

**MEMORANDUM FOR RECORD**

**SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above-Referenced Standard Individual Permit Application**

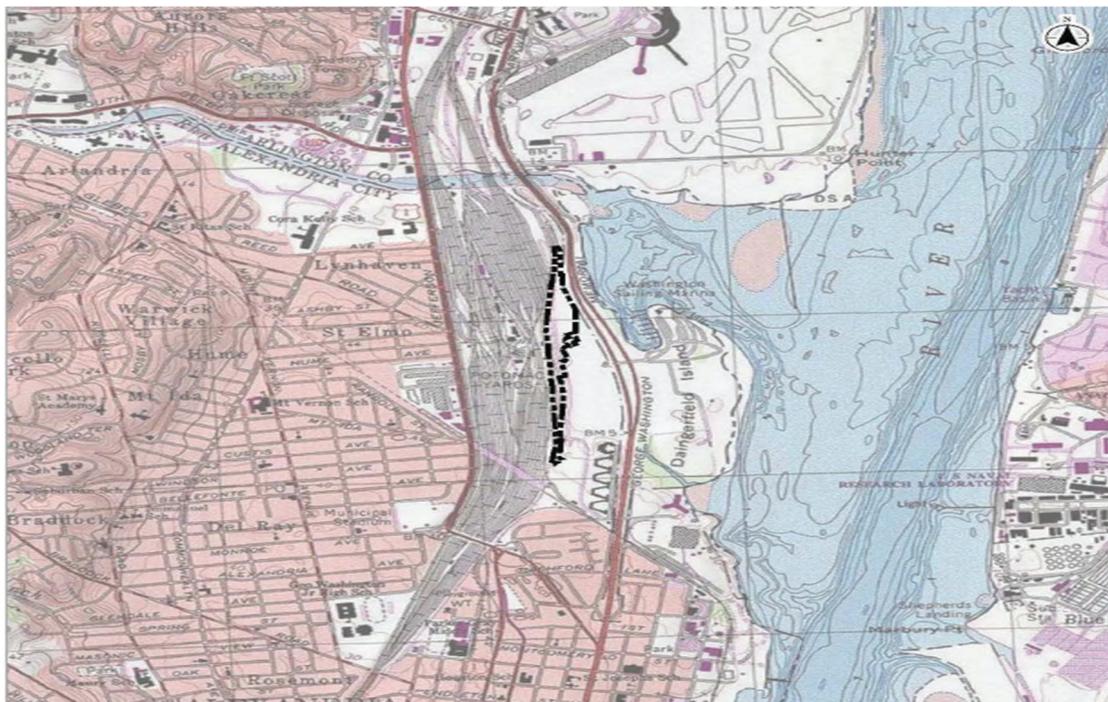
This document constitutes the Environmental Assessment, 404(b)(1) Guidelines Evaluation, as applicable, Public Interest Review, and Statement of Findings for the subject application.

**1.0 Introduction and Overview:** Information about the proposal subject to one or more of the Corps' regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 11 and findings are documented in Section 12 of this memorandum. Further, summary information about the activity including administrative history of actions taken during project evaluation is attached (ORM2 Summary) and incorporated in this memorandum. Note: Where appropriate, information provided by the consultant, on behalf of the applicant has been used to inform the Corps' document.

The Federal Transit Authority (FTA) is the lead federal agency. An Environmental Impact Statement (EIS) was finalized by the FTA in June of 2016, and the FTA issued the Record of Decision (ROD) in October of 2016. The National Park Service (NPS) acted as a Cooperating agency, adopted the FTA EIS, and completed their ROD in November of 2016. The Corps coordinated as a Participating Agency in the development of the EIS. The Corps' evaluation incorporates portions of the FTA's final EIS and addresses the Corps involvement with the proposed action.

1.1 Applicant: City of Alexandria

1.2 Activity location: The project site is located east of the existing Metrorail tracks, approximately midway between the Ronald Reagan Washington National Airport and Braddock Road Stations. The area proposed for the station is bordered by the George Washington Memorial Parkway (GWMP) to the east and active CSX tracks and Potomac Avenue to the west. The site is located north of the Potomac Greens neighborhood and east of the Potomac Yard Shopping Center in the City of Alexandria, Virginia.



- 1.3 Description of activity requiring permit: Discharge of fill for the construction of a 46,922 square foot at-grade with a side platform layout new metrorail station, the Potomac Yard Metrorail Station (PYMS), along the Blue and Yellow lines in the vicinity of the Potomac Yard. The proposed improvements and construction area are comprised of  $\pm 17$  acres. The project consist of grading and filling for the construction of the station and associated infrastructure (3,750 linear feet of new and/or re-aligned tracks, entrance pavilions, stormwater management facilities, emergency access road, and construction staging areas).

The proposed project would temporarily and permanently impact 3.57 acres of jurisdictional wetlands. Permanent impacts are to 0.92 acres of palustrine forested wetland (PFO) and 0.64 acre of palustrine emergent wetlands (PEM). Temporary impacts are to 1.10 acres of PFO wetland and 0.91 acres of PEM wetland.

The project was first public noticed on February 13, 2018 and withdrawn on May 9, 2018 due to a lack of response from the applicant to comments received during the public notice comment period and the submission of a mitigation proposal. On August 6, 7, 8 and 21 of 2018, the City submitted additional information which included a modification to the project's footprint resulting in changes to the impacts (permanent impacts were reduced from 1.65 acres to 1.56 acres of wetland impacts and temporary impacts were reduced from 2.97 acres to 2.86 acres), a response to the comments received on the public notice, a mitigation credit availability letter, and an addendum to the project regarding

changes to the station design. The information submitted allowed the continued processing of the application. A new public notice was not issued because, whereas the project's scope changed due to the removal of structures and the impacts to wetlands decreased, this did not change the Corps of Engineers' (Corps') area of review, Endangered Species Act (ESA) action area or 106 permit area or Area of Potential Effect (APE).

On October 24, 2018 via email, additional information was requested from the City on alternatives. On November 30, 2018, the application was withdrawn again because the additional information was not received within 30 days of the request.

A new joint permit application was submitted on February 6, 2019. Additional documents associated with the application were submitted on February 7 and 15, 2019. Additional information was requested via email by the Corps and Department of Environmental Quality (DEQ) on February 20, 2019. The Application was considered federally complete on March 12, 2019. A new public notice was issued on April 5, 2019 because of the numerous comments and citizen concerns received after the February 13, 2018 public notice closed. Note, only three comments were received during the February 13, 2018 comment period (**See Appendix A**). All other comments were received and accepted after the closing of the 30-day notice.

- 1.3.1 Proposed avoidance and minimization measures: A portion of the proposed work is within the existing rail corridor. Some of the existing tracks will be realigned along with the addition of new tracks. There are no impacts to waters of the U.S., including wetlands, as a result of Stormwater Best Management Practices (BMPs) onsite. All stormwater management facilities have been designed to not negatively impact the surrounding lands. Onsite impacts to jurisdictional wetlands are unavoidable and the applicant has avoided and minimized to the maximum extent practicable.

**Station Design:** The station has been designed to minimize its footprint to the greatest extent feasible to avoid impacts to aquatic resources. The size of the station is based on various standards for access and mobility inside the station, as well as for emergency procedures. Fire protection standards (NFPA 130) require larger, wider platform areas and larger egress corridors to allow riders to quickly exit the station, which requires a larger footprint for the station itself. Additionally, Washington Metropolitan Area Transit Authority (WMATA) design standards, such as the need for redundant elevators for handicap access, have increased the overall footprint, when compared to older stations. Most of the service and maintenance rooms are located partially below-grade in a corridor underneath the station platform rather than adjacent to the platform to

minimize the station width. This station has been designed without a Park & Ride, Kiss & Ride parking lot or parking garage structure. With the focus of this station on pedestrian and bicycle traffic only, the footprint of the project and the amount of new impervious surface in comparison to other similar stations is significantly reduced, thereby minimizing additional permanent impacts at the site.

**Track Design:** The layout and siting of the tracks must conform to track geometry standards, such as maximum curvature and grade for the tracks approaching and within a station. WMATA design standards require a maximum 0.35% grade on 750 vertical tangent (straight) feet within the station, and a maximum 4% grade with a 755-foot radius of curvature approaching/leaving the station. Accommodating a required double crossover requires additional tangent track in the approaches to the station, meaning that approximately 1,300 feet of tangent track is necessary. These standards were used while siting the PYMS. While very minor shifts in track alignment may be possible within the design standards, these and other constraints limit location flexibility. The station and tracks have been located and oriented in the manner that conforms to the track geometry standards while minimizing wetland impacts to the maximum extent practicable.

**Minor Shifts; north, south, east, west:** Shifting the station to the west to further minimize wetland impacts would move the construction into the existing metrorail tracks. An inline station cannot be built at this location due to the track curvature. Construction associated with building an inline station at the location of the existing tracks, would require a complete shutdown of rail service for an extended period for track work, and create unsafe working conditions for both workers and passengers. The proposed design allows off-line station construction near the existing Blue/Yellow line to facilitate a track connection conforming to the design standard while maintaining space between the existing and proposed facilities, thus allowing construction without impeding current service or risking worker and passenger safety, as well as avoiding the relocation of CSX tracks.

Shifting PYMS to the southern end of the site would negatively affect the existing Potomac Greens neighborhood due to increased noise, vibration, and additional intrusion of construction equipment and would increase permanent impacts to aquatic resources. In the proposed design, the new track diverges from the current track at the northern end of Potomac Greens, just west of Potomac Greens Drive. Shifting the station south would move the divergent point further south, pushing the tracks into the existing residences in Potomac Greens and into Potomac Greens Drive. Homes would be displaced, and existing roads compromised. Moving the station into the neighborhood would limit the working

space for construction equipment, access, and laydown/storage, which means that additional temporary workspaces in wetlands at the northern and eastern portions of the site likely would be necessary. Due to the concave track curvature (relative to the station) at this location, shifting the station location further south also would necessitate that the station be shifted further east. Shifting the alignment in that direction would increase permanent wetland impacts and potentially would impact tidal wetlands. Although the track connection point at the southern end would be removed from the wetlands, the track realignment and connection point at the northern end would still require temporary and permanent wetland impacts for fill and track construction, resulting in a net increase in impacts.

