



**FEDERAL HIGHWAY ADMINISTRATION**

**FINDING OF NO SIGNIFICANT IMPACT**

**FM 1409 Extension  
FM 565 in Old River-Winfree to FM 565 West of Cove, Texas  
Main Lane Construction and Bridge Overpass**

TxDOT CSJ: 0762-03-018

**INTRODUCTION**

The Federal Highway Administration (FHWA) has determined, in accordance with 23 Code of Federal Regulations (CFR) §771.119 and §771.121, that the proposed construction of a new location roadway that would extend Farm to Market Road (FM) 1409 from FM 565 in Old River-Winfree to FM 565 west of Cove in Chambers County, Texas will not have a significant impact on the human or natural environment. This Finding of No Significant Impact (FONSI) for the preferred alternative is based on the October 2013 Environmental Assessment (EA). The EA was approved as Satisfactory for Further Processing on December 6, 2013. An Opportunity for Public Hearing (OPH) was afforded and no requests were received.

The October 2013 EA and certifications regarding the OPH have been independently evaluated by FHWA, and determined to adequately discuss the need, purpose, alternatives, environmental issues, and impacts of the proposed FM 1409 Extension project and appropriate mitigation measures. These documents provide sufficient evidence and analysis for determining that an Environmental Impact Statement (EIS) is not required. Finally, these documents are incorporated by reference into this decisional document.

**PROJECT BACKGROUND**

Chambers County, in cooperation with the Texas Department of Transportation (TxDOT), is proposing an approximately 4 mile new location roadway extension of the existing FM 1409 in Chambers County from its existing terminus at FM 565 in Old River-Winfree across Interstate Highway 10 (IH 10) and terminating at FM 565 west of Cove. The existing FM 1409 roadway is a rural major collector, two-lane, undivided roadway. The proposed project consists of a two-lane undivided highway with paved shoulders, a .55-mile bridge crossing IH 10 with associated approaches and access roads, and a utility relocation at IH 10. In May 2011 the Texas Transportation Commission approved pass-through financing arrangements for the project. The proposed project will be 100percent funded by Chambers County with a portion of the total cost to be repaid by TxDOT through pass-through financing revenue.

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The need for this project is substantiated by a projected increase in population in western Chambers County that would lead to an anticipated increase in traffic volume and a decrease in safety and mobility on roadways in the project area. The proposed facility would improve safety, mobility, and accessibility in and around western Chambers County and provide the transportation infrastructure necessary to support local public policies that encourage economic growth.

The purpose of the proposed FM 1409 Extension project is to effectively and expeditiously respond to increased transportation demand while enhancing mobility, decreasing congestion, and improving safety within western Chambers County.

The FM 1409 Extension project was developed in accordance with all state and federal regulations, including the National Environmental Policy Act (NEPA) of 1969, Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA (40 CFR 1500-1508), FHWA Environmental Impact and Related Procedures (23 CFR Part 771), Texas Administrative Code, and TxDOT Environmental Policy (43 TAC Chapter 2), including Public Involvement Rules.

The EA was prepared to determine if significant impacts would occur from the proposed project. The project was determined by TxDOT to warrant preparation of an EA for the following reasons: (1) local, state, and federal resources agencies have reviewed and concurred on the approval of the project and (2) the project was approved through state and local planning processes. Therefore, the EA was prepared to identify the environmental impacts of this project and for FHWA to determine whether an EIS was required or whether the EA was sufficient.

## **REVIEW OF THE EA**

Chambers County, in cooperation with TxDOT, completed the EA in October 2013. The EA considered and analyzed the potential social, economic, and environmental impacts related to the proposed extension of FM 1409. Specifically, the EA studied the potential impacts associated with a Build Alternative, a No Build Alternative, a Drainage Build Alternative and a Drainage No Build Alternative.

The potential impacts studied include direct, indirect and cumulative impacts of the project. Direct effects are defined by the CEQ regulations (40 CFR § 1508) as being "caused by the action and occur at the same time and place." Indirect effects are defined as effects that are "caused by an action and occur later in time or farther removed in distance, but are still reasonably foreseeable," and may "include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." Cumulative impacts are the incremental impacts that the project's direct or indirect effects have on a resource in the context of the myriad of other past, present, and future effects on that resource from unrelated activities.

