



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Texas Division**

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Finding of No Significant Impact (FONSI)  
IH 35W North: SH 114 to IH 820  
Tarrant and Denton Counties  
CSJs: 0014-16-252, 0014-16-255, 0081-12-  
041, 0081-13-904

Mr. Carlos Swonke  
Director, Environmental Affairs Division  
Texas Department of Transportation  
125 E. 11th Street  
Austin, TX 78701

Dear Mr. Swonke:

We have thoroughly reviewed our records on this project which include, but are not limited to, the Environmental Assessment (EA) dated March 2012, the revised Public Hearing Summary and Analysis (which includes responses to public comments) prepared by the Texas Department of Transportation (TxDOT) dated March 2012, and all previous environmental studies and findings. Based upon our own agency review and consideration of the analysis and evaluation contained in the EA as documented in the enclosed Finding of No Significant Impact (FONSI) document and after further consideration of all social, economic and environmental factors, including input from the public involvement process, we hereby issue a FONSI for Interstate Highway 35W North project.

We concur in the findings of the March 2012 EA in that: (1) the Build Alternative is the selected alternative for the project, (2) the Build Alternative best meets the purpose and need of the project with the least amount of impacts to the resource areas, and (3) the project when implemented with all the required mitigation and coordination as detailed above will have no significant impacts on the quality of the human or natural environment under NEPA. In addition, based on this review, we find that an Environmental Impact Statement (EIS) is not required for this project.

Sincerely,

Anita N. Wilson  
Urban Programs Engineer

Enclosures

FEDERAL HIGHWAY ADMINISTRATION  
**FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

For  
IH 35W: FROM STATE HIGHWAY 114 TO  
INTERSTATE HIGHWAY 820  
CITIES OF FORT WORTH AND HASLET  
TARRANT AND DENTON COUNTIES, TEXAS  
TxDOT CSJs: 0014-16-252, 0014-16-255, 0081-12-041, 0081-13-904

**INTRODUCTION**

The Federal Highway Administration (FHWA) has determined, in accordance with 23 CFR §771.119 and §771.121, that the proposed project to widen Interstate Highway (IH) 35W from State Highway (SH) 114 to IH 820, also known as IH 35W North Tarrant Express (NTE) Segment 3B and 3C, 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 March 2012 Environmental Assessment (EA). The EA dated October 2011 was given "Satisfactory for Further Processing" (SFP) by FHWA for a public hearing on October 18, 2011. However, FHWA requested the EA be updated to match the North Central Texas Council of Governments (NCTCOG) Metropolitan Transportation Plan: *Mobility 2035 (Mobility 2035)*. The March 2012 EA includes revisions to ensure consistency with *Mobility 2035*.

The March 2012 EA and the December 2011 Public Hearing Summary Report have been independently evaluated by FHWA, and determined to adequately and accurately discuss the need, purpose, alternatives, environmental issues, and impacts of the proposed IH 35W widening 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**

The Texas Department of Public Transportation (TxDOT) proposes to improve a 10.5-mile long section of IH 35W and sections of US 81/US 287 and SH 170 in Fort Worth and Haslet, Tarrant County, and Denton County, Texas. The project limits extend from IH 820 to SH 114. As a result of this FONSI the approved improvements will result in:

IH 35W from Eagle Parkway to US 81/US 287:

- Six general purpose lanes (non-toll) plus auxiliary lanes
- Four concurrent managed (toll) lanes
- Four frontage road lanes (plus auxiliary lanes near ramp locations and cross streets)

IH 35W from US 81/287 to Basswood Boulevard:

- Eight general purpose lanes (non-toll) plus auxiliary lanes
- Four concurrent managed (toll) lanes
- Managed (toll) lane access to/from US 81/US 287 and Basswood Boulevard
- Four frontage road lanes (plus auxiliary lanes near ramp locations and cross streets)

IH 35W from Basswood Boulevard to IH 820:

- Eight general purpose lanes (non-toll) plus auxiliary lanes
- Six concurrent managed (toll) lanes
- Managed (toll) lanes access to/from Basswood Boulevard
- Four frontage road lanes (plus auxiliary lanes near ramp locations and cross streets)

Approximately 97.4 acres of additional right of way and 0.6 acres of drainage easements will be required to accommodate the proposed facility.

The proposed Build Alternative is a product of public meetings, and work group/stakeholders group meetings. The project is supported by the Cities of Fort Worth and Haslet, Tarrant County, Denton County, and the NCTCOG. Based on feedback received from various stakeholder, public, and project meetings, the public is generally supportive of the incorporation of managed (toll) lanes and proposed reconstruction.

