

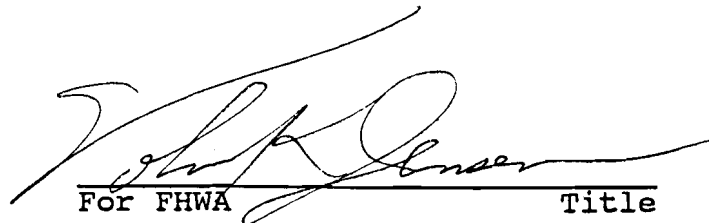
RECORD OF DECISION

Route D, St. Charles and St. Louis Counties, Missouri  
Page Avenue Extension

Bennington Place Westerly to U.S. Route 40  
Job Nos. J6U0803B, J6U0803C, and J6U0803D

(FHWA-MO-EIS-90-01-F)

1/6/93  
Date of Approval

  
For FHWA Title

A. Decision.

For the proposed action the selected alternative is the Red Alignment described in the Final Environmental Impact Statement (FEIS) numbered FHWA-MO-EIS-90-01-F.

The principal purpose of the proposed Page Avenue extension (Route D) is to provide relief for chronic traffic congestion at Missouri River crossings between St. Louis and St. Charles Counties in Missouri. The proposed action will extend Page Avenue from its present terminus at Bennington Place, immediately west of Route I-270 in St. Louis County, across the Missouri River to Route 94 in St. Charles County. It continues on to Route 40/61 (future Route I-64).

The Red Alignment will be a ten-lane, limited access highway with a 26-foot wide median from Bennington Place to its interchange with Route 94. From Hemsath Road to Route N, Route 94 will be an eight- to ten-lane limited access highway with a 26-foot wide median. One-way outer roads would be provided as service roads along this portion. From Route 94 to Route 40/61 (future Route I-64), the Red Alignment of the Page Avenue extension will be a four-lane limited access highway with a 70-foot wide median to accommodate future lane additions. The FEIS addresses the possible future additions to the roadway in St. Charles County.

The length of the proposed facility will be 20.95 miles. The Missouri Highway and Transportation Department (MHTD) will construct, own and operate the Page Avenue extension as part of its 32,000-mile system of roads.

B. Alternates Considered.

Other than the selected alternate, additional build alternates were considered. Also, a No-Build alternate was evaluated. Chapter 2 of the FEIS has detailed descriptions of the alternates which were given consideration.

Two basic alignments for the Page Avenue extension were considered: the Red and Green Alignments. Both of these alignments would directly impact Creve Coeur Lake Memorial Park (CCLMP) in St. Louis County.

Variants of the Red and Green Alignments were considered to avoid CCLMP in St. Louis County, population/activity centers and other environmentally sensitive areas in the project area. Each of the following combinations physically avoids CCLMP in St. Louis County but is identical to the Red Alignment in St. Charles County:

1. the Green-Black/Red Combination
2. the Yellow-Black/Red Combination
3. the Blue/Red Combination

Various combinations would have utilized one or more portions of the Green Alignment but would have reduced or redistributed St. Charles County impacts as compared to the basic Green Alignment:

1. the Green-Black/Green Combination
2. the Green-Black/Green Dashed Combination
3. the Green-Black/Green-Blue Dashed Red/Green Combination

All eight of these alternate alignments have been examined in the FEIS.

Additionally, a No-Build Alternate, a Traffic System Management (TSM) Alternate, incorporating all current and future roadway improvements without the Page Avenue extension, and a Mass Transit Alternate were evaluated. Although the TSM and Mass Transit Alternates would have yielded some benefits, neither of them would sufficiently ameliorate the bridge capacity problem within the projected timeframe. Improvements increasing Missouri River crossing capacity recently have been completed at the Route 40/61 crossing. Also, a new Route 115 crossing has opened. However, the projected growth rate of St. Charles County is such that no substantial long-duration relief is possible without construction of the Page Avenue extension in some workable form.

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1992 requires that a Congestion Management System (CMS) provide for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies in all Transportation Management Areas (TMA) including St. Louis. Chapter 2.2 of the FEIS addressed Transportation System Management (TSM) strategies, including the use of High Occupancy Vehicle (HOV) lanes, for the existing highway system. The FEIS has indicated that the TSM strategies alone will not address the forecasted traffic volumes within the project area.

The Page Avenue extension will address the need for increasing the capacity for Single Occupant Vehicles (SOV) crossing the Missouri River. The traffic operations analysis for the Page Avenue extension reveals an hourly volume with a directional split that justifies the construction of an 8-lane facility with two added auxiliary lanes. ISTEA has interim state and metropolitan planning guidelines that require that all reasonable strategies to manage the facility effectively (or to facilitate its management in the future) must be incorporated into the proposed facility. The guidance also requires

commitments by the state and the Metropolitan Planning Organization (MPO) for other travel demand reduction and operational management strategies appropriate for the corridor but not appropriate for incorporation into the SOV facility itself.

For the St. Louis area, and the remainder of the U. S., CMS development is in initial stages. The final guidance on the development of CMS is not expected for some time, although it now is being formulated. The St. Louis CMS likely will include TSM, HOV, Park and Ride, and Intelligent Vehicle Highway System (IVHS) strategies. It will address the entire road network in the St. Louis region, including the Page Avenue extension. As time passes, design of the Page Avenue extension will occur concurrently with the development and implementation of CMS measures in the region. FHWA and MHTD assure that the design of the Page Avenue extension will address the CMS strategies in place at the time of design approval. The MHTD currently has an HOV task force and an IVHS study underway that might influence the design of the proposed project. The project will include reasonable provisions to manage the improvement to make the most efficient use of it in conjunction with the MPO. Strategies now being examined by St. Charles County and the MPO (East-West Gateway Coordinating Council) are detailed in Eugene Schwendemann's letter which is attached.

C. Section 4(f).

Normally, this project would have been subject to Section 4(f) [49 U.S.C. Section 303 and 23 U.S.C. Section 138] scrutiny, for the selected alternative's proposed use of public park land. The Draft and Preliminary Final Environmental Impact Statements were prepared to address the project's Section 4(f) concerns.

However, in October 1992, Congress passed and President George Bush signed into law the "Pipeline Safety Act of 1992", P.L. 102-508, which contained Section 601, relating to this Page Avenue extension project. [The text of Section 601 is found in the Prefatory Note to the Final Environmental Impact Statement for the project.] The statute permits the Secretary of Transportation (Secretary) to waive the Section 4(f) requirements for the "Red Alignment" alternative selected for this project, if:

- (1) the Secretary determines that a final environmental impact statement has been completed by the State of Missouri and approved by the Secretary; and
- (2) the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan containing certain minimum specified elements.

Acting for and on behalf of the Secretary of Transportation, pursuant to his lawful delegations of authority, this agency has

approved the final environmental impact statement completed by the State of Missouri. This agency has also entered into an enforceable agreement with the State, which agreement requires the State to implement the project mitigation plan elements specified in Section 601 of the Pipeline Safety Act of 1992. A copy of this enforceable agreement is attached to and made a part of this Record of Decision. In accord with the terms of the said Section 601, and its conditions having been met by the Secretary and the State, this agency has granted the State the waiver of Section 4(f) for the selected "Red Alignment" alternative project route. A copy of that Section 4(f) waiver is attached to and made a part of this Record of Decision.

Because the provisions of Section 601 of the Pipeline Safety Act of 1992 relating to the Section 4(f) waiver have been satisfied by the State, there remains no Section 4(f) involvement by the selected alternate. Other build alternates would have Section 4(f) involvement because Section 601 does not apply to alignments other than the Red Alignment. The identified Section 4(f) properties for the alternate alignments include CCLMP, the KATY Trail State Park, and potential historic properties in St. Louis and St. Charles Counties. The selected alignment does cross CCLMP, and Section 601 does require specific mitigation measures for impacts to the park. Land and Water Conservation Fund (LWCF) Act monies have been invested in CCLMP, and the land taken from the park by the Red Alignment has had replacement lands designated to comply with the requirements of the LWCF Act. Section 6(f) (i.e., LWCF Act) issues are addressed in the section entitled "Measures to Minimize Harm" that follows.

D. Measures to Minimize Harm.

All practicable measures to minimize harm have been incorporated into the decision for the selected alternative. Farmland impacts have been addressed by locating the alignment near property lines to reduce farm severance.

The acquisition and relocation program will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Erosion control measures will be required by job construction specifications to prevent sedimentation. Measures also will be used to prevent pollution caused by construction activities through MHTD's Sediment and Erosion Control Program approved by DNR.

Two federally-listed endangered species, the bald eagle and the pallid sturgeon, are found within the project area. The Missouri River in the project area is utilized by bald eagles as a flyway only, with no winter nesting. As a result, no critical habitat has been designated and the project will have no impact on the bald eagle.

The pallid sturgeon has historic range throughout 3,550 miles of the Missouri and Mississippi River systems, including the project area. Although no critical habitat for the species has been designated within its historic range, MHTD has agreed with the U.S. Fish and Wildlife Service (FWS) to implement measures associated with construction of the project intended to conserve and enhance habitat conducive to the pallid sturgeon. The bridge over the Missouri River will span the river from levee to bluff and will be constructed to minimize or eliminate impacts to river chutes and backwater areas. If bridge pier placement in Jane Downing Chute is found to be necessary, piers will be designed through coordination with the FWS and the Missouri Department of Conservation (MDC). A potential approach has been formulated to provide increased habitat diversity through creative bridge pier design. The Missouri River bridge will be designed so contaminant impacts from runoff or accidental spills will be eliminated to the extent practicable. The FWS has concurred that the project is not likely to have an adverse affect on the pallid sturgeon, subject to implementation of the measures noted above.

Direct impacts to Creve Coeur Lake Memorial Park (CCLMP) in conjunction with the Red Alignment will require the taking of right of way through the southern end of the park. The direct land use impact will be approximately 25.8 acres. However, when the aerial easement and the proximity impacts of traffic generated noise and visual impacts are considered, a total of about 183.4 acres of parkland within CCLMP is affected. Parkland being actually taken as right of way and that which will experience proximal impacts has been invested with funds from the Land and Water Conservation (LWCF) Act Fund. As such, the parkland taken must be replaced with land of equal value and utility for outdoor recreation purposes. Coordination with the National Park Service (NPS), Missouri Department of Natural Resources (DNR) and St. Louis County Department of Parks has determined areas to be used as replacement land. Appraisals of the land proposed as replacement land are being completed and forwarded to the NPS and DNR their review and acceptance. The NPS has adopted the FEIS pursuant to Council on Environmental Quality regulations, for use in MHTD/DNR's Section 6(f) conversion request. Notice of the adoption of the FEIS by NPS was published in the December 11, 1992 Federal Register. St. Louis County Department of Parks has indicated their intent to designate the entire additional acquisition of park mitigation land as land subject to the provisions of the LWCF Act. Coordination concerning the replacement of Section 6(f) lands is continuing with the resource agencies noted above.

