
EXECUTIVE SUMMARY

In accordance with FHWA guidance, this Supplemental Final Environmental Impact Statement (SFEIS) incorporates by reference the Final Environmental Impact Statement (FEIS) and the subsequent Record of Decision (ROD) for the Appalachian Corridor H Project, both issued in 1996. The Parsons-to-Davis Project Supplemental Draft Environmental Impact Statement (SDEIS) was signed and circulated for public and agency comment in December 2002.

In 2003 and 2004, Preferred Alternative Reports were prepared and circulated for agency concurrence. The Revised Original Preferred Alternative (ROPA) has been identified as the preferred alternative for the Parsons-to-Davis Project. This SFEIS incorporates updated information and analysis since the December 2002 SDEIS, as appropriate. Substantive comments received on the SDEIS, are addressed throughout the document and corresponding responses are provided in Appendix A. Substantive comments received on this SFEIS will be addressed in the Amended Record of Decision.

S.1 BRIEF PROJECT DESCRIPTION

The West Virginia Department of Transportation (WVDOT), Division of Highways (WVDOH), in conjunction with the Federal Highway Administration (FHWA), is proposing to construct an approximately 9-mile long highway between Parsons and Davis in Tucker County, West Virginia. This Parsons-to-Davis Project is a component of the Appalachian Corridor H Project (Corridor H), which is a proposed 100-mile long highway between Elkins, West Virginia and the West Virginia-Virginia state line, spanning Randolph, Tucker, Grant, and Hardy counties in West Virginia. A Final Environmental Impact Statement (FEIS) for Corridor H was issued in April 1996, with a Record of Decision (ROD) issued in August 1996. The scope of both the FEIS and ROD covered the entire 100-mile long highway for the Appalachian Corridor H Project.

As a result of legal challenges to the 1996 ROD, a Settlement Agreement was executed in February 2000 (Appendix B). The Settlement Agreement divided Corridor H into nine individual projects, including the Parsons-to-Davis Project. The Settlement Agreement required the WVDOH and FHWA to prepare a Supplemental Environmental Impact Statement (SEIS) to evaluate one or more alignment shifts for the "Thomas-Davis section" of the Parsons-to-Davis Project. The purpose of the SEIS was to evaluate alternatives for avoiding the "Blackwater Area" (as defined in the Settlement Agreement), which includes historic and archaeological resources associated with coal and coke production in the Blackwater Valley.

During the SEIS process, a federally listed endangered species – the West Virginia northern flying squirrel (WVNFS) – was discovered between Parsons and Davis. New scientific information regarding the ecological habitat requirements of the WVNFS required additional surveys to be conducted at lower elevations. As a result of this discovery, FHWA and WVDOH extended the scope of the SEIS to include the entire length of the Parsons-to-Davis Project.

S.2 PURPOSE AND NEED

As a part of the Corridor H Project, the Parsons-to-Davis Project will contribute to addressing the needs identified in the Corridor H FEIS of 1996 (WVDOH, 1996). Additionally, the Parsons-to-Davis Project will address specific local needs. Overall, the purpose of the Parsons-to-Davis Project is to:

- Improve east-west transportation through northeastern West Virginia.
- Promote economic development in the region.
- Preserve or improve the quality of life in the region.

Additionally, at the local level, communities have identified two specific “quality of life” needs that could be addressed by the Parsons-to-Davis Project:

- Reduce truck traffic through the City of Thomas.
- Improve emergency response times and access to emergency facilities.

The purpose and need for the project are detailed in *Section I: Project Background and Need*.

S.3 ALTERNATIVES CONSIDERED

This study considered a range of alternatives for completing Corridor H between Parsons and Davis. The range of alternatives was developed based on National Environmental Policy Act (NEPA) requirements, as well as additional requirements contained in the Settlement Agreement. In particular, the Settlement Agreement requires consideration of at least one “Blackwater Avoidance Alignment”. The Settlement Agreement defines a Blackwater Avoidance Alignment as “any alignment for Corridor H that is located entirely outside the Blackwater Area” (Appendix B, Settlement Agreement, p. 6). The Settlement Agreement also requires consideration of the alternative approved in the 1996 Corridor H ROD; this alternative is referred to in the Settlement Agreement as a “Blackwater Alternative.”