Shifting the station to the north would impact the same wetlands to the east due to the grading, fill, and track layout required to maintain correct elevation and curvature. It would also move the construction closer to the George Washington Memorial Parkway (GWMP), creating a greater negative impact to the viewshed of the GWMP and would increase impacts under Section 106.

Location	Total Permanent Wetland Impacts
PYMS - as presented in permit	1.56 acres
Northern shift	2.26 acres
Southern shift	2.59 acres

**Fill Slope Adjacent to Station:** To match the elevation of the tracks approaching and exiting the station and achieve a maximum grade of 0.35%, the station platforms and mezzanine must be built atop retained fill. Two potential options were evaluated for retaining fill along the eastern edge of the project: a soil embankment (berm) or large retaining wall. Between the two options, the retaining wall would result in a minor reduction in impacts to a strip of wetland approximately 12-feet wide for the length of the station for a total savings of 0.07 ac PEM and 0.31 ac PFO permanent impacts and 0.07 ac PEM and 0.31 ac PFO temporary impacts; however, the NPS opposed the visual impact of a large retaining wall visible from the GWMP. During the National Environmental Policy Act (NEPA), Section 4(f) and Section 106 process, this potential retaining wall was discussed and rejected as causing too severe an impact on the GWMP. While the retaining wall marginally reduces wetland impacts, it increases the Section 106 impacts to the GWMP that carries a National Register of Historic Places designation. The NPS required a soil embankment with landscaping to minimize the visual impact and this option is included in the agreements with the NPS involving Section 106 and Section 4(f) and is included in the NPS Record of Decision (ROD).

The grade of fill slope needed to support the station and fire/emergency access road has been maximized to reduce aquatic resource impacts. Slopes ranging from 1:1 to 2:1 were considered. A steep 1:1 slope reduces the impacts to wetlands but creates construction and safety issues with equipment working on a very steep slope. Also, maintenance of the slope integrity and landscaping becomes very difficult, and riprap stabilization is necessary. A more gradual slope of 2:1 slope or less is easier to manage, safer to construct, and easier to landscape, but impacts more wetlands. After several engineering exercises, a slope of 1.5:1 was selected as the greatest slope practicable to minimize the wetland impact while still maintaining the integrity of the fill slope to support structures.

**Emergency Access Road:** An access road beginning at Potomac Greens Drive and located adjacent to and east of the station is necessary to allow vehicular traffic at the station for maintenance, employees, and emergency services. The minimum road width necessary to accommodate larger emergency vehicles, including fire trucks, is 22 feet. The fire access road along the eastern side of the site has been limited to this minimum width of 22 feet.

**Temporary Construction Impacts:** Contractors will use the wetland area immediately adjacent to the permanent impacts as a work area needed for construction equipment access and construction of a temporary haul road. The contractor has located staging areas off-site to avoid and minimize temporary construction impacts.

**Stormwater Management:** The project will treat all runoff outside of the water resource areas to avoid impacts to tidal and non-tidal wetlands adjacent to and downstream of the site. The plans include an underground detention system on the eastern side of the station, along with an underground sand filter. On the southern and western portions of the site grass swales and bioretention filters will be used to store and treat runoff. Additional stormwater controls will be implemented to avoid impacts to tidal wetlands east of the site.

- 1.3.2 Proposed compensatory mitigation: To compensate for unavoidable permanent impacts to non-tidal wetlands, the applicant proposes to purchase credits from the Buena Vista Wetland Mitigation Bank. As compensation for permanently impacting **1.56** acres of jurisdictional wetlands, a total of **2.48** credits will be debited from the Buena Vista Wetland Mitigation Bank to offset the loss of **0.92** acre of PFO wetlands and **0.64** acres of PEM.

**COMPENSATORY MITIGATION**

<b>PEM Impact (acre)</b>	<b>Required Mitigation (1:1 ratio)</b>	<b>PFO Impact (acre)</b>	<b>Required Mitigation (2:1 ratio)</b>	<b>Total Mitigation Required</b>
0.64	0.64	0.92	1.84	2.48 credits

1.4 Existing conditions and any applicable project history:

Potomac Yard is a 235+ acre site which was one of the largest freight rail yards on the East coast of the US until it closed in 1989. It is now a mix of existing rail facilities, commercial development, public areas, residential housing, and undeveloped areas. The approximately 17-acre area proposed for the PYMS has been altered extensively over the years and the undeveloped area east of Metrorail tracks is a mix of uplands, non-tidal and tidal wetlands, interspersed with spoil piles from previous activities, and a walking trail.

“Three oil/water separator ponds were located in the north, middle, and south portions of former Potomac Greens Sub-Area which collected surface water containing grease and spilled fuel oil from refueling and maintenance operations in the former Central Operations Area, North Yard, and South Yard Sub-Areas. During 1977 and 1978, the three ponds were moved from their original locations to clear a path for the Metrorail Yellow Line. The original separator ponds were then filled with soil and fly ash (ETI, Inc. 1995). During 1993, the railroad (RF&P) removed the three ponds from the former Potomac Greens Sub-Area. The water was pumped from each pond and the sediments were solidified with kiln dust and disposed off-site. Two of the former oil/water separator ponds are located in near proximity to the site proposed for the Metrorail Station building and the new metrorail track.

Dredge spoils from the mouth of Four Mile Run were placed at the Potomac Greens Sub-Area by the U.S. Army Corps of Engineers (USACE) in 1983. The USACE constructed a rectangular impoundment located in the south-central portion of Potomac Greens to contain the dredged material. The spoils were deposited within a 10 to 15 foot-high embankment and distributed in a layer that varied from 1 to 12 feet in thickness. The dredge spoils were removed during redevelopment of the Potomac Greens Sub-Area.” (Potomac Yard Metrorail Station/Final EIS)

Currently the 3.1 mile distance between the Braddock Road and Reagan National Airport Metrorail stations is the longest stretch of Metrorail line inside the Beltway without a station.

1.5 Permit Authority: Section 404 of the Clean Water Act (33 USC 1344).

**2.0 Scope of review for National Environmental Policy Act (i.e. scope of analysis), Section 7 of the Endangered Species Act (i.e. action area), and Section 106 of the National Historic Preservation Act (i.e. permit area)**

2.1 Determination of scope of analysis for National Environmental Policy Act (NEPA):

The scope of analysis includes the specific activity requiring a Department of the Army permit. Other portions of the entire project are included because the Corps does have sufficient control and responsibility to warrant federal review.

Final description of scope of analysis: The FTA is the lead Federal agency and the entire project is under FTA's purview. The Corps' scope of analysis includes only those areas comprising waters of the U.S. including wetlands that will be directly affected by the proposed work or structures plus any areas directly adjacent that may be affected by the federal action.

2.2 Determination of the "Corps action area" for Section 7 of the Endangered Species Act (ESA):

As the lead Federal agency, the FTA defined the action area as the entire project site, and conducted Section 7 coordination for the City of Alexandria and determined that no species of fish, wildlife, or plant (or their critical habitat) listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected. The Corps' Action Area includes the permit areas within the waters of the US including wetlands requiring a federal permit for discharges, as well as any areas outside the action area impacted by the work plus any areas directly adjacent that may be affected by the federal action. The entire project is within the FTA scope of analysis for ESA.

2.3 Determination of permit area for Section 106 of the National Historic Preservation Act (NHPA):

The permit area includes those areas comprising waters of the United States that will be directly affected by the proposed work or structures, as well as activities outside of waters of the U.S. because all three tests identified in 33 CFR 325, Appendix C(g)(1) have been met.

Final description of the permit area: As the lead federal agency, the FTA conducted 106 coordination for the City of Alexandria and included the entire project study area for the project in the APE. A Memorandum Of Agreement (MOA) was executed in October of 2016 between the FTA, The City of

Alexandria, The WMATA, The NPS, and the Virginia State Historic Preservation Office (SHPO).

### **3.0 Purpose and Need**

#### **3.1 Purpose and need for the project as provided by the applicant and reviewed by the Corps:**

Purpose – Improve local and regional transit accessibility to and from the Potomac Yard area adjacent to the U.S. Route 1 corridor for current and future residents, employees, and businesses.

Need – Provide direct access to regional transit services that will reduce vehicular traffic on U.S. Route 1 and improve congestion and emissions in the area. Additional transportation options are needed to accommodate travel demand in the area and to support the City of Alexandria's redevelopment plans.

Potomac Yard already includes several local bus lines to serve the relatively short trips within the project study area and to and from adjacent areas. However, the Potomac Yard area lacks convenient direct access to frequent high-capacity, higher-speed, all-day transit service that crosses multiple jurisdictions to serve trips to and from locations throughout the metropolitan area.

#### **3.2 Basic project purpose, as determined by the Corps: To reduce traffic on U.S. Route 1 and accommodate the travel demand in the area.**

#### **3.3 Water dependency determination: The activity does not require access or proximity to or siting within a special aquatic site to fulfill its basic purpose. Therefore, the activity is not water dependent.**

#### **3.4 Overall project purpose, as determined by the Corps: Improve local and regional transit accessibility to and from the Potomac Yard area adjacent to the U.S. Route 1 corridor for current and future residents, employees, and businesses.**

### **4.0 Coordination**

#### **4.1 The results of coordinating the proposal on Public Notice (PN) are identified below, including a summary of issues raised, any applicant response and the Corps' evaluation of concerns.**

Were comments received in response to the PN? Yes

Were comments forwarded to the applicant for response? Yes

Was a public meeting and/or hearing requested and, if so, was one conducted?  
Yes, a public meeting/hearing was requested but was not held.

Comments were received during the public notice comment period. Also, numerous comment topics received regarding the PN have already been discussed and addressed in the 404 application package and the PN comment/response process. As such, we do not believe that we would receive any substantial new information by conducting a public hearing, and believe we have sufficient information to make a decision. Therefore, we have determined that a public hearing is not required in connection with this application.

