



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

Vermont Division

July 21, 2017

87 State Street
Montpelier, VT 05602
(802) 828-4423
(802) 828-4424
Vermont.fhwa@dot.gov

In Reply Refer To:
HEC-VT

Ms. Andrea Wright, P.E.
Environmental Services Engineer
Vermont Agency of Transportation
1 National Life Drive
Montpelier, VT 05633-5001

Subject: Middlebury Bridge and Rail Improvements
FAP No. WCRS(23)
Middlebury, Vermont
Finding of No Significant Impact

Dear Ms. Wright:

We have reviewed the revised Environmental Assessment, the Public Hearing transcript, and comments and responses submitted with your letter of July 21, 2017.

Based on the above documentation, we have attached for your records a signed copy of our Finding of No Significant Impact (FONSI). Please ensure that a Notice of Availability of the FONSI is sent to state and areawide clearinghouses indicating that the document will be available from VTrans or our office upon request from the public.

By our issuance of the FONSI for this project, we are herein granting location/design approval for the proposed action. You may proceed with the further development of the project.

Sincerely yours,

Kenneth R. Sikora, Jr.
Environmental Program Manager

Enclosures

FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT
FOR
MIDDLEBURY BRIDGE AND RAIL PROJECT WCRS (23)
TOWN OF MIDDLEBURY, ADDISON COUNTY, VERMONT

INTRODUCTION

The Vermont Agency of Transportation (VTrans) proposes to replace two existing town highway bridges, Bridge No. 102 and No. 2 carrying Vermont Route 30/Town Highway 2 (Main Street) and Town Highway 8 (Merchants Row), respectively, over the Vermont Western Rail Corridor (VWRC) in downtown Middlebury, Vermont. The Project, known as the Middlebury Bridge and Rail Project [Federal-aid Project No. WCRS(23)], is also intended to provide improvements to vertical and horizontal rail clearance, vertical and horizontal rail alignment, track drainage, stormwater management, and rail safety.

An Environmental Assessment (EA) has been prepared on behalf of the Federal Highway Administration (FHWA) to assist FHWA's decision about whether the Proposed Action would result in a significant impact on the environment. The analysis was done through an examination of resources potentially affected by the Proposed Action and considers the context, duration, and intensity of the effects. This analysis was conducted in compliance with the requirements of National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) Regulations, 40 C.F.R. Parts 1500 through 1508, and FHWA Technical Advisory T6640.8A as well as FHWA regulations implementing NEPA contained in 23 C.F.R. Part 771. The EA was made available to resource agencies and the public for a 30-day review and comment period, and a Revised EA has been prepared to make editorial corrections, update some of the analyses in the EA, finalize decisions made under other laws discussed in the EA, and reflect comments that were received. The Revised EA describes the purpose of and need for the Project, considers potential Project alternatives including the No Action Alternative, analyzes the effects of the Proposed Action compared to the No Action Alternative on all resources evaluated, and describes mitigation measures that are proposed to be incorporated into the project.

PROJECT PURPOSE AND NEED

The Purpose and Need for the Project were developed based on prior transportation studies as outlined in **Section 1.3** of the revised EA, coordination between FHWA and VTrans and in consultation with the public, as well as extensive discussions with municipal leaders of the Town and other Project stakeholders.

The Purpose of the Middlebury Bridge and Rail Project has been defined in accordance with the requirements of NEPA, CEQ Regulations 40 C.F.R. Part 1500-1508, and FHWA's Technical Advisory T6640.8A and is presented in **Section 1.4** of the revised EA as follows:

The Purpose of the Project is to address the structural deficiencies of two-rail highway grade-separated bridges in downtown Middlebury where Main Street (VT 30/TH 2 Bridge 102) and Merchants Row (TH 8 Bridge 2) span the Vermont Western Rail Corridor track, to address rail safety concerns, and to provide appropriate vertical and horizontal rail clearances for the design service life of the structures(s) (100 years).

