Maryland, will require a U.S. Army Corps of Engineers (U.S. ACE) 404 permit, and corresponding 401 Water Quality Certification from the State of Maryland, for impacts to wetlands and jurisdictional streams. It is expected that the proposed action at CSX Railroad Bridge will permanently impact approximately 0.26 acre of wetlands and temporarily impact 0.37 acre of wetlands and affect 1.0 to 1.5 acres of wetland buffer. Engineering designs to minimize these impacts are ongoing. Coordination regarding potential mitigation for the impacts at CSX Railroad Bridge will be completed as part of the permitting process. There are no other impacts to streams or wetlands at any of the other individual obstruction locations. Based on the mitigation to be completed as part of the permitting projects, the Preferred Alternative is not anticipated to cause significant impacts to wetlands.

Water Quality

- For those clearance improvements with earth disturbance over 1 acre, a Storm Water Pollution Prevention Plan (SWPPP) will be implemented during construction to reduce the potential for erosion and sediment runoff during construction activities. Best management practices for erosion control during construction will be implemented at all improvement locations to minimize pollutants entering waterways. The contractors shall follow best management practices.
- At all locations requiring a SWPPP, a National Pollutant Discharge Elimination System (NPDES) construction storm water permit, verified by the State Environmental Protection Agency, will be included with the contract plans for adherence during construction. All conditions and terms associated with these permits will be fulfilled. Because requirements set forth in the SWPPPs and NPDES permits will be followed at applicable sites, no significant impacts to water quality as anticipated as a result of the Preferred Alternative.

Threatened and Endangered Species - All improvement locations were reviewed for potential impacts to federally listed threatened and endangered species. Coordination with the U.S. Fish and Wildlife Service (U.S. FWS) in Ohio, Pennsylvania, West Virginia, and Maryland resulted in a 'no effects' conclusion in the states. However, trees suitable for use as Indiana bat (*Myotis sodalis*) summer roosting habitat have been identified in the vicinity of several Pennsylvania and West Virginia clearance improvement locations. Removal of these trees has been coordinated with the U.S. FWS in accordance with their seasonal restrictions. No significant impacts to threatened or endangered species are anticipated as a result of the Preferred Alternative.

Aesthetics - The degree to which proposed action area aesthetics and visual character may be impacted depends upon the specific activities being undertaken. Overall, Phase I of the National Gateway Clearance Initiative proposed action will create changes to the visual and aesthetic character of the rail corridor and surrounding area. Most improvements to aesthetics will occur in areas where the public will have an opportunity to realize the improvements. Conversely, the negative effects expected from certain activities will be in areas where the general public will not be affected by them. However, because most of the changes will be to existing infrastructure within an existing corridor, the majority of these changes will likely be perceived as aesthetically and visually neutral. As such, significant impacts to visual resources related to aesthetics are not anticipated.

Parks and Recreational Resources

- There will be no permanent impacts to parks or recreational resources; hence there is no 4(f) use of these resources.
- Portions of the proposed action are in the immediate vicinity of two bicycle/pedestrian paths (Kent Hike and Bike Path, Kent, Ohio and the Somerset County Rails to Trails Path Allegheny Highland Trail, Keystone Viaduct, Sand Patch, Pennsylvania) and a publicly owned area designated for open space (Open Space over the J&L Tunnel, Pittsburgh, Pennsylvania). Memorandums of Understanding (MOUs) have been completed with the public officials having jurisdiction of these resources.
 - The City of Kent owns the bike path at the Abandoned Railroad Bridge Superstructure Raising in Kent, Portage County, Ohio. The trail will be kept open during construction. Work will be minimal, with no permanent adverse physical impacts or interference with use of the trail, and the trail will be fully restored in accordance with the owner's stipulations.
 - The J&L Tunnel in Pittsburgh, Pennsylvania, is owned by CSX. The land over the J&L Tunnel is owned by the URA of Pittsburgh and is open space that the public is permitted to use for community events. FHWA and FRA have concluded that this open space is not a public park or recreation area under Section 4(f). There will be no permanent adverse physical impacts. The area will be fully restored in accordance with the owner's stipulations and replaced in kind or better at the end of construction.
 - The Blue Lick Truss, Sand Patch, Pennsylvania is currently functioning as a bicycle/pedestrian bridge for the Somerset County rails to trails, which is part of the Potomac Heritage National Scenic Trail. Based on Somerset County's request, the path will be maintained and kept open during construction. Work will be minimal, with no permanent adverse physical impacts or interference with use of the trail, and the trail will be fully restored in accordance with the owner's stipulations. Coordination with the National Park Service has been initiated and will be ongoing through the duration of the proposed action.

- Graham Tunnel in Maryland (vicinity of Magnolia, West Virginia) runs through an unnamed hill in the Green Ridge State Forest within the CSX-owned ROW. There are no recreational features of the State Forest near the Graham Tunnel project activity.

Cultural Resources

- No districts or resources eligible for inclusion on the National Register of Historic Places (NRHP) will be adversely affected in the State of Ohio. However, due to the proximity of the Portage Main Street improvements to the NRHP boundaries of the Kent Industrial Historic District, the Ohio Historic Preservation Office will be provided an opportunity to review and comment on detailed design for the project once available, per the Memorandum of Agreement (MOA) (Appendix A).
- In Pennsylvania, portions of proposed action include two historic railroad corridors, which are eligible for listing in the NRHP: Pittsburgh and Lake Erie (P&LE) Railroad and Baltimore and Ohio (B&O) Railroad Pittsburgh Division, which are in the immediate vicinity of three historic bridges of national significance: Smithfield Street Bridge (National Engineering Landmark), Pittsburgh; Walnut Street (SR 0048) Bridge (Boston Bridge), McKeesport; and Blue Lick Truss, Sand Patch.
 - The following contributing resources to the P&LE Railroad are in the immediate vicinity of or will be improved by the proposed action: Chartiers Creek Bridge, Pittsburgh & Lake Erie Station, and J&L Tunnel, all located in Pittsburgh. Through coordination with the Pennsylvania Historical and Museum Commission (PHMC) it has been determined, under Section 106 of the National Historic Preservation Act (NHPA), that there will be no adverse effects by the proposed action on the P&LE Railroad, including elements such as the railroad's vertical and horizontal alignment, tunnels and bridges, signal equipment, rock and slide fencing, drainage, stations/stops, cut and fill slopes, sidings, switches, right of way/ownership limits, vegetation as well as the noted contributing resources: Chartiers Creek Bridge, Pittsburgh & Lake Erie Station, and J&L Tunnel.
 - The B&O Railroad Pittsburgh Division stretches from McKeesport, Pennsylvania to Cumberland, Maryland. This historic railroad corridor includes the following contributing resources: Wills Creek Bridge at Hyndman, six tunnels in Somerset County, and the two unnamed bridges over Wills Creek, which are the approaches to Falls Cut Tunnel. Due to proposed vertical clearance improvements at the six tunnels in Somerset County, the PHMC determined that there would be an adverse effect by the proposed action on the B&O Railroad Pittsburgh Division. There will be no adverse effects on many of the other B&O Railroad Pittsburgh Division elements, such as Wills Creek Bridge at Hyndman; the two unnamed bridges over Wills Creek, which are the approaches to Falls Cut Tunnel; and the railroad's vertical and horizontal alignment, various unnamed bridges, signal equipment, rock and slide fencing, drainage, stations/stops, cut and fill slopes, sidings, switches, right of way/ownership limits, and vegetation. On-going efforts, after publication of the EA, to minimize impacts at the six affected tunnels have resulted in a change in the alternative selected for Sand Patch Tunnel in Somerset County. Based on new design modifications,

this tunnel is currently proposed for liner and portal notching. Sand Patch Tunnel, as noted in the EA, was proposed for total liner replacement.

- The Smithfield Street Bridge in Pittsburgh, Pennsylvania, the Walnut Street Bridge in McKeesport, Pennsylvania, and the Blue Lick Truss located in Somerset County, Pennsylvania are historic bridges of national significance. Through coordination with the PHMC it has been determined that there will be no adverse effects by the proposed action on the Smithfield Street Bridge, the Walnut Street Bridge or the Blue Lick Truss, nor will any property within a historic boundary be acquired.
- In West Virginia and Maryland, the B&O Railroad Magnolia Cutoff has been determined eligible of listing on the NRHP. The B&O Railroad Magnolia Cutoff is a twelve-mile-long, double-track and includes four tunnels (Carothers, Graham, Stuart, and Randolph), a long cut at Doe Gully, two bridges over the Potomac (Kessler and Magnolia bridges), and a concrete retaining wall west of Paw Paw, all of which are contributing resources. Due to the proposed vertical clearance improvements at the four tunnels, it was determined that there would be an adverse effect by the proposed action on the B&O Railroad Magnolia Cutoff. The proposed action will have no impact on, and therefore will not affect, the Kessler or Magnolia bridges, the long cut at Doe Gully or the concrete retaining wall west of Paw Paw and the railroad's vertical and horizontal alignment, various unnamed bridges, signal equipment, rock and slide fencing, drainage, stations/stops, cut and fill slopes, sidings, switches, right of way/ownership limits, and vegetation.
- Coordination with each State's Historic Preservation Office (SHPO) has been concluded. The SHPOs in the four states have concurred with the submitted Eligibility and Effects for Section 106 resources. A MOA has been prepared for the proposed action outlining the results of the Section 106 process and the agreed to mitigation, and signed by all parties and is included in Appendix A.

Section 4(f) Resources - A Net Benefit Programmatic Section 4(f) Evaluation has been prepared for the Phase 1 corridor, for the use of the significant historic resources with input from the FHWA, FRA, and the States. (Chapter 5 of the EA document)

5. Public Involvement and Agency Coordination

The following section provides a summary of the agency coordination and public involvement efforts that were carried out after approval of the EA (September 2010).

5.1 Circulation of the Environmental Assessment/Section 4(f) Evaluation

The EA was approved on September 15, 2010 by the FHWA and FRA. The 4(f) evaluation was approved by FHWA and concurred with by FRA. Notices of Availability were published in nineteen (19) newspapers covering the four-state region in the project vicinity. The document was circulated to the following agencies, entities, and public viewing locations:

Federal Agencies

U.S. FWS – West Virginia Field Office

National Park Service – Potomac Heritage National Scenic Trail

National Park Service – National Capital Region

National Park Service – Northeast Region

State Agencies

Ohio Department of Transportation – Office of Environmental Services (ODOT-OES)

Pennsylvania Department of Transportation (Penn DOT)

Pennsylvania Department of Community & Economic Development

Pennsylvania Department of Health*

Pennsylvania Department of Agriculture

Pennsylvania Fish and Boat Commission

Pennsylvania Game Commission - Southwest Region

Pennsylvania Department of Environmental Protection - Southwest District*

Pennsylvania Historical & Museum Commission*

West Virginia Division of Highways

West Virginia Division of Natural Resources

Eastern Panhandle Regional Planning & Development Council (West Virginia)

West Virginia Department of Environmental Protection

West Virginia Department of Transportation (WVDOT) - Program Planning & Administration

West Virginia Division of Culture and History*

Maryland State Highway Administration

Maryland Historical Trust*

Public Viewing Locations

National Gateway Webpage

(http://www.nationalgateway.org/content/resources/EA_document_downloads.cfm)

Akron Summit County Public Library, Akron, Ohio

Kent Free Library, Kent, Ohio

Public Library of Youngstown and Mahoning County, Youngstown, Ohio

Carnegie Library of Pittsburgh, Pittsburgh, Pennsylvania
Somerset County Library, Somerset, Pennsylvania
WVDOT Webpage (<http://www.transportation.wv.gov/highways/engineering/comment/ngciphase1>)
Town of Paw Paw (Mayor's Office), Paw Paw, West Virginia
Paw Paw Public Library, Paw Paw, West Virginia
Morgan County Clerk's Office, Berkeley Springs, West Virginia
Morgan County Public Library, Berkeley Springs, West Virginia
Maryland Department of Transportation Webpage (<http://www.mdot.maryland.gov/OFL/Freight>)
Allegany County Public Library, Cumberland, Maryland

Written comments were received from agencies after the publication of the EA noted with an asterisk (*). Comments are listed in Section 6.3.1 and copies of the comment letters are included in Appendix B.

5.2 Summary of Public Comments

A request for feedback and comments on the EA was included with the published Notices of Availability and with all viewing locations, including webpages. Comments were requested to be submitted by October 18, 2010. No public comments were received after the EA was signed.

5.3 Agency Comments Received on the Environmental Assessment

The comments received from agency personnel on the EA are recorded below along with responses. Copies of the comment letters are included as Appendix B.