Comments received in response to public notice:

**Virginia Department of Conservation and Recreation (DCR):**

By letter dated May 6, 2019 DCR forwarded information regarding natural heritage resources. Revised comments dated May 31, 2019 were received from DCR noting the presence of Torrey's rush (*Juncus torreyi*) within the project site and River bulrush (*Bolboschoenus fluviatilis*) downstream of the project site. DCR recommended avoiding impacts to Torrey's rush, minimizing adverse impacts to River bulrush, and the implementation of and adherence to state and local erosion and sediment control/storm water management laws and regulations.

**Corps Response:**

DEQ is the lead on the conservation efforts of the Torrey's rush (*Juncus Torreyi*). River bulrush (*Bolboschoenus fluviatilis*) is not located within the project area.

The Corps received comments from interested parties/concerned citizens, mostly in opposition to the project's preferred location, Alternative B, due to the proposed wetland impacts. Many commenters support the construction of a new metro station, but not at its proposed preferred location. There is concern about the acres of wetland impacts and the possible jeopardy to a tidal freshwater marsh, and the fact that Alternative B may not be the Least Environmentally Damaging Practicable Alternative (LEDPA). Commenters stated that the 404(b)(1) guidelines have not been followed in determining practicable alternatives, that all practicable alternatives (including Alternatives A and B-CSX) and their environmental impacts have not been evaluated, and that Alternatives A and B-CSX have less environmental impacts and would still meet the purpose and need of the project. Comments also stated that there has not been an adequate comparison analysis of factors (logistics, cost, safety and noise) and mitigation will not compensate for the loss of wetlands.

<b>Commenters</b>			
<b>Last Name</b>	<b>First Name</b>	<b>Affiliation</b>	<b>Summary of Comments and Responses</b>
Anderson	Mark	Citizen	A, B, C, E, I, J, K, L, N
Bailey	Russell	Citizen	A, B, C, E, I, J, K, L, N
Brin	Marla	Citizen	A, B, C, E, J, N
Caldwell	Geoffrey	Citizen	A, B, C, E, I, J, K, L, N
Cannady	Georgia	Citizen	A, B, C, J, R
Cavanaugh	Dave	Citizen	A, E, H, J, K, L, N
Dara	Cill	Citizen	A, C, D, F, L, N, R
Dunn	David	City of Alexandria, Potomac Yard Metro Implementation Group (PYMIG)	A, C, E, I, J, K, L
Flachs	Jeremy	Law Offices of Jeremy Flachs	A, C, D, L
Fleming	Tony	Citizen	A, B, C, E,
Flynn	Kurt	Citizen	A, E, F, G, L, N
Hefferman	Claire	Citizen	A, B, C, D, E, J, K, L, N
Hertel	Poul	Citizen	A, B, D
Huddle	James	Citizen	A, B, C, E, I, J, K, L, N
Jennings	Nancy	Citizen	A, N, O, P
Kust	Kathleen	Citizen	A, B, C, E, I, J, K, L, N
Lang	Chris	Citizen	A, B, L, R, Q
Lindsey	Kevin	Citizen	A, B, C, E, I, J, K, L, N
Macdonald	Andrew	Environmental Council of Alexandria	A, B, C, E, L
Nisley	Roger	Citizen	A, B, C, E, I, J, K, L, N
Papp	Kathryn	Citizen	M
Pietila Pollard	Travis Trip	Southern Environmental Law Center	B, E, L
Protigal	Stan	Citizen	A, C, J, N
Rivenburg	Jan	Citizen	A, B, C, E, J, K, L, N
Roberts	James	Citizen	A, K
Summer	Jack	Citizen	L
Sundburg	Suzanne	Citizen	A
Tate	Susan	Citizen	A, B, C, D, E, I, J, K, L, N
Teslik	Steve	Citizen	A, B, C, E, I, J, K, L, N
Vineeta	Anand	Citizen	A
Winograd	Erin	Citizen	A, B, L, M
Winsor	Anita	Citizen	A, B, C, E, I, J, K, L, N

**COMMENTS AND THE RESPONSE TO COMMENTS SUBMITTED BY INTERESTED PARTIES:** See attached **Appendix B** for detailed comments.

**A. Oppose Construction of metro station at Alternative Site B**

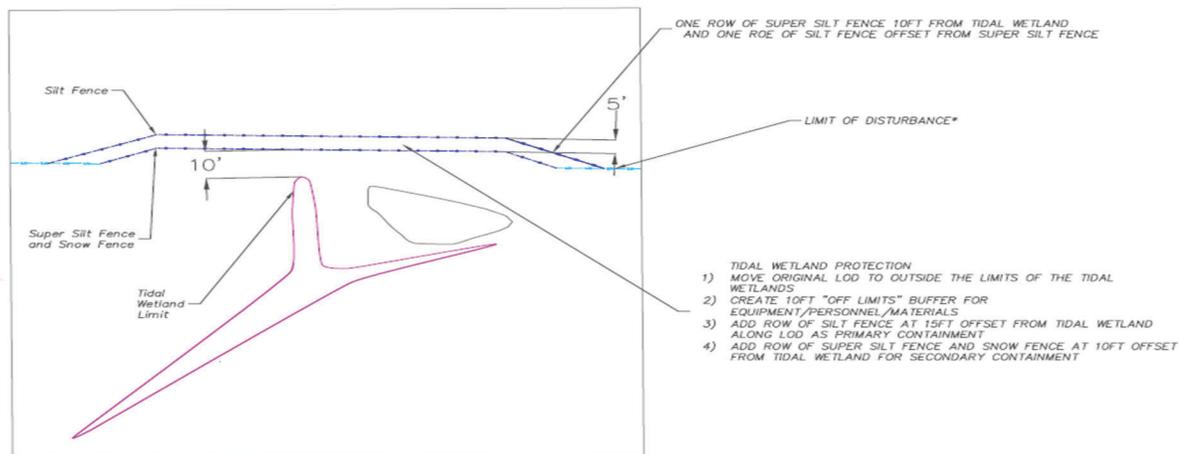
This evaluation is conducted according to the National Environmental Policy Act and the Section 404(b)(1) Guidelines. NEPA considers reasonable alternatives to the action that are still capable of achieving the basic project goals or purpose. 40 CFR § 230.10 (a) states “No discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.” Practicable includes available, and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose. All alternatives have been evaluated for practicability. Impacts to aquatic resources, historic resources, endangered species and public interest factors have been considered when determining the least environmentally damaging practicable alternative (LEDPA). The applicant has demonstrated that Alternative Site B is the LEDPA.

**B. Will destroy 5 acres of wetlands**

The proposed impacts are to 3.57 acres of jurisdictional wetlands. Permanent impacts are to 0.92 acres of palustrine forested wetland (PFO) and 0.64 acre of palustrine emergent wetlands (PEM). Temporary impacts are to 1.10 acres of PFO wetland and 0.91 acres of PEM wetland. To compensate for the permanent unavoidable impacts, the applicant will purchase credits from an approved mitigation bank. The temporarily impacted areas will be restored to preconstruction elevations and replanted.

**C. Threatens a tidal freshwater marsh (Dangerfield Island)**

To protect the tidal wetlands located east of the project site, the applicant will create a 10FT buffer between tidal wetlands for equipment/personnel/ materials, a row of silt fence at 15FT offset from tidal wetland and a row of super silt fence and snow fence at 10FT offset from tidal wetland for secondary containment.



#### **D. Impacts to Greens Scenic Area Easement (GW Parkway, National Park Land)**

The Greens Scenic Area easement is managed by NPS. The NPS issued a decision to authorize the use of land within the George Washington Memorial Parkway and Greens Scenic Area easement.

#### **E. Section 404(b)(1) Guidelines not followed in determining practicable alternatives**

The Corps must address all of the relevant provisions of the Guidelines in reaching a Finding. This Memorandum For Record documents the steps followed in evaluating this project per the 404 (b)(1) Guidelines.

#### **F. Not following NEPA requirements to consider alternatives**

NEPA requires a discussion of a reasonable range of alternatives which is documented in Section 5 of this Memorandum For Record.

#### **G. Request Corps prepare an EIS**

The Federal Transit Authority (FTA) in June 2016 completed an EIS addressing the overall project. The Corps has incorporated this information as appropriate into our review of the current permit action. The Corps has determined that this permit action will not have significant impacts on the quality of the human environment and therefore, no additional EIS or supplement is required.

#### **H. Did the Applicant apply for CZM approval?**

Yes, the applicant applied for CZM approval. A Coastal Zone Consistency Certification was issued for the project, therefore the project is considered consistent with the Coastal Zone Management Act.

#### **I. City failed to conduct a comparative analysis of factors (Logistics, Cost, Safety, and Noise)**

- A comparative analysis of the above factors (logistics, cost, safety and noise) was conducted and is included in this Memorandum For Record.

**J. The applicant's proposed mitigation will not compensate for loss of wetlands**

- The Norfolk District has developed standard compensatory mitigation ratios to develop adequate compensatory mitigation. Permanent impacts to wetlands would be mitigated through the purchase of wetland credits from an approved mitigation bank in accordance with the preference hierarchy of the 2008 Mitigation Rule. For palustrine forested wetlands, a 2:1 (per acre) ratio is used; for palustrine emergent wetlands, a 1:1 (per acre) ratio is used. Temporary wetland impacts incurred during construction will be restored on site.

**K. Temporary impacts will be permanent**

Temporary impacts to aquatic resources are proposed to be restored to pre-existing conditions. A Corps issued permit would include a condition requiring the permittee to restore all temporarily impacted aquatic resources to pre-existing conditions.

**L. Alternative B is not LEDPA, Support for Alternative B-CSX, Support for Alternative A**

Each alternative was evaluated to determine if it is a practicable alternative and meets the project purpose and need. This evaluation is fully documented in this Memorandum For Record.

**M. Applicant did not consider flooding and global warming**

This project is designed to comply with local floodplain ordinances. Minor increases in greenhouse gas emissions associated with construction of this project will be offset by increased use of low-carbon mass transit. The application demonstrates that construction of the Metrorail station will shift an estimated 6,400 daily automobile trips to mass transit, thereby reducing net greenhouse gas emissions compared to a no-action alternative scenario.

