

CAPITOL HILL RESTORATION SOCIETY



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Mr. Joseph C. Lawson email: Christopher.lawson@dot.gov
Division Administrator
Federal Highway Administration, DC Division
1990 K Street, NW, Suite 510
Washington, DC 20006-1103

Subject: Comments on Provisions for Historic Properties in the Final Environmental Impact Statement and Memorandum of Agreement for the CSX Virginia Avenue Tunnel Project

Dear Mr. Lawson:

Thank you for the opportunity to provide comments on the Final Environmental Impact Statement (FEIS) for the CSX Virginia Avenue Tunnel Project (Project) in Southeast Washington, DC, and its provisions for avoiding, minimizing, and mitigating adverse effects on historic properties protected by Section 106 of the National Historic Preservation Act (Section 106) and its implementing regulations at 36 CFR Part 800. The Capitol Hill Restoration Society (CHRS), a Consulting Party in Section 106 review of the Project, appreciates the opportunity to provide its comments to the Federal Highway Administration, District of Columbia Division (FHWA-DC), cooperating federal agencies, the DC Department of Transportation (DDOT) and CSX. CHRS earlier submitted scoping comments, comments on the Draft Environmental Impact Statement (DEIS), Section 106 comments on the DEIS, and comments on a draft Memorandum of Agreement (MOA). A separate comment letter from CHRS concerning the overall FEIS will echo and expand on the comments in this letter. CHRS submits these comments by the extended deadline of August 14, 2014.

Summary

CHRS continues to support Alternative 1, No-Build, and is disappointed that Alternative 3 was selected as the Preferred Alternative. Alternative 1 is the only alternative that

avoids adverse effects to all of the historic properties in the Project area; the other three alternatives cause loss of the historic tunnel and paving, cause adverse effects on many historic properties, and present undue risk to many other historic properties, including numerous contributing buildings in the Capitol Hill Historic District that the FEIS argues are not at risk – an argument CHRS does not accept. As in our earlier Project comments, we continue to strongly agree that the Project will have adverse effects on the Capitol Hill Historic District, including contributing Virginia Avenue Park. These risks also include the potential for a wide range of structural damage over a prolonged period of time not only to some of the landmarked properties listed in the FEIS, but also to the many historic contributing buildings in the Capitol Hill Historic District that are not acknowledged and adequately provided for in the FEIS.

We continue to believe that there are better options for passenger and rail service, and for the city, than investing \$168 million in the Project to enable running more and bigger freight trains through a densely populated section of a major city mere blocks from the U.S. Capitol and Supreme Court. Unlike many cities and states, DC does not have a comprehensive rail transportation plan. To remedy this, the City Council's DC budget for fiscal year 2015 includes \$500,000 to produce a comprehensive rail plan for the District, including plans to accommodate future increases in passenger, commuter, and freight rail traffic (DC Rail Plan). We urge that no Record of Decision (ROD) should be issued until the DC Rail Plan is completed, presented to the City Council and the public for comment, and analyzed and integrated into a Supplemental FEIS.

The FEIS fails to respond adequately to many of CHRS's comments on the DEIS

The responses to CHRS's comments in Vol. 4, Appendix L (#19) fail to address adequately many issues that CHRS raised concerning potential adverse effects of the build alternatives on historic properties. The responses generally repeat and rely on the flawed data and analysis carried over from the DEIS to the FEIS.

Vibration-caused damage to historic buildings Response 19-1

As set out in more detail in CHRS's separate letter on the FEIS, we believe based on past incidents and new information that damage to historic buildings from construction-caused vibration – including along haul routes through and along the perimeter of the Capitol Hill Historic District – and train pass-by vibration during construction is highly likely, and that the area of potential damage to historic buildings is certainly larger, and likely much larger, than the FEIS indicates.

St. Paul AUMP Church Response 19-2

While we appreciate the commitment to include the Church in the Construction Protection Plan, as we pointed out in our separate letter concerning the FEIS, it is highly likely that the church will suffer vibration damage during construction.

Virginia Avenue Tunnel Responses 19-3, 19-4

As we noted in our prior comments, Alternative 1 (No Build) would preserve the Virginia Avenue Tunnel. Nevertheless, we appreciate the commitments in the MOA and FEIS to

HABS/HAER documentation of the tunnel, an interpretive sign or plaque about the tunnel, and donation and relocation of the tunnel's portal stones.

