

Appendix D

Comments on the Final Environmental Impact Statement for the Proposed Navy Base Intermodal Container Transfer Facility North Charleston, South Carolina

New comments submitted on navybaseictf.com

First Name: Frank
Last Name: Atkinson
Email: morgin1120@knology.net
Affiliation: Private Citizen

July 1 2018

Comment Subject: Public Involvement

Comment: When and where will the next community Meeting be held concerning the Naval Base rail hub? I am a resident of Park Circle Northeast which is basically north of East Montague Avenue (Durant Ave., Pittman Street, Draper Street and Braddock Avenue etc.). From the description and pictures of the proposed rail lines, it is next to impossible to decipher what effects we will experience. Rail lines have for years have been an issue in our area, so what benefit, if any, will the proposed rail lines be to our particular area mentioned above. Thanks for any help and info you me provide me. Frank

New comments submitted on navybaseictf.com

First Name: Mary

Last Name: Mitchell

Email: mjm2416@gmail.com

Affiliation: Private Citizen (Final EIS)

July 1, 2018

Comment Subject: Proposed Project

Comment: The study is well thought out and explained. I fully support the Intermodal Container Transfer Facility as it is needed to alleviate some of the traffic on congested roads.



AUG 01 2018

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July 26, 2018

U.S. Army Corps of Engineers
Charleston District
Attn: Shawn Boone, Project Manager
69A Hagood Avenue
Charleston, SC 29403

Re: Intermodal Container Transfer Facility, Project Number: SAC-2012-00960

Dear Mr. Boone,

This letter is written on behalf of South Carolina Federal Credit Union (the "Credit Union") in response to the recent Public Notice dated June 29, 2018 in connection with the above-referenced project (the "Project"). The Credit Union has had a number of concerns about the Project since its inception, and has previously submitted letters outlining such concerns on December 13, 2013 and January 29, 2016. The Credit Union's concerns have not changed, and in fact have been reinforced by the recently proposed changes to the Project. This letter reiterates the Credit Union's existing concerns and underscores the Credit Union's position regarding the proposed changes to the Project.

The Credit Union is the owner of property which is located in the impact zone of the proposed Intermodal Container Transfer Facility. Prior to the proposal of the Project, the surrounding area had been undergoing revitalization due to the redevelopment of the area with a focus on residential and commercial usage. Many of the residents and businesses located in the surrounding area either moved to the area, or continued being located in the area, based on the reliance that the residential and commercial redevelopment and renewal would continue. Though the full extent of planned redevelopment has not occurred, the area has undergone a significant amount of revitalization.

However, the Project as planned is not in accordance with the existing character of the community. Conversely, the Project's focus is on expanding the industrial nature of the area. The impact that the Project will have on the surrounding area could be detrimental, since the industrial character of the Project is not aligned with the area's existing commercial and residential development plan. Importantly, the revisions to the Project do not alleviate this issue, and instead will result in further deviation from the community's existing character.

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**SOUTH CAROLINA
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Mr. Shawn Boone
July 26, 2018
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If the Project moves forward, the surrounding area will ultimately become industrial. Not only will this change the current character of the area, but it will lead to a significant decline in property values. Further, the Credit Union's purpose is to serve its members, and many of its members live and work in the surrounding area. The negative impact the Project will have on the area, especially with regard to the new traffic patterns, will adversely affect the Credit Union's membership.

The Project includes the relocation of some portions of the railway and additions of access points to the area, these changes will not eliminate or adequately mitigate the traffic issues that will result from the Project. In spite of the revisions to the Project plan, the Project will still materially and dramatically increase the traffic congestion in the area. Of particular concern to the Credit Union is the negative impact to the traffic flow that will result from the loss of an intersection due to the re-routing of McMillan Avenue. Though the impact of this particular issue was raised in the prior comment periods, it has not been addressed in the plans for the Project.

Despite the revisions to the Project, the aesthetics of the area will likely deteriorate, and noise, vibrations and air pollution in the surrounding area will increase significantly. Along with the transition of the surrounding area from commercial and residential to industrial, land use and zoning regulations will be impacted, and the public health and safety of the area will likely decline. The impacts of the Project will diminish the economic productivity and socioeconomic quality of the area.

The Credit Union believes that the existing character of the community cannot be maintained if the Project is allowed to proceed as proposed. Further, the Credit Union believes that the revisions to the Project plan do not adequately address the negative impact that will result from the Project. The Credit Union will be impacted financially by the Project, due to the resulting reduction in membership, the impaired access to its property due to the reconfiguration of the roads, and the overall decline in property values in the area. In the event the Credit Union suffers economic harm due to the Project, it may be forced to seek compensation in order to protect the interests of its members.

Sincerely,

Handwritten signature of R. Scott Woods in black ink.

R. Scott Woods, CPA
President/CEO
South Carolina Federal Credit Union

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Appendix D

New comments submitted on navybaseictf.com

First Name: Eric

Last Name: Deierlein

Email: ericd@bellsouth.net

Affiliation: Business (Tekna Investments, Inc.)

Comment Subject: Proposed Project

July 31, 2018

Comment: Dear Sir,

We are writing to express our concern with the Navy Base Intermodal Container Transfer Facility (ICTF) being considered.

Part of the ICTF includes a rail loop across Meeting Street Extension that would very likely cause interruptions and costly delays to our business and the businesses located on our property. There are already multiple railways crossing roads into our property. Increasing the number of these crossings and the rail traffic associated with them would negatively impact the value of our property.

At the very least, we request that approval for the ICTF be deferred until the Surface Transportation Plan Study is complete.

Thank you for your consideration,

Eric Deierlein, President

Appendix D

New comments submitted on navybaseictf.com

First Name: Omar

Last Name: Muhammad

Email: ccrabej@gmail.com

Affiliation: NGO (Community Redevelopment Organization)

Comment Subject: Proposed Project

July 31, 2018

Comment:

Mr. Shawn Boone Project Manager

The Lowcountry Alliance for Model Communities (LAMC) is a 501c3 organization located in North Charleston, SC. LAMC exists to address underlining concerns which perpetuate in communities, particularly communities of color, resulting in generations trapped in low paying jobs, poor housing stocks, low homeownership, low educational attainment, and live in areas steeped in blight. Our revitalization plan addresses four core areas (affordable housing, education, economics, and the environment) primarily focusing on removing barriers that continue the cycle of poverty. To that end, we seek partnerships to help us implement strategies that are outlined in our revitalization plan. Our revitalization plan can be found on our website at www.lamcnc.org.

The MISSION of LAMC is to promote a sense of ownership within the community which translates into empowered residents who actively participate in initiatives to improve the quality of life in their communities. The VISION of LAMC is to achieve sustainable and vibrant communities encompassing all the amenities of a healthy and thriving area.

The Charleston Community Research to Action Board (CCRAB) is a 501c3 collaborative effort of diverse community-based organizations, academic institutions, and other stakeholder groups promoting environmental health and social justice solutions within the Charleston region particularly for burdened and underserved communities. We achieve these solutions by actively engaging in developing grassroots activities to address community challenges centered on environmental justice and health disparity. CCRAB uses the Community-based Participatory Research Model to ensure full engagement of the community during all stages of research which leverage results to create environmental public health actions. These actions empower residents to become participatory in the decision-making processes impacting where they live, work, and play through education and advocacy to improve environmental conditions and resulting human health outcomes.

CCRAB functions as the clearing house for all research projects for the LAMC communities. We have been successful in expanding our Charleston Area Pollution Prevention Partnership (CAPs) network to include the University of South Carolina, The Medical University of South Carolina, The University of Maryland, South Carolina Department of Health and Environmental Control and the United States Environmental Protection Agency Region IV.

The National Environmental Policy Act (NEPA) is an analysis of environmental consequences of a proposed action where public participation in the decision-making process is incorporated in the process to ensure the NEPA process and the resulting decision is informed and the gathered information is shared with the public for input.

The Lowcountry Alliance for Model Communities (LAMC) with the Community Mitigation Workgroup (Chicora/Cherokee Neighborhood Association, Union Heights Community Council, LAMC and Metanoia) support the application to build an Intermodal Container Transfer Facility (ICTF) on the Navy Base Complex within the footprint of the

Figure 1: LAMC's NEPA Process Overview

Chicora/Cherokee and Union Heights neighborhoods. On October 18, 2016, Palmetto Railways and the Community Mitigation Workgroup entered into an agreement to mitigate adverse impacts of the ICTF on fence-line communities. Our agreement acknowledges Sterett Hall, a culturally important facility, is significantly impacted by this project which will be replaced with the construction of a modern recreational center funded by the community mitigation agreement for Three Million dollars (\$3,000,000); \$470,000 will fund an affordable housing revolving fund for initiatives in the impacted communities to mitigate housing impacts from the project; \$130,000 will fund a job training endowment to provide job training scholarships; \$130,000 will fund an endowment for educational scholarships; \$130,000 will fund environmental research, monitoring, and health impact studies in the impact areas; \$80,000 will fund a youth endowment to support youth programs, and \$60,000 will establish an endowment for organizational capacity to support trainings for organizations working in the impact communities. The community mitigation with Palmetto Railways will address the community concern with a buffer between the community and the ICTF by creating a 100-foot buffer between the facility and the community. In addition, an Earthen Berm will be constructed to mitigate noise from the facility to include vegetation for aesthetics, noise mitigation and pollution sinks.

