

Reevaluation: State Route 14 (SR-14) (Austin Peay Highway) from east of Kerrville-Rosemark Road to the Tipton County Line, Shelby County, Tennessee, PIN 100341.01

Date: 08/29/2023

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# Environmental Commitments

Commitments are involved on the project.

## List of Environmental Commitments

Project-specific environmental commitments are outlined below.

Ecology: Cliff swallow and barn swallow nests, eggs, or birds (young or adults) will not be disturbed between April 15 and July 3. From August 1 to April 14, the nests may be removed or destroyed, and measures may be implemented to prevent future nest building at the site (e.g., closing off the areas using netting).



**STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION**

**BUREAU OF ENVIRONMENT & PLANNING**

SUITE 700, JAMES K. POLK BUILDING  
505 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-1402  
(615) 741-5376

**BUTCH ELELY**  
DEPUTY GOVERNOR &  
COMMISSIONER OF TRANSPORTATION

**BILL LEE**  
GOVERNOR

August 29, 2023

Mr. Gilberto De León

FHWA Deputy Division Administrator

404 BNA Drive, Suite 508

Nashville, TN 37217

Subject: Reevaluation of State Route 14 (SR-14) (Austin Peay Highway) from east of Kerrville-Rosemark Road to the Tipton County Line, Shelby County, Tennessee, PIN 100341.01

Dear Mr. DuBose:

This Reevaluation of the environmental, social, and economic effects has been conducted in accordance with Title 23 of the Code of Federal Regulations (CFR) 771.129. This Reevaluation is State Route (SR) 14 (Austin Peay Highway) from east of Kerrville-Rosemark Road to the Tipton County Line in Shelby County, Tennessee.

**Project History**

An Environmental Assessment (EA) was previously approved by the Federal Highway Administration (FHWA) on 06/09/2003 for the entire project length along SR-14 (Austin Peay Highway) from State Route 385 in Shelby County to State Route 59 in Tipton County (PIN 100341.00). Right-of-way was acquired under the parent PIN and then the project was divided into two sections for construction (PIN 100341.01 and 100431.02). The EA reviewed the No-Build Alternative and one Build Alternative (i.e., the improve existing alternative), analyzed potential environmental impacts, and documented initial public involvement activities and interagency coordination. A Finding of No Significant Impact (FONSI) was approved by the FHWA on 12/30/2003. The FONSI identified the Build Alternative as the Selected Alternative. The 2003 EA and FONSI are included in Appendix B of this Reevaluation.

This Reevaluation focuses on Section 2 (PIN 100341.01); the middle section of the project and final section to be constructed. Since completion of the EA in 2003, minor design modifications, primarily related to the proposed repaving material and slope adjustments, as well as changes to project commitments involving protected species, have resulted in the development of updated Construction Field Review Plans dated 04/07/2022. These plans were distributed for review among appropriate technical staff via an Environmental Studies Request (ESR) dated 12/06/2022. Formal responses to the ESR are described throughout this document and included in the appendices.

## Project Description

The proposed project involves widening SR-14 (Austin Peay Highway) to a four-lane divided highway with 12-foot travel lanes, a 48-foot depressed median and 12-foot shoulders for approximately 4.26 miles from east of Kerrville-Rosemark Road to the Tipton County line. The proposed improvements also include grading, guardrail upgrades, repaving, bridge improvements, and signage. The proposed right-of-way width is 250 feet. These improvements are consistent with proposed improvements presented in the EA and FONSI (refer to the EA and FONSI in Appendix B). The project location is shown in Figure 1.

The proposed project was listed in the Memphis Metropolitan Planning Organization's (MPO) Transportation Improvement Program (TIP) for Fiscal Years (FY) 2023-2026. A copy of the relevant STIP page is included in Appendix A. Federal and State project numbers for various stages of project development are provided in **Table 1**.

**Table 1: Project Development Phases and Corresponding Project Numbers**

Phase	Federal Aid	State Project Number
Preliminary Engineering	N/A	79024-1286-04 (100341.00)
Right-of-Way	STP-14 (43) (100341.00)	79024-2290-14 (100341.00)
Construction	STP-14(70)	79S014-F3-005

For additional details on the overall project improvements proposed from SR-385 in Shelby County to SR-59 in Tipton County (totaling 17.7 miles), refer to the 2003 EA and FONSI contained in Appendix B.

The updated Construction Field Review Plans, dated 04/07/2022, are included in Appendix C of this Reevaluation.

## Purpose and Need

The EA states that the primary purpose of the proposed project is to address local concerns by providing a facility that: 1) is compatible with existing and planned land use activities adjacent to or nearby the improvement; (2) is able to meet present and future traffic demands; and (3) provides local and regional motorists with improved connections to other major highways. Area residents and local officials are concerned with increasing traffic volumes and unsafe conditions along the route. According to local government representatives, Tipton County's "major problem is commuter traffic to Shelby County". Tipton County's number one transportation priority "is to get a large volume of traffic in and out of Shelby County". SR-14 is Tipton County's primary north-south route on the east side to Memphis. As part of Shelby County's long-range plan, the widening of SR-14 from Paul Barrett Parkway to the Tipton County line is significant to the growing areas of Bartlett and will further promote the concept of regionalism by connecting parts of Tipton County to SR-385. Shelby County government has expressed the desire to accomplish these goals "with minimal disturbance to the citizens who live, work and worship nearby". Additional information on the project's purpose and need can be found in the EA and FONSI contained in Appendix B.

