

**Record of Decision
for
The Portsmouth Bypass
SCI-823-0.00
ODOT Project Identification Number 19415
Scioto County, Ohio**

I. Introduction

The Ohio Department of Transportation (ODOT), in cooperation with the Federal Highway Administration (FHWA), is planning to implement a bypass of the City of Portsmouth from US 52 near Wheelersburg to US 23 just north of Lucasville, Ohio. This project is known as the SR 823 Portsmouth Bypass. FHWA is the lead Federal Agency for the review process required by the National Environmental Policy Act (NEPA).

The Record of Decision (ROD) complies with NEPA, regulations implementing NEPA (40 CFR 1505.2), and FHWA requirements (23 CFR 771). It is a statement of the decisions made as a result of environmental, social, economic, and engineering analyses, and consideration of input from the public and other agencies. The Final Environmental Impact Statement (FEIS)(FHWA-OH-EIS-05-08-F) released for public comment in August 2005 summarizes the analyses and input.

The proposed action consists of the construction of a new four-lane, limited access freeway, approximately 16 miles in length, bypassing approximately 26 miles of US 52 and US 23 through Portsmouth, Ohio. The new roadway will include interchanges with US 52, SR 140, a relocated Shumway Hollow Road near the Scioto County Airport, Lucasville-Minford Road, and US 23.

II. Purpose and Need

The purpose of the proposed action is to improve transportation system linkage, safety, and the current and future capacity through Portsmouth, Ohio for the efficient movement of people and goods.

The Appalachian Highway System is intended to provide improved transportation infrastructure to impoverished areas. Citizens and local economic development officials assert that inadequate transportation infrastructure impedes the Portsmouth area's ability to attract industrial investment. In order to enhance the region's competitive advantage for new and expanding businesses, improved highway access within the region is needed. While the construction of a new roadway does not guarantee that this business investment will occur, the goal is to meet the intent of the Appalachian Highway Development System by providing Scioto County with the necessary transportation infrastructure to help them compete in the marketplace.

Access Ohio, ODOT's long range transportation plan, contains similar goals to improve mobility and foster economic development. The proposed project is part of one of the Appalachian Corridors, Corridor B, which extends from Asheville, North Carolina to north of Portsmouth, Ohio. The project will close a gap in this multi-state corridor and provide an alternative to I-77 and I-75 travel.

The roadway (US 23/US 52) through the study area contains steep grades, excessive curves, numerous intersections and driveway limitations. By the large number of access points and traffic signals, US 23/US 52 is restricted in its ability to serve the intended function of a primary arterial – movement of through traffic. Currently the existing Portsmouth traffic distributes itself over a six route network, including county and state routes. They include US 23 and US 52 in Portsmouth and several rural routes with poor alignments including CR 377 and portions of SR 104, CR 28, SR 728 and SR 335. US 23/US 52 and the five other through routes are not currently operating over capacity, except at one intersection. However, by the design year of 2025, service levels are projected to continually degrade resulting in two links operating below LOS C and one unsignalized and 9 signalized intersections operating at LOS D or worse. The goal of the project is to improve the movement of through traffic by shortening travel time and providing acceptable levels of services through the design year.

Safety problems appear to be widespread within the study area. All six of the through routes experience higher than average accident rates in at least one link. The rates in some of these links are more than twice the statewide average for similar facilities. The goal of the project is to draw traffic from the high accident routes and decrease the accident rate of the overall system.

III. Decision

The Selected Alternative for SR 823 (Portsmouth Bypass) is the Hill Alignment, which was identified as the Preferred Alternative in the 2005 FEIS. This alignment which is composed of segments H1+HV2+H3+H4, is approximately 16 miles in length and bypasses approximately 26 miles of US 52 and US 23 through Portsmouth, Ohio. The new roadway will include interchanges with US 52, SR 140, relocated Shumway Hollow Road, Lucasville-Minford Road, and US 23.

The FEIS considered impacts to the human and natural environment both from a No Action Alternative and from a range of build Alternative alignments. The selection of the Preferred Alternative considered impacts, the necessity to minimize those impacts, and mitigation. The Selected Alternative meets the goals of the Appalachian Highway Program by providing an improved transportation system that could improve economic development potential.

The northern terminus of the Selected Alternative is a new interchange on US 23 south of the Scioto County fairgrounds. From the interchange the Selected Alternative alignment proceeds in an easterly direction between SR 728 and the Scioto County Fairgrounds toward Lucasville-Minford Road (CR-28). The Selected Alternative includes an interchange at Lucasville-Minford Road which is located just west of the intersection of Lucasville-Minford Road with Rases Mountain Drive (TR-1570). The alignment continues in an easterly direction toward the county airport. The alignment then curves to the south adjacent to SR 335 to an interchange with Shumway Hollow Road (TR-234). The alignment then continues south generally parallel to SR-335 and on the west side of SR-335 toward Highland Bend. On the west side of Highland Bend the Alignment crosses over SR-335 and continues in a southerly direction toward Sciotodale. At the southern terminus of the Selected Alternative, the alignment ties back into US 52 on the west side of Sciotodale. This alternative is shown in the FEIS, in Figure 1-2, and in more detail in Appendix F.

