



U.S. Department
of Transportation

**Federal Highway
Administration**

Virginia Division
(804)775-3320

400 N. 8th Street Rm. 750
Richmond, Virginia 23219-4825

IN REPLY REFER TO:

February 18, 2014

Route 29 Bypass;
FHWA Review Comments
on the draft Revised
Environmental Assessment;

Mr. Charlie Kilpatrick
Commissioner
Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219-2000

Dear Commissioner Kilpatrick,

The draft of the Revised Environmental Assessment (EA) for the Route 29 Bypass has been reviewed by our legal counsel. Because of the controversy associated with the project and the history of litigation, our legal counsel coordinated their review with FHWA's Office of Chief Counsel in Headquarters and the Office of the Secretary of Transportation. The review by legal counsel focused on the adequacy of the discussion of specific document elements, including purpose and need, alternatives, the scope of the environment affected, the responses to comments and fulfillment of essential coordination requirements.

Based on their review, our legal counsel provided us with a number of comments. Almost all of their comments can be readily addressed with revisions to the draft of the Revised EA, but there are a couple of comments that FHWA would like to bring to your attention because of the potential implications associated with them. Our legal counsel has advised us to reassess the purpose and need of the project in light of the changes in the Route 29 corridor that have occurred over the past 20 years to determine if it remains appropriate since the need appears to have expanded well beyond the existing project limits.

As you are aware, the reason we initiated the EA was to determine the need for a supplemental Environmental Impact Statement (EIS), and we need not complete that EA effort before rendering a decision if the analysis carries us in that direction. Based on the EA analysis, our knowledge of the project and FHWA's involvement in it going back to the late-1980s, it is expected that a reassessment of the purpose and need will find that it is no longer adequate to support the investment in the corridor. Accordingly, we advise VDOT to update the purpose and need and reopen the consideration of alternatives. The most appropriate tool for formally

updating the purpose and need and reopening the consideration of alternatives would be a supplemental EIS.

As you are aware, the environmental process for this project has stretched over 20 years and involved an EIS, supplemental EIS, two EAs, three Records of Decision (ROD) and a Finding of No Significant Impact. While FHWA has led the environmental process for the project this entire time and our decision making has been reinforced by the Fourth Circuit Court on more than one occasion, the environmental process has become very convoluted. A supplemental EIS would allow both FHWA and VDOT to take a fresh look at the needs that exist in the Route 29 corridor and develop a solution that is supported by the public and localities in general. Additionally, we encourage you to work closely with local representatives to gain their support of the transportation improvement moving forward.

FHWA remains committed to working with VDOT to identify and develop solutions for the Route 29 corridor. Should you have any questions on this letter or wish to discuss it further, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Irene", enclosed within a hand-drawn oval.

Irene Rico
Division Administrator