In accordance with the Settlement Agreement, two distinct groups of Build Alternatives were considered: the “Blackwater Alternatives” and the “Blackwater Avoidance Alternatives.” These groups of alternatives included the following:

Blackwater Alternatives

The “Blackwater Alternatives” all pass through the Blackwater Area. A “Truck Route” was initially identified as an option for these alternatives; it was later incorporated into each of the Blackwater Alternatives in order to provide an alternative north-south route that allows access to Corridor H while bypassing downtown Thomas. The Blackwater Alternatives include:

- “Original Preferred Alternative” (OPA) – this alternative is the alternative approved in the 1996 Corridor H ROD
- “Alternative 2” – this alternative is a variant of the OPA
- “Revised OPA” (ROPA) – this alternative was developed after the Supplemental Final Environmental Impact Statement (SDEIS) for the Parsons-to-Davis Project and is presented in this Supplemental Final Environmental Impact Statement (SFEIS)

Blackwater Avoidance Alternatives

The “Blackwater Avoidance Alternatives” are located entirely outside of the Blackwater Area. WVDOH and FHWA initially developed 12 Blackwater Avoidance Alternatives. Six of these Blackwater Avoidance Alternatives – Alternative 1A (East and West), Alternative 1B (East and West), Alternative C, and Alternative H – were eliminated in the alternatives screening process. Alternative F was eliminated early in the process because it passed through the middle of the Tucker County Landfill. The following Blackwater Avoidance Alternatives were carried forward for detailed analysis in the SEIS:

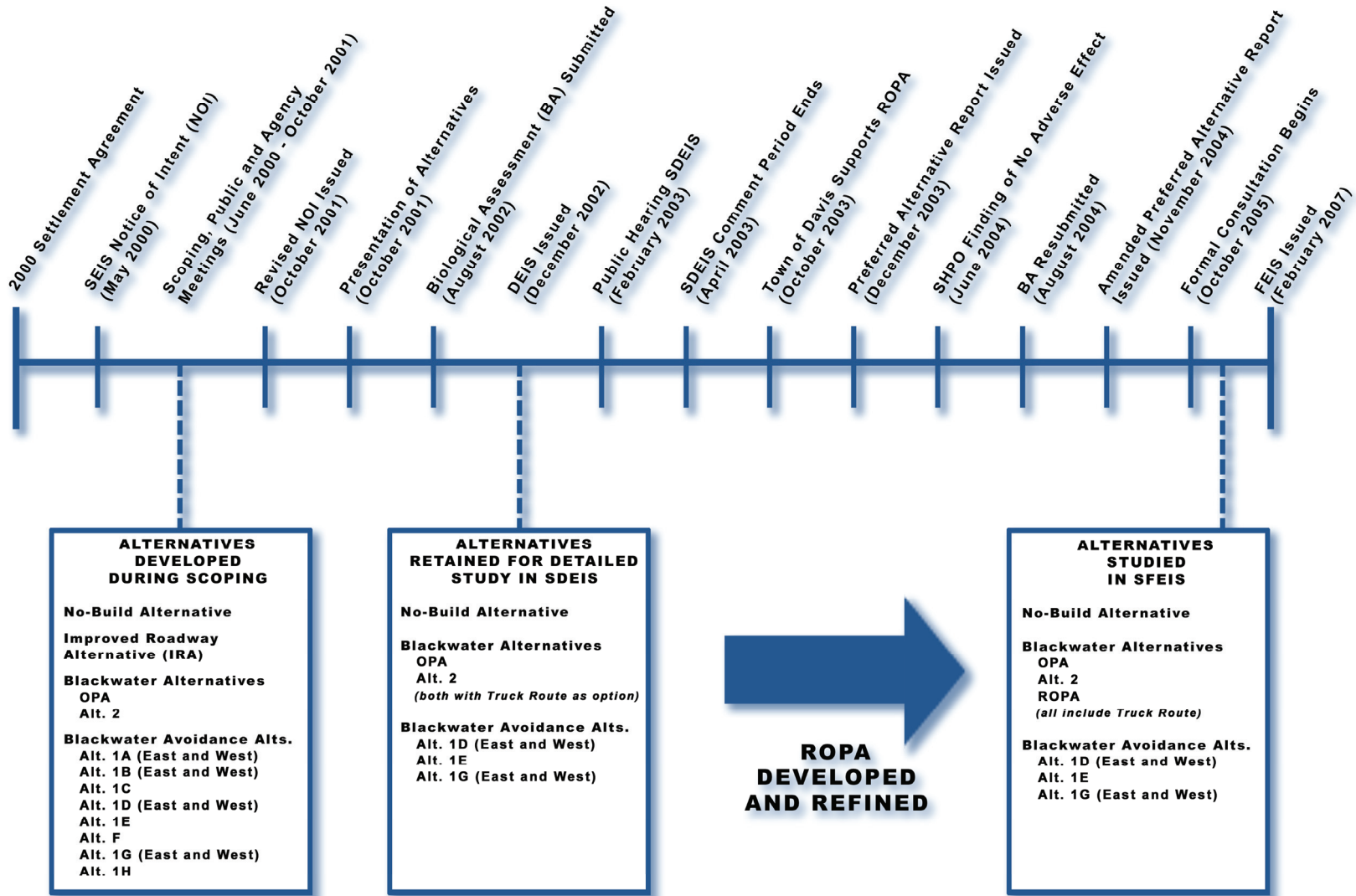
- Alternative 1D (East and West)
- Alternative 1E
- Alternative 1G (East and West)