Virginia Avenue Paving Response 19-5

Alternative 1 would allow this rare, intact historic paving to remain *in situ*, one of many advantages of Alternative 1. However, if the Preferred Alternative goes forward and necessitates removing the paving stones, the best mitigation would be for CSX to salvage and reinstall all the historic paving on Virginia Avenue, SE, at its original location, and to develop and install an interpretive exhibit at that location, at CSX's cost. If this re-installation is not possible due to tunnel and 11th Street Bridge construction and related grading, we agree that the highest priority should be to reuse the stones in the original Virginia Avenue right-of-way or – in addition or as a second choice – in a related Virginia Avenue educational display. We recommend that all Consulting Parties be offered an opportunity to be part of the decision-making process for this rare and valuable archeological resource.

Christ Church, Washington Parish Response 19-6

As noted above, the vibration study is so deficient that we believe there is no basis to conclude that this building will not be damaged during construction, especially considering that it is a mere block from a haul route. Accordingly, we reiterate our request for a pre-construction assessment of this building and recommend that it be explicitly included in the Construction Protection Plan.

Randall Junior High School and the Capitol Police Horse Barn Response 19-7

As noted above, the vibration study is so deficient that there is no basis to assume that these buildings will not be damaged during construction, especially considering that the Capitol Police Horse Barn is on the construction haul routes in and out. FEIS 3.5.3, p. 3-28, Figure 3-36, p. 3-29; Figure 4-15, p. 4-67.

Capitol Hill Historic District, Responses 19-8 – 19-15 and 19-18

The FEIS gives the appearance of limiting use of the term "historic properties" to the 18 landmarked properties and historic districts shown in FEIS Figure 4-15 and Table 4-15, pp. 4-68-73, without adequately acknowledging that there are hundreds of historic contributing properties, including contributing buildings and other historic components in the Capitol Hill Historic District and the L'Enfant Plan, within the Area of Potential Effects (APE). Furthermore, neither the FEIS nor the MOA sufficiently provide for potential adverse effects to most of these hundreds of historic buildings and elements. See "Capitol Hill Historic District" discussion in our Section 106 comments dated September 25, 2013.

The FEIS correctly acknowledges that older buildings are generally more fragile and more susceptible to damage from vibration. FEIS 5.7.1, p. 5-37-38. However, with the exception of St. Paul AUMP Church, the FEIS provides for no avoidance, minimization, or mitigation of adverse Project effects on the majority of the many other historic buildings, including hundreds of contributing buildings, in the APE that are near the LOD and along or near haul routes. CHRS continues to believe that the FEIS and the MOA do

not sufficiently recognize and provide for the full scope of possible adverse effects on contributing properties in the Capitol Hill Historic District.

Many contributing buildings in the southern part of the Capitol Hill Historic District below the freeway are adjacent to or near the Virginia Avenue construction site (LOD) and will be affected by construction-related emissions, noise and vibration. Also, even more contributing buildings are also located on the construction haul routes in and out of the construction area, and loaded trucks will be passing in front of the businesses trying to operate in some of these buildings. Indeed, Square 929 is surrounded by construction activity, immediately facing the LOD on the north with all three remaining sides along haul routes, while three other squares in this portion of the historic district (Squares 907, 929 and 930) have haul routes along three of their four sides. Square 952 has haul routes along two sides.

Vibration at 90 VdB or higher will cause damage to older fragile buildings. Loaded trucks generate 86 VdB at a distance of 25 feet. As a result, these fragile historic buildings will be subjected to vibrations at or near the level that the FEIS admits causes damage. Buildings on the route out exposed to loaded trucks include old and very fragile rowhouses on the east side of 7th Street, SE (1888), 1102 8th Street, SE (pre-1824), 1112-1114 8th Street, SE (1833), the Washington & Georgetown Railroad Car House (1891), and parts of the Washington Navy Yard., FEIS Appx. F, Tables 4-2, 5-5; FEIS 3.5.3, p. 3-28, Figure 3-36, p. 3-29; Figure 4-15, p. 4-67; Table 5-14, p. 5-39 (loaded trucks). The mitigation measures described in the MOA and in FEIS 5.7.4 do not address these issues. Accordingly, we ask that *all* of these known contributing buildings be included in the Construction Protection Plan (CPP) so that the CPP will require for them pre-construction assessment, ongoing monitoring, and provisions for evaluating and repairing any construction-related damage. We also ask that the Mitigation Measures for the Historic Built Environment in the ROD explicitly reference inclusion of these contributing buildings in the CPP.