Our initial concerns with adverse health impacts have not been addressed in the project's Environmental Impact Statement (EIS). We strongly feel the approach of the EIS did not take in consideration the cumulative impacts of pollution exposure on residents nor the adverse impacts of these exposures on the residents living near this project. However, Palmetto Railways have provided resources to the community to research and understand the health impacts of cumulative risk exposure. We commend Palmetto Railways for supporting our efforts to better understand contributing environmental factors associated with health concerns from pollution exposure, particularly for vulnerable populations. As stated in our previous comments on the Draft EIS, we are recommending that a Health Impact Assessment (HIA) (Altalil, 2015) is included in the EIS process to properly evaluate the health impacts, often overlooked, for this proposed project on residents' health. A small scale HIA conducted by researchers from the University of Maryland in 2015 for the Chicora/Cherokee and Union Heights communities shows Asthma/Bronchitis is the leading cause of hospitalization in Charleston County for children under the age of 18; Asthma hospitalization rate for children under the age of 5 in 2012 for Charleston County was 31 per 10,000 children, compared to 26 per 10,000 children in South Carolina; and Charleston County had an asthma ER rate of 153 per 10,000 children under the age of 5 years in 2012, compared to South Carolina's 115 per 10,000 children. Studies show that African Americans are 9 times more likely to suffer from Asthma than their white cohorts and this become more apparent for individuals living near asthmatic triggers such as particulate matter (PM) with PM2.5 being of a greater concern because of its smaller size allows it to be breathed deeply into the lungs. A study (Mehta, 8 March 2016) have shown that long-term exposure to poor air quality have detrimental health outcomes and another study is now showing a strong correlation to short-term exposure

having significant negative health outcomes as well.

Air monitoring pre-construction, during construction and post-construction in and around this proposed project will occur, thanks to Palmetto's agreement with South Carolina Department of Health and Environmental Control, to ensure air quality in the area is not impacted. Our study entitled Assessment of Particulate Matter Levels in Vulnerable Communities in North Charleston, South Carolina prior to Port Expansion (Svendsen, 2014) shows that local wind patterns originating offshore push westerly and southwesterly winds towards our communities which aid in the cumulative increases of air pollutants especially in the evenings and morning hours. This study also found that Union Heights localized PM2.5 was higher than any of the other study areas. This finding was contributed to the community's proximity to heavily trafficked roadways that sandwich the community. A Federal Reference Monitor (FRM) placed in Howard Heights confirmed concentrations of PM2.5 in the Neck Area of North Charleston which comprises both Chicora/Cheerookee and Union Heights shows higher PM concentrations than the two existing South Carolina ambient network samplers outside of the Neck Area. We believe and our study confirms that increases in port and port-related activities will contribute to increases in concentrations of localized PM concentrations at the neighborhood level.

Flooding concerns in the community has heightened since the "great flood of 2015" and the recent flooding event on July 20, 2018. The residents in and around the project area for the ICTF are at greatest risk of flooding due to not only the construction for this project but also the port construction work as well. The fear of most residents is the communities near both the ICTF and the port will experience increases with "nuisance" flooding events in areas of their communities which never flooded before the built environment changed around them. We are recommending remedying this concern with best practices for developing impervious development onsite where water can naturally be absorbed.

In closing, I want to acknowledge a great group of individuals from community associations, organizations and Palmetto Railways staff that helped to negotiate our mitigation with Palmetto Railways. It is also important to understand that this group genuinely represents a cross section of groups who have worked for many years to improve the impacted communities and have the respect of the community. Coming together in this manner, strengthens our community efforts to enhance neighborhood cooperation rather than encouraging divisions or competitiveness between community representatives.

Respectfully Submitted

Omar Muhammad, Executive Director
Lowcountry Alliance for Model Communities (LAMC)

July 31, 2018

On Behalf of the Naval Order of the United States

Comments accompanying submission of the Memorandum Of Agreement regarding the permit request by Palmetto Railways as it relates to the Navy Base Intermodal Facility Project

The recent action of the Army Corps of Engineers (ACE) in the issuance of a permit to Palmetto Railways (PR) for the construction of a rail line that would bisect the Charleston Naval Hospital Historic District is in direct contradiction of the letter, spirit and intent of their own Regulatory Guidance Letter 88-13 which states:

“Another issue arising from EPA’s referral was the misconception that consideration of alternatives would always be restricted to those alternatives agreeable to the applicant. While the Corps should recognize the applicant’s purpose and need, and evaluate those alternatives available to the applicant, that meet this purpose and need, it is sometimes necessary, under NEPA, to analyze alternatives beyond the applicant’s capability in order to make an informed public interest decision. Such alternatives should be included in the category of “deny the permit” where it is appropriate to examine whether the public benefits to be accrued from the applicant’s project are likely to be provided elsewhere by another project, even if the permit is not issued.”

Unless ACE has altered their interpretation of NEPA, it remains an expression of the direction and action that should guide decision making by the ACE. The GRL continues:

“The burden of proof to demonstrate compliance with the Guidelines rests with the applicant; where insufficient information is provided to determine compliance, the Guidelines require that no permit be issued. 40 CFR 230.12(a)(3)(iv).”

On the matter of the availability of an alternative: “The Guidelines state that if it is otherwise a practicable alternative, an area not presently owned by the applicant that could reasonably be obtained, utilize, expanded, or managed in-order to fulfill the overall purpose of the proposed activity can still be considered a practicable alternative. In other words, the fact that an applicant does not own an alternative parcel, does not preclude that parcel from being considered as a practicable alternative. This factor is normally a consideration as a logistics and possible cost limitation. The applicant should consider and anticipate alternatives available during the timeframe that the USACE conducts it alternatives analysis. In some circumstances, consideration of the timeframe when property was obtained by the applicant may influence the analysis.”

In their original application, PR stated their intention to make use of an out-of-service CSX right-of-way known at the S-Line which completely avoids the National Historic District. During discussion between the parties, CSX made several options available to PR. One was to pay a fee per container for use of the track. PR countered with a minimal offer to purchase the

right-of-way. CSX answered by offering allowing PR to construct a parallel line within the right-of-way at a cost. At that point, PR made no further effort to reach an agreement and altered their application to allow them to build the track through National Historic District property they already owned. Further relevant considerations worthy of consideration in keeping with above GRL are that: In public comments CSX has stated that the capacity of their and a Norfolk Southern current railyards within the immediate area have excess capacity that will meet the needs of PR until 2035; further, A private development company which owns an tract adjacent to the container terminal has expressed willingness to build a line that will meet the needs of PR.

With these options available for avoidance of the National Historic District, it would appear that ACE has not acted in compliance with their own GRL and erred in the issuance of the permit.

33 CFR 325 Appendix C on the matter of Adversely Affected Historic Properties

10. District Engineer Decision.

- a. In making the public interest decision on a permit application, in accordance with 33 CFR 320.4, the district engineer shall weigh all factors, including the effects of the undertaking on historic properties and any comments of the ACHP and the SHPO, and any views of other interested parties. The district engineer will add permit conditions to avoid or reduce effects on historic properties which he determines are necessary in accordance with 33 CFR 325.4. In reaching his determination, the district engineer will consider the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716).
- b. If the district engineer concludes that permitting the activity would result in the irrevocable loss of important scientific, prehistoric, historical, or archeological data, the district engineer, in accordance with the Archeological and Historic Preservation Act of 1974, will advise the Secretary of the Interior (by notifying the National Park Service (NPS)) of the extent to which the data may be lost if the undertaking is permitted, any plans to mitigate such loss that will be implemented, and the permit conditions that will be included to ensure that any required mitigation occurs.

15. Criteria of Effect and Adverse Effect.

- (a) An undertaking has an effect on a designated historic property when the undertaking may alter characteristics of the property that qualified the property for inclusion in the National Register. For the purpose of determining effect, alteration to features of a property's location, setting, or use may be relevant, and depending on a property's important characteristics, should be considered.
- (b) An undertaking is considered to have an adverse effect when the effect on a designated historic property may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Adverse effects on designated historic properties include, but are not limited to:
 - (1) Physical destruction, damage, or alteration of all or part of the property;

- (2) Isolation of the property from or alteration of the character of the property's setting when that character contributes to the property's qualification for the National Register;
- (3) Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;
- (4) Neglect of a property resulting in its deterioration or destruction; and
- (5) Transfer, lease, or sale of the property.

Clearly in a case of irrevocable loss, mere notification of the National Park Service after the issuance of a permit of the planned destruction of multiple buildings listed on the National Register of Historic Places, and of an entire National Historic District in danger of being deprived of its context and character is insufficient. While adherence to a procedural checklist is laudable, the requirement of prior consultation and the exploration of all possible alternatives must be paramount when an irrevocable loss is eminent. In this case, there is no evidence that prior consultation occurred.

