

Stewards of the Potomac Highlands

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PotomacHighlandStewards.org



December 12, 2022

Mr. Travis Long, P.E, Director, travis.e.long@wv.gov
Tech. Support Division WVDOH,
1334 Smith St. Charleston, WV 25301

Dear Mr. Long:

This letter represents today's comments of Stewards of the Potomac Highlands, a citizens environmental group, on the Wardensville-to-Virginia Line section of Corridor H –Project X316-H-125.16 NHPP(0484)118

Stewards of the Potomac Highlands, a 501c4 nonprofit citizens group, networks in West Virginia's northeastern counties and neighboring counties to protect this heritage and support an environmentally and socially sustainable, locally-controlled economy. <https://potomachighlandstewards.org> Economically and culturally, our area has a proud tradition of small farm and forest ownership and historic towns

Corridor H is the last Appalachian Corridor in the U.S. to be constructed, and Wardensville-VA Line and Tucker County are the last two sections to be addressed—with good reason. The environmental problems WVDOH has already experienced in bulldozing an overbuilt four-lane through high mountains in unstable terrain near Elkins portend a questionable cost/benefit for our sparsely populated, geologically and biologically sensitive Potomac Highlands.

WVDOH's Spring 2022 status report says the purpose of the environmental Re-evaluation on Corridor H: Wardensville is to assess whether any changes in project design, scope, affected environment or proposed mitigation since prior NEPA approval documents (the 2003 AROD based on the 1996 Final EIS) will require a new supplemental EIS. We note that WVDOH did a revised EIS for the Tucker County section in 2007, but not for Wardensville to VA Line.

According to the Project Timeline in WVDOH's handout for the May 15, 2018 Open House public meeting in Wardensville, environmental Re-evaluation was to begin in 2018-19. Final design for the Wardensville-VA Line section of Corridor H was to begin in 2020, right of way acquisition in 2025, and construction in 2027. A letter addressed "To Whom it May Concern" dated Feb. 23, 2022 from Travis E. Long, WVDOH Director of Technical Support, announced a stepped-up timetable, slating Re-evaluation and right of way acquisition both for 2023 and construction to begin in 2024.

According to the Aug. 14, 2019 paper *NEPA Re-Evaluation Joint Guidance for FHWA, FRA and FTA*, (not a substitute for federal statute 23 CFR 771.129-130), the lead federal agency (in this case FHWA) may or may not decide on a supplemental EIS document, more official public involvement, and federal resource agency consultation as the next steps after Re-evaluation. In this case, because of the severe potential environmental impact of building this section of Corridor H and the length of time since the Final EIS and ROD, we urge WVDOH and FHWA to employ all three procedures. In this our Comment letter, we outline issues we demand WVDOH must examine and make public in a 21st century supplemental EIS:

1. **WARDENSVILLE GROUND WATER:** WVDOH needs to state the effects and proposed mitigation of major highway construction on the Wellhead Protection area which houses the wells providing Wardensville town water. (See 2019 Technical Memorandum "Proposed Groundwater Monitoring to Address Wardensville's Source Water Protection Area" which proposes and maps monitoring wells but does not lay out a mitigation plan.) This is particularly important in light of the karst terrain (limestone and sandstone layers) around Wardensville, and the history of sedimentation in private wells and the disappearance of water in Trout Pond during the Baker-Wardensville construction.)
2. **STREAMS:** Stream monitoring data from studies conducted for WVDOH in 2021-22 by WVU Professor Dr. Elizabeth Buzby have not been released to the public. According to WVDEP, Trout Run and Waites Run are both high quality trout streams crossed by Corridor H. Construction effects on these streams, and WVDOH's mitigation plans, must be laid out in a new supplemental EIS.

We echo West Virginia Rivers Coalition concerns, expressed in an on-line letter to supporters for December 2022, that these massive construction projects cause negative impacts—muddy water and sedimentation—when construction crosses high quality trout streams such as Waites Run and Trout Run around Wardensville. Introducing large amounts of sediment into streams can clog fish gills, smother the streambed habitat, increase the temperature and lower the amount of oxygen in the water necessary for aquatic life. [Comment on Proposed 4-Lane Highway and Water Impacts \(salsalabs.org\)](https://www.salsalabs.org/)

WV Rivers Coalition's analysis of the Kerens to Parsons segment of Corridor H under construction since 2017 found 52 violations documenting 336 instances of non-compliance in stormwater drainage. The most common non-compliance issues are:

- Failing to properly implement and maintain sediment control measures, 47 times.
- Failing to prevent muddy water from leaving construction sites, 32 times.
- Causing sediment plumes in nearby streams, 29 times.
- Causing the deposition of sediment on the bottom of nearby streams, 21 times.

