

NEPA ENVIRONMENTAL RE-EXAMINATION WORKSHEET

This worksheet provides directions for sponsoring agencies for providing the Federal Railroad Administration (FRA) with the initial evaluation and information needed to make a determination as to whether design changes or refinements should move forward into a more detailed environmental evaluation process, or whether new information or changed circumstances require a more detailed environmental evaluation as required under the National Environmental Policy Act (NEPA).

Upon submission of this examination worksheet and supporting documentation to the FRA, the FRA can then make an initial determination as to whether to approve the revision request as consistent with current documentation, continue with further environmental examination of the proposed design change or refinement, or to modify or forego the proposed change. If you have any questions regarding the completion of this worksheet, you should contact designated FRA environmental staff to discuss your project change.

DIRECTIONS

Please answer the following questions, fill out the checklists and impact table, and attach maps showing the previously approved design and the proposed design and the impact on project footprint and parcel acquisitions as defined in the previously approved environmental document.

PROJECT TITLE:

Portal Bridge Capacity Enhancement Project

LIST CURRENT APPROVED ENVIRONMENTAL DOCUMENTS (e.g., EIS/ROD, EA/FONSI, RE-EXAMINATION, SUPPLEMENTAL EIS, etc.). If Re-examination, briefly describe.

Title: FEIS **Date:** Oct 2008 **Type and Date of Last Federal Action:** Record of Decision (Dec. 23, 2008 - See Attachment A for ROD. FRA is in possession of the October 2008 FEIS.

Title: NEPA Re-Evaluation **Date:** May 2010 (See Attachment B) **Type and Date of Last Federal Action:** Affirmed Existing ROD (FRA Approval Letter dated Mar 30, 2011 – See Attachment C)

Title: NEPA Re-Evaluation **Date:** Jan 2011 (See Attachment B) **Type and Date of Last Federal Action:** Affirmed Existing ROD (FRA Approval Letter dated Mar 30, 2011 – See Attachment C)

IS THE PROJECT CURRENTLY IN? **PRELIMINARY DESIGN** **FINAL DESIGN**
 CONSTRUCTION **DESIGN/BUILD**

REASON FOR EVALUATION

The ROD and its re-evaluations are more than 5 years old due to delay in construction funding. Since the ROD, the design has progressed, and two re-evaluations of the environmental impacts of the design changes were documented in the 2010 and 2011 NEPA re-evaluations (see Attachment B). This re-examination covers all design changes post-ROD, including those addressed in the prior NEPA re-evaluations. It should be noted that the 2010 and 2010 re-evaluations were full NEPA re-evaluations that comprehensively examined all substantial design changes. This NEPA re-examination references the prior

NEPA re-evaluations, where applicable. It also assesses new circumstances and environmental conditions to document any changes since the 2008 ROD. This NEPA re-examination is being submitted at this time due to FRA's Pre-Award Authority (see Attachment D) and the forthcoming construction contract award.

BRIEF DESCRIPTION OF DESIGN REFINEMENT, NEW CIRCUMSTANCES, OR NEW INFORMATION RELEVANT TO ENVIRONMENTAL CONCERNS (40 CFR 1502.9) -

The New Jersey Transit Corporation (NJ TRANSIT) in cooperation with the Federal Railroad Administration (FRA) and the National Railroad Passenger Corporation (Amtrak) has proposed the Portal Bridge Capacity Enhancement Project to enhance the capacity and improve rail operations across the Hackensack River. The existing Portal Bridge is a two-track moveable swing-span bridge between the Town of Kearny and the Town of Secaucus in Hudson County, New Jersey. It was constructed by the Pennsylvania Railroad in 1907 and began revenue operations in 1910. The existing Portal Bridge poses reliability concerns, capacity constraints, and operational inflexibility. The swing span and the miter rail configuration pose maintenance difficulties and the bridge's low vertical clearance results in severe conflicts with maritime uses.

The goals of the Portal Bridge Capacity Enhancement Project are: to enhance the capacity and improve the operation of the Portal Bridge rail crossing of the Hackensack River; to improve service reliability; to enhance passenger safety and security; to minimize conflicts with maritime traffic; and to optimize existing infrastructure and planned improvements, while minimizing impacts on the surrounding environment. Pursuant to the National Environmental Policy Act of 1969 (NEPA), the Federal Railroad Administration (FRA) and NJ TRANSIT prepared a Final Environmental Impact Statement (FEIS) and Section 4(f) Evaluation in October 2008 to analyze the potential environmental impacts of the proposed project. FRA was the lead federal agency for the EIS. The Federal Transit Administration (FTA), U.S. Environmental Protection Agency (USEPA), and the U.S. Coast Guard (USCG) were cooperating agencies for the environmental review. A Record of Decision (ROD) was published by FRA in December 2008.

The ROD selected a Preferred Alternative which would include a three-track fixed northern bridge, a two-track moveable southern bridge built on a new alignment, and a duck-under structure for a grade separated crossing. In the ROD, the FRA also adopted commitments to minimize and/or mitigate harm from the selected alternative to parklands and open space, historic resources, ecology, coastal zone management and to minimize hazardous materials and construction impacts. Since that time, NJ TRANSIT and Amtrak have completed preliminary and final engineering and secured multiple environmental permits. As the design process evolved, several aspects of the design were modified and improved. These design changes were analyzed for environmental implications through two NEPA re-evaluations, in 2010 and 2011 (see Attachment B). The re-evaluation (validated and reaffirmed by FRA on March 30, 2011, as shown in Attachment C) concluded that the revised design for the Preferred Alternative would not result in any new significant adverse environmental effects. The revised design would neither exacerbate any adverse effects disclosed in the FEIS nor increase the need for mitigation measures discussed in the ROD. In fact, the proposed design changes would reduce some potential impacts in key environmental areas such as wetlands and contaminated materials.

The table below presents a summary of the design milestones and the NEPA chronology.

NEPA Document	Date	Design Level	Notes
Final EIS	October 2008	Conceptual engineering (10%)	<ul style="list-style-type: none"> • 3-track fixed north bridge • 2-track moveable south bridge • Approach structures primarily embankment fill • Acquisition of active business • FRA issued Record of Decision (Dec 2008)
NEPA Re-evaluation	May 2010	Preliminary engineering complete (30%)	<ul style="list-style-type: none"> • South bridge modified to fixed bridge and network tied arch design • Approach structures for north and south bridges were changed from primarily embankment fill to entirely elevated structure, reducing property impacts • Other design refinements to replace embankment with retaining wall and/or elevated structure and reduce property impacts (Landfill 1A and PES) • FRA approved re-evaluation (Mar 2011)
NEPA Re-evaluation	January 2011	Preliminary engineering complete (30%) and begin Final Engineering (North Bridge only)	<ul style="list-style-type: none"> • North bridge modified from 3-track to 2-track fixed bridge • Phased construction, with north bridge constructed first • Documented advancements in permitting and agency coordination • Other design refinements to reduce contaminated materials impacts • FRA approved re-evaluation (Mar 2011)
NEPA Re-examination	August 2016	<p>North bridge – final engineering complete June 2013 (100%, referred to herein as the “final design”)</p> <p>South bridge – remains at preliminary engineering complete (30%)</p>	<ul style="list-style-type: none"> • Design advancements—all heavy civil infrastructure elements; all railroad systems elements; constructability and impact reductions; included state-of-the-art safety, security, and technological advancements • Coordinated with all railroad and local police, along with host community fire and EMS services • Advanced permitting to completion with USACE, USCG, NJDEP, and others

Conclusion

On May 5, 2016, FRA issued Pre-Award Authority, retroactively from April 1, 2016 (see Attachment D) for commencement of work activities related to the TIGER T2015 grant for the acceleration of the construction contract award; specifically, this work has enabled NJ TRANSIT to complete the Bid Phase of Construction Contract, GC.01 and advance to the contract award phase. This is the first of several future contracts for the eventual construction and completion of the new northern bridge alignment. While the design of the northern bridge alignment has not changed since the last NEPA re-evaluation, more than five years has passed since FRA's March 30, 2011 validation and reaffirmation. Therefore, this NEPA re-examination is being submitted at this time to reaffirm the validity of the ROD and to facilitate the extension of the US Coast Guard Section 9 Bridge permit required to commence GC.01 construction. As demonstrated in this NEPA re-examination and its attachments, the final design for the Preferred Alternative (as compared to the 2008 FEIS) would not result in any new significant adverse environmental effects. The final design would neither exacerbate any adverse effects disclosed in the FEIS nor increase the need for mitigation measures discussed in the FEIS and ROD. This re-examination also discusses any relevant changes in circumstances and environmental conditions since the 2008 ROD. As explained in the sections below, the project team did not identify any new circumstances or environmental conditions that would change the conclusions of the FEIS or ROD. The sections below note several additional environmental investigations that have been performed since the 2008 ROD (e.g., archaeological Phase IB testing, contaminated materials Phase II testing), as well as new background conditions that were identified as part of this NEPA re-examination process (e.g. new background air quality attainment designations).

HAVE ANY NEW OR REVISED LAWS, REGULATIONS, OR JURISDICTIONS AFFECTING THIS PROJECT BEEN ISSUED SINCE APPROVAL OF THE LAST ENVIRONMENTAL DOCUMENT? If yes, please explain.

- NO
- YES

As described below, several permits and approvals have been issued for the Portal Bridge Capacity Enhancement Project, including those from the U.S. Army Corps of Engineers (USACE) and the New Jersey Department of Environmental Protection (NJDEP), among others. These permits and approvals address the revised laws and regulations that are applicable to the project, including: USACE Section 10/404 Permit; USACE Nationwide General Permit No.12; USCG Section 9 Bridge Permit; NJDEP Waterfront Development Permit and Water Quality Certificate; and other federal, state, and local approvals. See Attachments E and F for more detail regarding the applicable permits.

WILL THE DESIGN REFINEMENT, NEW CIRCUMSTANCES OR NEW INFORMATION HAVE THE POTENTIAL TO CAUSE A CHANGE IN THE DETERMINATION OF IMPACTS FROM WHAT WAS DESCRIBED IN THE ORIGINAL ENVIRONMENTAL DOCUMENT FOR ANY OF THE AREAS LISTED BELOW? For each impact category, please indicate whether there will be a change in impacts. Please continue to the impact table at the end of this worksheet and for topical areas checked "No" please provide a written explanation of how the conclusion was reached and for topical areas checked "Yes" please provide detailed descriptions of the impacts as initially disclosed, new impacts and a discussion of the changes. Topic areas checked "Not Applicable" or "N/A" do not need additional explanation.

- | | | | |
|-------------------------------|---|-----------------------------|------------------------------|
| Transportation | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Land Use and Economics | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |

Acquisitions, Displacements, and Relocations	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Socioeconomics and Communities	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Environmental Justice	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Visual Resources and Aesthetics	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Air Quality	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Noise and Vibration	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Ecosystems (Vegetation and Wildlife)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Water Resources	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Energy and Natural Resources	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Geology and Soils	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Hazardous Materials and Wastes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Public Services	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Utilities	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Historic, Cultural and Archaeological Resources	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Tribal Lands or Interests	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> N/A
Parklands and Recreation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Construction	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Indirect and Cumulative	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A

Does this change result in the acquisition of properties not identified in the EA/EIS?

Yes No

If yes, explain the change:

Will the design refinement, new information or new circumstances result in revised documentation or determination for permits or other approvals under the following federal regulations?

Endangered Species Act
Magnuson-Stevens Act
Farmland Preservation Act

Yes No
 Yes No
 Yes No

- | | | |
|---|------------------------------|--|
| Section 404, Clean Water Act | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Section 401, Clean Water Act | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Section 408, Rivers & Harbors Act | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Floodplain Management Act | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Hazardous Materials | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Section 106, National Historic Preservation Act | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Uniform Relocation Act | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Section 4(f) Resources | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Section 6(f) Lands | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Wild & Scenic Rivers | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Coastal Barriers | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Coastal Zone | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Sole Source Aquifer | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| National Scenic Byways | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Other: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If you checked “Yes” to any of these, describe how the changes impact compliance and any actions needed to ensure compliance of the project with these updates:

Will these changes in project, circumstances, or other information likely result in any of the following:

- | | | |
|---------------------|------------------------------|--|
| Public Controversy | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Public Outreach | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Agency Coordination | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Tribal Coordination | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Are there any schedule implications associated with these changes?

- Yes No

If yes, explain:

Construction Phase was delayed due to funding constraints.

Will any of these questions result in the need to do further coordination with agencies? Briefly Explain:

Yes, monthly reporting intervals to the FRA during the Grant period and coordination with all permitting agencies in accordance with approved permits.

Please state other considerations not included in the form:

All relevant permits mentioned above (NJDEP, US Army Corps) have been extended. US Coast Guard Section 9 Bridge Permit No. 4-13-1 is in process for an extension.

LIST OF ATTACHMENTS:

- Attachment A - FRA's Original ROD dated December 23, 2008;
- Attachment B - NJ TRANSIT's Cover Letters dated May 20, 2010 and January 2011 requesting a Re-evaluation of the Original ROD dated December 2008 and the corresponding re-evaluation documents referenced in the cover letters;
- Attachment C - The FRA's reaffirmation validity letter dated March 30, 2011 signed by David Valenstein;
- Attachment D - Pre-Award Authority e-mail from FRA dated Thursday, May 5, 2016;
- Attachment E – U.S. Army Corps of Engineers Permit No. NAN-200901222-M1 under Section 10/404 Permit Extension, U.S. Army Corps of Engineers Permit No. NAN-2016-00890-WCA under Nationwide General Permit Number 12;
- Attachment F – New Jersey Department of Environmental Protection Permit Number 0900-09-0005.2 WFD150001, Waterfront Development Permit & Water Quality Certificate;
- Attachment G - New Jersey State Historic Preservation Office, Continuing Consultation Comments (dated January 23, 2013).

Submit an electronic version of this form, attachments, and transmittal letter to the appropriate FRA environmental protection specialist.

Amishi Castelli, Ph.D.
Environmental Protection Specialist
Federal Railroad Administration
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New York, NY 10004-1415

Phone: 617.431.0416

SUBMITTED BY:

The contact person responsible for the complete and accurate description, content, and submission of this document is provided below.

Name: Benjamin J. Suriano, P.E. Senior Program Manager/Project Director New Jersey Transit Corporation One Penn Plaza East Newark, New Jersey 07105 Direct Line: 973.491.8828 E-Fax: 973.232.4710 Mobile: 732.718.5558 E-mail: Bsuriano@njtransit.com	Date: 10 August 2016
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**FOR FRA USE ONLY:
DETERMINATIONS AND CONCLUSIONS**

Based on the environmental re-examination, the attached impact table, and the design features and other measures summarized in this worksheet, FRA makes the following determinations and conclusions pursuant to CEQ regulations and FRA's Procedures for Considering Environmental Impacts (64 FR 28546, May 26, 1999).

Does the design refinement, new circumstances or other information warrant additional environmental evaluation? Yes No

Explain Decision: The information included in this re-examination and the attachments supports the finding that no new circumstances or environmental conditions exist that would change the conclusions of the FEIS or ROD or the previous re-evaluations. Therefore, no additional environmental analysis is required at this time.

Approved by:


Division Chief
Environment and Corridor Planning, FRA

Date: 8-11-16

IMPACT SUMMARY TABLE

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
<i>Example—Water Resources</i>	<i>Initial design included 0.60 acres of new impervious surface for the parking lot.</i>	<i>Modified design changes the striping pattern and results in 0.75 acres of new impervious surface.</i>	<i>YES - The new design results in 0.15 more impervious surface than initially planned.</i>	<i>The change in impervious surface was calculated by comparing the revised PE drawings, dated 10/18/2013, with the PE drawings, dated 5/7/2013, submitted with the EA.</i>
<i>Example— Acquisitions, Displacements, and Relocations</i>	<i>Initial design included 12 property acquisitions (9 acres) - 5 full property acquisitions and 7 partial acquisitions. No residential or commercial displacements are required.</i>		<i>NO</i>	<i>There is no change in property acquisitions as determined through a comparison of the initial design, dated 11/1/2013, and modified design plans, dated 1/15/2014. Design changes impacted a limited area within existing ROW.</i>
Transportation	The FEIS and ROD identified rail and maritime transportation benefits from the project, due to the replacement of the existing moveable bridge, which is more than a century old. The FEIS and ROD described a three-track fixed Northern Bridge and a two-track moveable Southern Bridge (for a total of five tracks).	Yes-as shown in the table above, the Northern Bridge was changed to a two-track fixed bridge and the Southern Bridge was changed from a moveable bridge to a fixed bridge during preliminary design. The 2010 and 2011 NEPA Re-evaluations documented that no new impacts would occur from these design changes. See Attachment B for more information on effects resulting from the design	The higher-level fixed Southern Bridge would require Amtrak and NJ TRANSIT trains to travel on a steeper grade. The design change would benefit marine traffic, as it would entirely eliminate the need for bridge openings.	NJ TRANSIT and Amtrak conducted rail operations simulation modeling throughout the design process, most recently at the conclusion of the final design. This modeling confirmed no adverse impacts to transportation would result from the design changes.

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
		change. No additional impacts to transportation would result from the final design.		
Land Use and Economics	The FEIS and ROD determined the project would not result in adverse impacts to land use, zoning, public policy, or socioeconomic conditions.	The surrounding land uses, public policies, master plans, and demographics have not changed substantially since the FEIS and ROD.	No changes to land use, zoning, public policy, or socioeconomic conditions would result from the final design.	Recent site visits, meetings with relevant agencies (e.g., NJMC/NJSEA), and review of demographic information were used to confirm that conditions in the study area remain largely unchanged.
Acquisitions, Displacements, and Relocations	The FEIS and ROD noted that multiple properties may be fully or partially acquired for the construction of the replacement bridges to allow for the expansion of the ROW and the construction of embankments. Impacts as identified in the FEIS included full and partial takings, including the full taking Diamond Shamrock property.	Yes – As analyzed in the 2010 and 2011 NEPA Re-evaluations, the preliminary design allows for certain buildings and businesses to remain by the use of retaining walls instead of the proposed embankment in these areas. It also eliminated the possible need for the full taking of the Diamond Shamrock property. The preliminary design modified the entire alignment across Diamond Shamrock to be on elevated structure. Therefore, an aerial bridge easement will be used instead of full property taking. The final design would not result in any additional changes to property acquisition beyond what was analyzed in the	The final design would not result in any additional changes to property acquisition beyond what was analyzed in the previous NEPA re-evaluations.	In certain locations, the change from embankment fill to retained fill (i.e., retaining walls) reduced the property impacts. During final design, the acreages of each proposed taking was calculated by survey generating the individual property parcel maps (IPMs) and metes and bounds descriptions.