If the District Engineer, as required under Provision 10(b), has concluded that irrevocable loss will occur as result of the undertaking and has notified the National Park Service (NPS), it is reasonable to conclude that NPS has their own review procedures that require a period of public comment and, perhaps Congressional oversight. The application of Provision 15 (a) and (b)(1-4) fall within the oversight of the NPS and thus under the auspices of the Secretary of the Interior which offers the opportunity for further review and comment. These options must reasonably be offered to all parties prior to the issuance of a permit. Failing that, PR must be put on notice that any action that would degrade, alter or in any way violate the protection of the at risk historic assets must be held in abeyance until a finding is made by the named reviewing parties.

It is 15(b)(4)(5) which can require PR to do a great deal of explaining. The property is subject to the terms and conditions of a Programmatic Agreement dated May 1995 which transferred ownership to the State of South Carolina. That document contains numerous stipulations, covenants and standards that raise significant issues of two decades of non-compliance. Further, the document makes applicable oversight by numerous military and bureaucratic entities, issues which were not addressed in the permitting process.

Federal Highway Administration

Section 4(f) Tutorial

Like Section 4(f), Section 106 of the National Historic Preservation Act (NHPA) of 1966 also mandates consideration of a project's effect on historic sites. Because of their similarities, the relationship between Sections 4(f) and 106 is sometimes a source of confusion. But it is important to remember that they are two different laws with different requirements for compliance that are most efficiently addressed in a coordinated approach.

The most important connection between the two statutes is that the Section 106 process is generally the method by which historic properties are identified that would be subject to consideration under Section 4(f). The results of the identification step under Section 106 - including the eligibility of the resource for listing on the NRHP, the delineation of NRHP boundaries, and the identification of contributing and non-contributing elements within the boundary of a historic district—are a critical part of determining the applicability of Section 4(f) and the outcome of the Section 4(f) evaluation.

The most important difference between the two statutes is the way each of them measures impacts to historic sites. Whereas Section 106 is concerned with adverse effects, Section 4(f) is concerned with use. The two terms are not interchangeable and an **adverse effect** determination under Section 106 does not automatically equate to a Section 4(f) use of the property. Review the "Related Statutes " section of this tutorial for a more in-depth discussion of the relationship between Section 4(f) and Section 106.

The “coordinated approach” called for requires mutual consideration of the desired end result. The difference between Section 106 and 4(f) is that one concerns itself with, in one case, impact and, in the other, use. Logic requires agreement that a finding of “Serious Adverse Impact” under 106 absolutely determines the 4(f)’s finding of potential use. This is not a case of separate but equal nor is it a matter of divergent procedural practices. This is where reason requires a rational conclusion that permitting a project that will deprive future generations of a National Historic District based on a literal reading of two procedural policies defies the stated purpose of both.

23 CFR 774.17

Definitions.

As relates to the Department of Transportation, Federal Highway Administration or the Federal Transportation Administration, these definitions set the authoritative standard for interpretation of common terms. Of particular import are the measures of impact. In this case, ACE concluded that the project would have a severe adverse effect which is the exact opposite of everything found under *De minimis impact*.

The discussion of feasible and prudent avoidance alternative:

- (1) A **feasible and prudent avoidance alternative** avoids using Section 4(f) property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property. In assessing the importance of protecting the Section 4(f) property, it is appropriate to consider the relative value of the resource to the preservation purpose of the statute.
- (2) An alternative is not feasible if it cannot be built as a matter of sound engineering judgment.

(3) An alternative is not prudent if:

- (i) It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
- (ii) It results in unacceptable safety or operational problems;
- (iii) After reasonable mitigation, it still causes:
 - (A) Severe social, economic, or environmental impacts;
 - (B) Severe disruption to established communities;
 - (C) Severe disproportionate impacts to minority or low income populations; or
 - (D) Severe impacts to environmental resources protected under other Federal statutes;
- (iv) It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
- (v) It causes other unique problems or unusual factors; or
- (vi) It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

By the words of (1), (2) and (3) alone, it is clear that the Federal Railway Administration has failed to exercise their oversight responsibility. While we are not yet at the 4(f) stage, these criteria apply across the spectrum of implementation of the applicable laws, regulations and procedural guidelines. That benchmark is particularly important when one considers:

23 CFR 774.3

Section 4(f) approvals

The [Administration](#) may not approve the [use](#), as defined in [§ 774.17](#), of Section 4(f) property unless a determination is made under paragraph (a) or (b) of this section.

(a) The [Administration](#) determines that:

- (1) There is no [feasible and prudent avoidance alternative](#), as defined in [§ 774.17](#), to the [use](#) of land from the property; and
- (2) The action includes [all possible planning](#), as defined in [§ 774.17](#), to minimize harm to the property resulting from such [use](#); or

(b) The [Administration](#) determines that the [use](#) of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) committed to by the [applicant](#), will have a *de minimis* impact, as defined in [§ 774.17](#), on the property.

(c) If the analysis in paragraph (a)(1) of this section concludes that there is no **feasible and prudent avoidance alternative**, then the **Administration** may approve, from among the remaining alternatives that **use** Section 4(f) property, only the alternative that:

(1) Causes the least overall harm in light of the statute's preservation purpose. The least overall harm is determined by balancing the following factors:

- (i) The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property);
- (ii) The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;
- (iii) The relative significance of each Section 4(f) property;
- (iv) The views of the **official(s) with jurisdiction** over each Section 4(f) property;
- (v) The degree to which each alternative meets the purpose and need for the project;
- (vi) After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f); and
- (vii) Substantial differences in costs among the alternatives.

(2) The alternative selected must include **all possible planning**, as defined in § 774.17, to minimize harm to Section 4(f) property.

This citation reiterates the feasible and prudent avoidance alternative requirement and interjects strongly all possible planning. That is particularly applicable when one considers the lack of insistence by FRA that PR conduct a diligent effort to comply with the letter and spirit of the law. While the procedural, perfunctory review of the application has been followed, the stand-alone mandate of “all possible planning” has not been reached in the proceeding to-date.

Federal Highway Administration Environmental Review Guidelines

GUIDANCE FOR PREPARING AND PROCESSING ENVIRONMENTAL AND SECTION 4(F) DOCUMENTS

Historic and Archeological Preservation

To the fullest extent possible, the final EIS needs to demonstrate that all the requirements of 36 CFR 800 have been met. If the preferred alternative has no effect on historic or archeological resources on or eligible for the National Register, the final EIS should indicate coordination with and agreement by the SHPO. If the preferred alternative has an effect on a resource on or eligible for the National Register, the final EIS should contain (a) a determination of no adverse effect concurred in by the Advisory Council on Historic Preservation, (b) an executed memorandum of agreement (MOA), or (c) in the case of a rare situation where FHWA is unable to conclude the

MOA, a copy of comments transmitted from the ACHP to the FHWA and the FHWA response to those comments.

In the matter of this permit, the finding is that the most adverse effect possible will be the result of issuance of the permit. The existence of an alternative is a given and failure to exercise all effort to that end is to completely disregard the letter, spirit and intent of the will of Congress.

Finally, the essential component of involving Native American tribes, local governments and organizations in the decisionmaking process must be more than the mere formality of obtaining a signature. According to the finding in Pueblo of Sandia vs. United States as well as C.F.R. 800.4(a)(iii)1995, their involvement must constitute a reasonable and good faith effort to identify historic attributes of a site. I have personally on several occasions, in my role as a Consulting Party, attempted to engage the Muscogee (Creek) Nation. I have made them aware of my belief and knowledge of Native American presence on the site of this proposed project and have yet to receive a reply. That lack of involvement has been evident throughout the entire public comment period. As a result, I question their ability to make an informed decision in this matter.

Donald C. Campagna, Consulting Party

The Naval Order of the United States

Cyrus A. Buffum
1903 Hampton Avenue
North Charleston, SC 29405

July 31, 2018

Mr. Shawn Boone
Project Manager
United States Army Corps of Engineers, Charleston District
69A Hagood Avenue
Charleston, SC 29403

Re: P/N 2012-0960, FEIS for Proposed Navy Base Intermodal Container Transfer Facility

Dear Mr. Boone,

Please accept this letter as part of the public review process outlined in the National Environmental Policy Act (NEPA). My hope in submitting these comments is to encourage the most appropriate agency action that ensures the highest level of protections for our community and the environment upon which we all depend.

The below comments come directly from my own, unique personal standing and perspective. First, I am a proud property owner in the Windsor Place community. My commitment to this neighborhood is long-term, and I welcome this opportunity to engage on such an issue where adverse impact on my neighbors is possible. Secondly, I am an oysterman. I own and operate a small seafood company that prides itself on harvesting wild, local oysters. My livelihood is directly linked to the quality of our wetlands and waterways, and any degradation of such natural resources is a direct threat to my business and my family's way of life. Finally, I am a conservationist. I have worked over the past decade with a national network of organizations to ensure appropriate enforcement of the Rivers and Harbors Act and the Clean Water Act. I celebrate the public's fundamental role in managing and protecting our shared commons.

I have reviewed the Final Environmental Impact Study (FEIS) pertaining to the proposed Navy Base Intermodal Container Transfer Facility (ICTF) in Charleston County, South Carolina. My comments below correspond directly to the impacts associated with Alternative 1 (Proposed Project) in the FEIS.