The design of the interchange with Lucasville-Minford Road (CR 28), as originally planned, maintained CR 28 on its existing alignment. This option (Alternative Option One) required the purchase of eleven homes due to a requirement that no private driveways are allowed within 600 feet of an interchange ramp. As a result, ODOT had begun discussions with these property

owners. A second option (Alternative Option Two), was developed based upon comments received from USEPA during circulation of the FEIS. This option would realign CR 28 and would avoid the need to purchase the majority of these homes, but would have different impacts on residential properties in the area.

Option One provides a flat horizontal curve at the west tie-in point at Flowers Ison Road. Option Two, however, would require a slight "S-curve" to shift the alignment to the south. The curvature would meet design speed criteria but result in a sharper curvature than Option One.

The environmental impacts of both alternatives are comparable, except for residential impacts. Option One would impact 1,292 linear feet of streams, require the acquisition of eleven homes, and cost \$4,738,813. Option Two would impact 1,374 linear feet of streams, require the acquisition of three homes, and cost \$3,259,163. The large difference in cost is largely due to the cost of right-of-way acquisition. The eleven residential units to be acquired for Option One would be approximately \$2.2 million, while the right-of-way acquisition costs for Option Two would be \$500,000 to purchase three homes.

A public meeting was held on March 9, 2006, to determine public support for each option in this area. Twenty-seven comments were received during the comment period. Thirteen comments were received from citizens not directly affected by the interchange and expressed the opinion that Option Two was the best option. Of the directly affected homeowners, seven of the eleven households that were to be taken under Option One expressed interest in relocating. The two homeowners who would have their homes taken under Option Two would prefer not to be relocated and supported Option One. Combining the original eleven homeowners from Option One with the two affected homeowners from Option Two, nine of the thirteen expressed their preference for Option One.

Based upon the comments and strong support for Option One from most of the affected homeowners, the additional horizontal curve associated with Option Two resulting in an "S-curve" alignment at the west tie-in, the higher stream impacts associated with Option Two in terms of higher impact quantity and number of streams (Option Two impacts one additional stream requiring a longer culvert near the east tie-in), the additional subsurface concerns that would be involved with Option Two, and the additional maintenance responsibility of old CR 28 (service road) associated with Option 2, it was determined that Option One was the preferred option, and will be carried forward in future design.

The typical section of the selected alternative will include four lanes (two in each direction) that are 12 feet in width, a twenty-two foot wide median with concrete barrier, and a 10 foot shoulder. Access to the highway will be fully controlled with access provided at the interchanges described above. The median width was reduced to 22 feet to minimize impacts. The incorporation of a concrete median barrier will provide positive protection to prevent cross-median accidents.

The Hill Alternative was selected primarily for the following reasons:

- Throughout the Portsmouth Bypass Project, one of the primary goals has been to provide access to potential development areas and increase Scioto County's opportunities for attracting new business investments. The economic development potential of the bypass has been a critical issue due to high unemployment and poverty rates. The Hill Alignment provides this economic development potential while being the least disruptive to the surrounding community. One of the goals of the Appalachian Regional Commission is to provide "the physical infrastructure necessary for self-sustaining economic development

and improved quality of life” (*Setting a Regional Agenda: ARC Strategic Plan 1997-2002*). The Hill Alignment provides additional physical infrastructure in the form of a new highway that will provide better access to developable land. It also affects fewer residential properties, less farmland, and fewer public buildings, such as the Lucasville Branch of the Portsmouth Public Library, Valley Middle School, and the Southern Ohio Correctional Facility. Overall, it is less divisive to the community.

- The Hill Alternative minimizes the social impacts to the communities in the area. Throughout the process of planning the Portsmouth Bypass, the impact on homes and other residential structures has been an important deciding factor related to particular alternatives. The citizens in Lucasville (even those not directly impacted by the roadway) have felt especially strongly that the Valley Alignment would bisect the city in a way that would be detrimental to the cohesion of the community.
- The Lucasville Branch of the Portsmouth Public Library was a resource that would not be relocated with the selection of the Hill Alternative. The general public displayed overwhelming support to keep this structure at its current location adjacent to State Route 728. This resource is not only important to those residents of surrounding Lucasville, but also the northern reaches of Scioto County.
- The Hill alignment does not place the Valley Middle School adjacent to the new bypass addressing the concerns of the community.
- The Hill Alternative provides noteworthy benefits over the Valley Alternative in the amount of active (and passive) farmland that is possibly affected. The public and stakeholders were particularly worried about the affect on active farmland within the Little Scioto River Valley, south of the Scioto County Airport, along the proposed Valley Alternative. In addition, less Century farmland, those longstanding farms, are affected by the Hill Alternative within this area.

Other environmental impacts were also considered in the decision for selecting an alternative. They included loss of habitat, impacts on streams and wetlands, historic resources, and other areas of study. However, the potential impacts to these resources were not substantially different for one alternative compared to another in most areas.

The FHWA has determined that the Hill Alternative (H1+HV2+H3+H4) is the least environmentally damaging alternative. The Hill Alternative has lowest overall impacts to perennial streams and active agricultural lands. The Hill Alternative also has relatively low impacts to wetlands. The Army Corps of Engineers and the USEPA have concurred that the Hill Alternative is the least environmentally damaging alternative.