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
		previous NEPA re-evaluations.		
Socioeconomics and Communities	The FEIS and ROD concluded that the project would not result in any adverse impacts to socioeconomics or community character.	No new impacts.	No.	Through site visits and a review of demographic information, NJ TRANSIT and Amtrak confirmed that the socioeconomic conditions and community character remain essentially unchanged since the FEIS and ROD. The study area predominantly comprises industrial uses, warehouses, Brownfields properties, wetlands, and transportation rights-of-way. No new residential areas have been established since the FEIS and ROD.
Environmental Justice	The FEIS and ROD determined that the project would not result in disproportionately high impacts to minority or low-income communities.	No new impacts	No.	NJ TRANSIT and Amtrak performed site visits throughout preliminary and final design to confirm that no new residential areas have been established since the FEIS and ROD. The design changes would not result in any new impacts to low-income or minority communities.
Visual Resources and Aesthetics	The FEIS and ROD stated that the project would not	Yes - The prior NEPA re-evaluations analyzed the	The conceptual design presented in the FEIS and	Renderings of the twin bridges were produced to

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
	substantially affect the visual character of the study area nor block important views to and from visual resources.	visual and aesthetic consequences from preliminary design, which changed the Southern Bridge from a low-level lift bridge to a higher-level fixed structure (network tied arch). No additional visual or aesthetic changes would result from the final design, and no meaningful changes to the visual landscape in the study area were identified.	ROD included two different bridge types at different heights. As analyzed in the 2010 and 2011 NEPA re-evaluations, the preliminary design was modified to include twin bridges, which will provide more visual congruity in the Hackensack River View Corridor. The revised design for the Southern Bridge would not alter the conclusions of the FEIS and ROD.	assist in the visual assessment. Field surveys were used to confirm that no meaningful changes to the visual landscape in the study area have occurred since the FEIS and ROD. Additionally, NJ TRANSIT and Amtrak have continued to coordinate with NJSHPO throughout preliminary and final design to ensure no adverse visual impacts.
Air Quality	The FEIS included an estimate of pollutant emissions based on capital construction costs and similar transportation projects within the region. It was determined that the estimated annual emission rates of each pollutant would be well below the conformity thresholds. Since the project would not exceed the <i>de minimis</i> thresholds for any criteria pollutant either during construction or operation, it would therefore satisfy General Conformity requirements. The project	No new impacts.	The revised design would not result in any changes to emissions.	The air quality analysis (including construction costs, estimated pollutant emissions, and projected ridership changes) performed for the FEIS was reviewed to ensure applicability with the final design. Background air quality conditions were also reviewed during final design to assess changes, and again during this NEPA re-examination process. Since the FEIS, Hudson County's attainment status for PM2.5 has changed from non-attainment to maintenance. This does not affect the

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
	<p>would not increase the number of peak hour trains or measurably reduce vehicle miles traveled in the region. The FEIS therefore concluded the project would not result in a measurable effect on air quality.</p>			<p>conclusions of the FEIS and ROD.</p>
Noise and Vibration	<p>Portions of the Laurel Hill Park expansion parcel near the NEC would be subject to moderate and severe noise impacts under all alternatives, including the No Action Alternative.</p>	<p>Yes - The preliminary design entailed the use of structure requiring driving piles at specific pier locations in lieu of embankment fill with surcharging. As documented in the prior NEPA re-evaluations, this design change may result in greater short-term noise levels in the vicinity of the Janatex and Diamond Shamrock properties. However, there are no sensitive receptors in the vicinity of this construction and ambient noise levels are already elevated in the area due to the presence of the NEC and NJ TRANSIT and Amtrak operations.</p>	<p>The final design would not result in any additional changes in noise or vibration impacts.</p>	<p>NJ TRANSIT and Amtrak performed field surveys throughout preliminary and final design, as well as during this NEPA re-examination process. No new sensitive receptors (schools, residents, etc.) were identified. The major noise sources identified in the original FEIS (rail and highway noise) are still dominant sources of background noise.</p>
Ecosystems (Vegetation and Wildlife)	<p>In the FEIS and ROD, the preferred alternative was estimated to require the filling</p>	<p>Yes, As stated in the prior NEPA re-evaluations, the preliminary design drawings</p>	<p>As compared to the FEIS and ROD, the preliminary design reduced impacts to waters and</p>	<p>The permits described above (NJDEP, USACE, etc.) required extensive ecological</p>

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
	of 5.7 acres of wetlands and 0.8 acres of open water for a total of 6.5 acres. The FEIS also concluded that no long-term adverse impacts to water quality or stormwater would result, and identified several terrestrial and aquatic species known to be present within the study area.	were submitted to NJDEP, USACE and USCG in support of their respective permit applications, documenting impacts to 3.1 acres of wetlands, 1.2 acres of tidal and sub-tidal shallows and 0.6 acres of open water for a total of 4.9 acres of impact. Since the FEIS and ROD estimates did not distinguish sub-tidal shallows as a separate category only the total numbers are relevant.	wetlands from 6.5 to 4.9 acres (reduction of 1.6 acres). No additional impacts to wetlands, water quality, aquatic species, or terrestrial species resulted during the progression from preliminary design to final design.	field surveys and detailed calculations of the revised design's temporary and permanent impacts to wetlands and open water. The data used to support the permits was compared against the estimates provided in the FEIS to determine the change in impact. The permits implement the construction work windows and mitigation measures that were conceptually described in the FEIS and ROD as project commitments.
Water Resources	The FEIS and ROD disclosed that the project would require construction in the 100-year floodplain. It concluded the project would not result in any long-term adverse impacts to water quality or stormwater in the study area or alter the flow characteristics of the Hackensack River.	Yes – As described in the prior NEPA re-evaluations, the preliminary design replaced filled embankment with viaduct structure in some locations. This change reduces the overall amount of fill that would be placed within the floodplain. During final design, NJ TRANSIT and Amtrak evaluated the project in light of post-Sandy flood elevations. One communications equipment support slab at the westernmost project limit was raised one foot above the	The final design does not change impacts to water resources, beyond what was previously analyzed as part of the prior NEPA re-evaluations.	The NJDEP Waterfront Development Permit required a comprehensive analysis of stormwater management and floodplains, which was compared to the stormwater and floodplain analysis in the FEIS. As stated under “New Impacts,” NJ TRANSIT and Amtrak evaluated the entire project corridor to evaluate the need for design adjustments based on post-Sandy conditions. Executive Order 13690 (Establishing a Federal Flood Risk Management Standard and a

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
		newly established flood elevation.		Process for Further Soliciting and Considering Stakeholder Input) was issued in 2015, updating approaches for establishing the flood elevation and hazard area used in siting, design, and construction. While USDOT does not yet have approved guidance for implementing EO 13690, as part of final design and this NEPA re-examination, NJ TRANSIT and Amtrak reviewed the project plans to confirm that no significant adverse impacts to floodplains would result from the project.
<p>Energy and Natural Resources*</p> <p><i>*Note: While the term “natural resources” is used in this context to refer to energy-related resources such as oil, the EIS and ROD use the term to refer to ecological systems (wetlands, forests, etc). Please see the “Ecosystems” sections above.</i></p>	<p>The FEIS and ROD determined the project would not increase the number of peak hour trains or measurably reduce vehicle miles traveled in the region. The FEIS therefore concluded the project would not result in a measurable effect on energy and the consumption of natural resources such as oil.*</p>	No new impacts.	No change in impacts.	The rail operations simulation modeling discussed above confirmed no increase in the number of peak hour trains, and confirmed the conclusions of the FEIS and ROD.

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
Geology and Soils	The FEIS and ROD described disturbance to subsurface soils, as explained below in “Hazardous Materials and Waste”.	Yes – As detailed in the previous NEPA re-evaluations, the preliminary design lessened disturbance to subsurface soils, as explained below.	The preliminary design involves less disturbance to subsurface soils than what was presented in the FEIS and ROD. This is due to a reduction of fill material resulting in less impact and compression of the subsurface soils. The final design does not generate any additional changes to geology and soils.	During the preliminary and final engineering phases, an extensive geotechnical boring program was implemented to assess and identify all subsurface strata including depth and type of rock. This investigation confirmed the background environmental conditions. The use of elevated structure in the final design, rather than embankment fill (as identified in the FEIS and ROD) reduces the need for consolidation of soils in the contaminated areas.

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
Hazardous Materials and Wastes	The FEIS and ROD concluded that the project would entail subsurface disturbance in areas with a known degree of contamination, including chromite ore processing residue sites such as the Diamond Shamrock property. To prevent exposure pathways, the project would include appropriate health and safety and investigative/remedial measures in consultation with the appropriate regulatory agencies.	In terms of the changes since the FEIS and ROD, as analyzed in the prior NEPA re-evaluations, the preliminary design reduced adverse effects during construction on the Diamond Shamrock (Southern Bridge) and Janatex (Northern Bridge) properties. These properties are undergoing remediation by the site owner. The original conceptual design presented in the FEIS and ROD had embankment fill for the tracks approaching the Northern and Southern Bridges. The preliminary design replaced the embankment fill with elevated structure supported by deep foundations.	As described in the prior NEPA re-evaluations, the preliminary design involves less disturbance to contaminated materials than what was presented in the FEIS and ROD. The final design does not result in any additional impacts to hazardous materials.	During the preliminary and final design phases, site investigations were completed for all affected parcels. Based on these investigations and the supplemental research performed as part of this NEPA re-examination, no additional contaminates sites were identified, beyond those in the FEIS and ROD. Additionally, coordination with NJDEP Site Remediation has continued throughout design.
Public Services	The FEIS and ROD did not identify any impacts to public services, such as fire and police services.	The final design added various safety and security measures, such as strengthened fender and dolphin systems, motion detectors, and provisions for CCTV cameras. There are no physical attributes that would result in additional	No change in impacts	The project team developed a Safety and Security Plan during the final design phase and incorporated comments and requirements from NJ TRANSIT, Amtrak, and local police and emergency management services. The input from this effort created a

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
		environmental impacts.		robust safety and security protocol for any incidents during long-term revenue operations.
Utilities	The FEIS explained that the project would require relocation of Amtrak's 138kV transmission lines, and relocation of other utilities would be coordinated with the utility providers to minimize service disruptions.	No new impacts.	No change in impacts.	Ongoing coordination with Amtrak and other utility providers.
Historic, Cultural and Archaeological Resources	The FEIS and ROD determined the project would involve modification of an area sensitive for human remains and funerary archaeological artifacts relating to the Historic Cemeteries of Hudson County. The project would also have an adverse effect to the existing historic Portal Bridge and other historic resources (see Attachment B). A Memorandum of Agreement among FRA, NJHPO, Amtrak, and NJ	As detailed in the prior NEPA re-evaluations, the preliminary design would not result in any new historic or archaeological impacts. The Phase IB archaeological testing program was implemented and confirmed that the burials associated with the Historic Cemeteries of Hudson County do not appear to extend into the area of potential effect.	No changes in impacts.	As explained in Attachments B and G, a Construction Protection Plan, an archaeological Phase IB, an Unanticipated Discoveries Plan, and other cultural resources documents were submitted to and approved by NJHPO (in accordance with the signed MOA).

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
	TRANSIT was signed prior to issuance of the ROD.			
Tribal Lands or Interests	The FEIS did not discuss tribal lands because none were identified.	NA	NA	NA
Parklands and Recreation	The FEIS and ROD explained that the project would require the acquisition of 2 acres of a 14.9 acre parcel conceptually planned for an expansion of Laurel Hill Park.	No new impacts	No changes in impacts.	During final design, the acreages of each proposed taking was calculated by surveys generating the individual property parcel maps (IPMs) and metes and bounds descriptions. This confirmed the conclusions of the FEIS and ROD with respect to parklands and recreational resources and Section 4(f). Additionally, as stated above, NJ TRANSIT and Amtrak performed field surveys during final design and as part of this NEPA re-examination and no new parks or recreational resources were identified.
Construction	The FEIS and ROD stated the project has the potential to result in temporary adverse impacts during the construction period, including open space, wetland and water	Yes – The 2010 NEPA re-evaluation explained changes to planned construction platforms in various locations. These changes did not result in any additional impacts. As	The overall construction schedule will be longer than presented in the FEIS and ROD due to phased funding and construction of the Northern and Southern	NJ TRANSIT and Amtrak performed a constructability assessment during final design, including an evaluation of construction phasing, scheduling, staging,

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
	resources, cultural resources, noise, and contaminated material effects. These construction-related impacts (such as dust and elevated noise levels) would be temporary and minimized to the extent feasible by the adoption of specific mitigation measures. The FEIS and ROD envisioned the simultaneous construction of the Northern and Southern Bridges.	documented in the prior 2011 NEPA re-evaluation, a phased approach to the project was developed after the FEIS and ROD. The preliminary design involves sequenced construction of the Northern and Southern Bridges, which was addressed in the 2011 reevaluation. Due to funding, the Northern Bridge will be constructed first. While the total construction period would be greater, construction activities would be less intensive than envisioned in the FEIS and ROD.	Bridges. The final design does not change construction impacts, beyond what was described in the prior NEPA re-evaluations.	and likely equipment. The assessment confirmed that no additional significant adverse construction impacts would occur.
Indirect and Cumulative	The FEIS and ROD described the project’s potential to result in indirect and cumulative effects, such as the cumulative impacts to wetlands within the New Jersey Meadowlands District, and the cumulative benefits to rail transportation (in combination with the Access to the Region’s Core Project [ARC]).	Yes – As described in the prior NEPA re-evaluations, the project-related wetland impacts have been reduced as compared to the FEIS and ROD. The final design would not result in additional changes to wetland impacts.	Changes to the project during preliminary and final design would not result in any additional secondary and cumulative impacts from the project. In fact, the revised design and reduced impacts to wetlands would lessen the potential for cumulative impacts to the ecological resources of the New Jersey Meadowlands. Since the time of the FEIS and ROD, the ARC project was cancelled. Nonetheless, Amtrak’s Gateway Program and other	The wetland impacts were calculated and refined through the permitting process, described above. With respect to cumulative transportation benefits, NJ TRANSIT and Amtrak continually coordinate planned projects along the NEC to avoid adverse impacts and optimize benefits.

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts	Explanation of How Conclusion was Reached
			<p>NEC improvement projects, together with the Portal Bridge project, are expected to result in an overall cumulative transportation benefit. Additional capacity along the NEC would likely result in some adverse effects, such as increased noise levels, as well as benefits, such as decreased vehicle miles traveled, reduced energy consumption, and improved regional air quality.</p>	
Other	NA	NA	NA	NA

ATTACHMENT A

ATTACHMENT B

Chris Christie, Governor
Kim Guadagno, Lieutenant Governor
James S. Simpson, Board Chairman
James Weinstein, Executive Director

N TRANSIT
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973-491-7000

May 20, 2010

David Valenstein
Federal Railroad Administration
1200 New Jersey Ave SE
W38-303
Washington, DC 20590

Re: NEPA Reevaluation for the Portal Bridge Capacity Enhancement Project
Record of Decision dated December 23, 2008

Dear Mr. Valenstein:

Following your recent conversation with Mr. Thomas Schulze of NJ TRANSIT, enclosed is a NEPA Reevaluation for the Portal Bridge Capacity Enhancement Project. As you are aware, FRA issued a Record of Decision for the project on December 23, 2008, based on the Final Environmental Impact Statement (dated October 2008). Since that time, NJ TRANSIT and Amtrak have proceeded with preliminary engineering and are now in the final design stage. The NEPA Reevaluation serves to update FRA about several important design elements that have changed since the Record of Decision. As concluded in the document, these design changes will not result in any increased environmental impacts.

Should you have any questions about the enclosed document or require additional information about the status of the project, please do not hesitate to contact me at 973-491-8971.

Sincerely,



Nicholas L. Marton, Project Director
Portal Bridge Capacity Enhancement Project

Attachments

Cc: S. Santoro, NJT
J. Mesure, NJT
C. Ingoglia, NJT
R. Cross, Portal Partners

Portal Bridge Capacity Enhancement Project—NEPA Reevaluation

A. INTRODUCTION

New Jersey Transit Corporation (NJ TRANSIT) in cooperation with the Federal Railroad Administration (FRA) and the National Railroad Passenger Corporation (Amtrak) has proposed the Portal Bridge Capacity Enhancement Project to enhance the capacity and improve rail operations across the Hackensack River. The existing Portal Bridge is a two-track moveable swing-span bridge between the Town of Kearny and the Town of Secaucus in Hudson County, New Jersey. It was constructed by the Pennsylvania Railroad in 1907 and began operation in 1910. The existing Portal Bridge however, poses reliability concerns, capacity constraints, and operational inflexibility. The swing span and the miter rail configuration pose maintenance difficulties and the bridge's low vertical clearance results in severe conflicts with maritime uses. The goals of the project are: to enhance the capacity and improve the operation of the Portal Bridge rail crossing of the Hackensack River, to improve service reliability, to enhance passenger safety and security, to minimize conflicts with maritime traffic and to optimize existing infrastructure and planned improvements, while minimizing impacts on the surrounding environment.

Pursuant to the National Environmental Policy Act of 1969 (NEPA), the Federal Railroad Administration (FRA) and NJ TRANSIT prepared a Final Environmental Impact Statement (FEIS) and Section 4(f) Evaluation in October 2008 to analyze the potential environmental impacts of the proposed project. FRA was the lead federal agency for this EIS. The Federal Transit Administration (FTA), U.S. Environmental Protection Agency (USEPA), and the U.S. Coast Guard (USCG) were cooperating agencies for the environmental review. A Record of Decision (ROD) was published by FRA in December 2008. The ROD selected a Preferred Alternative which would include a three-track fixed northern bridge, a two-track moveable southern bridge built on a new alignment, and a duck-under structure for a grade separated crossing. In the ROD, the FRA also adopted commitments to minimize and/or mitigate harm from the selected alternative to parklands and open space, historic resources, ecology, coastal zone management and to minimize hazardous materials and construction impacts.

Preliminary engineering for the project, which began in September 2008, has recently been completed. The design specifications, construction plans, and cost estimates prepared during preliminary engineering have included changes to the project since the publication of the ROD. The purpose of this re-evaluation is to determine if the aforementioned design changes would result in significant adverse environmental impacts not identified in the FEIS and whether additional NEPA documentation is required.

B. LIST OF CHANGES

As described below, the design changes to the Preferred Alternative include changes to the main river structures, tracks and embankments, and construction access.

MAIN RIVER STRUCTURES

The conceptual design of the FEIS Preferred Alternative included a three-track fixed northern bridge, and a two-track moveable southern bridge, built on new northern and southern alignments respectively. In the FEIS design, the northern bridge would consist of three simply-supported steel through trusses. The truss main members would be welded closed-box shapes. The main center span would be 414 feet long and the two flanking side spans would each be 346 feet long, resulting in a total structure length of 1,106 feet. The height of each North Bridge truss span would vary from 50 feet high at the ends to a maximum of 60 feet high at the middle of the span (measured from the centerline of the bottom chord to the centerline of the top chord). The highest point of the northern bridge would be 115 feet above mean high water (MHW). The northern bridge would be 51 feet in width, as measured from center of truss to center of truss.

The FEIS concept of the southern bridge included a two-track moveable bridge design. The main span would be a vertical lift through truss and the two flanking side spans would be simply-supported fixed-span through trusses. The length and height of the truss spans would be the same as those of the northern bridge. The highest point of the southern bridge would be 110 feet above MHW in the closed position and 115 feet above MHW in the open position. The bridge would be 37 feet in width as measured from center of truss to center of truss.