On the eastern end of Corridor H, in the Baker-to-Wardensville section, Stewards of the Potomac Highlands was a plaintiff in a lawsuit settlement over General Water Pollution Control Permit@ WV0115924, Storm Water Associated with Construction Activities, issue date 11/5/02. WVDOH contractors were building sediment-catching ponds at 1800 cubic feet per drainage acre—one-half the size required in the regulations, resulting in runoff which muddied the streams.

Friends of the Cacapon in their comments Nov. 28 on the Corridor H Wardensville-VA Line section, urged WVDOH to estimate critical shear stress, topographic and soil erodibility factors and other variables to

predict the potential for soil erosion. Contractors, the watershed group urged, should install silt fences, hay bales and other measures to prevent excess sediment from washing off construction sites. The supplemental EIS should address and commit to such mitigation.

3. ELEVATED vs. SUNKEN HIGHWAY: WVDOH officials mentioned at the meeting in Wardensville Aug. 18, 2022 they may be changing the design from a sunken highway on Andersons Ridge, to elevation on piers in the same area. Given the instability of the karst terrain around the whole Lost River watershed, WVDOH needs to compare the environmental effects of the design alternatives on the historic downtown watershed and on the wellhead protection area and show the results to the public in a new supplemental EIS before a route and design is finalized.
4. TRAFFIC COUNTS: The 2003 ROD, II.2 and 3, projected a rise in traffic counts around Wardensville in 2021; did this increase materialize over the past 19 years? Origin-destination studies should be shown in a new supplemental EIS, to determine how much of the traffic through Wardensville, especially trucks, is headed from Route 55/Corridor H west of Wardensville to Route 55 east of Wardensville, and how much traffic is going to Route 259—a point mentioned in the Friends of the Cacapon Corridor H comments of Nov. 28, 2022.
5. LOCAL SAFETY ISSUES: The 2003 ROD, II.4, mentions safety as a justification to build a four-lane Corridor H around Wardensville. However, we have not seen WVDOH analyze potential safety hazards caused by its design of Corridor H locally, including a sharp downhill curve into town from the corridor onto Trout Run Road and a blind turn from Waites Run Road into the city park. WVDOH also does not address alternative methods of solving the safety issues, such as passing lanes on the mountains, as on Route 50 near Romney, and spots where Route 55 could be slightly widened as an alternative to a new four-lane. Since Appalachian Corridor K in North Carolina/Tennessee uses some of these techniques, we call for studies in a new supplemental EIS in this section of Corridor H.
6. SPECIES: In the past 20 years, there have been changes in designation of endangered species possibly inhabiting the project vicinity. For instance, the Long-Eared Bat's status, just this year has changed from Threatened to Endangered. (See Smithsonian Magazine Dec. 2, 2022.) <https://www.smithsonianmag.com/smart-news/decimated-by-fungus-the-northern-long-eared-bat-is-now-endangered-180981232/>

According to documents released to Stewards in our FOIA request to George Washington National Forest, memo from Traci L. Cummings, WVDOH Environmental Section, July 2019, to John Barger of the US Forest Service and including other officials from WVDOH and contractors Michael Baker and Skelly & Loy, indicates that Forest Service was beginning surveys of species of concern, for the Forest Service to prepare Biological Evaluations for these species occurring in the GWNF for the Wardensville-VA Line section of Corridor H. A letter May 29, 2020 from Steven Toki of Skelly & Loy to John Barger of US Forest Service and WVDOH officials including Lovell Facemire presents the findings of 2019 species studies. A letter Jan. 2021 from contractor AllStar Ecology to Ms. Elizabeth Stout of the US Fish & Wildlife office in Davis, WV about the Rusty Patched Bumblebee says the bees were observed in the Wardensville to VA Line area but concludes that further surveys would not be needed as the habitat shows "little promise" for the bees' presence. Did US Fish and Wildlife concur

with this report? All these reports on species, including Biological Assessments and Evaluations (BAs and BEs) must be made available to the public in a 21st century supplemental EIS.