### ***Existing Facility***

IH 35W from SH 114 to IH 820 is a four-lane divided highway with limited access entrances and exits with discontinuous frontage roads. The existing right-of-way (ROW) width ranges from 299 feet to 1,029 feet with a typical width of 350 feet.

IH 35W has been a major transportation corridor for over 40 years and is one of the busiest north-south highways in the Dallas-Fort Worth (DFW) metropolitan area. Currently, IH 35W serves both local access (limited) traffic to businesses along the highway and pass-through traffic, particularly during commute hours. In 1967, IH 35W opened from SH 114 to IH 820. In the last 10 years traffic has doubled. To address this growth, five new interchanges and 16- miles of frontage roads have been added since its initial construction. The frontage roads are in connection with the new interchanges at Eagle Parkway, Alliance Boulevard, SH 170, Heritage Trace Parkway, North Tarrant Parkway, Basswood Boulevard, and Western Center Boulevard.

### ***Traffic Projections***

According to TxDOT Transportation Planning and Programming Division (TPP), IH 35W from IH 820 to US 81/US 287 has an estimated base year 2010 average daily traffic (ADT) volume of 174,900 vehicles per day (vpd), an estimated time of completion year 2030 ADT volume of 269,800 vpd, and a projected design year 2035 ADT volume of 284,900. This is a 63.0 percent increase over 2010 traffic volumes. IH 35W from US 81/US 287 to Westport Parkway has an estimated base year 2010 ADT volume of 115,000 vpd, an estimated time of completion year 2030 ADT volume of 178,700 vpd, and a projected design year 2035 ADT volume of 188,700 vpd. This is a 64.0 percent increase over 2010 traffic volumes. IH 35W from Westport Parkway to SH 114 has an estimated base year 2010 ADT volume of 92,300 vpd, an estimated time of completion year 2030 ADT volume of 141,000 vpd, and a projected design year 2035 ADT volume of 149,100 vpd. This is a 61.5 percent increase over 2010 traffic volumes.

### ***Need and Purpose***

The proposed project is needed to meet future travel demands stemming from projected population growth and traffic volumes, address operational and capacity deficiencies on IH 35W, US 81/US 287, and SH 170 and update the facility to current design standards.

The proposed project is needed to maintain pace with the cities of Fort Worth and Haslet's transportation needs as well as the transportation needs of Tarrant and Denton Counties. The City of Fort Worth, the City of Haslet, Tarrant County, Denton County and the 12-county NCTCOG MPA have experienced continuous growth since 1980, and are forecasted to grow through 2040. Growth rates

from 2010 to 2040 in the City of Fort Worth, City of Haslet, Tarrant County, Denton County, and the 12-county NCTCOG MPA are projected to be 66.9 percent, 361.4 percent, 68.4 percent, 73.2 percent, and 64.3 percent, respectively.

The proposed project is needed to address capacity deficiencies on IH 35W. A level of service (LOS) analysis was conducted for the existing general purpose lanes (non-toll) along three sections of IH 35W: from SH 170 to IH 820, beginning of managed (toll) lanes to SH 170, and at the northern end of the project. Results of the analysis indicate that in 2030, all sections of IH 35W would have LOS F.

The proposed project is needed to address operational deficiencies on IH 35W and update the freeway to current design standards. Examples include the following:

- The distance from exit ramps to cross street intersections on IH 35W is too short in some instances. This results in excessive traffic queues which back up into the general purpose lanes (non-toll) and create congestion on IH 35W.
- The inside shoulders of IH 35W are substandard in some locations.
- The interchange between IH 35W, US 81/US 287, and SH 170 contains merging and weaving conditions that occur within general purpose lane (non-toll) traffic. The distances provided for these maneuvers are substandard and result in bottleneck situations.

All of these substandard roadway conditions create safety hazards for motorists using the IH 35W facility.

The purpose of the proposed project is to improve mobility within the IH 35W corridor and facilitate access to existing and future land uses along the proposed project. The purpose of implementing concurrent managed (toll) lanes as part of the IH 35W project will be to provide congestion relief primarily within the peak hour travel times, and provide a revenue source to pay for the operational and maintenance costs of the facility and future rehabilitation or reconstruction of the facility. Historically, TxDOT has financed highway projects on a "pay-as-you-go" basis, using motor fuel taxes and other revenue deposited in the State Highway Fund. However, population increases and traffic demand have outpaced the efficiency of this traditional finance mechanism. The combination of traditional and toll funding will allow the proposed project to be completed earlier than previously programmed using traditional highway funds, thus adding general purpose lane and frontage road capacity to IH 35W earlier than originally programmed using traditional funding alone.