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## **Changes Occurring Since the EA and FONSI**

Since the FONSI was approved in 2003, there have been minor design modifications, primarily related to the proposed repaving material and slope adjustments as well as changes to project commitments involving protected species (see Ecology Section).

## **Public Outreach Activities**

Following approval of the EA on 06/09/2003, TDOT published a Notice of Availability for the EA in three local newspapers and provided a 30-day review period, closing on 08/08/2003. TDOT conducted two Combined Corridor and Design Public Hearings (08/19/2003), Shelby County and 08/21/2003, Tipton County). Prior to these Public Hearings, TDOT published Public Hearing notices in local newspapers and distributed approximately 200 Public Hearing notices within the project area. Following the Public Hearings, and in consideration of comments received from the public, FHWA approved a Finding of No Significant Impact (FONSI) on 12/30/2003.

As part of this Reevaluation, TDOT published a Public Notice in the Commercial Appeal on Thursday, 06/22/2023. Due to the minimal changes in design and impacts, no additional public outreach activities have been conducted. Additional information on the public meetings is included in the EA and FONSI included in Appendix B of this Reevaluation. The Public Notice for the Reevaluation is included in Appendix C.

## ***Reevaluation of the Environmental Effects***

The Reevaluation of the environmental effects for this proposed project included the review of the proposed design plans with the information presented in the EA, FONSI, and subsequent studies. This document addresses new policies and/or regulations and the need for updated information or studies not addressed in the original EA and FONSI. Of particular interest to this Reevaluation are the following topics.

## **Relocation and Right-of-Way Impacts**

### ***Right-of-Way and Relocations***

The 2003 EA and FONSI outlined the ROW impacts resulting from the entire project (PIN 100341.00), which required approximately 111.3 acres of ROW acquisition. The original Conceptual Stage Relocation Plan (CSRP) included in the 2003 EA found that the Build Alternative would displace twelve (12) residential relocations (including one (1) mobile home), five (5) Businesses and one (1) non-profit organization. There appeared to be eleven (11) owner-occupants and one (1) tenant-occupant to be affected. The ROW for the original project was purchased after the original NEPA approval. Based the 8/3/2023 coordination with the TDOT ROW Division, there are no changes to the listed relocations. The coordination email is included in Appendix D.

\*Source: U.S. Census, American Community Survey 2017-2021, Table B03002

### **Low-Income Populations**

Per FHWA Order 6640.23A, "a low-income population includes any readily identifiable group of low-income persons who live in geographic proximity and who will be similarly affected by a proposed FHWA program, policy, or activity. Low-income populations include individuals whose median household income is at or below the poverty guidelines published yearly by the U.S. Department of Health and Human Services." The guidelines are updated annually and available online at <https://aspe.hhs.gov/poverty-guidelines>. The 2017-2021 ACS Five-Year Estimates show the low-income population for Shelby County, TN as 18.55 percent and the low-income population for Tipton County, TN as 11.33 percent.

Within the project area, the percentages of low-income populations range from 3.22 percent (CT 408, BG 1) to 11.55 percent (CT 208.35, BG 1). **Table 3** displays the block groups within and adjacent to the project area and the low-income population percentages.

Population data reported in ACS, American Factfinder, 2017-2021 does not indicate the presence of sizable low-income populations within the project area.

**Table 3: Low-Income Populations by Block Group**

Low-Income Populations							
	Shelby			Tipton		Shelby County, TN	Tipton County, TN
Census Tract	207	207	208.35	408	408		
Block Group	1	2	1	1	3		
Total Number of Persons Below Poverty	74	51	170	52	84	169,223	6,794
Low Income %	5.51%	4.73%	11.55%	3.22%	5.94%	18.55%	11.33%
10% > than County Average?	No	No	No	No	No	N/A	N/A
>50% of Block Group Population?	No	No	No	No	No	N/A	N/A
Meet EJ Criteria?	No	No	No	No	No	N/A	N/A
<i>*Source: U.S. Census, American Community Survey 2017-2021, Table C17002.</i>							

### **EJ Summary**

No block groups within the project area reported minority populations that exceed the Shelby or Tipton County percentages by 10 percentage points or more, nor are minority populations greater than 50 percent of their respective block groups' total population. No block groups within the project area reported low-income populations that exceed the Shelby or Tipton County percentages by 10 percentage points or more, nor are low-income populations greater than 50 percent of their respective block groups' total population. There is not a disproportionately high and adverse effect on EJ populations when compared to the impacts borne by all populations in and around the project area.

In addition, both EJ and non-EJ populations will receive the benefits resulting from the project, which include improved safety and efficiency of travel and thus allowing easier access to public facilities and services. As such, no disparate impacts are anticipated under Title VI and related statutes. The 06/26/2023 Environmental Justice Analysis Memorandum was reviewed by TDOT's Civil Rights Division and provided concurrence on 6/27/2023. The Environmental Justice Analysis Memorandum is provided in Appendix E.