Waters of the United States

The FEIS identifies the following impacts to waters of the United States: "Major adverse impacts to waters of the U.S., including wetlands. Direct impacts from fill/shading activities during construction would result in the permanent impact of approximately 15.84 acres of waters of the U.S., including wetlands, including 6.65 acres of tidal salt marsh, 8.01 acres of freshwater wetlands, 1.14 acres of tidal open waters, and 0.04 acres of non-tidal open waters."

To account for these impacts, the applicant, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), and the South Carolina Coastal Zone Management Act (48-39-10 et seq.), has submitted a Wetland Mitigation Plan that “proposes for the Applicant to purchase 86.3 wetland mitigation credits from Pigeon Pond Mitigation Bank to compensate for freshwater impacts, as well as a permittee responsible mitigation plan to restore and protect approximately 40.6 acres of tidal marsh at the former Kings Grant Country Club and Golf Course in Dorchester County, SC.”

Unfortunately, the applicant’s proposed Wetland Mitigation Plan drastically neglects to achieve compensatory mitigation as required under the law. The proposed mitigation actions are to be performed off-site and are not entirely in-kind, whereas any such Wetland Mitigation Plan and approval thereof by the district engineer, shall give, where possible, preferential consideration to on-site and in-kind mitigation.

In 1990 the United States Environmental Protection Agency (EPA) and the United States Department of the Army entered into a Memorandum of Agreement (MOA) in which the protocol for determining the type and level of mitigation required under Section 404 of the Clean Water Act was clarified. The MOA stated that the United States Army Corps of Engineers is required to determine “appropriate and practicable compensatory mitigation for unavoidable adverse impacts which remain after all appropriate and practicable minimization has been required.”¹

Further, a 2008 federal ruling on compensatory mitigation stated the following: “We do agree that, in general, in-kind mitigation is preferable to out-of-kind mitigation because it is more likely to compensate for the functions and services lost at the impact site. The rule states that the compensatory mitigation should be of a similar type (e.g., Cowardin and/or hydrogeomorphic class) to the affected aquatic resource, unless the district engineer determines using the watershed approach described in the rule (see § 332.3(c) [§ 230.93(c)]) that out-of-kind compensatory mitigation will better serve the aquatic resource needs of the watershed. The term ‘in-kind’ in § 332.2 [§ 230.92] is defined to include similarity in structural and functional type.”²

I find the ruling’s insistence on determining equitable compensation through an evaluation of “functions and services lost at the impact site” rather compelling and explicitly clear.

The applicant’s proposed Wetland Mitigation Plan offers two mitigation sites (e.g. Pigeon Pond Mitigation Bank and Kings Grant Country Club and Golf Course), which are both located well above the freshwater/saltwater dividing line as determined by the South Carolina Department of Natural Resources.³

As noted in the FEIS, the applicant proposes to impact “15.84 acres of waters of the U.S.” Of this total impact, 7.79 acres are located within an estuarine environment: 6.65 acres of tidal salt

¹ Memorandum of Agreement Between the United States Environmental Protection Agency (EPA) and the United States Department of the Army Concerning the Determination of Mitigation Under the Clean Water Act, Section 404(b)(1) Guidelines, 1990. II.C(3)

² <https://www.gpo.gov/fdsys/pkg/FR-2008-04-10/pdf/E8-6918.pdf>

³ <http://www.dnr.sc.gov/marine/dividingline.html>

marsh and 1.14 acres of tidal open waters. Such an environment—one associated with saltwater or brackish conditions—possesses a unique chemical and biological composition, and therefore provides specific functions and services.

The objective of the Clean Water Act, as explicitly stated in the act’s opening section, is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

I am satisfied with the applicant’s proposed accounting for its impacts on freshwater wetlands through its mitigation efforts at Pigeon Pond Mitigation Bank and applaud the applicant for its efforts to avoid and minimize its impacts elsewhere on the project; however, the applicant has not performed an equal accounting of its impacts on saltwater wetlands and open waters of the United States.

Specifically, the applicant’s permittee responsible mitigation plan “to restore and protect approximately 40.6 acres of tidal marsh at the former Kings Grant Country Club and Golf Course” neglects to compensate for the destruction of the 7.79 acres of estuarine environment.

Describing the Kings Grant Country Club and Golf Course site as tidal, as a way to suggest in-kind compensatory mitigation, is irrelevant and does nothing to account for the “functions and services lost at the impact site.” This description, “tidal,” comes from an analysis of the proposed site’s physical features (i.e. its hydrology) and not from its chemical or biological composition. Were one to consider the proposed site’s chemical and biological characteristics, one would quickly recognize the discrepancy between the functions and services of the proposed mitigation site versus those at the impacted site.

For example, oysters depend on waters with a very specific chemical and biological composition. Therefore, as an oysterman, I too am dependent on a very specific chemical and biological composition in the waters on which I work. Oysters are dependent on waters that possess a very specific salinity range. Oyster larvae (*Crassostrea virginica*) will not settle and metamorphose into spat when salinity is less than 6 parts per thousand (ppt).⁴ The oysters that I manage are primarily located within the intertidal range in waters where salinity averages 35 ppt. The physical features of the waters from which I harvest are such that they are tidal, are roughly 100 feet in width, and experience a particular flow symptomatic of their hydrodynamic qualities.

Offering me a shellfish lease on waters with a salinity level of 5 ppt will do me little good in making a living, regardless of whether the physical characteristics of these waters are identical to the waters from which I currently harvest.

To further articulate this point, let us imagine the tidal marsh in a freshwater system (such as that proposed at the Kings Grant Country Club and Golf Course—a place where oysters cannot exist. In such an environment it will be impossible for oyster reefs to form. And where oyster reefs cannot exist, juvenile species of aquatic life cannot seek refuge in the effective protections offered by a reef’s construction. Without juvenile species present, there will be less food available for particular predator species, and with fewer of these species present, the entire

⁴ Wilson C, Scotto L, Scarpa J, Volety A, Laramore S, and D Haunert. 2005. Survey of water quality, oyster reproduction and oyster health status in the St. Lucie Estuary. *Journal of Shellfish Research* 24:157-165.

composition of the site's flora and fauna changes. Further, without oyster reefs, shorelines sit in a state of great vulnerability—lacking a crucial defense in the mitigation against storm surge and the erosive qualities of boat wake.

In other words, function and services are better measured by considering the chemical and biological composition of a natural resource rather than by its mere influence by celestial bodies.

There is no evidence made by the applicant in the FEIS to prove the unavoidable necessity for its mitigation to be off-site and out-of-kind. Nor has proof been shown by the Army Corps of Engineers that the proposed out-of-kind compensatory mitigation will better serve the aquatic resource needs of the watershed. The applicant's identification of the Kings Grant Country Club and Golf Course as an appropriate site for compensatory mitigation is arbitrary and unacceptable.

Saltwater tidal mitigation is possible and feasible in our region. In fact, just last year, the South Carolina Ports Authority proposed the establishment of the Daniel Island Saltwater Mitigation Bank (P/N SAC-2015-00526) in an effort to effectively account for its impacts on saltwater resources—an appropriate in-kind exchange—during its construction of the Hugh Leatherman Terminal (HLT).⁵ In earlier decades it may have been appropriate, for a lack of other feasible options, to use freshwater wetlands to mitigate against impacts to saltwater wetlands and streams; however, today, there is absolutely no excuse.

Therefore, I urge with great conviction the district engineer deny the applicant's proposed mitigation efforts at the Kings Grant Country Club and Golf Course and require an alternative, in-kind mitigation effort to appropriately account for the permanent impact to 7.79 acres of estuarine environment—one that adequately accounts for lost functions and services.

Environmental Justice Population

Furthermore, though the scope of my next point is beyond the application of the law, as it relates specifically to compensatory mitigation, I feel it necessary to present.

According to the FEIS, “Alternative 1 has potential for disproportionately high and adverse impacts to Environmental Justice populations. The adverse impacts associated with the Alternative 1 would be predominantly borne by the minority and low-income population and are appreciably more severe than the adverse effects that would be suffered by the nonminority and non-low-income population of the City of North Charleston and Charleston County. With regards to benefits and burdens, the benefits of the Proposed Project would extend to the greater Charleston region, while the burdens would be borne by the Environmental Justice community adjacent to the project. Therefore, the benefits and burdens of the Proposed Project are not equitably distributed.”⁶

⁵ “State plans mitigation bank on Daniel Island,” *Charleston Regional Business Journal*, March 2, 2017

⁶ Table 6: Summary of Socioeconomic and Environmental Justice Impacts by Alternative, Appendix K, Community Impact Assessment, Final Environmental Impact Study (FEIS), Navy Base Intermodal Container Transfer Facility (ICTF), Charleston County, South Carolina

As noted in the previous section, the applicant proposes complete fulfillment of its mitigation obligations off-site. Beyond neglecting to account for the “functions and services lost at the impact site,” the proposed Kings Grant Country Club and Golf Course mitigation site further perpetuates the already disproportionate allocation of benefits away from Environmental Justice populations and towards nonminority and non-low-income populations.