IV. Alternatives Considered

Several different concepts were considered during the planning phase of the project that met the identified needs to varying degrees, as documented in the *Feasibility Study Report for US Route 23 Portsmouth Transportation Study* (April 2001). These concepts included four bypass concepts (Airport, Feurt Hill, West and Inner), two arterial concepts (SR 104 and the existing Airport Route), a transportation system management concept (upgrades of US 23/US 52), and the No Action Alternative or “No Build” option. Each of the preliminary concepts were screened using project cost, traffic, safety benefits, travel time savings, economic development potential, and benefit/cost analysis. Based on identified needs, the Feurt Hill and Airport Bypass options were found to be

substantially superior to the other alternatives under consideration in terms of addressing the identified needs. These two concepts were developed into conceptual alternatives for evaluation in the environmental document. Based on additional analysis, the Feurt Hill Bypass was found to have greater impacts per mile with substantially increased costs and limited opportunities for economic growth.

From the planning study, the Airport Bypass conceptual alternative solution was carried forward for additional development. These reasonable alternatives were developed as seven (7) individual segments that could be combined to form eight (8) possible combinations. Table 1 (below), Alternatives Considered but Not Selected, shows the range of Alternatives considered and the reasons they were not carried forward.

Chapter 3 of the Draft EIS (January 2005) included an analysis of each of the reasonable alternative combinations. Table 3-32 of DEIS (Attachment A, below) provides a summary of the impacts associated with each combination of segments.

V. Section 4(f)

The selected alternative does not impact any parklands or recreational resources that qualify for Section 4(f) protection.

Based upon a review of existing land use, property ownership, and park mapping, there are currently no existing or planned parks, recreation lands, nor natural and wildlife areas within the limits of the alternatives. The closest park to the study area is the Tan-Lan Swim Club and Park, located in Wheelersburg, 1.5 miles south of the proposed bypass interchange with US 52.

Cultural resource studies were conducted as a part of the development of the project. These studies concluded that there were no properties identified that would be eligible for inclusion on or are listed in the National Register of Historic Places. Therefore, there are no known historic properties within or adjacent to the proposed roadway. Therefore, there are no impacts under Section 4(f) with respect to historic properties, nor are any secondary impacts expected to result from the project.

Title 23, Section 138, of the United States Code, also known as Section 4(f), requires an alternatives analysis when there is a proposed use of a park, recreation area, historic site, wildlife refuge or waterfowl refuge resulting from a transportation project. There are no planned or existing parks, recreation areas, historic sites, wildlife refuges or waterfowl refuges in the project area. Therefore, a Section 4(f) evaluation was not required for this project.

Additional information can be found in Sections 3.6 and 3.7 of the DEIS.

Table I – Alternatives Considered But Not Selected

Alternative	Reasons for Non-Selection (Compared to Selected Alternative)
Alternative H1 + HV2 + V3 + V4 – Valley Segments north of the Minford Airport, hill segments south	<ul style="list-style-type: none"> • Five additional residential relocations • Fifteen additional acres of active agricultural lands • Relocation of Portsmouth Public Library required • Does not accommodate an interchange in section 3 due to the AEP transmission tower and static clearance
Alternative H1 + HV2 + H3 + V4 – Northern-most segment follows Lucasville- Minford Road, other wise all hill segments	<ul style="list-style-type: none"> • Five additional residential relocations • Fourteen additional acres of active agricultural lands • Relocation of Portsmouth Public Library required
Alternative H1 + HV2 + V3 + H4 – A single valley segment (between Lucasville- Minford Road and SR 139)	<ul style="list-style-type: none"> • 199 additional acres of landlocked property • Does not accommodate an interchange in section 3 due to the AEP transmission tower and static clearance
Alternative V1 + HV2 + H3 + H4 – Hill segments north of the Minford Airport, valley segments south	<ul style="list-style-type: none"> • 1.2 miles longer than the preferred alternative • Fifty-five additional acres of active agricultural lands • 4600 additional feet of culverted/relocated stream
Alternative V1 + HV2 + H3 + V4 – A single hill segment (north of Lucasville- Minford Road), otherwise valley segments	<ul style="list-style-type: none"> • The Southern Ohio Correctional Facility south of Lucasville and located along SR 728 would be slightly affected by the Valley Alignment. Their access and parking areas would be relocated adjacent to single-family homes, creating concerns for the surrounding community. • The Valley Middle School would be located roughly 500 feet from the proposed Valley Alignment • 1.2 miles longer than the preferred alternative • Five additional residential relocations • Sixty-six additional acres of active agricultural lands • Relocation of Adams Memorial Church required • Relocation of Portsmouth Public Library required
Alternative V1 + HV2 + V3 + H4 – Northern-most segment along hills, otherwise all valley segments.	<ul style="list-style-type: none"> • 1.2 miles longer than the preferred alternative • Fifty-three additional acres of active agricultural lands • 3800 additional feet of culverted/relocated stream • Relocation of Adams Memorial Church required • Does not accommodate an interchange in section 3 due to the AEP transmission tower and static clearance
Alternative V1 + HV2 + V3 + V4 – All valley segments	<ul style="list-style-type: none"> • The Valley Alternative was seen as a disruption to the existing communities in the area as it generally traversed on or adjacent to existing roads. • The Southern Ohio Correctional Facility south of Lucasville and located along SR 728 would be slightly affected by the Valley Alignment. Their access and parking areas would be relocated adjacent to single-family homes, creating concerns for the surrounding community. • The Valley Middle School would be located roughly 500 feet from the proposed Valley Alignment • The Valley Alignment would affect an additional 67 acres of active farmland. • More Century farmland is affected by the Valley Alignment within this area. • Relocation of Adams Memorial Church required • Relocation of Portsmouth Public Library required • Does not accommodate an interchange in section 3 due to the AEP transmission tower and static clearance • Floodplain impacts are high • 1.1 miles longer than the preferred alternative

VI. Measures to Minimize Harm

Measures to avoid impacts and to minimize impacts when they cannot be avoided have been incorporated throughout the project development process. Such measures are discussed for each resource in the FEIS, Chapter 5.0, Environmental Commitments. Throughout this process, alignment shifts and adjustments were made to minimize impacts. Unless otherwise noted, ODOT is responsible for implementing all measures to minimize harm.