Contributing buildings north of the freeway, Responses 19-13 and 19-18

We appreciate the information on the pre-construction building inspection and compensation program. However, many contributing buildings in the Capitol Hill Historic District north of I-695 could also be affected by construction-related vibration because they are close to intersections open to the LOD or are on the haul routes for trucks. FEIS Figure 3-6, p. 3-29. These contributing buildings north of the freeway could be damaged by vibrations from the construction area or from heavy trucks moving on haul routes along Virginia Avenue between 3rd and 6th Streets SE (north of the freeway) and on the haul routes along South Capitol Street, E Street, and New Jersey Avenue SE. They too warrant inclusion in the CPP, and we ask that a requirement for their inclusion in the CCP be explicitly added to the mitigation measures for the Historic Built Environment in the ROD. This would help address the MOA's failure to explicitly provide for avoiding, minimizing, and mitigating adverse effects on *any* known contributing building in the Capitol Hill Historic District.

By appearing to limit consideration of adverse effects to only those caused by construction-related activity within the LOD, the FEIS has neglected to address adequately what we view as "reasonably foreseeable" potential adverse effects that "may... be farther removed in distance or be cumulative" [36 CFR § 800.5(a)(1)] Accordingly, we consider the Response to Comment 19-13 to be unacceptable in asserting that "Requests for [pre-construction] inspections outside the above boundaries ["along eastbound Virginia Avenue, or directly adjacent to the LOD between 2nd and 12th Streets SE"] will be considered [only] on a case by case basis." Instead, we strongly recommend that CSX proactively reach out to all owners of contributing properties within the APE by notifying them, individually and in writing, that they may ask for their buildings to be included in the CPP and its provisions, including pre-construction assessment, ongoing monitoring, and compensation for damage related to Project construction. This will be particularly important not only for all contributing properties south of the freeway, but also for those north of the freeway in Squares 847, 823, 796, 878, 822, 795, 846, 877, 693, 694, 904 and 736, since all or parts of them could be adversely affected by vibrations from heavy loads on haul routes.

Barracks Row Main Street (BRMS), Responses 19-8 and 19-16

Please see our response to Responses 19-8 – 19-15 above. In addition, though literal access to businesses may not be affected by construction, prospective patrons may avoid some of the businesses and/or their outside sidewalk café seating due to construction mess, noise, dust, truck traffic, and reduced parking availability, which could adversely affect business income and viability. This in turn could cause cumulative adverse effects to sustainability of this historic commercial strip and its businesses in historic contributing buildings by adversely affecting them in a manner that may alter or diminish, "directly or indirectly", "the integrity of the property's...setting,...feeling, or association." [36 CFR § 800.5(a)(1)]

Garfield Park, Response 19-19

We appreciate the temporary wayfinding signs.

Washington & Georgetown Railroad Car House, Response 19-20 – 19-21

As noted above, there are serious defects in the FEIS's vibration studies, and we continue to disagree that the Project will have no adverse effect on this 1891 landmarked building, which is barely one-half block from the LOD and its construction. Also, this building is directly on several haul routes, subjecting it to vibrations from loaded trucks on three sides only a few yards from the building.

Virginia Avenue Park, Responses 19-22 and 19-23

We appreciate the provisions for CSX to "restore the portions of Virginia Avenue Park that were affected by the construction..." [MOA I.F.2] but continue to believe that restoration must encompass the entire park for a fully unified and integrated result. Also, CHRS continues to believe mitigation measures should have included consultation with the community while planning the Park's restoration and ask that this be added to mitigation measures for the Park in the ROD. Response 19-22 fails to state what equipment and material will be stored in the Park during construction and its effects.