In addition to these Build Alternatives, FHWA and WVDOH also considered a No-Build Alternative and an Improved Roadway Alternative (IRA). The No-Build Alternative does not meet purpose and need for the project but was carried forward for detailed analysis as required by NEPA. The IRA was considered in the alternatives’ screening process, but was eliminated because it also does not meet the purpose and need for the project.

All of the alternatives carried forward for detailed analysis were analyzed in the SDEIS. The SDEIS was issued in December 2002 and was followed by a 120-day public comment period (initial 60-day period extended an additional 60 days at the request of CHA), which included a formal public hearing. Following the comment period, FHWA and WVDOH coordinated with the cities of Thomas and Davis as required under the Settlement Agreement. Based on comments received, as well as input from the cities of Thomas and Davis, FHWA and WVDOH issued a Preferred Alternative Report (dated December 2003) in January 2004 (Figure S-1). In that report, FHWA and WVDOH identified the "Revised Original Preferred Alternative" (ROPA) as the preferred alternative for the project. Like the preferred alternative approved in the 1996 Corridor H ROD, the ROPA passes through the Blackwater Area.

Following the circulation of the December 2003 Preferred Alternative Report, two resource agencies – the United States Fish and Wildlife Service (USFWS) and the United States Environmental Protection Agency (USEPA) – submitted comments indicating that they did not concur with the selection of the ROPA as the preferred alternative based on the information provided in that report. In particular, the USFWS stated that additional research regarding WVNFS habitat was needed before a preferred alternative could be identified. In response, additional studies of the WVNFS were undertaken and an Amended Preferred Alternative Report (dated November 2004) was issued in November 2004. The Amended Preferred Alternative Report reaffirmed the selection of the ROPA as the preferred alternative. The identification of the Preferred Alternative for the project is reviewed below in *Section S.7* and detailed in *Section II: Alternatives Analysis*. Table S-1 shows the alternatives evaluated in this SEIS.

The alternatives analysis process is depicted in Figure S-1, which shows the development of alternatives throughout the project and how this development of alternatives related to other events such as the discovery of the WVNFS.



