

## Categorical Exclusion Form

Project: Heartland Corridor Date: 6/13/2007

### Project description, including location:

This project proposes to increase the vertical and horizontal clearance of existing railroad tunnels on the Heartland Railroad Corridor located in Virginia and West Virginia. The work proposes minor adjustments to the roof and side walls of approximately 26 tunnels. Work also proposes to make minor modifications to several thru-truss railroad and roadway bridges as well as minor realignment of rails on existing track bed and repositioning of existing slide fences within the existing track bed limits.

### Need for the Proposed Project:

The attached report titled "Proposed Modifications to Heartland Rail Corridor Elements in Virginia and West Virginia with related Actions in Kentucky and Ohio" April 2007, details the numerous alternatives evaluated to accomplish the project need. This report also describes the preferred alternative at each individual site location. The least impacting alternative, from both a natural and cultural resource point of view has been selected. The No Action alternative is not practical since it will not allow the taller rail cargo containers (double stack) to pass through this corridor as directed by Congress, and therefore would not meet the Purpose and Need for this project.

### Describe the category used to exclude the action from further NEPA:

**23 CFR 771.117(c)(18):** *Track and rail bed maintenance and improvements when carried out within the existing right-of-way.*

In this instance the right-of-way is Norfolk Southern Corporation's right-of-way along the tracks or West Virginia Division of Highways' right-of-way for roads that cross the railroad right-of-way.

**23 CFR 771.117(d)(1):** *Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes.*

It is the interpretation of FHWA Legal Counsel that this basis may be read to include modernization of railroad right-of-way that results in improved highway usage.

**23 CFR 771.117(d)(2):** *Highway safety or traffic operations improvement projects ...*

It is the interpretation of FHWA Legal Counsel that this basis may be read to

include improvement of railroad operations that results in improved highway usage.

**23 CFR 771.117(d)(3):** *Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing railroad crossings.*

**Attached documents:**

1. The report describing in detail the proposed actions and titled "Proposed Modifications to Heartland Rail Corridor Elements in Virginia and West Virginia with related actions in Kentucky and Ohio", April 2007. This report describes the specific actions at each individual site location. No federal funds will be expended in the states of KY or OH, however because the actions in KY and OH would not be undertaken without the Federal actions in WV and VA, the actions in KY and OH are treated as related or connected actions and are fully considered in the National Environmental Policy Act and National Historic Preservation Act documentation for this undertaking.
2. Correspondence from the VA and WV US Fish and Wildlife Service Field Offices regarding endangered species.
3. Document titled Environmental Compliance describing detailed methods and measures to be employed at each individual site location where track bed or tunnel lining modifications are to occur. These measures will be implemented and be part of the contract documents for the proposed construction activities.
4. Draft Memorandum of Agreement currently being negotiated between the FHWA, the WV Division of Culture and History, the VA Department of Historic Resources, the KY Heritage Council and the OH Historic Preservation Office. Mitigation for affects on historic properties by this undertaking has been agreed to by the above described parties and no additional impacts or mitigation is anticipated from the consulting process for finalizing this MOA.

**Alternatives Considered:**

Documentation of alternatives and methods considered at each tunnel modification location as well as the preferred method and alternative to be implemented at each location is described in the attached "Proposed Modifications to Heartland Rail Corridor Elements in Virginia and West Virginia with related actions in Kentucky and Ohio", April 2006.

**Describe any public or agency involvement effort conducted:**

Notice of this action was posted on the EFLHD-FHWA web site.

Letters requesting comments on the potential impacts of the proposed projects on species "of concern" were sent to the U.S. Fish and Wildlife Service (FWS). Correspondence from the WV and VA FWS offices are attached.

Consultation has been ongoing with the WV, VA, KY and OH SHPO offices as well as the Advisory Council on Historic Preservation regarding mitigation for potential impacts to historic resources. These consultations are being finalized and it is not anticipated that the class of NEPA action or level of impact will be affected by the outcome of this consultation and executed Memorandum of Agreement.

Cooperation and consultation has also occurred with the Eastern Band of the Cherokee Indians, the Cherokee Nation of Oklahoma and the United Keetoowah Band of Cherokee Indians, the National Coal Heritage Area Authority in WV as well as Pulaski County and the Pulaski County Historical Society in VA.