## Hazardous Materials

As part of this Reevaluation, the project was re-coordinated with the TDOT Hazardous Materials Section. Their response, dated 01/19/2023, noted two commitments. Rather than formal environmental commitments, these commitments identified in the ESR are consistent with TDOT best management practices and therefore not included on the green sheet. They stated:

*Based on the Construction Field Review Plans dated 04/07/2022, one known hazardous materials site exists along the corridor. Tract 91 is TDEC UST Facility #9791653, Gragg Market, 9112 Austin Peay, Millington, TN 38053. This tract does not appear to be impacted by these plans. No further studies are recommended. Asbestos bridge surveys have been completed and the associated commitment is shown on Sheet 1B of these plans. Two additional bridges have been surveyed and the following project commitment also applies:*

*In the event hazardous materials or wastes are encountered within the right-of-way, notification shall be made per TDOT Standard Specifications for Road and Bridge Construction (01/01/2021) Section 107.08.C. Disposition of hazardous materials or wastes shall be subject to all applicable regulations, including the applicable sections of the Federal Resource Conservation and Recovery Act, as amended; the Comprehensive Environmental Response, Compensation, and Liability Act, as amended; and the Tennessee Hazardous Waste Management Act of 1983, as amended. Databases reviewed include Google Earth imagery, EPA National Priorities List, EPA MyEnvironment, TDEC Registered Underground Storage Tanks Public Data Viewer and Data and Reports, TDEC Division of Water Resources Public Data Viewer and Oil and Gas Wells database, TDEC Division of Remediation Sites Public Data Viewer, TDOT Integrated Bridge Information System, and others, as necessary.*

The TDOT Hazardous Materials Section also recommended an additional commitment which stated:

*Asbestos Containing Material (ACM) surveys were completed on Bridge No. 79SR0140045 SR-14 over Branch LM 35.61 (79-SR014-35.61) and Bridge No. 79SR0140047 SR-14 over Branch LM 38.01 (79-SR014-38.01). No asbestos was detected. Please see the reports for further details and photographs. No special accommodations for demolition and waste disposal are anticipated for these structures and the material can be deposited in a C&D landfill. Prior to the demolition or rehabilitation of any structure (bridge or building), the contractor is required to submit the National Emission Standards for Hazardous Air Pollutants standard 10-day notice of demolition to the TDEC Division of Air Pollution Control (per TDOT Standard Specifications for Road and Bridge Construction 01/01/2021) Sections 107.08.D and 202.03).*

A copy of the most recent coordination with the TDOT Hazardous Materials Section dated 01/19/2023 is in Appendix F. Previous studies are summarized in the EA and FONSI included in Appendix B.



## Ecology

Ecological impacts for the entire project were originally evaluated for the 2003 EA and FONSI. Previous ecology review and coordination can be found in Appendix B. In 2017, an Environmental Boundaries Report (EBR) was prepared, which included a reassessment of previously delineated streams and wetlands, drainage features, and protected species. The EBR does include a special note about cliff swallow and barn swallow nests. It states:

*Cliff swallow and barn swallow nests, eggs, or birds (young and adults) will not be disturbed between April 15 and July 31. From August 1 to April 14, nests can be removed or destroyed, and measures implemented to prevent future nest building at the site (e.g., closing off area using netting).*

This is included as an environmental commitment in this EA.

As part of this Reevaluation, the project was re-coordinated with the TDOT Ecology Section. Their response, dated 02/16/2023, stated:

*Based on the Construction Field Review Plans dated 04/07/2022, the Environmental Boundaries Report for parent PIN 100341.00 dated 7/3/2017 remains valid for this project (100341.01).*

*Updated USFWS and TWRA coordination for PIN 100341.01 has been completed.*

*Based on the information provided, and a 12/19/2022 review of the TDEC Division of Natural Areas Rare Species Database, this project (100341.01) is covered by the 2022 Memorandum of Agreement between TDOT, FHWA, and the TDEC Division of Natural Areas.*

The results of updated review and coordination are summarized below. The 2023 TDOT Ecology Section ESR and the 07/03/2017 EBR is included in Appendix G.

### **1. Threatened and Endangered Species**

Potential impacts to protected species have been considered throughout project development. The EA and FONSI state, "The project is not anticipated to adversely affect any federally or state-listed threatened or endangered species. No federally-listed species or critical habitat were identified by any resource agencies during consultation as having ever been reported in the assessment area. The US Fish and Wildlife Service has responded that the requirements of Section 7c of the Endangered Species Act of 1973 had been fulfilled for this project.

The results of recent coordination efforts for this Reevaluation are summarized below.

#### **Tennessee Department of Environment & Conservation (TDEC) Rare Species Data Viewer**

The 07/03/2017 EBR states

*A search of the TDEC rare species database was performed on 06/20/2017. TWRA coordination has been requested, but a response has not yet been received. The response will be forwarded by this office when received. Coordination with USFWS has revealed that supporting habitat exists in the vicinity of this project for the federally endangered Indiana and Northern Long-eared bats. Bat surveys for PINs 100341.01 and 100341.02 are scheduled for 2017.*

*Swallow nests were noted on the bridges at STR-3, STR-4, and STR-9. Please add the special notes included with this report in the plans.*

### **U.S. Fish and Wildlife Service (USFWS) Coordination**

Coordination with the USFWS was initiated 11/30/2001 as part of original studies for the project found that the project “is not anticipated to adversely affect any federally or state-listed threatened or endangered species. No federally-listed species or critical habitat were identified by any resource agencies during consultation as having ever been reported in the assessment area. The US Fish and Wildlife Service has responded that the requirements of Section 7c of the Endangered Species Act of 1973 had been fulfilled for this project for the EA.”

