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September 2, 2009

David K. Baker  
US Army Corps of Engineers  
151 Patton Avenue, Room 208  
Asheville, NC 28801-5006

PUBLIC COMMENT REGARDING TIP A9, Sections B and C (Stecoah to Robbinsville section)

Dear Mr. Baker:

Please accept this letter on behalf of the board of directors and supporters of WaysSouth. WaysSouth is a nonprofit organization that works to preserve and protect the unique heritage and environment of Southern Appalachia by promoting responsible transportation practices. Corridor K has been a concern for several years for WaysSouth supporters who are directly impacted by this road in Graham County as well as those who live in other parts of Southern Appalachia and beyond. We believe that both the Clean Water Act and the National Environmental Policy Act prohibit the US Army Corps of Engineers (COE) from issuing a permit to discharge dredged or fill material into U.S. waters, as proposed by the North Carolina Department of Transportation (NCDOT). We further believe that if COE intends to proceed further towards issuing a permit, it must hold public hearings to ensure adequate consideration of the proposal.

**The Clean Water Act Prohibits Issuance of the Permit Because NCDOT Has Not Considered a Practicable Alternative With Lesser Environmental Impacts**

,Under the 404(b)(1) Guidelines issued under the Clean Water Act, COE cannot issue the proposed permit because NCDOT has failed to consider a practicable alternative with lesser environmental impacts. Specifically, NCDOT has assumed that this project requires a four-lane divided highway and has failed to consider the alternative of an improved two-lane corridor on the approximate existing footprints of US 129 and NC 143. In order to have considered practicable alternatives with lesser environmental impacts, NCDOT needs to study and provide you with a two-lane option for this project. The project's stated purposes would be better served at less cost and with less impact to mountain streams and wetlands by pursuing well-designed upgrades and improvements to the existing primary roads in Graham County (US 129 and NC 143). Moreover, NCDOT's Draft Supplemental Final Environmental Impact Statement (Draft SFEIS) states that the tunnel planned for two of NCDOT's alternatives would be unnecessary if the road had a smaller, two-lane footprint.

### **NEPA Prohibits Issuance of the Permit**

The Draft SFEIS that NCDOT has submitted to COE as part of its permit application is inadequate in several respects. Accordingly, it does not satisfy the requirements of NEPA and prohibits issuance of the permit.

### **NCDOT Has Not Studied All Practicable Alternatives as NEPA Requires**

NEPA requires NCDOT to study all practicable alternatives that meet the purpose and need for the project. To the extent that NCDOT has defined the purpose or need to include a four-lane road, that is improper because

there is no demonstrated need for this new four-lane road. While NCDOT states that part of the project's purpose is to improve road linkage and highway capacity, its data show that there is no transportation need for such a massive highway. Indeed, NCDOT projects that current roads will provide acceptable levels of service through 2030. Thus, an alternative consisting of targeted upgrades to existing roadways on a two-lane footprint would satisfy any legitimate purpose for the Corridor K project.

### **NCDOT's Justification that a Four-Lane Highway Is Necessary to Encourage Economic Development Is Insufficient**

NCDOT's refusal to consider an improved two-lane corridor cannot be justified by the stated purpose of encouraging economic development in Graham County with a four-lane highway. No data has been provided to support the assumption that a four-lane highway will meet the economic development need. While possessing no expertise in economic development, NCDOT has based its "need" for this project on the inhibited economic development of Graham County. NCDOT must consult with true economic development strategists, not road engineers, when considering alternative approaches to improving economic conditions in Graham County, such as considering upgrades to existing highways US 129 and NC 143.

### **NCDOT's Justification that a Four-Lane Highway Is Necessary to Meet Appalachian Regional Commission Requirements Is Insufficient**

NCDOT cannot justify its insistence on a four-lane design as a stated objective of completing the Appalachian Regional Commission (ARC) Corridor K project because ARC has not required that Corridor K be a four-lane highway. As evidence of this, for the current study of the Tennessee portion of the ARC Corridor K, all options are on the table—two and four lane.

### **NCDOT Has Not Considered the Full Cumulative Impacts of the Entire Proposed Corridor K Project**

NCDOT cannot proceed without considering, disclosing and seeking USACOE review of the cumulative impacts of the full North Carolina project from Andrews to Stecoah, including the cost prohibitive segment between Andrews and Robbinsville, and considering the impacts of the full Corridor K project, from Cleveland, TN, to Dillsboro, NC. The impact of this segment of the road cannot be determined without taking into consideration the adjacent segment from Robbinsville to Andrews. That section as planned would include massive tunneling, imparting immense geological alterations and impacts to the environment, including U.S. waters. Additionally, the segments of the Corridor that are under review for improvement in Tennessee must be considered as well. They are part of the Corridor that stretches from Cleveland, TN to Dillsboro, NC.

## NCDOT's Proposal Lacks Crucial Information Necessary to Make an Informed Decision

NCDOT's proposal to you is lacking in information. The extensive grading projected by NCDOT would disturb pyritic, acid-producing rock formations that would pollute this area's clean waters and trout streams, yet this likelihood has not been adequately addressed or assessed. Such rock formations are already revealed in the exposed road cuts on NC143 at Stecoah gap and surrounding ravines. NCDOT's proposed four-lane highway construction would cause approximately 20,000 feet of stream impacts, producing acidic runoff for decades after construction is complete, yet a long-term monitoring and remediation plan is absent from the plan.

Water quality is further threatened by the instability of graded slopes, which are characterized by unstable rock that has extensive potential for slope failures during construction and long after the project is completed, as evidenced by similar failures on I-40, US Highway 441 in the Great Smoky Mountains National Park, and the Blue Ridge Parkway. The geological literature (Ackers, 1995) reveals that "landslides have plagued the section of SR143 above the west (tunnel) portal," and that "some of the ravines on that slope show evidence of active debris flow...or debris avalanche mass movement. The proposed roadway lies in the path of those movements which could be triggered by storms with a frequency of 50 years." NCDOT has not fully analyzed these dangers and must do so in order for you to make an accurate assessment of the project. Without this information, USACOE cannot issue a permit.

### Conclusion

In summary, WaysSouth objects to this project as currently irresponsibly proposed. Unnecessarily under threat are the waters of the United States in this pristine area, as well as the valuable natural and historic assets of the region—including scenic trails, trout streams, hunting habitat, campgrounds, recreational businesses and historic sites—which generate millions of dollars in annual recreational revenue for the mountain region. Because other practicable, less environmentally damaging alternatives exist that will meet NCDOT's stated purpose and need for the project, and because the NEPA documentation is inadequate, COE cannot issue a permit for this project as currently proposed. COE must also conduct one or more public hearings if it intends to continue the issuance process.

Respectfully,



Holly Demuth  
Executive Director  
WaysSouth