The project area is served by an extensive network of water mains, telephone lines, pipelines, sewer lines and electrical facilities. Although the location of the Red Alignment was initially identified with consideration given to avoiding and/or minimizing impacts to utilities, some of these facilities will be impacted. Table 4.20-1 in the FEIS shows the utility services

and locations where service will likely be impacted by the Red Alignment. During final design of the project, consideration will be given to minimizing disturbance of utilities wherever it is considered practicable to do so. When impacts to utilities are unavoidable, the relocation of services will be coordinated with the utility companies in order to minimize service disruptions. Efforts will be made to limit inconvenience to customers due to disruption of service. Any disruptions in services during construction are expected to be localized and temporary in nature.

Four areas of concern were identified in the noise impact study that are expected to receive an increase in noise levels as a result of traffic-generated noise on the Red Alignment. However, only the receptors located near the intersection of Routes 94 and N in St. Charles County are projected to experience projected noise levels that approach or exceed the Federal Highway Administration's (FHWA) noise abatement criteria. Consideration was given to providing noise abatement for these 17 single-family residential units. The cost estimate of \$56,500 per receptor to provide noise barriers for these residences exceeds the MHTD noise abatement criteria that has an established maximum expenditure of \$20,000 per receptor for the construction of noise barriers. Based upon these considerations, no noise abatement is planned for the Page Avenue extension. If it is discovered during final design that noise abatement can be provided to impacted structures in accordance with MHTD's Highway Traffic Noise and Abatement Criteria, promulgated on November 1, 1991, then the provision of noise barriers will again be considered.

The Red Alignment crosses several bodies of water, as detailed in Table 4-10.1 in the FEIS. Whenever possible, project construction within surface bodies of water will be avoided. Where impacts are unavoidable, the existing water carrying capacity and natural drainage will be preserved whenever possible. Erosion and siltation impacts resulting from project construction will be minimized and controlled by implementation of MHTD's Sediment and Erosion Control Program, approved by the Department of Natural Resources. Best management practices for protecting water quality will be observed.

The Red Alignment will cross various landscapes from Bennington Place in St. Louis County to west of Route 40/61 in St. Charles County. The viewsapes include residential suburbs, urban areas, extensive river floodplains and rolling farmlands. Areas identified in the FEIS that will experience varying degrees of negative visual impact from the project include Creve Coeur Lake Memorial Park, the floodplain of the Missouri River, open space (mostly agricultural), residential developments and KATY Trail State Park. The MHTD will mitigate for negative visual impacts by minimizing rock cuts and quickly re-establishing vegetation on those cuts that are considered necessary. MHTD will minimize the splintered appearance of residential

neighborhoods. Abrupt vegetational transition zones within the right of way within floodplains will be minimized. MHTD will preserve and capitalize on mature stands of trees wherever they occur along the project and establish a comprehensive revegetation program for use along the entire corridor where visual mitigation is required.

A wetlands impact alternatives analysis of the various build alternates has been accomplished utilizing the existing data sources of National Wetland Inventory maps and base wetland photography compiled by the Soil Conservation Service. The analysis (summarized in Table 1) shows that the Red Alignment has the smallest project footprint on wetlands of the build alternates.

Wetlands on the Red Alignment have been avoided to the extent possible through location and design modifications. The position of the selected alternative has been chosen to minimize impacts to wetlands. To mitigate the loss of wetlands, non-wetland areas adjoining existing wetlands will be purchased and converted to functional wetlands. Final mitigation measures will be decided in coordination with the Corps of Engineers with the assistance of the Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the Missouri Department of Conservation. Resolution is expected prior to completion of the final construction contract.

Floodplain impacts have been reduced by holding right of way requirements to a minimum. Measures such as selective clearing and grading will preserve natural and beneficial floodplain values to the extent possible. Vegetation will be established on disturbed areas.

Historic and archaeological resources which are significant and which may be impacted by the selected alternative are addressed in the Memorandum of Agreement signed by FHWA, the MHTD, the Missouri State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP). Unexpected cultural resources discovered during construction are handled by construction specifications; the SHPO will be contacted to assess those resources, if any are discovered.

The Section 4(f) waiver, as authorized by Section 601 of the Pipeline Safety Act of 1992, requires implementation of certain particular mitigation measures related to project impacts at CCLMP. The enforceable agreement between the State of Missouri and the Secretary of Transportation mandates that these required mitigation measures shall each be implemented and effectuated. [The mitigation plan elements are set forth in Section 601, in the Prefatory Note to the Final Environmental Impact Statement on this project.] As a part of this process, a Design Committee shall be appointed by the Governor of Missouri pursuant to the terms of Section 601, to develop recommendations concerning design and construction features to minimize the visual and



physical impact of the Page Avenue extension project in the vicinity of CCLMP. The ultimate determination of whether these recommendations shall be accepted remains with this agency, and not with the State of Missouri.

A principal element of the Section 601 mitigation plan is the obligation that CCLMP be expanded by at least fifty (50) percent, through the acquisition and addition to that park of not less than six hundred (600) acres of land. The State, in conjunction with the National Park Service (NPS) of the Department of the Interior, and CCLMP park officials, are determining what portion of this addition will apply to satisfy the mandates of 16 U.S.C. Section 4601-8, commonly known as Section 6(f) of the Land and Water Conservation Fund (LWCF) Act. This additional land, required by Section 601, will satisfy fully the Section 6(f) obligation that the substitution of other lands for CCLMP properties utilized in this project must be of at least equal fair market value and must be of reasonably equivalent usefulness and location. The final Section 6(f) approval determination remains with the NPS.

E. Monitoring or Enforcement Program.

Mitigation measures for wetland impacts will be completed in coordination with the U. S. Army Corps of Engineers (COE) and other agencies and through the Section 404 permit process.

The MHTD fully intends to comply and implement mitigation measures contained in Section 601 of the Pipeline Safety Act of 1992. The enforceable agreement between the State of Missouri and the Secretary of Transportation requires that these mitigation measures shall each be implemented. The mitigation measures are contained in the Prefatory Note which is part of the Final EIS.

F. Comments on Final EIS.

The Final EIS was approved for circulation on November 24, 1992. Copies were made available to the agencies and individuals noted within the document. Those receiving a copy of the Final EIS were requested to respond with comments within 30 days of receipt. The notice of availability of the Final EIS was published in the Federal Register on December 4, 1992. Comments were received from the following entities. Copies of their written responses are attached.

1. Environmental Protection Agency (EPA).

The EPA responded on December 23, 1992 and commented that the Final EIS had addressed a majority of their previous concerns on the Preliminary Final EIS. However, the discussion

of secondary/indirect impacts and wetlands remained a concern to the EPA.

The EPA stated that analysis of the cumulative impacts of secondary growth and development, partially attributable to improvements in the highway system of metropolitan St. Louis, is needed. As described in Volume I of the Final EIS, further development in the floodplain of the Missouri River in St. Louis is expected to hinge on the provision of levee protection from a 500-year flood event. Additionally, the selected alternate is adjoined by additional park acreage and by land to be set aside as wetland mitigation areas. These dedicated land uses along with lack of adequate flood protection will function to limit or preclude development in the project area. Therefore, follow-on development after construction of the Page Avenue extension would not be directly related to the presence of the facility and would only be expected to occur at some distance from it. The EPA requested that MHTD assume a lead role in facilitating consideration of planning and zoning during the planning and design process for transportation improvements in the St. Louis area. The MHTD has agreed to assist in bringing the various local officials and resource agencies into the development process to help ensure that follow-on development that could affect floodplains and other river resources in the St. Louis - St. Charles County area is addressed on a more regional basis.

The EPA had both general and specific comments regarding wetlands. The EPA stated that, because farmed wetland areas are not separately identified for each of the build alternates, they do not have the information necessary to concur that the selected alternate (Red Alignment) is the least damaging to wetlands and aquatic resources. Further, the EPA does not "... believe that the red alignment will comply with Section 404(b) (1) guidelines as the least damaging practicable alternative." The EPA believed that less damaging practicable alternatives were available as demonstrated by the existence of several alternatives in the Creve Coeur Lake area.

The baseline evaluation of wetland impacts on the build alternates contained in the Final EIS is based on a modified land use classification study of land cover types conducted from 1989 to 1991. A corridor, 1,000 feet wide, was examined for each alternate. Farmed wetland areas were included in acreages for agricultural land use and were not specifically identified as a wetland cover type.

Table 1, attached to this Record of Decision, summarizes an analysis of wetlands for all of the build alternates. The table was developed using existing reference data on wetlands, specifically National Wetland Inventory maps and base wetland photography maintained by the Soil Conservation Service. This information is provided to supplement the wetlands study summarized in the Final EIS and to assist the resource agencies in better assessing wetland impacts for all of the build

alternates. The table indicates the estimated project footprint on wetlands based on a uniform right of way width of 250 feet. Also shown are net project impacts upon wetlands after acreage to be spanned by bridges is subtracted.

The distribution of wetlands throughout the project area, particularly those associated with the floodplains of the Missouri River, Creve Coeur Lake and Dardenne Creek precludes the ready identification of a practicable build alternative that totally avoids impacts to wetlands and aquatic ecosystems. As shown in Table 1, the Red Alignment has the least damaging project footprint and the lowest net impact on wetlands of any of the build alternates. There is sufficient information, further substantiated by the COE jurisdictional determination, to show the selected alternative has the least impact on wetlands.

The EPA commented specifically on the "minimization" aspect of sequentially addressing the avoidance, minimization and mitigation of wetland impacts as set forth in the COE/EPA Memorandum of Agreement on the Section 404 (b) (1) guidelines. The Final EIS contained a brief definition of sequencing. The EPA states that the description of minimization is not accurate because no mention was specifically made to minimizing impacts to water quality, water circulation and function and structure of aquatic systems. It is stated further that the Final EIS does not address secondary and cumulative impacts, water quality impacts, impacts to wetlands not directly affected by the placement of fill and changes in water circulation and fluctuation. FHWA believes that these issues are adequately addressed for NEPA purposes in the Water Quality Impacts, Construction Impacts and Secondary Development Impacts sections of the Final EIS. Finalization of any outstanding Section 404 issues will be resolved in the 404 permit process.

Regarding wetland mitigation, the EPA requested to be included as a participant in formalizing a wetland mitigation plan for the Page Avenue extension. Coordination with the resource agencies will continue to assure a role for the EPA and others as the design of the project progresses. The resource agencies and others will be afforded the opportunity to be involved in the preparation, review and implementation of the wetland mitigation plan.

## 2. U. S. Army Corps of Engineers (COE).

The COE responded with written comments on December 28, 1992. Their comments concerned the presentation of farmed wetland impacts on the various build alternates, an error in the explanation of hydric soil types and the discussion of floodplain impacts and regulatory floodways.

Farmed wetland areas impacted by the build alternates are presented in the analysis of wetland impacts shown in Table 1 of this Record of Decision. This supplemental information will assist in making a better comparison of wetland impacts for all of the build alternates presented in Final EIS.

The COE commented that commitments made within the Final EIS in relation to floodplains and regulatory floodways in the project area adequately address their previous concerns. As part of the Final EIS, the MHTD has made commitments to construct the Page Avenue extension so that no increase in the base flood elevation within regulatory floodways will result. Also, the project will be configured so that regulatory limits in base flood elevations within the floodway fringe will not be exceeded. A detailed hydraulic analysis will be conducted in coordination with the COE and the Federal Emergency Management Agency (FEMA) during design of the project, using the COE's "Missouri River Step Backwater" and the HEC-2 computer modeling programs. The MHTD will work with the COE's Flood Plain Management Services Branch to address the cumulative effects of previous downstream construction on the FEMA regulatory floodway.