The Project Need is defined by the concerns and deficiencies identified as far as the structural condition of the existing bridges, track condition, rail operations/public safety, and load rating. See **Section 1.5** of the revised EA.

PROPOSED ACTION

The Proposed Action consists of replacing the existing rail bridges on Main Street and Merchants Row and the intervening open cut between them with one approximately 360-foot long tunnel. The Proposed Action also includes improving track alignment, and correcting long-standing drainage deficiencies in the rail corridor. Achieving the selected vertical clearance of 21-feet – 0-inches will require lowering the vertical profile of the track over approximately 3,550 linear feet along the VWRC line, from the Otter Creek Truss Bridge (No. 239) at the southern end of the Project to the Elm Street overpass at the northern end of the Project. This track lowering and the use of a tunnel will effectively restore the pre-railroad extent of the Village Green by reestablishing a park setting over the tunnel. Other improvements associated with the Proposed Action include the replacement of existing utilities (some being placed underground), the installation of stormwater infrastructure to convey stormwater around the Project area and provide drainage for the tunnel, and sidewalk and roadway approach work.

OTHER ALTERNATIVES CONSIDERED

Project alternatives were developed per the requirements of NEPA and Section 4(f) of the United States Department of Transportation Act (USDOT) of 1966. Potential alternatives that appeared to meet the Project Purpose and Need were evaluated by taking into account public input, the Town Plan, historic resources, environmental resources, right-of-way (ROW) needs, and cost.

The evaluation criteria and alternatives to be considered were established based on input received and presented by Federal, state, and municipal representatives through a series of Project meetings held from February 2013 through November 2016. The following alternatives were considered, with detailed discussion contained in the referenced sections of the revised EA.

- No Action (see **Section 2.3.1**)
- Bridge Rehabilitation (see **Section 2.3.2**)
- New Bridge(s) on New Downtown Alignment (see **Section 2.3.3**)
- Eastern Rail Bypass (see **Section 2.3.4**)
- Bridge Replacement on Existing Alignment (see **Section 2.3.5**)
 - Moveable Bridges (see **Section 2.3.5.1**)
 - Fixed Bridges: Two Bridges / Tunnel (see **Section 2.3.5.2**)

A summary of the evaluation of Project alternatives is included in **Table 2.4-1**. As noted in this table and in **Section 2.3** of the revised EA, bridge rehabilitation, the construction of downtown bridges on a new alignment, the Eastern Rail Bypass, and the use of moveable bridges were dismissed as viable Project alternatives. Only the fixed bridges alternative, including a Two Bridge Option and Tunnel Option were advanced for further evaluation using the design considerations discussed in **Section 2.2** of the revised EA.

The primary difference between the Two Bridge and Tunnel Options is the treatment of the land area between Main Street and Merchants Row: either leaving the space as an open cut trench or re-establishing the former (pre-railroad) extent of the Village Green by reconnecting the Triangle Park area with a new downtown green space over the top of the railroad ROW. Order of magnitude estimates put the cost difference for the Tunnel option at approximately \$500,000 more than the Two Bridge option due to the cost of additional precast concrete sections and additional landscaping for the expanded park area over the tunnel.

As discussed in **Section 2.3.5.2** of the revised EA, the application of screening criteria other than cost for the Two Bridge and Tunnel Options either results in a similar outcome (for permitting and ROW acquisition) or favors the Tunnel Option (for Public Input, Town Plan, and Historic Resources). Most attendees to public meetings on March 28, 2013 and June 4, 2013 expressed a preference for the Tunnel Option, and the Town Selectboard has provided written support for the Tunnel Option to the VTrans Secretary. Additionally, the Town Plan recognizes the opportunity to "...close up the chasm that exists in the downtown area..." using a tunnel. While both Options would result in adverse effects to the Middlebury Village Historic District (MVHD) and the Rutland Railroad Historic District (RRHD) due to demolition of the existing historic bridges, reestablishing the approximate former extent of the Village Green as part of the Tunnel Option provides a context-sensitive design enhancement above and beyond the Two Bridge Option.