Check the Appropriate box if the Project would:

	YES	NO
A. Have significant adverse effects on public health or safety.		X
B. Have adverse effects on such unique characteristics as historical or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecological significant or critical areas, including those listed on the National Register of National Landmarks.		X
C. Have highly controversial environmental effects.		X
D. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
F. Be directly related to other actions with individually insignificant, but cumulatively significant environmental effects.		X
G. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.		X
H. Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these Species.		X
I. Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11900 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.		X
J. Threaten to violate a federal, state, local, or tribal law or requirement imposed for the protection of the environment.		X
K. Require a permit from a federal, state, or local agency to proceed, unless the agency from whom the permit is required agrees a CE is appropriate.		X
L. Have the potential for significant impact as indicated by a federal, state, or local agency or Indian Tribe.		X
M. Have the potential to be controversial regardless of its impact.		X
N. Require a Section 4(f) evaluation and determination in accordance with the FHWA guidance?		X

Box G has been marked "no", despite the potential for an adverse effect upon elements that contribute to a single historic property (the rail corridor), because, as a result of the coordination between FHWA, WV SHPO, VA SHPO, KY SHPO and OH SHPO, the Memorandum of Agreement to be executed between the Parties will address and mitigate this potential adverse effect; resulting in a categorically excluded action.

On the basis of the discussion above and the environmental impact information in the

statutory compliance file, with which I am familiar, I believe the project should be categorically excluded from further NEPA analysis.

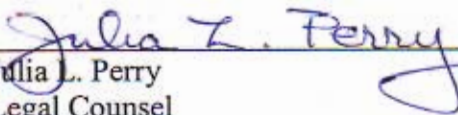
Prepared by:

  
\_\_\_\_\_  
Jack Van Dop

6-13-07  
Date

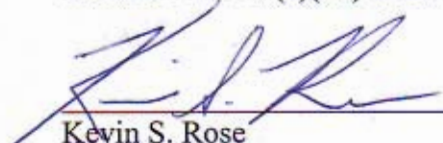
Technical Specialist (Environment)  
Federal Highway Administration  
Eastern Federal Lands Highway Division

Reviewed for legal sufficiency by:

  
\_\_\_\_\_  
Julia L. Perry  
Legal Counsel  
Federal Highway Administration  
Eastern Federal Lands Highway Division

6/13/07  
Date

On the basis of the discussion above and the environmental impact information in the statutory compliance file, with which I am familiar, I am categorically excluding the described project from further NEPA analysis. No exceptional circumstances (i.e., all boxes in the ESF are marked "no") or conditions apply and the action is fully described in 23 CFR 771.117(c)(18) and 771.117(d)(1), (2) and (3).

  
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Kevin S. Rose  
Environmental Compliance Specialist  
Federal Highway Administration  
Eastern Federal Lands Highway Division

6/13/07  
Date

## Environmental Screening Form

Project Heartland Corridor Railroad Clearance Project Date June 12, 2007

	Yes	No	Don't Know
1. Described fully in one of the list of categorically excluded actions? 23 CFR Section 771.117©(18), 771.117(d)(1),(2) and (3)	X		
2. Consultation with any affected agencies or tribes complete?	X		
3. Site visit completed?	X		
4. Are any significant impacts possible on the following physical, natural, or cultural resources?*			
A. Geological resources - soils, bedrock, streambeds, etc.		X	
B. From geohazards?		X	
C. Air Quality, Traffic, or from Noise		X	
D. Water Quality or Quantity		X	
E. Streamflow characteristics		X	
F. Marine or Estuarine Resources		X	
G. Land Use, including agricultural lands		X	
H. Rare or unusual vegetation-old growth timber, riparian, alpine, etc.		X	
I. Species of special concern (plant or animal; state or federal listed or proposed for listing) or their habitat (see attached)		X	
J. Unique ecosystems, biosphere reserves, World Heritage sites		X	
K. Unique or important wildlife or wildlife habitat (see attached)		X	
L. Unique or important fish or fish habitat (see attached)		X	
M. Introduce or promote non-native species (plant or animal)		X	
N. Recreation resources		X	
O. Visitor experience, aesthetic resources		X	
P. Cultural resources, cultural landscape, etc. (see attached)		X	
Q. Minority and Low Income Populations		X	

	Yes	No	Don't Know
R. Socioeconomics		X	
S. Energy Resources		X	
T. Other agency or tribal land use plans or policies		X	
U. Resource, including energy, conservation potential		X	
V. Urban quality, gateway communities, etc.		X	
W. Long term management of resources or land/resource productivity		X	