## **REVIEW OF THE EA**

### ***Preferred Alternative***

The proposed project will involve improvements for the reconstruction and widening of a 10.5 mile section of IH 35W between SH 114 and IH 820. Although the study limits extend from SH 114 in Denton County to IH 820 in Tarrant County, funding is not available for the portion of the roadway between SH 114 and Eagle Parkway. The proposed improvements extend from Eagle Parkway to IH 820 (Segments 3B and 3C). No improvements are currently proposed between Eagle Parkway and SH 114. The various ultimate lane configurations of the three sections of the roadway are described as follows:

- From Eagle Parkway to US 81/287, the proposed project would consist of reconstructing and widening the roadway to a 10-lane facility consisting of three general purpose lanes (non-toll) in each direction and a barrier-separated four-lane concurrent managed (toll) lane facility (two lanes in each direction). The concurrent managed (toll) lane facility would be centered between the general purpose lanes (non-toll). Auxiliary lanes would be constructed between entrance and exit ramps along the roadway and two/three lane frontage roads in each direction with bicycle

accommodation would be constructed. Direct connectors from IH 35W to SH 170 would also be constructed.

- From US 81/287 to Basswood Boulevard, the proposed project would consist of reconstructing and widening the roadway to a 12-lane facility consisting of four general purpose lanes (non-toll) in each direction and a barrier-separated four-lane concurrent managed (toll) lane facility (two lanes in each direction). The concurrent managed (toll) lane facility would be centered between the general purpose lanes (non-toll). Auxiliary lanes would be constructed between entrance and exit ramps along the roadway and two/three/four-lane frontage roads in each direction with bicycle accommodation would be constructed throughout this section. Direct connectors to/from US 81/287 from IH 35W managed (toll) lanes would be constructed.
- From Basswood Boulevard to IH 820, the proposed project would consist of reconstructing and widening the roadway to a 14-lane facility consisting of four general purpose lanes (non-toll) in each direction and a barrier-separated six-lane concurrent managed (toll) lane facility (three lanes in each direction). The concurrent managed (toll) lane facility would be centered between the general purpose lanes (non-toll). Auxiliary lanes would be constructed between entrance and exit ramps along the roadway and two/three/four-lane frontage roads in each direction with bicycle accommodation would be constructed throughout this section.

#### ***Preferred Alternative Justification***

Implementing the Preferred Alternative will improve traffic mobility and access through the study area and will likely increase commercial business opportunities along and near the proposed roadway. Adjacent and surrounding property values can be favorably affected by improved accessibility and mobility, thereby increasing the tax base and producing benefits that can accrue during the design life of the proposed project.

Between the public meeting held in 2007 and the 2009 work group/stakeholders group meeting as part of the EA process, minimal comments were received resulting in no changes to the schematic.

#### ***Anticipated Impacts from the Preferred Alternative***

An EA was prepared that examined the social, economic, and environmental impacts associated with the proposed project. The following direct impacts are anticipated as a result of the proposed improvements:

##### Waters of the U.S., including Wetlands

Pursuant to Executive Order (EO) 11990 (Protection of Wetlands) and Section 404 of the Clean Water Act (CWA), an investigation was conducted to identify potential jurisdictional waters of the U.S., including wetlands, within the proposed project limits. Areas within the proposed project ROW were identified, characterized, and delineated in order to evaluate the potentially jurisdictional status of the sites. Alternatives were reviewed as required by EO 11990 on wetlands. After avoidance and minimization of impacts were implemented, no other practicable alternatives to wetland impacts were identified.

Impacts to all Area Crossings would be authorized under Nationwide Permit (NWP) 14 - *Linear Transportation Projects*. Because impacts at Area Crossings 5, 8, 9, 10, 11, 12, and 13 exceed the 0.1 acre impact threshold and/or a discharge in wetlands, a preconstruction notification (PCN) will be required. Channelization will not be required to construct the proposed project.