3. Missouri Department of Natural Resources (DNR).

The DNR provided written comments on January 4, 1993. The DNR's comments primarily concern their desire to expand the environmental assessment of the Section 6(f) replacement lands to further describe the existing environment found on these lands. The corridor level analysis presented in Volume 1, Chapter Three of the Final EIS are sufficient to provide assessment level information for lands identified as replacement lands, as these lands are proximal to the corridors presented and discussed in the Final EIS. Access to replacement parcels will be via contiguous parkland or mitigation parcels or by way of adjoining roadway such as River Valley Road.

The DNR also commented that further discussion is needed regarding probable impacts of additional future development, including acquisition, construction and user impacts upon the replacement land. Potential environmental impacts of future development, construction and user impacts on the replacement land cannot be genuinely discussed herein because the eventual recreational use and disposition of the lands would be under the auspices of the St. Louis County Department of Parks in coordination with DNR and the U. S. Department of the Interior (DOI). The impacts upon the replacement land caused by the acquisition of those lands will be very minimal. A minor loss to city and county tax rolls is expected, but exact figures quantifying that impact are not available. No mitigation to local or county taxing authorities for this loss is proposed and ancillary revenues expected from park visitation given expanded facilities would help offset any loss. The replacement lands

contain limited physical improvements comparable to park facilities (i.e., buildings and outdoor recreation lands), so littering and vandalism are expected to be comparable to current events and expectations in the park and in the area.

The acquisition of the replacement lands will not affect their ability to continue to function as habitat for wildlife. Further, the acquisition will not impact soil compaction. Increased aesthetics will be addressed as the St. Louis Department of Parks furthers the process of planning for the eventual use of the replacement lands for park purposes. Overall drainage systems on the replacement lands and within the roadway project corridor will be maintained essentially as they are. Concerning reclamation of spoiled lands, there are no known or suspected trash dumps, hazardous waste or other deleterious substances on the replacement lands. A borrow area for roadway fill is planned in the mitigation lands west of CCLMP. The location of the borrow area, planned to coincide with the water sports venue, will not affect the usefulness of the land for outdoor recreation purposes. Concerning other potential impacts, there are no project related noise impacts in the lands specified as replacement lands for purposes of satisfying Section 6(f) of the LWCF Act.

The DNR recommends that the Section 6(f) boundary maps be drawn to include all of Section D (located west of Creve Coeur Mill Road) within the Section 6(f) boundary. Their concern centers on the possible bisection of a proposed water sports recreational facility that may be constructed in this area by St. Louis County Parks Department. As currently drawn, the Section 6(f) boundary would leave a portion of the water sports facility outside of the Section 6(f) area, possibly precluding its operation in accordance with LWCF Act requirements. The MHTD and also St. Louis County have no objection to including all of Section D within the Section 6(f) boundary.

DNR notes that the proposed replacement land "when superimposed on the development plan (Figure 6), does not appear to offer sufficient recreational utility." We disagree with DNR on this point. The utility of these lands is to be assessed with the current usage of the converted land. The utility of the converted lands and the replacement lands is comparable. Future use of the replacement lands, as proposed by St. Louis County, is only a projection; the proposed uses are not reflected in the recreational uses of the converted lands displaced by the highway. The development plan just indicates what uses St. Louis County projects for the enhanced park and is not part of this proposal which is mainly for land acquisition. The proposed water sports recreational facility would not be "bisected" to include only a portion of the water venue within the park. The Section 6(f) replacement boundary line reflects land with noise levels comparable to the converted land (i.e., below 57dBA); the area "outside" this "boundary" still would be parkland within CCLMP. The "boundaries" shown within the FEIS would not preclude

the usefulness of those lands for outdoor recreation especially considering the adjoining parklands. Also, judging the utility of the replacement lands on the proposed usage currently shown on Figure 6 of Volume 4 of the FEIS is inappropriate; the lands proposed as replacement lands should have their utility assessed in comparison with the current uses of the converted land. MHTD and FHWA believe that St. Louis County will need to coordinate further development of the enlarged park with DNR and DOI in consideration of the LWCF Act.

MHTD can include certain deed restrictions in the mitigation/non-LWCF lands deeded to CCLMP adjoining the replacement lands to preclude unwanted developments and allow perpetual use as parkland. MHTD also has no objection if St. Louis County wishes to designate other land acquired for mitigation and added to CCLMP as Section 6(f) lands. However, MHTD has identified finite satisfactory Section 6(f) replacement lands as a subset of the park mitigation package. The remaining lands acquired for CCLMP could be developed by the St. Louis County Park Department without the consideration of the strict Section 6(f) conversion requirements. It is not the intent of MHTD or FHWA to provide lands of no recreational utility; at least 600 acres of parkland will be added to CCLMP.

The DNR's concern regarding clarification of design documents, construction plans and specifications for trail and trailheads (hiking/biking) is acknowledged.

4. Eugene M. Schultz.

On January 4, 1993 Eugene Schultz telefaxed a comment letter to Wayne Muri, MHTD Chief Engineer, which had been written to Department of Transportation Secretary Andrew Card. Responses are lettered below to correspond with notations in the attached comment letter.

- A. DNR, not MHTD, submitted the grant application in 1971.
- B. MHTD didn't attempt to influence, nor was it influenced by developers.
- C. The comment refers to a dated comment by the St. Louis County Parks Department.
- D. MHTD did not ask a developer "to do grading work required near Bennington Place in return for subdivision development approval." MHTD has worked with the county assure that development would not occur that might subsequently be demolished by Page Avenue.
- E. Mr. Harry Morley was appointed to the Missouri Highway and Transportation Commission on December 1, 1987,

years after Page Avenue had begun. Mr. Morley's status as a Commission member has had no effect on the selection of the Red Alignment alternate.

- F. The MHTD has been advised by its legal counsel that the proposed action is not illegal in any respect.
- G. Because of a lack of funding, MHTD could not proceed with project development.
- H. The findings mentioned by Mr. Schultz are based on analyses detailed in the FEIS.
- I. Although Section 4(f) is waived, FHWA and MHTD still contend that the Red Alignment is the preferred alternative, considering its total impacts.
- J. Refer to Table 4.27-1 in the FEIS. MHTD works to avoid any displacements and significant environmental impacts in its project development process. Each alternate reflects those considerations. Estimates are not inflated.
- K. Right of way width does vary, especially in interchange, high fill, and deep cut areas and the FEIS addressed impacts in those areas.
- L. Standard procedures were used to develop the models used in the FHWA's computer program STAMINA 2.0/OPTIMA. This program is documented to give predicted highway traffic noise levels within one decibel of what has been measured for similar existing conditions. Almost all state DOT's use this program in their highway traffic noise analysis.
- M. Mr. Schultz mentions Receptor "L"; he has misread Receptor 7. That receptor has been addressed in the FEIS and, given proposed geometrics, there will be no expected increase in existing noise levels there.
- N. Regardless of the right of way width, if studies indicated the need for noise abatement consideration, right of way width would be adjusted to accomodate barriers. No adverse noise impacts are projected in St. Louis County.
- O. Air quality was addressed according to FHWA standards.
- P. See Table 4.27-1 of the FEIS. Also, Chapter 4.27.1 details the estimated river bridge costs.
- Q. All the public had the opportunity to comment at the public hearing.

- R. MHTD has continually strived to receive and address public comments and input in the project development process.
- S. Selection of the Red Alignment considers a host of potential impacts, not just park impacts. The Red Alignment is the least damaging practicable alternative. Park takings caused by highway projects have been evaluated historically on individual bases; any taking from a park is not necessarily illegal.
- T. We question Mr. Schultz's comment about "Thousands of objections to the Red Route..." FHWA requires that an appropriate response be provided to each substantive comment. A separate response to each individual comment received is not required.
- U. (1) We recognize that there is opposition to the Red Alignment but feel that substantial support exists for it.  
(2) The FEIS addresses the history of project development.  
(3) Federal law does not necessarily prohibit the use of parkland for other purposes.
- V. Mr. Schultz is entitled to his opinions. Under our constitutional system of government, Congress has always been able to enact laws which create exemptions to its prior laws, and to the federal court decisions construing them.
- W. We do not believe this is illegal usage of gasoline tax funds. All MHTD expenditures to be made to implement the mitigation plan are done so to comply with federal law, in order to construct the Page Avenue extension as a state highway.
- X. Mr. Schultz is entitled to his charges and opinions. We have considered them and do not agree that they are factually or legally correct.

5. Eugene C. Schwendemann.

Mr. Eugene C. Schwendemann, Presiding Commissioner, St. Charles County Commission, responded with comments on the Final EIS on December 17, 1992. Mr. Schwendemann commented on the implementation of transportation alternative measures now being implemented and those that are to be adopted in the future in the project area. Express bus service is in operation and an enhanced rideshare program is in the process of being adopted.



6. Other Comment Letters.

Other respondents including interested individuals, homeowners, homeowners associations and elected officials provided comments on the Final EIS. A total of 28 other comment letters were received expressing support for the Red Alignment. Two other letters were received from commentators who were opposed to the Red Alignment. No substantive issues were brought out in these other comment letters.

G. Summary.

The selected alternate is the least environmentally damaging alternative for the proposed action and the one which serves the traveling public most effectively. Substantive written responses to the Final EIS are attached.

TABLE 1  
PAGE AVENUE EXTENSION  
BUILD ALTERNATES

PROJECT FOOTPRINT IN WETLANDS\*  
(acres)

<u>Alignment</u>	<u>Wooded Wetland</u>	<u>Scrub-Shrub Wetland</u>	<u>Emergent Wetland</u>	<u>Riverine Wetland</u>	<u>Ponds (Unconsolidated Bottom)</u>	<u>Farmed Wetland</u>	<u>Total</u>
Red	16.7	1.1	---	6.6	1.0	5.7	31.1**
Green	13.8	---	0.9	8.3	6.7	11.0	40.7
Green-Black/Red	17.2	---	---	6.6	0.4	9.2	33.4
Blue/Red	18.7	---	---	6.6	0.4	8.6	34.3
Yellow-Black/Red	17.2	---	---	6.6	0.4	9.2	33.4
Green-Black/Green	17.2	---	0.9	8.3	6.7	13.9	47.0
Green/Green-Blue dashed/ Green	13.8	---	0.8	8.3	0.8	11.0	34.7
Green/Green dashed/ Green	19.5	---	0.9	8.3	1.3	11.0	41.0

WETLANDS IMPACTED AFTER BRIDGING  
(acres)

Red	---	---	---	---	0.4	5.7	6.1
Green	---	---	---	---	6.7	9.9	16.6
Green-Black/Red	0.6	---	---	---	0.4	9.2	10.2
Blue/Red	2.6	---	---	---	0.4	8.6	11.6
Yellow-Black/Red	0.6	---	---	---	0.4	9.2	10.2
Green-Black/Green	0.6	---	---	---	6.7	12.8	20.1
Green/Green-Blue dashed/ Green	---	---	---	---	0.8	9.9	10.7
Green/Green dashed/ Green	5.8	---	---	---	1.3	9.9	17.0

\* Screening level analysis based on examination of National Wetland Inventory (NWI) maps and base wetland photography maintained by the Soil Conservation Service.