Based on the foregoing considerations, the Bridge Replacement on Existing Alignment: Tunnel Option was selected as the Proposed Action and carried forward for analysis of environmental effects relative to the baseline No Action Alternative.

EFFECTS OF PROPOSED ACTION

Chapter 3 of the revised EA provides an analysis of potential effects on 18 resource areas. In each instance, the temporary construction phase effects of the Proposed Action have been identified as well as the effects of the completed Project. Where appropriate, mitigation measures have been proposed to reduce adverse effects. Summarized below are the results of the analysis for each of the resources evaluated.

Land Use

The reestablishment of the Village Green over the railroad track is intended as a Project enhancement and is anticipated to have a minor to moderate, long-term, local beneficial effect to land use. The Proposed Action is consistent with land-use planning at the local, regional, and state levels. The Proposed Action would result in short-term, local, minor adverse effects during the construction period as a result of

reduced access to certain areas. Because the Proposed Action would result in beneficial long-term effects on land use through the reestablishment of the pre-railroad extent of the Village Green, no mitigation is proposed for Land Use. See **Section 3.1** of the revised EA.

Traffic

When completed, the Proposed Action would have no long-term effect on traffic. During construction, the Proposed Action would result in a short-term, local adverse effect on traffic due to road closures and associated limitations on access. These effects would be minor to moderate, given planned mitigation measures. These measures include a Transportation Management Plan that addresses vehicular, bicycle, and pedestrian detours, the use of Accelerated Bridge Construction (ABC) as facilitated by a railroad detour, temporary access roads, and alternative parking options. See **Section 3.2** of the revised EA.

Wetlands

A site-specific minor adverse effect on wetlands would occur as a result of the Proposed Action due to unavoidable fills required. However, given the planned mitigation measures to address these impacts, there would be no appreciable long-term effects on the functions and values of the riparian wetlands along Otter Creek. Mitigation measures to be deployed during construction include employing Best Management Practices (BMPs) such as minimizing the clearing of woody vegetation, installing erosion prevention and sediment control measures, and restoring all areas of temporary disturbance in wetland buffers. See **Section 3.3** of the revised EA.

Surface Waters

There would be no appreciable long-term effect on surface waters as a result of the Proposed Action. The construction phase would have minor, short-term adverse effects on surface waters, given the unavoidable fills required and the potential for soil erosion during construction. Construction phase mitigation measures include the management of construction stormwater discharges through the deployment of BMP's in compliance with a Project-specific erosion prevention and sediment control (EPSC) plan, and upgraded stormwater infrastructure. See **Section 3.4** of the revised EA.

Groundwater

The Proposed Action would result in no long-term adverse effects on groundwater resources, but rather would have a local, minor beneficial effect as some contaminated soils would be removed, and as a result, these soils would no longer leach contaminants into groundwater. Groundwater quality would be expected to show some improvement over the long term due to the removal of these soils. Therefore, no mitigation for impacts to groundwater is required. During construction, a minor temporary effect on these resources would occur due to dewatering. See **Section 3.5** of the revised EA.

Floodplains and Floodways

The Proposed Action would result in no appreciable effect on floodplains or floodways either during or following construction. Monitoring of construction activities will be required to ensure that the approved fill quantities are not exceeded. See **Section 3.6** of the revised EA.

Wildlife and Wildlife Habitat

There would be no appreciable long-term effect on wildlife or wildlife habitat resulting from the Proposed Action. During construction, EPSC measures will be implemented to limit potential effects on aquatic and semi-aquatic species. The resulting effects on wildlife and wildlife habitat during construction would be minimally adverse, short-term, and local. See **Section 3.7** of the revised EA.