**N. The Corps should deny the permit**

33 CFR § 320.4 - General policies for evaluating permit applications: The decision whether to issue a permit is based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are

therefore determined by the outcome of this general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines and criteria (see Secs. 320.2 and 320.3), a permit will be granted unless the district engineer determines that it would be contrary to the public interest.

**O. New station will not improve transportation**

The applicant's purpose for this project is to improve local and regional transit accessibility to and from the Potomac Yard area adjacent to the U.S. Route 1 corridor for current and future residents, employees, and businesses. The City of Alexandria conducted a study to determine the transportation needs in this region and has determined that The Potomac Yard area lacks convenient direct access to frequent high-capacity, higher-speed, all-day transit service that crosses multiple jurisdictions to serve trips to and from locations throughout the metropolitan area.

**P. Location is too far from developable areas**

The preferred alternative location puts the Metrorail station within 0.25 mile of the most development compared to other alternatives considered and creates the best opportunity for smart growth and a walkable, compact, urban community. The preferred alternative location will help accommodate the growing transportation demand in the Route 1 corridor within the existing roadway network. The application states the number of persons with "access" to the station reflects the number of residents, workers, and expected visitors within walking distance of the station. The application explains that the conventional metric for land use and transportation planning is that the public will be willing to walk between 0.25 mile (5-minute walk) and 0.5 mile (10-minute walk) to access public transportation.

**Q. Negative impact to health, less exercise, take away meeting place**

There would be minimal impacts due to the temporary closure of one public and one private playground. While the park will be reduced in size after completion of the project, there will still be areas for exercise and meetings.

**R. Impacts to wildlife habitat and wildlife movement, pollution buffer, carbon sink, and wind and storm buffers**

The GWMP provides a wildlife corridor along the roadway, connecting to both Four Mile Run and the Potomac River. The placement of 1.56 acres of fill will remove habitat from the area and minimally affect local wildlife. Although some habitat will be lost, the corridor will still function and certain functions and values are expected to be enhanced when the temporarily disturbed areas are restored. There are no federally threatened or endangered species within project limits. There are no impacts to streams that would host fish, crustaceans, mollusk, and other aquatic organism. Wetland mitigation and onsite BMPs will offset effects of the project on pollution and carbon sink dynamics. Effects of the project on wind and storm buffers is expected to be negligible.

**S. Concerns about Sensitive Joint-Vetch**

A field survey was conducted. The surveyors documented no Sensitive Joint-Vetch present. A report was submitted and is included as part of the administrative record.

Additional discussion of submitted comments, applicant response and/or Corps' evaluation: Additional comments were received from other interested parties/concerned citizens after the close of the public notice comment period. **(See Appendix C)**

- 4.2 Were additional issues raised by the Corps including any as a result of coordination with other Corps offices? No

If yes, provide discussion including coordination of concerns with the applicant, applicant's response and Corps' evaluation of the response: N/A

- 4.3 Were comments raised that do not require further discussion because they address activities and/or effects outside of the Corps' purview? Yes

If yes, provide discussion: The discovery of a State rare plant within the project limits during the permitting process. DEQ is the lead on the conservation efforts of the Torrey's rush (*Juncus Torreyi*).

- 5.0 Alternatives Analysis** (33 CFR Part 325 Appendix B(7), 40 CFR 230.5(c) and 40 CFR 1502.14). An evaluation of alternatives is required under NEPA for all jurisdictional activities. An evaluation of alternatives is required under the Section 404(b) (1) Guidelines for projects that include the discharge of dredged or fill material. NEPA requires discussion of a reasonable range of alternatives, including the no action alternative, and the effects of those alternatives; under the

Guidelines, practicability of alternatives is taken into consideration and no alternative may be permitted if there is a less environmentally damaging practicable alternative.

- 5.1 Site selection/screening criteria: In order to be practicable, an alternative must be available, achieve the overall project purpose (as defined by the Corps), and be feasible when considering cost, logistics and existing technology.

Criteria for evaluating alternatives as evaluated and determined by the Corps: Alternatives were evaluated based on available alternative parcels, location, access, avoidance and minimization to wetlands, and costs. Because this is the construction of a rail system and station, the following criteria was also considered:

- Compliance with the WMATA station and track design standards and station planning guidance
- Proximity to the exiting metrorail tracks
- Constructability and safety of construction
- Disruption to current metrorail service
- Maximization of access

## 5.2 Description of alternatives

- 5.2.1 No action alternative: The No Build Alternative would include the existing transportation network, plus all of the committed projects within the study area, except the Potomac Yard Metrorail Station. These projects include: completion of the Potomac Yard street network, future pedestrian/bicycle bridge between Potomac Yard and Potomac Greens, and expansion of local bus services. The No Build Alternative would not improve the regional transit accessibility of the Potomac Yard and would not meet the project purpose and need.

### 5.2.2 Potomac Yard Region Off-site Alternatives

NOTE : FTA, the lead federal agency for the project, conducted an alternatives analysis for this project and presented the results in their Environmental Impact Statement (EIS) dated June 1, 2012. Where appropriate, their analysis has been used to inform the Corps' alternatives analysis. For more detailed information about the FTA's alternatives analysis, refer to the FTA EIS.

A broad range of approximately 40 alternatives were evaluated for the location, structure of the project's station, able to meet purpose and need, consistency with land use and development plans, and technical feasibility during the DEIS review. These consisted of 34 alternative metrorail station locations and

configurations, five alternatives that did not include the construction of a metrorail station, and a no-action alternative. Further review narrowed the alternatives to 11 potential locations with each including an underground, at-grade, and aerial option. A VRE station, bus alternative and a parking garage alternative were also considered. The alternatives were narrowed down to eight alternatives and addressed the station sites' relationship to planned and approved development in the Potomac Yard and Potomac Greens, necessary modifications to the metrorail track and systems to accommodate a station at each site, and the estimated metrorail construction costs.

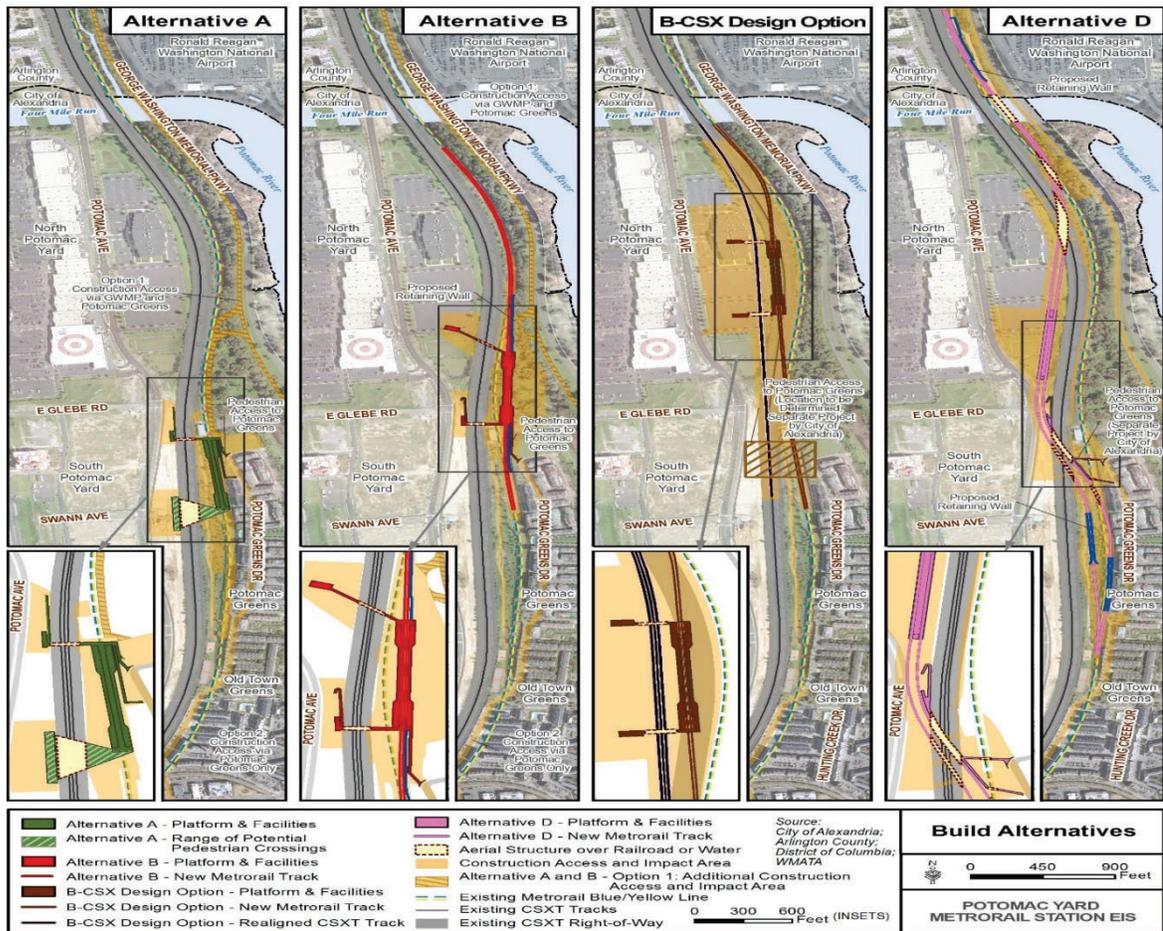
In the process of developing the FEIS, multiple off-site alternatives were considered within the general area of Potomac Yard and were screened out for (1) failure to fulfill the project purpose and need, (2) inconsistency with local land use and development plans, and (3) technical infeasibility. That analysis evaluated above-ground, at-grade, and below-ground station designs at 11 different locations within and without Potomac Yard, as well as an alternative to relocate existing CSX railroad tracks. Several structural alternatives were evaluated, including (1) constructing a new Virginia Railway Express station with access to Potomac Yard (VRE Station Alternative), (2) increasing bus service to and from Potomac Yard and existing Metrorail stations (Bus Alternative), (3) constructing a parking deck in Potomac Yard to accommodate commuters and visitors to the area (Parking Garage Alternative), (4) commencing ferry service along the Potomac River to connect Potomac Yard to the District of Columbia (New Ferry Service Alternative), and (5) extending streetcar service along the planned Crystal City/Potomac Yard Transitway (Streetcar Service Alternative). The FEIS's screening analysis for these alternatives is incorporated by reference here.