Subsequent to issuance of the ROD, Amtrak and NJ TRANSIT began the preliminary engineering phase of the project. Additional field surveys and coordination with the U.S. Army Corps of Engineers (USACE), USCG, and the National Oceanic and Atmospheric Administration (NOAA) were conducted as part of the preliminary engineering efforts. Furthermore, a new structural design was developed (i.e. a network tied arch) that resulted in a shallower deck increasing the clearance between mean high water (MHW) and the bottom of steel. This updated design indicated that it would be possible to construct a fixed bridge on the southern alignment and still maintain acceptable operating grades. Since a fixed bridge would be preferable to a moveable bridge and would eliminate bridge openings, the project design was modified to include a two-track fixed southern bridge 50 feet above MHW.

Therefore, under the current post-ROD design, the northern bridge consists of three simply-supported steel network tied arch spans (see Figure 1). The arch main members, ribs and chords would be welded steel closed-box shapes. A network of diagonally placed multi-strand cables would connect the arch ribs to the tie chords. The three main spans would be 392 feet long as measured between bearing centerlines, resulting in a total structure length of 1,196 feet. The height of each tied arch would vary and would reach a maximum of 80 feet at the middle of the span (measured from the centerline of the bottom chord to the centerline of the top chord). The highest point of the northern bridge would be approximately 136 feet above MHW. The northern bridge would be 55 feet in width, as measured from center of arch rib to center of arch rib.

The southern bridge would be a two-track fixed bridge with 42.5 feet in width as measured from center of arch rib to center of arch rib (see Figure 1). This would provide 14 feet of clearance between track centerlines and 10 feet of clearance from the centerline of the tracks to the inside face of the arch ribs. The length and height of the tied arch spans, the pier spacing, the horizontal and vertical clearances, and other details of the bridge and the approach spans would be similar to those of the northern bridge, described above.

TRACKS AND EMBANKMENTS

There are a number of modifications to the tracks and embankments resulting from the completion of preliminary engineering.

- The approach structures supporting the tracks within the Diamond Shamrock and Janatex properties were changed from primarily embankment fill to entirely elevated structure. This change was initiated to avoid surcharging the contaminated soil, potentially resulting in the lateral and vertical displacement of contaminated groundwater and as well as stability issues during construction. It will also maintain access to accommodate the planned remediation activities on both sites between the pier locations.
- At the 1-A Landfill, approximately 700 feet of track was placed on structure rather than fill, as previously designed, to avoid impacts to the landfill liner and slurry wall. Preliminary engineering revealed a conflict between the proposed track alignment and the existing slurry wall and therefore the design had to be modified to elevate the track over the slurry wall and eliminate additional stresses. This change also has the added benefit of reducing wetland impacts.
- During preliminary engineering, track alignments within the impact area were revised to reduce costs, simplify construction, satisfy operational requirements of the railroads, and potentially reduce property acquisition. As a result, the alignments of Track 5 and 6 on the south side of the project (along the Diamond Shamrock and Riverbend Wetland Preserve properties) were shifted approximately 70 feet northward slightly reducing the property acquisition and wetland impacts. Near Swift Interlocking, Track 6 was moved 14 feet to the south.
- At the Professional Environmental Systems property (Block 286, Lot 40) a retaining wall (as opposed to embankment) will be used to avoid the acquisition of an active business. Under previous designs, the property would have been acquired in full for the expansion of the project's right-of-way (ROW).

It must also be noted that the aforementioned design changes were accommodated in the post ROD study boundaries, i.e. the project study footprint has remained constant.

CONSTRUCTION ACCESS

WESTERN PORTION

It is anticipated a temporary construction platform in Cedar Creek Marsh will no longer be required under the current construction plan. Instead, the current plan is to construct the retaining wall by sequentially proceeding from land into and along the marsh. There is no change in the actual project footprint at this location, i.e. the ROD study boundaries are unchanged, only the method of construction.

CENTER PORTION (HACKENSACK RIVER AREA)

In order to simplify construction staging, widened storage and staging areas are now required on the temporary work platforms that will be located over open water and wetland areas to allow construction access to the project site. These changes were necessitated mostly for construction vehicle maneuverability and turning. The width of the elevated platforms will increase from approximately 27 feet wide to approximately 32 feet wide, but the number of piers will remain unchanged.

EASTERN PORTION

In this portion of the study area, several construction platforms would no longer be required under the current construction plan:

- Two platforms on south side of the study area, east of the Boonton Line
- Four lateral cross platforms on the north side of the study area, west of Boonton Line, in Laurel Hill Park
- No property acquisition will be required for access within the Malanka Landfill since NJ TRANSIT's Access to the Region's Core Project will be acquiring the entire property in fee for that project's loop tracks and tracks connecting to Secaucus and Portal Bridge.

C. CHANGES TO THE AFFECTED ENVIRONMENT AND ANTICIPATED IMPACTS

PROJECT PURPOSE AND NEED

The changes in the project's design would not alter the project's Purpose and Need. The facts surrounding the project's problem statement and its goals and objective remain the same as documented in the FEIS.

PROJECT ALTERNATIVES

The preferred alternative remain the same and all major design elements are unchanged.

TRANSPORTATION EFFECTS

With respect to transportation, the major difference resulting from the revised design is that the southern bridge will be fixed, while the FEIS based design would have necessitated openings several times a month. As the moveable southern bridge was designed to minimize the number of openings and the related adverse effects on rail operations when openings occurred, the revised design will avoid that problem entirely. The revised design will however, result in a greater grade for the NJ TRANSIT trains that will traverse the bridge. Nevertheless, simulation modeling has confirmed that no adverse effects would occur to rail operations from the track design in this location, i.e. grades area acceptable. Because the bridge will no longer be opened to accommodate marine vessels, this design change will also benefit marine traffic.

SOCIAL, ECONOMIC, AND ENVIRONMENTAL CONSIDERATIONS

LAND USE AND SOCIAL CONDITIONS

With respect to property acquisition and displacement several changes have occurred. The FEIS noted that multiple properties may be fully or partially acquired for the construction of the replacement bridge to allow for the expansion of the ROW and the construction of embankments.

In the FEIS, an 11.1-acre industrial parcel on the north side of the Northeast Corridor ROW owned by the Jana Corporation would be fully acquired to expand the ROW for the new northern bridge. This would not change. Also on the northern side of the ROW, a 4-acre industrial parcel on the north side of the right-of-way (owned by Professional Environmental Systems) was to be acquired. This operating business was to be relocated in the FEIS plan.

However, the new design allows for the building and the business to remain by the use of a retaining wall instead of the proposed embankment in this area. The FEIS also proposed a possible full taking of the Diamond Shamrock property on the south side of the alignment for the preferred alternative. Currently, there is a potential to reduce this acquisition from a full to a partial taking. This is also intended to minimize the project's disturbance of contaminated materials on this property which is under a remedial consent order with New Jersey Department of Environmental Protection (NJDEP).

The proposed project acquisition of a 1.1-acre portion of the Malanka Landfill (Secaucus Brownfield Redevelopment, LLC) will not be required since NJ TRANSIT will be acquiring this property in full as part of the Access to the Region's Core Project.

The revised design would have no effect on the conclusions documented in the FEIS regarding the preferred alternative's potential effects on land use, zoning, public policy and social conditions. Overall, the property acquisition will be slightly less than estimated in the FEIS.

HISTORIC RESOURCES

As part of the project's commitment in the FEIS and ROD with respect to historic resources pursuant to Section 106 of the NHPA, several stipulations were agreed to as part of a MOA between NJ TRANSIT, Amtrak, the New Jersey Historic Preservation Office (NJHPO) and FRA. Three of the stipulations have either been completed or are in progress:

1. Amtrak and NJ TRANSIT, in coordination with FRA, shall conduct ongoing consultation with NJHPO regarding the design of project elements;
2. An archaeological Phase 1B field investigation shall be conducted to determine the potential for the project to disturb human remains associated with the Historic Cemeteries of Hudson County; and
3. NJ TRANSIT will submit an Application for Project Authorization to the NJHPO Historic Sites Council (HSC) pursuant to the New Jersey Register of Historic Places Act.

Item 1 above was initiated. In April 2009, NJ TRANSIT submitted an Application for Project Authorization to NJHPO and NJHSC, which analyzed alternatives to encroaching on the State Register of Historic Places-the listed Portal Bridge and presented proposed designs for the replacements structures. NJ TRANSIT also presented this information at a meeting of the NJHSC on April 16, 2009. The NJHSC was amenable to the new design, and on April 24, 2009, issued a Resolution authorizing the request to remove the Portal Bridge on the condition that NJ TRANSIT "develop a thorough feasibility study including a cost and schedule analysis for the relocation of the [swing span of the] bridge." In accordance with NJHSC's request, NJ TRANSIT submitted a Feasibility Study for the relocation of the Portal Bridge on January 26, 2010. Final approval of the Feasibility Study from NJHPO and NJHSC is pending.

With respect to Item 2, The Phase 1B archaeological testing program was completed in June 2009 after receiving approval from NJHPO on the field investigation methodology in March of 2009. A report was submitted to NJHPO on August 6, 2009, that concluded that the burials associated with the Historic Cemeteries of Hudson County do not appear to extend into the archaeological Area of Potential Effect. Therefore, it was shown that the project would not have an adverse effect on this resource and no further investigation was necessary. NJHPO concurred with this finding in a letter dated September 29, 2009.

VISUAL AND AESTHETIC CONSIDERATIONS

In terms of visual and aesthetic considerations the revised design for the southern bridge would not alter the conclusions of the FEIS. While the two bridges were designed similarly in the FEIS, there was a five-foot difference in total elevation between the two. They would now be the same. Furthermore, the network tied arch would provide an attractive design for the twin crossing. As discussed above, under Historic Resources, NJHPO has reviewed the new design and the HSC authorized the replacement of the existing structure. Similar to the previous design, the project would not substantially alter the visual character of the study area or block views to or from the area.

AIR QUALITY

The changes in the project design would not change rail operations and service plan as discussed in the FEIS. Therefore, the conclusions of the FEIS with respect to the project's long-term effects on air quality remain unchanged. Short-term effects during construction would be similar under either design.

NOISE AND VIBRATION

Similar to the air quality discussion above, the project design changes would have minimal effect on the FEIS's conclusion regarding long-term future noise and vibration levels within the study area. During construction, the revised design may result in greater short-term noise levels in the vicinity of the Diamond Shamrock and Janatex properties. This is due to the fact that the use of structure in place of filled embankment and surcharge would require driving piles at specific pier locations. However, in either case, there are no sensitive receptors in the vicinity of this construction and ambient noise levels are already elevated in the area due to the presence of existing Northeast Corridor tracks and NJ TRANSIT and Amtrak operations.

ECOLOGY

The ecology chapter of the FEIS examined water quality, floodplains, wetlands and wildlife. During preliminary engineering (PE), updated wetland and ecological surveys were performed in addition to the previously discussed design revisions. This additional work has resulted in a reduction in the amount of wetland disturbance due to the preferred alternative. In the FEIS, the preferred alternative was estimated to require the filling of 5.7 acres of wetlands and 0.8 acres of open water for a total of 6.5 acres. The revised design, which was submitted to NJDEP, USACE and USCG in support of their respective permit applications, will require impacts to 3.1 acres of wetlands, 1.2 acres of tidal and sub-tidal shallows and 0.6 acres of open water for a total of 4.9 acres of impact. Since the FEIS estimates did not distinguish sub-tidal shallows as a separate category only the total numbers are relevant. Therefore, the revised design will reduce impacts to waters and wetlands from 6.5 to 4.9 acres.

Temporary impacts to wetlands will also be reduced substantially due to the elimination of several construction platforms. In the FEIS, temporary impacts due to the preferred alternative were estimated at 7.7 acres including platforms over open water. With the elimination of the construction platforms in Cedar Creek Marsh and the two east of the Boonton Line, temporary impacts to wetlands have been reduced by more than 3.5 acres.

Potential impacts to floodplains will also be reduced with the revised design due to the additional viaduct structure, in lieu of filled embankment, on the western approaches to the river

crossings. Potential effects on terrestrial, avian and aquatic wildlife would remain the same as discussed in the FEIS.

CONTAMINATED MATERIALS

During the PE phase, site investigations have been completed for all of the acquisition parcels required for construction of the preferred alternative. The results of the analysis have been consistent with the findings of the FEIS preliminary site assessments. Detailed remedial action plans are being developed which will be submitted to NJDEP prior to construction. Soil and groundwater management plans are also being prepared to minimize the potential adverse effects from disturbance within areas where contaminated soil and groundwater is present.

In terms of the changes since the FEIS, much of the revised design has been developed to avoid adverse effects during construction on the Diamond Shamrock and Janatex properties. These properties are contaminated with chromite ore processing residue (COPR) and are undergoing remediation by the site owner of Diamond Shamrock, the Occidental Chemical Corporation, and its subsidiary Tierra Solutions. Since the COPR material was generated on the Diamond site and used for fill on the Janatex property, the same parties are also responsible for the remediation on that property.

For both sites, the original design had the tracks approaching the northern and southern bridges supported on embankments. Due to the poor bearing conditions of the site's surficial geology, a lengthy ground surcharge would have been required to compress the underlying soils. This surcharge would require a method of expelling groundwater from the existing surface soils. This method presented two issues with respect to existing contaminated soil at the sites. First, there was concern with the migration of contaminated groundwater below the confining layer, since vertical drains would be required to surcharge the soil in a timely manner. Second, the placement of a large embankment would hinder or complicate any future remediation that may be necessary underneath the approach tracks.

Ground disturbance would only be required at the pier locations used to support the structure. The piers would be approximately 115 to 120 feet apart. They will be supported by driven pipe piles. The pipe piles will be driven within a sheet-pile supported excavation that has had the contaminated soils removed beforehand. Therefore, small areas surrounding each pier location will be remediated and protected from further migration of contaminants into the remediated area by the sheet pile wall. This construction method will eliminate the need for wick drains and any possibility of downward migration of contaminants. Furthermore, it will allow for remediation of contaminated soils below the viaduct structure if the need arises in the future.

COASTAL ZONE MANAGEMENT

None of the design changes would effect the project's earlier coastal zone consistency determination. In addition, the project's Waterfront Development permit application submitted to NJDEP has an updated compliance statement that confirms these conclusions.

ENVIRONMENTAL JUSTICE

None of the project design changes would result in any disproportionately high and adverse impacts to low-income or minority populations.

SECONDARY AND CUMULATIVE EFFECTS

Changes to the project during preliminary engineering would not result in any additional secondary and cumulative impacts from the project. In fact, the revised design and reduced impacts to wetlands would lessen the potential for cumulative impacts to the ecological resources of the New Jersey Meadowlands.

SECTION 4(F) EVALUATION

Changes to the project developed during preliminary engineering would not result in any additional use of Section 4(f) properties.

D. CONCLUSION AND DISCUSSION OF SIGNIFICANCE

Based on the discussions above, it can be concluded that the revised design for the preferred alternative would not result in any new significant adverse environmental effects. The revised design would neither exacerbate any adverse effects disclosed in the FEIS nor increase the need for mitigation measures discussed in the ROD. In fact, the proposed design changes would reduce some potential impacts in key environmental areas such as wetlands and contaminated materials.

Chris Christie, Governor
Kim Guadagno, Lieutenant Governor
James S. Simpson, Board Chairman
James Weinstein, Executive Director

N TRANSIT
One Penn Plaza East
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January, 2011

David Valenstein
Federal Railroad Administration
1200 New Jersey Ave SE
W38-303
Washington, DC 20590

Re: NEPA Reevaluation for the Portal Bridge Capacity Enhancement Project
Record of Decision dated December 23, 2008

Dear Mr. Valenstein:

Following the January 25 meeting in your office with NJ TRANSIT and Amtrak, enclosed is a NEPA Re-evaluation for the Portal Bridge Capacity Enhancement Project. As you are aware, FRA issued a Record of Decision for the project on December 23, 2008, based on the Final Environmental Impact Statement (dated October 2008). Since that time, NJ TRANSIT and Amtrak have proceeded with preliminary engineering and are now in the final design stage. The NEPA Re-evaluation serves to update FRA about several important design elements that have changed since the Record of Decision. As concluded in the document, these design changes will not result in any increased environmental impacts.

Should you have any questions about the enclosed document or require additional information about the status of the project, please do not hesitate to contact me at 973-491-8971.

Sincerely,



Nicholas L. Marton, Project Director
Portal Bridge Capacity Enhancement Project

Attachments

Cc: S. Santoro, NJT
J. Mesure, NJT
C. Ingoglia, NJT
S. Silverman, NJT
R. Cross, Portal Partners

Portal Bridge Capacity Enhancement Project—NEPA Reevaluation

A. INTRODUCTION

New Jersey Transit Corporation (NJ TRANSIT) in cooperation with the Federal Railroad Administration (FRA) and the National Railroad Passenger Corporation (Amtrak) has proposed the Portal Bridge Capacity Enhancement Project to enhance the capacity and improve rail operations across the Hackensack River. The existing Portal Bridge is a two-track moveable swing-span bridge between the Town of Kearny and the Town of Secaucus in Hudson County, New Jersey. It was constructed by the Pennsylvania Railroad in 1907 and began operation in 1910. The existing Portal Bridge however, poses reliability concerns, capacity constraints, and operational inflexibility. The swing span and the miter rail configuration pose maintenance difficulties and the bridge's low vertical clearance results in severe conflicts with maritime uses. The goals of the project are: to enhance the capacity and improve the operation of the Portal Bridge rail crossing of the Hackensack River, to improve service reliability, to enhance passenger safety and security, to minimize conflicts with maritime traffic and to optimize existing infrastructure and planned improvements, while minimizing impacts on the surrounding environment.

Pursuant to the National Environmental Policy Act of 1969 (NEPA), the Federal Railroad Administration (FRA) and NJ TRANSIT prepared a Final Environmental Impact Statement (FEIS) and Section 4(f) Evaluation in October 2008 to analyze the potential environmental impacts of the proposed project. FRA was the lead federal agency for this EIS. The Federal Transit Administration (FTA), U.S. Environmental Protection Agency (USEPA), and the U.S. Coast Guard (USCG) were cooperating agencies for the environmental review. A Record of Decision (ROD) was published by FRA in December 2008. The ROD selected a Preferred Alternative which would include a three-track fixed northern bridge, a two-track moveable southern bridge built on a new alignment, and a duck-under structure for a grade separated crossing. In the ROD, the FRA also adopted commitments to minimize and/or mitigate harm from the selected alternative to parklands and open space, historic resources, ecology, coastal zone management and to minimize hazardous materials and construction impacts.

Preliminary engineering for the project, which began in September 2008, was completed in August 2010. The design specifications, construction plans, and cost estimates prepared during preliminary engineering have included changes to the project since the publication of the ROD. Additionally and following recent discussions with both the FRA and Amtrak, Final Design and projected construction of the North Bridge will precede that of the proposed South Bridge. Furthermore, design of the North Bridge will be premised upon a two-track fixed bridge structure. Therefore, current schedule projections indicate that the South Bridge design and construction may commence at a future date following design and/or construction of the North Bridge. The purpose of this re-evaluation is to determine if the aforementioned design changes would result in significant adverse environmental impacts not identified in the FEIS and whether additional NEPA documentation is required.

