



The comments received from the USFWS on I-73 South were incorporated where applicable. At the time of the FEIS, no decision had been made concerning the use of wildlife crossings. Section 3.15.7 (refer to pages 3-228 through 3-230) includes a discussion pertaining to the potential impact of cell towers on wildlife. Section 3.12.13 (refer to pages 3-181 through 3-184) discusses the applicable BMPs that have been implemented and determined to be successful. A detailed mitigation plan will be developed prior to the Section 404 permit application. The ACT has agreed to develop mitigation based upon the USACE SOP, which will provide guidance in determining the appropriate magnitude and type of mitigation to be performed. Potential noise impacts to resident or transient wildlife populations is included in Section 3.14.4 (refer to page 3-206). A discussion of long term air quality impacts has been added in Section 3.9.3 (refer to pages 3-133 through 3-135).

The current status of the Bald eagle is explained in Section 3.15.4 (refer to pages 3-222 and 3-223).

The text has been modified in Section 3.15.3 (refer to pages 3-213 and 3-214) to include the phrase “jeopardize the continued existence of”.



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VIA EMAIL AND US MAIL

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Mitchell Metts
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Re: I-73 Northern Project Draft EIS; Dillon and Marlboro Counties, South Carolina and Richmond and Scotland Counties, North Carolina

Dear Mr. Tyndall and Mr. Metts,

The Southern Environmental Law Center (“SELC”), on behalf of the Coastal Conservation League, submits these comments concerning the Draft Environmental Impact Statement (“DEIS”) approved by your agencies July 19, 2007 for the portion of proposed Interstate 73 from Interstate 95 in the coastal plain of South Carolina to Interstate 74 in the Rockingham, North Carolina area (“I-73 Northern project”). These comments are intended to supplement the previous comment letters submitted by SELC to your agencies on the I-73 Southern project on March 19, 2004, September 15, 2004, May 5, 2005, August 8, 2005, January 31, 2006, July 28, 2006 and August 31, 2007, which are incorporated by reference.

Introduction

We applaud the efforts of the South Carolina Department of Transportation (“SCDOT”) to pursue the I-73 EIS process with a greater level of agency and public participation than for past projects, by engaging the various federal and state agencies in the Agency Coordination Team process and providing numerous opportunities for public input. We also appreciate the thoroughness of the data collection with which economic, community and environmental impacts are addressed in the DEIS as to potential new location alternatives.

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The DEIS for the I-73 Northern project fails, however, to make a convincing case that the identified preferred alternative (Alternative 2) of a new interstate costing over a billion dollars is the least environmentally damaging alternative to meet the underlying purpose of this project. In fact, the data developed for the DEIS and the companion I-73 Southern Project strongly support the conclusion that at least two other alternatives would be environmentally preferable. These alternatives, consisting of upgrades to either the existing SC 38 or SC 9 corridors, including limited bypasses as necessary of established rural communities along the highway, were not even considered in the DEIS. We believe that detailed study would demonstrate that either of these alternatives would be less destructive to the natural environment, more cost effective and better meet the underlying purpose of the project. In fact, given the limited utility of this project, especially in light of its tremendous cost, the no action alternative may well be the preferred alternative after detailed objective study.

For these reasons, we urge the transportation agencies to prepare a revised DEIS, carefully exploring these other options-alternatives which have not only been considered but actually implemented in other states along the I-73 corridor. Without such study, we do not believe that the EIS can support the issuance of permits for the I-73 Northern project under federal and state law. We urge the FHWA and SCDOT not to rush unnecessarily to finalize the EIS for the I-73 Northern project, especially given that there is no prospect for funding and construction in the foreseeable future.

Detailed Comments on DEIS

The following comments detail our concerns and suggestions regarding the DEIS for the I-73 Northern project:

1. Fundamentally Flawed Purpose and Need

The DEIS states that the project purpose “is to provide an interstate link” between two identified future interstate highway locations. In addition, “system linkage” and “economic development” are identified as the “needs” to be fulfilled by the project. (DEIS 1-11). Secondary needs are identified as tourism access, improved safety on existing roads and multimodal planning. (DEIS 1-12).