Subsequent coordination with USFWS dated 01/06/2012, notes the federally endangered Indiana bat (*Myotis sodalis*) and endangered northern long-eared bat (NLEB) (*Myotis septentrionalis*) summer roost habitat may be present on site. A bat mist nest survey was conducted in July 2017. The bat mist net survey report, dated 09/14/2017 found:

No Indiana bats or northern long-eared bats were captured during this 2017 summer mist net survey. A total of 46 bats, representing four species, were captured during summer mist net surveys along the proposed SR-14 project corridor in Shelby County, Tennessee. The most common species captured was the eastern red bat [*Lasiurus borealis* (n=38)] while the tricolored bat [*Perimyotis subflavus* (n=6)], evening bat [*Nycticeius humeralis* (n=1)], and southeastern bat [*Myotis austroriparius* (n=1)] were also captured during summer survey efforts.

The deciduous bottomland hardwood forest within the project corridor provided potentially suitable habitat for both the Indiana bat and northern long-eared bat, but mist net locations were distributed throughout the project corridor in locations where bats were likely to be found traveling and/or foraging but failed to document either of these species. Based on the data collected during mist net surveys completed during the 2017 survey following an approved survey plan based on USFWS approved guidelines, the apparent absence of the Indiana bat and northern long-eared bat, a May Affect – Not Likely to Adversely Affect determination is anticipated from the USFWS's Tennessee Field Office.

As part of this Reevaluation, coordination with USFWS was reinitiated on 05/03/2022. The USFWS response, dated 05/23/2022 states:

*Our database does not indicate the presence of any federally listed or proposed species or designated critical habitat within your project area. Therefore, we do not anticipate take of any federally listed species resulting from the project. Based on the best information available at this time, we believe that the requirements of the Endangered Species Act (ESA) are fulfilled for all species that currently receive protection under the ESA. Obligations under section 7 of the ESA should be reconsidered if (1) new information reveals impacts of the proposed action that may affect listed species or critical habitat in a manner not previously considered, (2) the proposed action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or critical habitat designated that might be affected by the proposed action.*

*TDOT would require implementation of standard BMPs to ensure project-related contaminants are kept out of project area streams. Work near streams should be scheduled during a lower flow period. Equipment staging and maintenance areas should be developed an adequate distance away to avoid entry of petroleum-based pollutants into the water. Fresh concrete and cement dust must be kept out of the water as they alter chemical properties and can be toxic to aquatic species.*

### **Tennessee Wildlife Resources Agency Coordination**

The TDOT Ecology Section coordinated with TWRA for information on potentially rare species within the project limits. On 01/20/2023, TWRA verified that the implementation of Best Management Practices (BMPs) would be sufficient to satisfy TWRA's requirements. This coordination is included in the 02/16/2023 ESR.

### **Updated TDOT Ecology Section Coordination**

As part of this Reevaluation, the project was re-coordinated with the TDOT Ecology Section, who in their response dated 02/16/2023 state:

*Based on the Construction Field Review Plans dated 04/07/2022, the Environmental Boundaries Report for parent PIN 100341.00 dated 7/3/2017 remains valid for this project (100341.01).*

*Updated USFWS and TWRA coordination for PIN 100341.01 has been completed.*

*Based on the information provided, and a 12/19/2022 review of the TDEC Division of Natural Areas Rare Species Database, this project (100341.01) is covered by the 2022 Memorandum of Agreement between TDOT, FHWA, and the TDEC Division of Natural Areas.*

Correspondence from TDOT, TWRA, and USFWS as well as the 07/02/2017 EBR, 09/14/2017 bat mist survey report, and 02/16/202 TDOT Ecology Section coordination is included in Appendix G.

## **2. Aquatic Resources**

The EA identified streams, wet weather conveyances, and wetlands for the overall project area, and provided estimated impacts to those resources. The FONSI stated that the findings discussed in the EA remained valid. For this Reevaluation, the results of an updated EBR, dated 07/03/2017, are summarized below.

### **Wetlands**

According to the 07/03/2017 EBR, five wetlands (WTL-10 through WTL-14) (refer to **Table 4: Wetland Resource Impacts**) were identified within this section of the project. A total area of 4.445 acres would be permanently impacted by activities associated with the project. The wetland data forms, photos and locations maps are within the 07/03/2017 EBR, included in Appendix G.

**Table 4: Wetland Resource Impacts**

Label/Feature	Type	Function	Quality	Estimated Impacts*		
				Permanent	Temporary	Total
WTL-10	Forested		Moderate Resource Value	0.637 ac.	-	0.637 ac.
WTL-11	Emergent		Low Resource Value	0.008 ac		0.008 ac
WTL-12	Forested		Moderate Resource Value	3.307 ac.		3.307 ac.
WTL-13	Forested		Moderate Resource Value	0.134 ac.		0.134 ac.
WTL-14	Shrub		Moderate Resource Value	0.359 ac.	-	0.359 ac.
<b>Total:</b>				4.445 ac.	-	4.445 ac.