7. **PURPOSE AND NEED:** According to WVDOH's handout for the May 15, 2018 Wardensville open house meeting, the purpose and need for Wardensville section of Corridor H is 1) improving east-west transportation through northeastern West Virginia and 2) Promoting economic development in the region and preserving or improving the quality of life in the region. We question whether a four-lane bypassing Wardensville is the best and only alternative. The handout doesn't mention the economic assets of the growing Main Street economic revitalization, based around the town's historic buildings, that would be harmed by a four-lane bypass that pulls traffic away from the town center. Corridor K in North Carolina/Tennessee offers a precedent for a design that includes two, three and four-lane sections to protect historic towns and natural features—the very assets that attract customers to small towns.
8. **VIRGINIA SECTION:** We note that Virginia's Commonwealth Transportation Board has no plans to build the Virginia alignment shown in 1993's EIS to connect with I-66/ I-81. On Oct. 11, 2022, the board of supervisors of Shenandoah County, the Virginia county most affected by that proposed Corridor H route, restated its opposition to construction and asked that impacts on Virginia be considered before the Wardensville-to-VA Line section is built. The Strasburg, VA town council passed its own "NO" resolution on Dec. 6, 2022. Thus the four-lane would end at the WV-VA state line, much reducing the throughway argument for Purpose and Need.
9. **INSUFFICIENT INFORMATION:** Stewards does not have all the information we need to make a truly informed comment on these issues. We submitted a FOIA request to WVDOH on June 30, 2022 for detailed environmental information on the Corridor H section from Wardensville, WV to the Virginia State Line, limited to years since 2000 and to the Baker and Wardensville sections. WVDOH replied on Aug. 15 that they would send a detailed response within 60 days. This did not occur. We twice requested an extension of the comment deadline, intending the FOIA information to inform our comment. FHWA granted the extensions to Dec. 12, 2022.

Thursday Nov. 17, less than a month before the deadline. I received a phone call from Jill C. Dunn of WVDOH's Legal Division, saying that our FOIA request was too voluminous to answer in full, and asking if we could pare it down. I asked her to put her request in writing, which follows:

From: "Dunn, Jill C" <jill.c.dunn@wv.gov>
Date: November 17, 2022 at 2:50:53 PM CST
To: Bonni McKeown <barrelhbonni@yahoo.com>
Cc: Brandon A Chinn <brandon.a.chinn@wv.gov>, "Balderson, Lisa L" <lisa.l.balderson@wv.gov>, Jason C Foster <jason.c.foster@wv.gov>, Travis E Long <travis.e.long@wv.gov>
Subject: Corridor H FOIA Request

Dear Ms. McKeown,

It was a pleasure speaking with you this afternoon. I requested that you more narrowly tailor your FOIA request as I understand that the documents you requested are voluminous. I also let you know that you were welcome to review the Corridor H information provided on the Division of Highways' website.

I understand that you are most interested in receiving any reports completed by the West Virginia Department of Environmental Protection (DEP). I will ask that any DEP reports within the DOH's possession be pulled first and if there is no statutory or privileged reason to release them, I will have those sent to you.

I understand that you will contact your Board and ask if it will more narrowly tailor the request and get back to me.

Thank you in advance for your assistance.

Sincerely,

*Jill C. Dunn, Legal Director,
West Virginia Division of Highways
Building 5, Room A-517, 1900 Kanawha Blvd., E.
Charleston, WV 25305
304.558.2823; 304.558.3035 (Fax)

Ms. Dunn pleaded in the phone call Nov. 17 that her staff was inadequate to handle our FOIA request, adding that her office had recently lost personnel. In a Dec. 7, 2022 letter to WVDOH, attached, from Evan Johns, a lawyer from Appalrad representing us, Stewards did answer her request to prioritize our requested FOIA information in a timetable. With all the federal money, over \$200 million, according to Sen. Joe Manchin, received by West Virginia this year for Corridor H, Stewards urges WVDOH to assign more staff and qualified contractors to study the environmental impacts of this large project.

