

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
EASTERN REGION

***FINDING OF NO SIGNIFICANT IMPACT
AND RECORD OF DECISION***

Rail Station Improvements and Fourth Track Project

Baltimore/Washington International Thurgood Marshall Airport
Anne Arundel County, Maryland



July 2016

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I. Introduction:

This document serves as a Finding of No Significant Impact (FONSI) and Record of Decision (ROD) for the Federal Aviation Administration's (FAA) proposed federal action for the unconditional approval of an Airport Layout Plan (ALP) that depicts the Airport Rail Station Improvements and Fourth Track Project and associated releases of federally-obligated land for Baltimore/Washington International Thurgood Marshall Airport (BWI). The airport is owned and operated by the Maryland Aviation Administration (MAA).

The Federal Aviation Administration (FAA), a Cooperating Agency on the BWI Rail Station Improvements and Fourth Track Project, is issuing this Finding of No Significant Impact/Record of Decision (FONSI/ROD) based on its review and adoption of the Environmental Assessment /Draft Section 4(f) Evaluation (EA), dated April 2015, prepared by the Maryland Transit Administration (MTA) and the Federal Railroad Administration (FRA). FRA also served as the lead federal agency under the National Environmental Policy Act (NEPA) and all applicable special purpose laws for the project. On January 5, 2016, the FRA issued its FONSI for the project. The FRA's EA and FONSI together describe the project background, a basis for its decision, a description of alternatives that were considered, environmental consideration, potential environmental impacts, and mitigation measures.

In accordance with 40 CFR 1506.3 and FAA Order 1050.1F, Ch 8, para 8-2, the FAA has adopted the FRA's EA. The EA analyzes a nine-mile study corridor and the replacement of the BWI Rail Station. The EA was prepared in accordance with the Council on Environmental Quality (CEQ) regulations, implementing the National Environmental Policy Act (NEPA) of 1969, FRA's Procedures for Considering Environmental Impacts (64 FR 28545, May 26, 1999), FRA's Update to NEPA Implementing Procedures (78 FR 2713, January 14, 2013), FAA Order 1050.1F, and other related laws.

This FONSI/ROD describes the purpose and need of the project, actions to be taken by the FAA, environmental effects of the proposed action, committed mitigation, if any, and the FAA's decision. The nature and extent of the FAA's decision is clearly stated in this FONSI/ROD.

II. Proposed Agency Action:

The Federal actions on behalf of the FAA involved in the implementation of the Proposed Project include the following:

- 1) Release of 3.47 acres of federally-obligated airport property for non-aeronautical purposes;
- 2) Unconditional approval of an Airport Layout Plan (ALP) to depict the location of Airport Rail Station Improvements and Fourth Track and the associated releases of federally-obligated airport property;
- 3) Determination and actions, through the aeronautical study process, of the effects of the proposed projects upon the safe and efficient utilization of navigable airspace pursuant to 14 CFR Parts 77 and 157 and 49 U.S.C. § 44718; and
- 4) Determination that the project conforms with FAA's design criteria, federal regulations, and grant assurances (14 C.F.R. Parts 77, 157, and 158).

III. Purpose and Need:

The purpose and need for the Airport Rail Station Improvements and Fourth Track Project is to improve operations at the station and along the nine-mile section of the Northeast Corridor (NEC) centered on BWI Rail Station. The Purpose and Need, as discussed on Page 1-9 of the FRA's EA, establishes the need for action by describing, in detail, the current and anticipated future problems associated with the BWI Rail Station. It includes an explanation of the legislative mandate to achieve improved trip times in the transportation corridor.

In the area of the BWI Rail Station, operations on the NEC are constrained. The existing three-track arrangement between Grove Interlocking and Winans Interlocking limits schedule reliability and results in congestion. Operational flexibility is limited at the station as only two of the three existing tracks have platforms. Additionally, the station building is undersized and functionally obsolete as it fails to meet current and projected future patron circulation, safety and amenity needs. Improvements associated with the BWI Rail Station would benefit the entire NEC route, in addition to the Washington, D.C. – Baltimore, Maryland segment, and support other NEC projects in addressing deficiencies and provide capacity for the future.