### Non-Wetland Resources

For this section of the project, the 07/03/2017 EBR identified seven perennial streams (STR-5 through STR-11) within the study area being reevaluated. In addition, there are 15 wet-weather conveyances (WWCs) (WWC-13 through WWC-27) and three ponds (PND-3 through PND-5) (refer to **Table 5**). A total length of approximately 5,188 feet would be permanently impacted by crossing activities associated with the project. The stream data forms, photos and location maps are within the 07/03/2017 EBR, included in Appendix G.

Throughout the design process, TDOT will endeavor to mitigate impacts to streams, wetlands, or any other jurisdictional water features through avoidance and minimization. Where impacts cannot be avoided or sufficiently minimized, compensatory mitigation for permanent stream impacts would be accomplished either through permittee-responsible mitigation, mitigation banking, or In-Lieu Fee mitigation to satisfy statutory requirements.

**Table 5: Non-Wetland Resource Impacts**

Label/ Feature	Type	Function	Quality	Estimated Impacts*		
				Permanent	Temporary	Total
STR-5	Perennial		Not Supporting/Impaired (303(d))	205 ft.	-	205 ft.
STR-6	Perennial		Not Supporting/Impaired (303(d))	749 ft.	-	749 ft.
STR-7	Perennial		Unassessed	327 ft.	-	327 ft.
STR-8	Perennial		Not Supporting	222 ft.	-	222 ft.
STR-9	Perennial		Not Supporting	120 ft.	-	120 ft.
STR-10	Perennial		Not Supporting	0 ft.	-	0 ft.
STR-11	Perennial		Unassessed	300 ft.	-	300 ft.
WWC-13	Wet Weather Conveyance		Unassessed	0 ft.	-	0 ft.
WWC-14	Wet Weather Conveyance		Unassessed	193 ft.	-	193 ft.
WWC-15	Wet Weather Conveyance		Unassessed	293 ft.	-	293 ft.
WWC-16	Wet Weather Conveyance		Unassessed	169 ft.	-	169 ft.
WWC-17	Wet Weather Conveyance		Unassessed	479 ft.	-	479 ft.
WWC-18	Wet Weather Conveyance		Unassessed	180 ft.	-	180 ft.
WWC-19	Wet Weather Conveyance		Unassessed	225 ft.	-	225 ft.
WWC-20	Wet Weather Conveyance		Unassessed	163 ft.	-	163 ft.
WWC-21	Wet Weather Conveyance		Unassessed	148 ft.	-	148 ft.
WWC-22	Wet Weather Conveyance		Unassessed	537 ft.	-	537 ft.
WWC-23	Wet Weather Conveyance		Unassessed	305 ft.	-	305 ft.
WWC-24	Wet Weather Conveyance		Unassessed	180 ft.	-	180 ft.
WWC-25	Wet Weather Conveyance		Unassessed	243 ft.	-	243 ft.
WWC-26	Wet Weather Conveyance		Unassessed	150 ft.	-	150 ft.
WWC-27	Wet Weather Conveyance		Unassessed	0	-	0
PND-3	Pond				-	
PND-4	Pond				-	
PND-5	Pond				-	
<b>Total:</b>				<b>5,188 ft.</b>	<b>-</b>	<b>5,188 ft.</b>

Source: April 2017 Revised Environmental Boundaries Report, TDOT Ecology Section.

STR = Stream, PND = Pond, WWC = Wet Weather Conveyance

\*Estimated impacts are considered "Preliminary". These are estimates only and will not be completely accurate until the time of Permit Application.



## **Floodplain Management**

The proposed project would encroach on the 100-year floodplain, as indicated in the EA/FONSI and a review of current floodplain maps. The 04/07/2022 revised ROW plans for this project segment identify two locations where the project will cross the 100-year floodplain at Crooked Creek and West Beaver Creek.

For the purposes of this Reevaluation, the relevant Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs) were reviewed. The project is located on FIRMs in Shelby and Tipton Counties, Panels 185 of 635 Map # 4157C0070F, 70 of 635 Map #4157C0070F, and 90 of 635; Map #4157C0090F. The design of the roadway system will be consistent with the Memorandum of Understanding (MOU) between FHWA and FEMA and with the floodplain management criteria set forth in the National Flood Insurance Regulations of Title 44 of the CFR. It will be consistent with the requirements of floodplain management guidelines for implementing Executive Order 11988 and FHWA guidelines 23 CFR 650A. Portions of the relevant FEMA FIRMs are included in Appendix H.

## **Air Quality**

An air quality evaluation was conducted as part of the EA, which concluded that the project would have no substantial impact on the air quality of the area. Since FHWA approved the FONSI in 2003, federal air quality regulations and guidance have changed and TDOT updated their air quality guidance evaluation in December 2015. Additionally, the Memphis area has been re-designated as an attainment area, and the Memphis MPO Executive Board has approved a new TIP and Regional Transportation Plan. Therefore, in accordance with Section 5.3.5 (Air Quality) of the *Tennessee Environmental Procedures Manual*, the air quality evaluation was updated to comply with current policies and regulations in February 2023.