1. Water Resources

The project has been developed pursuant to Presidential Executive Order 11990 – *Protection of Wetlands*. Based on evaluation of all alternatives, it has been determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands and related resources that may result from such action.

Impacts to wetlands are discussed in Section 3.4.4 of the DEIS. The project will encroach upon 5.55 acres of wetlands. Impacts to streams are discussed in Section 3.4.5 of the DEIS. The project will result in 37 stream crossings, affecting 20,881 feet of streams. Impacts to streams and wetlands will be minimized during detailed design of the project.

All of the streams and wetlands in the selected alternative alignment that have a direct water connection to streams or other surface waters are regulated as waters of the United States pursuant to the Clean Water Act (CWA). Therefore, all crossings of these waters will require permits from the Army Corps of Engineers under Section 404, and the Ohio EPA under Section 401 of this law. Specific stream and wetland mitigation measures will be developed during coordination with the U.S. Army Corps of Engineers (USACE) and Ohio Environmental Protection Agency (OEPA) during the pre-application process for Section 404 and Section 401 permits required by the Clean Water Act.

The impacts to all tributary wetlands will likely be considered as a whole under a single Individual Section 404/401 permit. Wetland mitigation will be conducted in accordance with the requirements of OEPA's wetland water quality standards in addition to the USACE Mitigation Guidelines Checklist for the State of Ohio and will be approved through the section 404/401 permitting process.

The impacts to all streams by the project will likely be considered as a whole under a single Individual Section 404/401 permit. No in-stream work in Class III Primary Headwater Habitat streams that support fish or mussel communities or any other stream classified as having an assigned or provisional aquatic life use designation of Warm-water Habitat or better will occur from April 15th to June 15th. The streams affected by this restriction are unnamed tributaries to the Scioto River, Candy Run, Long Run, Little Scioto River, and the Ohio River.

Mitigation for these resources, in accordance with state and federal regulations, will be negotiated with the resource agencies through coordination for the Section 404 permit and the 401 Water Quality Certification. Replacement ratios will be based on the quality and quantity of the wetland or stream affected. Efforts will be made to coordinate the mitigation of stream and wetland impacts with the local conservation and watershed groups, park districts, state agencies, or willing sellers. ODOT will work closely with USACE, OEPA and other

stakeholders (other groups planning or implementing watershed-based restorative projects) on specific value-based watershed improvement projects in the vicinity of the proposed highway.

The following measures will be used to minimize impacts to streams and wetlands:

- Impacts to streams and wetlands will be minimized during design and construction.
- Natural stream channel design features will be utilized in areas where the relocation of existing streams is necessary, and feasible.
- Alterations or disturbances to stream banks and bank vegetation will be limited to that necessary to construct the project.

The following measures will be used to minimize impacts associated with sedimentation:

- Erosion and sedimentation control measures will be implemented during construction.
- Stormwater management measures will be implemented during construction.
- Post-construction stormwater pollution prevention measures will be incorporated into the project design and construction activities. Use of detention basins and retention ponds will be considered wherever practicable. Stormwater control appurtenances will be designed to limit in stream sedimentation, which will minimize the potential for impacts to water quality.
- Contractors will develop and implement a comprehensive sediment and erosion control plan. A plan note will specify that Sedimentation and Erosion Control features be placed as soon as practicable during the construction process. Provisions for placement of primary Sedimentation and Erosion Control features which are necessary during advanced tree-cutting operations will be included.
- Contractors will develop and incorporate provisions for implementation of a post-construction re-vegetation plan to control erosion and maintain water quality. Areas in which there are no construction activities for 45 days will be seeded to provide temporary ground cover to control erosion.

2. Wildlife and Threatened and Endangered Species

The following project design features will be used to minimize the potential for adverse effects on wildlife species and habitat from roadway construction, operation, and maintenance activities:

- To minimize potential impacts on the Indiana bat, potential roost trees will be cleared within the project construction limits and ancillary work areas only after September 15 and before April 15.
- Strict adherence to BMPs, erosion and sediment control and the conditions in the storm water permit to minimize impacts to the Little Scioto River and the Ohio River where federally and state listed fresh water mussel species may be present.
- Though not directly affected by the selected alternative, the American Chestnut tree in the study area will be clearly identified prior to construction to avoid inadvertent impacts.
- ODOT will plan the project such that no in-stream work in Class III Primary Headwater habitat streams that may support freshwater mussel communities may be conducted between April 15th and June 30th and will be conducted in a way that does not impact freshwater mussels that may be in the area. Furthermore, no piers or other structures will be placed below the ordinary high water mark of the Little Scioto River to minimize impacts on aquatic species.