1. Chambersburg, Pennsylvania Town Council; email of September 8, 2010

Comment 1: I would like to request that an additional copy of the Environmental Assessment and the Section 4(f) Evaluation be forwarded to the Borough of Chambersburg where they would be available for public inspection.

Response: A copy of the Environmental Assessment was provided on September 23, 2010 to the Borough of Chambersburg, as requested.

2. Pennsylvania Department of Environmental Protection – Southwest Regional Office, letter of October 6, 2010

The following comment/ response section governs only projects located in the Commonwealth of Pennsylvania.

Comment 1: The applicant should contact the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation, Box 1026, Harrisburg, PA 17108-1026, telephone number 7717.782.8946, to determine if the project will pass through or otherwise impact historic or archaeological sites. Any review comments by the commission should be included with the appropriate DEP permit applications.

Response: Historic and archaeological sites within the project area have been identified as discussed on pages 54 to 56 of the EA and consultation with the PHMC has been documented in the memorandum of agreement (MOA) presented in EA Appendix C. Coordination with PHMC will continue, as committed in the MOA.

Comment 2: The Pennsylvania Natural Diversity Inventory (PNDI) list should be cross-checked against the site locations to determine if any resources of special concern are located within the project area.

Response: Review of PNDI list was completed, as noted on pages 49 and 50 of the EA for this action which was signed September 16, 2010.

Comment 3: Any utility company with transmission lines within the project area should be contacted at least 30 days prior to work start by the contractor. The applicant or contractor should call 1.800.242.1776 before beginning any excavation.

Response: Noted coordination with utility companies is on-going and will be completed. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 4: Demolition waste cannot be burned.

Response: Demolition waste will not be burned. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 5: Fugitive dust emissions must be controlled according to 25 Pa. Code Section 123.1.

Response: Noted regulation regarding fugitive dust emissions will be complied with. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 6: If you encounter contaminated soil during excavation contact the Southwest Region's Waste Management representative at 412.442.4125, and Environmental Cleanup Program representative at 412.442.6217, for proper management.

Response: Noted coordination regarding potentially impacted soil will be completed. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 7: If above or below-ground storage tanks are to be removed, contact the Department's Storage Tank Program representative at 412.442.4091 to ensure that the requirements of 25 Pa. Code Chapter 245 are met. If existing or new storage tanks will be used to store material, contact our Division of Storage Tanks at 717.772.5599 regarding requirements for tank registration.

Response: No above or below-ground storage tanks have been identified, therefore removal of tanks is not part of this action. No new storage tanks are planned to be used as part of this action. If unknown above or below-ground storage tanks are encountered, coordination as suggested in comment 7 will be completed. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 8: The proposed project may be over abandoned underground mines. In general, any section of this project which would lie above or near an abandoned underground mine would be at some risk of mine subsidence, with the level of risk dependent on a number of factors.

The California District Mining Office has an extensive repository of underground mine maps, some of which undoubtedly are in the vicinity of the project. For an appointment to research these maps, please contact:

Bureau of District Mining Operations
California Office
25 Technology Drive
California Technology Park
Coal Center, PA 15423
James P. Welsh
Phone 724.769.1100

Response: Noted coordination regarding abandoned mines will be completed, as applicable.

Comment 9: The applicant or contractor should contact DCNR's Bureau of Topographic and Geologic Survey at 412.442.4236, 500 Waterfront Drive, Pittsburgh, PA 15222, in order to determine whether any existing or abandoned oil and gas wells are known to exist within the project boundary. Adequate plugging of such wells is required.

Response: No known oil or gas wells are within the vicinity of the proposed action. No new oil or gas wells are planned to be installed as part of this action. If unknown abandoned oil or gas wells are encountered proper abandonment of said wells will be completed. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 10: Work in and along streams and wetlands requires a Water Obstruction and Encroachment Permit from the Permitting & Technical Services Section. The area regulated is the stream and any area within the 100-year flood boundaries of any Federal Flood Insurance Study or 50 feet from the top of each stream bank if no flood insurance study exists. All wetland impacts are regulated. Please contact the Permitting & Technical Services representative at 412.442.4315.

Response: As noted on pages 48 and 49 in the EA for this action, signed September 16, 2010, no jurisdictional waters or the regulated floodplains will be impacted within the Commonwealth of Pennsylvania.

Comment 11: The following table outline the requirements for (1) Erosion and Sedimentation (E&S) Control Plans, (2) National Pollutant Discharge Elimination System (NPDES) Permits for Storm Water (SW) associated with Construction Activities be it either a General Permit (PAG-2) or an individual permit, and (3) Post Construction Storm Water Management Plans (PCSMP) as required by the U.S. EPA's NPDES Phase II Storm Water Program.

When required, the NPDES permit will typically be General Permit PAG-2 unless the project is located in a High Quality (HQ) or Exceptional Value (EV) Watershed as classified in DEP's 25 Pa. Code Chapter 93 Regulations. If located in a HQ or EV Watershed an individual permit will be required.

For specific guidance on your project please contact the County Conservation District Office for the county in which you project is located. The Conservation District will approve all E&S plans, review and approve all general permits PAG-2 and review all individual permits in HQ & EV Watersheds. Individual permits, however, will be issues by DEP's Regional Office.

| Disturbed Area | Written E&S Plan | Approved E&S Plan | NPDES W+SW Construction Permit | PCSMP |
|--|------------------|--|--------------------------------|-------|
| 0-5000 sq. ft. | Yes | No | No | N/A |
| 5000 sq. ft to less than 1 acre | Yes | Not required by may be a municipal requirement | No | N/A |
| 1 to <5 acres w/o point source to surface waters | Yes | Not required by may be a municipal requirement | No | N/A |
| 1 to <5 acres with point source to | Yes | Not required by may be a municipal | Yes | Yes |

| | | | | |
|-----------------|-----|-------------|-----|-----|
| surface waters | | requirement | | |
| 5 acres or more | Yes | Required | Yes | Yes |

If the permitted activity is in an MS4 municipality, the municipality must approve the PCSMP. The applicant should send the PCSMP to the MS4 municipality along with the municipal notification. Even where the approval of the PCSMP is not required, the permittee must develop and implement the PCSMP and will certify that the BMPs were implemented in accordance with the PCSMP when the Notice of Termination (NOT) is submitted.

A point source is a discharge from the disturbed area or the erosion control facilities through a pipe, ditch, swale or stream. A non-point source typically applies only to sites with sheet flow discharges or complete infiltration.

Consider the use of pervious pavement and/or “water gardens” for stormwater management. Utilizing these measures could eliminate the need for an NPDES permit. For additional information, contact the Watershed Management Program’s Permitting and Technical Services Section, Stormwater Engineers, at 412.422.4315.

Response: Noted permits regarding erosion and sedimentation control and storm water management will be obtained, as applicable.

Comment 12: Any remaining solid waste including non-usable construction and demolition waste, asbestos, and other materials must be properly stored and disposed promptly at an approved facility. For further information, call 412.442.4256.

Response: Noted regulation regarding the potential disposal of solid waste will be complied with. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 13: All downstream public water supplies which may potentially be affected by sedimentation or stream flow changes must be directly contacted by the contractor at least 30 days prior to work start. Any public water supply problem resulting from the project must immediately be reported to DEP’s Bureau of Water Standards & Facility Regulation at this address.

Response: Noted municipal coordination regarding public water supplies will be completed. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 14: If this project impacts any public drinking water source, both the public water supply and the appropriate DEP District Office or DEP’s Bureau of Water Standards & Facility Regulation

must be notified at least 30 days prior to work start. (*Contact addresses are provided in the comment letter.*)

Response: Noted municipal coordination regarding public drinking water sources will be completed. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 15: Any activity utilizing pollutants are required by Section 91.34 of Title 25 to take all necessary measures to prevent the substances from reaching waters of the Commonwealth. A Preparedness, Prevention and Contingency Plan (PPC Plan) must be developed and maintained on site for this project in accordance with the "Guidelines for the Development and Implementation of Environmental Emergency Response Plans" which can be found at ["http://www.depweb.state.pa.us/dep/site/default/asp"](http://www.depweb.state.pa.us/dep/site/default/asp) and click on "Technical Guidance" and type 400-2200-001 into the search field.

Response: Noted guidelines regarding the potential use of pollutants will be complied with, as applicable. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 16: Any discharge to a waterway or the ground surface requires either an NPDES discharge permit, Water Quality Management Part II Permit or temporary discharge approval. Temporary discharge approvals must meet the current guidelines. If treatment facilities are needed to meet the effluent limitations imposed by the NPDES permit, a Part II permit is required for the construction of those treatment facilities. If wastewater from an industrial process is recirculated/reused, an NPDES permit would not be needed. Contact DEP's Water Management Program representative at 412.442.4038.

Response: Noted permit for wastewater discharges will be obtained, as applicable. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 17: The applicant or contractor should contact local municipal officials through whose jurisdiction the project passes in order to determine whether or not public sanitary sewers will be impacted. Relocation of sewerlines may require issuance of a Part II Permit from DEP's Water Management Program.

Response: Noted municipal coordination regarding public sanitary sewers will be completed. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

Comment 18: Waste concrete and concrete truck wash downs can be harmful to aquatic life. Care should be taken to keep waste concrete and concrete truck wastewater from reaching storm drains, streams, drainage ditches and catch basins.

Response: Appropriate BMPs will be implemented for the waste concrete and concrete truck wash downs. As applicable, this requirement will be placed in the contractor bid packages so the contractor is aware of the stipulation and appropriate measures will be included in contract management language.

3. Pennsylvania Department of Health; email of November 4, 2010

Comment 1: In recent years, the U.S. Environmental Protection Agency, the United Nations, and other international agencies have focused concern on the environmental health impact of green house gases, such as carbon dioxide, and their contribution to global warming. The U.S. presently produces about 19.1% of the global total production of carbon dioxide.

According to Arcadis U.S., Inc., implementation of Phase I National Gateway Clearance Initiative will reduce carbon dioxide emissions into the atmosphere by 1.19 million tons. The PADOH supports efforts by industry to reduce emissions of greenhouse gases, including carbon dioxide.

Response: Letter is acknowledged.

4. Pennsylvania Historical and Museum Commission; letter of November 9, 2010

Comment 1: We concur with the findings of the agency that the significant resources involved in this project are the National Register eligible railroad lines. We understand that to keep these transportation corridors viable and functioning as they did historically, incremental changes to these resources area sometimes necessary to continue their usage and function as a railroad serving the transportation of goods across the United States.

Response: Letter is acknowledged.

5. West Virginia Division of Culture and History; letter of October 7, 2010

Comment 1: We are in receipt of the Environmental Assessment and Section 4(f) Evaluation CD. You have requested our comments on this document. After review of this document, it is our opinion that it accurately reflects the Section 106 consultation process for this project to this point.

Response: Letter is acknowledged.

6. Maryland Historical Trust; letter of October 28, 2010

Comment 1: The Maryland Historical Trust (Trust) received on 26 October 2010 a copy of the Environmental Assessment and Programmatic Section 4(f) Evaluation for the Phase I National Gateway Clearance Project for our review. We are writing to acknowledge that the report accurately represents the Section 106 consultation process and outcomes in Maryland.

Response: Letter is acknowledged.

6. 4(f) Determination - Applicability of Programmatic Evaluation

The Net Benefit 4(f) Programmatic has been prepared by the FHWA for federally funded transportation projects, which in the view of the Administration and official(s) with jurisdiction over the Section 4(f) property, the use of the Section 4(f) property will result in a net benefit to the Section 4(f) property. In order to satisfy these criteria the following requirements must be met: (Italicized text spells out how the programmatic criteria are met for this project.)

- The proposed transportation project uses a Section 4(f) park, recreation area, wildlife or waterfowl refuge, or historic site. *The project will adversely affect the tunnel features which are contributing elements of the historic B&O Railroad Pittsburgh Division in Pennsylvania and the historic B&O Railroad Magnolia Cutoff in West Virginia and Maryland.*
- The proposed project includes all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection. *Measures to minimize harm and subsequent mitigation measures are documented in the Memorandum of Agreement (Appendix A).*
- For historic properties, the project does not require the major alteration of the characteristics that qualify the property for the NRHP such that the property would no longer retain sufficient integrity to be considered eligible for the listing. For archaeological properties, the project does not require the disturbance or removal of the archaeological resources that have been determined important for the preservation in-place rather than for the information that can be obtained through data recovery. The determination of a major alteration or the importance to preserve in-place will be based on consultation consistent with 36 CFR Part 800.

