

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION**

FINDING OF NO SIGNIFICANT IMPACT

For

Delco Lead
New Jersey Transit Corporation (NJ TRANSIT)
North Brunswick Township and City of New Brunswick, Middlesex County, New Jersey

December 2024

Project Description

The New Jersey Transit Corporation (NJ TRANSIT) proposes to construct and operate the Delco Lead project (Project) consisting of a rail vehicle Service and Inspection (S&I) Facility and outdoor storage tracks. NJ TRANSIT acquired 42.6 acres of railroad property and siding access easements from Conrail in 2018, also referred to as “Delco Lead.” In addition, NJ TRANSIT and Amtrak signed a long-term construction and improvement easement agreement in May 2021 that allows NJ TRANSIT to access Amtrak-owned property referred to as “County Yard”.

The Project consists of the following two components and will occur within the existing NJ TRANSIT right-of-way (ROW) and on Amtrak-owned property:

- Construction of a Service and Inspection (S&I) Facility including two indoor storage tracks for 288 train cars, in an existing railroad yard owned by NJ TRANSIT and adjacent to the NEC from mile 33.1 to 37.5 in New Brunswick, Middlesex County, NJ; and
- Construction of improvements to the Delco Lead, including an outdoor facility track for emergency rail car storage for up to 156 rail vehicles. This property is located adjacent to both the County Yard property and the northwest edge of the Northeast Corridor (NEC) in the City of New Brunswick and North Brunswick Township, Middlesex County, NJ. The improvements include removal of an existing freight track and construction of two new tracks (except in the vicinity of the How Lane Bridge) for storage of NJ TRANSIT equipment during severe weather events.

The purpose of the Project is to provide NJ TRANSIT with an S&I Facility and emergency rail car storage at an inland location that is not susceptible to flooding or tree fall, at an elevation that minimizes flood hazard risk. The new S&I Facility will enable the rapid return to service of trains after a storm by allowing FRA-mandated inspections to occur in the same location as the emergency train storage.

Summary of Previous Environmental Review

In November 2014, the U.S. Department of Transportation's Federal Transit Administration (FTA) selected the Delco Lead Train Safe Haven Service and Inspection Facility project to receive funding as a public transportation resiliency project in response to Hurricane Sandy through its Emergency Relief Program under the Disaster Relief Appropriations Act of 2013. FTA selected the Project because it would reduce the risk of damage to transportation infrastructure and operational disruptions from future disasters in the areas impacted by hurricanes. The FTA grant included design, environmental review, pre-construction site preparation and remediation, and some construction activities.

In 2015, FTA and NJ TRANSIT prepared an Environmental Assessment (EA)¹ for the Project as required by the National Environmental Policy Act (NEPA) (42 U.S.C. Section 4321 et seq.) and FTA's NEPA implementing regulations (23 CFR Part 771). As part of the NEPA process, NJ TRANSIT held a public information meeting about the Project on April 15, 2015, at the City of New Brunswick City Hall, NJ. Four public comments were received, none of which included objections to the proposed Project. Review under Section 4(f) of the USDOT Act occurred concurrently with development of the EA. A public comment period on the EA and 4(f) analysis occurred between December 16, 2015, and January 29, 2016. One non-substantive written comment was received.

FTA's EA included an analysis prepared in accordance with Section 106 of the National Historic Preservation Act (Section 106) and its implementing regulations at 36 CFR 800. The Section 106 process concluded that the Project would have adverse effects on the Pennsylvania Railroad Historic District (PRRHD) and several of its contributing resources located within the project area. These historic properties are Mile Run Yard (currently known as County Yard), the County Interlocking Tower, the Delco Lead, Mile Run culvert at Mile Marker 32.61 (Culvert 32.61), and a stone retaining wall. An area in or near the historic Mile Run Yard was also deemed to have "high sensitivity" or potential for discovery of unidentified archaeological resources. Pursuant to Section 106, FTA, NJ TRANSIT, and the New Jersey State Historic Preservation Office (NJ SHPO) executed a Programmatic Agreement (PA) for the Project on September 16, 2015, which includes stipulations to mitigate adverse effects of the Project to these historic properties.