- As requested by the Department of the Interior in their March 11, 2005 letter, if any listed endangered species for Scioto County are encountered during subsequent phases of the project, the USFWS's Endangered Species Coordinator will be notified immediately.
- The area used for construction will be limited to the construction right-of-way.
- All waste and borrow areas must be approved by the ODOT project engineer, and the contractor is responsible for any permits or necessary approvals to use the waste and/or borrow areas.
- Native species will be used for re-vegetation of disturbed areas.
- Construction equipment will be maintained in proper working order to minimize operation noise and reduce the risk of equipment spills and leaks

3. Floodplain Impacts

Floodplain impacts associated with the selected alternative are discussed in Section 3.4.2 of the DEIS. The estimated perpendicular encroachments and longitudinal encroachments are 10.63 acres and 36.95 acres, respectively.

The project will not cause a significant encroachment as defined in 23 CFR 650 Subpart A. The proposed bridge over the Little Scioto River will be designed to pass the 100 year peak flow requirement and take into account the debris likely to be encountered. Abutments, piers, pilings, sills, approach fills, etc., will not constrict flow or cause any appreciable increase or channel-wide scour, and will be aligned to cause the least effect on water features. The culverts are being sized for a 50 year flood, but must permit the conveyance of the 100-year flood without causing significant damage.

Coordination will be conducted with the local community floodplain administrator during further development of the selected alternative. A description and mapping of this alternative, including available details on any fill material to be placed in the floodplain, will be provided to the local community floodplain administrator for review and comment. This coordination will determine if a Flood Hazard Development Permit will be required prior to construction activities.

The following measures will be used to minimize impacts to floodplains:

- Completion of detailed hydraulic studies for affected streams.
- Development of adequate drainage measures so that post-construction hydraulics match pre-construction (existing) drainage conditions.
- Develop highway in accordance with accepted local floodway plans and floodplain management programs.
- Soil piles from excavation will be stored outside the 100-year floodplain or hauled to an approved site.

4. Groundwater/ Aquifer Protection

The following measures will be used to minimize impacts to groundwater:

- No private wells have been identified within the project limits. If impacted wells are identified during detailed design or construction, ODOT will have a new well drilled or connect the property to the local public water system. If neither of these options can be

accomplished, ODOT may acquire the property in accordance with the Federal Uniform Relocation and Real Property Acquisition Policies Act of 1970, the Surface Transportation and Uniform Relocation Assistance Act, and 49 CFR Part 24.

- Any impacted wells will be removed and properly abandoned in accordance with State and local requirements.
- Mitigation measures addressing potential contamination impacts will be further developed and incorporated into the project design plans, if necessary.
- This project will be coordinated with the Scioto County Regional Water Authority regarding the small portion of its drinking water source protection area located within the project area.
- A plan note restricting project-related refueling and maintenance activities over the drinking water source protection area will be included.

5. Forest Fragmentation

The selected alternative will impact 493 acres of forested lands. While mitigation specifically for forest fragmentation impacts is not being proposed, the selected alternative was designed to minimize the impact to forested lands. Minimization measures incorporated into the selected alternative include avoidance of large tracts of unfragmented forest lands and avoidance of the Wayne National Forest.

The following measures will be used to minimize impacts to forest land:

- Detailed design activities will minimize the footprint of the project, and reduce the amount of forest land required for the project where practicable.
- Native species will be used for re-vegetation of disturbed areas.

6. Cultural Resources

No properties that are on or eligible for the National Register of Historic Places were identified within or adjacent to the project.

If any archaeology sites are encountered during construction, work will be halted in the immediate vicinity until that site could be evaluated. ODOT and FHWA will consult with the State Historic Preservation Office and, if appropriate, Tribal entities prior to proceeding with work in the area.

7. Farmland

Right-of-Way impacts include acquisition of 769 acres of agricultural cropland, timberland and pastureland, which represents approximately 0.7 percent of the total farmland available in Scioto County.

Farmland impacts include a total of 35 Agricultural District registered owners and comprise 59 parcels with a combined total area of 2,587 acres. Only 485 acres of Agricultural District land within these 35 ownerships will be converted to a transportation use, with the remainder potentially landlocked. 41 of the 59 parcels exceed the established threshold for notification of impacts to the Ohio Department of Agriculture, as required by Ohio Revised Code 929.05 (B).

The following measures will be used to minimize impacts to farmlands and farming operations:

- Property acquisition and relocation assistance will be provided in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
- ODOT will allow the property owner or tenant farmer to harvest the crops (even on property acquired) before the construction contractor begins work.
- Coordination with the Ohio Department of Agriculture concerning condemnation of farmlands designated as Agricultural Districts.
- Coordination with local agencies and property owners concerning mitigation of impacts to farmland irrigation/drainage systems.
- The common section of the Hill and Valley Alignments is expected to bisect parcels currently used as pasture. A cattle crossing or other measure as agreed in coordination with the affected owner will be included as part of the project to connect those parcels of pastureland that are bisected.

8. Municipal/Industrial/Hazardous Waste

The potential to encounter hazardous substances has been assessed and will be minimized as follows:

- Special handling is required for a small open dump area within the proposed Lucas-Minford Road interchange area.
- An underground storage tank system will need to be removed prior to construction at the Chevron Gas Station site located at the proposed SR140 interchange area in accordance with applicable regulations.