The project will involve open-cutting of three historic tunnels in Pennsylvania and the liner replacement or portal notching of seven historic tunnels in Pennsylvania, West Virginia and Maryland, which are contributing features to two of the three historic railroads in the three states. The project will not adversely affect the alignment, grade, bridges, signal equipment, rock and slide fencing, drainage, cut and fill slopes, sidings, slopes or right of way limits of the historic P&LE Railroad in Pennsylvania, and B&O Railroad Pittsburgh Division in Pennsylvania and the historic B&O Railroad Magnolia Cutoff in West Virginia and Maryland. All three historic properties will retain sufficient integrity to be considered eligible for their listing on the National Register.

- For historic properties, consistent with 36 CFR Part 800, there must be agreement reached amongst the SHPO and/or Tribal Historic Preservation Officer, as appropriate, the FHWA and the Applicant on Measures to minimize harm when there is a use of Section 4(f) property. *The Memorandum of Agreement is included in Appendix A, which was signed by all parties.*
- The officials with jurisdiction over the Section 4(f) property agree in writing with the assessment of the impacts; the proposed measures to minimize harm; and the mitigation necessary to preserve, rehabilitate, and enhance those features and values of the Section 4(f) property; and that such measures will result in a net benefit to the Section 4(f) property. *The State Historic Preservation*

Officers for Pennsylvania, West Virginia and Maryland (The proposed action does not adversely affect any historic features in Ohio, therefore the Ohio SHPO did not comment.) reviewed the EA/Section 4(f) Evaluation for the project and provided their comments in writing, agreeing with the assessment of impacts, the proposed measures to minimize harm and the mitigation necessary to preserve, rehabilitate and enhance the features and values of the eligible properties, and concurring in the assessment provided. The Pennsylvania SHPO had expressed concerns about the impacts to the tunnels, but ultimately accepted the analysis provided. Adversely affected elements will be recorded and documented and interpretive histories of the historic railroads will be produced for posting on public websites.

- The Administration determines that the project facts match those set forth in the Applicability, Alternatives, Findings, Mitigation and Measures to Minimize Harm, Coordination, and Public Involvement sections of this programmatic agreement. *FHWA has found and FRA concurs the project meets the expressed criteria for the Net Benefit Programmatic Agreement and is appropriate for adoption by FRA for the proposed undertaking.*

To demonstrate that there is no feasible and prudent alternatives to the use of Section 4(f) property, the Net Benefits programmatic evaluation analysis must address the following alternatives:

- Do nothing;
- Improve the transportation facility in a manner that addresses the project's purpose and need without a use of the Section 4(f) property; and
- Build the transportation facility at a location that does not require the use of the Section 4(f) property.

This list is intended to be all-inclusive. The Net Benefits programmatic evaluation does not apply if a feasible and prudent alternative is identified that is not discussed in this document.

The Section 4(f) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4(f) Property is appropriate as all of the avoidance alternatives require the use of Section 4(f) property. The project is a rail infrastructure enhancement project. Completion of the proposed action will directly improve and maintain the long-term viability of the historic rail corridors. Completion of Phase I of the National Gateway Clearance Initiative is being developed to enhance the historic rail corridors, resulting in a net benefit to these resources from implementation of the proposed action. FHWA *has determined* and FRA *concurs*, that a "net benefit" has been achieved since the transportation use, the measures to minimize harm, and the mitigation incorporated into the project result in an overall enhancement of the Section 4(f) property when compared to both the future do-nothing or avoidance alternatives and the present condition of the Section 4(f) property, considering the activities, features, and attributes that qualify the property for Section 4(f) protection.

7. Basis for Finding of No Significant Impact

Based upon a detailed study of the proposed project as documented in the EA and upon comments received from federal, state, and local agencies, along with the public, it is the finding of the FHWA and the FRA that this project will not have a significant adverse impact upon the human or natural environment.

The project will remove obstacles to vertical clearance and complete other necessary improvements to provide for safe passage of double-stacked intermodal containers between the Northwest Ohio Terminal and the CSX Chambersburg Terminal. Completion of the project will allow any given train to more efficiently carry freight while reducing dependence on foreign oil, reducing greenhouse gas emissions, reducing highway maintenance cost and highway congestion, and creating jobs. Completion of the project will assure that CSX and the areas served by the National Gateway remain economically competitive due to the ability to virtually double existing railroad capacity and enhance efficiency.

The project will result in some minor land acquisition, and impacts to wetlands and historic resources. However, every effort has and will be made to avoid and/or minimize adverse impacts using avoidance, minimization, and mitigation techniques. No significant impacts to natural, ecological, cultural, or scenic resources are anticipated.

In consideration of the above evaluation, it has been determined that a Finding of No Significant Impact is applicable for this project. Therefore, neither an Environmental Impact Statement (EIS) nor further environmental analysis will be required.

8. Project Commitments

Phase I National Gateway Clearance Initiative

CSX Transportation, Inc. Clearance Improvements between Northwest Ohio and Chambersburg, Pennsylvania.

Commitments and Mitigation Identified in the Environmental Assessment

Corridor Wide

1. CSX will manage unexpected hazardous material encountered during construction according to applicable federal, state, and local laws, ordinances, and regulations.
2. CSX will manage excess materials that will be placed outside of current CSX-owned ROW or designated excess material placement areas according to applicable federal, state, and local laws, ordinances, and regulations.
3. CSX will obtain approved NPDES permits as needed and use of best management practices for erosion control during construction.

Ohio

4. CSX will add groundwater plan note to design plans for W&LE Railway Bridge, Kent.
5. CSX will complete soil sampling for potential material management at W&LE Railway Bridge, Kent; and Abandoned Railroad Bridge/ABCR Railway Railroad Bridge superstructure raising, Kent.
6. CSX will maintain construction activity limitations for Thornton Street and the Overhead Walkway Bridge both in Akron.

Pennsylvania

7. CSX will maintain traffic detour: J&L Tunnel in Pittsburgh and Church Street in Garrett.
8. CSX will comply with demolition activity limitations for J&L Tunnel in Pittsburgh.
9. CSX will coordinate with the National Park Service through the duration of the proposed action regarding the Potomac Heritage National Scenic Trail.
10. There are no adverse effects by the proposed action on the historic P&LE Railroad and its general elements, as well as, the noted contributing resources: Chartiers Creek Bridge, Pittsburgh & Lake Erie Station, and J&L Tunnel.
11. There are no adverse effects by the proposed action on the historic Smithfield Street Bridge, the Walnut Street Bridge or the Blue Lick Truss, nor will any property within their historic boundaries be acquired.
12. There are no adverse effects by the proposed action on the noted historic B&O Railroad Pittsburgh Division elements such as Wills Creek Bridge at Hyndman; the two unnamed bridges over Wills Creek, which are the approaches to Falls Cut Tunnel; and the railroad's other general elements not associated with the improvements at the noted tunnels.

West Virginia

13. There are no adverse effects to the noted B&O Railroad Magnolia Cutoff elements such as, the Kessler or Magnolia bridges, the long cut at Doe Gully or the concrete retaining wall west of Paw Paw and the railroad's other general elements not associated with the improvements at the noted tunnels.

Maryland

14. CSX will complete mitigation coordination for wetland impacts at CSX Railroad Bridge, Mexico Farms, Maryland.

Commitments and Mitigation Identified in the Section 106 Memorandum of Agreement Corridor Wide

1. CSX, with FHWA and FRA will complete proper coordination for any historic properties or discoveries inadvertently discovered during construction.
2. CSX, with FHWA and FRA will complete coordination with National Park Service National Capital Region, if needed, for the eastward expansion of the National Gateway Initiative through Harper's Ferry.
3. CSX, with FHWA and FRA will notify Native American Tribes if artifacts or human remains are inadvertently discovered during construction.
4. CSX, with FHWA and FRA will complete proper coordination if human remains are discovered.
5. CSX, with FHWA and FRA will complete proper coordination for design modifications that alter the potential effects to below-ground resources.

Ohio

6. CSX will provide FHWA and Ohio SHPO detailed design plans for Main Street Bridge, Kent to document the proposed action's effect on the Kent Industrial Historic District.
7. CSX will prepare and submit recordation documentation and photos completed by a Qualified Historic Preservation Consultant to the Ohio SHPO prior to demolition of historic bridges.
8. CSX will advertise availability of historic bridges.
9. CSX will produce a plaque for each historic bridge that is reused.

Pennsylvania

10. CSX will prepare and submit recordation documentation and photos of historic resources that will be affected to the Pennsylvania SHPO.
11. CSX will explore feasibility of tunnel notching and the potential in-place preservation of dates and identity markers for the affected resources.

12. CSX will offer salvageable materials (date plaques and identification markers) for reuse.

13. CSX will develop materials for a State hosted website.

West Virginia

14. CSX will prepare and submit recordation documentation and photos of historic resources that will be affected to the West Virginia SHPO.

15. CSX will develop a brief narrative for State hosted website.

16. CSX will complete research for original plans and historic photographs of affected resources.

17. CSX will explore feasibility of tunnel notching and the potential in-place preservation of dates and identity markers for the affected resources.

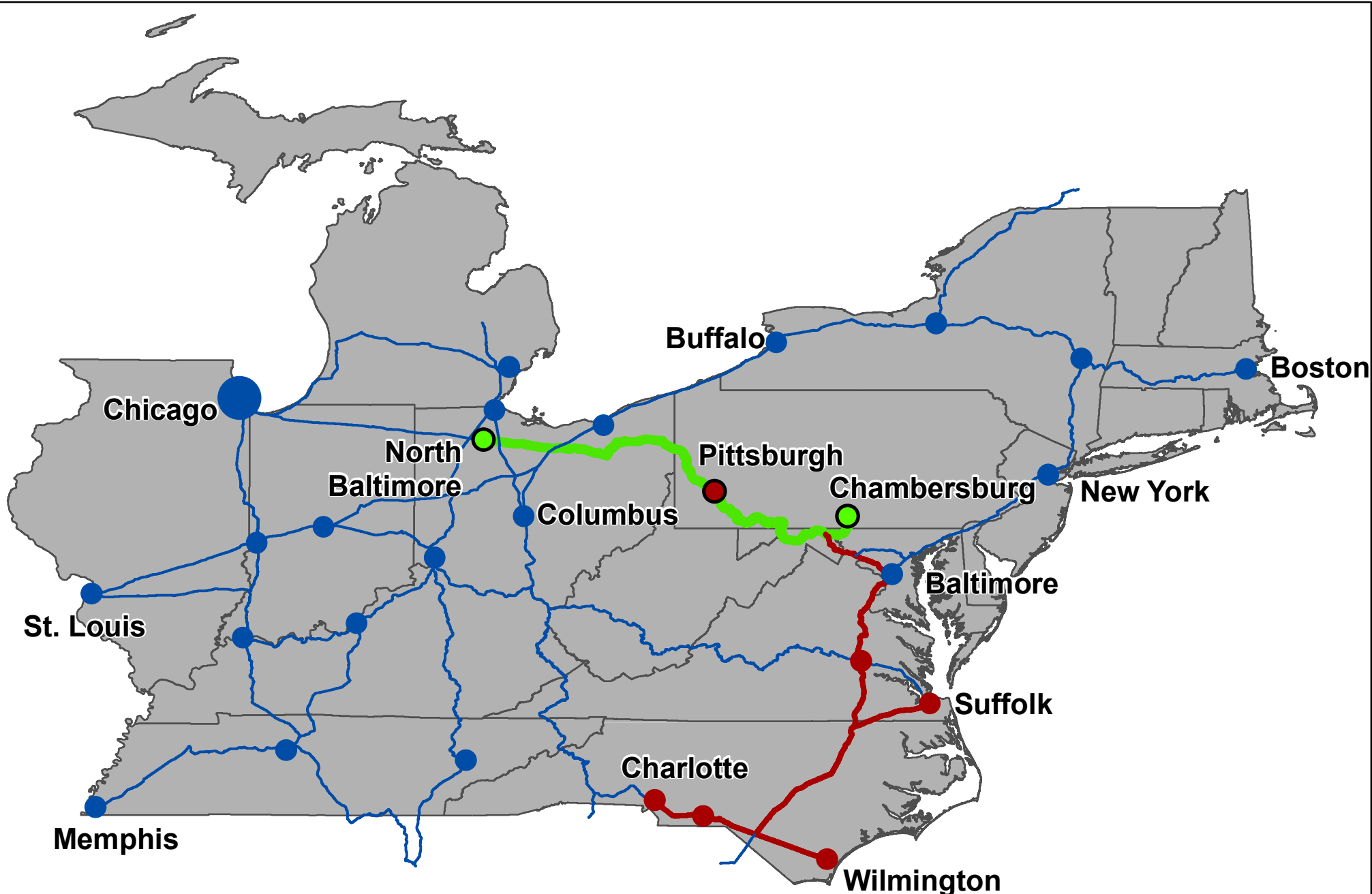
Maryland

18. CSX will prepare and submit recordation documentation and photos of historic resources that will be affected to the Maryland SHPO.