B. LIST OF CHANGES

As described below, the design changes to the Preferred Alternative include changes to the main river structures, tracks and embankments, and construction access.

MAIN RIVER STRUCTURES

The conceptual design of the FEIS Preferred Alternative included a three-track fixed northern bridge, and a two-track moveable southern bridge, built on new northern and southern alignments respectively. In the FEIS design, the northern bridge would consist of three simply-supported steel through trusses. The truss main members would be welded closed-box shapes. The main center span would be 414 feet long and the two flanking side spans would each be 346 feet long, resulting in a total structure length of 1,106 feet. The height of each North Bridge truss span would vary from 50 feet high at the ends to a maximum of 60 feet high at the middle of the span (measured from the centerline of the bottom chord to the centerline of the top chord). The highest point of the northern bridge would be 115 feet above mean high water (MHW). The northern bridge would be 51 feet in width, as measured from center of truss to center of truss.

The FEIS concept of the southern bridge included a two-track moveable bridge design. The main span would be a vertical lift through truss and the two flanking side spans would be simply-supported fixed-span through trusses. The length and height of the truss spans would be the same as those of the northern bridge. The highest point of the southern bridge would be 110 feet above MHW in the closed position and 115 feet above MHW in the open position. The bridge would be 37 feet in width as measured from center of truss to center of truss.

Subsequent to issuance of the ROD, Amtrak and NJ TRANSIT began the preliminary engineering phase of the project. Additional field surveys and coordination with the U.S. Army Corps of Engineers (USACE), USCG, and the National Oceanic and Atmospheric Administration (NOAA) were conducted as part of the preliminary engineering efforts. Furthermore, a new structural design was developed (i.e. a network tied arch) that resulted in a shallower deck increasing the clearance between mean high water (MHW) and the bottom of steel. This updated design indicated that it would be possible to construct a fixed bridge on the southern alignment and still maintain acceptable operating grades. Since a fixed bridge would be preferable to a moveable bridge and would eliminate bridge openings, the project design was modified to include a two-track fixed southern bridge 50 feet above MHW.

Therefore, under the current post-ROD design, the northern bridge consists of three simply-supported steel network tied arch spans (see Figure 1). The arch main members, ribs and chords would be welded steel closed-box shapes. A network of diagonally placed multi-strand cables would connect the arch ribs to the tie chords. The three main spans would be 392 feet long as measured between bearing centerlines, resulting in a total structure length of 1,196 feet. The height of each tied arch would vary and would reach a maximum of 80 feet at the middle of the span (measured from the centerline of the bottom chord to the centerline of the top chord). The highest point of the northern bridge would be approximately 136 feet above MHW. The northern bridge would be 55 feet in width, as measured from center of arch rib to center of arch rib.

The southern bridge would be a two-track fixed bridge with 42.5 feet in width as measured from center of arch rib to center of arch rib (see Figure 1). This would provide 14 feet of clearance between track centerlines and 10 feet of clearance from the centerline of the tracks to the inside face of the arch ribs. The length and height of the tied arch spans, the pier spacing, the horizontal

and vertical clearances, and other details of the bridge and the approach spans would be similar to those of the northern bridge, described above.

As noted above, the design of the proposed Northern Bridge has now been modified to support the construction and operation of a two-track system resulting in a deck of 42.5 feet in width as measured from center of arch rib to center of arch rib (see Figure 1). This would provide 14 feet of clearance between track centerlines and 10 feet of clearance from the centerline of the tracks to the inside face of the arch ribs. The length and height of the tied arch spans, the pier spacing, the horizontal and vertical clearances, and other details of the bridge and the approach spans would be similar to those of the northern bridge, described above.

TRACKS AND EMBANKMENTS

There are a number of modifications to the tracks and embankments resulting from the completion of preliminary engineering.

- At the 1-A Landfill, approximately 700 feet of track was placed on structure rather than fill, as previously designed, to avoid impacts to the landfill liner and slurry wall. Preliminary engineering revealed a conflict between the proposed track alignment and the existing slurry wall and therefore the design had to be modified to elevate the track over the slurry wall and eliminate additional stresses. This change also has the added benefit of reducing wetland impacts.
- At the Professional Environmental Systems property (Block 286, Lot 40) a retaining wall (as opposed to embankment) will be used to avoid the acquisition of an active business. Under previous designs, the property would have been acquired in full for the expansion of the project's right-of-way (ROW).

It must also be noted that the aforementioned design changes were accommodated in the post ROD study boundaries, i.e. the project study footprint has remained constant.

CONSTRUCTION ACCESS

WESTERN PORTION

It is anticipated a temporary construction platform in Cedar Creek Marsh will no longer be required under the current construction plan. Instead, the current plan is to construct the retaining wall by sequentially proceeding from land into and along the marsh. There is no change in the actual project footprint at this location, i.e. the ROD study boundaries are unchanged, only the method of construction.

CENTER PORTION (HACKENSACK RIVER AREA)

In order to simplify construction staging, widened storage and staging areas are now required on the temporary work platforms that will be located over open water and wetland areas to allow construction access to the project site. These changes were necessitated mostly for construction vehicle maneuverability and turning. The width of the elevated platforms will increase from approximately 27 feet wide to approximately 32 feet wide, but the number of piers will remain unchanged.

Portal Bridge Capacity Enhancement Project

EASTERN PORTION

In this portion of the study area, several construction platforms would no longer be required under the current construction plan:

- Two platforms on south side of the study area, east of the Boonton Line
- Four lateral cross platforms on the north side of the study area, west of Boonton Line, in Laurel Hill Park

C. CHANGES TO THE AFFECTED ENVIRONMENT AND ANTICIPATED IMPACTS

PROJECT PURPOSE AND NEED

The changes in the project's design would not alter the project's Purpose and Need. The facts surrounding the project's problem statement and its goals and objective remain the same as documented in the FEIS.

PROJECT ALTERNATIVES

The preferred alternative remains the same and all major design elements are unchanged.

TRANSPORTATION EFFECTS

With respect to transportation, the major difference resulting from the revised design is that the southern bridge will be fixed, while the FEIS based design would have necessitated openings several times a month. As the moveable southern bridge was designed to minimize the number of openings and the related adverse effects on rail operations when openings occurred, the revised design will avoid that problem entirely. The revised design will however, result in a greater grade for the NJ TRANSIT trains that will traverse the bridge. Nevertheless, simulation modeling has confirmed that no adverse effects would occur to rail operations from the track design in this location, i.e. grades area acceptable. Because the bridge will no longer be opened to accommodate marine vessels, this design change will also benefit marine traffic.

Additionally and as previously discussed, the Northern Bridge design now accommodates a two-track fixed bridge structure versus a three-track previously identified.

SOCIAL, ECONOMIC, AND ENVIRONMENTAL CONSIDERATIONS

LAND USE AND SOCIAL CONDITIONS

With respect to property acquisition and displacement several changes have occurred. The FEIS noted that multiple properties may be fully or partially acquired for the construction of the replacement bridge to allow for the expansion of the ROW and the construction of embankments.

In the FEIS, an 11.1-acre industrial parcel on the north side of the Northeast Corridor ROW owned by the Jana Corporation would be fully acquired to expand the ROW for the new northern bridge. This would not change. Also on the northern side of the ROW, a 4-acre industrial parcel on the north side of the right-of-way (owned by Professional Environmental

Systems) was to be acquired. This operating business was to be relocated in the FEIS plan. However, the new design allows for the building and the business to remain by the use of a retaining wall instead of the proposed embankment in this area. The FEIS also proposed a possible full taking of the Diamond Shamrock property on the south side of the alignment for the preferred alternative. Acquisition of this property is deferred following the proposed phasing of the design and construction of three South Bridge. Nevertheless, there is a potential to reduce this acquisition from a full to a partial taking. This is also intended to minimize the project's disturbance of contaminated materials on this property which is under a remedial consent order with New Jersey Department of Environmental Protection (NJDEP).

The revised design would have no effect on the conclusions documented in the FEIS regarding the preferred alternative's potential effects on land use, zoning, public policy and social conditions. Overall, the property acquisition will be slightly less than estimated in the FEIS.

HISTORIC RESOURCES

As part of the project's commitment in the FEIS and ROD with respect to historic resources pursuant to Section 106 of the NHPA, several stipulations were agreed to as part of a MOA between NJ TRANSIT, Amtrak, the New Jersey Historic Preservation Office (NJHPO) and FRA. Three of the stipulations have either been completed or are in progress:

1. Amtrak and NJ TRANSIT, in coordination with FRA, shall conduct ongoing consultation with NJHPO regarding the design of project elements;
2. An archaeological Phase 1B field investigation shall be conducted to determine the potential for the project to disturb human remains associated with the Historic Cemeteries of Hudson County; and
3. NJ TRANSIT will submit an Application for Project Authorization to the NJHPO Historic Sites Council (HSC) pursuant to the New Jersey Register of Historic Places Act.

Item 1 above was initiated. In April 2009, NJ TRANSIT submitted an Application for Project Authorization to NJHPO and NJHSC, which analyzed alternatives to encroaching on the State Register of Historic Places-the listed Portal Bridge and presented proposed designs for the replacements structures. NJ TRANSIT also presented this information at a meeting of the NJHSC on April 16, 2009. The NJHSC was amenable to the new design, and on April 24, 2009, issued a Resolution authorizing the request to remove the Portal Bridge on the condition that NJ TRANSIT "develop a thorough feasibility study including a cost and schedule analysis for the relocation of the [swing span of the] bridge." In accordance with NJHSC's request, NJ TRANSIT submitted a Feasibility Study for the relocation of the Portal Bridge on January 26, 2010. Final approval of the Feasibility Study from NJHPO and NJHSC is pending.

With respect to Item 2, The Phase 1B archaeological testing program was completed in June 2009 after receiving approval from NJHPO on the field investigation methodology in March of 2009. A report was submitted to NJHPO on August 6, 2009, that concluded that the burials associated with the Historic Cemeteries of Hudson County do not appear to extend into the archaeological Area of Potential Effect. Therefore, it was shown that the project would not have an adverse effect on this resource and no further investigation was necessary. NJHPO concurred with this finding in a letter dated September 29, 2009.

Portal Bridge Capacity Enhancement Project

VISUAL AND AESTHETIC CONSIDERATIONS

In terms of visual and aesthetic considerations the revised design for the southern bridge would not alter the conclusions of the FEIS. While the two bridges were designed similarly in the FEIS, there was a five-foot difference in total elevation between the two. They would now be the same. Furthermore, the network tied arch would provide an attractive design for the twin crossing. As discussed above, under Historic Resources, NJHPO has reviewed the new design and the HSC authorized the replacement of the existing structure. Similar to the previous design, the project would not substantially alter the visual character of the study area or block views to or from the area.

The replacement of the three-track design with a two-track version of the North Bridge does not alter the visual and aesthetic considerations referenced above.

AIR QUALITY

The changes in the project design and phasing of North Bridge construction in advance of the South Bridge would not change rail operations and service plan as discussed in the FEIS. Therefore, the conclusions of the FEIS with respect to the project's long-term effects on air quality remain unchanged. Short-term effects during construction would be similar under either design.

NOISE AND VIBRATION

Similar to the air quality discussion above, the project design changes would have minimal effect on the FEIS's conclusion regarding long-term future noise and vibration levels within the study area. During construction, the revised design may result in greater short-term noise levels in the vicinity of the Janatex properties. This is due to the fact that the use of structure in place of filled embankment and surcharge would require driving piles at specific pier locations. However, in either case, there are no sensitive receptors in the vicinity of this construction and ambient noise levels are already elevated in the area due to the presence of existing Northeast Corridor tracks and NJ TRANSIT and Amtrak operations.

ECOLOGY

The ecology chapter of the FEIS examined water quality, floodplains, wetlands and wildlife. During preliminary engineering (PE), updated wetland and ecological surveys were performed in addition to the previously discussed design revisions. This additional work has resulted in a reduction in the amount of wetland disturbance due to the preferred alternative. In the FEIS, the preferred alternative was estimated to require the filling of 5.7 acres of wetlands and 0.8 acres of open water for a total of 6.5 acres. The revised design, which was submitted to NJDEP, USACE and USCG in support of their respective permit applications, will require impacts to 3.1 acres of wetlands, 1.2 acres of tidal and sub-tidal shallows and 0.6 acres of open water for a total of 4.9 acres of impact. Since the FEIS estimates did not distinguish sub-tidal shallows as a separate category only the total numbers are relevant. Therefore, the revised design resulting in the construction of two fixed bridges will reduce impacts to waters and wetlands from 6.5 to 4.9 acres. Construction of a two-track fixed North Bridge versus a three-track may result in further de-minimus reductions in permanent impacts. Similarly, temporary impacts may also be reduced in addition to those reductions discussed below.

Temporary impacts to wetlands will also be reduced substantially due to the elimination of several construction platforms. In the FEIS, temporary impacts due to the preferred alternative were estimated at 7.7 acres including platforms over open water. With the elimination of the construction platforms in Cedar Creek Marsh and the two east of the Boonton Line, temporary impacts to wetlands have been reduced by more than 3.5 acres.

Potential impacts to floodplains will also be reduced with the revised design due to the additional viaduct structure, in lieu of filled embankment, on the western approaches to the river crossings. Potential effects on terrestrial, avian and aquatic wildlife would remain the same as discussed in the FEIS.

CONTAMINATED MATERIALS

During the PE phase, site investigations were completed for all of the acquisition parcels required for construction of the preferred alternative. The results of the analysis have been consistent with the findings of the FEIS preliminary site assessments. Detailed remedial action plans are being developed which will be submitted to NJDEP prior to construction. Soil and groundwater management plans are also being prepared to minimize the potential adverse effects from disturbance within areas where contaminated soil and groundwater is present.

In terms of the changes since the FEIS, much of the revised design has been developed to avoid adverse effects during construction on the Diamond Shamrock (South Bridge) and Janatex (North Bridge) properties. These properties are contaminated with chromite ore processing residue (COPR) and are undergoing remediation by the site owner of Diamond Shamrock, the Occidental Chemical Corporation, and its subsidiary Tierra Solutions. Since the COPR material was generated on the Diamond site and used for fill on the Janatex property, the same parties are also responsible for the remediation on that property.

For both sites, the original design had the tracks approaching the northern and southern bridges supported on embankments. Due to the poor bearing conditions of the site's surficial geology, a lengthy ground surcharge would have been required to compress the underlying soils. This surcharge would require a method of expelling groundwater from the existing surface soils. This method presented two issues with respect to existing contaminated soil at the sites. First, there was concern with the migration of contaminated groundwater below the confining layer, since vertical drains would be required to surcharge the soil in a timely manner. Second, the placement of a large embankment would hinder or complicate any future remediation that may be necessary underneath the approach tracks.

Ground disturbance would only be required at the pier locations used to support the structure. The piers would be approximately 115 to 120 feet apart. They will be supported by driven pipe piles. The pipe piles will be driven within a sheet-pile supported excavation that has had the contaminated soils removed beforehand. Therefore, small areas surrounding each pier location will be remediated and protected from further migration of contaminants into the remediated area by the sheet pile wall. This construction method will eliminate the need for wick drains and any possibility of downward migration of contaminants. Furthermore, it will allow for remediation of contaminated soils below the viaduct structure if the need arises in the future.

The design and construction of a two-track North Bridge will likely further reduce ground disturbance where excavation surrounding pipe pile location areas within sheet pile containment may present a smaller foot print than that for a three-track supporting structure.

Portal Bridge Capacity Enhancement Project

COASTAL ZONE MANAGEMENT

None of the design changes would effect the project's earlier coastal zone consistency determination. In addition, the project's Waterfront Development permit application submitted to NJDEP has an updated compliance statement that confirms these conclusions.

ENVIRONMENTAL JUSTICE

None of the project design changes would result in any disproportionately high and adverse impacts to low-income or minority populations.

SECONDARY AND CUMULATIVE EFFECTS

Changes to the project during preliminary engineering and early final engineering would not result in any additional secondary and cumulative impacts from the project. In fact, the revised design and reduced impacts to wetlands would lessen the potential for cumulative impacts to the ecological resources of the New Jersey Meadowlands.

SECTION 4(F) EVALUATION

Changes to the project developed during preliminary engineering and early final engineering would not result in any additional use of Section 4(f) properties.

D. CONCLUSION AND DISCUSSION OF SIGNIFICANCE

Based on the discussions above, it can be concluded that the revised design for the preferred alternative would not result in any new significant adverse environmental effects. The revised design would neither exacerbate any adverse effects disclosed in the FEIS nor increase the need for mitigation measures discussed in the ROD. In fact, the proposed design changes would reduce some potential impacts in key environmental areas such as wetlands and contaminated materials.

ATTACHMENT C



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 30 2011

Nicholas L. Marton
NJ Transit
One Penn Plaza East
Newark, NJ 07105-2246

Re: National Environmental Policy Act Reevaluation for the Portal Bridge Capacity Enhancement Project Record of Decision.

Dear Mr. Marton,

As you are aware, the Federal Railroad Administration (FRA) issued a Record of Decision (ROD) for the Portal Bridge Capacity Enhancement Project in December of 2008, selecting the Environmental Impact Statement (EIS) Preferred Alternative for project construction.

FRA understands that as NJ Transit and Amtrak advanced the Portal Bridge design, a number of design and construction modifications have emerged. In January, 2011, NJ Transit, Amtrak and FRA agreed to phase bridge construction, resulting in the deferment of some impacts discussed in the ROD to a later date.

FRA has considered these modifications and refinements and found them to be consistent with prior environmental analysis and the December, 2008 ROD. Amtrak and NJ Transit have demonstrated to FRA that the post-ROD modifications do not introduce significant, undocumented environmental impacts.

The EIS and ROD identified a three-track fixed northern bridge and a two-track moveable south bridge, each to be constructed on a new alignment, as the Preferred Alternative.

Amtrak and NJ Transit have reduced the width of the northern bridge to a two-track span. The southern bridge has been changed to a fixed span from a lift bridge. Parties have also agreed to a phased bridge construction approach that defers construction of the southern bridge to a later date.

An evaluation of potential environmental consequences associated with the design changes from a three-track northern bridge to a two-track northern bridge and from a moveable southern bridge to a fixed southern bridge span is documented in the *Portal Bridge Capacity Enhancement*

Project—NEPA Reevaluation reports prepared by NJ Transit and Amtrak in May, 2010, and February, 2011.

The post-ROD Portal Bridge design includes modifications to the appearance and design of the northern bridge, and calls for a two-track bridge rather than a three track bridge. Because both northern and southern bridges will now be fixed (non-moveable), the post-ROD design offers more visual congruity than the EIS Preferred Alternative. The design for both bridges is similar, and now offers three tied arch spans with similar width, pier spacing, horizontal and vertical clearances, and approach spans.