As part of this Reevaluation, the TDOT Air Quality and Noise Section provided the following statements related to air quality on 05/01/2023:

*The Tennessee Department of Transportation (TDOT) conducted an air quality evaluation for the larger SR-14 (Austin Peay Hwy) project from Paul Barrett Parkway (SR-385) in Shelby County to SR-59 in Tipton County in 2002 as part of the environmental process. TDOT is now conducting a reevaluation for the section of SR-14 from east of Kerrville-Rosemark Road to the Tipton County Line in Shelby County using the construction plans for the project. The air quality evaluation was updated for this section of SR-14 to reflect the current plans, traffic projections, and federal air quality guidance.*

*The current plans and the previous air quality evaluation were reviewed to determine if they remain valid. The results are summarized below.*

### **Transportation Conformity**

*The project is in the Shelby County ozone maintenance area and subject to transportation conformity. The project is included in the Memphis Urban Area Metropolitan Planning Organization 2023-2026 Transportation Improvement Program and Memphis Urban Area Regional Transportation Plan: Livability 2050. The project descriptions and termini are consistent with the proposed project; therefore, the project conforms to the State Implementation Plan.*

### **Mobile Source Air Toxics (MSATs)**

*The MSATs evaluation was updated per FHWA's "Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents" dated January 2023. The project remains a "Project with Low Potential Mobile Source Air Toxic (MSAT) Effects" and is not predicted to create adverse MSAT effects.*

### **Greenhouse Gas Emissions**

*The greenhouse gas emissions (climate change) evaluation concluded that the project is not predicted to have adverse climate change effects.*

### **Construction Activities**

*Construction activities may generate temporary construction-related pollutant emissions and dust that could result in short-term air quality effects. These effects will be minimized by compliance with the procedures in TDOT's Standard Specifications for Road and Bridge Construction. There are no air quality monitors in the construction area for the project.*

### **Indirect and Cumulative Effects**

*The project is not anticipated to have any air quality adverse indirect or cumulative effects.*

### **Mobile Source Air Toxics (MSATs)**

*The MSAT's evaluation was updated per FHWA's "Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents" dated January 2023. The project remains a "Project with Low Potential Mobile Source Air Toxic (MSAT) Effects" and is not predicted to create adverse MSAT effects.*

The previous air quality analysis is included in the 2003 EA in Appendix B. The April 2023 Air Quality Report and 05/01/2023 ESR response is in Appendix I.

## **Noise Impacts**

As part of this Reevaluation, the TDOT Air Quality and Noise Section provided the following statements related to air quality on 02/23/2023:

*TDOT conducted a noise evaluation for the larger SR-14 (Austin Peay Highway) project from Paul Barrett Parkway (SR-385) in Shelby County to SR-59 in Tipton County in 2002 as part of the environmental process. A noise analysis for the entire project was completed in 2002 which found that the project would have no substantial effect on the audible environment of the area.*

*As part of this Reevaluation, TDOT conducted a noise study for the subject section of SR-14 in February 2023. The project remains Type I per the FHWA noise regulation, Procedures for Abatement of Highway Traffic and Construction Noise, 23 CFR 772. TDOT determined that the noise study should be updated using TDOT's current Policy on Highway Traffic Noise Abatement and the current project plans and traffic projections.*

*This study was conducted per the FHWA noise regulation, TDOT's noise policy, and Section 5.3.4 (Noise) of the Tennessee Environmental Procedures Manual. The study identified 13 Activity Category B single-family residences and three Activity Category D churches/places of worship within the project area.*

### **Noise Impacts**

*The FHWA Traffic Noise Model Version 2.5 predicted existing and design year 2043 noise levels with the Selected Alternative for the residences and churches. The project is not predicted to cause a substantial increase in existing noise levels at the residences or churches, and the predicted noise levels do not exceed the noise abatement criteria (NAC). Therefore, the project is not predicted to create noise impacts.*

### **Statement of Likelihood**

*Noise abatement is not proposed for the project.*

### **Construction Activities**

*Construction activities may generate intermittent and temporary noise above existing noise levels. The generated noise levels will depend on the types of equipment utilized, the duration of the activities, and the distances between construction activities and nearby land uses. TDOT's construction specifications will apply to this project.*

### **Undeveloped Land**

*Some tracts of undeveloped land exist in the project area. The FHWA noise regulation does not allow federal funds to be used to construct noise abatement for new land uses. Therefore, TDOT encourages the local governments with jurisdiction over these lands, as well as potential developers of these lands, to practice noise compatibility planning to avoid future noise impacts.*

### **Cumulative Effects**

*The noise analysis is for the design year and includes projected traffic volumes for the project as well as forecasted background traffic growth and other planned and programmed projects in the area. As a result, the noise impacts predicted for the noise analysis represent both indirect and cumulative noise impacts.*

The previous noise analysis is included in the 2003 EA in Appendix B. The February 2023 Air Quality Report and 02/23/2023 ESR response is in Appendix I.

## **Cultural Resources/Section 106 Coordination**

### **1. Architectural/Historical and Archaeological Resources**

#### ***Architectural/Historical Resources***

In 1998, TDOT historians surveyed the project's area of potential effect (APE) for SR-14 and, in consultation with TN-State Historic Preservation Office (SHPO), determined that there were no historic properties within the APE. The State Historic Preservation Officer letter of concurrence dated 09/05/2002 is included in Appendix B. TDOT subsequently began purchasing proposed right-of-way for the project before it was put on hold.