9. Residential/ Business Relocations and Property Impacts

The impact to residences and businesses was an important deciding factor in selecting the alternative for the proposed project. The Draft EIS identified 64 relocations that would be required for the selected alternative which included 30 single family residences, 16 apartments, 8 other residences, and 10 mobile homes. The final EIS included the addition of 10 single family residences due to the addition of the Lucasville-Minford interchange. Therefore, the total relocation for the project is 74, which includes 40 single family residences, 16 apartments, 8 other residences, and 10 mobile homes.

The following measures will be used to minimize and/or mitigate impacts to displaced residences:

- Property acquisition and relocation assistance provided in accordance with the Uniform Relocation and Real Property Acquisition Policies Act.
- Implementation of a Residential Relocation Assistance Program.

10. Noise Impacts and Abatement

The noise impacts associated with the selected alternative can be found in the Draft EIS in Section 3.8.2. The Draft EIS identified 14 receiver locations where a substantial increase in noise could be expected. Eleven Noise barriers were analyzed to determine the noise level reduction at the 14 receiver locations. Initial noise analysis revealed that only one noise barrier is recommended in the Highland Bend area. A public meeting was held in December 2005 to determine if the residents wish to have a noise barrier. Comment forms were also mailed out to approximately 70 households. Two comments were received, both in favor of a noise barrier located along the east side of the proposed Bypass. Another comment also asked for further study to extend the noise wall to the south, to accommodate a new home being built by

a resident. For more information on the Highland Bend Noise Barrier Public Meeting, please see the attached comment summary.

Due to the lack of response from affected homeowners, a follow-up notification letter and comment form will be sent to each of the households. If the second survey also demonstrates a lack of interest in noise abatement, the Highland Bend noise barrier will be eliminated from consideration.

11. Environmental Justice

An analysis of environmental justice is included in Section 3.5.8 of the DEIS. Consistent with Presidential Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 1994) and FHWA Order 6640.23, "FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (December 1998), the FHWA has concluded that no high and adverse human health or environmental effects are expected to occur disproportionately to minority or low income populations as a result of implementing the selected alternative.

12. Construction and Maintenance of Traffic

The following measures will be used to minimize and/or mitigate impacts associated with the construction of the project and the maintenance of traffic during construction:

- During construction ODOT will coordinate with local schools, emergency response agencies, and other services to notify them of any changing traffic patterns and identify alternative access roads.
- Construction equipment will be maintained in proper working order to minimize operation noise and reduce the risk of equipment spills and leaks.

VII. Comments on the Final EIS

Notice of availability of the Final EIS was published in the Federal Register on August 19, 2005 with comments due by September 19, 2005.

Comments received on the Final EIS are summarized in Attachment B below.

VIII. Conclusion

The environmental record for Portsmouth Bypass, SCI-823-0.00, PID #19415 includes the previously referenced DEIS and FEIS (January 2005 and August 2005, respectively). These documents, incorporated here by reference, constitute the statements required by the NEPA, Title 23 of the United States Code (USC), and implementing regulations on:

- The environmental impacts of the project;
- The adverse environmental effects that cannot be avoided should the project be implemented;
- Alternatives to the proposed project; and
- Irreversible and irretrievable impacts on the environment that may be involved with the project should it be implemented.

Having carefully considered the environmental record noted above, the mitigation measures as required herein, the written and oral comments offered by other agencies and the public on this record, and the written responses to comments, the FHWA determined that (1) adequate opportunity was offered for the presentation of views by all parties with a significant economic, social, or environmental interest; (2) fair consideration has been given to the preservation and

enhancement of the environment and to the interests of the communities in which the project is located; (3) all reasonable steps have been taken to minimize adverse environmental effects of the proposed project; and (4) where adverse effects remain, additional efforts will be undertaken during detailed design to further reduce and/or mitigate such effects.

It is the decision of FHWA to choose the Hill Alternative (H1+HV2+H3+H4), the environmentally preferred alternative, for SR 823 Portsmouth Bypass project and in so doing concludes that the project complies with all applicable provisions of the National Environmental Policy Act, specifically 42 U.S.C. 4332 (2) and implementing regulations.

The Record of Decision for the SR 823 Portsmouth Bypass is hereby approved.