Today's comment letter represents the state of our current knowledge given WVDOH's failure to send the information and/or make the request earlier for "more narrow tailoring." A logical procedure now would be for WVDOH to issue a new supplemental EIS to give the public, in an orderly format, the information it needs to inform WVDOH before Final Design is done, right-of-way is taken and construction begins.

The need for advance environmental review via a comprehensive supplemental EIS rings even more true in light of WVDOT Secretary Jimmy Wriston's comments to the WV legislative oversight committee Sept. 11, 2022. After disparaging federal agencies' actions to protect endangered species from impacts of highway construction, Mr. Wriston vowed that WVDOH is now committed to addressing Corridor H environmental and construction issues proactively instead of after roadbuilding commences. He was responding to an Elkins area delegate's remarks about failing piers and construction-related runoff in the Kerens-Parsons section that had fouled and flooded homeowners' wells and yards. Discussion on Corridor H starts at the 5:16:00 mark: <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20220912/-1/57475#agenda>

10. RIGHT OF WAY TIMETABLE; WVDOH's handouts for the Wardensville public information meeting Aug. 18, 2022 did not offer to analyze Corridor H's local environmental impacts. WVDOH personnel made no public presentation at that meeting, and clearly sought to communicate mainly with residents whose land was slated for right-of-way purchase, rather than those who asked about the corridor's overall impacts on the town and surrounding environment. This behavior is unfortunately consistent with WVDOH's revised February 2022 timetable which schedules environmental Re-evaluation in 2023 along with the purchase of right-of-way.

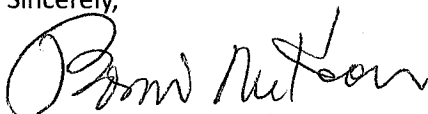
Stewards highly questions the propriety of stepping up this timetable. The announcement of the revised timetable was made in a "To Whom it May concern" letter from Travis E. Long, Technical Support Division Director for WVDOH. Was the FHWA formally notified of this supposed change in timetable, which states "Right of Way acquisition and construction are now estimated to begin in 2023 and 2024 respectively"? How can a serious re-evaluation continue if rights-of-way are already being negotiated with property owners? Premature acquisition would make it difficult and expensive to change the corridor routing or design based on the results of environmental studies, the results of which are yet to be disclosed.

SUMMARY: All these issues strongly indicate the need for this current Re-evaluation period to conclude with a updated supplemental EIS for the Wardensville-to-Virginia Line section of Corridor H. This must include the opportunity for Virginia state officials and citizens groups to comment on impacts in Virginia—including impacts on 4F historic resources such as the now-consolidated Shenandoah Valley Battlefield. These were not documented in the 1996 Final Corridor H EIS since Virginia had pulled out of the project by that time, but were mentioned in the 1994 ASDEIS, specifically in a statement of consensus by the Virginia Citizens Advisory Committee, Exhibit VII-13.

Stewards of the Potomac Highlands requests that WVU compile its research and issue a thorough supplemental EIS with a formal public comment period as soon as practicable. We demand that any right of way negotiations and acquisitions on the Corridor H Wardensville to Virginia section be halted until this updated environmental review is complete.

Please confirm by email that you have received this letter of comment.

Sincerely,



Bonni McKeown, president, Stewards of the Potomac Highlands, barrelhbonni@yahoo.com

ATTACHED by reference:

Friends of the Cacapon comments on Corridor H, Nov. 28, 2022

Shenandoah County VA Board of supervisors resolution against Corridor H, Oct. 11, 2022

FOIA letter from Stewards to WVDOH by attorney Evan Johns, Dec. 7, 2022

WVDOH Travis Long letter of Feb. 23, 2022 "To Whom it May Concern"

Cc: WV State Hwy engineer D.Alan.Reed@WV.gov,

WVDOT Secretary Jimmy Wriston DOT.Secretary@WV.gov

Federal Highway Administration jason.workman@dot.gov, jeffrey.blanton@dot.gov

US Forest Service John.barger@usda.gov

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US Fish & Wildlife service, WV [Jennifer I Norris@fws.gov](mailto:Jennifer_I_Norris@fws.gov),

WV Dept. of Environmental Protection: Katheryn.d.emery@wv.gov