Virginia Avenue Streetscape, Response 19-17

Trees are important character-defining features of the Capitol Hill Historic District and Virginia Avenue Park. While it is helpful that the depth of the new tunnel should have no direct effect on replacement street trees, the FEIS makes no commitment to critical steps needed for replacement trees to thrive: (1) The soil (which will be 100 percent replacement soil) must be certified by Urban Forestry Administration (UFA) as suitable to sustain healthy trees, and (2) CSX must pay to water all new trees for the first two years. UFA must be in charge of this entire effort (and not just “coordinated with). We ask that these requirements be added to mitigation measures for the streetscape in the ROD.

In addition, open grassy areas such as those in Virginia Avenue Park and Reservation 122 are important green spaces in an otherwise crowded rowhouse neighborhood with a freeway. Because Reservation 122 – a grassy space within the LOD at 4th Street and Virginia Avenue – is a contributing element in the L’Enfant Plan, we were happy to see that Stipulation I.B.2 in the MOA provides for it to be a “no touch” zone during construction. Though it is not explicitly stated in the FEIS or MOA, we assume that this Reservation will be included in the post-construction restoration of Virginia Avenue.

We note that the timeframe for restoring the streetscape is not specified in the MOA and urge that DCSHPO and NPS, which will review and comment on draft plans, require quarterly reports from CSX addressing implementation of Virginia Avenue’s restoration.

We continue to request that the community be consulted regarding plans for restoring Virginia Avenue, including the affected ANCs, and note there is no provision in the FEIS or MOA for such consultation. Such a provision should be added to the Streetscape’s Mitigation Measures in the ROD.

Additional Comments

Consultation with Consulting Parties

After the commendable series of meetings with the Project’s Consulting Parties at each previous step of the Section 106 review process, CHRS was greatly disappointed that no meeting with Consulting Parties was held for the final step of the Project’s Section 106 review – i.e., Resolution of Adverse Effects, a step in which consultation with Invited Consulting Parties is crucial. While all Consulting Parties were *involved* [per § 800.6(a)(2)] to some extent by being offered an opportunity to provide comments on a Draft MOA, CHRS, as a Consulting Party, would have appreciated a follow-up meeting to hear about comments on the Draft MOA; hear from CSX, DDOT, FHWA, and DCSHPO how they proposed to revise terms of the Draft MOA in response to comments; and provide thoughts on proposed changes in those terms.

Further, Consulting Parties were not even notified that the final MOA had been executed nor provided with a copy of the MOA until the FEIS and its Appendices were published in mid-June, so the indirect notice that Section 106 review had been concluded came as a complete surprise in the absence of a meeting.

Preservation Fund and Coordination with DC’s Historic Preservation Review Process

The Preservation Fund established by the MOA in Stipulation I.D. may include “bricks and mortar” projects involving contributing properties in the Capitol Hill Historic District. Therefore, it will be imperative for the yet-unspecified “third party entity” which will administer the fund to ensure that funded projects involving and/or potentially affecting contributing properties are submitted for review by the DC Historic Preservation Review Board, as required by DC law.

Construction Protection Plan (CPP)

As noted above, CHRS strongly advocates much broader inclusion of contributing properties in the CPP. Accordingly, we ask that Stipulation I.B.3’s provision that “At a minimum, the CPP shall include...the other older structures located near Virginia Avenue SE, such as the building at 809 Virginia Avenue SE...” be interpreted and applied *very broadly* to include all contributing buildings noted above that are both south of and north of the freeway. This should help ensure that vibration effects on contributing buildings which line haul routes through and along the perimeter of the Capitol Hill Historic District will be assessed, monitored, and protected.

Change in CHRS’s Section 106 Representative

To date, Shauna Holmes has been CHRS’s designated representative for Section 106 review of this Project. From the date of this letter onward, Elizabeth Purcell will be CHRS’s designated representative for any further Section 106-related involvement of Consulting Parties, including all further consultation regarding the Project – including but not limited to amending the MOA, executing another MOA following termination by a Signatory, dispute resolution, and resolution of an objection by the public per Stipulation VI.B. – and all implementation of MOA provisions. Ms. Purcell can be reached at eap1@mindspring.com.

Thank you for the opportunity to submit comments on the FEIS and MOA. We look forward to the reports, plans, designs, and other products provided to the Signatories for review that will be posted on the project website.

Sincerely,

Shauna Holmes

Elizabeth Purcell

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