Threatened and Endangered Species

There would be no appreciable long-term effect on threatened and endangered species resulting from the Proposed Action. Mitigation measures pertaining to state and Federally-listed bat species will be implemented to offset anticipated minor effects. These measures include additional pre-construction investigative surveys, adherence to time of year restrictions for PRT clearing, the installation of artificial roost sites, and revegetation of riparian areas. During construction, short-term, minor adverse effects on threatened and endangered species are anticipated. However, given the planned mitigation measures, these impacts would be minor. See **Section 3.8** of the revised EA.

Air Quality

No appreciable long-term effect on air quality would occur as a result of the Proposed Action. During construction, the contractor will be required to adhere to all appreciable regulations regarding controls of construction vehicle emissions. The contractor will be responsible for protective measures around the construction and demolition work to protect pedestrians and prevent dust and debris from leaving the site or entering the surrounding community. With the deployment of the planned mitigation measures, construction phase adverse effects from the Proposed Action on air quality are anticipated to be minor, short-term, and localized. See **Section 3.9** of the revised EA.

Noise and Vibration

There would be no long-term noise and vibration effects from the Proposed Action. Therefore, mitigation is not required to abate noise or vibration from rail or roadway sources. Nevertheless, because existing vibration levels exceed the FTA criteria for human annoyance at a number of structures adjacent to the railroad track; as an enhancement, VTrans is proposing to incorporate elements in the track design, such as ballast mats or resilient rail fasteners, to reduce existing vibration levels. During construction, BMPs will be used to minimize adverse effects including assuring equipment is functioning properly and equipped with noise mufflers, locating construction equipment as far from sensitive receptors as possible, using quieter methods, using path noise control measures, replacing backup alarms with strobes, and maintaining strong public outreach, coordination, and communication. With the deployment of the planned mitigation measures, adverse noise and vibration effects from construction would be minor, short-term, and local. See **Section 3.10** of the revised EA.

Parks, Recreation and Conservation Land

The Proposed Action would have long-term, local, minor to moderate beneficial effects on parks, recreation and conserved land in the Project area due to reestablishment of the pre-railroad extent of the Village Green. Public input will be invited on the design of the expanded park area. During construction, short-term, local adverse effects would occur on parks and recreation areas due to access limitations. All

areas within the Village Green and Riverfront park will be restored to original conditions. Given the planned mitigation measures, these impacts are considered minor. See **Section 3.11** of the revised EA.

Historic Resources

The Proposed Action would result in a moderate adverse effect on historic resources due to the demolition of the remaining portions of the two historic bridges, including their associated wing walls/retaining walls. Appropriate mitigation measures have been developed and will be implemented as part of the Project. Mitigation measures include photographic documentation, interpretive signage, salvage of architectural features, design of the tunnel end caps, storage of surplus ashlar blocks, enhancing interpretive opportunities, and an update to the National Register district nomination. Adverse effects on historic structures are possible due to effects from construction-related vibration; however, substantial impacts are not anticipated and mitigation measures including the Historic Structures Management Plan will be put in place to minimize the likelihood of such effects. A long-term, local, minor to moderate beneficial effect of the completed Project would be realized through the reestablishment of the pre-railroad extent of the Village Green and the reduction of vibration levels within the historic district. See **Section 3.12** of the revised EA.

Archaeological Resources

With the deployment of the planned mitigation measures, there would be no appreciable effects on archaeological resources from the Proposed Action. Archaeological monitoring will be conducted to document any structural features that become exposed during construction. A qualified archaeologist will monitor the excavation activities. See **Section 3.13** of the revised EA.

Acquisitions (ROW)

For the most part, the Proposed Action is being constructed in the existing ROW, replacing existing infrastructure on alignment. It will be necessary to relocate occupants of one building during construction, these consist of one business and four residential rental units. Project elements related to utility improvements will require permanent easements, though these will be primarily underground and easements will be retained to allow for future maintenance. All ROW acquisitions and relocations will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1969, as amended. Accordingly, the adverse impacts are considered minor. No additional long-term effects would result from the completed Project. See **Section 3.14** of the revised EA.