Alternatives were considered for two aspects of the project design: the roadway alignment and drainage alternatives. Four alignment Alternatives were considered, while five drainage Build Alternatives were considered. The alignment No Build and one alignment Build Alternative, along with the drainage No Build and one drainage Build Alternative were brought forward for further consideration.

The resulting Preferred Alternative includes the Alignment Build Alternative and the Drainage Build Alternative as evaluated in the EA. The Alignment and Drainage Build Alternatives would meet the purpose of the project by increasing the roadway capacity to accommodate future travel demands and increasing mobility for residents of western Chambers County.

The Alignment Build Alternative consists of new construction of two 12-foot wide lanes with two 10-foot wide shoulders, a 0.55-mile long bridge over IH 10, including approaches and access roads, and one utility relocation at IH 10.

The Alignment Build Alternative includes acquisition of 95.11 total acres of right-of-way (ROW) between FM 565 in Old River-Winfree and FM 565 west of Cove. The proposed 120-foot-wide ROW acquisition is required to meet TxDOT and Chambers County design standards.

The Drainage Build Alternative includes the acquisition of 46.83 total acres of ROW for five open ditch drainages and associated outfalls and would impact a total of 0.033 acres of potential waters of the U.S.

This alignment constitutes a combination of the most desirable attributes of all alternatives considered and fulfills the purpose and need for the proposed project. This alignment would minimize impacts to adjacent landowners and area drainage, and would provide an accessible north-south roadway capable of offering Chambers County improved local and regional mobility and safety.

## **MITIGATION / COMMITMENTS**

A majority of the potential impacts associated with the construction of the recommended selected alternative (alignment and drainage Build Alternatives) were avoided or minimized as documented in the EA. The design and construction of the FM 1409 Extension will incorporate measures to minimize harm to the environment as described below.

### **Water Quality**

Proper stabilization techniques will be employed during construction to control erosion and sedimentation. These techniques will be accomplished according to Best Management Practices (BMPs) that will be outlined in the Storm Water Pollution Prevention Plan (SW3P) which is developed during the design and plan phase. A

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Texas Pollutant Discharge Elimination System (TPDES) permit will be required and its conditions and requirements will be followed to address erosion/sedimentation/pollution concerns during the construction and operation phases. In accordance with Texas Commission on Environmental Quality (TCEQ) regulations, a Notice of Intent (NOI) will be filed and a SW3P will be implemented for the construction site.

### **Waters of the United States, including Wetlands**

Field surveys revealed 0.033 acre of potential impacts to waters of the US along the project corridor; therefore, a Section 404, Nationwide Permit (NWP) 14 would be necessary for construction of the proposed project. A Preconstruction Notice would not be required.

### **Socioeconomics**

#### *Land Use*

Approximately 141.94 acres of currently undeveloped land would be developed for transportation use.

#### *Relocations and Displacements*

No residential relocations or business displacements are anticipated as a result of the project; however, because the project is a new location roadway, approximately 141.94 acres of new right-of-way will be acquired. Sufficient space would be left on adjacent commercial properties to sustain current operations.

#### *Community Cohesion, Travel Patterns, and Access*

Because the roadway and overpass would principally be constructed on new location right-of-way, there would be no disruption to current travel modes and patterns with the limited exception of the overpass construction over IH 10. Lane closures on IH 10 would be minimized. The construction of the center pier supporting the FM 1409 overpass over IH 10 will necessitate the closure of the IH 10 eastbound and westbound inside lanes for approximately 2 months. All other IH 10 lane closures resulting from construction activities will occur on an as-needed basis and be limited to nighttime closures only.

### **Soils**

The proposed ROW is within the "Crops" vegetation type, and an estimated 80 percent of the proposed ROW alignment passes through undeveloped agricultural lands. Based on a review of the soil series descriptions available from the Natural Resources Conservation Service, the agricultural lands that exist inside and adjacent to the limits of the proposed ROW are classified as important farmland soils by the NRCS. NRCS coordination was conducted and, although the proposed project would convert farmland subject to the FPPA to a non-agricultural, transportation use, the combined scores of the relative value of the farmland and the site assessment, as documented with the

appropriate NRCS form and supporting documentation, are such that the site need not be given further consideration for protection.

### **Vegetation**

A total of approximately 141.94 acres of vegetation would be converted to transportation use for the proposed project. During construction efforts would be taken to avoid and minimize disturbance of vegetation and soils. All disturbed areas would be revegetated, according to TxDOT specifications, as soon as it becomes practicable.