**Figure S-1
Parsons-to-Davis Project Timeline**

**Table S-1
Alternatives Evaluated in the SEIS for the Parsons-to-Davis Project**

Alternative	Eliminated in Screening	Studied in Detail in SDEIS	Developed After SDEIS	Preferred Alternative
No-Build Alternative		√*		
Improved Roadway Alternative (IRA)	√			
Blackwater Alternatives				
Original Preferred Alternative (OPA)**		√		
Alternative 2**		√		
Revised Original Preferred Alternative (ROPA)**			√	√
Blackwater Avoidance Alternatives				
Alternative 1A – West	√			
Alternative 1A – East	√			
Alternative 1B –West	√			
Alternative 1B – East	√			
Alternative 1C	√			
Alternative 1D – West		√		
Alternative 1D – East		√		
Alternative 1E		√		
Alternative 1G – West		√		
Alternative 1G – East		√		
Alternative 1H	√			

* Because the No-Build Alternative does not satisfy the purpose and need, it did not pass the SDEIS alternatives screening process. However, as per Council on Environmental Quality (CEQ) regulations, the No-Build Alternative was carried through the SDEIS (and this SFEIS) as an "environmental baseline."

** These alternatives include the Truck Route as a bypass for trucks around downtown Thomas. In the SDEIS, the Truck Route was presented as an option for the OPA and Alternative 2. In this SFEIS, the Truck Route has been incorporated into these alternatives.

S.4 ENVIRONMENTAL IMPACTS

The environmental impacts of the alternatives carried forward for detailed analysis are identified qualitatively and quantitatively in *Section III: Existing Environment and Environmental Consequences*. The potential impacts of the alternatives carried forward for detailed analysis are summarized below in Table S-2.

S.5 SECTION 4(F) ANALYSIS

Evaluation results indicate that none of the alternatives carried forward for detailed analysis would "use" Section 4(f) land. A final Section 4(f) Analysis is included with this SFEIS (*Section IV: Section 4(f) and 6(f) Analyses*).

S.6 SECTION 7 CONSULTATION

Throughout the development of the 1996 Corridor H FEIS for the overall Corridor H project, WVDOH and FHWA consulted with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA). The documentation was considered sufficient by the USFWS to address effects on threatened and endangered species at the time the 1996 Corridor H ROD was signed in August 1996.

In June 2000, WVDOH and FHWA re-initiated informal consultation with the USFWS during agency coordination for the preparation of this SEIS. During the informal consultation process, the recovery plan for the WVNFS (*Glaucomys sabrinus fuscus*) was being amended to redefine the methods for identifying potential habitat for that species. Because of this potential amendment to the recovery plan, additional live-trapping surveys were conducted for the WVNFS. In the summer of 2001, populations of the WVNFS were found within the Study Area boundary.

Based on ensuing coordination with the USFWS, the FHWA and WVDOH developed alternatives that attempted to avoid, if practicable, known or potential WVNFS populations. After further coordination with the USFWS, including an initial submission of a Biological Assessment (BA) for the WVNFS in August of 2002, a second BA was prepared and submitted to the USFWS in August 2004. The BA evaluated the direct, indirect, and cumulative effects of the Build Alternatives on the WVNFS. The BA concluded that all alternatives would likely adversely affect the WVNFS, but that the ROPA would be the least damaging to the WVNFS. In a letter dated October 14, 2004, the USFWS concurred with the BA conclusions (Appendix D), thus completing informal consultation under Section 7 of the ESA.

Formal section 7 consultation was initiated on October 25, 2005 by FHWA and WVDOH. USFWS confirmed the initiation of formal consultation and the completeness of the Initiation Package on November 18, 2005. On March 22, 2006 the USFWS requested an extension for the completion of formal consultation; the request was granted by FHWA on March 30, 2006. A draft BO was issued by USFWS on May 5, 2006. The final BO was issued on November 6, 2006. The BO provides:

- a complete consultation history,
- biological background research and baseline summary,
- confirms the proposed conservation measures,
- terms and conditions associated with the Incidental Take Statement, including Reasonable and Prudent Measures (RPMs) for compliance and
- a conclusion to the formal consultation process with the detailed reinitiation requirements.