IV. Project Description:

The project consists of three elements: the addition of nine miles of fourth track; the addition of a third station platform; and the replacement of the existing BWI Rail Station building. Figure 2.1-2 in FRA's EA illustrates the existing platform, track and station elements at the BWI Rail Station.

The first element consists of adding nine miles of fourth track. The new fourth track through the station area would require reconfiguration of the existing tracks adjacent to the station platforms and to the north and south of the station. The

new fourth track would extend from the Grove Interlocking (north of Odenton) to the Winans Interlocking (near Halethorpe).

When complete, this improvement would result in 14 miles of a four-track railroad, extending from the Grove Interlocking to the Bridge Interlocking south of the Baltimore and Potomac (B&P) Tunnel. In a separate project, Amtrak will improve the Bridge Interlocking with the addition of a new crossover track. The Bridge Interlocking controls train movements from the two-track B&P Tunnel to the four-track section of the NEC that already exists between Winans Interlocking and Bridge Interlocking.

The second element consists of adding a third platform at the station. Currently, the station has two platforms, which serve the two outside tracks. The project will add a new center platform such that each track will have an adjacent platform.

The third element consists of replacing the existing station building and associated structures with a larger station building and new structures, including an elevated concourse walkway. The new station facility would include an elevated, and more accommodating, concourse-level walkway and passenger waiting area. Stairs and elevators would connect these areas with the ground level of the facility, which would include ticketing, restrooms, and improved passenger amenities. All proposed improvements will be fully compliant with the Americans with Disabilities Act (ADA).

V. Reasonable Alternatives Considered

NEPA requires a discussion of alternatives that provides sufficient information for the decision maker to choose an option that meets the need for the proposal and demonstrates reasoned decision-making. As described in Chapter 2 of the EA, MTA, in consultation with FRA, began development of project alternatives at the conceptual level by assessing the most reasonable and feasible alignments for locating a fourth track. For the conceptual alternatives for the new fourth track, MTA considered two options west of the existing tracks and one option east of the existing tracks. MTA evaluated the options for their ability to meet the project purpose and need while also reducing environmental effects, right-of-way acquisition, structural constraints, and cost. MTA advanced the East Alignment alternative for the project corridor both north and south of the BWI Rail Station; however, MTA dropped the West Alignment alternatives from further consideration due to potential impacts to sensitive environmental resources. Appendix B of the *Alternatives Report*, which MTA released in June 2014, describes the process by which MTA developed and evaluated the various alternatives.

The EA evaluated each of the BWI Rail Station alternatives and the No Action, regarding three key factors: its ability to meet the purpose and need of the

project; relative operational benefits, passenger safety and constructability; and potential for environmental impacts.

No additional alternatives were evaluated beyond those considered in the FRA's and MTA's 2015 EA.

VI. Environmental Consequences:

The FAA has independently evaluated the information contained in the FRA's and MTA's EA and takes full responsibility for the scope and content that addresses the FAA actions, including the analysis of environmental consequences associated with FAA's actions, and adopts the EA accordingly. The environmental consequences are detailed in Chapter 3 of the EA. As shown by the analysis in the EA, no significant environmental impacts were identified for any of the impact categories. The following impact analysis highlights the more thorough analysis presented in the EA prepared in April 2015.

1. Air Quality. The airport is located within the U.S. Environmental Protection Agency's (EPA) designated nonattainment area for the pollutants of ozone (O₃) and particulate matter equal to or less than 2.5 micrometers (fine particulates or PM_{2.5}). Therefore, the EPA's General Conformity Rule applies and an emissions inventory was prepared for the proposed Airport Rail Station Improvements and Fourth Track. Construction activities for the proposed project would result in emissions of criteria pollutants. However, as demonstrated in Table 3.4-6, the emissions associated with construction do not exceed any applicable *de minimis* threshold levels for the proposed project area. Because the emissions are below applicable *de minimis* thresholds, further analysis is not required. Additionally, the project is consistent with the State Implementation Plan and, as such, would have no significant impacts to Air Quality.