/s/ Herman Rodrigo

6/9/2006

Dennis A. Decker, Division Administrator

Date

Attachment A

Summary of Impacts by Alternative



Table 3-32: PRELIMINARY PROJECT IMPACTS BY ALTERNATIVE

ISSUE/CONCERN		Alternative H1+HV2+H3+H4	Alternative H1+HV2+V3+V4	Alternative H1+HV2+H3+V4	Alternative H1+HV2+V3+H4	Alternative V1+HV2+V3+V4	Alternative V1+HV2+H3+H4	Alternative V1+HV2+H3+V4	Alternative V1+HV2+V3+H4
DESIGN ISSUES	Length (miles)	16.2	16.0	16.0	16.2	17.3	17.4	17.3	17.4
	Probable Cost (millions)	\$240	\$216	\$222	\$235	\$197	\$220	\$202	\$215
	Earthwork (incl. mitigation)	\$103	\$78	\$83	\$98	\$59	\$84	\$63	\$79
	Structures (incl. bridges, ret walls & culverts)	\$59	\$61	\$61	\$59	\$62	\$59	\$62	\$59
	Remaining Construction Costs	\$62	\$56	\$57	\$61	\$53	\$60	\$54	\$59
	Utility Relocations	\$8	\$10	\$10	\$8	\$9	\$7	\$9	\$8
	Right-of-Way/Relocations	\$7	\$12	\$11	\$8	\$14	\$9	\$13	\$10
PROPERTY IMPACTS	Relocations Total	58	63	63	58	63	58	63	58
	Single-Family Residences	30	36	35	31	46	40	45	41
	Apartments (1 building)	10	10	10	10	10	10	10	10
	Other Residences	8	8	8	8	0	0	0	0
	Mobile Homes	10	9	10	9	7	8	8	7
	Other Relocations								
	church, business	0	2	2	0	3	1	3	1
	barns & farm buildings	14	23	18	19	29	20	24	25
	Property Impacts by Alternative Right of Way Required	942	863	869	936	889	968	895	962
	Active Agricultural (acres)	55	70	69	56	122	107	121	108
	Passive Agricultural (acres)	119	173	166	126	165	111	158	118
	Scrub/Logged (acres)	150	118	142	126	80	112	104	88
	Urban/Developed (acres)	125	140	141	124	136	121	137	120
Woodland (acres)	493	362	351	504	386	517	375	528	
Potential Landlocked Properties*									
Number of Parcels (number)	80	80	68	92	93	93	81	105	
Acreage Landlocked Acreage	1,439	1,414	1,215	1,638	1,312	1,337	1,113	1,536	
<small>*These properties may be landlocked, as no access was apparent and no service road appeared feasible. Access strategies will be pursued with property owners prior to making a final determination.</small>									
ECOLOGICAL RESOURCES	Stream Culverted/Relocated (feet)	42,200	38,500	39,300	41,400	43,100	46,800	43,900	46,000
	Perennial (lineal feet)	2,000	6,100	5,400	2,700	7,100	3,000	6,400	3,700
	(number)	5	7	6	6	8	6	7	7
	Intermittent (lineal feet)	20,500	19,000	19,700	19,800	17,900	19,400	18,600	18,700
	(number)	33	32	32	33	30	31	30	31
	Ephemeral (lineal feet)	19,700	13,400	14,200	18,900	18,100	24,400	18,900	23,600
	(number)	56	47	50	53	54	63	57	60
	Stream - Bridged (lineal feet)	1,060	1,060	1,060	1,060	840	840	840	840
	Total Wetlands Impacted (acres)	3.96	2.62	2.59	3.99	3.06	4.40	3.03	4.43
	Category I Isolated	0.03	0.30	0.33	0.00	0.38	0.11	0.41	0.08
	Tributary	0.50	0.81	0.77	0.54	0.93	0.62	0.89	0.66
	Category II Isolated	0.40	0.38	0.43	0.35	0.03	0.05	0.08	0.00
Tributary	3.03	1.13	1.06	3.10	1.72	3.62	1.65	3.69	
Ponds (acres)	11.90	6.10	6.90	11.10	5.80	11.60	6.60	10.80	
HISTORIC RESOURCES	Buildings Requiring Additional Study								
	Within Boundaries	0	2	2	0	2	0	2	0
	Adjacent to Alignment	3	0	2	1	0	3	2	1
SOCIO-ECONOMIC ISSUES	Residences Close to Roadway Within 400' of R/W	290	320	315	295	375	345	370	350
	Cemeteries Adjacent to Alignment (not impacted)	5	5	6	4	5	5	6	4
	Churches Within Boundaries (will be purchased/relocated)	0	0	0	0	1	1	1	1
	Adjacent to Alignment (not impacted)	4	5	5	4	3	2	3	2
	Schools Adjacent to Alignment (not impacted)	0	1	1	0	1	0	1	0
	Libraries Within Boundaries (will be purchased/relocated)	0	1	1	0	1	0	1	0

All impact calculations are preliminary based upon limited design information. Final impacts will be determined once design is complete and ultimately may be more or less than the impacts predicted above.

Selected Alternative = H1+HV2+H3+H4

Attachment B Comments on the Final Environmental Impact Statement

Comments Received during the Final EIS availability period along with FHWA's response where applicable, are summarized below.

Letters were received from the following state and federal review agencies:

- U.S. Environmental Protection Agency (EPA)
- Ohio Environmental Protection Agency (OEPA)
- Ohio Department of Natural Resources (ODNR)

Public Comments on the FEIS were received from one private citizen:

1. Comment: **Would like to know if there has there been extra easement allocation for passing/turn lanes to access the on/off ramps at SR 140.**

Source: Private Citizen

Response: Proposed Right of Way will be acquired to accommodate the right turn lanes from Southbound SR 140 to the Northbound SR 823 on-ramp and from the SR 823 Southbound off-Ramp to Southbound SR 140. The on and off ramp intersections with SR 140 will be designed per ODOT design standards.

2. Comment: **Would like to know if there will there be another public hearing for SR 823 Bypass.**

Source: Private Citizen

Response: No additional formal public hearing is currently planned as part of the project. A public meeting will be held regarding the proposed noise barrier in December of 2005.

3. Comment: **Would like to know if there has been a construction schedule developed that lays out in what manner the Bypass will be built (i.e. Phases, length of time of construction, etc.).**

Source: Private Citizen

Response: Acquisition of properties in which the entire parcel is required for the project will begin in the summer of 2006. Acquisition of properties in which only part of parcel is required for the project is scheduled to begin in July 2008 and continue through Feb 2010.