\*\* 29.64 acres of wetlands were identified through a jurisdictional wetlands determination conducted during October and November 1992, under the review of the U. S. Army Corps of Engineers (COE). The impacted wetland acreage was further refined to 20.38 acres as contained in the Section 404 permit application to the COE.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101  
December 23, 1992

Mr. Wayne Muri, Chief Engineer  
Missouri Highway and Transportation  
Department  
P. O. Box 270  
Jefferson City, Missouri 65102

Dear Mr. Muri:

RE: Review and Comments on the Final EIS for the Page Avenue  
Extension

We are in receipt of the Final EIS for the Page Avenue Extension project. In accordance with our responsibilities under Section 309 of the Clean Water Act and the National Environmental Policy Act, we have reviewed the subject document. The document responds well to the majority of the concerns delineated in our Preliminary FEIS comment letter, dated November 5, 1992. However, wetlands and indirect/secondary impacts as a result of the proposed project continue to be of concern to the EPA.

We applaud your agreement to be a coordinator with Federal and state agencies regarding future large scale transportation projects in the area. Providing this coordination may allow wetlands and secondary/indirect impacts to be addressed more effectively. We encourage you to work with the East-West Gateway Coordinating Council toward that end.

**SECONDARY/INDIRECT IMPACTS**

We recognize that the project is a controlled access project; however, the interchange located west of Creve Coeur Park as it passes through the Missouri River flood plain will spur development and increase the likelihood of the construction of a connector with the Earth City Expressway. While funding is not now available, there is no question that if the interchange is built, the expressway will follow.

From the outset of this project, EPA has urged MHTD to evaluate the cumulative impacts of secondary growth and development, caused (in part) by the continued expansion of the highway system in the St. Louis/St. Charles area. Our concern is that development is occurring without concurrent planning for the protection of remaining river corridor resources, which means a loss of cultural and natural resources for St. Louis and the state of Missouri. Once again we ask MHTD to take the lead in recognizing the indirect impacts of highway construction, by providing a means of including planning and zoning as a part of the NEPA process and sound highway management. The East-West Gateway

Coordinating Council is an excellent opportunity to exercise leadership in this capacity. Organizing and facilitating a local coalition of St. Louis/St. Charles city and county officials along with local resource groups would be another way to incorporate planing and zoning needs into the metro transportation plan.

We have witnessed growth and expansion of the transportation network in the I-70 corridor over the past few years to include widening and bridging projects on I-70, major construction and bridging of Highway 115, the northern extension of the Earth City Expressway to link up with the 115 project and now the Page Avenue Extension project. Development secondary to each of these projects has occurred within the flood plain every step of the way. In your response in the FEIS to our concerns over this issue, you state; "it [the flood plain] is one of the few remaining areas of flat ground available in the metropolitan area and therefore a prime candidate for some type of industrial or commercial development..." We ask that you take measures to assure the protection of remaining flood plains and their associated values as the areas are developed. We are aware that planning and zoning are a local issue; however the Record of Decision should contain language that causes local officials, MHTD and state resource agencies to participate in the project development process to ensure that the flood plain is not further encroached and that the river resource corridor is maintained consistent with the goals of the State of Missouri.

#### WETLANDS

##### General Comments

In our comment letter of August 1, 1990, we commented that farmed wetlands had not been addressed in the draft Environmental Impact Statement. We find that this issue has still not been adequately addressed in the FEIS. Because these wetlands have not been designated for routes other than the preferred red alignment, we cannot concur with the selection of this alignment as the least damaging alternative for protection of wetland and aquatic resources. By not adequately considering permit requirements under Section 404 of the Clean Water Act during the EIS process, the project stands further delays.

In this regard, we do not believe that the red alignment will comply with the Section 404(b) (1) Guidelines as the least environmentally practicable alternative. If the red alignment does not comply with the Guidelines, a Section 404 permit cannot be issued by the Corps of Engineers. For highway projects, because they do not require siting in wetland areas, less environmentally damaging practicable alternatives are presumed to exist unless otherwise demonstrated. The alternative routes included in the FEIS at the Creve Coeur Lake crossing vicinity show that there are probably less damaging practicable alternatives available based on direct, indirect, and cumulative adverse impacts on the aquatic ecosystem.

Specific Comments  
Section 3.6 "Wetlands"

The paragraph labeled "2. Minimization" is not accurate. The Corps of Engineers/EPA Memorandum on the Section 404(b) (1) Guidelines clarifies what is meant by the term minimization. Minimization does **not** mean solely to minimize encounters with wetlands. It refers to minimizing adverse impacts on criteria such as water chemistry, water circulation and fluctuation, substrate changes, suspended particulate and turbidity, and the function and structure of the aquatic ecosystem.

The secondary and cumulative adverse impacts on the aquatic ecosystem have not been addressed. The aquatic ecosystem includes waterways and wetlands. Adverse water quality impacts to wetlands not directly affected by fill but may be affected by road surface runoff and changes in water circulation and fluctuation should be addressed.

Farmed or agricultural wetlands have only been included for the preferred red alignment. The environmental impacts of the various other alignments cannot be adequately addressed if information on the characterization and quantification of all wetlands is not addressed in the FEIS. The rationale for this is that the Corps would perform a wetland determination only for the final route. This is not acceptable in terms of information needed to evaluate what environmental impacts will occur.

Table 3.5-2 "Vegetative Acreage By Alignment"


The classification of farmed (agricultural) wetlands should be added to this table.

Table 4.27-1 "Impact Evaluation Matrix"

This table should include farmed wetlands.

Region VII would like to be included on the team for wetland mitigation consultation for areas affected by the construction of the Page Avenue Extension. Please contact Ms. Kathy Mulder at (913) 551-7542 for inclusion on the team. If you have any questions, please call me at (913) 551-7286 or Dewayne Knott at (913) 551-7299. Thank you for the opportunity to comment.

Sincerely,



Kerry Herndon, Chief  
Environmental Review Branch

cc: Mr. Bob Sfreddo, Division Engineer-Design, MHTD, Jefferson City, Missouri  
Colonel Wilbur H. Boutin, Jr., U.S. Army Corps of Engineers, Kansas City, Missouri (ATTN: Regulatory Functions Branch)  
Colonel Michael A. Brazier, U.S. Army Corps of Engineers, St. Louis, Missouri  
Mr. Ken Bechtel, Federal Highway Administration, Kansas City, Missouri  
Mr. Jerry Brabander, U.S. Fish and Wildlife Service, Columbia, Missouri  
Mr. G. Tracy Mehan III, Director, Missouri Department of Natural Resources, Jefferson City, Missouri  
Mr. Jerry J. Presley, Director, Missouri Department of Conservation, Jefferson City, Missouri  
Mr. Thomas John Barklage, Missouri Highway and Transportation Commission, St. Charles, Missouri  
Mr. Les Sterman, Executive Director, East-West Gateway Coordination Council, St. Louis, Missouri  
Mr. Eugene C. Schwendemann, Presiding Commissioner, County of St. Charles, Missouri  
Mr. Steven Lauer, St. Charles Planning and Zoning Commission, St. Charles, Missouri  
Mr. Buzz Westfall, County Executive, St. Louis County, Clayton, Missouri  
Ms. Geri Rothman-Serot, St. Louis County Council, Clayton, Missouri



DEPARTMENT OF THE ARMY  
KANSAS CITY DISTRICT, CORPS OF ENGINEERS  
700 FEDERAL BUILDING  
KANSAS CITY, MISSOURI 64106-2896

REPLY TO  
ATTENTION OF:

December 28, 1992

Environmental Resources Branch  
Planning Division

Mr. Wayne Muri  
Chief Engineer  
Missouri Highway and  
Transportation Department  
P.O. Box 270  
Jefferson City, Missouri 65102

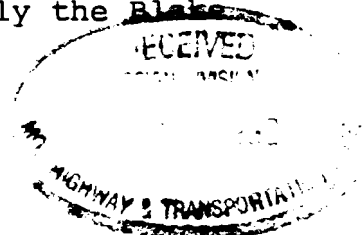
Dear Mr. Muri:

The Kansas City District (KCD), Corps of Engineers has completed its review of the Final Environmental Impact Statement (FEIS) for the proposed Page Avenue Extension Project, St. Charles and St. Louis Counties, Missouri. Approved on November 23, 1992, by both the Missouri Highway and Transportation Department (MHTD) and the Federal Highway Administration (FHWA), the FEIS was provided to KCD by letter dated November 24, 1992. Following our review of the FEIS, KCD offers the following comments for resolution prior to issuance of the Record of Decision.

The following KCD comments, similar to several enclosed in our November 9, 1992, letter addressing the Preliminary FEIS, do not appear to have been adequately addressed:

a. Although Section 3.6 states that agricultural lands were investigated for wetlands, the comparison of alignments given in Table 3-5.2 still does not appear to reflect any agricultural wetland impacts on the various alignments. Even if collected at a later date, information regarding wetland acreages on agricultural land should be a separate listing, by alternative, on Table 3-5.2, "Agricultural Wetland Impacts," with acreages of Cultivated and Pasture-Hay adjusted accordingly. This information will allow a more accurate comparison of wetland impacts for the various alignments.

b. Section 3.6.1, paragraph 2: The referenced Eudora Silt Loam is not a hydric soil, only the Blake

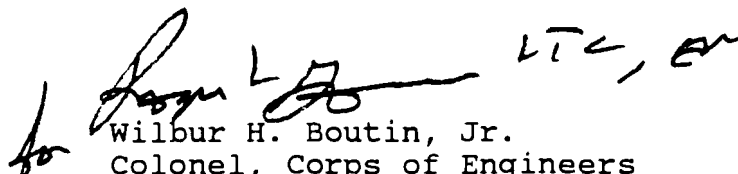


Silty Clay inclusions. It would be more correct to state that "both of these soils are on the Hydric Soils List of St. Louis County, Missouri," rather than stating both soils are classified as hydric.

Commitments made by MHTD and FHWA in the Page Avenue FEIS adequately address the floodway and flood plain comments KCD provided during review of the Draft EIS and Preliminary Final EIS. Execution and completion of these commitments, as listed in Section 4.13 of the FEIS and on pages 151 and 152 of Volume 3 of the FEIS, in the MHTD/FHWA Responses to KCD's November 9, 1992 Comments on the Preliminary FEIS, will satisfy KCD's floodway and flood plain concerns.

If you have any questions or need additional information, please contact Mr. Martin Schuettpelz, of my Planning Division staff, at (816) 426-5063.