The USFWS has stated that, "...FHWA and the WVDOH have selected the least damaging practicable project construction alternative in regards to the direct removal of *G. s. fuscus* habitat.Anticipated adverse effects of the project as a result of direct and indirect loss of habitat have been substantially avoided and minimized." Further, the BO specifically states, "After reviewing the current status of the *G. s. fuscus*, the environmental baseline, the effects of the proposed action and the cumulative effects, it is the Services' Biological Opinion that constructing Corridor H,

Parsons to Davis, as proposed, is not likely to jeopardize the continued existence of the *G. s. fuscus*." The issuance of the final BO concludes the formal consultation process.

Further detail regarding the informal and formal ESA Section 7 consultation processes are provided in *Section III: Existing Environment and Environmental Consequences* and in *Section VII: Comments and Coordination*.

S.7 SECTION 106 CONSULTATION

WVDOH and FHWA consulted with the West Virginia State Historic Preservation Office (WVSHPO), as required by Section 106 of the National Historic Preservation Act, on Corridor H on a section-by-section basis. At the time of the SDEIS, the Parsons-to-Davis section was the final section that required evaluation. In June 2002, a draft Criteria of Effects (COE) Report was circulated. The Draft COE Report found that the Parsons-to-Davis Project would have "no effect" on the Blackwater Industrial Complex Archaeological and Historic District (Blackwater Industrial Complex). The WVSHPO, United States Forest Service Monongahela National Forest (USFS MNF), and Corridor H Alternatives (a plaintiff in the lawsuit), which were all consulting parties in the Section 106 process, submitted comments on the Draft COE Report as follows:

- In a letter dated October 30, 2002, WVSHPO found that the project would have "no adverse effect" on the Blackwater Industrial Complex. The WVSHPO commented, however, that the evaluation should focus on "the relative change" to the district, rather than the Draft COE Report's evaluation of the percentage of the district that would experience visual or noise impacts.
- In a letter dated July 26, 2002, the USFS MNF expressed concerns related to Project's potential visual, auditory, and physical impacts on the Monongahela National Forest. Following the receipt of the USFS MNF comments, in October 2002, the USFS MNF, WVDOH, and FHWA executed a Memorandum of Understanding (MOU) that included measures to mitigate these potential effects. In a letter dated October 24, 2002, the USFS MNF found that the project would have no adverse effect on historic resources within the Monongahela National Forest.
- In a letter dated December 12, 2003, counsel for Corridor H Alternatives disagreed with the Draft COE Report's finding of "no effect," and recommended a finding of "adverse effect" based on visual and auditory effects to the historic district and its setting.

On March 23, 2004, the Final COE Report was submitted to the WVSHPO for review and concurrence and to the USFS MNF and Corridor H Alternatives for comments, in accordance with the September 1995 Section 106 Programmatic Agreement for Corridor H (Appendix B). WVDOH and FHWA received comments on the Final COE Report as follows:

- In a letter dated June 23, 2004, the WVSHPO affirmed its earlier opinion that the Parsons-to-Davis Project would have "no adverse effect" on the Blackwater Industrial Complex. The WVSHPO stated that the "historic nature of the site will not adversely change" as a result of the project and that the proposed bridge "will not adversely effect" the interpretation of the physical remnants of the site.
- In a letter dated April 14, 2004, the USFS MNF concurred with the findings of the Final COE Report. The USFS MNF letter stated that the Parsons-to-Davis Project "would have no effect to contributing elements of the District, and recommend[ed] that project activities proceed as planned."
- Corridor H Alternatives did not submit comments on the Final COE Report.

On May 13, 2004, at the request of Advisory Council on Historic Preservation (ACHP) staff, FHWA transmitted a copy of the Final COE Report to the ACHP, and requested concurrence from the ACHP with the Final COE Report's "no adverse effect" finding.