The APE was resurveyed in 2014 at which time, one historic resource – the Rosemark Historic District, listed on the National Register of Historic Places (NRHP) in 2013 – was identified and land previously purchased by TDOT is within in the NRHP boundary (which includes three contributing properties and one non-contributing property). Coordination with TN-SHPO, dated 06/19/2014 and included in Appendix J, states that the project will not adversely affect the Rosemark Historic District. TDOT initiated coordination with TN-SHPO again on 01/24/2018 to confirm the effects determination reached in 2014. TN-SHPO correspondence dated 01/30/2018 is contained in Appendix J.

In 2018, TDOT Historians restudied the portion of the project covered by PIN 100341.02, and the TN-SHPO confirmed in a letter dated 01/30/2018 that the proposed project would not adversely affect the Rosemark Historic District. If project plans change, further consultation may be required.” As part of this Reevaluation, the project was coordinated with the TDOT Cultural Resources Section who in an ESR response dated 04/03/2023 stated, “Based on a review of the 04/07/2022 Construction Field Review Plans, the SHPO Letter dated 06/19/2014 remains valid. The project APE still includes the single architectural resource listed in the NRHP: the Rosemark Historic District. This TDOT Cultural Resources Section coordination is in Appendix K. Initial coordination and documentation related to historic properties is previous environmental documents contained in Appendix B.

### **Archaeological Resources**

Pursuant to Section 106 of the National Historic Preservation Act and implementing regulations 36 CFR 800, a Phase I survey was undertaken in 1998 to identify National Register listed, eligible, or potentially eligible archaeological sites within the Area of Potential Effect of the proposed project. The survey identified four previously unrecorded sites located within the proposed right-of-way which were evaluated in consultation with the State Historic Preservation Officer and determined not eligible for listing on the NRHP with no recommendation for additional work. The State Historic Preservation Officer letter of concurrence, dated 07/08/2002 is included in Appendix B.

An Addendum Phase I Archaeological Identification Survey was undertaken in February 2023 to identify any archaeological resources within the archaeological APE and, to the extent possible, evaluate their eligibility for listing in the NRHP. The addendum assessment surveyed areas of the APE that exceeded the extent of the 1998 APE, which includes existing and proposed ROW and proposed easements.

Four isolated finds were identified in the APE which were not recommended eligible for inclusion in the NRHP, and no further work was recommended.

As part of this Reevaluation, the proposed section of the project was re-coordinated by the TDOT Cultural Resources Section. In a response dated 04/27/2023, the TN SHPO concurred that no NRHP listed, eligible, or potentially eligible properties would be affected by this undertaking. TDOT Cultural Resources Section correspondence, dated 04/28/2023, is in Appendix J.

## **2. Section 106 Coordination**

As part of the EA, tribal coordination was initiated for the entire project on 11/30/2001. No responses were received from tribes at that time.

As part of this Reevaluation, the TDOT Cultural Resources Section reviewed the revised ROW plans dated 04/07/2022 and provided the following statements in an ESR response dated 05/02/2023 (A summary of tribal coordination and response is also provided in Table 6):

*An invitation to participate in the Section 106 process was sent on 12/13/2022 to all federally recognized Native American tribes with interests in the subject county.*

*The Quapaw Nation responded and accepted the invitation to be a consulting party on 12/30/2022. Reports were sent to this consulting party on 05/02/2023.*

*The Cherokee Nation responded and accepted the invitation to be a consulting party on 01/04/2023. Reports were sent to this consulting party on 05/02/2023.*

*The Chickasaw Nation responded and accepted the invitation to be a consulting party on 01/11/2023. Reports were sent to this consulting party on 05/02/2023.*

*The Eastern Shawnee Tribe responded on 01/10/2023 with a finding of "no adverse effect." The Eastern Shawnee Tribe requested to be contacted in the event of an inadvertent archaeological discovery.*



*The Choctaw Nation of Oklahoma responded and accepted the invitation to be a consulting party on 01/11/2023. Existing cultural resources documentation from prior versions of the project was sent to the Choctaw Nation of Oklahoma on 03/24/2023. The Choctaw Nation of Oklahoma responded on 04/24/2023 concurring with the finding of "no effect." Updated cultural resources reports were sent to this consulting party on 05/02/2023.*

*To date, no other responses have been received. TDOT will re-initiate consultation if additional cultural resources studies are required or if archaeological materials or human remains are discovered during construction.*

*(Following guidance issued on 04/08/2020 by the Advisory Council on Historic Preservation (ACHP) in response to the COVID-19 outbreak, federal agencies are to remain flexible regarding federally recognized Native American tribes' Section 106 review responsibilities. The ACHP's guidance furthermore indicates that federal agencies may not foreclose on the statutory rights afforded to federally recognized Native American tribes under the National Historic Preservation Act and regulations implementing Section 106 of the Act. As several federally recognized Native American tribes with interests in Tennessee have indicated that their ability to carry out their Section 106 review responsibilities is diminished or otherwise limited, it should be expected that tribal responses for the subject project may be received subsequent to the date of this ESR and that any such response may require additional information, fieldwork, or coordination with any or all tribes and, perhaps, the [TN-SHPO] and/or ACHP. An updated ESR will be provided in the event that any additional responses are received, along with updated Section 106 documentation, if any.)*

Previous Section 106 Consultation, including 12/04/2001, 07/08/2002, and 09/05/2002 coordination, is included in the EA and FONSI contained in Appendix B, while the most recent coordination with TDOT Cultural Resources Section, dated 05/02/2023 is in Appendix J.