Sincerely,

  
Wilbur H. Boutin, Jr.  
Colonel, Corps of Engineers  
District Engineer

Copies Furnished:

Mr. Robert G. Anderson  
District Engineer  
Federal Highway Administration  
P. O. Box 1787  
Jefferson City, Missouri 65102

Mr. Bob Sfreddo  
Division Engineer, Design  
Missouri Highway and  
Transportation Department  
P. O. Box 270  
Jefferson City, Missouri 65102





STATE OF MISSOURI  
DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE DIRECTOR

P.O. Box 176 Jefferson City, MO 65102 314-751-4422

1	Mr. Dir.	1	Mr. Dir.
2	Mr. Asst. Dir.	2	Mr. Asst. Dir.
3	Mr. Asst. Dir.	3	Mr. Asst. Dir.
4	Mr. Asst. Dir.	4	Mr. Asst. Dir.
5	Mr. Asst. Dir.	5	Mr. Asst. Dir.
6	Mr. Asst. Dir.	6	Mr. Asst. Dir.
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11	Mr. Asst. Dir.	11	Mr. Asst. Dir.
12	Mr. Asst. Dir.	12	Mr. Asst. Dir.
13	Mr. Asst. Dir.	13	Mr. Asst. Dir.
14	Mr. Asst. Dir.	14	Mr. Asst. Dir.
15	Mr. Asst. Dir.	15	Mr. Asst. Dir.
16	Mr. Asst. Dir.	16	Mr. Asst. Dir.
17	Mr. Asst. Dir.	17	Mr. Asst. Dir.
18	Mr. Asst. Dir.	18	Mr. Asst. Dir.
19	Mr. Asst. Dir.	19	Mr. Asst. Dir.
20	Mr. Asst. Dir.	20	Mr. Asst. Dir.

January 4, 1993

Mr. Wayne Muri  
Chief Engineer  
Missouri Highway and  
Transportation Department  
P. O. Box 270  
Jefferson City, Missouri 65102

Mr. Robert G. Anderson  
District Engineer  
FHWA Division Office  
P. O. Box 1787  
Jefferson City, Missouri 65102

Dear Mr. Muri and Mr. Anderson:

We would like to offer the following comments on the Final Environmental Impact Statement for the Page Avenue extension project.

Volume 4, page 49, first paragraph under the section regarding LWCF 6(f) replacement land states, "replacement land will be of at least equal or fair market value." It should state, "replacement land will be of at least equal fair market value."

The section regarding 6(f) replacement land on pages 49 and 50 does not include discussion of all the required environmental assessment components. Further discussion is needed to cover the following site characteristics in the description of the existing environment and the implementation of the proposed action:

- Surrounding land use
- Geology and soils
- Fish and wildlife species
- Existing mineral resources
- Water resources
- Air and water quality
- Transportation network (access to replacement parcels)



Mr. Wayne Muri  
Mr. Robert G. Anderson  
January 4, 1993  
Page 2

Further discussion is needed in the following areas regarding the environmental impact of the proposed action on the replacement land. Discussion should also include the probable impacts of additional future development, including acquisition, construction, and user impacts:

- Loss of land from the tax roles (discussion indicates general loss, with no details indicating impact or mitigation)
- Littering
- Vandalism
- Loss of wildlife habitat
- Soil compaction
- Increased aesthetics
- Drainage stabilization
- Reclamation of spoiled lands
- Any other potential impacts

Due to the manner in which the proposed replacement land is depicted, the land shown in Figure 10 as 6(f) replacement land, when superimposed on the development plan (Figure 6), does not appear to offer sufficient recreational utility. The proposed water sports recreational facility would be bisected, with only a portion of the water area inside the proposed 6(f) boundary. The replacement land must offer recreational utility. If a recreational facility is included in the replacement area, it must be a complete, viable facility, so that the entire facility is operated in accordance with LWCF requirements. It would be our recommendation that the boundary lines be redrawn to include all of Section D within the 6(f) boundary.

The first paragraph on page 4-41 needs to be clarified. The sentence, "the trailheads will be designed by DNR and MHTD" should be removed. The last sentence needs to read "design documents, construction plan and specifications for the trail and trailheads will be agreed to by DNR and MHTD."

Thank you for this opportunity to comment.

Very truly yours,

DEPARTMENT OF NATURAL RESOURCES

  
Ron Kucera  
Acting Director

RK:tlj

January 3, 1993

The Honorable Andrew Hill Card, Jr., Secretary  
United States Department of Transportation  
400 7th Street, SW  
Washington, D.C., 20590

Subject: Comments on Preliminary Final Environmental Impact  
Statement (PFEIS), Page Avenue Extension

Reference: 18 November 1992 Letter  
Addressed to Secretary Card, U.S. DOT  
From Wayne Muri, Missouri Highway & Transportation  
Department (MHTD)

Dear Secretary Card:

In the reference cited above, Wayne Muri, MHTD, requested the following actions to be taken by you regarding the Page Avenue Extension Project, Route D, Job Nos. 6-U-803B, 6-U-D-803C, 6-U-D-803D in St. Louis and St. Charles Counties, Missouri.

(1) Waive Provisions of Section 4(f), 23 U.S.C. 138 and 49 U.S.C. 303 pursuant to the provisions of Section 601 of the "Pipeline Safety Act of 1992", P.L. 102-508 as it relates to the Page Avenue Extension Project.

(2) Approve the Preliminary Final Environmental Impact Statement (PFEIS) for the Page Avenue Extension Project as submitted by MHTD.

The residents of Royal Pines Condominiums (165 families) whose property adjoins Creve Coeur Lake Memorial Park (CCLMP) at a point where the proposed Page Avenue Extension penetrates the park, are interested parties in these actions. **WE RESPECTFULLY REQUEST THAT YOU WITHHOLD BOTH OF THE APPROVALS SOUGHT BY MR. MURI UNTIL THE RECENTLY ELECTED CLINTON ADMINISTRATION HAS HAD THE OPPORTUNITY TO REVIEW HISTORICAL AND REQUIRED DOCUMENTATION PRIOR TO ISSUING A RECORD OF DECISION (ROD) ON THIS PRECEDENT SETTING ROAD-BRIDGE PROJECT.**

Delay of these decisions and subsequent review of Page Avenue documentation is appropriate as a result of the following **INCOMPLETE PLANNING AS WELL AS UNORTHODOX/NON-CONFORMING/ILLEGAL AND POTENTIALLY UNETHICAL METHODS** employed by civil servant and political/legislative proponents of the park-penetrating "Red Route" thru Creve Coeur Lake Memorial Park:

## INCOMPLETE AND POTENTIALLY UNETHICAL ROAD PLANNING

- In 1971 Wayne Kennedy, Director of Parks & Recreation for St. Louis County, spearheaded efforts to expand Creve Coeur Lake Memorial Park using Federal Land and Water Conservation Act Funds. On March 9, 1971, he advised the Missouri State Highway Department that "...We will commence the purchase of land required for Creve Coeur Park to the NORTH of the corridor location previously suggested to you by St. Louis County Departments of Highways and Traffic. Federal Grant funds will be used in the purchase of this land."

"We are, of course, aware of recent Supreme Court decisions wherein extreme difficulty has been encountered in crossing parkland with highways." Mr. Kennedy obviously recognized the need to fully coordinate highway and park development plans.

- In the March-May, 1971, timeframe, the Missouri State Highway Department (MSHD - currently known as Missouri Highway and Transportation Department (MHTD), and referred to as such hereafter), and the Missouri Highway Commission (MHC) "waffled" on the inclusion of a Page Avenue Extension Corridor through Creve Coeur Park. Apparently they first submitted the corridor as part of the grant application to the Director, Bureau of Outdoor Recreation, U.S. Department of Interior. Subsequently the corridor was deleted from the application when the U.S. DOI objected based on Section 4(f) DOT Act considerations.

- Under pressure and given indications that the U.S. DOI Bureau of Recreation grant might not be approved, MHTD/MHC agreed to study alternative routes. DOI "...encouraged the Parks Department to seek other routings for the Highway to minimize intrusion on the park". At this point MHTD/MHC was regrettably indecisive when it had the opportunity to reserve a sufficiently wide park avoidance corridor with minimal community/residential/social consequences. Instead, MHTD/MHC procrastinated, yielded to developers, and ultimately got caught in the current "damned if we do/damned if we don't situation."

- In 1972 MHTD began reserving a "possible right-of-way" roughly corresponding to the "Red Route" in spite of the fact that this route was clearly illegal (Supreme Court tested Overton Park case). However, as late as 1987 St. Louis County continued to recommend "...the southern (not the Red) route which has always been the way St. Louis County has envisioned. It works out best according to the County plan and requires no right-of-way replacement."

- D ■ In the period of 1972 through 1987 no real plan or funding was in place for the Page Avenue Extension. Most people felt that the road would never materialize. Real estate developer pressure drove most Page Avenue road placement decisions. One developer was even asked by MHTD to do grading work required near Bennington Place in return for subdivision development approval. He consented. Park avoidance alternatives evaporated as new subdivisions effectively blocked logical routes.
- E ■ During this period the complicity of the Missouri Highway Commission stands out in that at least one member (Harry Morley as MHC Commissioner and a principal of St. Louis home builder Taylor, Morley, Inc. had a direct interest in the outcome of the Red/Green route selection process for Page Avenue, which was finalized by the MHC in November, 1991. The developments of Taylor, Morley, Inc. currently stand in the path of park avoidance alternative routes and adjacent to the Red Route.
- F ■ Since 1987 MHTD continued to "stonewall in support of the Red Route" in spite of the fact that the portion that penetrated Creve Coeur Park was clearly illegal.
- G ■ The St. Louis Metro area's dilemma regarding the Page Avenue Route selection is the direct result of MHTD/MHC failure to make the correct hard choice of the southern route 20 years ago when the time was right and their recent intransigence with respect to the illegal Red Route. MHC membership/leadership conflict of interest has also confounded the road selection process.

**BIASED AND ERRONEOUS FINDINGS**

- The Preliminary Final Impact Statement (PFEIS) presents two findings which support the Red Route:
  - (1) "...the Red Alignment is the only practical alternative."
  - (2) "...There is no practical alternative to the proposed construction in wetlands and the proposed action includes all potential measures to minimize harm to wetlands which may result from such use."
- H ■ Both findings are biased by the MHTD/MHC unsupportable, previously-held "stonewalled positions" in favor of the historically illegal Red Route.

- I
- Both findings are factually erroneous as clearly demonstrated by the consistent positions taken by the U.S. Department of the Interior, the Environmental Protection Agency, the Missouri Department of Natural Resources, and the U.S. Department of Transportation prior to enactment of the Pipeline Safety Act of 1992 (statement by Senator J. Danforth). All have stated that feasible and prudent alternatives to the Red Route exist and consistently point to southern route park-avoidance variants as viable candidates.

- J
- The Red and Green Route river crossings and termination points used in the PFEIS were contrived in such a way that direct comparisons of route-bridge environment impact, costs, and effectiveness are virtually impossible to make. PARK AVOIDANCE ROUTE HOME AND FAMILY DISPLACEMENT ESTIMATES ARE UNNECESSARILY INFLATED IN THE PFEIS AS A RESULT OF SYSTEMATICALLY POOR ROUTE PLACEMENT.

- K
- The 250 ft. width of the Page Avenue Extension corridor is inadequately narrow (poor planning). The road was originally conceived as two lanes in each direction. The road is now conceived as having five lanes in each direction. The minimal corridor width makes the environmental impact on residential areas unbearable and the road concept unworkable.