In approving the proposed permittee responsible mitigation plan to restore and protect approximately 40.6 acres of tidal marsh at the former Kings Grant Country Club and Golf Course, the Army Corps of Engineers becomes complicit in not upholding its obligations under the Clean Water Act and responsibilities outlined in Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

To avoid such an irresponsible and inequitable decision, may I respectfully suggest that the district engineer direct the applicant to any number of degraded shorelines, wetlands, and waterways along the Cooper River, throughout North Charleston’s jurisdiction, to serve as an alternative site in its permittee responsible mitigation plan. Our communities, those impacted by this proposed activity, deserve to retain the environmental benefits required by law.

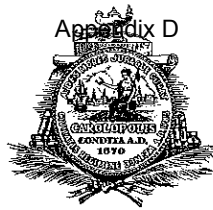
Thank you kindly for your consideration.

Best,

A handwritten signature in black ink, appearing to read 'C. Buffum', with a stylized flourish at the end.

Cyrus A. Buffum

Cc: Gerard Mikell, Sr., President, Union Heights Community Council
Omar Muhammad, Executive Director, LAMC
Michael Brown, Councilman, District 10, City of North Charleston
R. Keith Summey, Mayor, City of North Charleston
William Want, Esq.



JUL 31 2018

City of Charleston

JOHN J. TECKLENBURG
MAYOR

July 31, 2018

U.S. Army Corps of Engineers, Regulatory Division
Attn: Shawn Boone
69-A Hagood Avenue
Charleston, SC 29403-5017

RE: Palmetto Railways Navy Base Intermodal Facility: Public Notice Number SAC-2012-0960

Dear Mr. Boone:

The City of Charleston appreciates the opportunity to comment on the Final Environmental Impact Statement (FEIS) referenced in Public Notice SAC-2012-0960 dated June 29, 2018 regarding the permit application Palmetto Railways submitted to the U.S. Army Corps of Engineers for the Navy Base Intermodal Facility (NBIF). The NBIF project continues to prompt significant concerns for the City despite numerous good faith efforts to share our concerns with Palmetto Railways and both involved Class I railroads.

In the joint public notice dated October 19, 2016, it states "All factors which may be relevant to the project will be considered...", and goes on to include a list of factors which include safety, navigation, land use and the needs and welfare of the people. The City's concerns, identified below, need to be addressed before the City will consent to the project.

1. Public Safety and Navigation

As stated in previous comments on the Draft Environmental Impact Statement (DEIS), a new at-grade rail crossing on Meeting Street, at Herbert Street, will significantly impair vehicle movement in and out of Peninsula Charleston as Meeting Street is a major north-south arterial road. The proposed southern loop alignment will result in multiple daily delays and frequent unsafe blockages. The crossing could have dire consequences in times of evacuations, and the public safety implications do not end there. It is to be expected the crossing will cause a shift in traffic, from Meeting to King, in an effort by motorists to avoid being delayed by a train. City Fire Station #9 is located on the corner of Heriot Street and King Street, and is the first response station for areas of the City on the Upper Peninsula. The Charleston Fire Department is very concerned about impacts to emergency response times due to train blockages on Meeting Street and heavier traffic on King Street that is posed by the crossing. This is not only a matter of public safety but also is an inconvenience to residents and impacts businesses.

Mr. Shawn Boone, U.S. Army
Corps of Engineers

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The FEIS shows train length and estimated daily volume of vehicles grew from the DEIS and Table 4.8-19 now shows all three at-grade crossings within the City of Charleston (and project scope) to experience a “major” impact by design year at the “LOS E” and “LOS F” levels. The data prompting a “major” impact suggests most trains will be over a mile long, taking almost 11 minutes to cross the street, with crossings up to 9.2 times per day.

The at-grade crossing at Discher Street is less than one half mile away from the new at-grade crossing at Meeting and Herbert Streets and the FEIS only includes a small amount of data about the new crossing, raising the question of whether the effect of the Discher crossing on the Herbert crossing has been thoroughly vetted. Moreover, the EIS only evaluated existing crossings that are part of the project, despite the fact that there are other crossings though, not in the project, nonetheless exist and stand to exacerbate delays and implicate public safety considerations. It is imperative that the long view be taken with respect to this project and appropriate planning and mitigation measures be incorporated to accommodate the safety and mobility needs of all users.

The FEIS identifies the new at-grade crossing at Meeting and Herbert Streets “would have minor indirect adverse impact to community safety by introducing a new conflict point between trains and automobiles, bicycles, and pedestrians” and “may also have a minor adverse impact on emergency response times for certain locations because there is the potential for Meeting Street to be blocked for approximately 11 minutes, four times a day”. Respectfully, 11 minutes to one in need of emergency services would feel more like a lifetime.

Moreover, the proposed project has the potential to cause significant negative impacts to current transit operations as well as BCDCOG’s voter approved I-26ALT Bus RAPID Transit project in which Meeting Street has been identified as an optimal alignment through the neck area and would be subject to experiencing the crossing delays at the proposed new at-grade crossing at Meeting and Herbert Streets especially. At-grade rail crossings present significant challenges for reliable scheduling of transit which would have system wide impacts that further degrade the quality of service along the corridor; whereas this is in fact a critical time for Charleston as we need more than ever to strengthen mass transit services as we prepare for further significant growth. The proposed at-grade crossing would effectively eliminate the “R” (RAPID) from Bus Rapid Transit.

2. Land Use and Property Impacts

In previous comments, the City of Charleston shared land use information acknowledging a major planning shift back in 2015 around the southern loop that was not part of the DEIS nor is clear in the FEIS. Zoning maps and information in the FEIS are mostly all outdated from circa 2015 and do not include this important information.

While the area has some existing industrial uses, the area is in a transformative stage. It is witnessing significant mixed-use redevelopment and is zoned to accommodate growth,

Mr. Shawn Boone, U.S. Army
Corps of Engineers

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residential density and a variety of urban uses. Significant private sector investments have already been made in this area, many predicated on the current zoning designed to facilitate and encourage the area's transition from industrial to urban land uses.

The Comprehensive Plan guides land use decisions for the City and calls for intense residential density, job centers and growth in the transitioning Upper Peninsula area. While there is a minor addition to the FEIS mentioning the 2015 creation of the Upper Peninsula Zoning District, it does not relate the new zoning to the major growth and development the City of Charleston anticipates in this area, raising the questions of whether this significant land use change and massive growth expectation have been analyzed. In addition, the Magnolia Development, an anticipated high density mixed-use project in the Upper Peninsula, was planned from 2006 and is finally ready to move forward with extreme development pressure and zoning that allows up to 3,500 residential units in addition to office, retail and hospitality uses.

Page 4-213 of the FEIS says "The Corps anticipates that improvements associated with Alternative 1 (Proposed Project) will not require re-zoning within the City of Charleston." It goes on to say "Palmetto Railways will work with the local municipalities to go through the necessary processes to gain all approvals related to land use to ensure compliance with all municipal land use regulations." For the southern loop to be constructed in compliance with all municipal land use regulations, the City anticipates a need for rezoning properties that would not align with the Comprehensive Plan. This likely would require an amendment to the Comprehensive Plan in addition to rezoning properties.

3. Public Service and Safety Operations Center Relocation

After many years of negotiations, the City acquired approximately 16 acres of land north of Milford Street for the construction of a new public service and safety operations center from which the Police, Fire, Public Service and Traffic and Transportation Departments to conduct their public services and safety operations. The southern loop will extend through a portion of this site, affecting not just the size of the operations center, but as importantly, its access when trains are occupying the adjacent tracks. Trains in excess of a mile in length along the perimeter and across the southern edge of the site will render it inaccessible at unpredictable times of the day, compromising its usefulness and frustrating its purpose as a place for training from which emergency operations may be dispatched. Due to the potential impact of the southern rail loop on the viability of the site as a public service and safety operations center, the City has currently suspended the design and construction of a planned police vehicle maintenance facility there. The disruption to this project's timetable has required leasing of an alternative facility until resolution of this impact is determined and resolved. The FEIS does not address or analyze the impacts to this important civic area for the proposed project.

Mr. Shawn Boone, U.S. Army
Corps of Engineers

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4. Consent

In light of the above, the City is not poised to approve this project until its concerns as set forth in this letter are satisfactorily addressed.

If the southern loop is unavoidable, it is wholly reasonable that its impacts be mitigated. The impacts anticipated from the NBIF project are so significant the City deemed it necessary to seek expert advice from both rail and traffic consultants to assist us with this project and determine appropriate mitigation so as to not hinder the City's ability to uphold our mission.

The recommendations for appropriate mitigation from our third party consultant totaled \$40-55M, whereas, Palmetto Rail's consultant estimated full mitigation for the NBIF impacts at \$4.3M, posing a significant gap and prompting further discussion. The City has participated in many discussions with Palmetto Rail about mitigation. While no agreement has been reached, we remain hopeful Palmetto Rail will provide us with acceptable mitigation measures to ensure our citizens are protected from negative impacts of the NBIF project.