19. CSX will complete research for original plans and historic photographs of affected resources.

20. CSX will explore feasibility of tunnel notching and the potential in-place preservation of dates and identity markers for the affected resources.

Figures

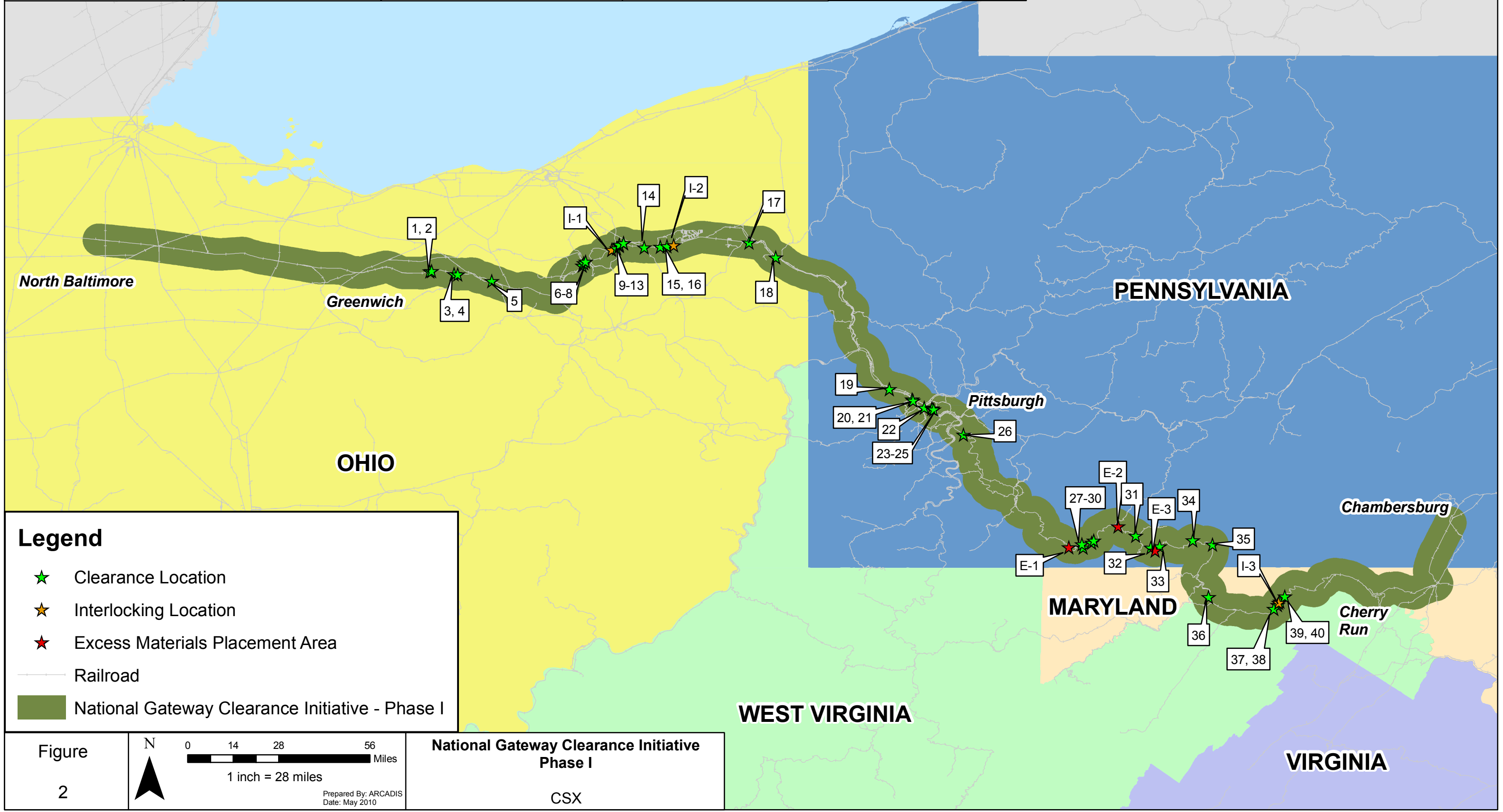


— National Gateway
— Phase 1

| | |
|-------------------------|-------------|
| National Gateway | Figure 1 |
| CSX | |

Source: CSX 2009

| | | | | | | | | | | | |
|--------|--------------------|--------|----------------------|--------|--------------------------------|--------|------------------------|--------|---------------------|--------|-----------------------|
| Number | Name | Number | Name | Number | Name | Number | Name | Number | Name | Number | Name |
| 1 | TR 391 | I-1 | New Interlocking | 16 | Rock Spring Road | 23 | West End of J&L Tunnel | 31 | Pinkerton Tunnel | 36 | CSXT Railroad Bridge |
| 2 | TR 150 | 9 | W&LE Railroad Bridge | I-2 | Complete Existing Interlocking | 24 | J&L Tunnel | E-1 | Black Township EMPA | 37 | Carothers Tunnel |
| 3 | River Corners Road | 10 | Main Street | 17 | 5th Street | 25 | East End of J&L Tunnel | 32 | Church Street | 38 | Graham Tunnel |
| 4 | Pawnee Road | 11 | Crain Avenue | 18 | Abandoned Railroad Bridge | 26 | Walnut Street | 33 | Blue Lick Truss | I-3 | Magnolia Interlocking |
| 5 | Mud Lake Road | 12 | W&LE Railroad Bridge | 19 | Overhead Walkway | E-1 | Confluence EMPA | E-2 | Sand Patch EMPA | 39 | Stuart Tunnel |
| 6 | Thornton Steet | 13 | Recreational Trail | 20 | Ohio Central Railroad | 27 | Brook Tunnel | 34 | Sand Patch Tunnel | 40 | Randolph Tunnel |
| 7 | Overhead Walkway | 14 | NS Railroad Bridge | 21 | Chartiers Creek | 28 | Benford Tunnel | 35 | Falls Cut Tunnel | | |
| 8 | Park Street | 15 | Knapp Road | 22 | Smithfield Street | 29 | Shoo Fly Tunnel | 36 | Railroad Bridge | | |

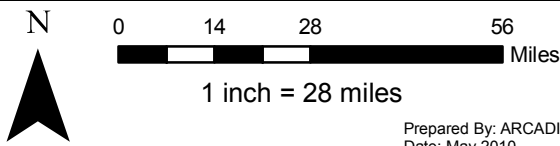


Legend

- ★ Clearance Location
- ★ Interlocking Location
- ★ Excess Materials Placement Area
- Railroad
- National Gateway Clearance Initiative - Phase I

Figure

2



**National Gateway Clearance Initiative
Phase I**

CSX

Prepared By: ARCADIS
Date: May 2010

Appendix A

Section 106 Memorandum of
Agreements

MEMORANDUM OF AGREEMENT

**AMONG THE FEDERAL HIGHWAY ADMINISTRATION (FHWA),
THE FEDERAL RAILROAD ADMINISTRATION (FRA)
THE OHIO, PENNSYLVANIA, WEST VIRGINIA, AND
MARYLAND STATE HISTORIC PRESERVATION OFFICES (SHPOs), AND THE
OHIO, PENNSYLVANIA, WEST VIRGINIA, AND
MARYLAND STATE DEPARTMENTS OF TRANSPORTATION (DOTs)
ALONG WITH CSX TRANSPORTATION, INC. (CSX)**

**REGARDING THE NATIONAL GATEWAY CLEARANCE INITIATIVE,
ASHLAND, MEDINA, SUMMIT, PORTAGE, AND MAHONING COUNTIES, OHIO;
ALLEGHENY, SOMERSET, AND BEDFORD COUNTIES, PENNSYLVANIA;
HAMPSHIRE AND MORGAN COUNTIES, WEST VIRGINIA; and ALLEGANY
COUNTY, MARYLAND**

WHEREAS, the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant program of the American Recovery and Reinvestment Act (ARRA) of 2009, PL No. 111-5 allocated funds to be utilized to provide increased vertical clearance through existing tunnels and bridges for domestic container rail traffic cars on the existing CSX rail network along the National Gateway initiative corridor between North Baltimore, Ohio and Chambersburg, Pennsylvania; and

WHEREAS, the undertaking consists of modifications to existing railroad infrastructure to provide sufficient vertical clearance for CSX to operate double-stacked domestic container rail traffic cars on CSX's existing rail network along the National Gateway initiative corridor between North Baltimore, Ohio and Chambersburg, Pennsylvania; and

WHEREAS, the undertaking will modify existing tunnels, bridges, and tracks and does not include construction of intermodal facilities, stations, sidings, or other rail facilities; and

WHEREAS, CSX has the authority to design and construct renovations along its corridor and has received Federal funding for this undertaking; and

WHEREAS, the Ohio, Pennsylvania, Maryland, and West Virginia DOTs have formed a coalition to sponsor this project with CSX; and

WHEREAS, the DOTs are the sponsors of the undertaking, and the FHWA and the FRA are serving as lead Federal agencies for the implementation of this undertaking pursuant to the

National Environmental Policy Act (NEPA, codified at 42 United States Code [U.S.C.] 4321 *et seq.*); and

WHEREAS, the FHWA, and the FRA are the Federal agencies responsible for compliance with Section 106 of the National Historic Preservation Act (codified at 16 U.S.C. Section 470f, and herein “Section 106”); and

WHEREAS, the FHWA’s respective Division Offices in the four states have been involved in the early coordination and shall assist the FHWA Eastern Federal Lands Office, who shall provide oversight for the design and construction of the projects; and

WHEREAS, the FHWA and DOTs have consulted with the Ohio, Pennsylvania, West Virginia, and Maryland SHPOs; and

WHEREAS, in Ohio, the FHWA and the Ohio DOT have determined in coordination with the Ohio SHPO that the Kent Industrial Historic District, listed on the National Register of Historic Places is within the area of potential effects; and

WHEREAS, in Ohio, three historic bridges that would have been part of this undertaking were found to be structurally deficient and the replacement of those bridges were advanced as separate undertakings and were funded in part by the ARRA. The FHWA, the Ohio SHPO, and the Ohio DOT have consulted regarding the adverse effect finding for the ARRA-funded portion of the project within Ohio and notified the Advisory Council on Historic Preservation (ACHP) of the adverse effects. Individual memoranda of agreement were executed on December 9, 2009 for each adversely affected bridge: Mud Lake Road Bridge in Medina County, Knapp Road Bridge in Portage County, and Fifth Street Bridge in Trumbull County; and

WHEREAS, in Ohio, four historic properties are within the portion of the National Gateway initiative corridor to be funded entirely by the Ohio Department of Development (ODOD) and are not part of the Federal undertaking. These projects, identified as ASD-TR 391, Sullivan, BG 175.70, bridge replacement; ASD-TR 150, Sullivan, BG 175.30, bridge removal; MED-River Corners Rd., Pawnee, BG 169.70, bridge replacement; and MED-Pawnee Rd., Pawnee, BG 168.70, bridge removal are separate undertakings and shall be advanced separately by ODOD in consultation with the Ohio SHPO; and

WHEREAS, in Pennsylvania, the FHWA and the Pennsylvania DOT have determined in consultation with the Pennsylvania SHPO that the following properties are eligible for listing in the National Register: the Baltimore and Ohio Railroad Pittsburgh Division; the Pittsburgh and Lake Erie Railroad; the Chartiers Creek Bridge; Pittsburgh & Lake Erie Railroad Complex, Pittsburgh & Lake Erie Station, J&L Tunnel, Walnut Street/ Boston Bridge, the Blue Lick Truss (also known as Keystone Viaduct), and Wills Creek Bridge, Smithfield Street Bridge is a National Historic Landmark; and

WHEREAS, in Pennsylvania, the FHWA and the Pennsylvania DOT have determined in consultation with the Pennsylvania SHPO that the proposed action may have an adverse effect on resources contributing to the Baltimore & Ohio Railroad, Pittsburgh Division, including Brook, Benford, Shoo Fly, Pinkerton, Sand Patch, and Falls Cut tunnels, and have consulted with the SHPO pursuant to 36 Code of Federal Regulations (CFR) part 800 of the regulations implementing Section 106. It has also been determined that the undertaking will have no adverse effect on the Pittsburgh and Lake Erie Railroad, the Chartiers Creek Bridge, and the Blue Lick Truss (also known as Keystone Viaduct); and