- L
- Noise and air pollution impacts are grossly under-estimated in the PFEIS and as demonstrated by surrogate/similar site measurements made by MSTD for Royal Pines Condominiums. THE MEASUREMENTS SHOWED THAT GEOGRAPHICALLY EQUIVALENT SITES PRODUCE NOISE LEVELS IN EXCESS OF 70 DBA. The DEIS "placed" noise receptors in the vicinity of Royal Pines/park penetration area and estimated noise levels at this point. MHTD surrogate measurements demonstrated that noise levels predicted by Federal Highway Administration models can be low by more than 10 dB. Road grade and truck power levels were not included in the MHTD model predictions. AT THIS PARK ENTRANCE/EXIT POINT THE TRAFFIC NOISE (PARTICULARLY HILL-CLIMBING TRUCKS) WILL EXCEED THE DESIRED STANDARD OF 57 DBA BY 13 DB (OR A FACTOR OF 20).

M

In the PFEIS, maps show a receptor at a location identified as "L" (Center of Royal Pines). However, no noise data for these receptors is presented in the PFEIS - AN OBVIOUSLY PURPOSEFUL DELETION.

N

SUBSTANTIAL NOISE ABATEMENT ALONG THE ROUTE, PARTICULARLY NEAR ROYAL PINES, WILL BE REQUIRED. HOWEVER, THE PFEIS IDENTIFIES NO NOISE ABATEMENT IN THIS (OR ANY ST. LOUIS COUNTY) AREA. THIS IS A RESULT OF INAPPROPRIATELY RESTRICTIVE NOISE ABATEMENT BARRIER CONSTRUCTION

**GUIDELINES.** Poor route selection and MHTD/Wayne Kennedy's insistence on a minimal-width right-of-way through the park area, and the unnecessary requirement for the road to climb the CCLMP bluff are responsible for this problem.

O Similar bias with CO and NO levels is also apparent in the PFEIS.

P ■ The main body of the PFEIS contains virtually no audit-trail quality cost data for the alternative routes - not even to the level that would allow the reader to sort out river/water crossing bridge costs, land acquisition costs, and road construction costs.

The section 6(f) Volume IV contains some tabulated summary project cost data but still not enough for the reader to determine the cost of such major items as Red and Green Route river bridges, the CCLMP Bridge, elevated roadways, relocation costs, etc.

**POTENTIALLY UNETHICAL AND ILLEGAL PROCEDURES.**

Q ■ The major controversy concerning the Page Avenue Extension Project is centered around the use of parkland in St. Louis County. Virtually no unresolvable opposition to the project exists or was expected from residents of St. Charles. Why then was the combined Design and Route Location Hearing held in St. Charles and the agenda "loaded" with political support for the Red Route? IT IS UNETHICAL FOR STATE CIVIL SERVANTS TO STRUCTURE PUBLIC HEARINGS SPECIFICALLY TO OBTAIN SUPPORT FOR THEIR PRECONCEIVED POSITIONS. THE HEARINGS ARE HELD TO OBTAIN PUBLIC INPUT - NOT FOR "RAILROADING PROJECT DIRECTION."

R ■ The unethical relationship between state civil servants (MHTD) and the political/legislative arm of government is in question. THIS RELATIONSHIP HAS EFFECTIVELY DENIED CITIZENS THE MECHANISM TO BE HEARD (SYSTEMATIC EXCLUSION IN HEARINGS/MEETINGS, ETC.). This relationship has also limited citizen right to review public documents in a timely fashion (i.e. withholding of DOI comments on the DEIS until after MHTD route selection; and delay of PFEIS release to prevent "the chilling effect of public (scrutiny)").

S ■ The employment by MHTD/MHC of a "stonewall support position" for an historically illegal park penetration option (deviating from this approach only when funding is threatened - i.e. federal grants) is procedurally improper.

- T
- Four hundred sixty nine pages of thoughtful comments on the DEIS were provided to MHTD by local residents, organizations interested in preservation of the environment, federal and state responsible agencies, etc. Thousands of objections to the Red Route were summarily dismissed with no substantive counter-argument using no more than a brief phrase. This approach is non-responsive to the public.

- U
- The clearly coordinated MHTD/legislative effort to:

(1) Convince DOI/DOT that overwhelming support for the Red Route exists in the St. Louis Metro Area, when, in fact, it does not.

(2) Convince DOI/DOT that a meaningful/realistic route plan for the Page Avenue extension has been in place for 20 years when, in fact, no such coordinated plan existed.

(3) Take whatever action that was required to circumvent federal law which prohibited use of the park penetrating Red Route.

is improper.

- V
- THE "MIDNIGHT RAPE" OF ST. LOUIS COUNTY RESIDENTS BY MEANS OF THE PIPELINE SAFETY ACT OF 1992 - SECTION 601 WHICH ATTEMPTS TO CIRCUMVENT A SUPREME COURT TESTED FEDERAL LAW IS UNETHICAL AND A VIOLATION OF CITIZENS' DEMOCRATIC RIGHTS TO BE HEARD.

- The politically motivated attempts to convince the Secretaries of Interior and Transportation that :

(1) they should sign-off on the PFEIS based on waiver of 4(f), but not 6(f), and that,

(2) they should concur that the Red Route is the only practical route for the Page Avenue extension and the wetlands (including Creve Coeur Lake/Creek) will be best served by the Red Route

are unethical.

- W
- Finally, an illegal attempt to use gasoline tax funds to implement the mitigation plan in spite of a clear understanding that these funds can be used only to construct roads and bridges is an inappropriate action for state civil servants and legislators.



SUMMARY

MR. SECRETARY, IT IS CRYSTAL CLEAR THAT THE FEDERALLY-FUNDED PAGE AVENUE EXTENSION PROJECT HAS BEEN GROSSLY MISMANAGED BY MHTD/MHC FOR A PERIOD OF TIME EXCEEDING 20 YEARS.

DECISION PROCRASTINATION BY MHTD/MHC HAS COMFOUNDED THE PROBLEM. POTENTIAL CONFLICTS OF INTEREST (OR THE APPEARANCE OF SAME) WITHIN THE MHC ADDS A FURTHER ELEMENT OF POOR MANAGEMENT.

THE USE OF BIASING METHODS IN PREPARATION OF THE DEIS/PFEIS TO SUPPORT SELECTION OF THE ILLEGAL PARK-PENETRATION ROUTES RAISES QUESTIONS REGARDING SUITABILITY OF THE MHTD/MHC STAFF.

THE DEGREE OF COMPLICITY BETWEEN THE STATE CIVIL SERVANTS AND MISSOURI POLITICAL/LEGISLATIVE REPRESENTATIVES FURTHER CONTAMINATES THE PROJECT AND ITS DIRECTION.

THE PLANNED ILLEGAL USE OF GASOLINE TAX FUNDS TO DEVELOP AND ILLEGAL PARK PENETRATION ROAD/BRIDGE PROJECT BEGS FOR THOROUGH PROJECT REVIEW (PARTICULARLY FISCAL)

THE TRUE COSTS OF THE DECADE-LONG PAGE AVENUE EXTENSION PROJECT HAVE YET TO SURFACE. THE COSTS MUST BE EITHER (1) SUBSTANTIALLY UNKNOWN, AND THEREFORE OUT OF CONTROL OR (2) OF SUCH A HIGH MAGNITUDE TO EFFECTIVELY KILL THE PROJECT. BOTH SITUATIONS ARE UNACCEPTABLE.

We respectfully request a delay of the decision process in order to permit a complete technical, legal, and cost audit of this federally-funded project. This review should be conducted prior to approval of the PFEIS or issuance of the Record of Decision (ROD) for the project.

Respectfully,



Eugene M. Schultz

On Behalf of the Residents of  
Royal Pines Condominiums

13185 Royal Pines Drive  
St. Louis, MO 63146

(314) 434-6935 Home  
(314) 233-0535 Office



corridor for the past few years and is operating at 68% capacity. Enhanced bus service is being proposed which will allow St. Charles County commuters access to the new Metro Link light rail system July 1993.

\* An enhanced rideshare program is in the process of being adopted by the East-West Gateway Coordinating Council (the regional Metropolitan Planning Organization) which will benefit St. Charles County residents.


\* St. Charles County, along with the major municipalities within the County, are working together to determine the best possible utilization of Congestion Mitigation and Air Quality funds which will be made available through our Metropolitan Planning Organization.

\* St. Charles County, along with the major municipalities within the County, have provided the funds necessary to conduct an Alternatives Analysis feasibility study. The Federal funds to conduct the study have been appropriated. It is expected the study will commence in early 1993, and will determine the feasibility of extending Metro Link light rail service to St. Charles County.

Many other initiatives are also underway on behalf of efforts to address our transportation needs in St. Charles County. We recognize that in addition to proceeding with the construction of major Missouri river bridge crossings, we must also take other actions to address the transportation needs of the community. We believe that we are taking such appropriate necessary actions. However, in addition to these actions, we believe that it is good public policy to fund and construct the proposed Page Avenue Bridge and Extension.

Thank you for the opportunity to provide the above comments. I look forward to being kept advised of any and all developments regarding this project, which is critically important to the quality of life in the St. Louis/St. Charles County, Missouri area.

Sincerely,

  
Eugene C. Schwendemann  
Presiding Commissioner  
St. Charles County



U.S. Department  
of Transportation

Federal Highway  
Administration

Region 7  
Iowa, Kansas  
Missouri, Nebraska

P. O. Box 419715  
Kansas City, Missouri 64141-6715

**WAIVER OF THE REQUIREMENTS OF "SECTION 4(f)" (23 U.S.C. §138  
AND 49 U.S.C. §303) FOR THE PAGE AVENUE EXTENSION PROJECT**

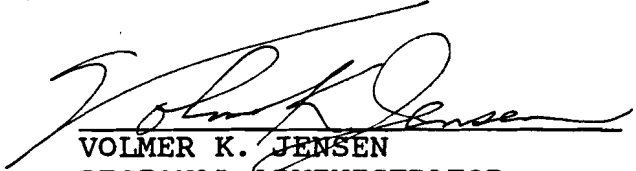
PURSUANT TO THE AUTHORITY GRANTED TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION UNDER THE PROVISIONS OF SECTION 601 OF THE PIPELINE SAFETY ACT OF 1992, P.L. 102-508; THE AUTHORITY DELEGATED TO THE FEDERAL HIGHWAY ADMINISTRATOR IN A FINAL RULE PUBLISHED IN THE FEDERAL REGISTER ON JANUARY 6, 1993; THE AUTHORITY DELEGATED TO ME BY THE FEDERAL HIGHWAY ADMINISTRATOR ON JANUARY 6, 1993, FOR THE PAGE AVENUE EXTENSION PROJECT, AND THE GENERAL DELEGATIONS OF AUTHORITY, I HEREBY MAKE THE FOLLOWING FINDINGS:

1. A FINAL ENVIRONMENTAL IMPACT STATEMENT HAS BEEN COMPLETED BY THE STATE OF MISSOURI AND APPROVED BY THE FEDERAL HIGHWAY ADMINISTRATION FOR THE PAGE AVENUE EXTENSION PROJECT;
2. THE STATE OF MISSOURI HAS ENTERED INTO AN ENFORCEABLE AGREEMENT WITH THE THE FEDERAL HIGHWAY ADMINISTRATION, TO IMPLEMENT A PROJECT MITIGATION PLAN CONTAINING ALL THE MITIGATION MEASURES REQUIRED UNDER SECTION 601 OF THE PIPELINE SAFETY ACT OF 1992, P.L. 102-508;
3. THE STATE OF MISSOURI HAS FORMALLY REQUESTED APPROVAL BY THE FEDERAL HIGHWAY ADMINISTRATION OF THE PAGE AVENUE EXTENSION PROJECT; AND
4. THE STATE OF MISSOURI HAS FORMALLY REQUESTED THE SECRETARY TO GRANT A WAIVER OF THE PROVISIONS OF "SECTION 4(f)" FOR THE PAGE AVENUE EXTENSION PROJECT.