Based on results from our third party consultant's study, the City requests the below mitigation measures:

- 1) The extension of Harmon Street to Cherry Hill Lane, to create access for parcels which are circumscribed in the rail loop when trains are present.
- 2) The addition of at least two at-grade vehicular crossings over the existing rail corridor between King Street and Meeting Street, to allow north bound traffic an opportunity to use the King Street corridor should a train be blocking traffic at that location.
- 3) The rearrangement of the Mount Pleasant Street/King Street/Meeting Street/Morrison Drive intersection, to allow for traffic to seamlessly move north on King Street while accommodating public transit, pedestrians and bicyclists. The 2014 Partnership for Prosperity Master Plan for the Neck Area of Charleston and North Charleston, prepared by the BCDCOG suggests a new traffic configuration of this intersection in the form of a roundabout.
- 4) King Street improvements to accommodate the increased traffic demands and emergency access capabilities of Fire Station #9 on Heriot Street.
- 5) The connection of Sewanee Road to the Port Access Road, to ensure an access route to I-26 that otherwise will be taken away with the new rail crossing.
- 6) Improvements to the Discher Street and King Street intersection by providing left and right turn lanes along King Street, to alleviate the anticipated traffic queuing along Meeting Street and King Street.
- 7) A right turn lane on Herbert Street at Meeting Street will allow cars to turn right on Meeting Street during train blockages.
- 8) The elevation of Meeting Street at the Meeting/Herbert Street crossing, to allow most emergency and routine vehicular access to continue uninterrupted and for the use of the Bus Rapid Transit System. This measure requires further study on not only the width

Mr. Shawn Boone, U.S. Army
Corps of Engineers

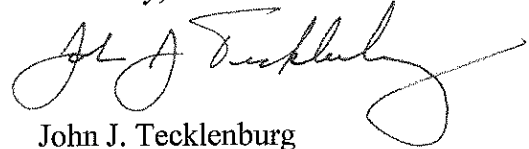
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- of the viaduct but also how it affects underlying properties and incorporates with mitigation measures listed above, and is a primary recommendation for mitigation from our consultant's study.
- 9) Acceptable replacement land for the City's Public Service and Safety Operations Center (and restitution for additional leased property).

The City appreciates the opportunity to comment on the FEIS, remains open to continuing the dialogue with Palmetto Railways and the involved Class I railroads, and is optimistic that its issues with respect to the project can be satisfactorily addressed to ensure public safety, provide local access and allow for viable public transit.

Sincerely,



John J. Tecklenburg
Mayor, City of Charleston

JJT:km

Copy to:

Charleston City Councilmembers

Mr. Jeffrey McWhorter, President & CEO, Palmetto Railways



CSX Transportation, Inc.
500 Water Street, J120
Jacksonville, Florida 32202
Tel. 904-366-5085
Jermaine_Swofford@csx.com

JERMAINE SWAFFORD

Senior Vice President & Chief Transportation Officer

July 31, 2018

Mr. Shawn Boone
U.S. Army Corps of Engineers
Charleston District
69-A Hagood Avenue
Charleston, SC 29403

Re: Final EIS for the Proposed Navy Base Intermodal Container Transfer Facility North Charleston – CSX Transportation, Inc. Comments

Dear Mr. Boone:

CSX Transportation, Inc. (“CSXT”) contends that the Final Environmental Impact Statement for the Proposed Navy Base Intermodal Container Transfer Facility North Charleston, South Carolina (the “FEIS”) did not take the required “hard look” at the following issues, as discussed in more detail below.

- Connectivity to the CSXT mainline will require significant investment;
- Surface Transportation Board (“STB”) review was left out and may be necessary;
- There are no operating or property agreements to support the proposed project;
- The absence of these agreements invalidates the environmental analysis since there is no basis for analyzing impacts without these agreements;
- CSXT will not subsidize the project with land, capital, or an agreement to pay fees; and
- The State of South Carolina is developing an island terminal disconnected from the national rail system as it is currently proposed.

CSXT appreciates the opportunity to comment on the significant and detailed work performed by the U.S. Army Corps of Engineers (the “Corps”) in the FEIS. Cooperating agencies included the U.S. Environmental Protection Agency and the Federal Railroad Administration. Noticeably absent among the cooperating agencies was the STB, which has significant regulatory responsibilities with regard to railroad construction and operations.

These comments are limited to potential impacts on CSXT and do not necessarily apply to any other railroad.

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The National Environmental Policy Act (“NEPA”) requires that the Corps examine the environmental effects of proposed Federal actions and to inform the public concerning those effects. *Baltimore Gas & Elec. Co. v. Natural Resources Defense Council*, 462 U.S. 87, 97 (1983). Under NEPA, the Corps must consider potential beneficial and adverse environmental effects in determining whether to grant a permit. The purpose of NEPA is to focus the attention of the government and the public on the likely environmental consequences of a proposed action before it is implemented, in order to minimize or avoid potential negative environmental impacts. *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 371 (1989). While NEPA prescribes the process that must be followed, it does not mandate a particular result. *Robertson v. Methow*, 490 U.S. 332, 350-51 (1989). Thus, once the adverse environmental effects have been adequately identified and evaluated, the Corps may conclude that other values outweigh the environmental costs. But, the Corps must first determine all of the environmental costs of the project.

The FEIS is required to take a “hard look” at the proposal before the Department of the Army (the “DA”) can issue a permit, imposing environmental conditions if necessary, allowing the construction that affects the waters of the United States, including wetlands.

The FEIS analyzed the environmental impacts of the proposal by the South Carolina Department of Commerce Division of Public Railways d/b/a Palmetto Railways (“Palmetto”) to construct an approximately \$290 million facility called the Navy Base Intermodal Container Transfer Facility (the “NBIF”) in Charleston, SC and associated facilities where CSXT and the Norfolk Southern Railway Company (“NSR”) will be the end users.¹ The approximately 135-acre NBIF is intended to expedite the transfer of containers that have been off-loaded from ocean going vessels at the Hugh K. Leatherman Sr. Terminal (“HLT”) that are then drayed to the NBIF in order to be loaded onto trains for distribution throughout the southeastern United States.² The NBIF requires connectivity to the national rail system to achieve its goal.

¹ Palmetto September 19, 2016 Response to Appendix C (“Palmetto’s Response”), page 1.

² Today, that function is performed by the privately-owned, for-profit railroads CSXT at the Ashley Junction Intermodal Terminal and by NSR at the 7-Mile Intermodal Terminal Facility. CSXT and NSR compete for the intermodal traffic off-loaded at the Port of Charleston based on commercial and operational offerings. However, like the entire railroad industry in the United States, CSXT and NSR cooperate when certain facilities must be shared.

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Palmetto will operate the NBIF and connectivity to the national rail system and the customers it serves will be provided by CSXT and NSR. The rationale for the NBIF is that the Port of Charleston competes with the southeastern ports of Savannah, Norfolk, Jacksonville, and Mobile.³ CSXT serves those four ports, which are significant competitors. Indeed, it is CSXT's experience that varying commercial practices, including the increase in costs, including the cost of drayage, will divert traffic to a different port.⁴

As the Corps has identified in the FEIS, connecting the NBIF to CSXT and NS will require significant rail construction.⁵ Depending on the location of the construction, the party constructing the track, and the parties operating on the track, authority from the STB may be needed for the construction of the additional track, and will definitely be required for the operation over the track of one railroad by another. Not only is STB authority required, but an environmental review is also required where the traffic increases will exceed certain thresholds.⁶ The Proposal for Surface Transportation Impact Study (the "STIS") adopted by the Corps in Appendix B to the FEIS will only look at impacts on grade crossings. However, such a review falls far short of the "hard look" that the STB must take of the following factors: transportation, community resources and land use, socioeconomics, geology and soils, water resources, biological resources, air quality and climate, noise and vibration, energy resources, cultural resources, and environmental justice in the areas outside of the NBIF where changes brought about by rail construction and a change in operations will occur (the "11 Factors").⁷ The STIS fails to address all of these factors, thereby failing to take the "hard look" mandated for environmental review.

³ FEIS, Appendix B-5, at 4.

⁴ The RapidRail drayage program subsidies provided are not for the benefit of the railroads, but for the benefit of the Port of Charleston. If the cost of drayage from the onloading facilities to the CSXT yard were not subsidized, those added costs would most likely be passed onto the shippers, making the Port of Charleston less competitive and subject to diversion of traffic to another port.

⁵ FEIS 1-31.

⁶ 49 CFR 1105.6(b)(4)(i).

⁷ 49 CFR 1105.7(e).

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CSXT has commented to the Corps that a “hard look” environment review must include an analysis of the capacity to meet, pass and stage the additional trains that will use the NBIF.⁸ CSXT also pointed out that such an analysis cannot occur until there are agreements between the parties specifying the railroad operations.⁹ Palmetto did not give the Corps an answer to these issues with respect to the “hard look” environmental analysis required to meet the requirements of NEPA. Instead, Palmetto suggested that the Corps ignore the issues because they only relate to the permit process¹⁰ and would result in the Corps micromanaging “the responsibilities of the end-users of the NBIF.” CSXT has long experience with environmental reviews of significant changes in railroad operations and construction. The Corps process parallels that of the STB. Both agencies determine the environmental impacts of a proposal and then take those environmental impacts into account when issuing a permit or decision. The path that the Corps is being urged to take would result in an analysis that failed to take the mandatory “hard look.” Indeed, CSXT is as anxious as Palmetto to have this project succeed, but only if it results in CSXT expanding its port to rail intermodal business overall, not just in diverting traffic from one CSXT facility to the NBIF.