S.8 INTEGRATED NEPA/404 PERMIT PROCESS

The Corridor H Project, in its entirety, including the 1994 Alignments Selection Draft Environmental Impact Statement (ASDEIS), the subsequent Final Environmental Impact Statement (FEIS) in 1996 was conducted following the guidelines and philosophy of the integrated NEPA/404 process as detailed in FHWA Region 3's agreement with various federal agencies (i.e. USFWS, USEPA and USACE) entitled Integrating NEPA/404 for Transportation Projects (1992) and USDOT's publication *Applying the Section 404 Permit Process to Federal-Aid Highway Projects* (1988).

Appropriately, the Parsons-to-Davis SEIS process (including this SFEIS) continues to follow the integrated NEPA/404 process. As summarized in the 1996 FEIS, "This process integrates requirements of the National Environmental Policy Act as they pertain to highway projects with those requirements of Section 404 of the Clean Water Act (CWA) to facilitate highway planning activities while encouraging the avoidance and minimization of encroachments into waters of the U. S., particularly wetlands. Additionally, state agencies were coordinated with and made part of the process. State and federal agencies were involved at all concurrence points of the project." A complete list of all coordination meetings, subjects and attendees at those meetings can be found in Section VII: Comments and Coordination. All agency and public comments are provided in Appendix A.

As part of the Integrated NEPA/404 Process, a Section 404 permit application was submitted to the USACE. Additionally, the USACE's public review process and comment period was integrated into the public review and public hearing process for the proposed highway project. This information is incorporated by reference; detailed information including recordation of the extensive agency coordination and public involvement process, including all meeting dates and comment letters are provided in the 1996 FEIS.

**Table S-2
Updated Summary of Impacts by Alternative**

ISSUE OR RESOURCE	Alternatives Carried Forward in SDEIS								ROPA/Preferred Alternative ¹
	No-Build	1D West	1D East	1E	1G West	1G East	2 ²	OPA ²	
Mainline Length (miles)	11.80	11.15	10.99	10.31	11.13	10.97	11.38	9.96	10.47
Cost (millions)³	N/A	209.6	218.2	208.1	209.4	194.4	163.0	142.4	101.7
Footprint (acres)	N/A	540	538	514	501	499	510	352	396
Roadway Earthwork Volumes⁴									
- Cut (MCY)	N/A	22.12	22.45	20.42	19.83	20.16	25.98	20.12	12.39
- Borrow (MCY)	N/A	4.77	4.85	6.04	0.42	0.42	0.00	0.00	0.00
- Waste (MCY)	N/A	7.86	7.86	4.29	2.53	2.46	11.40	15.07	1.13
TOTAL BORROW AND WASTE (MCY)	N/A	12.63	12.71	10.33	2.95	2.88	11.40	15.07	1.13
Reduction in Downtown Thomas Truck Traffic	N/A	-80%	-80%	-80%	-80%	-80%	-80%	-80%	-80%
Travel Time (minutes)	18	11	11	10	11	11	10	8	10
Level of Service (2020)	D	A	A	A	A	A	A	A	A
Displacements									
- Residential	N/A	0	0	1	0	0	0	1	1
- Business	N/A	Landfill facilities ⁵	Landfill expansion area ⁶	0	Landfill facilities ⁵	Landfill expansion area ⁶	0	0	0
Section 4(f) Use	N/A	None	None	None	None	None	None	None	None
Wetlands (acres)⁷									
- PEM	N/A	0.98	1.01	2.04	0.46	0.26	4.26	5.79	8.24
- PSS	N/A	0.09	0.72	0.34	0.09	0.72	1.01	1.08	0.95
- PFO	N/A	0.06	0.00	3.48	0.11	0.05	0.00	0.59	1.37
- POW	N/A	0.00	0.00	0.00	0.00	0.00	0.39	0.54	0.57
TOTAL	N/A	1.13	1.73	5.86	0.66	1.03	5.66	8.00	11.13
Streams									
- Impact length (linear feet)	N/A	5,159	5,187	6,732	3,775	4,139	9,945	5,651	9,277
Floodplains, 100yr (acres)	N/A	0.0	0.0	0.0	0.0	0.0	2.5	3.2	3.2
Potential impact to WVNFS Habitat⁸	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Monongahela Nat'l Forest (MNF) (acres)									
- MPA 3.0	N/A	91	91	95	88	88	57	107	120
- MPA 6.1	N/A	9	9	9	9	9	11	7	4
Cultural Resources									
- Effects on NRHP Eligible/Listed Resources (Blackwater Industrial Complex Archaeological and Historic District)	N/A	No Effect	No Effect	No Effect	No Effect	No Effect	No Adverse Effect	No Adverse Effect	No Adverse Effect