WHEREAS, in West Virginia, the FHWA and West Virginia DOT have determined in consultation with the West Virginia SHPO that the following properties are eligible for listing in the National Register: the Baltimore & Ohio Railroad and the Magnolia Cutoff, which includes Carothers, Stuart, and Randolph tunnels,; and

WHEREAS, in West Virginia, the FHWA and the West Virginia DOT have determined in consultation with the West Virginia SHPO that the undertaking may have an adverse effect on contributing resources to the Baltimore & Ohio Railroad and the Magnolia Cutoff, which includes Carothers, Stuart, and Randolph tunnels, and have consulted with the SHPO pursuant to 36 CFR part 800 of the regulations implementing Section 106; and

WHEREAS, in Maryland, the FHWA and the Maryland DOT have determined in consultation with the Maryland SHPO that the following properties are eligible for listing in the National Register: Graham Tunnel (part of the Magnolia cutoff of the Baltimore & Ohio Railroad); and

WHEREAS, in Maryland, the FHWA and the Maryland DOT have determined in consultation with the Maryland SHPO that the undertaking may have an adverse effect on Graham Tunnel and have consulted with the Maryland SHPO pursuant to 36 CFR part 800 of the regulations implementing Section 106; and

WHEREAS, in accordance with 36 CFR part 800.6(a)(1), the FHWA has notified the ACHP of its adverse effect determination with specified documentation, and the ACHP has not chosen to participate in the consultation pursuant to 36 CFR part 800.6(a)(1)(iii); and

WHEREAS, the FHWA has invited Federally recognized Indian Tribes (Tribes) that may attach religious and/or cultural significance to any affected property within the area of potential effect pursuant to 36 CFR part 800.3(f)(2), listed in Attachment1, to participate in the consultation. Attachment 1 identifies those Tribes who declined to participate in this consultation but have asked to be notified of any Native American artifacts or human remains that are inadvertently discovered; and

WHEREAS, the FHWA and the DOTs have invited organizations to participate as consulting parties regarding the effects of the undertaking on historic properties, and the Pittsburgh History and Landmarks Commission and the City of Pittsburgh Department of Planning have agreed to consulting party status; and

WHEREAS, the public has been notified of the undertaking through a combination of newspaper advertisements, media releases, and public meetings; and

WHEREAS, the FHWA and the DOTs have determined that the effects of the undertaking cannot be avoided and that all reasonable measures have been taken to minimize adverse effects on historic properties; and

WHEREAS, the plans are to restrict ground disturbance and associated direct construction impacts to the previously disturbed limits of the railroad bed, track, bridges, parking lots, roadways, and tunnels; however, the possibility exists that historic properties could inadvertently be discovered during construction activities, and these will be governed by the inadvertent discovery clauses in 36 CFR part 800.2 and stipulations of this MOA;

WHEREAS, if additional future Federal funding becomes available for eastward expansion of the National Gateway Initiative through Harper's Ferry, the FHWA or the FRA shall invite the National Park Service, National Capital Region, to participate as a consulting party in that undertaking; and

NOW, THEREFORE, the FHWA, the DOTs, and the SHPOs agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The DOTs agree to the following stipulations, and the FHWA shall ensure that these measures are carried out:

I. MITIGATION

A. Ohio

1. Prior to the start of construction that could adversely affect the Kent Industrial Historic District, CSX shall provide FHWA documentation of the proposed action's effect on the Kent Industrial Historic District, including measures to minimize harm. The FHWA shall ensure CSX submits the documentation to the Ohio SHPO for review and comment. The Ohio SHPO shall have thirty (30) calendar days upon receipt of the documentation of affect to comment. If the Ohio SHPO does not comment within the 30 days, the FHWA shall assume concurrence and proceed.

2. Immediately upon execution of the MEMORANDUM OF AGREEMENT and prior to demolition of the historic bridges within the area of potential effects of the ODOD portions of the National Gateway Clearance Initiative, known as the ASD-TR 391 Bridge, BG 175.70; ASD-TR 150 Bridge, BG 175.30; MED-River Corners Road Bridge, BG 169.70; and MED-Pawnee Road Bridge, BG 168.70, CSX shall retain a qualified historic preservation consultant who meets the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61) in history, architecture, architectural history, or historic architecture to document the historic bridges.
3. Prior to demolition of the historic bridges, CSX shall ensure the Preservation Professional prepares narrative reports documenting the significance of each historic bridge. The reports will be equivalent in content to that required by the Historic American Engineering Record (HAER) Documentation Level II. The Preservation Professional shall produce a series of photographs that documents each historic bridge. Photographs from the following vantage points are expected: both approaches, both sides, and view of the bridge from the level of the rail corridor. Following the guidelines in the *National Register of Historic Places and National Historic Landmarks Survey Photo Policy Expansion, March 2005*, or later updates of this document, the Preservation Professional shall take digital photographs and produce 4-inch by 6-inch prints and a CD of the photographs. The prints shall be labeled and packaged according to the *Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation: HABS/HAER Standards* (National Park Service 1990). A list of photo captions (Photo Index) and a site plan showing the location and direction of the photographs (Photo Key) shall be included. A maximum of ten (10) new photographs shall be produced. The Preservation Professional shall consult with the CSX to find original plans and historic photographs. If available, the Preservation Professional shall digitally reproduce the plans and photographs by creating high-quality scans in tagged image file format (*.tiff) at a resolution of at least 300 dots per inch (dpi). The *.tiff files shall be burned to an archival gold CD-R or DVD-R to be included in the documentation package and made into prints that shall be processed, labeled, and packaged according to the *Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation: HABS/HAER Standards* (National Park Service 1990). Captions for reproduced historic photographs shall be included in the Photo Index and entries showing the location and direction of these photographs should be included in the Photo Key.
4. Prior to the demolition of the historic bridges, CSX shall ensure the Preservation Professional submits drafts of the documentation to the Ohio SHPO for review and comment. The phrase "Submitted to the Ohio Historic Preservation Office" must appear on the title page of each documentation package. This allows the State Library of Ohio, the designated regional archive, to process for entry into the collections. A byline for the report's author(s) on the title page is acceptable. CSX shall distribute the approved documentation as detailed below:

- i. One (1) unbound original and two (2) bound, high-quality, photocopies with printed photographs, and one (1) CD of the complete report and photographs will be provided to the State Library of Ohio at the following address: Ms. Audrey L. Hall, Government Information Services, The State Library of Ohio, 274 E. First Ave., Columbus, OH 43201.
 - ii. Ten (10) bound, high-quality, photocopies of the unbound original and eleven (11) CDs of the complete report and photographs will be made available to the agency officials, the consulting parties, and others as identified.
5. Prior to demolition of the historic bridges, CSX shall advertise (for a 60-day period) the availability of the bridges for reuse by outside parties in an effort to preserve the historic significance of the resources. The outside parties shall be responsible for removal of the bridges from the CSX right-of-way and relocating them to a new location. If multiple parties express interest in any of the bridges, CSX shall consult with the Ohio SHPO in the selection of new owner(s) for the bridges. CSX shall remove and retain the bridges along the construction site for 30 days after the advertisement period. If outside parties do not respond or do not remove the bridges from the construction site within 30 days, CSX shall properly dispose of the bridges.
6. Prior to removal and relocation of the historic bridges, CSX shall produce a plaque for each historic bridge to be reused. The Preservation Professional shall submit a draft of the plaque text and rendering to the Ohio SHPO for review and comment for each bridge to be reused. CSX shall request the Preservation Professional revise the plaque text and rendering pursuant to the Ohio SHPO comments. Upon receipt of the revised plaque text and rendering from the Preservation Professional, CSX shall forward the revised documentation to the Ohio SHPO for a 30-day review and comment period. This process will be repeated until a final approval is received from the Ohio SHPO. Upon the Ohio SHPO approval of the final plaque text(s) and rendering(s), CSX shall ensure the plaque is displayed on or near the relocated bridge.

B. Pennsylvania

1. Prior to the start of construction that could adversely affect them, the Brook, Benford, Shoo Fly, Pinkerton, Sand Patch, and Falls Cut tunnels, contributing features to the Baltimore & Ohio Railroad, Pittsburgh Division, will be documented by CSX to State-level standards established by the Pennsylvania SHPO. The documentation of each tunnel will include photographic recordation, a brief description, and a historical narrative. The photographic documentation will include archival quality, 35 millimeter (mm) black-and-white photographs printed in a 5-inch by 7-inch format, with each print labeled in pencil with the name and location of the resource, date of photograph, and view shown. The photographic documentation will also include digital photographs prepared to National Register standards. The photographs will be keyed to site plan/maps. The historical narrative of each tunnel will

include a discussion of the significance of the tunnel as part of the Baltimore & Ohio, Pittsburgh Division. The documentation package will also include archival copies of previous documentation and historic photographs. A copy of the approved documentation will be made available to the Pennsylvania SHPO and the consulting parties in digital and hard copy formats.

The Pennsylvania SHPO and consulting parties shall have thirty (30) calendar days upon receipt of the documentation packages in which to comment. If the Pennsylvania SHPO and the consulting parties do not comment within the 30 days, the FHWA shall assume concurrence and proceed.

2. CSX shall explore, to the extent feasible using customary engineering practices and standards, opportunities to notch the Brook, Sand Patch, and Falls Cut tunnels so that the Date Plaques and identification markers may be preserved in place.
3. If notching described in I.A.2 above is not feasible, the date plaques or identification markers of the adversely affected tunnels, as outlined in Attachment 2, will be salvaged and offered for reuse to appropriate organizations by CSX. Every effort will be made to remove the materials in a manner that is sensitive to the historic fabric. The organizations listed in Attachment 2 shall be contacted to determine their interest in receipt of the materials. In the case that more than one entity responds that they would accept receipt of the materials, the hierarchy of distribution will follow the order outlined in Attachment 2. Should any of the organizations accept the salvageable materials, the FHWA shall ensure the recipient shall accept full responsibility for the removed materials. If a recipient for the salvaged materials cannot be identified within nine months of the start of the solicitations of interest, then the FHWA shall notify CSX that they (CSX) shall assume ownership of the materials.
4. CSX shall develop materials for a website on the history of the National Gateway initiative corridor through Pennsylvania for the information of the general public. The website will include a brief history and discussion of the technology of the Baltimore & Ohio Railroad, Pittsburgh Division, and the Pittsburgh & Lake Erie Railroad, those historic lines that make up the National Gateway initiative corridor. The history will highlight the impacts of the rail lines on local communities, industries, and regional and State transportation routes. The website will include a summary of the National Gateway initiative corridor improvements. The website will be illustrated using historic and current photographs and short video clips. The website will be developed in coordination with, hosted by, and maintained by the Pennsylvania SHPO. An article to be published in a popular historical publication will

present the history of the National Gateway initiative corridor and publicize the release of the website.

The Pennsylvania SHPO shall have thirty (30) calendar days upon receipt of the first and second drafts of the website materials and article in which to comment. If the Pennsylvania SHPO does not comment within the 30 days, the FHWA shall assume concurrence and proceed.

C. West Virginia

1. Carothers, Stuart, and Randolph tunnels, contributing features of the Magnolia Cutoff of the Baltimore and Ohio Railroad, will be documented by CSX prior to the start of the proposed action. The documentation will include digital photographic recordation to National Park Service standards. The photographic documentation will be accompanied by updated Historic Preservation Inventory (HPI) forms. A digital copy of the approved documentation will be made available to the West Virginia SHPO, the West Virginia State Archives, West Virginia University, Morgantown, and the Historic Landmarks Commission of Morgan County.

The West Virginia SHPO shall have thirty (30) calendar days upon receipt of the documentation packages in which to comment. If the West Virginia SHPO does not comment on the documentation within the 30 days, the FHWA shall assume concurrence and proceed.

2. A brief (approximately 10-page) history of the Baltimore and Ohio Railroad's Magnolia Cutoff will be prepared by CSX. The history will be used to provide information on the historic and engineering significance of the line and the Magnolia Cutoff to the general public. CSX shall develop materials for a website on the history of the Magnolia Cutoff for the information of the general public, which will include copies of historic photographs of the cutoff under construction and original tunnel plans. CSX will research the archives of the B&O Railroad Museum, West Virginia University West Virginia and Regional History Collection, and CSX holdings in an attempt to locate and copy any original photos, construction plans or "as-built" plans for the Magnolia Cutoff. The history will be developed in coordination with the West Virginia SHPO and will reuse information presented in the HPI form previously prepared for the Magnolia Cutoff. CSX shall provide the West Virginia SHPO with one initial and one final draft of the text, graphics, and layout of the history for comment. The brief history will be posted on a public website determined in coordination with the West Virginia SHPO. CSX will provide a hard copy of the history to the West Virginia SHPO, the West Virginia State Archives, West Virginia University, Morgantown, and the Historic Landmarks Commission of Morgan County.