2. Coastal Resources. According to Section 307 of the Federal Coastal Zone Management Act of 1972, as amended (CZMA), and NOAA regulations (15 CFR part 930), federal actions occurring within or likely to affect any land or water use, or natural resource of a state's coastal zone, including cumulative and secondary effects, must be consistent with a state's federally-approved Coastal Zone Management Plan (CZMP). The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) amended the CZMA to clarify that federal consistency requirements apply when any federal activity, regardless of location, affects any land or water use or natural resource of the coastal zone. The CZARA also clarified that coastal impacts include cumulative and secondary effects.

The Maryland General Assembly passed the Chesapeake Bay Critical Area (CBCA) Act in 1984, which appears in Subtitle 18 of the Natural Resources Article, Title 8, of the Annotated Code of Maryland (see COMAR 27.02.01-08 for detailed description and regulations). The CBCA Act establishes a Critical Area boundary, defined as "land and water areas within 1,000 feet of the landward edge of tidal waters or tidal wetlands." The Critical Area boundary contains a 100-foot buffer measured landward from a tidal water body. An expansion of

this buffer may include adjacent environmentally sensitive areas (e.g. wetland, steep slope, erodible soil, etc.).

Maryland's CZMP reflects existing laws and authorities, and other permit processes incorporate the CZMP consistency determination. Since the proposed project impacts wetlands, the Coastal Zone Consistency determination will be issued as part of the state's wetlands authorization. A Joint Federal/State Application for the Alteration of Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland will be prepared during the permitting phase of the project, which will demonstrate to Maryland Department of the Environment (MDE) and United States Army Corps of Engineer (USACE) that the project is consistent with the state's CZMP regulations.

Based on the preliminary engineering limit of disturbance, the proposed project affects approximately 3.34 acres of the CBCA. Within these limits, the project would affect approximately 2.56 acres of nontidal wetlands, 1,560 linear feet of stream channel, and 1.34 acres of forest. Three of the potentially impacted forest edges are potential forest interior dwelling species (FIDS) habitat, resulting in approximately 0.7 acres of impact to FIDS. These impacts are encroachments to riparian habitat rather than "interior" FIDS habitat impacts. The project would impact approximately 2.04 acres of mapped forest stands within the right-of-way on MAA property. The Maryland Department of Natural Resources (DNR) approved the *Forest Stand Delineation Survey Report* on February 2, 2012.

During preliminary engineering, avoidance and minimization measures to reduce these potential impacts included placing the new track in already disturbed areas, to the extent practicable and adding retaining walls to reduce the width of fill in some locations. All practicable measures will be taken during final design to avoid and minimize impacts to forest resources at which time a Forest Conservation Plan (FCP) will be developed in cooperation with DNR. A final FCP will be required once final design is complete. During Final Design, opportunities for reforestation areas within the LOD and undisturbed portions of the right-of-way will be identified. However, if mitigation requirements cannot be satisfied wholly or partially on-site, the search for a mitigation site (or sites) would be expanded to areas within the project's watersheds or into the affected counties.

3. Department of Transportation Act, Section 4(f). Section 4(f) of the United States Department of Transportation Act of 1966 (49 USC 303) prohibits the use of land from a public park, recreation area, wildlife or waterfowl refuge, or any significant historic site unless the project sponsor can demonstrate that there are no feasible and prudent alternatives to avoid the property and that the project includes all possible planning to minimize impacts.

Section 4(f) protects all historic sites, whether or not they are publicly owned, that are on, or have been determined to be, eligible for listing on the National Register of Historic Places (NRHP). Section 4(f) also applies to all archeological sites on or eligible for inclusion on the National Register if the project sponsor

has determined, after consultation with the Maryland Historical Trust (MHT) serving as the State Historic Preservation Office (SHPO), that they warrant preservation in place.

The proposed project would result in the Section 4(f) use of one publicly owned park, Patapsco Valley State Park, one NRHP-eligible architectural property, Reece Road Bridge, and acquisition of three narrow strips of Patapsco Valley State Park (PVSP) property, totaling approximately 0.65 acre. As the property is vegetative buffer with no planned development, DNR concurred that the project would not adversely affect the activities, features and attributes of PVSP. The Department of Interior (DOI) concurred that there is no feasible or prudent avoidance alternative for the proposed project for the use of Reese Road Bridge. The DOI also concurs that this will be a *de minimis* impact, in that it will not adversely affect the activities, features, or attributes of Patapsco Valley State Park. There would be no impacts to parklands and recreational facilities within the MAA right-of-way (see Chapter 6, Draft Section 4(f) Evaluation & Attachment).