In addition, CSXT’s right-of-way is privately owned. As previously mentioned, CSXT supports infrastructure improvements that are financially beneficial to CSXT. Therefore, access to CSXT property for rail operations by other parties must be obtained through a voluntary agreement with CSXT. Table ES-3, Summary of Avoidance and Minimization Measures Proposed by Applicant (the “Mitigation Measures”),¹¹ requires a study of the rail traffic related to the NBIF and railroad connections. However, the study proposed in Appendix B-7 only deals with at-grade crossings and does not address the 11 Factors. Without an agreement specifying operational standards and criteria, there is no factual basis for the study. As an example, the impacts of a 10,000 foot long train traveling at 10 miles per hour are significantly different than a 5,000 foot long train traveling at 25 miles per hour. The impacts also vary depending on whether the train is traveling during rush hour or in the middle of the night. All of these issues, and many more, are typically resolved in operating agreements. The Mitigation Measures also require access and use of CSXT’s property. The construction on and use of CSXT for access to the NBIF will significantly interfere with CSXT’s railroad operations and is

⁸ Letter dated July 15, 2016 from John Hart to Dr. Richard Darden, attached as Exhibit A. See also, Letter dated November 18, 2006 from John Hart to Mr. Shawn Boone, also attached as Exhibit A.

⁹ The footprint of the project includes the rail facilities needed to connect the NBIF to the national railroad system and the proposed operations over those connections. Although these impacts are beyond the “logical termini” of the proposal, they are connected and essential actions and should be addressed in the NEPA analysis.

¹⁰ Palmetto stated that an operating agreement “is irrelevant and is not addressed to the adequacy of the DEIS or the Corps analysis.” Palmetto’s Response at 6.

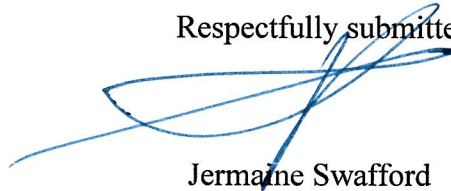
¹¹ FEIS, beginning on page ES-36.

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strictly prohibited by law.¹² In addition, Palmetto is subject to the jurisdiction of the STB.¹³ CSXT does not intend to subsidize construction or operation of the NBIF or any other rail improvements required, whether by payments or dedication of real estate or other assets unless and until CSXT is assured of a reasonable return for this type of high risk investment.

To ensure that the Corps takes the required “hard look” at the NBIF project, which includes the necessary rail operations to prevent the NBIF from being an island with no access to the national railroad system, CSXT respectfully requests the Corps to take a “hard look” at the 11 Factors as part of its environmental review as referenced in CSXT’s past comments.

Respectfully submitted,



Jermaine Swafford

¹² 49 U.S.C. 10501(b).

¹³ 49 U.S.C. 10501(c)(2).

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Exhibit A

Letter dated July 15, 2016 from John Hart to Dr. Richard Darden

Letter dated November 18, 2016 from John Hart to Mr. Shawn Boone

[please see attached]



John Hart
Vice President
Service Design

500 Water Street, J120
Jacksonville, FL 32202
Tel. 904-359-1331

July 15, 2016

Dr. Richard Darden
U.S. Army Corps of Engineers
Special Projects Branch
69-A Hagood Avenue
Charleston, South Carolina 29403

Subject: Navy Base Container Transfer Facility Draft EIS
Public Notice Number SAC-2012-00960

Dear Dr. Darden:

CSX Transportation, Inc. (CSX) appreciates the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the proposed Navy Base Intermodal Container Transfer Facility (ICTF) in North Charleston, SC (the "Project"). CSX is submitting these comments to assist the U.S. Army Corps of Engineers (the "Corps") in taking the "hard look" required in an EIS.

CSX is a Class I railroad with a network spanning 21,000 miles through 23 states and two Canadian provinces. CSX serves 40 intermodal terminals owned and operated by its affiliated companies, as well as nine on-dock or near-dock intermodal terminals owned and operated by third parties.

In the Charleston area, CSX serves local freight rail customers from Bennett Yard and Cooper Yard. Its domestic and international intermodal customers are served at an existing intermodal terminal located in North Charleston. CSX also operates over the North Charleston Terminal Company (NCTC), a terminal railroad it owns jointly with Norfolk Southern Railway Company (NSR). CSX also interchanges traffic with the South Carolina Department of Commerce Division of Public Railways d/b/a Palmetto Railways (Palmetto), a State Enterprise Agency, which provides terminal switching services in Charleston at the South Carolina State Ports Authority (SCSPA)-owned marine terminals at Columbus Street and North Charleston, as well as the former Charleston Navy Base, and Cosgrove Yard.

CSX supports the development of economically viable new intermodal capacity at strategic locations on its network. Existing projections of port container growth and the likely scale of rail activity driven by the SCSPA's planned Hugh Leatherman Terminal (HLT) in North Charleston will drive the need for near dock terminal capacity to support HLT.

However, the plan presented in the DEIS evaluates a limited range of alternatives guided by an assumption that in lieu of using existing facilities, all international container volumes in Charleston will

be consolidated at the ICTF. The plan assumes that such a facility is needed as a result of port growth and constrained capacity at the existing intermodal terminals, and that both Class I rail carriers in Charleston need to have access to a State owned ICTF.

CSX agrees that both carriers need to have access to the ICTF, but an evaluation of the alternatives also needs to consider the following:

1. CSX has an existing intermodal terminal in Charleston that has available capacity and there are no plans to discontinue operations at that terminal.
2. CSX has capacity to grow in Charleston. Intermodal volumes in 2016 versus 2015 year to date are down by 11%, and SCSPA has implemented a "gray box" program which has improved the capacity and efficiency of the CSX terminal.
3. The DEIS cites a 2005 study to make the case that the existing intermodal terminals in Charleston are running out of capacity. Since then, US Class I railroads have made substantial advances in efficiency, operating practices and deployment of technology to increase the throughput of these facilities, which means the 2005 study no longer reflects current industry practices, nor the potential capacity of the existing intermodal terminals in Charleston.
4. CSX has verified through a 2015 third party study that its North Charleston intermodal terminal can handle anticipated volumes until 2034 if the company makes improvements to its existing terminal. CSX will fund future improvements to its terminal to meet growth needs if required, making it unlikely that CSX or its affiliates would invest in a third party terminal that would duplicate functionality and capacity.
5. Decisions about port selection and intermodal services are largely driven by steamship lines and their customers seeking the lowest cost option and best service from the port to the inland destination. While HLT intermodal traffic would likely be handled most cost effectively at a new ICTF because of its proximity to HLT, more than half of the SCSPA's long term container business is forecasted to use the Wando Welch terminal even after HLT opens. The study of alternatives in Charleston needs to more carefully consider the possibility that despite the presence of a new terminal, the Wando Welch intermodal traffic will only go to the ICTF if it is a more cost-effective choice than the existing intermodal terminals.
6. CSX and NSR currently share property and rail lines in Charleston and have interdependent operating and infrastructure needs. Based on this current practice, it would not be accurate to state that construction of a consolidated intermodal terminal by the State is the only way to provide shared access to customers in Charleston.
7. CSX and NSR are developing the necessary infrastructure, legal and regulatory plans to support access to the ICTF for both carriers, subject to approval by the Surface Transportation Board (STB).

At several port gateways on the East Coast there has been a significant public investment in on dock or near dock intermodal capacity. CSX has managed its intermodal operations at these locations in a manner which leverages its existing capacity, while efficiently integrating additional near dock capacity.

This approach has been beneficial to CSX and its public partners because it reduces the total investment required for growth.

CSX plans to continue to operate on its existing right of way to serve existing and future freight customers. Efficient rail access to the ICTF via the southern route remains critical to CSX. The DEIS makes the assumption that eight additional trains per day will ultimately operate over the corridors connecting the ICTF to the Class I railroads, but does not fully consider the capacity needed to support existing and future train movements on the lines leading to and from the ICTF by both carriers.

As noted above, CSX and NSR have operational agreements that provide for joint use of certain track and crossings throughout Charleston, all of which are designed to improve each carrier's ability to operate efficiently and serve customers. Independent of the design of the ICTF, the pattern of both carriers train movements on current and future joint use track will change, creating new conflicts between train movements. Capacity to meet, pass and stage trains supporting joint use by the Class I carriers is not reflected in the current plan and must be addressed to connect the carriers with the facility.

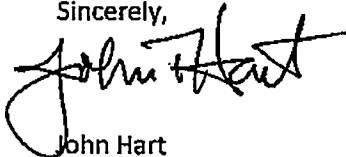
CSX will also continue to preserve the S-Line corridor, and will work with Palmetto to assure that the corridor south of the planned ICTF can be shared where practical, provided that CSX's operations and access to Cooper Yard are not compromised. CSX also plans to continue to serve the existing and future customers and Industrial sites accessible from Cooper Yard and will retain the ability to reactivate the S-Line north of that yard in the future.

The individual or joint use of existing railroad lines and construction of additional infrastructure most likely will require review by the STB and may require additional environmental review depending on the scope of the Project, which will include the study of alternatives not presented in the DEIS.