##### Floodplains

The proposed project crosses 15 water bodies and seven flood zones. The hydraulic design practices for the proposed project will be in accordance with current TxDOT design policy and standards. The highway facility will permit the conveyance of the 100-year flood levels, inundation of the roadway

being acceptable, without causing significant damage to the roadway, stream, or other property. A portion of the proposed project is within the Regulated Floodway Zone. The proposed project will not increase the base flood elevation to a level that will violate applicable floodplain regulations or ordinances; therefore, coordination with either the Federal Emergency Management Agency (FEMA) or the local floodplain administrator is not required. However, informal coordination with the local floodplain administrator will occur. The proposed project is not within the Trinity River Corridor Development Regulatory Zone; therefore, a Corridor Development Certificate (CDC) will not be required.

#### Water Quality

Storm water runoff from the proposed project will flow into Henrietta Creek, unnamed tributaries of Henrietta Creek, Buffalo Creek, unnamed tributaries of Buffalo Creek, Big Bear Creek, an unnamed tributary of Big Bear Creek, Big Fossil Creek, and unnamed tributaries of Big Fossil Creek. According to the Texas Commission on Environmental Quality (TCEQ) Water Quality Inventory, Henrietta Creek, unnamed tributaries of Henrietta creek, Buffalo creek, and unnamed tributaries of Buffalo creek flow into Segment 0826C. Big Bear Creek and an unnamed tributary of Big Bear Creek are part of Segment 0841D. Big Fossil Creek and unnamed tributaries of Big Fossil Creek are part of Segment 0806C. According to the 2008 CWA Section 303(d) list, segment 0841D (an eight mile stretch running upstream from the confluence with Little Bear Creek to SH 26 in Tarrant County) is impaired due to bacteria. The proposed project is not within five miles upstream of the threatened or impaired segment; therefore, coordination with the TCEQ is not required for total maximum daily loads.

#### Threatened/Endangered Species and Habitat

During construction of the proposed Build Alternative, there is the potential for temporary impacts to the state threatened Louisiana pigtoe, Texas heelsplitter, the little spectaclecase (a state species of concern), and their habitats from adverse water quality conditions from construction area storm water runoff. During construction, there will be temporary impacts to streams which could serve as Texas garter snake habitat and temporary impacts to open areas with sparse vegetation which could serve as Texas horned lizard habitat. After construction, the impacted areas of these streams and open areas will be returned to preconstruction contours and any Texas garter snake and Texas horned lizard habitats are expected to reestablish themselves. There are also ample streams, wetlands, and open areas outside of the proposed construction limits of the proposed Build Alternative that could serve as Texas garter snake and Texas horned lizard habitats.

#### Vegetation and Wildlife Habitat

Most of the native habitat has been replaced through the steady urban development (industrial, commercial, and residential). Land-use within the proposed project area is a mix of urban development with interspersed open fields; portions are cultivated, portions used for grazing, and portions left fallow. The dominant vegetation type is maintained vegetation in the form of mowed ROW and urban landscaping. Few areas of natural vegetation occur within or immediately adjacent to the proposed project area. Vegetation encountered during the survey was secondary growth following various types of man-made disturbances. Non-maintained vegetation within or immediately adjacent to the proposed project area included fencerow vegetation and open undeveloped areas (exhibiting grassland and scattered sapling shrub vegetation, pasture, and cultivated fields). Impacts of the proposed project on the habitat types within the study area corridor are 406.5 of maintained vegetation (approximately 86.7 percent), 62.1 acres of unmaintained vegetation (13.1 percent), and 0.2 acres of low-quality riparian (0.1 percent). In addition, two trees with a dbh equal to 20-inches or greater will be impacted.

### Land Use

The land use along the project corridor consists of agricultural (pasture/cultivated), commercial, residential, retail, office, light industrial, and floodplain with some additional undeveloped areas. Zoning along the proposed project corridor is consistent with the described land use.

It is not anticipated that this project can substantially affect current or future land uses; however, the proposed project may affect the rate of development and redevelopment along the IH 35W corridor. The proposed project may delay short and mid-term land development and investment along the IH 35W corridor, but in the long term, land development and redevelopment are anticipated to rebound and continue at an accelerated pace in accordance with the land uses planned and prescribed by cities traversed by the proposed project. The project is consistent with local planning efforts.

### Section 4(f) and Section 6(f) Properties

The proposed project will not require the use of, nor substantially impair the purposes of any publicly owned land from a public park, recreational area, wildlife and waterfowl refuge lands, or historic sites of national, state, or local significance; therefore, a Section 4(f) or 6(f) Evaluation is not required.

### Right-of-Way/Easements/Construction License/Displacements

The proposed project will require approximately 97.4 acres of additional ROW and 0.6 acres of drainage easements to accommodate the proposed facility. ROW acquisition will impact 109 parcels and three commercial structures will be displaced by the proposed project. No residential structures will be displaced.