While no post-ROD modifications fall outside of the original project footprint, minor modifications to tracks and embankments are required to accommodate the post-ROD design:

- Some approach structures, in addition to 700 feet of track will be constructed on entirely elevated structures.
- To simplify construction near Swift Interlocking, southern Tracks 5 and 6 will be shifted 70 feet northward, with Track 6 also moving 14 feet south.
- In order to avoid a property take, a retaining wall will be constructed instead of an embankment to accommodate the expanded right of way, allowing adjacent existing business operations to continue.

Additionally, one full property taking anticipated to accommodate construction of the southern bridge alignment is being deferred, due to the post-ROD phased construction approach.

As documented in the *Portal Bridge Capacity Enhancement Project—NEPA Reevaluation* reports, the two-track fixed design for the southern bridge is advantageous because it eliminates the need for bridge openings, thereby reducing transportation delays associated with marine traffic. The post-ROD design requires trains traverse a steeper grade when using the bridge, but modeling has confirmed it there will have no detrimental effect on rail operations. The new approach alignment reduces the amount of land to be acquired, reducing the potential for necessary environmental remediation.

Overall wetland disturbance will be reduced. While the EIS Preferred Alternative would have caused 6.5 acres of wetlands impacts, the revised bridge design will cause 4.9 acres of total wetland impacts. There will be no change to anticipated impact levels as documented in the ROD for air quality, noise and vibration, coastal zone management or environmental justice.

All involved resource agencies have been notified of the changes to the proposed bridge design. The New Jersey Historic Sites Council, an office of the New Jersey Historic Preservation Office (NJHPO) authorized the request to remove the Portal Bridge, conditioned upon NJ Transit's development of a feasibility study for the relocation of the historic swing-span portion of bridge. The NJHPO concurred with a finding of no adverse effect to any cultural resources located within the Area of Potential Effect in September, 2009.

On the basis of the information provided by NJ Transit and Amtrak, FRA reaffirms the validity of its December, 2008 ROD. If you require additional information, please contact Catherine Dobbs at (202) 493-6347.

Sincerely,

A handwritten signature in black ink, appearing to read "David Valenstein". The signature is fluid and cursive, with a prominent initial "D" and a long, sweeping tail.

David Valenstein
Chief
Environment and Systems Planning Division
Office of Passenger and Freight Programs

ATTACHMENT D

Suriano, Ben J. (CEDCBJS)

From: Denton, Adam (FRA) <adam.denton@dot.gov>
Sent: Thursday, May 05, 2016 11:34 AM
To: Suriano, Ben J. (CEDCBJS)
Cc: Longley, Michael (FRA)
Subject: Pre-Award Approval- TIGER Portal Bridge

Ben,

The NJT request for pre-award authority to incur eligible project-related expenses prior to obligation of the Portal Bridge TIGER grant. The intention of this request is to allow NJT to proceed with work that is necessary to accomplish the project, with the goal of awarding a construction contract as soon as possible following grant obligation and accelerating the ultimate deliver of this critical project. NJT is allowed to apply eligible costs incurred during this pre-award period to the grant and OST and FRA approved a pre-award authority date of April 1, 2016. The required project-related work to be performed by contractors and NJT staff between April 1 and the expected obligation date is estimated to cost \$250,000. NJT’s project-related activities within this period will include the following:

- Engage NJT’s in-house project team including the project manager, procurement officer, risk management department, etc.
- Commence reviews of applicable materials. Reviews to include contract legal review, office of business diversity review, etc.
- Direct the current engineer-of-record, Portal Partners, for their attendance at the pre-bid conference.
- Provide any responses to Requests for Information during the bid process.
- Negotiate with the construction manager, AECOM, for a change order to their existing contract with NJT in preparation for the field office oversight of the construction contractor’s daily activities and schedules.
- Coordinate with the property owner, Amtrak, as needed.

Justification of Pre-Award Authority Request:

This approval allows NJT to apply eligible costs to the grant for work that is necessary to accomplish the project and that will accelerate the construction contract award; specifically, this work will accelerate the Bid and Construction Contract Award phase by developing a final Construction Bid Package for advertisement (NJT’s goal is to advertise in May 2016). NJT will not award the construction contract until the grant agreement is executed. NJT acknowledges that it accepts all risks associated with this work, including cost-related risk if, for some unforeseeable reason, the grant agreement between NJT and FRA is not executed, and that, in such a case, DOT or FRA will not reimburse NJT for any costs incurred. The following table details the costs to be incurred prior to obligations by FRA Standard Cost Category (SCC).

SCC	Work Scope	Project Budget	TIGER Program Costs	State Costs
80.01	Professional Services— Project Development	\$555,600		\$100,000
80.02	Professional Services—	\$555,600		\$100,000

	Engineering		
80.03	Project Management	\$278,700	\$50,000

FRA Recommendation:

OST and the FRA, including FRA's Office of Chief Counsel, has reviewed the proposed pre-award activities and associated costs, which are limited to professional services and NJT staff-related expenses, and confirms that these categories of expenses are eligible for reimbursement under the terms of the Grant Agreement. The requested costs are allowable under the Uniform Administrative Requirements for Federal Grants and are necessary in order to accomplish the project. (2 C.F.R. §§ 200.430; 200.458; 200.459). NJT accepts the risk for costs incurred prior to obligation, or if the Grant Amendment is never executed. In addition, this pre-award activity is subject to all the other terms of the Transportation Investment Generating Economic Recovery (TIGER) Grant Agreement, including cost eligibility provisions.

FRA approves NJT's request for pre-award authority so that NJT can begin incurring project costs retroactively starting on April 1, 2016 as outlined above. Please let me know if you have any questions.

Thanks,

Adam Denton

East Coast Team Lead

 Federal Railroad Administration
 1200 New Jersey Ave. SE
 West Building 3rd Floor – Office W38-311
 Washington, DC 20590
 (202) 493-6329 Work

ATTACHMENT E



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NY 10278-0090

Regulatory Branch

JUN 20 2016

SUBJECT: Request for Permit Modification of Department of the Army Permit Number NAN-2009-01222 by the New Jersey Transit Corp., Portal Bridge Capacity Enhancement Project, Town of Kearny and Town of Secaucus, Hudson County, New Jersey

New Jersey Transit Corporation
C/o Mr. Benjamin J. Suriano, P.E.
Program Director
One Penn Plaza East
Newark, New Jersey 07105-2246

Dear Mr. Suriano:

In accordance with the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), the New Jersey Transit Corporation was issued Department of the Army (DA) Permit Number NAN-2009-01222 by the District Engineer on July 22, 2013. This permit authorized the discharge of fill into, and the installation of structures over, waters of the United States to facilitate the placement of pile supported access platforms (trestles), an outfall structure, retaining walls, and perform track expansion activities as part of the U.S. Coast Guard permitted Portal Bridge Capacity Enhancement Project. The project site is located within the Hackensack River Basin, in the Towns of Kearny and Secaucus, Hudson County, New Jersey.

By letter dated May 13, 2016, the New Jersey Transit Corporation (NJT) requested that the expiration date of the subject DA permit be extended an additional three (3) years from July 24, 2016 to July 24, 2019 to allow the authorized activities to be completed as the NJT has been authorized by the Federal Railroad Administration through the TIGER T2015 grant program to begin the contract bidding process for the project. The NJT stated that upon completion of the bid phase, a contract would be awarded to the winning bidder by January 2017, and the project would be completed in February 2019.

The New York District has reviewed your May 13, 2016 request to extend the expiration date of the subject permit from July 24, 2016 to July 24, 2019 and agrees that such an extension would not be contrary to the general public interest. Accordingly, the subject permit is hereby specifically modified to extend the expiration date to July 24, 2019, and the modification of this permit shall be known as Department of the Army Permit Number **NAN-200901222-M1**. All other permit conditions to which the authorized work was made subject shall remain in effect. This letter shall be added to all copies of the permit, including those at the work site.

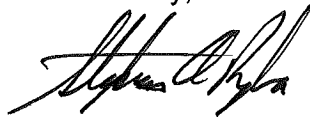
PLEASE USE THE ABOVE 18-CHARACTER FILE NUMBER ON ALL CORRESPONDENCE WITH THIS OFFICE.

SUBJECT: Request for Permit Modification of Department of the Army Permit Number NAN-2009-01222 by the New Jersey Transit Corp., Portal Bridge Capacity Enhancement Project, Town of Kearny and Town of Secaucus, Hudson County, New Jersey

In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>.

If any questions should arise concerning this matter, please contact Jim Cannon, of my staff, at (917) 790-8412.

Sincerely,



For and in behalf of
David A. Caldwell
Colonel, U.S. Army
Commander

Cf: NJDEP
NJSEA



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NY 10278-0090

JUN 22 2016

Regulatory Branch

SUBJECT: Permit Application Number NAN-2016-00890-WCA by New Jersey Transit Corporation, Temporary Relocation of an Aerial Fiber Optic Cable Alignment, Cedar Creek, Hackensack River Watershed, Town of Kearny, Hudson County, New Jersey

New Jersey Transit Corporation
C/o Mr. Benjamin J. Suriano, P.E.
Program Director
One Penn Plaza East
Newark, New Jersey 07105-2246

Dear Mr. Suriano:

On February 16, 2016, the New York District of the U.S. Army Corps of Engineers (USACE) received a request for Department of the Army authorization to temporarily install a communications shelter and ten (10) utility poles within waters of the United States to facilitate the temporary relocation of an aerial fiber optic cable alignment during the implementation of the New Jersey Transit Corporation Portal Bridge Capacity Enhancement Project (Department of the Army Permit No. NAN-2009-01222). The project site is located within the Hackensack River watershed, in the Town of Kearny, Hudson County, New Jersey.

The subsequent submittal drawings entitled "Overview Map", "Fiber Optic Cable Relocation (1of 3)", "Fiber Optic Cable Relocation (2of 3)", "Fiber Optic Cable Relocation (3 of 3)", Figures 1 through 4, prepared by New Jersey Transit, and "Portal Bridge Capacity Enhancement, Comm Systems Temp FO Pole Plan 2, Sta. 4425+65 to Sta. 4434+15", "Portal Bridge Capacity Enhancement, Comm Systems Temp FO Pole Plan 3, Sta. 4434+15 to Sta. 4443+45", "Portal Bridge Capacity Enhancement, Comm Systems Temp FO Pole Plan 4, Sta. 4443+45 to Sta. 4452+75", "Portal Bridge Capacity Enhancement, Comm Systems Temp FO Pole Plan 5, Sta. 4452+75 to Sta. 4462+05", and "Portal Bridge Capacity Enhancement, Comm Systems Temp FO Pole Line Fiber Optic Cable Profile", prepared by Jacobs, and dated October 26, 2012, indicate that a 10-foot wide by 20-foot long pile supported communications shelter and ten (10) utility poles would be temporarily installed within waters of the United States to facilitate the temporary relocation of an existing approximately 2,520 linear foot long aerial fiber optic communications cable alignment that currently extends along the Amtrak Railroad Right-of-Way (ROW). The proposed temporary aerial fiber optic communications cable alignment would accommodate four (4) communication cables (Amtrak, First Telecom, Quest and Verizon), and the minimum sag height elevation of the cable along the alignment would be approximately 27 feet above the plane of Mean High Water (elevation 3.5 feet

PLEASE USE THE ABOVE 18-CHARACTER FILE NUMBER ON ALL CORRESPONDENCE WITH THIS OFFICE.

JUN 22 2016

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National Geodetic Vertical datum, 1929). Upon completion of the New Jersey Transit Corporation's Portal Bridge Capacity Enhancement Project, the aerial fiber optic communication cable alignment would be relocated back to the Amtrak Railroad ROW, and the temporary 10-foot wide by 20-foot long pile supported communications shelter, and the ten (10) utility poles and associated fiber optic cable would be removed from the water way and disposed of at a state approved upland site.

Based on the information submitted to this office, our review of the project indicates that an individual permit is not required. It appears that the activities within the jurisdiction of this office could be accomplished under Department of the Army Nationwide General Permit Number 12. The nationwide permits are prescribed as a Reissuance of Nationwide Permits in the Federal Register dated February 21, 2012 (77 FR 10184). The work may be performed without further authorization from this office provided the activity complies with the permit conditions listed in Section B, No. 12, Section C, any applicable regional conditions, and the following special conditions.

Special Conditions

(A) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

(B) The permittee shall comply with all the conditions and stipulations contained within the "Memorandum of Agreement Among the Federal Railroad Administration, the National Railroad Passenger Corporation (Amtrak), the New Jersey Transit Corporation (NJ Transit) and the New Jersey Historic Preservation Office Regarding the Portal Bridge Capacity Enhancement Project in Hudson County, New Jersey", dated 2008 (attached), to ensure impacts to historic resources are minimized.

(C) Upon completion of the New Jersey Transit Corporation Portal Bridge Capacity Enhancement Project, the permittee shall relocate the 2,520 linear foot aerial fiber optic communications cable to uplands within the Amtrak Railroad Right-of-Way, and the temporary communications shelter, ten (10) utility poles and associated fiber optic cable, shall be removed from the water way and disposed of at a state approved upland site, and all temporarily disturbed waters of the United States associated with the project shall be restored to preconstruction conditions.

JUN 2 2 2016

SUBJECT: Permit Application Number NAN-2016-00890-WCA by New Jersey Transit Corporation, Temporary Relocation of an Aerial Fiber Optic Cable Alignment, Cedar Creek, Hackensack River Watershed, Town of Kearny, Hudson County, New Jersey

This determination covers only the work described in the submitted material. Any major changes in the project may require additional authorizations from the New York District.

Care should be taken so that construction materials, including debris, do not enter any waterway to become drift or pollution hazards. You are to contact the appropriate state and local government officials to ensure that the subject work is performed in compliance with their requirements.

Please note that this nationwide permit (NWP) verification is based on a preliminary jurisdictional determination (JD). A preliminary JD is not appealable. If you wish, prior to commencement of the authorized work you may request an approved JD, which may be appealed, by contacting the New York District, U.S. Army Corps of Engineers for further instruction. To assist you in this decision and address any questions you may have on the differences between preliminary and approved jurisdictional determinations, please review U.S. Army Corps of Engineers Regulatory Guidance Letter No. 08-02, which can be found at: <http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl08-02.pdf>

This verification is valid until March 18, 2017, unless the nationwide permit is modified, reissued, or revoked. This verification will remain valid until March 18, 2017, if the activity complies with the terms of any subsequent modifications of the nationwide permit authorization. If the nationwide permits are suspended, revoked, or modified in such a way that the activity would no longer comply with the terms and conditions of a nationwide permit, and the proposed activity has commenced, or is under contract to commence, the permittee shall have 12 months from the date of such action to complete the activity.

This authorization is conditional on the applicant's receipt of the required water quality certificate and coastal zone management concurrence or waiver from the New Jersey Department of Environmental Protection (NJDEP). No work may be accomplished until the required approval from NJDEP has been obtained.

Within 30 days of the completion of the activity authorized by this permit and any mitigation required by this permit, you are to sign and submit the attached compliance certification form to this office.

In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>.

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If any questions should arise concerning this matter, please contact Jim Cannon, of my staff, at (917) 790-8412.

Sincerely,



Rosita Miranda
Chief, Western Section

Enclosures
cc: NJDEP
NJSEA

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): June 17, 2016

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
New Jersey Transit Corporation (NJT), One Penn Plaza East, Newark, New Jersey 07105

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:
New York District, U.S. Army Corps of Engineers, New Jersey Transit Corporation, NAN-2016-00890-WCA.

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
Cedar Creek, a tributary of the Hackensack River, a navigable water way. The New Jersey Transit Corporation proposes to temporarily relocate a 2,520 linear foot aerial fiber optic communications cable alignment consisting of four aerial fiber optic cables, over Waters of the United States).

(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)

State: New Jersey County/parish/borough: Hudson City: Kearny
Center coordinates of site (lat/long in degree decimal format):

Lat.40.7450 Long. -74.1208

Universal Transverse Mercator:

Name of nearest waterbody: Cedar Creek, a tributary of the Hackensack River.

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 2,520 linear feet: width (ft) and/or acres.

Cowardin Class: Tidal Estuarine (Situated behind a tide gate)

Stream Flow:

Wetlands: acres.

Cowardin Class: Waters of the United States

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal: Cedar Creek, tributary to the Hackensack River

Non-Tidal:

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: June 17, 2016

Field Determination. Date(s):

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:


SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: New Jersey Transit Corporation submittal dated February 11, 2016.

- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps. 02030103180
- U.S. Geological Survey map(s). Cite scale & quad name: Weehawken, NJ
- USDA Natural Resources Conservation Service Soil Survey.
Citation:
 - National wetlands inventory map(s). Cite name:
 - State/Local wetland inventory map(s):
 - FEMA/FIRM maps:
 - 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
 - Photographs: Aerial (Name & Date):
or Other (Name & Date):

- Previous determination(s). File no. NAN-2009-01222, dated January 17, 2013.
- Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.



Signature and date of
Regulatory Project Manager

Signature and date of
person requesting preliminary JD

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
1	40.7450	-74.1208	Riverine	2,520 linear feet over Waters of the U.S.	Section 10 Waters of the U.S.