1. VRE Alternative – Limited commuter rail service (peak period and direction commuter trips only) would only serve a limited number of existing and potential transit users.
2. Bus Alternative – Would not provide direct regional transit access to and from the Potomac Yard area.
3. Parking Garage Alternative – Construction of parking garage deck along Route 1 would not improve local or regional accessibility of the Potomac Yard area.
4. Ferry Service Alternative – Would not provide direct regional transit access to and from Potomac Yard.
5. Streetcar Service Alternative – Would not provide direct regional transit access to and from Potomac Yard.

The applicant carried forward three off-site alternatives for further evaluation in this application, all of which involved construction of a Metrorail station at a different location. This represents a reasonable range of alternatives to consider

due to primary geographic constraints imposed by the Project Purpose and practicability criteria – namely that the proposed station alternatives must be located on or adjacent to the existing Yellow/Blue line Metrorail tracks between the Ronald Reagan Washington National Airport and Braddock Road stations and must provide access to and from Potomac Yard.

Further evaluation identified four build alternatives as reasonable and were reviewed further. These included a No-Build alternative and Alternatives A, B, D and the B-CSX Design Option. Alternatives were evaluated to determine practicability (available and capable of being implemented taking into consideration cost, existing technology, and logistics).



### Alternative A (See Attachment A)

Alternative A is an “on-line” alternative located on the active Metrorail tracks in the narrow corridor between the CSX tracks and the Potomac Greens neighborhood to the south of the applicant’s preferred alternative. The available laydown area, particularly on the east side of the station between the existing

track and homes in Potomac Greens, is extremely limited. Construction in a confined space like this, increases the risk to workers and presents daily challenges to the efficient movement of equipment around the site. Also, there would be a potential for a row of private homes to be condemned due to the limited construction area. This station would have to be constructed over and around the existing Blue/Yellow Line tracks, which necessitates additional logistical challenges. To accomplish that, WMATA would have to either stop service on the Blue/Yellow Line through this location for the duration of construction (approximately two to three years), construct only during nights, weekends, and temporary shutdown periods (estimated to take 10 years), or proceed with construction while maintaining regular Metrorail service through the active construction site. The daily combined trips on the Blue/Yellow lines through this area ranges from 434 to 354 during the week and 232 to 330 on the weekends. To mitigate safety hazards for construction workers and passengers if service is maintained during construction, a number of additional protective measures would have to be employed including the erection of a protective steel structure over the tracks and periodic service shutdowns to lift heavy station elements over the tracks. Construction of a station in this manner would take approximately 18 months longer than the other “off-line” alternatives.

**Alternative B-CSX: (See Attachment B-CSX)**

Alternative B-CSX is a variation of the applicant’s preferred alternative (Alternative B). This alternative entails construction of a station immediately to the west of the preferred alternative, on a site adjacent to the existing Yellow/Blue line and presently occupied by CSX railroad tracks. To implement this alternative, the City would have to negotiate an agreement with CSX to purchase its existing right-of-way because neither the City nor WMATA have the lawful authority to condemn railroad property. A new CSX right-of-way and tracks would have to be sited further to the west into a portion of Potomac Yard presently occupied by the Potomac Yard Shopping Center (presently movie theater and retail space) and slated for high-density redevelopment.

**Alternative D: (See Attachment D)**

Alternative D would place the station to the west of the CSX railroad tracks and within the site of the existing Potomac Yard Shopping Center. This alternative would require major additional track work compared to the other alternatives, including: Realignment, involving an approximately 1,000-foot shift of existing track (double track); Construction of two Metrorail aerial bridges crossing the CSX right-of-way north and south of the station; new structures (aerial bridges) over Four Mile Run, CSX, and Metrorail tracks; installation of approximately 5,600 feet of proposed new track (double track), mostly on aerial structure; and

removal of approximately 5,600 feet of existing at-grade track (double track). West of the CSX right-of-way, where the new alignment would cross the CSX right-of-way via a new Metrorail aerial structure, approaches the proposed station, and crosses the CSX right-of-way again via an additional new Metrorail aerial structure. This alternative would also require the construction of a new bridge over Four Mile Run, requiring bridge abutments be constructed adjacent to Four Mile Run along with in-stream piers.

### 5.2.3 On-site alternatives

On-site alternative 1 (applicant's preferred alternative):

#### **Alternative B: (See Attachment B)**

Alternative B would be located along a segment of realigned tracks, between the GWMP and the CSXT railroad tracks, north of the Potomac Greens neighborhood and east of the Potomac Yard Shopping Center. Alternative B was selected as the Preferred Alternative in the FTA EIS because it best meets the purpose and need of the project. The Preferred Alternative would be located within walking distance of the highest-density development in North Potomac Yard and would best support the highest density and greatest mix of uses, including office uses, to be constructed. The Preferred Alternative would facilitate the highest number of trips taken by transit and encourage a variety of transportation options due to the dense mix of uses that it enables. The Preferred Alternative has the most economic, community, and transportation benefits of all the alternatives.

Alternative B can be built off-line and outside of the active rail corridor, which means that the track and station construction work would take place in an area isolated from the active metrorail or CSX train traffic. Vertical alignment of the new track would be at the same elevation (+/- 4 inches) as the existing metrorail track alignment. The majority of the track work would be done off-line. Special track work (to include construction of a double crossover) would be located approximately 100 feet north of the station.

As discussed in Section 1.3.1, the applicant evaluated shifts in the onsite alignment and orientation and different station designs to demonstrate that the proposed station and tracks avoid and minimize aquatic resources impacts at that location to the greatest extent practicable.

5.3 Evaluate alternatives and whether or not each is practicable under the Guidelines or reasonable under NEPA:

The Corps evaluated the alternatives described in Section 5.2, as well a no-action alternative. The following is a summary of the alternatives that were eliminated as not practicable under the Guidelines or reasonable under NEPA.

Alternative A was eliminated on several independent grounds.

The estimated cost to construct Alternative A is 25% greater than Alternative B. This alternative also returns substantially lower net tax revenue for the City (-\$733 million). The applicant demonstrated that Alternative A is impracticable as a matter of logistics due to several compounding factors including constructability, safety, and disruption to current Metrorail service. These logistical challenges arise from the need to construct a station on-line at confined site in close proximity to existing homes in the Potomac Greens neighborhood on one side and the CSX right-of-way on the other. Although the station location may appear to be in relatively close proximity to Alternative B, the station will be accessed primarily by pedestrian traffic. Relatively short distances can significantly affect foot traffic. WMATA guidance and academic literature demonstrate that persons typically will walk a quarter-mile to access public transportation. Walkable access decreases between a quarter- and half-mile, and drops off substantially outside a half-mile radius of a station. Increased property values and high-density development that rely on walkable access to public transportation follow the same pattern. Alternative A is the most southerly alternative and it is outside of the walking radius of the northern portion of North Potomac Yard. The immediate vicinity of Alternative A is either fully built out or subject to Federal Aviation Administration building height restrictions, which limits the potential for development within walkable distance of the station, persons that will have access to the station, and station ridership. In Summary, Alternative A would be built on-line within the active rail corridor resulting in extensive disruption to existing rail service, additional safety risks that would require the construction of a protective shell, potential condemnation to private residences, would not increase ridership, would only minimal decrease and improve traffic and safety along Route 1, and would exceed the FTA and WMATA vibration criteria.

Alternative B-CSX was eliminated for several reasons. The estimated cost of this alternative is 76% higher than the preferred alternative. This alternative also returns substantially lower net tax revenue for the City (-\$1.1 billion). The logistical challenges of this alternative are impracticable, and potentially insurmountable. This alternative would require the applicant to obtain and relocate a heavily trafficked railroad right-of-way owned by CSX and used by the Virginia Railway Express (VRE) and Amtrak. The applicant has no authority to

condemn interstate railroad property and would have to negotiate with CSX to obtain its existing right-of-way and provide a substitute right-of-way to the west on private property that would have to be condemned. CSX and other stakeholders, including the Virginia Department of Rail and Public Transportation and VRE, have expressed opposition to this alternative due to its impact on existing rail traffic. Assuming CSX is willing to convey its right-of-way to the applicant over the objections of its customers, the time and expense needed to acquire CSX's right-of-way are likely to be prohibitive. The applicant has demonstrated that the logistical challenge of acquiring this site makes it impracticable. For the same reasons, this site is not likely to be available to the applicant. This would adversely affect the number of persons with access to Metrorail through this station, and the ridership totals.

Alternative D was eliminated for similar reasons. The cost of this alternative is substantially higher than any other alternative (at least 84% higher than Alternative B) due primarily to the need to construct two elevated spans over the CSX railroad tracks and a bridge over Four Mile Run and the need to condemn multiple blocks of high-value private property. Detailed updated costs and tax revenue projections were not similarly developed for this alternative due to demonstrably increased cost relative to the other alternatives. It is therefore impracticable as a matter of cost. The quantity of high-density development, persons with access to the station, and ridership are all depressed under this alternative, which is inconsistent with the project purpose.

The no-action alternative was eliminated because it fails to meet the project purpose. This alternative does not provide any access to local and regional transit or the metrorail system for Potomac Yard.