THEREFORE, I HEREBY GRANT A WAIVER OF THE REQUIREMENTS OF "SECTION 4(f)" FOR THE PAGE AVENUE EXTENSION PROJECT FOR THE ALIGNMENT DESIGNATED AS THE "RED ALIGNMENT", AS DESCRIBED IN THE DRAFT ENVIRONMENTAL IMPACT STATEMENT APPROVED BY THE FEDERAL HIGHWAY ADMINISTRATION ON MAY 30, 1990.

DATE

1/6/93

  
VOLMER K. JENSEN  
REGIONAL ADMINISTRATOR  
FEDERAL HIGHWAY ADMINISTRATION

A G R E E M E N T

**FOR CARRYING OUT THE PROVISIONS OF SECTION 601  
OF THE "PIPELINE SAFETY ACT OF 1992", RELATING TO  
ROUTE D, THE PAGE AVENUE EXTENSION PROJECT,  
IN ST. LOUIS AND ST. CHARLES COUNTIES, MISSOURI**

This Agreement is executed by and between the United States of America, represented by the Secretary of Transportation, described herein as the "Secretary", and the State of Missouri, acting by and through the Missouri Highway and Transportation Commission, which agency is described herein as the "Commission".

WHEREAS, Section 601 of the "Pipeline Safety Act of 1992", P.L. 102-508, authorizes the Secretary to waive the requirements of Section 138 of title 23, United States Code and Section 303 of title 49, United States Code, for the "Red Alignment" of the Page Avenue Extension Project, Route D, in St. Louis and St. Charles Counties, Missouri, under certain conditions; and

WHEREAS, one condition of that legislation requires that the State of Missouri enter into an enforceable agreement with the Secretary to implement a project mitigation plan for the Page Avenue, Route D, highway extension project, which agreement must include certain specified elements and may include other requirements of the State at the discretion of the Secretary; and

WHEREAS, the Secretary of Transportation and the Commission, acting for the State of Missouri, desire to enter into such an enforceable agreement as a condition of obtaining the waiver of the above-cited requirements of federal law, and to aid in the approval of the construction of the Page Avenue extension in St. Louis and St. Charles Counties, Missouri, under the limitations and terms of the said Section 601 of the "Pipeline Safety Act of 1992", in order that the State may fund the project with Federal-aid highway funds apportioned to the State, to the extent permitted by law.

It is, therefore, agreed by the parties hereto as follows:

(1) DEFINITIONS:

(A) The term "project" refers to the planned construction of Page Avenue, Route D, as a state highway in St. Louis County and St. Charles County, Missouri, extending from Bennington Place near Route I-270 to Route 40 (planned I-64) in St. Charles County.

(B) The term "Commission" refers to the Missouri Highway and Transportation Commission, an executive agency of the State of Missouri, vested by the state constitution and laws with control of and jurisdiction over the Missouri state highway system, including Page Avenue (Route D) and its planned extension project.

(C) The term "Red Alignment" refers to the broad corridor which was described in the draft EIS approved by the FHWA on May 30, 1990 under that name, which contains the final alignment now proposed by the State for project construction.

(D) The acronyms "EIS" or "FEIS" refer respectively to an "environmental impact statement" or the "final environmental impact statement", prepared for the project and approved by an agency of the U.S. Department of Transportation.

(E) The acronym "FHWA" refers to the "Federal Highway Administration", a component agency of the United States Department of Transportation, the executive offices of which are located at 400 Seventh Street, S.W., Washington, D.C. 20590.

(F) The acronym "ISTEA" refers to the "Intermodal Surface Transportation Efficiency Act of 1991", P.L. 102-240, 105 Stat. 1914-2207.

(G) The acronym "MHTD" refers to the Missouri Highway and Transportation Department, a constitutional department within the executive branch of government of the State, which acts under the direction and approval of the Commission. The MHTD is headed by the Chief Engineer, who is appointed by the Commission.

(H) The acronym "ROD" refers to a "record of decision", which will be issued by the FHWA on the Page Avenue FEIS pursuant to 23 CFR 771.127.

(I) "Secretary", as used in the body of this Agreement, refers to the Secretary of the U.S. Department of Transportation, or when appropriate, his authorized delegate.

(J) "Section 4(f)", as used in the body of this Agreement, refers to 23 U.S.C. Section 138 and 49 U.S.C. Section 303, and the regulations adopted pursuant to those laws.

(K) "Section 601", as used in the body of this Agreement, refers to Section 601 of P.L. 102-508, also known as the "Pipeline Safety Act of 1992".

(L) "State" as used in the body of this Agreement, refers to the State of Missouri, which acts by and through certain of its executive branch agencies and officials with respect to the Page Avenue Extension project, the preparation of its FEIS, and in order to comply with Section 601.

(2) AGREEMENT TO BE EFFECTIVE, WHEN: This Agreement shall take effect and become binding and enforceable upon the parties hereto, and their successors and assigns, immediately upon its execution.

(3) THE PURPOSE OF THIS AGREEMENT: The purpose of this agreement is to comply with the mandate of Section 601, at subsection (a)(2), that "the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan" for the Page Avenue Extension project that includes, at a minimum, all of the elements required by Section 601 to be addressed in this enforceable agreement. This binding agreement also includes, as necessary corollary provisions, the procedures which must be followed by the parties to comply with Section 601 and this agreement; and the binding effect of the agreement and compliance with its terms upon the parties hereto.

(4) OBLIGATIONS OF THE STATE: The State, by and through the Commission, shall meet each of the following Section 601 terms and conditions:

(A) The State by and through the Commission, shall provide for the expansion of Creve Coeur Lake Memorial Park (hereinafter cited in this Agreement as "the Park") within St. Louis County, Missouri, by at least fifty percent of its present acreage of 1,141 acres, through Commission acquisition and addition to the Park of not less than six hundred (600) acres of land. Such action by the Commission shall be taken in cooperation with the responsible county park authorities for St. Louis County, Missouri. All this additional acreage shall be acquired in fee simple title, solely at the expense of the Commission, and shall become the permanent property of the responsible authority having title to St. Louis County, Missouri parks.

(B) The State, by and through the Commission, shall acquire the acreage needed to develop a walking and bicycle path that is not less than ten feet in width, which connects the Park to the KATY Trail State Park in St. Charles County, Missouri. The Commission shall acquire the necessary land for the walking and bicycle path in fee simple title, and shall develop the walking and bicycle path at Commission's expense to be "user ready". That portion of the walking and bicycle path from the Park to the new Page Avenue Missouri River Bridge right-of-way within St. Louis County, Missouri, shall be included as a portion of the property deeded to St. Louis County for the permanent expansion of Creve Coeur Lake Memorial Park. That portion of the walking and bicycle path in St. Charles County, Missouri, from the new Page Avenue Missouri River Bridge right-of-way to the KATY Trail State Park, shall be deeded to the Missouri Department of Natural Resources in fee simple. The Commission shall coordinate with the park authorities identified in this subparagraph in carrying out the actions required of the Commission by this subparagraph.

(C) The State, by and through the Commission, acting in cooperation with the responsible county park authorities for St. Louis County, Missouri, shall construct nature trails in the wooded upland portion of the Park addition referred to in subparagraph (4)(A) of this Agreement. Such trails shall be constructed solely at the expense of the Commission.

(D) The State, by and through the Commission, acting in cooperation with the responsible county park authorities for St. Louis County, Missouri and the Missouri Department of Conservation, shall develop a wetland wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features, in the Park or in one of the additions to the Park referred to in subparagraph (4)(A) of this Agreement. This wetland wildlife area shall be constructed solely at the expense of the Commission.

(E) The State, by and through the Commission, acting in cooperation with the responsible county park authorities for St. Louis County, Missouri, shall dredge Creve Coeur Lake in the course of the acquisition and development of the Park addition described in subparagraph (4)(A) of this Agreement, to help remedy a chronic siltation problem and to promote the fish and wildlife populations in and using that lake. This dredging shall be done in accordance with Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) solely at the expense of the Commission. The material

recovered during the dredging for this Page Avenue Extension project may be used by the Commission for any lawful purpose.

(F) The State, by and through the Commission, acting in cooperation with the responsible county park authorities for St. Louis County, Missouri, shall construct a new lake in one of the additions to the Park referred to in subparagraph (4)(A) of this Agreement, to help alleviate the recurrence of a chronic siltation problem in Creve Coeur Lake. This new lake shall function as a siltation pond which is more easily able to be maintained than is Creve Coeur Lake, to remove the great majority of the accumulated silt from Creve Coeur Creek before it flows into Creve Coeur Lake. This siltation pond lake shall be constructed by the Commission and maintained and operated by St. Louis County. The Commission plans for the design, and the St. Louis County proposed schedule for the maintenance and operation of this siltation pond, shall be subject to pre-approval by the U.S. Fish and Wildlife Service, the Corps of Engineers, the Missouri Department of Conservation and the Missouri Department of Natural Resources. This pre-construction approval process shall assure that the proposed design, maintenance and operation of the new lake serving as a siltation pond shall minimize the disturbance of any existing wetlands to the maximum extent practicable, and in accordance with Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344). The design and construction of this new lake shall be performed at the sole expense of the Commission.

(G) The State, by and through the Commission, shall design and construct the Page Avenue Extension Project features so as to minimize the visual and physical impact of the project in the vicinity of the Park.

(H) The State, by and through the Commission, shall also include within the Page Avenue Extension project mitigation plan such other measures as the Secretary may determine are appropriate to ensure that the environmental benefits of the project mitigation plan exceed the environmental damage associated with the project. The Secretary shall either specify in writing to the Commission his determination of all such other appropriate mitigation measures, or shall specify that there are no other mitigation measures deemed necessary under this provision and Section 601. Therefore, the Secretary's determination that section 4(f) is waived for this project shall constitute his determination that additional mitigation measures, other than those specified, are not required in order to grant such waiver, except as part of his consideration of the recommendations of the Design Committee or as a result of changed circumstances requiring a supplemental environmental document.

(I) The State, by and through the Commission, shall make a monetary contribution as may be necessary to implement the entire mitigation plan, in an amount not less than \$6,000,000, including the payment of not less than \$250,000 for facility improvements in the Park. All funds to develop and implement the mitigation plan shall come from the State Road Fund, established at Article IV, Section 30(b), Missouri Constitution, or from any other non-federal sources of funding available for that work. As it is used in this Agreement, the term "mitigation plan" refers to all properties and



features required by this Agreement pursuant to Section 601, but it does not include any of the other design or construction features or costs of the Page Avenue Extension roadway and bridges, or their appurtenances, not specifically addressed herein.