### Environmental Justice/Socio-Economic Impacts

No adverse impacts are anticipated from displacements resulting from ROW acquisition.

Economic impact is expected to any single occupant vehicle (SOV) motorist who utilizes the IH 35W managed lanes. Motorists who use the general purpose lanes (non-toll) during peak hours may experience longer travel times than motorists using the managed (toll) lanes. Motorists using the frontage roads may experience longer travel times due to lower posted speed limits and traffic signals along the frontage roads. Because of the greater economic burden of paying a toll, low-income populations would likely use the general purpose lanes (non-toll) and frontage roads.

The proposed project will cause changes in travel patterns. Based on roadway performance reports provided by NCTCOG, the LOS on arterial roadways within the IH 35W project area will improve after the proposed widening is completed. The completed facility will offer better travel time for motorists and make it less likely that motorists will leave the highway to find alternate routes on neighborhood streets. The proposed added capacity from the general purpose lanes (non-toll), frontage roads, and managed (toll) lanes is intended to improve traffic mobility and reduce congestion as compared to the existing conditions. This benefit will be a positive effect to all motorists using the facility. Access to the managed (toll) lanes will be limited to those who elect or can only on occasional basis afford to pay the toll. The project will include six to eight non-toll main lanes with frontage roads that will provide a non-toll alternative for motorists who do not elect or can only on occasional basis afford to travel the managed (toll) lanes. Under normal operating conditions, motorists (including emergency vehicles) using the frontage roads will experience longer travel times than motorists using either the non-toll main lanes or the managed (toll) lanes due to a lower posted speed limit and traffic signals along the frontage roads. However, the overall added capacity the proposed project provides will relieve traffic congestion for all motorists using IH 35W whether they use the non-toll main lanes or frontage roads compared to the existing facility. Furthermore, motorists will have access to a greater number of non-toll main lanes within the project limits as currently exist (increase from four lanes to six/eight non-toll main lanes).

Impacts related to tolling will include an economic impact to low income users of the proposed managed (toll) lanes and the potential for longer travel times on the general purpose lanes (non-toll) or frontage roads compared to the managed (toll) lanes. However, the improved capacity on the proposed facility will improve mobility for all users compared to the existing facility.

#### Clarification on the Managed Lane Policy

The Regional Transportation Council (RTC) serves as the transportation policy-making board for North Central Texas and is responsible for developing policies with regard to the delivery, development, and operation of the transportation system including current high occupancy vehicle (HOV) lanes and the future integrated Managed Lane System. The current managed lane policy, known as "Managed Lanes Policies," was adopted by the RTC on May 11, 2006 (and subsequently modified). The policy can be found at [http://www.nctcoq.org/trans/committees/rtc/ManagedLanePolicies\\_091307.pdf](http://www.nctcoq.org/trans/committees/rtc/ManagedLanePolicies_091307.pdf). This policy is subject to modification by the RTC; however, this will only occur after an opportunity for public input and comment on any changes to the policy. The managed lanes in this corridor will operate according to the regional policy in place at the time the facility opens to traffic, in concert with revisions to the long-range transportation plan and the environmental document.

The basic occupancy definition for HOV is currently defined as a vehicle with two or more occupants and is commonly referred to as "2+." This has been the operational definition for an HOV in the region since 1992 when the first interim HOV facility opened to traffic. Since then, many interim HOV facilities have opened in corridors throughout the region as a way to make some level of immediate-action improvement until a more permanent solution could be designed and funded.

The HOV system was the first phase of growing and developing a regional framework of facilities which are actively managed throughout the day to maximize mobility benefits and offer more reliable and consistent travel time expectations. The current interim HOV system will begin to transition into a fully managed network over the next few years. The managed facility concept, referred to as a Managed Lane System, broadens the usage and eligibility definition for these lanes in such a way as to allow congestion to be fully managed using operational techniques based on but not limited to number of occupants, time of day, level of congestion, vehicle type, pricing, or other criteria.

Mobility 2035 identifies and recommends a need to begin the transition to a managed lane system, while at the same time reviewing current policies regarding a possible shift in the occupancy definition from "2+" to "3+", and also reviewing the need for additional management techniques which includes dynamic pricing. This is currently being studied with the desire that these changes begin as early as mid- to late 2013, to coincide with the phased opening of the region's first permanent managed lanes as part of the LBJ Express project. The implementation of this change could shift to ensure the completion of appropriate technical analyses, environmental documentation, operational studies, and public notification and involvement.