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

REPLY TO
ATTENTION OF:

CENAN-OP-R

NATIONWIDE PERMIT COMPLIANCE CERTIFICATION AND REPORT FORM

Permittee: **New Jersey Transit Corporation** Permit No. **NAN-2016-00890**

Date Permit Issued: JUN 22 2016

Location: **Town of Kearny, Hudson County, New Jersey**

Within 30 days of the completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the address at the bottom of this form.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Fold this form into thirds, with the bottom third facing outward. Tape it together and mail to the address below **or FAX to (212) 264-4260.**

Here

Place Stamp

Department of the Army
New York District Corps of Engineers
Jacob K. Javits Federal Building
ATTN: CENAN-OP-R
New York, New York 10278-0090

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK),
THE NEW JERSEY TRANSIT CORPORATION (NJ TRANSIT)
AND
THE NEW JERSEY HISTORIC PRESERVATION OFFICER
REGARDING THE
PORTAL BRIDGE CAPACITY ENHANCEMENT PROJECT
IN HUDSON COUNTY, NEW JERSEY**

WHEREAS, the National Railroad Passenger Corporation ("Amtrak") and the New Jersey Transit Corporation ("NJ TRANSIT"), the project sponsors, are proposing capacity enhancements to the Hackensack River crossing of the Northeast Corridor currently consisting of the Portal Bridge (the "Project");

WHEREAS, The Federal Railroad Administration ("FRA") is the Project's lead federal agency pursuant to the National Environmental Policy Act (NEPA, codified at 42 USC 4321 et seq.) and is the federal agency responsible for compliance with Section 106 of the National Historic Preservation Act (codified at 16 USC § 470f, and herein "Section 106");

WHEREAS, FRA, Amtrak, and NJ TRANSIT, along with the New Jersey Historic Preservation Office ("NJHPO"), as the result of a consultative process in accordance with Section 106, have determined that it is appropriate to enter into this Memorandum of Agreement or "Agreement," pursuant to Section 800.6 of the regulations implementing Section 106 (codified at 36 CFR Part 800, and herein the "Section 106 Regulations"), which will govern the implementation of the Project and satisfy FRA's compliance with Section 106;

WHEREAS, FRA has coordinated its compliance with Section 106 and NEPA, pursuant to 36 CFR § 800.8 through its preparation of an Environmental Impact Statement ("EIS") for the Project;

WHEREAS, through the process conducted in preparing the EIS, FRA has determined that the Project will have an effect on properties qualifying for protection under Section 106, consisting of certain properties listed or eligible for listing on the New Jersey State and National Registers of Historic Places ("Historic Properties");

WHEREAS, pursuant to the Section 106 Regulations, FRA and NJ TRANSIT, in consultation with NJHPO, identified the Project's areas of potential effect ("APEs") for Historic Properties and determined that the APEs are the areas where potential effects on Historic Properties caused by the Project may occur;

WHEREAS, as documented in the EIS, FRA, and NJ TRANSIT, in consultation with NJHPO, identified eight Historic Properties in the Project's APEs that qualify for Section 106 protection. These Historic Properties are identified in Table 5.2-1 of the EIS, "Historic Properties within Study Area." Additionally, Figure 5.2-3 of the EIS depicts the approximate locations of these Historic Properties. These figures are annexed hereto as Exhibit A;

WHEREAS, as documented by the EIS, FRA, and NJ TRANSIT, in consultation with NJHPO, identified one area with the potential to contain Archaeological Properties in the Project's archaeological APE ("archaeologically sensitive area"): the State/National Register-eligible Historic Cemeteries of

Hudson County (a.k.a. Hudson County Potter's Field Burial Ground [New Jersey State Museum #28-Hd-30, LBG]) archaeological site, which has the potential to contain human remains. This location is shown on Figure 5.2-2 of the EIS, annexed hereto as Exhibit B;

WHEREAS, as documented in the EIS, the Project is expected to have an adverse effect on two Historic Properties, the New Jersey (State) Register (SR)-listed and National Register (NR)-eligible Portal Bridge, and the State/National Register-eligible Pennsylvania Railroad Historic District. A mitigation plan for the Portal Bridge and the Pennsylvania Railroad Historic District to partially mitigate adverse effects is included in this Memorandum of Agreement;

WHEREAS, the EIS demonstrated that the Project construction could have additional potential adverse effects on certain Historic Properties primarily due to the proximity of the resources to proposed construction activities. Historic Properties that the EIS identified as being in proximity to project construction to require protection under the Construction Protection Plan include Substation 4 (S/NR-eligible) and the Jersey City Waterworks Pipeline (S/NR-eligible);

WHEREAS, the proposed Project is not expected to have an adverse effect on the former Edison Battery Company Property (S/NR-eligible), however, other projects concurrently planned by other entities may adversely affect the complex in the future, and could constitute a cumulative effect of the Project which the proposed Project might contribute to;

WHEREAS, FRA has made a reasonable and good faith effort to identify and contact by letter the appropriate Native American tribes and groups (the "Tribes") that could attach religious or cultural significance to sites within the APEs upon which the Project could have an effect;

WHEREAS, notwithstanding certain federal laws which exempt Amtrak from state and local regulation, due to the involvement of NJ TRANSIT, an instrumentality of the State of New Jersey, the Project is subject to the New Jersey Register of Historic Places Act of 1970 (New Jersey Administrative Code [N.J.A.C.] 7:4). The project may result in a physical effect on the SR-listed Portal Bridge, and therefore, NJTRANSIT will need to secure Project Authorization as per the stipulations of the New Jersey Register of Historic Places Act;

NOW, THEREFORE, FRA, Amtrak, NJ TRANSIT, and NJHPO agree that the Project shall be implemented in accordance with the following stipulations to ensure that potential effects on Historic Properties are taken into account.

STIPULATIONS

FRA, AMTRAK, NJ TRANSIT, AND NJHPO AGREE THAT THE FOLLOWING STEPS WILL BE UNDERTAKEN IN CONNECTION WITH THE PROJECT AND THAT FRA WILL INCLUDE THE OBLIGATIONS SET FORTH IN THIS AGREEMENT AS PART OF ITS RECORD OF DECISION AND AS A CONDITION OF FRA'S APPROVAL OF ANY GRANT ISSUED FOR CONSTRUCTION OF THE PROJECT, TO ENSURE THAT THESE MEASURES ARE IMPLEMENTED AS PART OF THE COMPLIANCE WITH THE SECTION 106 PROCESS AND THE SUBSEQUENT PLANNING, DESIGN, AND CONSTRUCTION OF ANY APPROVED PROJECT ALTERNATIVE.

I. MITIGATION OF UNAVOIDABLE ADVERSE EFFECTS

Mitigation for potential adverse effects on the Portal Bridge (SR-listed; NR-eligible) and the Pennsylvania Railroad Historic District (S/NR-eligible) would be developed by Amtrak and NJ TRANSIT in consultation with FRA and NJHPO and would include the following:

A. Historic American Engineering Record (HAER) documentation of Portal Bridge and the portion of the Pennsylvania Railroad Historic District within the APE. HAER documentation will include narratives that describe in detail the physical characteristics of the structures (including their engineering, design and setting), and that interpret their history, focusing on their construction as part of the first direct rail route between New York City and New Jersey which did not rely on ferry transport and which also involved the construction of New York's Pennsylvania Station. Primary and secondary resources will be used in the research effort, including historic engineering literature, United States Army Corps of Engineers Reports, the files of Amtrak and NJ TRANSIT, newspapers and periodicals, and the collections of libraries, historical societies, and other repositories in New York and New Jersey, such as the New York Public Library, the City Hall Library, the Municipal Archives, and other locations. The compiled information, which could include historic plans, photographs, and other documents, will be duplicated to appropriate archival standards as part of the recordation document. The HAER recordation would also include photographic documentation, which would record both the Portal Bridge and the portions of the Pennsylvania Railroad within the APE. Photographs, prints, and duplicates would be meet appropriate HAER archival standards. Both still photography and video footage would illustrate the moveable span of the Portal Bridge in operation.

A draft copy of the report and accompanying materials would be submitted to NJHPO for review and comment. Final copies of the recordation document will be provided to the NJHPO, the Rutgers University Special Collections Library, and county and local archives, as appropriate.

B. Salvage of elements of Portal Bridge and/or Pennsylvania Railroad Historic District, such as truss components, tracks, etc. NJ TRANSIT and Amtrak will develop a list of potentially salvageable items for review and comment by NJHPO. NJ TRANSIT and Amtrak will also develop a marketing plan for review by NJHPO which will be in effect for the duration of one year.

C. Development of an interpretive exhibit in a park, greenway, or public space that would present the history of the Pennsylvania Railroad and Portal Bridge and possibly include salvaged elements of the resources, signage, etc. The location, format, and content of this exhibit will be identified by Amtrak and NJ TRANSIT in consultation with NJHPO.

D. Additional documentation interpreting the history and significance of the Portal Bridge and Pennsylvania Railroad in the form of a website, to be developed and maintained by NJ TRANSIT in

consultation with Amtrak and FRA, and to be completed in coordination with the NJHPO. The website may include written narratives, historic and recent photography, and video of the operating bridge. The location, format, and specific content of the website will be determined in consultation with NJHPO.

II. DESIGN REVIEW

Amtrak and NJ TRANSIT in coordination with FRA shall ensure that the preliminary and final plans and specifications for the proposed new bridge adhere to the recommended approaches in the Secretary of the Interior's Standards and Treatments for Historic Properties and are compatible with the historic and engineering features of the Portal Bridge and the Pennsylvania Railroad Historic District.

Upon completion of the Project's Design Criteria Report during preliminary engineering, NJ TRANSIT and Amtrak would consult with the NJHPO to identify engineering constraints and opportunities for incorporating historically compatible design into the preliminary plan. Amtrak and NJ TRANSIT shall consult with NJHPO in the development of bridge plans at the preliminary (30%) and pre-final (approximately 75%) design stages. NJHPO will respond within 30 calendar days of receipt by the NJHPO at each stage of completion as described above. Amtrak and NJ TRANSIT will consider and respond to all comments received from NJHPO. If NJHPO does not respond within the comment period, Amtrak and NJ TRANSIT may assume that NJHPO concurs with the submitted plans.

III. CONSTRUCTION PROTECTION PLAN

To avoid Project-related construction damage to any Historic Property, Amtrak and NJ TRANSIT, in consultation with FRA and NJHPO, will develop a Construction Protection Plan for Historic Properties. The Construction Protection Plan, developed prior to construction of the Project, would set forth the specific measures to be used, and specifications that would be applied, to protect Historic Properties during the construction period. Amtrak and NJ TRANSIT shall ensure that Historic Properties that could be adversely affected by the Project construction will be included in a Construction Protection Plan, and Amtrak and NJ TRANSIT shall implement such plan as appropriate. NJ TRANSIT and Amtrak will proceed with implementation of the plan upon NJHPO's review and approval of the Construction Protection Plan.

IV. ADDITIONAL EVALUATION FOR HISTORIC CEMETERIES OF HUDSON COUNTY AREA OF ARCHAEOLOGICAL SENSITIVITY

A. Further Impact Analyses

A number of previous archaeological surveys have been carried out in sections of the Historic Cemeteries of Hudson County, including the Potter's Field Disinterment/Re-interment Project (Louis Berger Group, 2005) and the Access to the Region's Core (ARC) EIS; Phase 1A Archaeological Documentary Study (TransitLink Consultants, 2005). Ground-Penetrating Radar studies were conducted in association with the ARC project (Geo-Graf Geophysical Investigations, 2007) that identified anomalies (potential burial sites) in a water-inundated section of the archaeological APE. Based on the conclusions of these previous archaeological surveys, as project engineering proceeds, the vertical and horizontal extents of proposed project construction will be compared to archaeologically sensitive areas to determine potential Project effects.

B. Field Testing

If further impact analyses described in II.A.1 determine that the Project may affect areas sensitive for archaeological resources associated with the Historic Cemeteries of Hudson County, Amtrak and NJ TRANSIT, in consultation with FRA and NJHPO, shall undertake field testing to identify the presence or absence of such resources:

1. Prior to commencing any field testing, Amtrak and NJ TRANSIT shall submit a Field Testing Plan outlining the proposed methodology for NJHPO's concurrence. In areas identified as potentially sensitive for human remains, field testing to determine presence or absence of burials will proceed in a sensitive manner, in accordance with requirements for testing in areas potentially sensitive for human remains to be established in the Field Testing Plan, to be completed by Amtrak and NJ TRANSIT in consultation with FRA and NJHPO. Mechanical equipment would be used in field testing only to remove the overburden and to expose soils to a point where grave shafts would be discernable. If grave shafts are discernable, excavation of a sample grave shaft would proceed by hand in order to confirm the presence of human remains. If human remains are found, they would be left in situ and the shaft would be refilled.
2. If archaeological testing is planned in inundated areas requiring dewatering, NJ TRANSIT and Amtrak would obtain a permit from the New Jersey Department of Environmental Protection (NJDEP) and other appropriate agencies.
3. Subsurface work will only be undertaken in areas potentially sensitive for human remains following the prior notification of and opportunity for consultation with any interested lineal descendants of the deceased buried in the Historic Cemeteries of Hudson County (if any such descendants can be reasonably identified and located) as outlined below in III.C.
4. A physical anthropologist/forensic archaeologist shall either be on-call or on-site, as determined in the Field Testing Plan developed in consultation with NJHPO, in the event that skeletal material is encountered during archaeological testing or Project construction in or adjacent to the archaeologically sensitive area;
5. Subsequent to field testing in areas sensitive for human remains, Amtrak and NJ TRANSIT shall provide a technical report to FRA and NJHPO in which one of the following conclusions is reached:
 - (i) The site does not appear to contain materials relating to the Historic Cemeteries of Hudson County; in which case no further action is required.
 - (ii) The site does appear to contain materials relating to the Historic Cemeteries of Hudson County, in which case the site will be treated in accordance with II.A.3 below.
6. NJHPO's review and comment on such reports shall be governed by the process set forth in III.A-B.

C. Disinterment/Re-interment of Human Remains

If field testing determines that human remains exist in areas that will be impacted by the Project, Amtrak and NJ TRANSIT would implement a Disinterment/Re-interment Plan in coordination with FRA, NJHPO, and any interested lineal descendants of the deceased buried in the Historic Cemeteries of Hudson County, as set forth below.

1. Amtrak and NJ TRANSIT would prepare a Disinterment/Re-interment Plan in consultation with FRA, NJHPO, and any interested lineal descendants of the deceased buried in Historic Cemeteries of Hudson County. The Disinterment/Re-interment Plan would be prepared to conform to the Secretary of the Interior's Standards for Archaeological Documentation by an archaeologist that satisfies the qualifications specified in 36 CFR 61, Appendix A. The Disinterment/Re-interment Plan would be developed and implemented so as to avoid and minimize construction delays, and in conformance with the following requirements.
2. Where subsurface work is required, Amtrak and NJ TRANSIT shall make a reasonable and good faith effort, prior to any excavation to disinter remains, to locate and contact any lineal descendants of the deceased buried in the Historic Cemeteries of Hudson County. In the event that interested lineal descendant(s) have been identified and located, Amtrak and NJ TRANSIT shall seek the involvement of the descendants to establish an appropriate protocol outlining appropriate notification procedures and treatment of human remains during disinterment and re-interment.
3. The Historic Cemeteries of Hudson County fall within the jurisdiction of the New Jersey Cemetery Act, Title 8A for the New Jersey Statutes (N.J.S.) (State of New Jersey 2002). The New Jersey Cemetery Board administers the Act, and the New Jersey Attorney General oversees actions and proceedings of the Cemetery Board. Any disinterment and re-interment would also require approval by the Chancery Division of the Superior Court of New Jersey. The landowner of the affected portion of the Historic Cemeteries of Hudson County would have to initiate legal proceedings seeking approval from the Court for any disinterment and re-interment. The Cemetery Board, the State of New Jersey, and interested lineal descendants of the deceased (if applicable) would be defendants in the litigation. A hearing before the Court would be required to approve the Disinterment/Re-interment Plan. Any required legal processes could be carried out in advance of final design, to avoid or minimize schedule delays.
4. A physical anthropologist/forensic archaeologist shall be on-site during disinterment.
5. Once Amtrak and NJ TRANSIT, in consultation with FRA and NJHPO, determine that all remains have been properly exhumed, construction may proceed.
6. Within two years after the completion of disinterment and re-interment, Amtrak and NJ TRANSIT shall provide a technical report to FRA and NJHPO. FRA and NJHPO's review and comment on such submissions shall be governed by the process set forth in III.A-B.

D. Mitigation Data Recovery, Curation, and Public Interpretation

1. Amtrak, NJ TRANSIT, and FRA, in consultation with NJHPO, shall consider measures, such as design modification, for avoidance of the Historic Cemeteries of Hudson County area of archaeological sensitivity.
2. In advance of any mitigation or data recovery efforts undertaken for the Historic Cemeteries of Hudson County, Amtrak and NJ TRANSIT, in consultation with NJHPO, will develop in accordance with 36 CFR Part 79, an Analysis and Curation of Material and Records Plan for any archaeological excavations. NJHPO's review and comment on such plans shall be governed by the process set forth in III.A-B. Amtrak and NJ TRANSIT shall be responsible for the implementation of such a plan, as appropriate.
3. During and/or following mitigation or data recovery efforts, Amtrak and NJ TRANSIT will consult with NJHPO as to the appropriateness of creating and providing interpretive materials to the public. If appropriate, Amtrak and NJ TRANSIT will develop a Public Outreach Plan for Archaeology which would be submitted to NJHPO for review and comment. Such materials could take the form of a brochure, information kiosk, or web page to provide information on the data recovery program and any archaeological resources uncovered as a result of that program. Amtrak and NJ TRANSIT will implement the final Public Outreach Plan for Archaeology, as appropriate.

E. Unanticipated Discoveries Plan

Amtrak and NJ TRANSIT in consultation with FRA shall develop and implement an Unanticipated Discoveries Plan for human and non-human archaeological resources in the event that any unanticipated archaeological resources are encountered during construction of the Project. The Unanticipated Discoveries Plan would be submitted to NJHPO for review and comment.

F. Construction and Archaeology Phasing Plan

Amtrak and NJ TRANSIT will take all practical steps to initiate and complete archaeological field analysis and data recovery, as necessary (depending on site access and testing feasibility), prior to construction activities in the vicinity of affected resources. Amtrak and NJ TRANSIT in consultation with NJHPO, will develop a plan to appropriately phase the archaeological field analysis and data recovery with construction activities. NJHPO's review and comment on such plans shall be governed by the process set forth in III.A-B.

G. Professional Standards

Amtrak and NJ TRANSIT shall ensure that all archaeological research, testing, analysis, and plans conducted pursuant to this Agreement are carried out by or under the direct supervision of a person or persons meeting at a minimum the Secretary of Interior's Professional Qualifications Standards for archaeology. Amtrak and NJ TRANSIT shall ensure that all final reports are consistent with the NJHPO's *Guidelines for Preparing Cultural Resources Management Archaeological Reports Submitted to the Historic Preservation Office* and the Department of the Interior's *Standards for Archaeological Documentation*.

V. COMPLIANCE WITH NEW JERSEY REGISTER OF HISTORIC PLACES ACT

Because the Project could result in a physical effect to an SR-listed property (the Portal Bridge), NJ TRANSIT will submit an Application for Project Authorization to the NJHPO pursuant to the New Jersey Register of Historic Places Act (N.J.A.C. 7:4). NJ TRANSIT, in coordination with Amtrak, FRA, and NJHPO, will also fulfill any additional compliance obligations stipulated in N.J.A.C. 7:4-7 ("Review Procedures for Projects Encroaching upon New Jersey Register Properties"), as appropriate.

VI. IDENTIFICATION OF ADDITIONAL BUILT PROPERTIES AND ASSESSMENT OF PROJECT EFFECTS

- A. If additional Historic Properties not previously identified as Historic Properties in the EIS are identified in the Project's APEs during Preliminary Engineering, Final Design, or Construction of the Project, the potential effects on Historic Properties will be assessed prior to construction by FRA, Amtrak, and NJ TRANSIT, in consultation with NJHPO, in accordance with the Section 106 process. NJHPO review will be carried out in compliance with the stipulations of VII, Document Review.
- B. If construction activities or Project plans change such that the Project may newly affect an archaeologically sensitive area, Amtrak, NJ TRANSIT, and FRA shall notify NJHPO and invite NJHPO to participate in consultation to determine the appropriate course of action.
- C. If it is determined that concurrently planned projects would adversely affect the S/NR-eligible former Edison Battery Company Property, and if it is determined that the effects of the proposed Project contribute to a cumulative adverse effect on the Property, Amtrak and NJ TRANSIT would consult with FRA and NJHPO to develop appropriate mitigation measures, if appropriate.

VII. DOCUMENT REVIEW

NJHPO shall provide comments regarding any future plans and/or amendments to such plans as promptly as possible but not to exceed 30 calendar days of its receipt of such plans or reports. If NJHPO does not submit comments in writing to FRA, Amtrak, and NJ TRANSIT within 30 calendar days of receipt of any such submissions, it is understood that NJHPO has concurred with the proposed plans. If NJHPO objects in writing within 30 calendar days of its receipt of any submissions, then FRA, Amtrak, NJ TRANSIT, and NJHPO shall consult expeditiously in an effort to resolve the objection. If FRA, Amtrak, and NJ TRANSIT cannot resolve NJHPO's objection and if further consultation with NJHPO is deemed unproductive by any party, then the parties shall adhere to the dispute resolution procedures detailed under VII, below.