**Applicant's Estimated Total Budget Costs (millions) for Alternatives A, B, and B-CSX**

<b>Alternative</b>	<b>Design-Build Cost (2018)</b>	<b>Other Costs (2018)</b>	<b>Total Cost (2018)</b>	<b>Cost Escalation (5%/yr)</b>	<b>Total Cost on Start Date</b>	<b>Increase from Alt. B</b>
Alternative B (2018 Start)	\$214	\$106	\$320	\$0	\$320	-
Alternative A (2021 Start)	\$238	\$106	\$344	\$54	\$398	+25%
Alt. B-CSX (2024 Start)	\$280	\$140	\$420	\$144	\$563	+76%

**Applicant’s Comparison of Revenue Impacts (Millions) of Alternatives B, A, and B-CSX**

<b>Alternative</b>	<b>Net Tax Revenue</b>	<b>Total Debt Service</b>	<b>Lost Tax Revenue</b>	<b>Increased Debt Service</b>	<b>Impact Relative to Alt B</b>
Alternative B	\$2,771	\$354	-	-	-
Alternative A	\$2,205	\$521	\$566	\$167	<b>(-\$733)</b>
Alternative B-CSX	\$2,255	\$889	\$516	\$535	<b>(-\$1,051)</b>

Alternative B-CSX and Alternative D are not practical alternatives. Both alternatives would cost more to construct, would require major track work, more land acquisition, are not located within walking distance to the greatest density of residences, businesses, and projected development. See above for discussion.

**5.4 Least environmentally damaging practicable alternative under the 404(b)(1) Guidelines (if applicable) and the environmentally preferable alternative under NEPA:**

After taking into consideration cost, existing technology, and logistics in light of the overall project purpose, the applicant has demonstrated that the LEDPA is the preferred alternative – Alternative B. The aquatic and other environmental impacts for this alternative have been avoided and minimized to the extent appropriate and practicable. Alternative B would have a greater impact on aquatic resources (1.56 acres of permanent and 2.01 acres of temporary non-tidal wetland impacts) than Alternative A (0.02 acre of permanent and 0.01 acre of temporary wetland impacts), Alternative B-CSX (no aquatic resource impacts), and Alternative D (0.52 acre of permanent and 0.41 acre of temporary wetland impacts and in-stream impacts to Four Mile Run); however, it is the only practicable alternative that meets the project purpose and need. In summary, Alternative B would be built off-line outside the active rail corridor with minimal disruption to existing rail service; would incur no additional safety risks; would provide adequate space for storage, staging and equipment movement; would be located within walking distance of the highest number of residences, businesses, and projected development; would experience an increase in ridership; would improve traffic and safety along Route 1; would meet the HD1 height limit, and would not exceed FTA or WMATA vibration criteria.

**6.0 Evaluation for Compliance with the Section 404(b)(1) Guidelines.** The following sequence of evaluation is consistent with 40 CFR 230.5

6.1 Practicable alternatives to the proposed discharge consistent with 40 CFR 230.5(c) are evaluated in Section 5. The statements below summarize the analysis of alternatives.

In summary, based on the analysis in Section 5.0 above, the no-action alternative, which would not involve discharge into waters, is not practicable.

For those projects that would discharge into a special aquatic site and are not water dependent, the applicant has demonstrated there are no practicable alternatives that do not involve special aquatic sites.

It has been determined that there are no alternatives to the proposed discharge that would be less environmentally damaging. (Subpart B, 40 CFR 230.10(a)). The proposed discharge in this evaluation is the practicable alternative with the least adverse impact on the aquatic ecosystem, and it does not have other significant environmental consequences.

6.2 Candidate disposal site delineation (Subpart B, 40 CFR 230.11(f)). Each disposal site shall be specified through the application of these Guidelines:

Discussion: The activity **will not** cause or contribute to significant degradation of waters of the United States, including adverse effects on human health; life stages of aquatic organisms' ecosystem diversity, productivity and stability; and recreation, esthetic, and economic values. Appropriate and practicable steps **have** been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem.

6.3 Potential impacts on physical and chemical characteristics of the aquatic ecosystem (Subpart C 40 CFR 230.20). See Table 1:

Table 1 – Potential Impacts on Physical and Chemical Characteristics						
Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Substrate			X			
Suspended particulates/ turbidity			X			
Water			X			
Current patterns and water circulation			X			

Table 1 – Potential Impacts on Physical and Chemical Characteristics						
Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Normal water fluctuations			X			
Salinity gradients	X					

Discussion: While the fill will be discharged into wetlands, it will be stabilized by appropriate erosion and sedimentation controls to minimize siltation and turbidity.

6.4 Potential impacts on the living communities or human uses (Subparts D, E and F):

6.4.1 Potential impacts on the biological characteristics of the aquatic ecosystem (Subpart D 40 CFR 230.30). See Table 2:

Table 2 – Potential Impacts on Biological Characteristics						
Biological characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Threatened and endangered species		X				
Fish, crustaceans, mollusk, and other aquatic organisms		X				
Other wildlife			X			

Discussion: There are no federally threatened or endangered species within project limits. There are no impacts to streams that would host fish, crustaceans, mollusk, and other aquatic organism. The placement of 1.56 acres of fill will remove habitat from the area and minimally affect local wildlife.

6.4.2 Potential impacts on special aquatic sites (Subpart E 40 CFR 230.40). See Table 3:

Table 3 – Potential Impacts on Special Aquatic Sites						
Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Sanctuaries and refuges	X					
Wetlands					X	
Mud flats	X					
Vegetated shallows	X					
Coral reefs	X					

Discussion: Impacts to wetlands have been avoided and minimized to the extent practicable. In addition, the applicant has implemented a compensatory mitigation plan to offset all unavoidable losses.

6.4.3 Potential impacts on human use characteristics (Subpart F 40 CFR 230.50). See Table 4:

Table 4 – Potential Impacts on Human Use Characteristics						
Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Municipal and private water supplies		X				
Recreational and commercial fisheries	X					
Water-related recreation	X					
Aesthetics			X			
Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves					X	

Discussion: While the proposed project will affect the aesthetic character of the property, this change is not considered to be significant. An MOU was established between the permittee and the NPS for any effects on NPS property. During the EIS process, the City and WMATA worked with NPS to minimize

impacts to NPS administered resources and keep NPS right-of-way requirements to a minimum, as well as mitigation measures spelled out in a Net Benefits Agreement, where adverse impacts were unavoidable. Extensive studies of the visual effects of the station on the GWMP were conducted and coordinated with the NPS.

6.5 Pre-testing evaluation (Subpart G, 40 CFR 230.60):

The following has been considered in evaluating the biological availability of possible contaminants in dredged or fill material. See Table 5:

Physical characteristics	
Hydrography in relation to known or anticipated sources of contaminants	
Results from previous testing of the material or similar material in the vicinity of the project	X
Known, significant sources of persistent pesticides from land runoff or percolation	
Spill records for petroleum products or designated (Section 331 of CWA) hazardous substances	
Other public records or significant introduction of contaminants from industries, municipalities, or other sources	X
Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	X

Discussion: While the proposed fill material has not been tested, the Corps has no reason to suspect contamination since it will be from an upland source.

It has been determined that testing is not required because the proposed material is not likely to be a carrier of contaminants because it is comprised of sand, gravel or other naturally occurring inert material.

6.6 Evaluation and testing (Subpart G, 40 CFR 230-61):

Discussion: A Phase I Environmental Site Assessment (ESA) was completed in February 2013 as part of the NEPA studies. Potomac Yard, including the location of the proposed Metrorail station, was operated as a rail yard from 1906 to 1990. In 1995, an Extend of Contamination Study (ECS) was completed and is the primary historic source of site operations information. The project area was near both the Central Yard and Potomac Greens. Potomac Greens was the site of the three Oil/Water Separator Ponds, fly ash deposition area, and dredge spoils

deposition area. The ESA documents the studies, levels of contamination and remediation.

In 1992, the EPS and railroad signed a CERCLA Administrative Order by Consent requiring extensive study of the contamination and an assessment of risk to people, plants and animals. In 1995 the studies were complete, documenting the levels of contaminants. In 1996, an Off-site Ecological Risk Assessment documented a lowered abundance and diversity of aquatic and bottom-dwelling species in Four Mile Run and the Potomac River. The railroad conducted a CERCLA Removal Action to close the remaining outfalls, eliminate the oil/water separator ponds and ditches, and remove sediments from the remaining outfall to the Potomac River from Potomac Greens. In 1999, the EPA deemed the CERCLA Removal Action complete.

- 6.7 Actions to minimize adverse impacts (Subpart H). The following actions, as appropriate, have been taken through application of 40 CFR 230.70-230.77 to ensure minimal adverse effects of the proposed discharge. See Table 6:

Actions concerning the location of the discharge	X
Actions concerning the material to be discharged	X
Actions controlling the material after discharge	X
Actions affecting the method of dispersion	X
Actions affecting plant and animal populations	X
Actions affecting human use	X

Discussion: Avoidance and minimization of wetlands and streams have been incorporated to the extent practicable. (Refer to Section 1.3.2) The discharge of fill has been limited to the minimum necessary in aquatic resources, and only clean fill material is authorized for use. Materials will be discharged by trucks and similar construction equipment, and erosion and sediment controls are required to manage the material once it has been discharged. SWM facilities will limit downstream effects.

- 6.8 Factual Determinations (Subpart B, 40 CFR 230.11). The following determinations are made based on the applicable information above, including actions to minimize effects and consideration for contaminants. See Table 7:

Table 7 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Physical substrate				X		
Water circulation, fluctuation and salinity		X				
Suspended particulates/turbidity		X				
Contaminants		X				
Aquatic ecosystem and organisms			X			
Proposed disposal site	X					
Cumulative effects on the aquatic ecosystem				X		
Secondary effects on the aquatic ecosystem				X		

Discussion: Wildlife will migrate to undeveloped areas during construction. Impacts to waters of the U.S. would be negligible due to mitigation to replace functions and values of affected resources.

6.9 Findings of compliance or non-compliance with the restrictions on discharges (40 CFR 230.10(a-d) and 230.12). Based on the information above, including the factual determinations, the proposed discharge has been evaluated to determine whether any of the restrictions on discharge would occur. See Table 8:

Table 8 – Compliance with Restrictions on Discharge		
Subject	Yes	No
1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)		X
2. Will the discharge cause or contribute to violations of any applicable water quality standards?		X
3. Will the discharge violate any toxic effluent standards (under Section 307 of the Act)?		X
4. Will the discharge jeopardize the continued existence of		X

Subject	Yes	No
endangered or threatened species or their critical habitat?		
5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?		X
6. Will the discharge cause or contribute to significant degradation of waters of the U.S.?		X
7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?	X	

Discussion: The proposed discharge of fill material is the least environmentally damaging practicable alternative.