FTA prepared a draft evaluation pursuant to Section 4(f) of the United States Department of Transportation Act (49 USC § 303) and USDOT's implementing regulations (23 CFR part 774) (Section 4(f)) and circulated it with the EA. Concurrent with its FONSI, FTA concluded the Project would result in a use of historic properties protected under Section 4(f) and that there is no feasible and prudent alternative to the Project's use of historic properties, and that the Project with mitigation measures specified in the Section 106 PA fulfilled FTA and NJ TRANSIT's obligation to include all possible planning into the Project to minimize harm to the historic properties. In addition, FTA concluded the Project would not have a use of any other Section 4(f)-protected resources.

FTA completed its environmental review process with a Finding of No Significant Impact (FONSI) signed on February 17, 2016.² FTA determined that pursuant to 23 CFR 771.121 the Project, with the

¹ [DelcoLead_EnvAssessment -Website.pdf](#)

² <https://njtransitresilienceprogram.com/fta-issues-fonsi-delco-lead-project/>

mitigation measures committed to by NJ TRANSIT and specified in the EA and summarized in the FONSI, will have no significant impact on the environment.

Summary of FRA's Re-evaluation of Environmental Circumstances

Since completion of the FTA-led environmental review process in 2016, FRA selected NJ TRANSIT to receive an FY22/23 grant under its Federal-State Partnership (FSP) for Intercity Passenger Rail Grant Program to fund construction of the same scope of work as the project described and evaluated in the FTA-led EA. Because FRA is administering the grant for construction funding for the Project, there is a requirement to validate of the previous environmental review and issue a NEPA decision in order to obligate the FSP grant.

Under 40 CFR §1502.9, FRA must prepare a supplement or a re-evaluation documenting the absence of a need for a supplement. In October 2024, FRA completed a re-evaluation in accordance with 23 CFR § 771.129 to account for the passage of time since the 2016 FTA FONSI and any potential changes in the project scope, environmental setting, and/or environmental impacts of the Project. FRA's re-evaluation concluded that the project scope is unchanged from what was evaluated in FTA's EA/FONSI but that additional analysis was needed regarding protected species, wetlands, and historic properties. Project impacts to all other environmental considerations are unchanged and there have been no changes in the environmental setting from FTA's EA/FONSI. As a result, FRA determined that a supplement EA was not required. A summary of FRA environmental review is provided below.

Historic Properties

Concurrent with FRA's NEPA re-evaluation and pursuant to 36 CFR § 800.2(a)(2), FRA designated FTA the lead Federal agency for compliance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and its implementing regulations (36 CFR part 800) (Section 106) on February 16, 2024. FTA previously concluded that the Project would result in an adverse effect to historic properties, and a PA was executed as noted above. Through meetings in the spring of 2024, FTA, NJ Transit, and the New York State Historic Preservation Officer (NYSHPO), as Signatories to the PA, agreed to extend the duration of the PA beyond the expiration date of September 16, 2025, to address the completed stipulations and any additional work that may need to be completed, and to add FRA as an Invited Signatory to the PA. FTA is leading the effort to amend and extend the PA before it expires.

Freshwater Wetlands

As NJ TRANSIT finalized the Project's design after the 2016 FONSI, 2.94 acres of additional impacts to wetlands within the original project area were identified, for a total of approximately 4.945 acres of freshwater wetlands impacts: 4.91 acres for the Delco Lead component, and 0.035 acre for the County Yard component. Despite this increase in impacts to wetlands, the Project's design complies with the New Jersey Department of Environmental Protection's (NJDEP) Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A) via the NJDEP permits issued for the County Yard (File No 1200-14-0011.2 FWW170001, FHA170001, FHA 170002) and Delco Lead (File No. 1200-14-0011.3 LUP190001). NJ TRANSIT is required by the NJDEP permits to mitigate the wetland impacts. NJ TRANSIT has mitigated for the wetland impacts related to the County Yard improvements through the purchase of 0.032 freshwater wetland mitigation credits from the Cranbury Mitigation Bank and has mitigated the additional wetland impacts associated with the improvements to Delco Lead through Permittee

Responsible Mitigation (PRM) and the purchase of mitigation credits. Final approval of the PRM was issued by the NJDEP Mitigation Unit on March 23, 2023, and will restore and enhance a 19-acre property with freshwater wetlands, riparian zone, and No Net Loss (NNL) tree replacement. The PRM is currently in the planting phase.