The West Virginia SHPO shall have thirty (30) calendar days upon receipt of the history in which to comment. If the West Virginia SHPO does not comment within the 30 days, the

FHWA shall assume concurrence and proceed.

3. CSX shall explore, to the extent feasible using customary engineering practices and standards, opportunities to notch the Carothers, Stuart and Randolph tunnels so that the date and identification markers may be preserved in place.

D. Maryland

1. CSX shall document the Graham Tunnel prior to any demolition activities and provide the documentation to the Maryland SHPO. The documentation shall include black-and-white photographs sufficient to portray the tunnel's interior arch liner, exterior portals, its architectural details, and its surrounding context to provide an accurate record of the tunnel and its setting. The recordation shall follow the Maryland Historical Trust's (MHT) *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (MHT 2000). The FHWA shall assure that CSX shall submit the documentation to the Maryland SHPO for review and comment.

The FHWA shall assure that CSX make a good faith effort to locate and copy original construction plans or "as-built" plans for the Graham Tunnel. Multiple repositories, including the CSX archives, shall be examined. If located, CSX shall produce 8½-inch by 11-inch black-and-white copies or photographs of the plans and submit the documentation to the Maryland SHPO for review and comment. If historic plans for the Graham Tunnel are not located, CSX shall inform the Maryland SHPO in writing of the methodology used to conduct the research and a list of repositories consulted. The Maryland SHPO shall determine if a good-faith effort was made and if any additional research is warranted.

The Maryland SHPO shall have a thirty (30) day review period to respond with comments. If the Maryland SHPO does not respond within a 30 day review period, then it can be assumed that the recordation package has been accepted by the Maryland SHPO.

2. CSX shall explore, to the extent feasible using customary engineering practices and standards, opportunities to notch the Graham Tunnel so that the date and identification markers may be preserved in place.
3. Per Coordination with the Maryland Historical Trust Act of 1985: The Maryland SHPO agrees that the fulfillment of the terms of this MOA will satisfy the responsibilities of the Maryland DOT and any other Maryland State agency under the requirements of Maryland State historic preservation law (§§ 5A-325 and 5A-326 of the State Finance and Procurement Article, Annotated Code of Maryland) for the components of the proposed action that require licensing, permitting, and/or funding actions from Maryland State agencies.

II. POST REVIEW DISCOVERIES

- A. The FHWA shall implement the following plan for discovery of historic properties should the proposed undertaking encounter a previously unknown historic property, or should the undertaking directly or indirectly affect a known property in an unanticipated manner. Initially, all work within 50 feet of the find that might adversely affect the historic property shall cease until the respective FHWA office, in consultation with the respective SHPO, can evaluate the historic property's National Register eligibility and the probable effects to it. The respective FHWA office shall also consult with the respective SHPO and other consulting parties to evaluate the discovery and to determine whether avoidance, data recovery, or other mitigation measures should be undertaken. The respective FHWA office shall complete this consultation and evaluation no later than within seven days of the discovery.
- B. The respective FHWA office shall ensure that the design and initiation of data recovery or other mitigation measures shall be implemented as expeditiously as possible and with the respective SHPO's approval. Mitigation measures shall be arrived at through consultation and agreed upon by all parties to the consultation. If data recovery is the selected treatment option, the respective FHWA office shall ensure that the plan is developed in consultation with the SHPO and other consulting parties and is consistent with the ACHP's Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites (April 2002). In the event a dispute arises with regard to appropriate mitigation measures, the respective FHWA office shall consult with the ACHP in accordance with Stipulation VII outlined herein to resolve the issue.

III. DISCOVERY OF HUMAN REMAINS

A. If human remains are discovered, the appropriate FHWA office shall ensure that further construction does not occur within 50 feet in any direction of the discovery until a qualified archaeologist arrives to assess the discovery. The FHWA office shall secure the area of the apparent human remains to ensure no further disturbance or removal of those remains and associated materials occurs. After arrival at the site, the archaeologist shall evaluate the discovery. If it does consist of human remains, the archaeologist shall follow the procedures as follows:

- If human remains and cultural items, as defined by the Native American Graves Protection and Repatriation Act (NAGPRA), are encountered on Federal lands during construction activities, work within 50 feet of the discovery will cease. The appropriate State DOT shall immediately notify the respective FHWA office and respective SHPO of the discovery. The appropriate Federal land-managing agency shall then implement internal procedures for complying with NAGPRA.

- On non-Federal lands, or in the event that human remains not subject to NAGPRA are discovered on Federal lands, a permit for the archaeological removal of human remains may be required under applicable respective State law, together with assurances that any such remains will be treated with dignity and respect.
- Notification of the finding of human remains will be provided to the Tribes so identified on Attachment 1.

IV. UNDERTAKING MODIFICATIONS

- A. It may be possible that during construction, certain minor modifications to the undertaking may become necessary. Examples of these modifications include rerouting to avoid other environmental impacts, temporary construction, the establishment of construction camps or staging areas, minor changes in access route or rights-of-way, borrow areas, and other construction contractor-dependent actions. Should the undertaking be modified in a manner that alters its potential to affect below-ground resources, the respective FHWA office shall ensure that any area scheduled for surface disturbance will be inventoried for cultural resources prior to any disturbance of the area in a manner conforming to this agreement, as well as State and Federal regulations, pursuant to 36 CFR part 800.4. A separate cultural resource inventory may be necessary to cover additional surveys and will follow appropriate State regulations and guidelines. The documentation will be provided to the SHPOs and any interested Federally-recognized Tribes, as appropriate, for a 30-day review and comment.
- B. Should historic properties be identified during an additional inventory, the respective FHWA office shall follow the provisions of this agreement and applicable State and Federal regulations for assessment of effect, pursuant to 36 CFR parts 800.5.

V. INITIATION OF CONSTRUCTION ACTIVITIES

- A. The individual site surveys and documentation shall be completed and accepted by the respective SHPOs prior to the start of any construction work at the individual locations. Completion of all additional mitigation will be completed within 12 months of the signing of this MOA. Completion of this additional mitigation will not preclude initiating construction activities. The respective SHPOs shall have 30 days upon receipt of the complete documentation package in which to comment on the material. If the West Virginia SHPO, Pennsylvania SHPO, Ohio SHPO, or Maryland SHPO do not respond within the 30 days, the FHWA shall assume concurrence and proceed.
- B. These construction activities will be subject to the requirements in Stipulation II regarding post-review discoveries and Stipulation III regarding human remains.

VI. AMENDMENTS TO THIS AGREEMENT

Any signatory to this MOA may propose to the FHWA that it be amended, whereupon the FHWA shall consult with the other parties to this MOA to consider such an amendment. 36 CFR part 800.6(c) (7) shall govern the execution of any such amendment.

VII. DISPUTE RESOLUTION

- A. Should any signatory to this MOA object within 30 calendar days to any actions proposed pursuant to this MOA, the FHWA shall inform all signatories of the nature of the dispute and consult with the objecting signatory to resolve the objection. If the FHWA determines that such objection cannot be resolved, the FHWA shall forward all documentation relevant to the dispute to the ACHP. Within 30 calendar days after receipt of all pertinent documentation, the ACHP shall:
1. Advise the FHWA that the ACHP concurs in the FHWA's proposed response to the objection, whereupon FHWA shall respond to the objection accordingly;
 2. Provide the FHWA with recommendations, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
 3. Notify the FHWA that the objection will be referred to comment pursuant to 36 CFR part 800.7 and proceed to refer the objection and comment. The resulting comment shall be taken into account by the FHWA in accordance with 36 CFR part 800.13.
- B. Should the ACHP not exercise one of the above options within 30 calendar days after receipt of all pertinent documentation, the FHWA may assume the ACHP's concurrence in its proposed response to the objection.
- C. Responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. TERMINATION

- A. Only the signatories may terminate this MOA. If any signatory proposes termination of the MOA, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VI, above.
- B. If within 30 calendar days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Termination shall render this document null and void.
- C. When the MOA is terminated, and prior to work continuing on the undertaking, the FHWA

must either (a) execute an MOA pursuant to 36 CFR part 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR part 800.7. The FHWA shall notify the signatories as to the course of action it will pursue.

IX. DURATION

This MOA will be null and void if its terms are not carried out within 5 years from the date of its execution. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VI above. Upon a determination by the FHWA that construction of all aspects of the undertaking have been completed and that all terms of this MOA have been fulfilled in a satisfactory manner, the FHWA shall notify the other signatories of this determination in writing, whereupon this MOA shall no longer be in effect.

Execution of this MOA by the FHWA, the SHPOs, and the DOTs and implementation of its terms evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Federal Highway Administration

Melisa Ridenour Date **2 Sep 10**

Melisa Ridenour

Division Engineer

Eastern Federal Lands Division

Federal Railroad Administration

Mark Yachmetz 9/15/10 Date

Mark Yachmetz

Associate Administrator

Office of Railroad Policy and Development

Ohio State Historic Preservation Officer

 Date 8.2.10

[Mark Epstein, Department Head, Resource Protection and Review]

Ohio Department of Transportation

 8/3/10
[Jolene M. Molitoris, Director]

Pennsylvania State Historic Preservation Officer

Jean H. Cutler DSAPO Date 8/9/2010
[insert name and title]

Jean H. Cutler, Deputy State Historic
Preservation Officer, Pennsylvania

Pennsylvania Department of Transportation

Eric G. Madden Date 08/13/2010
[insert agency official name and title]

Eric G. Madden
Deputy Secretary for Aviation and Rail Freight


West Virginia State Historic Preservation Officer

Susan Pierce Date August 20, 2010
[insert name and title] Deputy State Historic Preservation Officer

West Virginia Department of Transportation

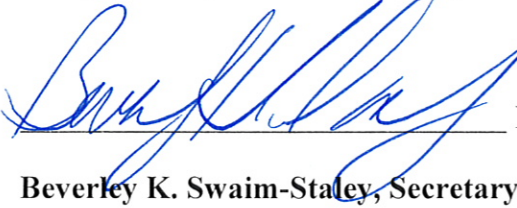
Paul d. Matto, Jr. Date 8/18/10
West Virginia Division of Highways

Maryland State Historic Preservation Officer

 8/2/10 Date

J. Rodney Little, State Historic Preservation Officer

Maryland Department of Transportation

 8/16/10 Date

Beverley K. Swaim-Staley, Secretary

CSX Transportation, Inc.

Dale Ophardt

Date

8/20/10

Dale Ophardt, AVP Engineering

ATTACHMENT 1

National Gateway Tribal Coordination List

| Tribal Organization | Response |
|---|---|
| Absentee-Shawnee Tribe of Oklahoma | None received |
| Cayuga Nation | None received |
| Cherokee Nation of Oklahoma | None received |
| Citizen Potawatomi Nation | None received |
| Community of Wisconsin Potawatomi Indians | None received |
| Delaware Nation | Additional Information requested & provided- Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Delaware Tribe Delaware Tribe of Indians | Additional Information requested & provided- Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Eastern Band of Cherokee Indians of North Carolina | Declined to participate – project beyond their area of traditional occupation |
| Eastern Shawnee Tribe of Oklahoma | Additional Information requested & provided- Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Keweenaw Bay Indian Community, Lake Superior Chippewas | None received |
| Miami Tribe of Oklahoma | Additional Information requested & provided- Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Oneida Indian Nation | Additional Information requested & provided- Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Oneida Nation of Wisconsin | None received |
| Onondaga Nation | Declined to participate but wish to be notified if human remains are inadvertently discovered. Requested archaeological reports |

| | |
|--|---|
| Ottawa Tribe of Oklahoma | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Peoria Tribe of Indians of Oklahoma | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Prairie Band of Potawatomi Indians | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Seneca Nation of Indians | None received |
| Seneca-Cayuga Tribe of Oklahoma | None received |
| Shawnee Tribe Shawnee Tribe of Oklahoma | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| St. Regis Mohawk Tribe | None received |
| Stockbridge-Munsee Band of the Mohican Nation of Wisconsin | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Tonawanda Seneca Nation | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Tuscarora Nation | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Turtle Mountain Band of Chippewa Indians | None received |
| United Keetoowah Band of Cherokee Indians of Oklahoma | None received |
| Wyandotte Nation | Declined to participate but wish to be notified if human remains are inadvertently discovered |
| Youghiogheny River Band of Indians, Inc | None received |

ATTACHMENT 2

List of potential salvageable materials at tunnel locations in Pennsylvania:

- Brook Tunnel – Stone block with name engraved and keystone with date engraved; both portals
- Pinkerton Tunnel – Stone block with name engraved and keystone with date engraved; both portals

List of organizations to be notified of salvaged material availability in Pennsylvania:

1. Railroad Museum of Pennsylvania in Strasburg
2. Baltimore & Ohio Railroad Museum in Baltimore
3. Baltimore & Ohio Historical Society in Baltimore
4. Historical and Genealogical Society of Somerset County
5. Allegheny Historic Preservation Society
6. Pittsburgh History & Landmarks Foundation

Appendix B

Agency Correspondence Letters

Register, Martha

From: Register, Martha
Sent: Monday, October 18, 2010 3:58 PM
To: Register, Martha
Subject: FW: National Gateway Clearance Initiative Phase I
Attachments: Figure 2 National Gateway Obstructions Phase1.pdf; RE: Public Notices

From: DanW.Johnson@dot.gov [mailto:DanW.Johnson@dot.gov]
Sent: Thursday, September 23, 2010 10:15 AM
To: wfm1306@gmail.com
Subject: RE: National Gateway Clearance Initiative Phase I

Mr. McLaughlin,

Thanks for your interest in the National Gateway Clearance Initiative Phase I. I've requested that a CD containing the Environmental Assessment of the project be forwarded to the Borough of Chambersburg, at 100 S. 2nd Street, Chambersburg, PA 17201.