#### Rebate Language Clarification

For managed lanes with dynamic pricing, current policy (found at [http://www.nctcog.org/trans/committees/rtc/ManagedLanePolicies\\_091307.pdf](http://www.nctcog.org/trans/committees/rtc/ManagedLanePolicies_091307.pdf)) stipulates that rebates would be paid if the average speed in a managed lane facility drops below 35 miles per hour over a

predetermined amount of time. However, rebates will not apply if the speed reduction is out of the control of the operator of the managed lane (i.e., accidents, incidents, weather conditions). Current technical limitations exist which will prevent individual travelers or vehicles from receiving these rebates directly. Instead, the intent of the policy is that the rebate will likely be in the form of a specific corridor or system-level rebate, where monies collected will go back into improving the overall system, benefiting all drivers. Policies are being reviewed and developed by regional transportation agencies and the RTC which will further clarify and determine how the rebate is to be applied. This rebate language is included in the managed lane policies adopted by the RTC in 2006 (and subsequently modified).

#### Traffic Noise

Existing and predicted traffic noise levels were modeled at receiver locations that represent the land use activity areas adjacent to the project that might be impacted by traffic noise. The Build Alternative will result in a traffic noise impact at two representative receivers.

#### Hazardous Materials

The proposed project area is located in an urban area with predominantly vacant land interspersed with residential and commercial uses. A review of TxDOT specified federal and state environmental databases identified two leaking petroleum storage tank/petroleum storage tank (LPST/PST) sites that pose a high risk to the proposed ROW acquisition and/or construction of the proposed project.

A visual survey of the proposed project limits and surrounding area was performed by qualified personnel to identify possible hazardous materials within the Build Alternative ROW. No surface evidence of contamination as in stained discolored, barren, exposed or foreign soil or dead, damaged, or stressed vegetation was observed. Documentation of the initial site assessment is maintained in the project files.

The proposed project includes the demolition and/or renovation of approximately 26 bridges, which may contain asbestos-containing materials (ACM).

#### Airway-Highway Clearance

There are two airports, Fort Meacham International Airport and Alliance Airport which are found within the vicinity of the proposed project area. The Alliance Airport runway is less than 2,000 feet from the proposed project. Elevations of the airports and the proposed project's structures (plus 17 feet per federal guidelines) were determined as well as the distances between the airports and proposed structures. Sixteen structures penetrate the 100:1 slope and are identified in Table 30 of the March 2012 EA.

#### Induced Growth Effects

The proposed project has the potential to create substantial induced growth effects within the area of influence (AOI). The cities and town's land use plans have identified the project area as a potential growth area.

Induced growth has the potential to create substantial effects on the vegetation and wildlife habitat in the AOI by displacing the vegetation and wildlife habitat. In addition, this induced growth has the potential to adversely affect waters of the U.S. in the AOI by fill and degradation of the waters from development. The proposed project would not create substantial induced growth effects to floodplains in the AOI.

Induced growth has the potential to increase air emissions from point sources, area sources, on-road mobile sources, and non-road mobile sources. The effect of air emission increases will be minimized as development is required to comply with state and federal regulations, mandated and enforced by the Environmental Protection Agency (EPA) and TCEQ. These regulations are designed to ensure that growth and urbanization do not prevent regional compliance with the ozone standard or threaten the maintenance of the other air quality standards.

New development will increase the tax base and has the potential to affect the values of surrounding properties.

It is unlikely that induced growth would adversely affect public facilities/community centers such as parks/recreation centers. The cities and town within the AOI have strong provisions in their Comprehensive Plans/Codes of Ordinances for the preservation of existing parks and recreation centers, as well as for the expansion of the park system.

Undertakings induced by the proposed project could affect recorded and unrecorded archeological resources. Typical types of undertakings include infrastructure, residential and commercial development projects. In areas where public development is forecasted, archeological sites may receive some protection under federal or state regulations. In areas where private development is forecasted, archeological sites will not be protected.

#### Cumulative Impacts

The EA evaluated impacts resulting from the project when added to other past, present, and reasonably foreseeable actions. Resources considered in the cumulative impacts analysis included vegetation and wildlife habitat, waters of the U.S., and air quality. Table 41 of the March 2012 EA adequately compares cumulative impacts associated with the Build and No-Build alternatives.