The stated project purpose – to build an interstate – essentially restates the specific project desired from the outset by the transportation agencies, rather than identifying the primary underlying *purpose* of the project. As such, it is too narrow to support the consideration of a reasonable range of alternatives as required by the National Environmental Policy Act. It is also insufficient to support the identification and permitting of the least damaging practicable alternative that meets the *underlying* purpose of the project as required under Section 404 of the Clean Water Act. To make matters worse, secondary needs are included in a combination that reinforces the desired outcome of a new location freeway.



The use of portions of existing corridors was evaluated and found to have greater impacts. Existing corridors typically have residences, businesses, churches, and other facilities along both sides. Converting an existing two or four lane roadway to a fully-controlled access roadway requires the construction of frontage roads to maintain access for property owners. This increases the width of the impact corridor. The results of the quantification of potential impacts have consistently been more displacements of residences, businesses, and community facilities, more impacts to existing communities, higher impacts to cultural resources, and greater wetland impacts than the new alignment alternatives.

The DEIS and the FEIS both state:

The purpose of the proposed project is to provide an interstate link between the southernmost proposed segment of I-73 (between I-95 and the Myrtle Beach Region) and the North Carolina I-73/I-74 Corridor, to serve residents, businesses, and travelers while fulfilling congressional intent in an environmentally responsible and community sensitive manner.

This defines the underlying purpose, "...to serve residents, businesses, and travelers...", which is then further defined by the project needs.



The impermissibly circumscribed statement of the project purpose forecloses the consideration of obvious alternatives that must be considered to satisfy NEPA and Section 404. These would consist of various combinations of upgrades to the existing highway network to improve capacity and safety, and support economic development, that would not involve the construction of an interstate in an entirely new location. The reasonableness of this broader approach to the statement of purpose and need for this project, and ensuing wider alternatives analysis, is demonstrated by the fact that such alternatives could easily meet the identified primary needs of system linkage and economic development. In addition, they are compatible with the identified secondary needs of tourism access, improved safety and multimodal planning.

In fact, such alternatives could easily meet these identified needs more effectively, and at a lower cost and impact, than the three new location interstate alternatives considered in the DEIS. For example, safety improvements could be targeted to existing dangerous roadways which locals will continue to travel, especially if I-73 is a toll road, which the interstate will do nothing to improve. Tourism access could be promoted by improvements to major state highways such as SC 9, SC 38 and US 1. Interstate travelers could be routed from the new section I-74 in North Carolina east of Rockingham to I-95 South to the Southern project. It should be noted that of the 10 states contributing the most visitors to the Grand Strand only Ohio residents, and some North Carolinians, would likely pass through Rockingham on I-73/74 rather than using I-95 or some other interstate corridor. (DEIS 1-28). In other words, the DEIS fails to disclose or analyze the fact that most Myrtle Beach tourists would never use this section of I-73.

A passenger rail line is highly questionable in the project area due to low population and anticipated locations of high speed passenger rail now under study as identified in the DEIS. Assuming that passenger rail even makes sense in this area, it is far from clear that it would follow a new interstate corridor. While it may make sense in some cases for rail lines to parallel highway corridors, especially in urban areas, multimodal planning logically would involve consideration of appropriate future rail, transit and para-transit corridors and service areas at other locations. Such a study would also carefully look at using existing rail corridors to lower costs and impacts and to better serve locations such as Bennettsville and Dillon.

In sum, the DEIS statement of purpose is overly specific and loads together a hodge-podge of different needs in an attempt to preordain a new location interstate highway as the only possible solution.

2. Failure to Consider Improvements to Existing Corridors

The I-73 Northern project as proposed would be approximately 40 miles long, cutting through a sparsely developed area consisting mostly of fields, forests and swamps. It will require the filling of 114 acres of wetlands, 24 stream crossings, loss of 1505 acres of farmland and 869 acres of wildlife habitat. By virtue of its design, it would fragment habitat, divide family farms and disrupt local travel especially on rural roads at locations not proximate to planned overpasses and exits. All of these impacts could be



None of the 1,896 preliminary Build Alternatives were eliminated due to failure to meet the primary needs of the project (refer to Section 2.4.2, page 2-11). The use of existing roadways was considered during alternative development (refer to Chapter 2, Section 2.1, page 2-1 and the *Alternative Development Technical Memorandum*) and during refinement of the Preferred Alternative. As explained, the use of existing roadways increased potential relocations to residents and businesses, which would also negatively impact the economics of the area. As stated in Chapter 1, page 1-12, a primary need of the project is to promote economic development.