4. Biological Resources. There are no federally-listed rare, threatened or endangered species located within MAA right-of-way.

5. Hazardous Materials, Solid Waste and Pollution Prevention.

A database search was completed by MTA, covering the rail corridor. For those databases with no defined search distances in ASTM E1527-05, MTA used a reasonable standard distance. No Phase I Environmental Site Assessment (ESA), field reviews, interviews, or research into previous land uses, were conducted during the environmental analysis. Documentation states that no right-of-way would be required from known hazardous material sites on MAA property, however to reduce the risk of liability, MTA will conduct a Phase I ESA and, if necessary, a Phase II ESA within the right-of-way on MAA property.

6. Historical, Architectural, Archeological and Cultural Resources. Four previously recorded archeological sites are located in the revised Limits of Disturbance (LOD). One site is NRHP-listed, one site is NRHP-eligible, and the other two sites are unevaluated. Three of these sites with intact archeological deposits within the revised LOD are in areas identified for acquisitions of narrow strips of additional right-of-way. The revised LOD contains no intact archeological deposits within the NRHP-eligible Higgins Site (18AN489). Of the three NRHP-eligible properties in the Area of Potential Effect (APE), demolition of the Reece Road Bridge (No. 0207500) would have a Section 106 adverse effect. Two previously recorded archeological sites (18AN1478 – Telegraph Dorsey Prehistoric Site, 18AN29B – Harmans Site) are located in the LOD within the MAA right-of-way. These two sites are unevaluated for the National Register of Historic Places (NRHP). The two sites have intact archeological deposits.

As a Cooperating Agency to the EA, the FAA designated the FRA as Lead Federal Agency for compliance with the requirements of Section 106 of the National Historic Preservation Act of 1966 (NHPA). A Memorandum of

Agreement (MOA) was signed in November 2015 by FRA. The MOA was developed by FRA/MTA in consultation with MHT and Section 106 consulting parties. In addition, the Advisory Council on Historic Preservation was afforded the opportunity to consult on the project, but declined. The signed and executed MOA defines how additional recovery work on the two sites within MAA property should proceed. Therefore, there are no significant impacts to cultural resources as defined under NEPA and the execution and implementation of the MOA which concluded the Section 106 process under the NHPA.

7. Land Use. All land acquisitions will be completed according to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended; Title 49, Part 24 of the Code of Federal Regulations (49 CFR Part 24); and all applicable Maryland regulations and policies. The project serves to focus development into areas designated for growth, with 93 percent of the project length within the Maryland designated priority funding areas (PFAs). The improvements related to the BWI Rail Station are consistent with land use plans envisioned for this site. Minimal slivers of right-of-way acquisition are anticipated along the project corridor. No residences or businesses would be displaced by the project.

8. Water Resources. There will be direct impacts to 6.98 acres of wetlands. Of these, 1.52 acres are Maryland Wetlands of Special State Concern (WSSC). Wetlands impacts would require an estimated 10.27 acres of wetland mitigation, including 3.22 acres mitigation for WSSC. The project would impact approximately 0.77 acre of wetlands in right-of-way within current MAA property. Compensation for unavoidable and necessary wetland impacts will be provided as required. Mitigation planning is ongoing and final compensation acreages and locations will be determined as a part of the permitting process with USACE and MDE.

There will be direct impacts to 4,647 linear feet of streams, including 1,155 linear feet of Stony Run. Nine retaining walls are proposed, totaling 7,740 linear feet, which would be designed to avoid and minimize impacts. Of the direct impacts, 80 linear feet of streams would be impacted within right-of-way on current MAA property. Unavoidable stream relocations would be performed using natural stream design techniques. Compensatory mitigation requirements will be determined as a part of the permitting process with USACE and MDE.

There are 19.6 acres of land within the mapped 100-year floodplain. The project would impact approximately 0.84 acre within the mapped 100-year floodplain within right-of-way on current MAA property. Retaining walls will minimize floodplain impacts. Crossings have been designed to minimize floodplain encroachments and possible flood level increases to the extent practicable. All construction occurring within the 100-year floodplain will follow Executive Order 11988, Floodplain Management permitting procedures and guidelines.