VIII. REPORTING AND OVERSIGHT

- A. Final Reports. Amtrak and NJ TRANSIT shall ensure that all final historic reports and all final archaeological resources reports resulting from this Agreement shall be provided to NJHPO and FRA.
- B. Annual Reports. Commencing one year from the date this Agreement is fully executed, and every year thereafter until the Project is completed or terminated, annual reports will be submitted by Amtrak and NJ TRANSIT to NJHPO and FRA, providing information

concerning the implementation of this Agreement and the effect of the Project on Historic Properties.

- C. Annual Review of the Agreement. The signatories to this Agreement, or their successors, will review the implementation of this Agreement and determine whether revisions are needed at the time the annual reports are submitted.
- D. Revisions to the Agreement. After review of the annual reports, if FRA, Amtrak, NJ TRANSIT, and NJHPO, or their successors in interest all agree that revisions to this Agreement are necessary, such revisions will be considered and implemented pursuant to a consultative process involving all the parties to this Agreement.

IX. DISPUTE RESOLUTION

In the event NJHPO objects in writing to any plan or report proposed pursuant to this Agreement within 30 calendar days of its receipt of such plan or report, FRA, Amtrak, and NJ TRANSIT shall meet with NJHPO to resolve the objection. Following such further consultation, FRA shall determine as promptly as possible whether such objection has been satisfactorily resolved. If FRA determines that the objection has not been satisfactorily resolved, within 15 calendar days of its determination in this regard, FRA shall forward all documentation relevant to the dispute, including FRA's proposed resolution of the dispute, to ACHP. ACHP will provide FRA with recommendations or comments within 30 calendar days after receipt of all pertinent documentation. FRA will take such recommendations or comments into account in reaching a final decision regarding the dispute. In the event ACHP fails to respond to FRA's request for recommendations or comments within 30 calendar days of receiving all pertinent documents, FRA may resolve the dispute.

X. OTHER

- A. Notwithstanding any other provision in this Agreement, any party may propose an amendment hereto whereupon the parties will consult to consider such amendments.
- B. For purposes of notices and consulting pursuant to this Agreement, the following addresses and contact information should be used for the following agencies:

AMTRAK

Alex Kummant
President, Amtrak
60 Massachusetts Avenue NE,
Washington, DC 20002

NJ TRANSIT

Richard R. Sarles, Sr.
Executive Director, NJ TRANSIT
One Penn Plaza East,
Newark, NJ 07105

FRA

Mark Yachmetz
Associate Administrator for Railroad Development
US Department of Transportation
Federal Railroad Administration
Office of Railroad Development
1200 New Jersey Ave SE, MS-20
Washington, DC 20590
Tel.: 202-493-6381
Fax: 202-668-6330

NJHPO

Mr. Terry Karschner
Deputy State Historic Preservation Officer
New Jersey Historic Preservation Office
501 East State Street
P.O. Box 404
Trenton, NJ 08625
Tel.: 609-984-0545
Fax: 609-984-0578


- C. This Agreement shall take effect on the date it is signed by the last signatory and will remain in effect until the stipulations set forth herein have been met.

EXECUTION AND IMPLEMENTATION OF THIS MEMORANDUM OF AGREEMENT EVIDENCES THAT FRA HAS SATISFIED ITS SECTION 106 RESPONSIBILITIES FOR ALL INDIVIDUAL UNDERTAKINGS OF THE PROJECT.

**APPROVAL AND SIGNATURE PAGE FOR
 MEMORANDUM OF AGREEMENT
 AMONG
 THE FEDERAL RAILROAD ADMINISTRATION,
 THE NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK),
 THE NEW JERSEY TRANSIT CORPORATION (NJ TRANSIT)
 AND
 THE NEW JERSEY HISTORIC PRESERVATION OFFICER
 REGARDING THE
 PORTAL BRIDGE CAPACITY ENHANCEMENT PROJECT
 IN HUDSON COUNTY, NEW JERSEY**

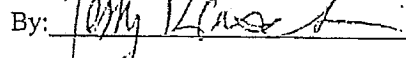
EXECUTION AND IMPLEMENTATION OF THIS MEMORANDUM OF AGREEMENT EVIDENCES THAT FRA HAS SATISFIED ITS SECTION 106 RESPONSIBILITIES FOR ALL INDIVIDUAL UNDERTAKINGS OF THE PROJECT.

FEDERAL RAILROAD ADMINISTRATION

By: 
 Joseph H. Boardman, Administrator
~~Mark Yachmetz~~
~~Associate Administrator for Railroad Development~~


Date: OCT 1 - 2008

NEW JERSEY HISTORIC PRESERVATION OFFICER

By: 
 Terry Karschner
 Deputy State Historic Preservation Officer

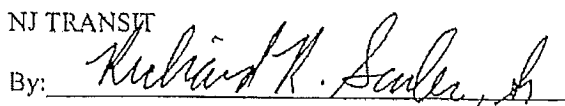
Date: 7-25-2008

AMTRAK

By: 
 Alex Kummant, President

Date: 8/7/08

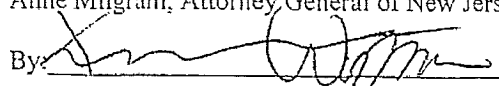
NJ TRANSIT

By: 
 Richard R. Sarles, Sr.
 Executive Director

Date: 7/24/08

Approved as to form;

Anne Milgram, Attorney General of New Jersey

By: 
 Deputy Attorney General

Date: 7/18/08

ATTACHMENT F



**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION**

P.O. Box 439, Trenton, New Jersey 08625-0439
Fax: (609) 777-3656 or (609) 292-8115
www.state.nj.us/dep/landuse



PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.	Approval Date: April 20, 2015
	Expiration Date: April 19, 2020

Permit Number 0900-09-0005.2 WFD150001	Type of Approval Waterfront Development Permit & Water Quality Certificate	Enabling Statutes NJSA 12:5-3 NJSA 58:10
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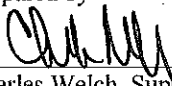
Applicant New Jersey Transit One Penn Plaza East Newark, NJ 07105	Site Location Rail Project crossing the Hackensack River Town of Kearny, Hudson County Town of Secaucus, Hudson County
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This permit authorizes the construction of the following components of the Portal Bridge Capacity Enhancement project along the Hackensack River in the Towns of Kearny and Secaucus, Hudson County:

1. The decommissioning and removal of the existing two-track, moveable swing-span Portal Bridge rail bridge.
2. The construction of a new Northern Bridge, three-track fixed northern bridge at a height of 50 feet above mean high water, as well as related approach structures constructed to the north of the existing bridge.
3. The construction of a new Southern Bridge, a two-track fixed southern bridge at a height of 50 feet above mean high water as well as related approach structures constructed to the south of the existing bridge.
4. New track configuration between Swift Interlocking and Secaucus Transfer Station, including a grade-separated crossing of the Northeast Corridor.
5. Construction of new bridges over Newark Turnpike, former Erie Newark-Paterson Branch right-of-way, Belleville Turnpike, former Erie Arlington Branch right-of-way, and the Boonton Line.
6. New ancillary equipment such as signal and communication systems, traction power supply and distribution.
7. Temporarily relocation of fiber optic cables within the project area while the bridge construction is taking place.

In addition to the proposed work being located within 500 feet of the mean high water line, the project will also permanently impact **1.139** acres of Intertidal Subtidal Shallows, **3.107** acres of coastal wetlands and **0.654** acres of open water. In addition, the disturbance of **0.24** acres of herbaceous riparian zone and the temporary loss **2.481** acres of coastal wetlands will occur for the construction of these elements.

This permit is authorized under, and in compliance with the Rules on Coastal Zone Management, N.J.A.C. 7:7E-1.1 et seq.

Prepared by

Charles Welch, Supervisor

THIS PERMIT IS NOT EFFECTIVE AND NO CONSTRUCTION APPROVED BY THIS PERMIT, OR OTHER REGULATED ACTIVITY, MAY BE UNDERTAKEN UNTIL THE APPLICANT HAS SATISFIED ALL PRE-CONSTRUCTION CONDITIONS AS SET FORTH IN THIS PERMIT.

This permit is not valid unless authorizing signature appears on the last page.

PRE-CONSTRUCTION CONDITIONS:

1. **Timing:** If this permit contains a condition that must be satisfied prior to the commencement of construction, the permittee must comply with such condition(s) within the time required by the permit or, if no time specific requirement is imposed, then within six months of the effective date of the permit, or provide evidence satisfactory to the Division that such condition(s) cannot be satisfied.

STANDARD CONDITIONS:

1. **Responsibilities:**
 - a. The permittee, its contractors and subcontractors shall comply with all conditions of this permit, authorizing and/or supporting documents and approved plans and drawings.
 - b. A copy of this permit, other authorizing documents, records and information including all approved plans and drawings shall be maintained at the authorized site at all times and made available to Department representatives or their designated agents upon request.
2. **Permit modification:** Plans and specifications in the application and conditions imposed by this permit shall remain in full force and effect so long as the proposed development or any portion thereof is in existence, unless modified by the Department. No change in plans or specifications upon which this permit is issued shall be made except with the prior written permission of the Department. The filing of a request to modify an issued permit by the permittee, or a notification of planned changes or anticipated noncompliance does not stay any condition of this permit.
3. **Duty to minimize environmental impacts:** The permittee shall take all reasonable steps to prevent, minimize or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of this permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit.
4. **Proper site maintenance:** While the regulated activities are being undertaken, neither the permittee, its contractors nor subcontractors shall cause or permit any unreasonable interference with the free flow of a regulated feature by placing or dumping any materials, equipment, debris or structures within or adjacent to the regulated area. Upon completion or abandonment of the work, the permittee, its contractors or subcontractors shall remove and dispose of in a lawful manner all excess materials, debris, equipment, silt fences and other temporary soil erosion and sediment control devices from all regulated areas. Only clean non-toxic fill shall be used where necessary.
5. **Sediment control:** Development which requires soil disturbance, creation of drainage structures, or changes in natural contours shall conduct operations in accordance with the latest revised version of "Standards for Soil Erosion Sediment Control in New Jersey," promulgated by the New Jersey State Soil Conservation Committee, pursuant to the Soil Erosion and Sediment Control Act of 1975, N.J.S.A. 4:24-42 et seq. and N.J.A.C. 2:90-1.3-1.14.
6. **Rights of the State:**
 - a. This permit does not convey any property rights of any sort, or any exclusive privilege.
 - b. Upon notification and presentation of credentials, the permittee shall allow Department representatives or their designated agents, to enter upon the project site and/or where records must be kept under the conditions of this permit, inspect at reasonable times any facilities, equipment, practices or operations regulated or required under the permit, and sample or monitor for the purposes of determining compliance. Failure to allow reasonable access shall be considered a violation of this permit and subject the permittee to enforcement action.

- c. The issuance of this permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction, structure or structures. Neither the State nor the Department shall, in any way, be liable for the loss of life or property which may occur by virtue of the activity of development resulting from any permit.
7. **Duty to Reapply:** If the permittee wishes to continue an activity covered by the permit after the expiration date of the permit authorization, the permittee must apply for and obtain a new permit authorization.
8. **Transfer of Permit:** This permit may not be transferable to any person unless the transfer is approved by the Department. Please refer to the applicable rules for more information.
9. **Other Approvals:** The permittee must obtain any and all other Federal, State and/or Local approvals. Authorization to undertake a regulated activity under this permit does not indicate that the activity also meets the requirements of any other rule, plan or ordinance.
10. **Noncompliance:**
 - a. Any noncompliance with this permit constitutes a violation, and is grounds for enforcement action, as well as modification, suspension and/or termination of the permit.
 - b. The permittee shall immediately report to the Department by telephone at (877) 927-6337 any noncompliance that may endanger health or the environment. In addition, the permittee shall report all noncompliance to Bureau of Coastal and Land Use Compliance and Enforcement, 401 E. State Street, 4th Floor, P.O. Box 420, Mail Code: 401-04C, Trenton, NJ 08625, in writing within five business days of the time the permittee becomes aware of the noncompliance. The written notice shall include: a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter.
11. **Appeal of Permit:** In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this permit may request a hearing within 30 days after notice of the decision is published in the DEP Bulletin. This request must include a completed copy of the Administrative Hearing Request Checklist. The DEP Bulletin is available through the Department's website at <http://www.nj.gov/dep/bulletin> and the Checklist is available through the Division's website at http://www.nj.gov/dep/landuse/download/lur_024.pdf. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information about this process.

SPECIAL CONDITIONS IN ADDITION TO THE STANDARD CONDITIONS:

1. All necessary local, Federal and other state approvals must be obtained by the applicant prior to the commencement of the herein-permitted activities.
2. *Prior to the start of construction activities*, the permittee shall comply with the State's Underground Facility Protection Act by notifying the State's One Call System and identifying the project.
3. In order to protect the *anadromous fisheries resource* within the Hackensack River, no grading, construction or clearing is permitted within the Hackensack River between **April 1** and **June 30**. Furthermore, any activity outside a watercourse, which would likely introduce sediment into the watercourse and/or increase its turbidity, is also prohibited during this period. The Department reserves the right to suspend all regulated activities onsite should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition. Cofferdams (surrounding the work area) may be installed prior to the construction/installation of

in-water construction activities. Construction of the in-water activities may take place between April 1 and June 30 of each year within the coffer dams. Coffers may remain in place until construction is complete and all in-water temporary structures are removed.

4. Vegetation within **50 feet** of the top of the bank of all watercourses shall only be disturbed in the areas specifically shown on the approved drawings. No other vegetation within 50 feet of the top of any stream bank onsite shall be disturbed for any reason. This condition applies to all channels onsite regardless of the contributory drainage area.
5. ***Prior to any in water construction activities on the Portal Bridge***, the permittee shall submit a public access plan to the Division of Land Use Regulation for review and approval, in accordance with the rule on *Public Trust Rights* (7:7E-8.11) and as a condition of this permit.

COASTAL WETLANDS, OPEN WATERS AND INTERTIDAL SUBTIDAL SHALLOWS MITIGATION CONDITIONS

6. **The mitigation project must be conducted prior to or concurrent with the construction of the approved project.**
7. The mitigation proposal must be submitted to the Division **prior to the initiation of regulated activities authorized by this permit**. Mitigate for the permanent impact to **1.139** acres of Intertidal Subtidal Shallows, **3.107 acres** of coastal wetlands and **0.654 acres** of open water through either an on-site or off-site creation, restoration or enhancement project as detailed in conditions listed below.
8. **Within 30 days of the issuance of this permit** for an on-site or off-site individual mitigation project the permittee must submit in accordance with N.J.A.C. 7:7E-3.15, N.J.A.C. 7:7E-3.27, and N.J.A.C. 7:7E-3B, a mitigation proposal to the Division of Land Use Regulation (Division) Mitigation Unit. **Note: The Division is in receipt of a 60% Design mitigation plan dated February 05, 2010 and unsigned.** If the permittee is proposing to construct an intertidal subtidal shallows creation project, one acre of creation must be performed for each acre disturbed. If the permittee is proposing a wetlands enhancement project, the ratio of wetlands enhanced to intertidal subtidal shallows disturbed shall be two acres of enhancement for each acre disturbed sufficient to replace loss of ecological value from the permitted project and shall be approved by the Division. If the permittee is proposing to construct a coastal wetland project, two acres of creation or restoration must be performed for each acre of wetland disturbed and the mitigation area must, in addition to this, include a standard transition area. The slope of the created transition area must be fairly flat and therefore have a slope no greater than 10:1. The following conditions and information must be adhered to when performing mitigation.
 - a. **Within 30 days of the issuance of this permit** submit for review and approval a **conceptual** plan showing the location and proposed hydrology of the mitigation site.
 - b. **Within 30 days of receiving Division approval of the conceptual mitigation proposal**, the permittee must submit a **final design** of the mitigation project.
9. In accordance N.J.A.C. 7:7E-3B.3, obtain a secured bond, or other financial surety acceptable to the Department including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 30 percent of the estimated cost of construction. The Department will review the financial surety annually and the permittee shall adjust the surety to reflect current economic factors. Please

be advised if a governmental body is performing the mitigation the need for financial assurance is waived.

10. Prior to the commencement of the mitigation project, the permittee shall complete and sign the Department approved conservation restriction for the mitigation site (<http://www.state.nj.us/dep/landuse/forms/index.html>). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the wetland mitigation proposal. Immediately following the filing of the conservation restriction a copy must be sent to the Program for verification.
11. The permittee shall notify the Division of Land Use Regulation, in writing, at least thirty (30) days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the permittee, the contractor, the consultant and the Program.
12. The mitigation designer must be present during critical stages of construction of the mitigation project to ensure the intent of the mitigation design and its predicted wetland hydrology is realized in the landscape. Mitigation designs are not static documents and changes may be necessary to ensure success of the project. It shall be the prerogative of the mitigation consultant to make changes to the design should field conditions warrant such action.
13. Immediately following the final grading of the mitigation site, the permittee shall notify the Division for a post-grading construction meeting between the permittee, contractor, consultant and the Division. The permittee must give the Division at least thirty (30) days notice prior to the date of this meeting.
14. Within 30 days following the final grading of the mitigation project, the permittee shall submit a final report to the Division of Land Use Regulation. For intertidal subtidal shallows creation, the final report shall contain the following information:
 - a. A completed WETLAND MITIGATION PROJECT COMPLETION OF CONSTRUCTION FORM (<http://www.state.nj.us/dep/landuse/forms/index.html>) which certifies that the mitigation project has been constructed as designed and that the proposed area of mitigation has been accomplished;
 - b. As built plans with surroundings demonstrating that the site was graded according to the approved mitigation plans.
 - c. If intertidal subtidal shallows were created, documentation demonstrating that the mitigation site meets the definition of an intertidal subtidal shallow, that it is permanently or twice daily submerged from the Spring high tide to a depth of four feet below mean low water.