Section 1.3.6 (page 1-30) includes a discussion of how the project would increase safety on current roads in the project study area. Section 1.3.5 (page 1-28) includes how the project may benefit travel and tourism in the four-county area.

The project seeks to plan for future transit options by preserving a corridor adjacent to the proposed I-73. This corridor could provide a connection between the Southeast High-Speed Rail corridor and the Myrtle Beach region (refer to Section 1.3.7, page 1-32). In addition, the Preferred Alternative will only preserve 100 feet for future multimodal accommodations.



significantly reduced by upgrading an existing highway to interstate standards. Yet the DEIS fails to even discuss this option.

Flowing from the flawed statement of purpose and need, the alternatives analysis is impermissibly narrow to satisfy NEPA or Section 404 requirements. From the inception of the EIS process for the I-73 project, we have strongly urged the SCDOT to carefully evaluate the use of existing highway corridors to be upgraded as a potential corridor for I-73. North Carolina DOT has taken this approach to its sections of I-73 and I-74, as have most of the other states along the I-73 corridor including Michigan, Ohio and part of the project in Virginia. (DEIS 1-1.) As these other states have determined, such an approach could also meet the underlying purpose for the project in South Carolina at a lower cost, with fewer impacts, less controversy and the immediate utility of any completed segments of the I-73 Northern project. Given the uncertainty of funding to complete the project, this approach is especially appealing.

While we are pleased that all proposed routes in the DEIS for the Southern Project make use of SC 22 as the final leg of the project, we are disappointed that none of the three corridors under consideration for the Northern project make any use of existing highway corridors. In fact, there is no explanation in the document as to why such alternatives were not even considered. This shortcoming in the DEIS is even more noteworthy given that there are two major highway corridors in the study area, SC 9 and SC 38, both of which include sections which contain major segments which are four lane divided highways.

3. Failure to Consider No-Build Alternative

Even if its anticipated environmental impacts were to be ignored, the DEIS makes far from a compelling case for the construction of the I-73 Northern project. The DEIS reveals the following:

- The project will cost 1.1-1.2 billion dollars in today's dollars and has no identified funding sources. In fact, a toll road is likely to be necessary to be able to fund the I-73 project, which will sharply reduce its use by 40-70% for interstate and local travelers, respectively. (DEIS 1-31).
- The small minority of travelers using this interstate to reach the Grand Strand will save only approximately 10-15 minutes compared to using existing roads. However, the DEIS fails to explore how travel times could be reduced by spending the billion dollars, or a lesser sum, to improve existing major travel corridors in this part of the State. Nor does the DEIS compare travel times for those who would seek to avoid the tolls and continue to travel on I-74 in North Carolina to I-95 and then to the I-73 Southern project (or to SC 9 for those going to the North Myrtle Beach area). (In fact, if interstate connectivity for tourism traffic is the primary reason for the project, an alternative should be explored that would



The use of existing roadways was considered during alternative development (refer to Chapter 2, Section 2.1, page 2-1 and the *Alternative Development Technical Memorandum*) and during refinement of the Preferred Alternative. As explained, the use of existing roadways increased potential relocations to residents and businesses, which would also negatively impact the economics of the area. As stated in Chapter 1, page 1-12, a primary need of the project is to promote economic development.

Section 2.6.1.1 (page 2-32) discusses the substantial economic benefits arising from the travel efficiencies of the project. The Preferred Alternative potentially generates more benefits than the No-build Alternative or the other reasonable Build Alternatives (refer to Table 2.8 on page 2-33 and Section 2.6.1.2 on pages 2-33 through 2-35).



constitute a North/South connector from I-74 to I-95 between the Maxton and Dillon areas.) The DEIS unfolds as if the parallel I-74 corridor just over the state line does not exist.