**7.0 General Public Interest Review (33 CFR 320.4 and RGL 84-09)**

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments.

7.1 All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail. See Table 9 and any discussion that follows.

	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation: There will be a loss of 1.56 acres of wetland habitat due to the placement of fill but will not affect the remaining natural areas lining the GWMP.			X			
2. Economics: The project may enhance local economics by creating additional employment and the City will accrue tax revenue from proposed land development in the area. There will likely be an increase in construction-related jobs in the area, but these increases would be temporary.					X	

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
3. Aesthetics: The station will be visible from the GWMP, which is a NPS property and historic resource. The City and NPS negotiated an agreement during the NEPA process to compensate for any visual impacts. Also, suitable landscaping will be included in the plan.			X			
4. General Environmental Concerns: There will be a loss of multiple large trees, mainly cottonwoods, within the permanent impact area.			X			
5. Wetlands: The wetlands exist in the location of former oil/water separator ponds and cinder/fly ash disposal areas from the rail yard operation. The wetlands are a mosaic of PEM (old pond areas), PFO, and upland islands in the form of spoil piles and waste areas. The vegetation is dominated by invasive species such as porcelain berry and phragmites that can survive in a disturbed environment. Although the project will result in a net loss of onsite wetland acreage (mitigated off-site to ensure no net loss in the watershed), the restored wetland functions and values are expected to be higher than pre-construction conditions.			X			
6. Historic Properties: The GWMP is a historic resource east of the project and potential impacts have been mitigated through agreements with the NPS.			X			
7. Fish and Wildlife Values: The area is used by wildlife and will be affected by the permanent loss of 1.56 acres of wetland habitat. The total project area consist of 17 acres. The GWMP provides a wildlife corridor along the roadway, connecting to both Four Mile Run and the Potomac River. Although habitat will be lost, the corridor will still function and certain functions and values are expected to be enhanced when the temporarily disturbed areas are restored.				X		

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
8. Flood Hazards: Portions of this project are located in the 100-year floodplain. A No-Rise study was conducted. The drainage area divide is at the existing CSX/Metro tracks, with the wetland area draining to the Potomac River through a culvert/tidal channel under the GWMP. The wetlands, adjacent to the existing tracks, collect some sheet flow at the top of the drainage divide before draining into the lower wetlands and tidal channel. All stormwater management facilities (BMPs) have been designed to not negatively impact the surrounding lands. The loss of 1.56 acres of wetlands will not exacerbate flooding in this area.			X			
9. Floodplain Values: See above discussion.			X			
10. Land Use: The metrorail station has been a vital component in all land use planning since the decommissioning of the rail yard. With the construction of the metrorail station, the proposed land use plans will be executed.					X	
11. Navigation: N/A Project is not water dependent.						X
12. Shoreline Erosion and Accretion: N/A						X
13. Recreation: The new facility will include pedestrian and bicycle components. The project area is part of the City park system and contains a walking trail. The project will remove a section of trail within the wetland. The City intends to reconnect the remaining ends of the trail and restore recreation use after construction.					X	
14. Water Supply and Conservation: N/A						X
15. Water Quality: Neutral as a result of mitigative action. A 401 certification has been issued.			X			
16. Energy Needs: N/A				X		

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
17. Safety: The construction of a metrorail station and tracks can be dangerous but safety hazards will be appropriately mitigated by the use of fences and barriers to separate the public from the construction area.			X			
18. Food and Fiber Production: No adverse effects are anticipated.	X					
19. Mineral Needs: No adverse effects are anticipated.						X
20. Consideration of Property Ownership: The property is owned by the City who is the sponsor of this project. A small portion of land is owned by the NPS and the use has been negotiated through the Net Benefits agreement, MOA, and ROD.				X		
21. Needs and Welfare of the People: The project is anticipated to be beneficial to the public as it will provide an alternate mode of transportation and intended to improve traffic in the area.					X	

Additional discussion of effects on factors above:

WETLANDS: No significant adverse effect as a result of impacts and neutral as a result of mitigative action.

7.1.1 Climate Change. The proposed activities within the Corps federal control and responsibility likely will result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered de minimis. Greenhouse gas emissions associated with the Corps federal action may also occur from the combustion of fossil fuels associated with the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions

from the Corps action have been weighed against national goals of energy independence, national security, and economic development and determined not contrary to the public interest. Minor increases in greenhouse gas emissions associated with construction of this project will be offset by increased use of low-carbon mass transit. The application demonstrates that construction of the Metrorail station will shift an estimated 6,400 daily automobile trips to mass transit, thereby reducing net greenhouse gas emissions compared to a no-action alternative scenario.

- 7.2 The relative extent of the public and private need for the proposed structure or work:

The creation of a new metrorail station will directly serve the public in this area by providing direct access to regional transportation. Access to mass transit is a regional goal to both reduce congestion and provide non-vehicular, low-carbon transportation. Private development will also benefit due to the ability to develop land near the metrorail station as commercial or high density residential. The land development will also generate positive net tax revenue for the City, which will be devoted to other public purposes.

- 7.3 If there are unresolved conflicts as to resource use, explain how the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work was considered.

Discussion: Through the full application of the Public interest review and the Section 404(b)(1) Guidelines, any conflicts as to resource use were resolved.

- 7.4 The extent and permanence of the beneficial and/or detrimental effects that the proposed work is likely to have on the public and private use to which the area is suited:

Detrimental effects are expected to be minimal and permanent.

Beneficial effects are expected to be more than minimal and permanent.

- 8.0 Mitigation**(33 CFR 320.4(r), 33 CFR Part 332, 40 CFR 230.70-77, 40 CFR 1508.20 and 40 CFR 1502.14)

- 8.1 Avoidance and Minimization: When evaluating a proposal including regulated activities in waters of the United States, consideration must be given to avoiding and minimizing effects to those waters. Avoidance and minimization measures are described above in Sections 1 and 3.

Were any other mitigative actions including project modifications discussed with the applicant implemented to minimize adverse project impacts? (see 33 CFR 320.4(r)(1)(i)) Yes

Temporary impacts will be restored based on the Final Mitigation Plan.

8.2 Is compensatory mitigation required to offset environmental losses resulting from proposed unavoidable impacts to waters of the United States? Yes

Provide rationale: The project would permanently impact 1.56 acres of jurisdictional wetlands. As compensation for permanently impacting **1.56** acres of jurisdictional wetlands, a total of **2.48** credits will be debited from the Buena Vista Wetland Mitigation Bank or an approved bank to offset the loss of **0.92** acre of PFO wetlands and **0.64** acres of PEM.

8.3 Type and location of compensatory mitigation

8.3.1 Is the impact in the service area of an approved mitigation bank? Yes

If yes, does the mitigation bank have appropriate number and resource type of credits available? Yes

8.3.2 Is the impact in the service area of an approved in-lieu fee program? Yes

If yes, does the in-lieu fee program have the appropriate number and resource type of credits available? N/A

8.3.3 Selected compensatory mitigation type/location(s). See Table 10:

Table 10 – Mitigation Type and Location	
Mitigation bank credits	X
In-lieu fee program credits	
Permittee-responsible mitigation under a watershed approach	
Permittee-responsible mitigation, on-site and in-kind	
Permittee-responsible mitigation, off-site and/or out of kind	

8.3.4 Does the selected compensatory mitigation option deviate from the order of the options presented in §332.3(b)(2)-(6)? No

If yes, provide rationale for the deviation, including the likelihood for ecological success and sustainability, location of the compensation site relative to the impact site and their significance within the watershed, and/or the costs of the compensatory mitigation project (see 33 CFR §332.3(a)(1)): N/A

8.4 Amount of compensatory mitigation: As compensation for permanently impacting 1.56 acres of jurisdictional wetlands, a total of 2.48 credits will be debited from the Buena Vista Wetland Mitigation Bank or an approved bank to offset the loss of 0.92 acre of PFO wetlands and 0.64 acres of PEM.

Rationale for required compensatory mitigation amount: To offset the unavoidable impacts to aquatic resources and replace the loss of wetland and aquatic resource functions in the watershed.

8.5 For permittee responsible mitigation identified in 9.3.3 above, the final mitigation plan must include the items described in 33 CFR 332.4(c)(2) through (c)(14) at a level of detail commensurate with the scale and scope of the impacts. As an alternative, the district engineer may determine that it would be more appropriate to address any of the items described in (c)(2) through (c)(14) as permit conditions, instead of components of a compensatory mitigation plan. Presence of sufficient information related to each of these requirements in the applicant’s mitigation plan is indicated by “Yes” in Table 11. “No” indicates absence or insufficient information in the plan, in which case, additional rationale must be provided below on how these requirements will be addressed through special conditions or why a special condition is not required:

Table 11 – Permittee-Responsible Mitigation Plan Requirements		
Requirement	Yes	No
Objectives		
Site selection		
Site protection instrument		
Baseline information		
Determination of credits		
Mitigation work plan		
Maintenance plan		
Performance standards		
Monitoring requirements		
Long-term management plan		
Adaptive management plan		
Financial assurances		
Other		

For any “No”, provide rationale on how the subject component(s) of the compensatory mitigation plan will be addressed as special conditions or why no special conditions are required: N/A

## **9.0 Consideration of Cumulative Impacts**

(40 CFR 230.11(g) and 40 CFR 1508.7, RGL 84-9) Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor direct and indirect but collectively significant actions taking place over a period of time. A cumulative effects assessment should consider how the direct and indirect environmental effects caused by the proposed activity requiring DA authorization (i.e., the incremental impact of the action) contribute to cumulative effects, and whether that incremental contribution is significant or not. .