No groundwater supplies, aquifers or wells are located in the project corridor.

New impervious areas are associated predominately with the new station which could affect stormwater runoff. Preliminary Environmental Site Design (ESD) techniques include wet swales and grass swales to satisfy stormwater management requirements with underground filtration and storage at the BWI Rail Station. Erosion and sediment control measures include sediment traps and basins, super silt fence, and other construction BMPs designed in compliance with current regulations.

VII. MITIGATION

Based on the analysis and findings of the EA, the FAA, in coordination with other federal, state and local agencies, will ensure that the mitigation measures specified below are adhered to and address effects per the release of 3.47 acres of airport property for non-aeronautical uses.

Coastal Resources. Maryland's Coastal Zone Management Plan (CZMP) is based on existing laws and authorities and the consistency determination is incorporated within other permit processes. The Coastal Zone Consistency determination will be issued as part of the state's wetlands authorization. The project will likely involve unavoidable impacts to the critical area, and MTA would take all practicable measures to avoid and minimize impacts. FRA/MTA will coordinate with CBCA Commission (CBCAC) will be conducted to define project-specific mitigation. FRA/MTA would take all practicable measures during final design to avoid and minimize impacts to forest resources at which time a FCP will be developed in cooperation with DNR. A final FCP will be required once final design is complete approximately 20 acres of reforestation will be required based on preliminary calculations. During final design, FRA/MTA would investigate opportunities for reforestation areas within the LOD and undisturbed portions of the right-of-way. However, if FRA/MTA cannot satisfy mitigation requirements wholly or partially on-site, it will expand the search for a mitigation site (or sites) to areas within the project's watersheds or into the affected counties.

Department of Transportation Act, Section 4(f). The Build Alternative would have a Section 4(f) use of two parkland and historic properties: Patapsco Valley State Park and the Reece Road Bridge. DNR concurred on February 6, 2012 that the Build Alternative would not adversely affect the activities, features, and attributes of the Patapsco Valley State Park and a Section 4(f) *de minimis* use has been determined. The Build Alternative, which would require the demolition and replacement of the Reece Road Bridge, and have a Section 4(f) use of the bridge, includes all possible planning to minimize harm to this Section 4(f) property resulting from such use. MTA has developed design modifications to avoid or minimize effects on identified archaeological sites and will continue to do so as project planning proceeds. An MOA between FRA, MTA, and MHT has been signed and executed that addresses how additional unavoidable impacts to archaeological sites will be addressed should they be determined to be eligible for listing on the National Register of Historic Places.

Hazardous Materials, Solid Waste and Pollution Prevention. Prior to any development action and/or land ownership changes, to reduce the risk of liability, MTA will conduct a Phase I and a Phase II ESA, if necessary, within the right-of-way on MAA property. The FAA finds that the ESA is essentially similar to an Environmental Due Diligence Audit as required by FAA Orders and will serve to meet the mitigation requirements of said Orders.

Historical, Architectural, Archeological and Cultural Resources. Proper safeguards (e.g., protective fencing, field orientation/education for construction personnel, and on-site archeological monitoring) will reduce potential effects to the Higgins archeological site. Where impacts to other archeological sites in the LOD are unavoidable, additional Phase II archeological investigations would evaluate sites for National Register eligibility. As project planning proceeds, FRA and MTA will continue to identify design modifications that could further avoid or minimize potential effects on archeological resources. MTA will record, in coordination with MHT, to Historic American Engineering Record (HAER) Standards prior to construction or demolition of the Reece Road Bridge. FRA and MTA will continue to consult with Section 106 consulting parties as outlined in the MOA between FRA, MTA, and MHT executed for this project in September 2015. MTA will develop provisions for continued coordination and site protection during construction in consultation with MHT and other consulting parties, which are included as commitments in the MOA.

Water Resources. FRA/MTA will prepare a Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland permit during final design. This application will comply with both the Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. FRA/MTA will coordinate, again, with the United States Coast Guard (USCG) regarding the potential need for a Bridge Permit under Section 9 of the Rivers and Harbors Act of 1899 if the project is not constructed within five years. Mitigation measures employed to compensate for unavoidable project effects to Waters of the U.S., including wetlands, will follow federal and state mitigation regulations and guidelines, as well as other recommendations from federal and state resource agencies.