- No showing is made in the DEIS that existing highways are or will be at capacity at any time in the future. There is no discussion whatsoever of anticipated LOS loads on the highway network in this part of the State.
- South Carolina has one of the most dangerous highway networks in the country. No comparison is made, however, of how many accidents could be avoided and lives saved by targeting a billion dollars to improve unsafe roads in this part of the State rather than building an expensive, redundant interstate parallel to I-74 just across the border.
- It is unfortunate that Marlboro County is losing population and losing jobs. The DEIS concedes that the interstate will not fix this problem just as I-95 has not reversed economic decline in Dillon County. The DEIS economic analysis reveals that only 500 or so full time permanent jobs will be created by the project in Marlboro County. (DEIS 2-36). Dividing this number into the project cost reveals that a whopping two million dollars will be spent on the highway for every new job created. Surely economic development officials could put the \$1.1 billion to better use than a project that will improve the local economy by only 3-25% of what would otherwise be anticipated. (DEIS 3-27).
- The DEIS fails to calculate the economic loss of 1500 acres of farmland and reduced productivity of farmland that is fragmented by the project. These losses may substantially offset the conceded minor economic benefit of the project. The economic value of lost time by local residents for whom the interstate serves as a barrier should also be calculated and offset from the anticipated gain.

As even a cursory look at the numbers in the DEIS indicates, a detailed cost/benefit analysis would reveal that a new location interstate simply cannot be justified. At most, the other potential approaches suggested here, including smaller scale improvements to existing highway corridors should be evaluated for gradual implementation.

4. Preferred Alternative Not Shown to Be Least Damaging Overall of Three Studied in Detail

Among these new location alternatives studied, the DEIS fails to make a strong case for the identified preferred alignment. As with the I-73 South project, the DEIS analysis of the relative environmental impacts of the various alternatives relies primarily on the potential raw acreage of wetland fill in proposing Alternative 2 as the preferred alternative. Consequently, it gives little weight to other important environmental



A discussion of estimated reduction in average annual daily traffic volumes on local roadways is included in Section 1.3.6 (pages 1-30 and 1-31). Section 2.6.2.1 (pages 2-37 and 2-38) describes the traffic benefits from the Preferred Alternative in vehicle hours traveled and vehicle miles traveled. In addition, the levels of service for the local network are included in the *Traffic Technical Memorandum* on page 26.

On page 1-31 of Section 1.3.6 accident data for the main routes through the project study area are evaluated.

Farm sizes in the project study area range from one acre to over 1,000 acres. As such, it was determined that no divided parcel would be too small to farm (Section 3.10.9, page 3-147). Even though farmland may be split, it may not be removed from active production as it could be kept or acquired by a neighboring farm. Maintaining access to farms or property divided by the Preferred Alternative has been incorporated into the design where feasible.

As discussed in Chapter 2, Alternative 2 was determined in the DEIS to be the Preferred Alternative because it would have the least amount of wetland impacts (114.3 acres), the least impact to total farmland (1,505 acres), the least impact to prime farmland (805 acres), the lowest cost, low relocations, would not directly affect any known historic resources, be in close proximity to existing infrastructure, would be centrally located to serve the communities of the project study area more equally, and is supported by agencies, local governments, and the public.



concerns including overall aquatic impacts, habitat fragmentation and loss of wildlife habitat. Because two of the alternatives studied would have an almost identical level of estimated potential direct wetland impacts (114 versus 116), and Alternative 3 has significantly greater impacts to high quality wetlands, other aquatic and non-aquatic impacts should be given significant weight.

This more comprehensive approach will be necessary for the US Army Corps of Engineers to be able to assess which corridor is the “least damaging practicable alternative” to support the possible issuance of a federal wetlands permit for a new location alternative under Section 404 of the Clean Water Act. The relevant regulation states as follows:

Except as provided under Section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impacts on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

40 CFR Section 230.10(a). As the Section 404 regulations make clear, there are many other factors beyond wetlands that must be considered when comparing impacts to aquatic resources. These include potential impacts to physical, chemical, biological impacts, special aquatic sites and human use. 40 CFR Part 230, Subparts C through F.

Based on the relative magnitude of stream crossings (Alternative 2 has almost double the linear feet of Alternative 3) and overall impacts to wildlife habitat – including fragmentation of important habitat including corridors along these streams to be crossed by the highway, the DEIS fails to make a convincing case for Alternative 2 on environmental grounds. As discussed in detail in prior I-73 comment letters particular attention should be paid to habitat fragmentation, which for a rural new location interstate is often the most pervasive long term environmental impact. The DEIS fails to consider this key factor in the alternatives analysis and fails to give appropriate weight to consideration of alternatives that would limit fragmentation by maximizing the use of, or be routed in close proximity to, existing major highway corridors.