Social and Economic Considerations

The Proposed Action is anticipated to have a long-term, local, moderate beneficial effect on community social and economic considerations through the reestablishment of the pre-railroad extent of the Village Green, improved sidewalks, and replacement of bridge railing with aesthetically pleasing and safer railings. While the Proposed Action will have unavoidable temporary adverse effects on the social and economic life of downtown Middlebury during the construction period, the Proposed Action has been designed to be constructed as expeditiously as possible and in a manner that maintains accessibility in order to minimize the disturbance of daily life and business operations. Numerous mitigation measures, ranging from specialized construction practices, to shuttle buses and remote parking lots, to community

involvement/communication, are planned such that the resulting effect of construction would be a short-term, minor to moderate adverse effect on the downtown area due to limitations on accessibility. See **Section 3.15** of the revised EA.

Utilities and Emergency Services

The Proposed Action would result in long-term, local, minor beneficial effects on utilities and emergency services through replacement/upgrade of utilities in the Project area and through improved turning radii for access to the Battell Block and through Printer's Alley, respectively. During construction, mitigation measures will include reasonable efforts to minimize disruption of utilities, and providing effective and consistent communication on upcoming disruptions. The temporary impact on the ability of emergency services to respond to incidents in and around the Project Area will be addressed through detailed planning prior to and during the construction period. Short-term, local adverse effects would be anticipated due to temporary shutdowns and access limitations. However, given the planned mitigation measures, these impacts would be minor. See **Section 3.16** of the revised EA.

Hazardous/Contaminated Materials

The Proposed Action would result a long-term, minor beneficial effect on contaminated materials since some of the existing contaminated materials will be removed during construction. During construction, local adverse effects on contaminated materials are anticipated due to earth disturbance. However, given the planned mitigation measures, these impacts would be minor. Soil and other contaminated materials that would be disturbed within the Study Area during construction will be properly handled and disposed of in accordance with a Corrective Action Plan (CAP) and Health and Safety Plan (HASP). Additionally, EPSC measures will be implemented during construction to minimize the potential migration of sediment and dust. See **Section 3.17** of the revised EA.

Visual and Aesthetic Resources

The Proposed Action is anticipated to have a long-term, local, minor to moderate adverse visual and aesthetic effect due to the removal of riparian vegetation along the Otter Creek as viewed from the Battell Bridge. The Proposed Action is anticipated to have a minor to moderate beneficial visual and aesthetic effect resulting from the reestablishment of the pre-railroad extent of the Village Green. Visual and aesthetic adverse effects during the construction of the Proposed Action will be minor to moderate but short-term. See **Section 3.18** of the revised EA.

WHY THE SELECTED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT

As defined in **40 CFR § 1508.27**, significance is determined by examining the following criteria:

1) Impacts that may have both beneficial and adverse aspects and which on balance may be beneficial, but that may still have significant adverse impacts that require analysis in an Environmental Impact Statement (EIS).

Implementation of the Proposed Action would result in beneficial and adverse effects, as well as no effect on certain resources. However, no major or significant impacts were identified that will require analysis in an EIS. The completed Project would result in adverse effects on historic resources and beneficial effects on: land use; groundwater and drinking resources; parks, recreation, and conservation land; social and economic considerations; utilities and emergency services; and hazardous/contaminated materials. The completed Project would result in no effect on: traffic; wetlands; surface waters; floodplains and floodways; wildlife; threatened and endangered species; air quality; noise and vibration; archaeological resources; and acquisitions. Short-term construction phase effects were identified and discussed in **Chapter 3** of the EA.

2) The degree to which public health and safety are affected.

Enhancing safety is one of the primary goals of the Middlebury Town Plan with respect to transportation planning, and providing for the safe and efficient movement of people and goods is the mission of VTrans. The purpose of the Project, in part, is to address rail safety concerns of the VWRC. The existing safety concerns include the deteriorating conditions of the railroad bridges, the insufficient track drainage infrastructure, and the existing horizontal and vertical clearance levels of the railroad bridges. The Proposed Action would improve all of these conditions.