FRA/MTA would mitigate for permanent impacts to streams at a ratio determined in coordination with USACE and MDE to provide functional replacement of impacted streams. A replacement ratio of 1:1 linear feet of stream improvement is anticipated; however, the resource agencies may adjust this ratio as exact ratios can only be determined during final design of a selected mitigation site. FRA/MTA would comply with mitigation requirements under the Clean Water Act Section 404 to determine the ratio of wetland acres replaced to wetland acres lost to achieve functional replacement of impacted wetlands. Mitigation for emergent wetlands typically occur on a 1:1 replacement basis, while mitigation of forested and scrub-shrub wetlands typically occur on a 2:1 replacement basis, although these ratios may be adjusted during final mitigation site selection and design. WSSC are typically mitigated on a 3:1 replacement basis; however,

this also could increase during development of the final mitigation plan. The regulatory agencies will determine the final replacement ratio for WSSC based on the functional replacement of impacted resources.

The USACE, EPA, and MDE have developed and accepted a Phase Conceptual Mitigation Plan (EA-Appendix F). A Phase II Final Mitigation Plan will be developed in compliance with the Federal Mitigation Rule and state mitigation guidelines as part of the final design and permitting phase of the project. The FRA/MTA would install wetland protection fencing to protect wetlands and wetland buffers during construction. All construction occurring within the Federal Emergency Management Agency (FEMA) designated 100-year floodplain will comply with FEMA approved local floodplain construction requirements.

FAA Advisory Circulars. Construction contract specifications will contain the provisions of FAA ACs 150/5370-10G, *Standards for Specifying Construction of Airports* and 150/5320-5D, *Airport Drainage*.

Permits. No construction of the proposed project will commence until all required permits and certifications are obtained.

FONSI/ROD. If major steps towards the implementation of the proposed project have not commenced within three years from the date of approval of this FONSI/ROD, a written reevaluation of the adequacy, accuracy and validity of the supporting documents shall be required.

VIII. The Agency's Findings

In accordance with the guidelines described in paragraph 1203 of FAA Order 5050.4B, the FAA has made the following findings and determinations, as necessary, for the Proposed Project and all subsequent changes based upon appropriate evidence set forth in the administrative record required by the Airport and Airway Improvement Act of 1982, as amended.

a) The proposed action is reasonably consistent with existing plans of public agencies for development of the area (49 U.S.C. § 47106(a)(1)). The FAA is satisfied that the Proposed Action is consistent with plans (existing at the time the Proposed Action is approved) of public agencies for development of areas surrounding the airport based on extensive coordination efforts with public agencies as indicated in Appendices of the EA.

b) The interests of the communities, in or near where the project may be located, were given fair consideration. (49 U.S.C. § 47106(b)(2)). The FAA is satisfied that the interests of the communities, in or near where the Proposed Action is located, were given fair consideration as demonstrated by the EA and its Appendices.

c) The FAA has given this Proposed Action the independent and objective evaluation required by the Council on Environmental Quality (40 CFR Section 1506.5). The FAA's environmental process included the FAA's rigorous exploration and objective evaluation of reasonable alternatives and probable environmental consequences, regulatory agency consultations, and public involvement. FAA furnished guidance and participated in the preparation of the EA by providing input, advice, and expertise throughout the planning and technical analysis, along with administrative direction, and legal review. FAA has independently evaluated the EA, and takes responsibility for its scope and content.

d) The implementation of the proposed action is consistent with the approved coastal zone management program and the Coastal Zone Management Act (16 U.S.C. 1451-1464). The proposed airport improvement projects are located within the Maryland Coastal Zone. The Coastal Zone Consistency determination will be issued as part of the state's wetlands authorization. The project will likely involve unavoidable impacts to the critical area, and MTA would take all practicable measures to avoid and minimize impacts. FRA/MTA will coordinate with CBCA Commission (CBCAC) will be conducted to define project-specific mitigation. FRA/MTA would take all practicable measures during final design to avoid and minimize impacts to forest resources at which time a FCP will be developed in cooperation with DNR. A final FCP will be required once final design is complete approximately 20 acres of reforestation will be required based on preliminary calculations. During final design, FRA/MTA would investigate opportunities for reforestation areas within the LOD and undisturbed portions of the right-of-way. However, if FRA/MTA cannot satisfy mitigation requirements wholly or partially on-site, it will expand the search for a mitigation site (or sites) to areas within the project's watersheds or into the affected counties.