N/A = Not Applicable
 MCY = Million Cubic Yards
 N/C = Not Calculated
 TR = Truck Route
 WVNFS = West Virginia northern flying squirrel (*Glaucomys sabrinus fuscus*)
 MPA = Management Prescription Area, based on 2006 MNF Plan

¹ Additional engineering was performed on the ROPA after the submittal of the December 2003 Preferred Alternative (PA) Report. Therefore, impact numbers for streams and wetlands will differ slightly between the December 2003 PA report, the January 2004 Amended PA report and what is reported in this summary table and Section III of this SFEIS. Also, the TR is incorporated into the ROPA/Preferred Alternative so its impact information is included as part of the ROPA/Preferred Alternative.

² The TR has been incorporated into these alternatives.

³ Based on current average construction costs, including such variables as earthwork, drainage, pavement and bridging. Does not include cost of ROW or utility relocations

⁴ Each alternative was divided into reasonable segments (construction contract sections with reasonable haul distances), and evaluated as such. Hence, one segment may have borrow and another segment waste. The volumes shown above are a summation of these sub-sections, so the alternative as a whole has borrow quantities and waste quantities. The segments (or construction contract sections) will be further refined as the project moves forward into final engineering design. There are environmental impacts associated with both borrow and waste activities. Generally, if the amount of cut is greater than fill then waste will be generated; if the amount of cut is less than fill then borrow material must be obtained. Waste and borrow amounts should be viewed in total (added together).

⁵ The facilities include the scales and scale house of the Tucker County Landfill. The facilities would need to be moved due to construction of these alternatives.

⁶ Indicates the potential expansion area of the Tucker County Landfill.

⁷ Wetland impacts for the Parsons-to-Davis Project have been mitigated per the 1996 Record of Decision and Section 404 Permit.

⁸ The USFWS has stated that, "...FHWA and the WVDOH have selected the least damaging practicable project construction alternative in regards to the direct removal of *G. s. fuscus* habitat.Anticipated adverse effects of the project as a result of direct and indirect loss of habitat have been substantially avoided and minimized." Further, the BO specifically states, "After reviewing the current status of the *G. s. fuscus*, the environmental baseline, the effects of the proposed action and the cumulative effects, it is the Services' biological opinion that constructing Corridor H, Parsons to Davis, as proposed, is not likely to jeopardize the continued existence of the *G. s. fuscus*."

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S.9 IDENTIFICATION OF A PREFERRED ALTERNATIVE

The development of alternatives and the process leading to the identification of a Preferred Alternative are presented in graphic form in Figure S-1. An extensive alternatives analysis was performed for the project, which involved a multiple level screening process in the SDEIS, refining and re-analyzing several alternatives following the issuance of the SDEIS, and ultimately selecting a Preferred Alternative. The SDEIS screening process eliminated the IRA and six (6) of the Blackwater Avoidance Alignments. In December 2002, the SDEIS was approved and circulated for review and comment. The comments received on the SDEIS were taken into consideration in modifying the alternatives studied and identifying the Preferred Alternative. Formal responses to these comments are included Appendix A.

Following the SDEIS, small but important changes were made to the OPA. These changes included:

- providing a connection to Tucker County High School (TCHS) from the Corridor H mainline;
- incorporating a slight shift south in the vicinity of Middle Run to avoid a possible population of the WVNFS; and
- incorporating the Truck Route (a two-lane roadway that would reduce truck traffic in the town of Thomas).

The alternative that incorporates these changes is referred to in this SFEIS as the Revised OPA, or ROPA.