The Project involves no long-term adverse effects on public health and safety. The construction of the Proposed Action would result in short-term adverse effects that could affect public health and safety; however, these will be mitigated so that public health and safety will not be affected.

For instance, areas used for staging in the Village Green will be closed off to pedestrians. Signed pedestrian and vehicular detours will be well established. Mitigation measures will control the noise of equipment and the generation of dust and debris.

Based on the foregoing, adverse construction-related effects on public health and safety arising from the Proposed Action would be short-term and minor, whereas post-construction impacts would be long-term and beneficial.

3) Any unique characteristics of the area (proximity to historic or cultural resources, wild and scenic rivers, ecologically critical areas, wetlands or floodplains, and so forth).

As described in the EA, Bridges No. 102 and No. 2 are considered historic resources and are located within and contributing to both the National Register-listed MVHD and National Register-eligible RRHD. The removal of the historic bridges results in an Adverse Effect to both districts. However, the Adverse Effect is anticipated to be offset in part by the reestablishment of the pre-railroad extent of the Village Green, photo documentation of the historic bridges and wingwalls/retaining walls, interpretive signage, and reuse of ashlar stone blocks from the abutments in the expanded park.

The Project is anticipated to have No Effect on precontact archaeological resources. Historic period archaeological resources may be present within the APE and may be exposed during construction. The exposure and disturbance of such resources during construction would result in No Adverse Effect provided that the Project adheres to the Stipulations contained in **Section 3.13.5** of the revised EA.

As described in **Section 3.6.2** of the revised EA, the Otter Creek is the only surface water within the Study Area, flowing northerly and generally parallel to the VVRC. Based on the 1985 FEMA Flood Insurance Map (FIRM) for the Town of Middlebury (Map Panel 5000080003A, effective date January 3, 1985), portions of the Study Area are within Zone A, the (100 year) special flood hazard area (SFHA) associated with the Otter Creek. The Proposed Action will not result in an increase in the 100-year water surface elevation and is in compliance with National Flood Insurance Program (NFIP) standards, thus no mitigation for floodplains is proposed.

Adherence to the final design plans will be monitored during construction to ensure that fills placed adjacent to the Otter Creek do not exceed the approved quantities. A survey of as-built conditions will be prepared by a licensed land surveyor or professional engineer and will be submitted to the Vermont Department of Environmental Conservation Floodplain Manager when the Project is complete. The Proposed Action would result in no appreciable effect on floodplains or floodways either during or following construction.

As described in the EA, three wetlands were identified, and no vernal pools or potential vernal pools were identified in the Study Area. All delineated wetland areas were observed within the riparian zone of the Otter Creek. The Proposed Action would result in minor wetland impacts, which have been avoided or minimized to the greatest extent practicable during Project design.

There were no wild and scenic rivers, ecologically critical areas, or prime farmland identified within the Project area.

4) The degree to which impacts are likely to be highly controversial.

The term "controversial" refers to cases where substantial dispute exists as to the size, nature, or effect of the action rather than to the existence of opposition to a use, the effect of which is relatively undisputed. There has been no substantial dispute regarding the size, nature, or effect of the project from the environmental resource agencies. As measured by public comment on the EA, the environmental effects of the Proposed Action are not likely to be highly controversial. A small number of comments were received from private individuals and organizations expressing concern, primarily regarding construction-phase effects. In response, the Revised EA contains additional analysis and supplemental mitigation measures, which address the concerns that were raised.

5) The degree to which the potential impacts are highly uncertain or involve unique or unknown risks.

No highly uncertain, unique, or unknown risks were identified during preparation of the EA or the public review period.

6) Whether the action may establish a precedent for future actions with significant effects, or represents a decision in principle about a future consideration.