**Table 6. Native American Coordination**

Native American Consultation					
Sent	Response		Sent	Response	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Absentee Shawnee Tribe of Oklahoma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Muscogee (Creek) Nation
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Cherokee Nation	<input type="checkbox"/>	<input type="checkbox"/>	Poarch Band of Creek Indians
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Chickasaw Nation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Quapaw Tribe of Indians
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Choctaw Nation of Oklahoma	<input type="checkbox"/>	<input type="checkbox"/>	Shawnee Tribe
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Eastern Band of Cherokee Indians	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Thlopthlocco Tribal Town
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Eastern Shawnee Tribe of Oklahoma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	United Keetoowah Band of Cherokee Indians
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Kialegee Tribal Town	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jena Band of Choctaw Indians

## **Section 4(f)**

As noted under Cultural Resources/Section 106 Coordination above, the Rosemark Historic District would not be adversely affected by construction of the proposed project. In addition, Section 4(f) of the National Transportation Act of 1966, specifically at 23 CFR 774.13(c), states that the FHWA “may permit a project to proceed without consideration under Section 4(f) if the property interest in the Section 4(f) land was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by Section 4(f) prior to acquisition.” For these reasons and considering the Section 4(f) guidance found at 23 CFR 774.13(c), it is the opinion of TDOT that there would not be a Section 4(f) use of a historic property.

## **Section 6(f)**

As part of this Reevaluation, the project corridor was assessed for the presence of properties protected under the Department of Interior's *Land and Water Conservation Fund* Section 6(f) provisions.<sup>1</sup> No resources are present, and no properties protected under Section 6(f) provisions would be impacted by the project.

## **Bicycle and Pedestrian**

The typical cross section for the proposed project calls for a paved shoulder, which will allow for bicycle usage. The shoulders will be between 4 ft and 8 ft wide, which provides additional space for bicyclists, consistent with TDOT Roadway Design Guidelines for accommodating bicycles on roadway shoulders.<sup>2</sup> SR-14 is designated as a bike route along the extents of the project. Provision will be made for striping and signing of this bike route along the proposed route.

As part of this Reevaluation, the proposed section of the project was re-coordinated with the TDOT Multimodal Transportation Resources Division. The TDOT Multimodal Transportation Resources Division provided an ESR response on 12/07/2022 stating, “This project accommodates bicyclists with wide shoulders. Note that the northern portion of this project is state designated bike route and our ongoing update to the state bike route network will likely extend this route through this entire project length. This office requests either no rumbles strips or intermittent strips.” Updated coordination from TDOT Multimodal, dated 8/29/2023, stated that, per TDOT guidelines, a paved shoulder width of 4 feet or more is sufficient to accommodate bicyclists. Copies of the most recent TDOT Multimodal Transportation Resources Division coordination is in Appendix K.

## **Other Issues**

There are no other known issues associated with the project and while there were design changes within the concept of this section, the overall purpose and need of the project in the EA and FONSI remains unchanged.

## **Environmental Commitments**

Environmental Commitments are included in the proposed project as outlined below.

1. *Cliff swallow and barn swallow nests, eggs, or birds (young or adults) will not be disturbed between April 15 and July 3. From August 1 to April 14, the nests may be removed or destroyed, and measures may be implemented to prevent future nest building at the site (e.g., closing off the areas using netting).*

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<sup>1</sup> The Land and Water Conservation Fund Past Projects Mapper. <https://lwcf.tplgis.org/mappast/> Accessed 06/16/2023.

<sup>2</sup> Per TDOT Roadway Design Guidelines on Multimodal Design. See Page 3-52: [Chapter 3-501.02: Bicycles on Shoulders](#).

## Conclusion


Based on the findings of this Reevaluation, the basic setting of the affected and existing environment has not been altered and the project is of essentially the same character as previously studied, with no substantial modifications of land use or new development.

The anticipated impacts have not substantially changed, and the examination of the Construction Field Review Plan PIN 100341.01, dated 04/07/2022, with supporting ESR materials appended to this Reevaluation indicate that there have been no new environmental consequences or effects not presented and/or discussed in the 2003 FONSI that would invalidate earlier approvals or significantly affect the quality of the environment.

In regard to these conclusions, TDOT believes the 2003 FONSI remains valid for the requested administrative action. A space below is provided for your concurrence.

Sincerely Yours,

**Erick Hunt-  
Hawkins**

 Digitally signed by Erick Hunt-  
Hawkins  
Date: 2023.08.29 13:23:06 -05'00'

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Erick Hunt-Hawkins

Environmental Manager, TDOT Environmental Division Concurrence:

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Mr. Gilberto De León

FHWA Deputy Division Administrator

Federal Highway Administration, TN Division

Enclosures: Appendices

**List of Appendices**

Appendix A: Memphis MPO FY 2023-26 Transportation Improvement Program (FY 2023-2026)

Appendix B: Previous Environmental Documentation

Appendix C: Project Plans, Photographs and Public Outreach

Appendix D: TDOT Right-of-Way Division Coordination

Appendix E: Environmental Justice

Appendix F: Hazardous Materials

Appendix G: Ecology

Appendix H: Floodplain Management

Appendix I: Air Quality and Noise

Appendix J: Cultural Resources and Section 106 Consultation

Appendix K: TDOT Multimodal Transportation Resources Division Coordination