- 9.1 Identify/describe the direct and indirect effects caused by the proposed activity: The proposed activity will have direct effects on waters of the United States, however these impacts would be negligible due to the proposed mitigation to replace the functions and values of the affected resources. The indirect effects would be minimal to none. There would be a minor reduction in wetland habitat which secondarily impacts dependent wildlife and water quality functions. Wildlife would migrate to undeveloped areas during construction.
- 9.2 The geographic scope for the cumulative effects assessment is:  
The geographic area for this assessment is the Four Mile Run watershed.
- 9.3 The temporal scope of this assessment covers: The resulting natural resource changes and stresses include wetland losses. These resources are continually being affected by developmental demands in the area.
- 9.4 Describe the affected environment: Approximately 8.51% (71008.27 acres) of the watershed area is wetland. There are also approximately 2826.75 stream miles contained within the watershed.
- 9.5 Determine the environmental consequences: The wetlands are currently isolated from any potential wildlife corridors by surrounding roads, culverts, and buildings which likely decreases the abundance of wildlife using the site. If these wetlands are avoided but the surrounding areas are developed at the intensity desired by the City of Alexandria, these wetlands will be even more disconnected from potential wildlife corridors and the habitat value of these wetlands will be even further diminished.
- 9.6 Discuss any mitigation to avoid, minimize or compensate for cumulative effects: The cumulative effects are negligible. Additional avoidance and minimization efforts are not feasible due to the land use and economic constraints that have dictated the proposed development plan.

9.7 Conclusions regarding cumulative impacts:

When considering the overall impacts that will result from the proposed activity, in relation to the overall impacts from past, present, and reasonably foreseeable future activities, the incremental contribution of the proposed activity to cumulative impacts in the area described in section 9.2, are not considered to be significant. Compensatory mitigation will be required to help offset the impacts to eliminate or minimize the proposed activity's incremental contribution to cumulative effects within the geographic area described in Section 9.2. Mitigation required for the proposed activity is discussed in Section 8.0.

**10.0 Compliance with Other Laws, Policies, and Requirements**

**10.1 Section 7(a)(2) of the Endangered Species Act (ESA):** Refer to Section 2.2 for description of the Corps action area for Section 7.

10.1.1 Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? Yes

If yes, identify that agency, the actions taken to document compliance with Section 7 and whether those actions are sufficient to ensure the activity(s) requiring DA authorization is in compliance with Section 7 of the ESA:

FTA has conducted consultation with FWS and/or NMFS to demonstrate compliance with Section 7 of the ESA as the lead agency representing the Corps acting as a cooperating agency. The Corps has received and reviewed the documentation from that consultation which is incorporated by reference in this document. The agency made a determination of no documented species within the action area. The Corps has reviewed the documentation provided by the agency and determined it is sufficient to confirm Section 7 ESA compliance for this permit authorization, and additional consultation is not necessary.

10.1.2 Are there listed species or designated critical habitat present or in the vicinity of the Corps' action area? No. The Corps has determined that it has fulfilled its responsibilities under Section 7(a)(2) of the ESA

10.1.3 Consultation with either the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service was initiated and completed as required, for any determinations other than "no effect" (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation). Based on a review of the above information, the Corps has determined that it has fulfilled its responsibilities under Section 7(a)(2) of the ESA. The documentation of the consultation is incorporated by reference.

10.2 **Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Essential Fish Habitat (EFH).** N/A, there is no essential fish habitat in this district's area of responsibility.

10.2.1 Has another federal agency been identified as the lead agency for complying with the EFH provisions of the Magnuson-Stevens Act with the Corps designated as a cooperating agency and has that consultation been completed? Yes

If yes, identify the agency, the actions taken to document compliance with the Magnuson Stevens Act and whether those actions are sufficient to ensure the activity(s) requiring DA authorization is in compliance the EFH provisions.

FTA determined that the project would have no effect on EFH. The Corps has reviewed the documentation provided by the agency and determined it is sufficient to confirm compliance for this permit authorization with the EFH provisions, and additional consultation is not necessary.

10.2.2 Did the proposed project require review under the Magnuson-Stevens Act? No

10.3 **Section 106 of the National Historic Preservation Act (Section 106):** Refer to Section 2.3 for permit area determination.

10.3.1 Has another federal agency been identified as the lead federal agency for complying with Section 106 of the National Historic Preservation Act with the Corps designated as a cooperating agency and has that consultation been completed? Yes

If yes, identify that agency, and whether the undertaking they consulted on included the Corps undertaking(s). Briefly summarize actions taken by the lead federal agency.

FTA is the lead federal agency in complying with Section 106 of the National Historic Preservation Act for this project. FTA documented identified resources within the APE. A Memorandum of Agreement was executed in October 2016 between FTA, the City, WMATA, NPS and SHPO. The Corps has reviewed the documentation provided by the agency and determined it is sufficient to confirm Section 106 compliance for this permit authorization, and additional consultation is not necessary.

10.3.3 Consultation was initiated and completed with the appropriate agencies, tribes and/or other parties for any determinations other than “no potential to cause effects” (see the attached ORM2 Summary sheet for consultation type, begin date, end date and closure method of the consultation). Based on a review of the information above, the Corps has determined that it has fulfilled its responsibilities under Section 106 of the NHPA. Compliance documentation incorporated by reference.

#### **10.4 Tribal Trust Responsibilities**

10.4.1 Was government-to-government consultation conducted with Federally-recognized Tribe(s)? No (see above discussion in Section 10.3)

The Corps has determined that it has fulfilled its tribal trust responsibilities.

10.4.2 Other Tribal including any discussion of Tribal Treaty rights? N/A (see above discussion in Section 10.3)

#### **10.5 Section 401 of the Clean Water Act – Water Quality Certification (WQC)**

10.5.1 Is a Section 401 WQC required, and if so, has the certification been issued, waived or presumed? An individual water quality certification is required and has been issued by the certifying agency.

#### **10.6 Coastal Zone Management Act (CZMA)**

10.6.1 Is a CZMA consistency concurrence required, and if so, has the concurrence been issued, waived or presumed? An individual CZMA consistency concurrence is required and has been issued by the appropriate agency.

#### **10.7 Wild and Scenic Rivers Act**

10.7.1 Is the project located in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system? No

The Corps has determined that it has fulfilled its responsibilities under the Wild and Scenic Rivers Act.

#### **10.8 Effects on Corps Civil Works Projects (33 USC 408)**

10.8.1 Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy or use a Corps Civil Works project? No, there are no federal projects in or near the vicinity of the proposal.

#### **10.9 Corps Wetland Policy (33 CFR 320.4(b))**

10.9.1 Does the project propose to impact wetlands? Yes

10.9.2 Based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.

10.10 **Other (as needed):** N/A

**11.0 Special Conditions**

11.1 Are special conditions required to protect the public interest, ensure effects are not significant and/or ensure compliance of the activity with any of the laws above? Yes

11.2 Required special condition(s)

Special condition(s):

1. Prior to the commencement of any work authorized by this permit, you shall advise the project manager, Theresita Crockett-Augustine, in writing at: Northern Virginia Field Office, 18139 Triangle Shopping Plaza, Suite 213, Dumfries, Virginia 22026, (703) 221-9736, of the time the authorized activity will commence and the name and telephone number of all contractors or other persons performing the work. A copy of this permit and drawings must be provided to the contractor and made available to any regulatory representative during an inspection of the project site.

2. The time limit for completing the work authorized ends on November 15, 2029. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

3. Enclosed is a "compliance certification" form, which must be signed and returned within 30 days of completion of the project, including any required mitigation. Your signature on this form certifies that you have completed the work in accordance with the permit terms and conditions.

4. The residual waters of the U.S. (including wetlands) on this property (those areas that will not be impacted under this permit) that are located within 50 feet of any proposed clearing, excavation, and construction activities must be clearly marked in the field prior to commencing work onsite to ensure that additional wetland areas are not inadvertently impacted during clearing and construction activities.

5. The party performing the work authorized by this permit shall have a copy of this letter and the enclosed documents with them at the project site during construction. These documents shall be made available to any Corps representative upon their request.

6. You have indicated that mitigation for the proposed impacts would be accomplished by purchasing credits from the Buena Vista Wetland Mitigation

Bank or an approved bank. As compensation for permanently impacting 1.56 acres of jurisdictional wetlands a total of 2.48 credits will be debited from the Buena Vista Wetland Mitigation Bank or an approved wetland mitigation bank to offset the loss of 0.92 acres of palustrine forested wetlands (PFO) and 0.64 acre of palustrine emergent wetland (PEM).

7. All temporarily disturbed wetland areas shall be returned to preconstruction contours and replanted in accordance with your restoration plan.

Rationale: Special conditions have been incorporated in the Corps permit to ensure that the effects of the project remain minimal. Mitigation is required for the impacts associated with the project to ensure that there is no net loss in aquatic resources and function, and that the impacts of the project remain minimal. The applicant will be required to restore temporarily disturbed areas to the preexisting conditions after construction to ensure there are no additional impacts that are not considered and compensated for.

## **12.0 Findings and Determinations**

12.1 Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

12.2 Presidential Executive Orders (EO):

12.2.1 EO 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians: This action has no substantial effect on one or more Indian tribes, Alaska or Hawaiian natives.

12.2.2 EO 11988, Floodplain Management: Alternatives to location within the floodplain, minimization and compensatory mitigation of the effects were considered above.

12.2.3 EO 12898, Environmental Justice: The Corps has determined that the proposed project would not use methods or practices that discriminate on the basis of race, color or national origin nor would it have a disproportionate effect on minority or low-income communities.

12.2.4 EO 13112, Invasive Species: There are no invasive species issues involved in this proposed project.

- 12.2.5 EO 13212 and EO 13302, Energy Supply and Availability: The proposal is not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.
- 12.3 Findings of No Significant Impact: Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an environmental impact statement will not be required.
- 12.4 Compliance with the Section 404(b)(1) Guidelines: Having completed the evaluation above, I have determined that the proposed discharge complies with the Guidelines, with the inclusion of the appropriate and practicable special conditions to minimize pollution or adverse effects to the affected ecosystem.
- 12.5 Public interest determination: Having reviewed and considered the information above, I find that the proposed project is not contrary to the public interest.

**PREPARED BY:**

**Theresita Crockett-Augustine**

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Theresita Crockett-Augustine

**REVIEWED and APPROVED BY:**

**SMITH.MARSHALL.T**

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Tucker Smith, NVRS Chief