5. Failure to Evaluate and Propose Alternative with Least Overall Impacts for I-73 in South Carolina

The alternatives analysis fails to consider the most important cumulative impact of the Northern project – the location of the Southern project between I-95 and the Myrtle Beach area. Given that the Southern project has a readily foreseeable cumulative impact, a route for the entire section of I-73 in South Carolina should be identified and advanced to permitting that has the least adverse environmental impacts overall. In fact, in connection with the Southern project EIS, the SCDOT prematurely eliminated from consideration the corridor, in the vicinity of SC 9, which the CAT tool selected using SCDOT’s own methodology as having the least overall aquatic impacts for the combined project from the North Carolina state line to SC 22. See Exhibit A, attached.



Section 3.14 (pages 3-206 through 3-212) includes an extensive discussion on potential impacts to wildlife and their habitat, including fragmentation. The impacts to physical, chemical, biological, and human uses are discussed in detail throughout the Chapter 3 of both the DEIS and the FEIS. The comparison between the levels of impacts was documented in Chapter 2 of the DEIS and is contained in Chapter 2 of the FEIS.

The potential cumulative impact from I-73 South (I-95 to the Myrtle Beach Region) has been addressed by applicable resource (Land Use in Sections 3.1.11 and 3.1.12 on pages 3-18 to 3-25; Communities is dispersed throughout Section 3.2 on pages 3-26 to 3-88; Historic Resources in Section 3.6.4 on page 3-106 to 3-109; Farmlands in Section 3.10.10 on pages 3-148 to 3-150; Wetlands in Section 3.12.11 on pages 3-178 through 3-180; Wildlife and Habitat in Section 3.14.6 on pages 3-209 through 3-212; Federally protected species in Section 3.15.7 on pages 3-228 through 3-230; and Water quality in Section 3.17.10 on page 3-261).

As discussed in the I-73 South Final EIS, the ACT decided on December 9, 2004, to not move forward with the corridor in the vicinity of S.C. Route 9 because, relative to other corridors, it had over 100 more acres of wetland impacts, minimal economic development opportunities for Marion County (due to the limited length in that County), and more potential natural resource impacts that could result from the extension of I-73 north of where the alternative would intersect with I-95 (refer to Interstate 73 FEIS: I-95 to the Myrtle Beach Region, Chapter 2 Section 2.5 on page 2-11).



Using the same CAT tool and suitability grid that was used to develop alternatives for the Southern project, a model run was conducted at the request of the South Carolina Department of Natural Resources for the entire corridor. The result is a route that closely follows SC 9 from the North Carolina border to a point along the Conway Bypass near Myrtle Beach. A map depicting this result is attached as Exhibit A. The darkest areas depicted on the map have the highest level of aquatic impacts avoidance.

Conclusion

Given the magnitude of the concerns with the alternatives analysis, we recommend that a supplemental DEIS be prepared addressing the issues outlined in these comments. It makes no sense to rush the EIS to a conclusion for the largest proposed project in the State, especially if that conclusion cannot be supported in the permitting process. We recognize that SCDOT considers I-73 to be important to the continued growth of the tourism industry in the Grand Strand area and the significant political momentum that has been generated for this project in the last several years. The DEIS for the Northern Project reveals, however, that this portion of the I-73 project is particularly questionable from a need, cost and impacts perspective.

We appreciate the opportunity to submit these comments and look forward to continuing to closely follow the EIS and permitting process to a conclusion for this major project that would forever change the landscape of northeast South Carolina.

Sincerely,

J. David Farren
Senior Attorney

Cc:

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The location of each corridor generated by the Corridor Analysis Tool (CAT) is dependent upon the avoidance of features according to the levels of importance as designated by the Agency Coordination Team (ACT), as well as the start and end points selected. For this reason, during the development of potential alternatives, start points were selected in areas with few features and each start point was evaluated with each end point. The map attached as Exhibit A reflects a corridor that would be the least impact corridor (the darker areas indicate high correlation with the low impact corridor) between the two points selected, not necessarily the corridor that would have the least impact overall. That was determined after evaluation of 141 initial corridors developed using all starting and ending points. The fact that the CAT had a route in the eastern part of the study area is due to the selection of the easternmost starting and ending points.