Threatened and Endangered Species

As part of FRA's NEPA re-evaluation, NJ TRANSIT accessed the current IPaC Species List in August 2024 (IPaC Project Code: 2024-0122152); the list did not indicate any new ESA-listed species within the project area. In addition, the Bog Turtle is no longer as a listed species as it was at the time of the 2016 FONSI.

There have been no changes to the project scope or environmental setting/conditions. In addition, the active rail corridor creates a low likelihood for the presence of functional, critical, or dependent habitat for protected species within the Project's limits of disturbance; therefore, as part of its NEPA re-evaluation, FRA adopted FTA's 2015 ESA consultation and agreed with FTA's determination of "not likely to adversely affect" federally-listed species.

In September 2022, the US Fish and Wildlife Service (USFWS) proposed listing the tricolored bat, *Perimyotis subflavus*, as endangered, and in July 2023 proposed listing the green floater mussel, *Lasmigona subviridis*, as threatened. However, no final rule for either species has been published to date.

The two species proposed for listing: the tricolored bat and green floater mussel may occur within the project area. In anticipation of these species being listed, FRA submitted information to the USFWS New Jersey Field Office (NJFO) via email on August 16, 2024. On August 23, 2024, the USFWS NJFO recommended that the Project is not likely to jeopardize the continued existence of the tricolored bat or green floater; therefore, ESA Section 7(a)(4) conference is not required. Once a final rule to list the tricolored bat or green floater is published and goes into effect, Section 7(a)(2) requirements for consultation and Section 9 prohibitions against unpermitted "take" of the species will apply. If the Project is not completed prior to the effective date of a final rule to list the tricolored bat or green floater, FRA and NJ TRANSIT should assess the Project's potential impacts and reinitiate consultation with the USFWS NJFO, if remaining project activities 'may affect' the species. Information on the tricolored bat is available at <https://ecos.fws.gov/ecp/species/10515>. Information on the green floater is available at: <https://ecos.fws.gov/ecp/species/7541>.

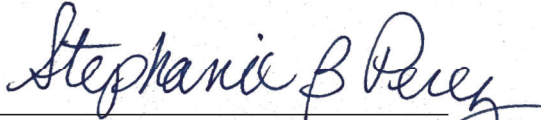
Mitigation Requirements

NJ TRANSIT is responsible for implementing all mitigation requirements identified in FTA's FONSI. In addition, NJ TRANSIT will mitigate the Project's additional 2.94 acres of wetlands impacts through the PRM and purchasing mitigation credits as described above.

Conclusion:

FRA has considered and adopted FTA's EA and performed a NEPA re-evaluation, which was approved on December 6, 2024. FRA has determined the Project, as presented and assessed in the EA, satisfies the requirements of NEPA (42 U.S.C. §§ 4321 et seq.), the Council on Environmental Quality NEPA implementing regulations (40 CFR Parts 1500-1508), and the FHWA/FTA/FRA joint

regulations implementing NEPA (23 CFR Part 771). FRA has determined the Project would have no foreseeable significant impact on the quality of the human or natural environment provided it is implemented in accordance with the commitments identified in FTA's EA, and the additional mitigation identified during FRA's NEPA re-evaluation and included in this FONSI. In addition, FRA, relying on FTA's evaluations, has satisfied requirements under Section 4(f) and Section 106. FTA's EA and FRA's re-evaluation provide sufficient evidence and analysis for FRA to determine that an environmental impact statement is not required for the Project as presented and to conclude its environmental review process with this Finding of No Significant Impact.



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Date

FRA's Office of Program Management prepared this document. For information regarding this FONSI contact:

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