The current phasing plan is as follows, but is subject to available funding:

Phase 1: PID 19415 SCI-823-6.81 construct the middle portion from the airport interchange to CR 28, Jan 2009 to Jan 2011

Phase 2: PID 79977 SCI-823-10.13 construct the Northern portion from the CR 28 to US 23, Jan 2010 to Jan 2013

Phase 3: PID 77366 SCI-823-0.00 construct the Southern portion from US 52 to the airport interchange, Jan 2012 to Jan 2015

4. Comment: **The Bypass website is out of date.**

Source: Private Citizen

Response: The website currently has the latest drawings and documents posted. When more current plans are available following ODOT's review of design submissions, this information may be posted. The project website is currently scheduled to keep the latest copies of documents and approved schematics available to the public through April of 2006.

5. Comment: **Would like to know why those residents directly affected by the Bypass have not been contacted by the planned late spring 2005 notification.**

Source: Private Citizen

Response: The preliminary schedule shown at the public meeting in 2004 anticipated that ODOT personnel would be in contact with some affected residents, particularly those that are expected to be displaced, in mid 2005, based upon the project schedule at that time. Once the Record of Decision is approved, ODOT will begin contacting these residents regarding the acquisition process.

6. Comment: **Please clarify the statement "construction in these streams will not occur during the vulnerable period when these species are typically in these waters, April 15th to June 15th" to show that work will not occur in in-stream waters as well as feeder stream areas which might feed into them causing siltation.**

Source: USEPA

Response: In-stream work, the placement of or removal of fill materials, is limited to June 16 through April 14 to avoid and minimize direct impacts to spawning fish populations

7. Comment: **Because the Bypass will permanently disconnect the Wayne National Forest and Shawnee State forest and their ecological systems they support, EPA requests that oversized culverts be used wherever possible, and at advantageous points would further encourage the consideration of modest bridges instead.**

Source: USEPA

Response: The FHWA and ODOT believe that standard ODOT design procedures will provide culverts that accommodate the connection of ecological systems. The culverts are being sized for a 50 year flood, but must permit the conveyance of the 100-year flood without causing significant damage. The culvert size is being increased by 1 foot in diameter to accommodate future repairs or lining. The bridge over the Little Scioto River will be designed to span the ordinary high water mark of the river.

8. Comment: **Encourage FHWA and ODOT to consider redesigning the Lucasville-Minford Road interchange to minimize residential relocations.**

Source: EPA

Response: In response to this comment, ODOT developed a second alternative for comparison to the original design. Based upon impacts and public comments, the original design is still preferred. Please refer to the "Lucasville-Minford Road Interchange" section of this document for more discussion of this effort.

9. Comment: **Would like to see further project refinements to lower amount of impacted forested areas.**

Source: OEPA

Response: The intent of the National Environmental Policy Act is to balance and integrate competing goals by focusing on all the environmental, economic and social factors affecting a single place. As such, these tradeoffs may result in creating greater impacts in one area, and reducing impacts in another. For example, the Hill Alternative, even though it may cause more impacts to forested areas, will reduce the number of business and residential relocations. It is our intent to avoid impacting forested areas wherever it is feasibly possible. We reiterate that throughout this process, alignment shifts and adjustments were made to avoid impacts. Furthermore, measures to avoid impacts and to minimize impacts when they cannot be avoided have been incorporated throughout the project development process.

10. Comment: **Would like to know exactly how much ODOT factors public comments into the decisions it makes on projects.**

Source: OEPA

Response: All public comments are taken into consideration in the decision making process. However comments that raise awareness of certain unintended detrimental actions receive more consideration. For example, after careful calculation, it was found that the Valley Alternative would be substantially less costly than the Hill Alternative. It would however cause more business and residential relocations. After reviewing public sentiment, it was found that the majority public opinion favored the Hill Alternative because it had fewer relocations impacts. Combined with other factors, ODOT determined that the Hill Alternative should become the Preferred Alternative for this project despite its substantially higher costs. For more information about the factors involved in recommending the Preferred Alternative, please refer to Section 6.8 of the DEIS (pages 6-7, 6-8).

11. Comment: **Requests further investigation into the acquisition of wooded riparian habitat/corridors and landlocked parcels for use in stream and wetland mitigation. Would also like to see coordination with the Ohio Valley Resource Conservation and Development Council to obtain information on mitigation opportunities in Scioto County and the Scioto River Watershed.**

Source: OEPA

Response: The document *Stream and Wetland Mitigation Opportunities Inventory for the Preferred Alternative of the Portsmouth Bypass* was prepared to provide options for potential wetland and stream mitigation for the SCI-823-0.00 project. Mitigation for wetlands and streams, in accordance with state and federal regulations, will be negotiated with the resource agencies through coordination for the Section 404 permit and the 401 Water Quality Certification. Replacement ratios will be based on the quality and quantity of the wetland or stream affected. Efforts will be made to coordinate the mitigation of stream and wetland impacts with the local conservation and watershed groups, park districts, state agencies, or willing sellers. ODOT will work closely with USACE, OEPA and stakeholders (other groups planning or implementing watershed-based restorative projects) on specific value-based watershed improvement projects in the vicinity of the proposed highway.

12. Comment: **Based on the current impact estimates to streams and wetlands in the project area, the project will likely require Section 401 certification. They will provide a definitive decision on Ohio EPA's regulatory oversight in the project in subsequent project submittals.**

Source: OEPA

Response: Comment noted.

13. Comment: **No Comments at this time.**

Source: ODNR