Given the lack of credible issues raised, and especially in light of the significant public and agency input into the development of the purpose and need and the alternatives, it was determined to proceed from the DEIS to the FEIS.



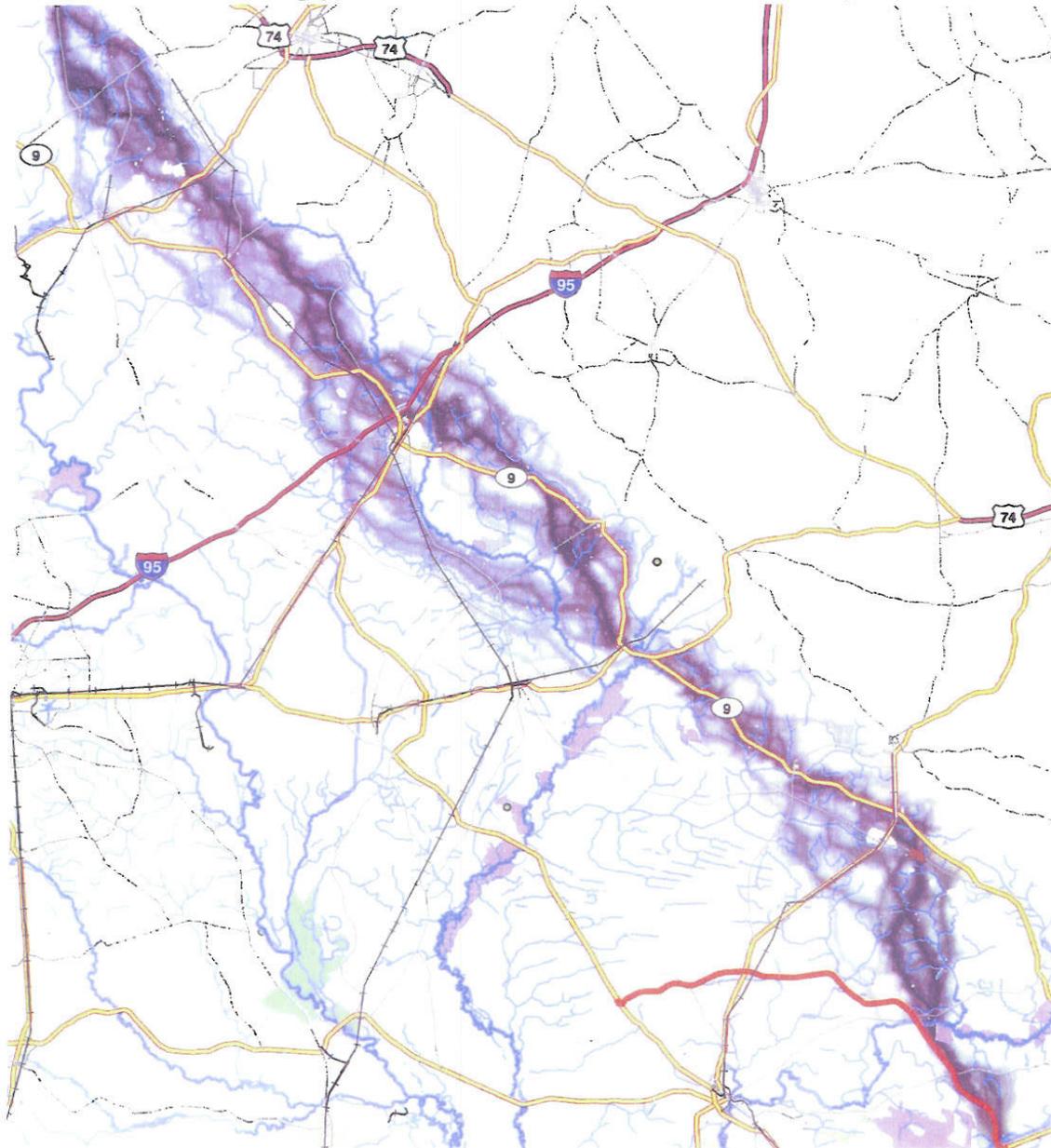
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CAT tool result when run from a starting point at SC 38 near NC and an ending point at the terminus of SC 22 near Myrtle Beach.





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Interstate 73 FEIS: I-95 to North Carolina



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