For wetlands enhancement or other components of the mitigation plan, the final report shall contain, at a minimum, the following information:

- d. A completed WETLAND MITIGATION PROJECT COMPLETION OF CONSTRUCTION FORM (attached) which certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished;
- e. As built plans which depict final grade elevations at one foot contours and include a table of the species and quantities of vegetation that were planted including any grasses that may have been used for soil stabilization purposes;

- f. Show on the as-built plans that the boundaries of the wetland mitigation area has been visibly marked with 3 inch white PVC pipe extending 4 feet above the ground surface. The stakes must remain on the site for the entire monitoring period;
 - g. Photos of the constructed wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983;
 - h. To document that the required amount of soil has been placed/replaced over the entire area of the mitigation site, provide a minimum of 6 soil profile descriptions to a depth of 20 inches. The location of each soil profile description should be depicted on the as built plan as well as provide the GPS waypoints in NJ state plane coordinates NAD 1983;
 - i. Submit soil test results demonstrating at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials;
 - j. The permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited; and
 - k. The sign must also state the name of the permittee, Department's permit number along with a contact name and phone number.
15. If the Division determines that one or more of the conditions regarding intertidal subtidal mitigation listed at 9 above are not satisfied, then the post construction monitoring shall be repeated the following lunar month(s) until all conditions regarding intertidal subtidal shallows at 9 above are met.
16. The permittee shall monitor the mitigation project for a lunar month after construction for the intertidal subtidal portion of the mitigation project. The permittee shall monitor the mitigation project for 5 full growing seasons if it is a proposed forested or scrub/shrub wetland and 3 full growing seasons for an emergent wetland or State open water after the mitigation project has been constructed.
17. The permittee shall submit a monitoring report to the Division of Land Use Regulation no later than December 31 of each monitoring year.
18. The monitoring report will include all the following information for the intertidal subtidal shallows portion of the project:
 - a. A USGS quad map showing the location of the mitigation site; a county road map showing the location (including lot and block) of the mitigation site; copy of an aerial photograph of the mitigation site. The point(s) of access to the mitigation site must be clearly indicated on all maps;
 - b. A copy of the permit the required the mitigation;
 - c. A brief description of the mitigation;
 - d. Photographs of the mitigation site with a location map indicating the location and direction for each photograph and indicating the tidal stage at the time the photo was taken;
 - e. For mitigation projects establishing a vegetative community, an assessment of the planted vegetation and any species that are naturally colonizing the site. This assessment shall

- include data sheets from the sampling points which describe the vegetation present, the percent coverage of the vegetation and the location of the water table;
- f. Based on the approved water budget prepared in accordance with N.J.A.C. 7:7E-3B.2(a)7, documentation demonstrating that the mitigation site is a wetland or intertidal or subtidal shallows. The documentation shall include, as appropriate, monitoring well data, stream gauge data, photographs and/or field observation notes collected throughout the post-construction monitoring period;
 - g. Documentation, based on field data, that the approved goals of the mitigation project prepared pursuant to N.J.A.C. 7:7E-3B.2(a), are satisfied;
 - h. A narrative evaluating the success/failure of the project in accordance with N.J.A.C. 7:7E-3B.5;
 - i. In the event that the mitigation is a failure in accordance with N.J.A.C. 7:7E-3B.5, a narrative description of proposed actions that will permanently rectify the problems.
19. All monitoring reports will include all the following information for the non-intertidal subtidal shallows portions of the project (see attached monitoring report checklist):
- j. All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed;
 - k. All monitoring reports except the final one must include field data to document that the site is progressing towards 85 percent survival and 85 percent area coverage of mitigation plantings or target hydrophytes (Target hydrophytes are non-invasive native species to the area and similar to ones identified on the mitigation planting plan). If the proposed plant community is a scrub/shrub or a forested wetland the permittee must also demonstrate each year with data that the woody species are thriving, increasing in stem density and height each year. If the field data shows that the mitigation project is failing to meet the vegetation survival, coverage and health goals, the monitoring report should contain a discussion of steps that will be taken to rectify the problem, including a schedule of implementation;
 - l. All monitoring reports except the final one must include documentation of any invasive or noxious species (see below for list of species) colonizing the site and how they are being eliminated. The permittee is required to eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site during the monitoring period;
 - m. All monitoring reports except the final one must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed;
 - n. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on

techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);

- o. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes. The permittee must also document that all plant species are healthy and thriving and if the proposed plant community contains trees demonstrate that the trees are at least five feet in height;
 - p. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Pueraria lobata* (Kudzu), *Typha latifolia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail), *Lythrum salicaria* (Purple loosestrife), *Ailanthus altissima* (Tree-of-heaven), *Berberis thunbergii* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet) and *Rosa multiflora* (Multiflora rose);
 - q. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period; and
 - r. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil throughout the delineated wetlands.
20. The permittee shall assume all liability for accomplishing corrective work should the Program determine that the compensatory mitigation has not been 100% satisfactory. Remedial work may include re-grading and/or replanting the mitigation site. This responsibility is incumbent upon the permittee until such time that the Department makes the finding that the mitigation project is successful.
21. If the permittee fails to perform mitigation within the applicable time period the acreage of mitigation required shall be increased by 20% each year after the date mitigation was to begin.

RIPARIAN ZONE COMPENSATION CONDITIONS

22. **The compensation project must be conducted prior to or concurrent with the construction of the approved project.** Concurrent means that at any given time, the compensation must track at the same or greater percentage of completion as the project as a whole. For example, when the project is 50 percent completed, the compensation project cannot be less than 50 percent completed.
23. The compensation proposal must be submitted to the Division for review and approval 90 days **prior to the initiation of regulated activities authorized by this permit.** Activities authorized by this permit shall not begin until the compensation proposal is approved and the compensation has begun.
24. Compensate for the loss of **0.24 acres** of herbaceous riparian zone at a ratio of at least 2:1.
25. All replanting of vegetation shall be accomplished in accordance with the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13).
26. As per N.J.A.C. 7:13-10.2, all riparian zone compensation must be deed restricted against future development that would remove the vegetation being planted. The conservation restriction shall

conform to the format and content of the Riparian Zone Compensation Area model conservation restriction located at <http://www.nj.gov/dep/landuse/forms/index.html>. The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the compensation project are located, within 10 days of completion of construction of the compensation project. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Department for verification.

27. In the event that there is a conflict between the permit conditions and the approved riparian zone compensation plans and proposal, the permit conditions take precedent.
28. If the riparian compensation project is considered a failure, the permittee is required to submit a revised riparian compensation plan in order to meet the success criteria identified in Condition No. 33 above. The plan shall be submitted within 60 days of receipt of notification from the Division indicating the riparian compensation project was a failure.
29. If the Division determines that the riparian zone compensation project is not constructed in conformance with the approved plan, the permittee will be responsibly notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected.
30. As per N.J.A.C. 7:13-10.2, the permittee shall monitor the riparian project for at least three (3) years beginning the year after the riparian zone compensation project has been completed. The permittee shall submit monitoring reports to the Division of Land Use Regulation, project manager no later than December 31st of each full monitoring year.
 - a. All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the riparian zone compensation project, as stated in the approved riparian zone compensation proposal and the permit will be satisfied. If the permittee is finding problems with the compensation project and does not anticipate the site will be a full success, then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed.
 - b. The final monitoring report must document the following:
 1. That the goals of the riparian zone compensation project including acreage as stated in the approved riparian zone compensation proposal and the permit has been satisfied.
 2. The site has an 85 percent survival and 85 percent area coverage of the compensation planting which are species native to the area and similar to ones identified on the compensation planting plan. All plant species in the compensation area are healthy and thriving. All trees are at least 5 feet in height;
 3. Documentation demonstrating the site is less than 10 percent occupies by invasive or noxious species.

AIR QUALITY CONDITIONS:

31. NJ Transit shall ensure that all non-road diesel equipment greater than 100 horsepower used on the project either has: engines that meet the United States Environmental Protection Agency's (USEPA) Tier 4 non-road emission standards; or the best available control technology that is technologically feasible for that application and verified by the USEPA or the California Air Resources Board (CARB) as a diesel emissions control strategy for reducing particulate emissions, unless a waiver is approved pursuant to Condition 43 of this permit.

32. NJ Transit shall ensure that ultra low sulfur diesel fuel (< 15 ppm sulfur) is used in all non-road diesel equipment operating at the construction site(s).
33. NJ Transit shall ensure that all heavy duty diesel on-road vehicles and non-road diesel equipment operating at, or visiting, the construction site(s) comply with the three minute idling limit, pursuant to N.J.A.C. 7:27-14 and 15.
34. NJ Transit will work with NJDEP to reduce emissions from heavy-duty diesel on-road vehicles used to haul excavated material within or into New Jersey from the projects associated with this permit. NJ Transit and NJDEP will focus on the diesel vehicles that are hauling excavated material on routes close to residential areas. Emission reduction strategies include using newer trucks that meet the USEPA's 2007 on-road emissions standards or installing best available control technology verified by the USEPA or CARB. A list of verified control technology can be found at: <http://www.arb.ca.gov/diesel/verdev/vt.vt.htm> or <http://www.epa.gov/otaq/retrofit/verif-list.htm>. NJDEP will provide up to \$250,000 to offset the costs associated with installing control technology on pre-2007 model year heavy duty diesel on-road vehicles used to haul excavated material from the projects associated with this permit.
35. NJ Transit shall ensure that contractors use the best available control technology on all non-road diesel equipment pursuant to Condition 39 of this permit and on any voluntary on-road diesel vehicle emission reduction projects pursuant to Condition 42, subject to the following:
 - a. In the absence of technologically feasible and appropriate control technology verified by CARB or USEPA for a particular on-road vehicle or non-road equipment, NJ Transit may allow the contractor to use the best available control technology verified by the Mine Safety and Health Administration and/or the Switzerland BUWAL program VERT Filter List (<http://www.suva.ch> or http://umwelt-scheiz.ch/buwal/enbg/fachgebiete/fg_luft/vorschriften/industrie_gewerbe/filter/index.htm)
 - b. If the contractor demonstrates to NJ Transit's satisfaction that it is not feasible to use any control technology, or installation of a control technology would create a safety hazard, including impaired visibility for the operator, NJ Transit may grant a waiver from Condition 39 of this permit. The waiver can also be granted if problems arise with the control technology during the construction project.
 - c. Non-road diesel construction equipment onsite for three working days or less over the life of the project is not required to comply with Condition 39 of this permit.
 - d. When applying the emission reduction requirements of Condition 39 of this permit, NJ Transit may deem as compliant any voluntary diesel retrofit efforts undertaken by an owner or operator of diesel powered equipment prior to the effective date of this permit, if such actions were part of a grant, settlement, or other project approved by NJDEP or USEPA. For example, if an owner has installed control technology on diesel equipment as part of a NJDEP approved supplemental environmental project, that control technology shall be considered compliant with the requirements of this permit even if it does not achieve the level of reduction required by this permit.
36. NJ Transit shall ensure that on-road diesel vehicles used to haul excavated material within or into New Jersey from the projects associated with this permit use designated truck routes that are designed to minimize impacts on residential areas and sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.

37. NJ Transit shall send bi-annual reports to NJDEP that include summaries of the equipment and vehicles retrofitted; the types of retrofit devices used; any problems encountered with installation or operation of the devices; and results of field audits or testing done to ensure compliance with these requirements. Reports shall be sent to: NJDEP, Diesel Risk Reduction Program, PO Box 418, Trenton, NJ 08625-0418.
38. NJ Transit shall enforce these requirements as part of the construction contracts.

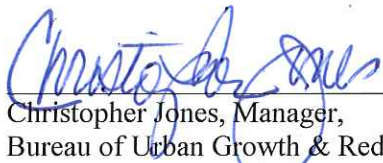
ADDITIONAL SPECIAL CONDITIONS:

39. This permit to conduct a regulated activity in a wetland or open water includes the Division's approval of a Water Quality Certificate for these activities.
40. NJDEP's Site Remediation Program must approve plans within the known contaminated sites that are currently under NJDEP oversight. In addition, the railroad right-of-way may go through other properties that may require investigation and/or remediation. The permittee shall coordinate with the Site Remediation Program to insure that these sites are investigated and/or remediated in accordance with State regulations.
41. The Applicant shall implement and fulfill, to the satisfaction of the Historic Preservation Office, all of the conditions contained within the New Jersey Register of Historic Places Act letter of conditional authorization signed by the Assistant Commissioner for Natural and Historic Resources on April 24, 2009.
42. The Applicant shall implement and fulfill, to the satisfaction of the Historic Preservation Office, all of the stipulations (and the requirements of any and all subsequent consultation) contained in the eleven (11) page Memorandum of Agreement (MOA) signed by New Jersey Transit, the New Jersey State Historic Preservation Officer, and the National Railroad Passenger Corporation (Amtrak) and executed by the October 1, 2008 signature of the Administrator of the Federal Railroad Administration.
43. Any Green Acres encumbered properties to be used for other than recreation and conservation purposes require the prior approval of the Commissioner of the New Jersey Department of Environmental Protection and State House Commission in accordance with N.J.A.C. 7:36 et seq. and N.J.S.A. 13:8A-1 et seq.
44. Prior to the start of any construction activities within Tidelands encumbered properties, the permittee must obtain a Tidelands Instrument from the Bureau of Tidelands Management. Failure to comply with this condition will result in fines up to \$1000 plus \$100 per day, a higher fee for the conveyance and possible prosecution by the Attorney General's Office and pay use and occupancy charges.
45. All solid and hazardous wastes generated by construction activities associated with this project shall be handled and disposed of in accordance with all applicable State and Federal regulations, standards, and guidelines for the handling and disposal of solid and hazardous wastes, including the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Solid Waste Management rules, N.J.A.C. 7:26, the Recycling rules, N.J.A.C. 7:26A, and the Hazardous Waste rules, N.J.A.C. 7:26G.
46. Unsecured material shall not be stored within any channel, freshwater wetland, transition area, or flood hazard area unless expressly approved by this permit and/or described on the approved plans.

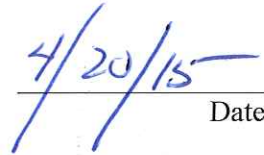
47. All excavated material and dredged spoils shall be disposed of in a lawful manner outside of any flood hazard area riparian zone, open water, freshwater wetland and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
48. Construction equipment shall not be stored, staged or driven within any channel, freshwater wetland or transition area, unless expressly approved by this permit and/or described on the approved plans.
49. All sediment barriers and other soil erosion control measures shall be installed prior to commencing any clearing, grading or construction onsite, and shall be maintained in proper working condition throughout the entire duration of the project.

The authorized work is shown in 19 sheets entitled, "Portal Bridge Capacity Enhancement, Construction Plan", prepared by Jacobs Engineering, dated July 31, 2009, unrevised.

And plans entitled, "NW Finger Pier Location Plan" in 10 sheets, shown as Figure 4A- Figure 4I, prepared by HNTB, dated, November 16, 2012, unrevised.



Christopher Jones, Manager,
Bureau of Urban Growth & Redevelopment



Date

cc: Kearny & Secaucus Construction Officials
Bureau of Tidelands Managemnt
Green Acres Program, NJDEP
Bureau of Coastal & Land Use Enforcement
Site Remediation Program, NJDEP
Bureau of Landfill & Hazardous Waste Permitting, NJDEP
State Historic Preservation Office, NJDEP
Diesel Risk Reduction Program, NJDEP

ATTACHMENT G



State of New Jersey

MAIL CODE 501-04B

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL & HISTORIC RESOURCES
HISTORIC PRESERVATION OFFICE

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CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

January 23, 2013

Nicholas L. Marton
Project Director
Portal Partners
c/o Gannett Fleming Transit & Rail Services
1037 Raymond Blvd.
Newark, NJ 07102

Dear Mr. Marton:

As Deputy State Historic Preservation Officer of New Jersey, in accordance with 36 CFR 800: Protection of Historic Properties, as published in the Federal Register on December 12, 2000 (65 FR 7776998-77739) and as amended on July 6, 2004 (69 FR 40544-40555), I am providing **Continuing Consultation Comments** for the following proposed project:

**Town of Secaucus and Town of Kearny, Hudson County
Willis Amtrak Portal Bridge Capacity Enhancement Project across
the Hackensack River at Little Snake Hill
Early Action Items
Federal Railroad Administration (FRA)**

Thank you for your recent submission of the following documents for review and comment in accordance with the October 1, 2008 Memorandum of Agreement (MOA) among the Federal Railroad Administration (FRA), New Jersey Transit Corporation (NJ Transit) and the New Jersey Historic Preservation Office (NJHPO):

Portal Bridge Capacity Enhancement, Archaeological Unanticipated Discoveries Plan (December 2012);

Portal Bridge Capacity Enhancement, Archaeological Monitoring and Protection Plan for the Jersey City Waterworks Pipeline (December 2012);

Portal Bridge Capacity Enhancement, Construction Protection Plan for Substation 4 (December, 2012).

As discussed at a meeting on October 15, 2012, the above project has been on hiatus due to funding issues. At this time, NJ Transit is moving forward with a limited number of "Early Action" components that include construction of the northwest finger pier in the Hackensack River; construction of "Wall E," (a retaining wall); reconstruction of a driveway near the Belleville Turnpike over the Jersey City Waterworks Pipeline (a NJ and National Register of Historic Places eligible resource) and relocation of a fiber optic pole and a monopole. NJ Transit has submitted design drawings for the Early Action components (with the exception of the fiber optic pole and the monopole), as requested by this office at the October 2012 meeting. The 90% design drawings have been submitted as per the MOA. They do not pertain to the limited Early Action components.

800.6 Resolving Adverse Effects

While specific construction activities and types of equipment to be used during the Early Action phase has not yet been determined, NJ Transit has submitted a Construction Protection Plan (CPP) for Substation 4, a New Jersey and National Register of Historic Places eligible resource. The CPP considers potential impacts to the resource and details protection measures, including continuous vibration monitoring; crack monitoring; implications and planning for proximity of construction staging areas to the resource, and use of protective barriers. The submitted CPP is approved.

Archaeology

The HPO has reviewed the above referenced *Archaeological Monitoring and Protection Plan* and *Archaeological Unanticipated Discoveries Plan* and concurs with their methodology. However, please be aware, while the Archaeological Unanticipated Discoveries Plan is acceptable for the project, it will be appropriate to have archaeological monitors who meet the Secretary of the Interior's Standards for archaeology for ground disturbing activities within proximity to the identified Hudson County Potter's Field Burial Ground site (28-Hd-30) as future work at this location could change and/or have a deeper horizontal area of potential effect that what was previously subjected to Phase I survey.

I also concur with your assessment that no archaeological survey is necessary as this time as part of the Early Action phase for potentially deeply buried Pre-Contact period archaeological sites but will need to be addressed during future project phase(s) involving deep ground disturbance.

New Jersey Register of Historic Places Act

I concur that the additional mitigation required through the findings of the New Jersey Historic Sites Council is not necessary at this time as the proposed Early Action phase work will have no effect on the New Jersey Register listed Portal Bridge.

Additional Comments

The Historic Preservation Office would appreciate receiving, upon completion, information regarding the pre-construction inspection of Substation 4 by the Inspecting Engineer, referred to in the submitted CPP. Additionally, the HPO request a copy of the post-construction report. Thank you for the opportunity to review the submitted materials. If you have any questions, please contact Patty Chrisman of my staff at (609) 984-0850 or at Patty.Chrisman@dep.state.nj.us. For questions regarding historic architecture, or Vincent Maresca at (609) 633-2395 or Vincent.Maresca@dep.state.nj.us for questions regarding archaeology. Please refer to project number 05-2386 in any future emails, telephone calls or written correspondence in order to expedite our review and response.

Sincerely,



Daniel D. Saunders
Deputy State Historic Preservation Officer

C: Marty Mack, Amtrak
Dara Callender, NJT
Ben Suriano, NJT
Richard Cross, Portal Partners
Molly McDonald, AKRF
Leslie Mesnick, AKRF