The Proposed Action neither establishes FHWA precedent for future actions with significant effects, nor represents a decision in principle about a future consideration. Future actions will be evaluated through additional, project-specific planning processes that incorporate requirements of NEPA, Section 106 of the National Historic Preservation Act, and FHWA policies.

7) Whether the action is related to other actions that may have individual insignificant impacts but cumulatively significant effects. Significance cannot be avoided by terming an action temporary or breaking it down into small component parts.

As described in **Section 3.19** of the revised EA, cumulative impacts were defined by combining the impacts of the Proposed Action with the impacts of other past, present, and reasonably foreseeable future actions.

When considered in association with the Creek Road Sidewalk Project, the Seymour Street/Pulp Mill Bridge Road Bike and Pedestrian Project, the Middlebury Visitor Services Project, and the proposed rail platform, the Proposed Action would contribute in a noticeable beneficial increment to cumulative impacts on Parks, Recreation, and Conservation Land and Social and Economic Concerns.

The Proposed Action is anticipated to contribute an imperceptible adverse increment to cumulative impacts on historic resources. This outcome recognizes how the proposed Standard Mitigation Measures and Project-specific mitigation measures offset the adverse on historic resources and how the improvements to the Village Green are expected to enhance appreciation and awareness of the resources of the MVHD.

In comparison with the other projects analyzed for cumulative impacts, the Proposed Action is also anticipated to contribute an imperceptible adverse increment to cumulative impacts on wetlands due to the construction of the stormwater outfall near the Cross Street Bridge pier. In recognition of the stormwater improvements discussion in **Section 3.4** of the revised EA, the Proposed Action is anticipated to contribute an imperceptible beneficial increment to cumulative impacts on Surface Waters.

When considered relative to the other projects analyze for cumulative impacts, the Proposed Action is anticipated to contribute an imperceptible adverse increment on Threatened and Endangered Species, specifically the Indiana bat and northern long-eared bat. This analysis considered both the removal of potential roost trees as well as the proposed mitigation measures (see **Section 3.8** of the revised EA).

Based on the complexity of the proposed construction and the fact that the Project corridor is an urban environment with multiple parcels abutting the ROW, the Proposed Action would contribute a noticeable minor to moderate adverse increment to cumulative impacts on Acquisitions/ROW.

The Proposed Action is anticipated to contribute an imperceptible beneficial increment to cumulative impacts on Hazardous/Contaminated Materials due to the proposed removal of contaminated materials from the Project Area.

Based on the evaluation of the cumulative impacts on resources that have, will, or are anticipated to be affected by the other identified projects and the Proposed Action, the latter will contribute only a minor overall cumulative impact. Each project has or would mitigate its individual impacts. Based on this finding, no additional mitigation or action is warranted beyond that provided for the project-specific effects discussed on a resource-by-resource basis in **Chapter 3** of the revised EA. No past, present, and reasonably foreseeable future actions have or will continue to contribute to the cumulative impact on special status species and archeological resources.

8) The degree to which the action may adversely affect historic properties in or eligible for listing in the National Register of Historic Places, or other significant scientific, archeological, or cultural resources.

The Middlebury Village Historic District is listed in the National Register of Historic Places. The railroad corridor and bridges are eligible for listing in the National Register of Historic Places as contributing resources to the RRHD. The Proposed Action would result in a long-term adverse effect on historic resources due to the elimination of the existing historic wing walls/retaining walls and bridges. However, given the planned mitigation measures, these impacts would be minor. Long-term adverse effects on historic structures are possible due to effects from construction phase vibration; however, mitigation measures including the Historic Structures Management Plan will be put in place to minimize the likelihood of such effects. A beneficial effect of the completed Project on historic resources would be realized through the reestablishment of the pre-railroad extent of the Village Green.

The Project is anticipated to have No Effect on precontact archaeological resources. Historic period archaeological resources may be present within the Area of Potential Effect (APE) and may be exposed during construction. The exposure and disturbance of such resources during construction would result in No Adverse Effect provided that the Project adheres to the Stipulations contained in **Section 3.13.5** of the revised EA.