#### **PUBLIC INVOLVEMENT**

On Thursday, March 8, 2007 TxDOT conducted a Public Meeting (open house format) for the purpose of soliciting public comments on the proposed project. The meeting was held at the Education Service Center (ESC) Region XI facility located at 3001 North Freeway in Fort Worth, Texas. The meeting began at 6:00 p.m. and concluded at approximately 8:00 p.m. Registered attendance totaled 59. Viewing of the project exhibits and informal discussion sessions were held throughout the duration of the meeting to provide attendees an opportunity to review displays and to ask questions regarding the proposed project, including the managed (toll) lanes tolling component, with project team members present. Five written comments were received either at the public meeting or mailed to TxDOT before the written comment period expired on March 19, 2007. These comments have been reviewed and were considered during the development of the project. All comments received indicated a general support of the project. The written comments also included other specific statements regarding the project.

On Monday, May 11, 2009, TxDOT conducted a project coordination work group/stakeholders group meeting. The meeting was held at the ESC Region XI facility located at 3001 North Freeway in Fort Worth, Texas. The meeting began at 1:30 p.m. and concluded at approximately 3:30 p.m. After a brief introduction, topics discussed included the project schedule and status, the EA, and design schematic overview. At the end of the meeting, attendees were given the opportunity to ask questions or make comments. One comment and one question were made at the public meeting. Neither was in opposition or support of the project.

On Tuesday, July 28, 2009 TxDOT conducted a Public Meeting (open house format) for the purpose of soliciting public comments on the proposed project. The meeting was held at the ESC Region XI facility located at 3001 North Freeway in Fort Worth, Texas. The meeting began at 6:00 p.m. and

concluded at approximately 8:00 p.m. Registered attendance totaled 59. Viewing of the project exhibits and informal discussion sessions were held throughout the duration of the meeting to provide attendees an opportunity to review displays and to ask questions regarding the proposed project, including the managed (toll) lanes tolling component, with project team members present. Three written comments were received either at the public meeting or mailed to TxDOT before the written comment period expired on August 7, 2009. Two of the comments pertained to different projects outside the IH 35W Improvement Study limits. One comment suggested a design change at IH 35W and SH 114. TxDOT thoroughly analyzed and responded to all comments. No comments were received in opposition to the project.

On Thursday, December 15, 2011, TxDOT conducted a Public Hearing for the purpose of presenting the planned improvements to IH 35W to interested citizens, and soliciting public comments on the proposed project. The meeting was held at the John M. Tidwell Middle School located at 3937 Haslet-Roanoke Road in Roanoke, Texas. The Public Hearing began with an Open House at 6:30 p.m., at which time displays were available for viewing. At 7:00 p.m. a formal presentation was given. Upon completion of the presentation, a 20-minute recess was provided so that attendees could review displays and ask questions regarding the proposed project, including the managed lane tolling component, with project team members present. After the recess, attendees were given the opportunity to make verbal comments for the public record. No verbal comments were made, and the Public Hearing concluded at approximately 8:00 p.m. Registered attendance totaled 48. Fifteen written comments were received either at the Public Hearing or mailed to TxDOT before the written comment period expired on December 27, 2011. These comments have been reviewed and considered. All comments received indicated a general support of the project. The written comments also included other specific statements regarding impacts to adjacent properties. The proposed project is supported by the Cities of Fort Worth and Haslet, Tarrant County, Denton County and the NCTCOG.

Copies of the written comments received and public sign-in sheets for all the meetings are available for review at the TxDOT Fort Worth District Office located at 2501 SW Loop 820, Fort Worth, Texas 76133.

### **Mitigation and Monitoring Commitments**

The Environmental Permits, Issues, and Commitments (EPIC) Sheet summarizes the following for incorporation into the project Plans, Specifications and Estimate (PS&E) for the selected Build Alternative and will be implemented before, during and after construction as appropriate and specifically required.

### ***Right-of-Way/Easements/Construction License/Displacements***

The proposed project will require approximately 97.4 acres of additional ROW and 0.6 acres of drainage easements to accommodate the proposed facility. ROW acquisition will impact 109 parcels and three commercial structures will be displaced by the proposed project. and three commercial structures will be displaced by the proposed project. No residential structures will be displaced. The TxDOT ROW Acquisition and Relocation Assistance Program will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended.

### ***Vegetation and Wildlife Habitat***

Compensatory mitigation for the loss of the low quality riparian habitat will not be provided.

Permanent soil erosion control features will be constructed as soon as feasible during the early stages of construction through proper sodding and/or seeding techniques. Disturbed areas will be restored and stabilized as soon as the construction schedule permits and temporary sodding will be considered where large areas of disturbed ground will be left bare for a considerable length of time. In accordance with EO 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping, seeding and replanting with TxDOT approved seeding specifications that are in compliance with EO 13112 will be done where possible.