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping, the 1999 FHWA guidance on invasive species, and TxDOT Standard Specification No. 164 - Seeding for Erosion Control, all revegetation will, to the extent practicable, use only native species. Further, best management practices will be used to control and prevent the spread of invasive species.

Trees will only be removed as necessary during construction. Minor limb trimming may be required to promote safety during construction. Efforts will be made to preserve trees where they neither compromise safety nor substantially interfere with the proposed project's construction. No non-regulatory mitigation is proposed for this project.

### **Migratory Birds**

TxDOT will take all appropriate actions to prevent the take of migratory birds, their active nests, eggs, or young by the use of proper phasing of the project or other appropriate actions.

### **Cultural Resources**

No recorded archeological resources with the NRHP or State Archeological Landmark were identified as being impacted or adversely affected by the Alignment and Drainage Build Alternatives. Likewise, it was determined that no historic age man-made structures were eligible for NRHP listing.

### **Noise & Air Quality**

Construction noise and impacts upon air quality during construction will be mitigated using one or more of the measures listed in the EA.

### **PUBLIC INVOLVEMENT**

Public involvement is an integral and critical component of the NEPA project development process. Comprehensive public involvement was conducted to incorporate

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all stakeholders and their needs, from safety to mobility to environmental concerns. The public involvement team for this project included representatives from the TxDOT Beaumont District, environmental and engineering consultants, and Chambers County.

On December 6, 2012, an open-house style public meeting was held at the West Chambers County Courthouse Annex in Mont Belvieu, TX. The meeting was publicized in English in the *Baytown Sun*, through a mailed notice to adjacent property owners and known stakeholders, and via postings on TxDOT and Chambers County websites.

Attendees were encouraged to share their thoughts and feedback regarding the project and were provided with forms for submittal of written comments, which were accepted through December 20, 2012. Sixty-seven community members and one elected official attended the meeting. Representatives from Chambers County and TxDOT were available throughout the public meeting to provide information about the proposed project and to answer questions. A project newsletter handout was distributed to meeting attendees. Display boards were used to illustrate the proposed project plans and rationale, including roll plot displays showing the proposed extension on a map of the area.

A total of four comments were received during the public commenting period. Two of these comments were highly supportive of the project. One comment expressed concern over existing drainage problems that the attendee feared might be exacerbated by the proposed construction. One commenter expressed concern regarding the possibility of increased taxes for project revenue and the potential increase in traffic through the area as induced development occurs.

When the EA was determined to be Satisfactory for Further Processing, an Opportunity for Public Hearing was afforded by publishing notices in the local newspaper and mailing notifications to adjacent property owners and elected officials. The deadline for requesting a hearing was March 21, 2014, and there were no requests.

**MONITORING AND ENFORCEMENT**

All commitments and conditions of approval stated in the EA will be monitored by TxDOT and other appropriate state, federal, and local agencies to ensure compliance.

**FHWA DECISION**

FHWA has reviewed all of the relevant documents and materials and all of the environmental studies and findings. Based upon our own independent review and analysis, we find that the October 2013 FM 1409 Extension EA analyzed and considered all of the relevant potential environmental impacts and issues. FHWA concurs with the findings made in the EA in that (1) the Build Alternative is the recommended alternative for the FM 1409 Extension project, (2) the Build Alternative best meets the need and purpose for the project with the least amount of impacts to the

resource areas, and (3) the proposed project would have no significant impacts on the quality of the human or natural environment under NEPA.

Based upon our own agency review and consideration of the analysis and evaluation contained in the EA for this proposed project, and after further careful consideration of all social, economic, and environmental factors, including input from the public involvement process, FHWA hereby approves the issuance of a Finding of No Significant Impact for the FM 1409 Extension Project. FHWA further approves the Build Alternative as the recommended alternative for selection as the proposed action for this project. The selected alternative would best fulfill the need and purpose and objectives for the project.

As to project mitigation, TxDOT is hereby required to ensure completion of all mitigation outlined above and set out specifically in the October 2013 FM 1409 Extension EA. TxDOT is also required to ensure that any and all local, state, or federal permit requirements and conditions are met and otherwise complied with.



Date 10/3/2014

Federal Highway Administration