While the Chambersburg Intermodal yard is a terminus of this study, the closest physical construction of the Phase I of the project, which is to remove vertical clearance obstructions to the passage of double stack trains along CSX track and certain other related actions between Chambersburg, PA and the Northwest Ohio Intermodal yard in North Baltimore Ohio, is modification of tunnels west of Cumberland, MD. I'm attaching a figure from the document that illustrates the locations where construction will occur as a result of the proposed project.

A copy of the Environmental Assessment is also available online at
http://www.nationalgateway.org/content/resources/EA_document_downloads.cfm

Thanks again for your interest.

Daniel W. Johnson
Environmental Program Specialist
FHWA Resource Center at Baltimore
10 S. Howard Street, Suite 4000
Baltimore, MD 21201
(tel) 410-962-0702
(fax) 410-962-3419
(cell) 443-829-9079
danw.johnson@fhwa.dot.gov

From: William McLaughlin [mailto:wfm1306@gmail.com]
Sent: Wednesday, September 08, 2010 10:59 AM
To: Johnson, DanW (FHWA)
Subject: National Gateway Phase I

Daniel W. Johnson
FHWA Resource Center at Baltimore
10 S. Howard Street, Suite 4000
Baltimore, MD 21201

Dear Mr. Johnson:

As the President of Town Council in Chambersburg, Pennsylvania, I was somewhat dismayed to read your Public Notice concerning the National Gateway Clearance Project.

It seems counter-intuitive to me that the Environmental Assessments documents for the Clearance Project would be located in Pittsburgh and Somerset, Pennsylvania but not in Chambersburg, one of the Gateways of

the system. The most direct and dramatic impact of this project will be felt in the Chambersburg area, but the information that details the impact is located 95 miles away in Somerset.

For five generations, going back before the civil War, my family has been working on the railroad. I understand the importance and benefits that this project can have on our community, region and state. It is unfortunate that the documents that would give the members of our community a clearer picture of the advantages and challenges presented by the Gateway Project would be placed in such a remote location, away from the scrutiny of the population most affected by the project.

I would like to request that an additional copy of the Environmental Assessment and the Section 4(f) Evaluation be forwarded to the Borough of Chambersburg where they would be available for public inspection.

Sincerely,

Willial F. McLaughlin
President
Chambersburg Town Council



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SOUTHWEST REGIONAL OFFICE

October 6, 2010

Daniel W. Johnson
FHWA Resource Center at Baltimore
10 S. Howard Street, Suite 4000
Baltimore, MD 21201

Re: National Gateway Phase 1
Environmental Assessment
Various Municipalities
Various Counties

Dear Mr. Johnson:

DEP's regional program staff have reviewed the above project for environmental regulatory and policy requirements, and submit the following comments for your attention. These comments are only based on project information you provided, and may not be comprehensive. The applicant has the responsibility of complying with all relevant environmental laws and regulations for the project.

General

1. The applicant should contact the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation, Box 1026, Harrisburg, PA 17108-1026, telephone number 717.783.8946, to determine if the project will pass through or otherwise impact historic or archaeological sites. Any review comments by the commission should be included with the appropriate DEP permit applications.
2. The Pennsylvania Natural Diversity Inventory List (PNDI) should be cross-checked against the site location to determine if any resources of special concern are located within the project area.
3. Any utility company with transmission lines within the project area should be contacted at least 30 days prior to work start by the contractor. The applicant or contractor should call 1.800.242.1776 before beginning any excavation.

Air Quality

4. Demolition waste cannot be burned.
5. Fugitive dust emissions must be controlled according to 25 Pa. Code Section 123.1.

Environmental Cleanup

6. If you encounter contaminated soil during excavation contact the Southwest Region's Waste Management representative at 412.442.4125, and Environmental Cleanup Program representative at 412.442.5217, for proper management.
7. If above or below-ground storage tanks are to be removed, contact the Department's Storage Tank Program representative at 412.442.4091 to ensure that the requirements of 25 Pa. Code Chapter 245 are met. If existing or new storage tanks will be used to store material, contact our Division of Storage Tanks at 717.772.5599 regarding requirements for tank registration.

Mining

8. The proposed project may be over abandoned underground mines. In general, any section of this project which would lie above or near an abandoned underground mine would be at some risk of mine subsidence, with the level of risk dependent on a number of factors.

The California District Mining Office has an extensive repository of underground mine maps, some of which undoubtedly are in the vicinity of this project. For an appointment to research these maps, please contact:

Bureau of District Mining Operations
California Office
25 Technology Drive
California Technology Park
Coal Center, PA 15423
James P. Welsh
Phone 724.769.1100

Oil and Gas

9. The applicant or contractor should contact DCNR's Bureau of Topographic and Geologic Survey at 412.442.4235, 500 Waterfront Drive, Pittsburgh, PA 15222, in order to determine whether any existing or abandoned oil and gas wells are known to exist within the project boundary. Adequate plugging of such wells is required.

Watershed Management

10. Work in and along streams and wetlands requires a Water Obstruction and Encroachment Permit from the Permitting & Technical Services Section. The area regulated is the stream and any area within the 100-year flood boundaries of any Federal Flood Insurance Study or 50 feet from the top of each stream bank if no flood insurance study exists. All wetland impacts are regulated. Please contact the Permitting & Technical Services representative at 412.442.4315.

11. The following table outlines the requirements for (1) Erosion and Sedimentation (E&S) Control Plans, (2) National Pollutant Discharge Elimination System (NPDES) Permits for Storm Water (SW) Associated with Construction Activities be it either a General Permit (PAG-2) or an individual permit, and (3) Post Construction Storm Water Management Plans (PCSMP) as required by the U.S. EPA's NPDES Phase II Storm Water Program.

When required, the NPDES permit will typically be General Permit PAG-2 unless the project is located in a High Quality (HQ) or Exceptional Value (EV) Watershed as classified in DEP's 25 Pa. Code Chapter 93 Regulations. If located in a HQ or EV Watershed an individual permit will be required.

For specific guidance on your project please contact the County Conservation District Office for the county in which your project is located. The Conservation District will approve all E&S plans, review and approve all general permits PAG-2 and review all individual permits in HQ & EV Watersheds. Individual permits, however, will be issued by DEP's Regional Office.

PAG-2 and NPDES Phase II Requirements For Construction Activities

| Disturbed Area | Written E&S Plan | Approved E&S Plan | NPDES SW Construction Permit | PCSMP |
|---|------------------|---|------------------------------|-------|
| 0-5000 sq. ft. | Yes | No | No | N/A |
| 5000 sq. ft. to less than 1 acre | Yes | Not required but may be a municipal requirement | No | N/A |
| 1 to <5 acres w/o point source to surface waters | Yes | Not required but may be a municipal requirement | No | N/A |
| 1 to <5 acres with point source to surface waters | Yes | Not required but may be a municipal requirement | Yes | Yes |
| 5 or more acres | Yes | Required | Yes | Yes |

If the permitted activity is in an MS4 municipality, the municipality must approve the PCSM plan. The applicant should send the PCSM plan to the MS4 municipality along with the municipal notification. Even where the approval of the PCSM plan is not

required, the permittee must develop and implement the PCSM and will certify that the BMPs were implemented in accordance with the PCSM plan when the Notice of Termination (NOT) is submitted.

A point source is a discharge from the disturbed area or the erosion control facilities through a pipe, ditch, swale or stream. A non-point source typically applies only to sites with sheet flow discharges or complete infiltration.

Consider use of pervious pavement and/or "water gardens" for storm water management. Utilizing these measures could eliminate the need for an NPDES permit. For additional information, contact the Watershed Management Program's Permitting and Technical Services Section, Stormwater Engineers, at 412.442.4315.

Waste Management

12. Any remaining solid waste including non-useable construction and demolition waste, asbestos, and other materials must be properly stored and disposed promptly at an approved facility. For further information, call 412.442.4156.

Water Supply Management

13. All downstream public water supplies which may potentially be affected by sedimentation or stream flow changes must be directly contacted by the contractor at least 30 days prior to work start. Any public water supply problem resulting from this project must immediately be reported to DEP's Bureau of Water Standards & Facility Regulation at this address.
14. If this project impacts any public drinking water source, both the public water supply and the appropriate DEP District Office or DEP's Bureau of Water Standards & Facility Regulation must be notified at least 30 days prior to work start.

Armstrong-Westmoreland Co.

Armbrust Building
R.D. #2, Box 603-C
Greensburg, PA 15601
724.925.5400

Fayette-Greene Co.

Fayette County Health Center
100 New Salem Road
Uniontown, PA 15401
724.439.7431

Beaver County

206 Municipal Building
715 Fifteenth Street
Beaver Falls, PA 15010
724.847.5270

Cambria-Indiana-Somerset

286 Industrial Park Road
Ebensburg, PA 15931
814.471.5071

Washington Co.

25 Technology Drive
California Technology Park
Coal Center, PA 15423
724.769.1100

Water Management

15. Any activities utilizing pollutants are required by Section 91.34 of Title 25 to take all necessary measures to prevent the substances from reaching waters of the

Commonwealth. A Preparedness, Prevention and Contingency Plan (PPC Plan) must be developed and maintained on site for this project in accordance with the "Guidelines for the Development and Implementation of Environmental Emergency Response Plans" which can be found at "<http://www.depweb.state.pa.us/dep/site/default.asp>" and click on "Technical Guidance" and type 400-2200-001 into the search field.

16. Wastewater Discharges - Any discharge to a waterway or the ground surface requires either an NPDES discharge permit, Water Quality Management Part II Permit or temporary discharge approval. Temporary discharge approvals must meet the current guidelines. If treatment facilities are needed to meet the effluent limitations imposed by the NPDES permit, a Part II permit is required for the construction of those treatment facilities. If wastewater from an industrial process is recirculated/reused, an NPDES permit would not be needed. Contact DEP's Water Management Program representative at 412.442.4038.
17. The applicant or contractor should contact local municipal officials through whose jurisdiction the project passes in order to determine whether or not public sanitary sewers will be impacted. Relocation of sewerlines may require issuance of a Part II Permit from DEP's Water Management Program.
18. Waste concrete and concrete truck wash down can be harmful to aquatic life. Care should be taken to keep waste concrete and concrete truck wastewater from reaching storm drains, streams, drainage ditches and catch basins.

You may access our eMapPA website at:

<http://www.emappa.dep.state.pa.us/emappa/viewer.htm> to view the facilities of environmental interest or concern that are near your proposed project.

The Department of Environmental Protection (DEP) will coordinate the review of multiple permits for proposed projects to ensure efficient use of its resources, thorough environmental review, and consistent department action on proposed projects before the commencement of operations, construction or other activities that require DEP permits or approvals.

Should you have any questions or if the project is significantly modified in the future, please contact this office at the telephone number listed above.