### ***Threatened and Endangered Species***

Mitigation for project impacts that might occur to mollusk habitats will consist of the water quality measures. Best management practices (BMPs) will minimize potential impacts. It is anticipated that cofferdams and associated dewatering activities will be conducted so that heavy equipment could be placed on the streambeds to construct the bridges.

### ***Waters of the U.S.***

Impacts to all Area Crossings would be authorized under NWP 14 - *Linear Transportation Projects*. Because impacts at Area Crossings 5, 8, 9, 10, 11, 12, and 13 exceed the 0.1 acre impact threshold and/or a discharge in wetlands, a PCN will be required. If temporary fills are needed in jurisdictional waters then the affected areas will be returned to their pre-existing elevations. Compensatory mitigation for Section 404 impacts will be coordinated with the U.S. Army Corps of Engineers (USACE) and performed in accordance with the terms of the approved permit(s).

### ***Water Quality***

General Condition 21 of the NWP Program requires applicants to comply with Section 401 of the CWA. Compliance with Section 401 requires the use of BMPs to manage water quality on construction sites. The storm water pollution prevention plan (SW3P) will include at least one BMP from the 401 Water Quality Certification Conditions for NWPs. Because the proposed project will disturb more than one acre, TxDOT will be required to comply with the Texas Pollutant Discharge Elimination System (TPDES) Construction General Permit. The proposed project will also disturb more than five acres; therefore, a Notice of Intent will be filed to comply with TCEQ stating that TxDOT will have a SW3P in place during construction of the proposed project.

### ***Noise***

Noise abatement measures will not be both feasible and reasonable; therefore, no abatement measures are proposed for this project.

### ***Hazardous Materials***

Additional evaluation of the LPST/PST sites that pose a high risk to the project will be conducted during the right-of-way negotiation, acquisition or eminent domain process prior to construction. This may include conducting regulatory file reviews or subsurface sampling to further understand risk to the project. Any hazardous materials and/or petroleum contamination encountered during construction will be handled according to applicable federal and state regulations per TxDOT Standard Specifications.

The contractor will take appropriate measures to prevent, minimize, and control the spill of hazardous materials in the construction staging area. The use of construction equipment within sensitive areas will be minimized or eliminated entirely. All construction materials used for this project will be removed as soon as work schedules permit.

The bridges that may contain ACM will be inspected to verify the presence or absence of ACM. Prior to bridge demolition(s), a 10-Day Notification will be submitted to the Department of State Health and Human Services.

#### ***Airway-Highway Clearance***

A Federal Aviation Administration (FAA) Notice of Proposed Construction or Alteration form (Form AD-7460-1) will be completed during the design phase and submitted by TxDOT to the FAA for their approval prior to construction of proposed improvements.

#### **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 March 2012 EA for the IH 35W North project analyzed and considered all of the relevant potential environmental impacts and issues. FHWA concurs with the findings made in the March 2012 EA in that: (1) the Build Alternative is the selected alternative for the IH 35W North project, (2) the Build Alternative best meets the purpose and need of the project with the least amount of impacts to the resource areas, and (3) the proposed project with all the required mitigation and coordination as detailed above will have no significant impacts on the quality of the human or natural environment under the National Environmental Policy Act (NEPA).

The proposed action is consistent with *Mobility 2035*, and with the 2011-2014 Transportation Improvement Program (TIP) – 2011 Amendment. The U.S. Department of Transportation (FHWA/Federal Transit Administration [FTA]) found *Mobility 2035* and the 2011-2014 TIP – 2011 Amendment to conform to the State Implementation Plan (SIP) on July 14, 2011. All projects in the NCTCOG's TIP that are proposed for federal or state funds were initiated in a manner consistent with federal guidelines.

Based upon our own agency review and consideration of the analysis and evaluation contained in the March 2012 EA and Administrative Record for this proposed project, and after further careful consideration of all social, economic, and environmental factors, including input from the public involvement process, FHWA further approves the Build Alternative as the selected alternative for the proposed action. The selected alternative will best fulfill the need and purpose for the project and meet the goals identified for the IH 35W corridor.

As to project mitigation, TxDOT is hereby required to ensure completion of all mitigation outlined above and set out specifically in the March 2012 EA for the IH 35W North project and EPIC sheet. TxDOT is also required to ensure that any and all local, state, or federal permit requirements and conditions are met and otherwise complied with.

  
For Federal Highway Administration

03/21/2012  
Date