(5) DESIGN COMMITTEE APPOINTMENT: The Governor of the State of Missouri shall appoint and establish a Design Committee. Those appointees shall serve until the Design Committee has made its recommendations to the Secretary and to the State, acting by and through the Commission. The Governor's appointments shall be made so that this committee is constituted pursuant to, and charged with those duties imposed by, Section 601 and this Agreement.

(6) SCOPE OF WORK OF THE DESIGN COMMITTEE: As directed in Section 601, the scope of the work and responsibility of the Design Committee will be to develop recommendations for the Secretary and the Commission concerning the design and construction features of the Page Avenue Extension project, to minimize the visual and physical impact of that project within and in the vicinity of Creve Coeur Lake Memorial Park.

(7) DESIGN COMMITTEE REPORT:

(A) The Design Committee shall meet regularly until its recommendations have been submitted in writing to the Commission. The Committee shall submit its report no later than June 30, 1994, unless the Commission, solely at its discretion grants the Design Committee an extension of time. If the Committee report is not completed by June 30, 1994, or such later date granted by the Commission, the Commission may summarize the work of the Committee to that date. The summary will become the Design Committee Report.

(B) Upon receiving the report, the Commission shall determine which recommendations it will adopt, and which recommendations it finds to be impracticable.

(C) After making the determination set forth in the preceding subparagraph, the Commission shall submit its determinations to the Secretary, together with the Report of the Design Committee. The Commission may, in its submission to the Secretary, include any additional mitigation measure it would propose, in addition to those specified in the Design Committee Report. If the Commission wishes to do so, before or after submitting its determinations to the Secretary, the Commission may consult with the Design Committee to resolve any differences regarding the mitigation measures proposed. However, the Commission may not require this Design Committee to modify its report before it is submitted to the Secretary.

(D) As soon as practical, after the submission is made to the Secretary in accordance with the preceding subparagraph, the Secretary shall notify the Commission whether he concurs with the Commission's determinations and other proposals. If the Secretary does not concur, he shall set forth his reasons in writing. The Commission may make whatever modifications it wishes to its prior submission and seek the Secretary's concurrence again.

(E) Failure to make the submissions to the Secretary required by this paragraph or to obtain the concurrence of the

Secretary in those submissions will result in a stay of the waiver of Section 4(f) pursuant to paragraph 8(D) of this Agreement.

(8) OBLIGATIONS OF THE SECRETARY: The Secretary shall act directly or by his authorized designate(s) in each of the following respects:

(A) The Secretary shall make his determination of whether or not to grant the State of Missouri a waiver of Section 4(f) requirements pursuant to the provisions of Section 601 as soon as practicable after receipt of a request for such a waiver from the State, acting by and through the Commission.

(B) It is the intent of the parties that the Secretary will act on the request to grant the waiver provided for by section 601(c) before the Design Committee completes its work. The Design Committee Report and subsequent recommendations and proposals shall be dealt with in accordance with paragraph 7 of this agreement.

(C) If the Secretary determines that the project does not comply with all other requirements of federal environmental law that are applicable to the project, including 23 U.S.C. Sections 134 and 135 (as amended by ISTEA Sections 1024 and 1025) and all other requirements of ISTEA, any waiver of the requirements of 23 U.S.C. Section 138 and 49 U.S.C. Section 303 which was granted by the Secretary under the authority of Section 601 shall be stayed pending a determination by the Secretary that the project has been brought into compliance with such other requirements.

(D) The Secretary shall provide the Commission with the funding and approvals for the Page Avenue Extension project to which it would otherwise be entitled at law upon execution of this Agreement and the issuance of this Section 4(f) waiver, if the Page Avenue Extension project FEIS is approved and if the Commission complies with its obligations under this Agreement and Section 601 as well as other applicable Federal laws and regulations.

(9) LIMITATION ON EXPENDITURE OF FEDERAL FUNDS: None of the costs to develop or implement the project mitigation plan referred to in Section 601, and as implemented in this Agreement, shall be considered expenditures pursuant to or in satisfaction of the transportation enhancement requirements of Section 133 of title 23, United States Code (as amended by Section 1007 of ISTEA). However, this provision does not restrict the use of Federal-aid highway funding for the actual design and construction of the Page Avenue roadway and its bridges themselves.

(10) IMPLEMENTATION OF THE PROJECT MITIGATION PLAN REQUIRED BEFORE CONSTRUCTION: To the maximum extent practicable, the State of Missouri, by and through the Commission, will implement the Page Avenue Extension project mitigation plan referred to in Section 601 at subsection (a), prior to the commencement of construction of the Page Avenue Extension project. The parties mutually agree that the appropriate time to review the extent of implementation of the project mitigation plan is at the time of the State's request for the approval of the Plan Specifications and Estimates (PS&E), for the Page Avenue Extension project. At a minimum, those mitigation measures specified in Section 601(a)(2)(A) and 601 (a)(2)(C), by

the acquisition and addition of not less than six hundred acres to Creve Coeur Lake Memorial Park, with construction of nature trails in the wooded upland park additions, shall be completed prior to commencement of construction of the Page Avenue Extension project.

(11) THE PARTIES SHALL FULFILL THEIR OBLIGATIONS UNDER THIS AGREEMENT WITHOUT CHARGE: Each party to this Agreement, and all other persons, agencies, administrations, bureaus, offices, and their employees associated with or employed by such a party, shall perform its duties and obligations under this Agreement without any charge or cost to the other party or those who are associated with or employed by the other party, except where this Agreement clearly specifies otherwise.

(12) NOTICE TO THE PARTIES: Any notice or writing from the Commission or the Design Committee to the Secretary under this Agreement shall be addressed to the following named official, who is designated to receive notices on behalf of the Secretary:

Mr. Gerald J. Reihsen  
Division Administrator  
Federal Highway Administration  
209 Adams Street, P.O. Box 1787  
Jefferson City, Missouri 65102-1787  
Telefax: (314) 636-9283

Any notice or writing from the Secretary or his designate(s) to the Commission, the MHTD, or the Design Committee, under this Agreement shall be addressed as follows:

Missouri Highway and Transportation Commission (or the "Design Committee", as appropriate)  
c/o Wayne Muri, Chief Engineer  
Missouri Highway and Transportation Department  
Capitol and Jefferson Streets, P.O. Box 270  
Jefferson City, Missouri 65102-0270  
Telefax: (314) 751-6555

All notices or writings shall be deemed effective upon receipt by the addressee. Such documents may be transmitted by telefax, as well as regular mail, courier, or express mail service. However, all telefax transmissions must be accompanied by the transmission of a hard copy of the same document by mail, courier or express mail at the same time, to be received within three business days, in order to be effective.

(13) VENUE: Since the Page Avenue Extension project is to be located exclusively within the jurisdictional limits of the United States District Court for the Eastern District of Missouri, the parties expressly agree and consent to that federal district court as the exclusive venue for the filing of any suit or other action for a breach of, or to interpret or enforce, this Agreement.

(14) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the Secretary or his duly authorized delegate, and by a duly authorized representative of the Commission. No party shall be required to execute any amendment to this Agreement, where such amendment is not required by law, as a condition to obtaining project funding.

(15) COMMISSION'S REPRESENTATIVE: The Commission's chief engineer, or those he may so designate in writing to the Secretary, are the Commission's authorized representatives for all purposes under this Agreement.

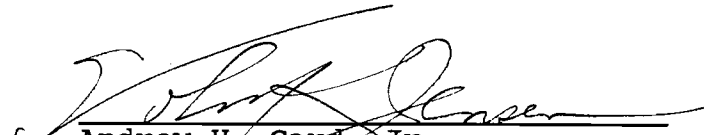
IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the date last written below.

Executed by the Secretary of the United States Department of Transportation this 6th day of ~~November~~, 1992.  
*January 3*

Executed by the Commission this 20th day of November, 1992.

THE UNITED STATES OF AMERICA,  
ANDREW H. CARD, Jr., SECRETARY,  
DEPARTMENT OF TRANSPORTATION

STATE OF MISSOURI, By and  
Through The MISSOURI HIGHWAY  
AND TRANSPORTATION COMMISSION

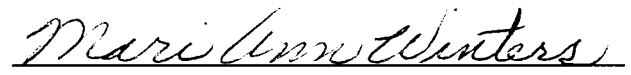
  
\_\_\_\_\_  
Andrew H. Card, Jr.  
Secretary

  
\_\_\_\_\_  
Title: Chief Engineer

Attest:

Attest:


\_\_\_\_\_  
Title: \_\_\_\_\_

  
\_\_\_\_\_  
Title: SECRETARY

Approved as to Form:

Approved as to Form:

  
\_\_\_\_\_  
Counsel

  
\_\_\_\_\_  
Counsel

WAYNE MURI  
Chief Engineer  
RICH TIEMEYER  
Chief Counsel



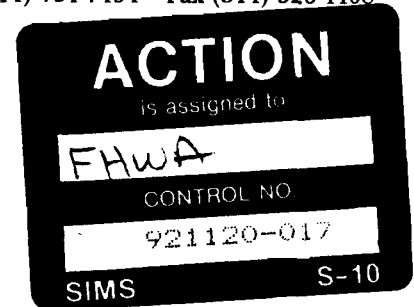
MARI ANN WINTERS  
Secretary

## MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION

Capitol Ave. at Jefferson St., P.O. Box 270, Jefferson City, MO 65102 Telephone (314) 751-7454 Fax (314) 526-4408

November 18, 1992

The Honorable Andrew Hill Card, Jr., Secretary  
U.S. Department of Transportation  
400 7th Street, S.W.  
Washington, D. C. 20590



Dear Mr. Card:

Pursuant to the provisions of Section 601 of the "Pipeline Safety Act of 1992", P.L. 102-508, the Missouri Highway and Transportation Department, on behalf of the State of Missouri and its Missouri Highway and Transportation Commission, requests that you or your lawful designate waive the provisions of "Section 4(f)", 23 U.S.C. 138 and 49 U.S.C. 303, with respect to the Page Avenue Extension project, Route D, Job Nos. 6-U-D-803B, 6-U-D-803C and 6-U-D-803D, in St. Louis and St. Charles Counties, Missouri.

This request is premised on the assumption that you or your lawful designate will approve the final environmental impact statement, which this agency is submitting for your review on this project; and further, that our agencies will enter into an enforceable agreement to implement that project mitigation plan required by Section 601 of the "Pipeline Safety Act of 1992", in accord with the terms of that legislation. The final environmental impact statement which is submitted for your approval is drafted on the assumption that the Section 4(f) waiver, authorized for the Page Avenue Extension project in Section 601 of the "Pipeline Safety Act of 1992", will be granted.

We appreciate your consideration in this matter.

Sincerely,

Wayne Muri  
Chief Engineer

wm/gws/cb

Copies: Thomas D. Larson, Administrator, FHWA  
Volmer K. Jensen, Regional Administrator, FHWA  
Gerald Reihsen, Division Administrator, FHWA

gws/j1-3/waiver