After consideration of engineering constraints, environmental impacts, and public and agency comments, the ROPA was identified as the Preferred Alternative for the Parsons-to-Davis Project because:

- It best achieves the purpose and need for the project;
- It is similar to the other alternatives in terms of its overall environmental impacts; and in the areas where its impacts are greater (e.g., wetlands), the impacts have been mitigated;
- It is \$35.9 million less expensive than the OPA; and, in particular, is at least \$56.5 million less expensive than the least expensive of the Blackwater Avoidance Alternatives;
- It is consistent with applicable regulatory requirements, including Section 4(f); and
- It would have the least impact of the Build Alternatives on the WVNFS.

S.9.1 POST-SDEIS COORDINATION

After identifying a Preferred Alternative, FHWA and WVDOH coordinated with the cities of Thomas and Davis and with resource agencies in order to receive their feedback before preparation of an SFEIS. This coordination, which was required by the Settlement Agreement, is presented in a timeline/flowchart format in Figure S-1 above.

In July of 2003, WVDOH transmitted letters to the Mayors of Thomas and Davis, West Virginia, initiating the a 60-day review period as prescribed in the Settlement Agreement. The letters described the ROPA and identified it as WVDOH's Preferred Alternative for the Parsons-to-Davis Project. Following receipt of the letter, the Davis City Council adopted a resolution that supported construction of the ROPA, and the Thomas City Council adopted a resolution supporting a Blackwater Avoidance Alternative. Copies of these letters and resolutions are provided in Appendix A.

Since one of the City Councils (Davis) passed a resolution supporting an alternative located within the Blackwater area, FHWA and WVDOH had the right under the Settlement Agreement to discontinue consideration of the Blackwater Avoidance Alternatives without preparing an SFEIS. However, while the Settlement Agreement allowed this flexibility, FHWA and WVDOH determined that the National Environmental Policy Act (NEPA) required preparation of an SFEIS in order to ensure a complete analysis of new issues that had not been contemplated at the time of the Settlement Agreement, such as WVNFS habitat.

In January 2004, FHWA and WVDOH circulated a Preferred Alternative Report (dated December 2003) to the resource agencies. This report detailed the refined analyses performed since the SDEIS, described the ROPA, and identified the ROPA as the Preferred Alternative. An Amended Preferred Alternative Report (dated November 2004) was circulated in November 2004, which included additional information, documented additional studies, and reaffirmed the ROPA as the preferred alternative (Figure S-1).

Additionally, throughout this period, FHWA and WVDOH continued to consult with the USFWS with regard to the WVNFS. After a Revised BA was prepared in August 2004, USFWS concurred with the finding that all Build Alternatives will have adverse impact, and that the ROPA would have the least impact. This conclusion was reflected in the Amended Preferred Alternative Report (November 2004).

Following the circulation of the Amended Preferred Alternative Report, FHWA and WVDOH received comments from resource agencies, as follows:

- In a letter dated February 7, 2005, the USEPA concurred with the selection of the ROPA as the Preferred Alternative for the Parsons-to-Davis Project.
- In a letter dated March 18, 2005, the USFWS recommended that to the ROPA be selected as the Preferred Alternative for the Parsons-to-Davis Project.
- In a letter dated January 15, 2005, the WVDNR did not support nor did it oppose the selection of the ROPA as the Preferred Alternative for the Parsons-to-Davis Project. The letter does continue to cite the WVDNR's concerns about the environmental impacts of the ROPA while acknowledging WVDOH's need to acknowledge cost considerations and savings.

S.10 OTHER GOVERNMENT ACTIONS REQUIRED

Before project construction begins, it may be necessary for WVDOH to modify permits and certifications that were issued for the OPA in 1996, or to seek new permits and certifications.

Relevant permits and certification include:

- Section 404 Clean Water Act Permit (United States Army Corps of Engineers, Pittsburgh District);
- West Virginia NPDES Permit (West Virginia Division of Environmental Protection);
- West Virginia Stream Activity Permit (West Virginia Public Land Corporation); and
- West Virginia Section 401 Water Quality Certification (West Virginia Division of Environmental Protection).