Sincerely,



Ronald A. Schwartz, P.E.
Assistant Regional Director
Southwest Regional Office

From: Podolak, Sunny [spodolak@state.pa.us]
Sent: Thursday, November 04, 2010 3:59 PM
To: Johnson, DanW (FHWA)
Subject: National Gateway Phase 1 comments

Response on behalf of the Pennsylvania Department of Health

Good Afternoon Mr. Johnson,

Thank you for your letter requesting review of the Environmental Assessment (EA) and Section 4(f) Evaluation for the Phase I National Gateway Clearance Initiative.

The Pennsylvania Department of Health (PADOH) restricts its comments to section 4.1.2.4, *Public Health and Safety* of the EA and addresses the impact of the proposed actions on the human environment. Our comments follow:

In recent years, the U.S. Environmental Protection Agency, the United Nations, and other international agencies have focused concern on the environmental health impact of green house gases, such as carbon dioxide, and their contribution to global warming. The U.S. presently produces about 19.1% of the global total production of carbon dioxide.

According to Arcadis U.S., Inc., implementation of Phase I National Gateway Clearance Initiative will reduce carbon dioxide emissions into the atmosphere by 1.19 million tons. The PADOH supports efforts by industry to reduce emissions of greenhouse gases, including carbon dioxide.

Thank you for providing us the opportunity to review and comment on the EA and Section 4(f) Evaluation for the National Gateway Clearance Initiative.

Please call me with any questions.

Sunny D. Podolak
Acting Special Assistant | Secretary of Health
Executive Assistant | Health Planning and Assessment
7th & Forster Streets | Harrisburg, PA 17120
Phone: 717.783.8804 | Fax: 717.525.5515
www.health.state.pa.us



Commonwealth of Pennsylvania
Pennsylvania Historical and Museum Commission
Bureau for Historic Preservation
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120-0093
www.phmc.state.pa.us

November 1, 2010

Daniel W. Johnson
Federal Highway Administration Resource Center
10 South Howard Street, Suite 4000
Baltimore, MD 21201

TO EXPEDITE REVIEW USE
BHP REFERENCE NUMBER

Re: ER 2010-8010-042-K
Phase I National Gateway Clearance Initiative
Ohio, Pennsylvania, West Virginia and Maryland
Environmental Assessment and Section 4(f) Evaluation

Dear Mr. Johnson:

The Bureau for Historic Preservation (the State Historic Preservation Office) has reviewed the above named project in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended in 1980 and 1992, and the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation as revised in 1999 and 2004. These regulations require consideration of the project's potential effect upon both historic and archaeological resources.

We have reviewed the above listed document and disagree with the findings of the Section 4(f) Evaluation. As you know the project will have an adverse effect on the Baltimore and Ohio Railroad Pittsburgh Division. As determined through consultation with our office this project will have an adverse effect on the following contributing features of the railroad: Brook, Benford, Shoofly, Pinkerton, Sand Patch and Falls Cut tunnels.

The Section 4(f) evaluation project states: "Completion of the proposed action will allow the historic rail corridors to be preserved." (page 59). While we concur that the continued use of this railroad corridor will not, at this time, cause its abandonment, at no time in the consultation with our office was abandonment discussed if this project was not completed. This railroad line appears to be an important corridor to the applicant, CSX, and therefore in no threat for abandonment. While we concur that the continued use of a rail line does mean that maintenance will likely continue, it also doesn't insure that additional loss of integrity might continue as a result of its continued use. As a private company, CSX, will be under no obligation to consult on any future projects unless they also require federal or state environmental review.

Page 2
D. Johnson
Nov. 1, 2010

While we concur that the proposed project will aid in the efficient movement of freight through the use of the double-stacking of intermodal freight cars we do not concur that this has a direct affect on the surrounding historic and cultural resources of the Commonwealth of Pennsylvania. While the railroad line will continue its historic usage and continue to contribute to the future historic significance of this line, as the report suggests, the project is having an adverse effect on the resource, the Baltimore and Ohio Railroad Pittsburgh Division. Any secondary benefits of removing trucks from the highways of Pennsylvania cannot be verified or quantified. Since Pennsylvania is the middle portion of this project it is difficult to see how this project, other than the new intermodal facility in Franklin County, Pennsylvania, will have a long term benefit to jobs in our state.

We disagree with the summary statement in the report concerning this project: "A net benefit is achieved when a transportation use, the measures to minimize harm, and the mitigation incorporated into the project results in an overall enhancement of the Section 4(f) property..." (page 98). Therefore, in our opinion, the National Gateway project does not enhance the historic railroad. It will, not have a net benefit to the National Register eligible Baltimore and Ohio Railroad Pittsburgh Division nor historic resources in the Commonwealth of Pennsylvania as a whole.

Sincerely,


Jean H. Cutler
Bureau Director

cc: Timothy M. Hill, Office of the Environmental Section, Ohio Dept. of Transportation
JHC/

Register, Martha

Subject: FW: National Gateway Clearance Initiative Phase I

From: Johnson, DanW (FHWA)
Sent: Tuesday, November 09, 2010 12:16 PM
To: 'jecutler@state.pa.us'
Cc: 'Madden, Eric'
Subject: National Gateway Clearance Initiative Phase I

Jean and Susan, (resent to Jean Cutler)

Thanks for your letter of November 1, 2010. Unfortunately the post office misrouted it to another office, so I only received it yesterday afternoon, after our phone conversation. I appreciate your clarification of your concerns. I do want to respond to several points about our net benefit argument which I believe were misconstrued.

We agree that the proposed project will not adversely affect the P&LE Railroad portion of the track and will adversely affect the B&O Railroad Pittsburgh Division. With regard to the Pittsburgh Division, the Benford, Shoofly and likely the Pinkerton tunnels will be open-cut by the undertaking, and the Brook, Sand Patch and Falls Cut Tunnels will be altered in order to accommodate double stacking. These alterations are adverse to the six tunnels which are contributing elements to the historic railroad, however, the grade and alignment of the track at these locations remains, still symbolizing engineering accomplishments and refinements to conquer geological obstacles to transportation. History reveals the Benford Tunnel was part of the Fort Hill Low Grade realignment of the original line, built in 1903. Similarly, the 1897 Falls Cut Tunnel (as well as the B&O Railroad Magnolia Cutoff in West Virginia and Maryland, with its 4 tunnels and multiple bridges) reflects major reconstructions to realign the original track. The Shoofly, Pinkerton and Sand Cut tunnels were each reconstructed or modified several times in their history. Our argument has been that from the historical perspective, the current proposal maintains 100% of the alignment of the original historic railroad and maintains 100% of the contributing Railroad bridges in PA. Grade modifications are very minimal, and only necessary to avoid adverse effects to other contributing elements. Transportation facilities are linear, operating resources, and are best interpreted from this perspective. The B&O Railroad Pittsburgh Division is largely in very rural areas of the state and rarely seen as there are few roads that parallel its alignment. The history of the railroad as posted on your website as a mitigation and enhancement of this project will greatly increase the visibility and appreciation of this resource. It is upon this basis I contend the project will be a net benefit to the resource. The loss of some tunnels and modification of several others will be adverse, but does not diminish the eligibility of the resource as a whole.

I agree that abandonment of the railroad would not be a direct effect of a no-build alternative. However, the history of railroads in PA and in the country amply demonstrates that the business is highly competitive. The network that is CSX today was spawned from numerous companies that did not survive. Your point that CSX as a private entity is under no obligation to provide stewardship over the contributing elements that it owns is well taken. I will only observe that competitive thriving concerns can better afford to be good stewards than firms that can't compete.

You note that the secondary benefits of removing trucks from the highways of PA cannot be verified or quantified. Our document certainly quantified that more long haul trucks will be on the roads than with the build. The bulk of trucks will stay on the main roads like the PA Turnpike. Relatively few will seek the back roads to avoid the tolls. However, the point I attempted to explain to Susan by phone about diversion into the small historic towns of Pennsylvania was only in reference to those rare unfortunate occasions when accidents occur on the turnpike, causing local detours by through truckers who don't know local routes well. Such incidents are infrequent, however the potential effect would be exacerbated if more through trucks are on the roads.

Finally you comment in your penultimate paragraph that it is difficult to see how this project will have long term benefit for jobs in your state, other than in Franklin County. The EA did note on page 59 that a new intermodal facility is planned in the future in the Pittsburgh region as a complement to the Gateway Clearance project. This facility is not part of the current undertaking, but will be subject to all applicable permit requirements.

Your prompt reconsideration would be appreciated. Thanks for your time and attention.

Daniel W. Johnson

Environmental Program Specialist
FHWA Resource Center at Baltimore
10 S. Howard Street, Suite 4000
Baltimore, MD 21201
(tel) 410-962-0702
(fax) 410-962-3419
(cell) 443-829-9079
danw.johnson@fhwa.dot.gov



Commonwealth of Pennsylvania
Pennsylvania Historical and Museum Commission
Bureau for Historic Preservation
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120-0093
www.phmc.state.pa.us

November 9, 2010

Daniel W. Johnson
Federal Highway Administration Resource Center
10 South Howard Street, Suite 4000
Baltimore, MD 21201

TO EXPEDITE REVIEW USE
BHP REFERENCE NUMBER

Re: ER 2010-8010-042-L
Phase I National Gateway Clearance Initiative
Ohio, Pennsylvania, West Virginia and Maryland
Environmental Assessment and Section 4(f) Evaluation

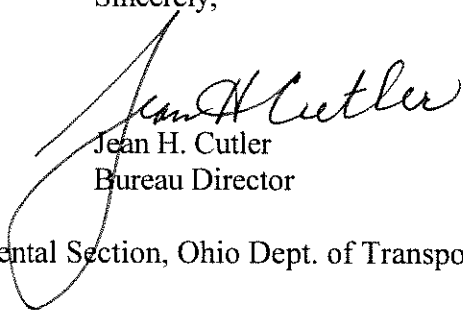
Dear Mr. Johnson:

The Bureau for Historic Preservation (the State Historic Preservation Office) has reviewed the above named project in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended in 1980 and 1992, and the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation as revised in 1999 and 2004. These regulations require consideration of the project's potential effect upon both historic and archaeological resources.

We concur with the findings of the agency that the significant resource involved in this project are the National Register eligible railroad lines. We understand that to keep these transportation corridors viable and functioning as they did historically, incremental changes to these resources are sometimes necessary to continue their usage and function as a railroad serving the transportation of goods across the United States.

If you need further information in this matter please consult Susan Zacher at (717) 783-9920.

Sincerely,


Jean H. Cutler
Bureau Director

cc: Timothy M. Hill, Office of the Environmental Section, Ohio Dept. of Transportation
JHC/smz



Maryland Department of Planning
Maryland Historical Trust

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

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NOV 02 2010
ARCADIS G & M
of North Carolina, Inc
Richard Eberhart Hall
Secretary

Matthew J. Power
Deputy Secretary

October 28, 2010

Mr. Daniel W. Johnson
Federal Highway Administration Resource Center
10 South Howard Street, Suite 4000
Baltimore, MD 21201

Re: Phase I National Gateway Initiative Clearance Project
Environmental Assessment and Section 4(f) Evaluation
Allegany County, Maryland

Dear Mr. Johnson,

The Maryland Historical Trust (Trust) received on 26 October 2010 a copy of the Environmental Assessment and Programmatic Section 4(f) Evaluation for the Phase I National Gateway Initiative Clearance Project for our review. We are writing to acknowledge that the report accurately represents the Section 106 consultation process and outcomes in Maryland.

Thank you for providing us this opportunity to comment. If you have questions or require additional information, please contact Beth Cole at 410-514-7631 / bcole@mdp.state.md.us.

Sincerely,

J. Rodney Little
Director/State Historic Preservation Officer

JRL/EJC
201004675

cc: Bradley Smith (SHA)
Denise King (FHWA)
Martha M. Register (Arcadis)



The Culture Center
1900 Kanawha Blvd., E.
Charleston, WV 25305-0300

Randall Reid-Smith, Commissioner

Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562

EEO/AA Employer

October 7, 2010

Mr. Daniel W. Johnson
FHWA Resource Center at Baltimore
10 S. Howard St., Suite 4000
Baltimore, MD 21201

Re: National Gateway Initiative Clearance Project
FR#: 09-1320-MU-10

Dear Mr. Johnson:

We are in receipt of the Environmental Assessment and Section 4(f) Evaluation CD. You have requested our comments on this document. After review of this document, it is our opinion that it accurately reflects the Section 106 consultation process for this project to this point.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the review process, please contact Shirley Stewart Burns, Structural Historian, in the Historic Preservation Office at (304) 558-0240.*

Sincerely,

A handwritten signature in black ink that reads "Susan M. Pierce". The signature is written in a cursive style with a large, prominent initial "S".

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/SSB

cc: Martha Register, Arcadis