9) The degree to which an action may adversely affect an endangered or threatened species or its habitat.

The effects of the Proposed Action on endangered and threatened bats, if any, are anticipated to be negligible. Adverse effects during construction may include disturbance in the area from increased light, noise, vibrations, air blasts, and human activity.

No effects of the Proposed Action are anticipated to affect the fluted-shell mussel, as the species was not observed within the proposed limits of disturbance.

The Proposed Action would potentially result in short-term, local adverse effects on threatened and endangered species during construction. However, given the planned mitigation measures, these impacts would be minor. There would be no appreciable long-term effect on threatened and endangered species resulting from the Proposed Action.

10) Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

The Proposed Action does not violate federal or state environmental protection laws. All necessary required permits and approvals are identified in **Section 5.2** of the revised EA, and either have been obtained or will be obtained prior to construction. As a railroad project, the Proposed Action is exempt from local regulation pursuant to the Interstate Commerce Commission Termination Act of 1995.

PUBLIC INVOLVEMENT

The Project has been the subject of past planning and design studies. Planning for the Proposed Action as described in the revised EA began in February 2013. In 2013, the Proposed Action was reviewed pursuant to FHWA requirements under NEPA, and a Categorical Exclusion (CE) was issued by FHWA on January 6, 2014. Since that time, certain design elements of the Proposed Action have been refined. The revised EA supersedes the CE analysis and has been prepared to more fully assess the environmental consequences that may result from the Proposed Action as well as to provide additional opportunities for public engagement. Environmental, social, and cultural resources were considered, and effects to these resources were avoided and minimized to the greatest extent possible.

Multiple public meetings have been held during development of this Project, from 2013 to 2017, as described and listed in **Section 5.3** of the revised EA. The EA was released for public review and comment for a 30-day period from April 26, 2017 through May 26, 2017. A public hearing was held in the middle of this period on May 11, 2017, which included an overview presentation and opportunity for public comment. A list of past meetings along with the date, locations and topics are provided in **Table 5.3-1**. Public feedback was recorded during the Local Concerns Meeting and Alternatives Presentation Meeting, and are included in Appendix L, as is the presentation from the November 17, 2016 public meeting.

FINDING OF NO SIGNIFICANT IMPACT

FHWA has selected the Proposed Action for implementation to meet the Project Purpose and Need. The Proposed Action is described on pages 2-22 through 2-30 of the revised EA. Based on the analyses of impacts to resources and planned mitigation, FHWA has determined that the Proposed Action will not have any significant impact on the human environment. This finding of no significant impact is based on the attached Revised Environmental Assessment (revised EA) which has been independently evaluated by

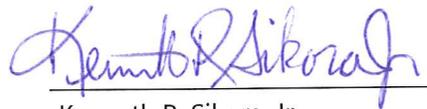
the FHWA and determined to adequately and accurately discuss the need, environmental issues, and impacts of the proposed project and appropriate mitigation measures.

The proposed Middlebury Bridge and Rail Project will result in 0.01 acres of direct wetland impact. The project has been extensively coordinated with local, State and Federal agencies, and the public. Wetland impacts have been minimized through development of a design which avoids impacts to the extent practical (revised EA, pg. 3-21). Because of the minimal wetland impacts, mitigation measures will be limited to the incorporation of Best Management Practices into the project plans. Design refinements and proposed mitigation measures have been, and will continue to be, coordinated with State and Federal Resource Agencies as part of the Section 404 permitting process. Based on the above considerations, FHWA has determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

Based on the foregoing, it has been determined that the Environmental Assessment provides sufficient evidence and analysis of the Proposed Action for determining that an Environmental Impact Statement is not required. The FHWA takes full responsibility for the scope, content, and accuracy of the attached Revised Environmental Assessment.

7/21/17

Date



Kenneth R. Sikora, Jr.
Environmental Program Manager
Federal Highway Administration