e) For the Proposed action, which would directly affect water resources, there is no practicable alternative to development of the proposed action. The Proposed action conform to the Avoidance, Minimization, and/or Compensation of Harm to Wetlands in Accordance with Executive Order 11990 and the Clean Water Act. FRA/MTA would mitigate for permanent impacts to streams at a ratio determined in coordination with USACE and MDE to provide functional replacement of impacted streams. A replacement ratio of 1:1 linear feet of stream improvement is anticipated; however, the resource agencies may adjust this ratio as exact ratios can only be determined during final design of a selected mitigation site.

FRA/MTA would comply with mitigation requirements under the Clean Water Act Section 404 to determine the ratio of wetland acres replaced to wetland acres lost to achieve functional replacement of impacted wetlands. Mitigation for emergent wetlands typically occur on a 1:1 replacement basis, while mitigation of forested and scrub-shrub wetlands typically occur on a 2:1 replacement basis, although these ratios may be adjusted during final mitigation site selection and design. WSSC are typically mitigated on a 3:1 replacement basis; however,

this also could increase during development of the final mitigation plan. The regulatory agencies will determine the final replacement ratio for WSSC based on the functional replacement of impacted resources.

The USACE, EPA, and MDE have developed and accepted a Phase Conceptual Mitigation Plan (EA-Appendix F). A Phase II Final Mitigation Plan will be developed in compliance with the Federal Mitigation Rule and state mitigation guidelines as part of the final design and permitting phase of the project. The FRA/MTA would install wetland protection fencing to protect wetlands and wetland buffers during construction. All construction occurring within the Federal Emergency Management Agency (FEMA) designated 100-year floodplain will comply with FEMA approved local floodplain construction requirements.

f) For any use of lands with publicly owned parks, recreation areas, national wildlife refuges, or significant historic sites, there is no prudent and feasible alternative to using the land. The Project includes all possible planning to minimize harm to structures from land use (49 U.S.C. Section 303 (c) and Section 106, National Historic Preservation Act).

As described in the EA Chapter 6, the Build Alternative would have a Section 4(f) use of two parkland and historic properties: Patapsco Valley State Park and the Reece Road Bridge. DNR concurred on February 6, 2012 that the Build Alternative would not adversely affect the activities, features, and attributes of the Patapsco Valley State Park and a Section 4(f) *de minimis* use has been determined. The Build Alternative, which would require the demolition and replacement of the Reece Road Bridge, and have a Section 4(f) use of the bridge, includes all possible planning to minimize harm to this Section 4(f) property resulting from such use. MTA has developed design modifications to avoid or minimize effects on identified archaeological sites and will continue to do so as project planning proceeds. An MOA between FRA, MTA, and MHT has been signed and executed that addresses how additional unavoidable impacts to archaeological sites will be addressed should they be determined to be eligible for listing on the National Register of Historic Places.

FRA, as lead Federal agency, has coordinated with the public and agencies having jurisdiction concerning the affected properties to determine site significance and to evaluate feasible mitigation measures to meet Section 4(f) requirements. The aforementioned Section 4(f) Statement was submitted to DOI for review and approval. DOI concurred that there was no prudent and feasible alternative to the use of the Section 4(f) resources. A MOA between FRA, MTA, and MHT detailing the mitigation measures was developed.

g) The project will conform to the State Implementation Plan (SIP) in accordance with Section 176 of the Clean Air Act (CAA) Amendments (42 U.S.C. §7506(c)).

The project is located in Baltimore and Anne Arundel Counties, Maryland, which are both designated as non-attainment areas for O₃ and PM_{2.5}. An emissions inventory was prepared for the proposed Airport Rail Station Improvements and Fourth Track. Construction activities for the proposed project would result in emissions of criteria pollutants. However, as demonstrated in Table 3.4-6, the

emissions associated with construction do not exceed any applicable *de minimis* threshold levels for the proposed project area. The analysis performed demonstrates that the Proposed Action will not result in an exceedance of the NAAQS. As such, the Proposed Action conforms to the Maryland State Implementation Plan and complies with the Clean Air Act Section 176(c)(1) and would not:

- Cause or contribute to any new violation of any standard in any area.
- Increase the frequency or severity of any existing violation of any standard in any area.
- Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

IX. Decision and Order

The FAA recognizes its responsibilities under the National Environmental Policy Act of 1969 (NEPA) and its implementing CEQ regulations, and its own directives and has independently evaluated the information contained in the 2015 EA and takes full responsibility for the scope and content that addresses the FAA actions. Therefore in accordance with FAA Order 1050.1F and FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*, Paragraph, 704(b), stating that the FAA may adopt another agency's EA, the FAA adopts the FRA's Rail Station and 4th Rail project of April 2015. This FONSI/ROD incorporates by reference, the FRA's 2015 EA and FONSI.

The FAA decision is based on an examination of environmental impacts and operational factors contained in the EA. The EA provides a fair and full discussion of the impacts resulting from the proposed project. The EA process included appropriate planning and design for avoidance, minimization, and/or compensation of impacts, as required by NEPA, the CEQ regulations, other special purpose environmental laws, and appropriate environmental directives. In making this determination, the FAA must decide whether to approve the federal actions necessary for implementation of the project. Not approving these actions would prevent FRA and MTA from proceeding with the project.

The FAA has determined that environmental and other relevant concerns presented by interested citizens, agencies, other stakeholders have been addressed in the FRA's EA and FONSI. The FRA/MTA notified the public of meetings and the status of the EA through newspaper advertisements, e-mail communications, flyers, posters, letters, and a project website. The FRA/MTA conducted two public meetings in February 2011 and May 2015 to introduce the project to citizens and other interested parties. The EA document was made available to the public for review and comment on April 12, 2015. The FRA/MTA held special purpose meetings with the review agencies on January 4, 2013, March 7, 2014, and June 16, 2014.

Accordingly, pursuant to the authority delegated to me by the Administrator of the FAA, I find that the actions summarized in this FONSI/ROD are reasonably supported and approved. I hereby direct that action be taken together with the necessary related and collateral actions, to carry out the agency actions noted above. Specifically:

- 1) Release of 3.47 acres of federally-obligated airport property for non-aeronautical purposes;
- 2) Unconditional approval of an Airport Layout Plan (ALP) to depict the location of Airport Rail Station Improvements and Fourth Track and the associated releases of federally-obligated airport property;
- 3) Determination and actions, through the aeronautical study process, of the effects of the proposed projects upon the safe and efficient utilization of navigable airspace pursuant to 14 CFR Parts 77 and 157 and 49 U.S.C. § 44718; and
- 4) Determination that the project conforms with FAA's design criteria, federal regulations, and grant assurances (14 C.F.R. Parts 77, 157, and 158).

I have carefully and thoroughly considered the facts contained in the attached EA. Based on that information, I find the proposed Federal action is consistent with existing national environmental policies and objectives of Section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and other applicable environmental requirements. I also find the proposed Federal action, with the required mitigation referenced above, will not significantly affect the quality of the human environment or include any condition requiring any consultation pursuant to Section 102 (2)(C) of NEPA. As a result, FAA will not prepare an Environmental Impact Study (EIS) for this action.

APPROVED:



 Steven Urllass
 Division Manager
 Eastern Region Airports

7/21/16

 Date

DISAPPROVED:

 Steven Urllass
 Division Manager
 Eastern Region Airports

 Date

Rights of Appeal

This FONSI/ROD presents the Federal Aviation Administration's findings, final decision and approvals for the actions identified, including those taken under the provisions of Title 49 of the United States Code, Subtitle VII, Parts A and B. This decision constitutes a final order of the Administrator subject the review by the Courts of Appeals of the United States in accordance with 49 U.S.C. § 46110.

Any party seeking to stay the implementation of this ROD must file an application with the FAA prior to seeking judicial relief, as provided in Rule 18(a) of the Federal Rules of Appellate Procedure.