If the ICTF can be constructed in a manner which addresses our principles of uncompromised safety; capacity for current and future needs; no subsidization by the company; and liability protection, we believe it will successfully add to the available intermodal capacity in Charleston. To further the objective of assuring there is a dual access facility in Charleston, CSX will continue to work with Palmetto to carefully review the capacity needs of both Class I carriers in the context of expected ICTF growth. To that end, CSX will also work with NSR to ensure protection of service to customers in the vicinity of the ICTF jointly served through existing agreements between NSR and CSX.

CSX supports near dock intermodal capacity for the HLT, but believes its success as a project must include the necessary rail capacity to support existing rail operations and future growth, accompanied by a cost structure which assures the future competitiveness of the ICTF and the port.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hart". The signature is written in a cursive, flowing style.

John Hart
Vice President
Service Design



CSX Transportation, Inc.
500 Water Street, J120
Jacksonville, Florida 32202
Tel. 904-359-1331
John_Hart@csx.com

JOHN HART
Vice President—Service Design

November 18, 2016

Mr. Shawn Boone
U.S. Army Corps of Engineers
Regulatory Division
69-A Hagood Avenue
Charleston, South Carolina 29403

Subject: Navy Base Container Transfer Facility Permit Request
Public Notice Number SAC-2012-00960

Dear Mr. Boone:

CSX Transportation, Inc. ("CSX") appreciates the opportunity to comment on the permit request (the "Permit Request") by the South Carolina Department of Commerce division of Public Railways d/b/a Palmetto Railways ("Palmetto Railways") for the proposed Navy Base Intermodal Container Transfer Facility ("ICTF") and related development in North Charleston, SC (the "Project").

CSX provided comments on the Draft Environmental Impact Statement (the "Draft EIS") for the Project in its July 15, 2015 letter to Dr. Richard Darden, U.S.A.C.E. (the "DEIS Comments"). The DEIS Comments stressed, among other things, the need to ensure sufficient rail capacity to support intermodal train movements of CSX and Norfolk Southern Railway ("NSR") to and from the ICTF, as failure to do so would result in severe congestion, impacting existing rail customers, and the entire Charleston community. At the same time, the DEIS Comments expressed concern that the current rail access, operating and supporting infrastructure plan (the "Rail Plan") failed to account for this needed capacity.

Unfortunately, the Permit Request's Rail Plan is no different from the preferred alternative in the Draft EIS. Accordingly, the DEIS Comments apply equally to the Permit Request and, specifically to its Rail Plan. In addition, CSX raises the following additional concerns:

The Permit Request appears to be premature. The Draft EIS indicated that dual south end access would be evaluated in the Final EIS. Granting the permit as proposed (i.e., NSR access from the north and CSX access from the south) before the Final EIS and its underlying analysis is complete could be considered an inappropriate prejudgment of the Final EIS determination – particularly if the Proposal’s design is contrary to the recommendations of the Final EIS. In that case, Palmetto could be required to proceed through another permitting process once the Final EIS is completed.

The Permit Request’s Rail Plan ignores the concerns of CSX and NS. The very real prospect of severe congestion resulting from the Project’s current Rail Plan no doubt motivated CSX and NSR to work collaboratively in order to find a viable solution for rail access to the ICTF, as CSX noted in its DEIS Comments. And, it did not take long for the carriers to realize that a rail infrastructure and operating plan providing for dual rail access solely from the south of the ICTF (the “South Access Plan”) is the only plan that is likely to succeed. Despite ongoing coordination and planning between NSR and CSX concerning the South Access Plan, Palmetto Railways has submitted a permitting request that completely ignores the feedback from both rail carriers. Refusing to heed these concerns could serve as a disincentive to the collaborative spirit that is vital to the success of the Project, including the need to limit its environmental impacts.

The most significant finding of the two carriers in their operational review was that the north access proposed in the Permit Request’s Rail Plan is counterproductive to efficient rail service in Charleston and will result in significant environmental impacts that can only be addressed in the Final EIS. The train movements associated with the Rail Plan’s north access would interfere noticeably with service to existing customers along the route, thus resulting in increased environmental impacts which do not appear to have been contemplated by the Permit Request. CSX and NSR have concluded that the northern access is neither advisable nor necessary to serve the ICTF.

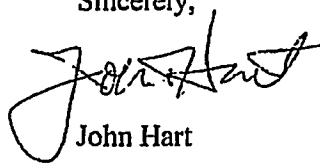
A rush to approve a flawed design may compound delays to the Project. CSX and NS are in the early stages of developing the necessary infrastructure designs and legal and regulatory plans to support fair and equal access to the ICTF for both carriers, subject to any necessary approval by the STB. The individual or joint use of existing railroad lines and construction of additional infrastructure at the south end of the Project by Palmetto Railways most likely will require authorization by the Surface Transportation Board (“STB”), along with additional environmental review, the scope of which will depend on the scope of Palmetto Railway’s plans for access to the southern end of the ICTF, including additional study of alternatives. In the unlikely event this Permit Request is approved in its current form, it is not a certainty that it will also be approved by the STB, given many of the reasons articulated in this letter. Therefore, development of a workable Rail Plan will only help expedite the approval process.

In conclusion, CSX believes that the existing permit application is premature. The permit application does not take into account the results of the Final EIS, which is intended to address the bona fide concerns and analysis from stakeholders such as NSR and CSX. Moreover, the current Rail Plan does not fully consider the rail capacity needed to support existing and future

train movements on the lines leading to and from the ICTF by CSX and NSR at the south end of the Project or the environmental impacts of the development of that additional capacity.

We urge the Corps to review and thoughtfully consider comments and recommendations received from CSX, NSR and all parties prior to issuing any permits associated with the proposed Project.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hart", written in a cursive style. The signature is positioned above the printed name "John Hart".

John Hart

July 31, 2018

US Army Corps of Engineers, Charleston District
Attn: Shawn Boone, Project Manager
69-A Hagood Avenue
Charleston, SC 29403

RE: FEIS Navy Base Intermodal Container Transfer Facility
North Charleston, SC

Dear Mr. Boone:

Please find attached comments from the City of North Charleston.

1. Executive Summary, ES-5, Changes to Alternative 1: Rehab and Reuse of an existing Bridge Over Noisette Creek to Reduce Environmental Impacts.

The City has made it known that this Bridge needs to be replaced. The Bridge is too narrow for normal traffic. Long term plans are for its replacement and elevation to allow for ecotourism activities along the creek. Bicycle route, pedestrian route and new rail access is important to the safety of the bridge.

2. Executive Summary, ES-30, 2nd Paragraph, Impacts on the Community.

Under alternative 1, Sterrett Hall is removed. The facility was the home of the City of North Charleston's Cultural Arts Department, as well as a gymnasium used by the City's Recreation Department. Under the proposed mitigation plan, the gymnasium will be replaced, but there is no mention of the loss of space for local artisans. They used the barracks for studio space, as well as Sterrett Hall. Sterrett also has a 900 seat theatre, which was extensively used by the community for meetings, presentations, school plays and theatre.

3. Executive Summary, ES32/35 Cultural Resources.

The Mitigation Plan calls for the creation and funding of \$2,000,000 of a Charleston Naval Base Historical Trust for Revitalization of Historic Structures. The Charleston Naval Base Redevelopment Authority has recently undertaken projects to rehab historic structures on the former Navy Base. Examples of this includes reconstruction of the Chapel (\$2,700,000), Rehab of Quarters F (\$3,500,000) recent bid on Quarters A (\$4,400,000) and estimate of \$2,000,000 in Quarters J. Therefore, \$2,000,000 may not be an adequate seed amount to begin the task of rehabilitation of dozens of structures in the hospital zone. It is our understanding that other local groups have not signed the MOU as of the submission of these comments.

4. Executive Summary, ES 28, Further Information.

The Summary concludes that 96 jobs will be created by 2038 at the ICTF. How does that related to the loss of 135 acres and potential tax revenue which could have been provided other than the ICTF construction.

5. Executive Summary, ES 30, First Paragraph.

The Summary highlights a separate surface transportation impact study underway. Data from the FEIS is required to conduct the study. With the data in hand and the study forthcoming, should the surface transportation impact study become a part of the FEIS?

6. Executive Summary, ES 8, Applicant Proposed Project South via Milford/North Via Hospital District.

Study includes only one new overpass, located at the extension of Cosgrove Avenue, but does not identify at grade crossing at Meeting Street (Located in the Executive Summary) would have detour routes.

7. Section 3, Map Figure 3.12-5, Quiet Zones.

The City of North Charleston, in conjunction with CSX Rails, extended a quiet zone along the Bexley Street Line. The Map is incorrect with 2 other crossings in the zones, that being the Rivers Avenue Crossing and the Meeting Street Road Crossing.

8. Section 4, Map Figure 4.8-7, At Grade Rail Crossings.

Indicates 7 at Grade Rail Crossing at poor level of service in 2038. How does the applicant propose to mitigate the loss of service at 7 of the 12 at grade crossings? 2 of the 12 are considered in a 2002 MOU between the City and the SC State Ports Authority.

9. Section 4, Figure 4.16-2, Notable Features.

Map does not show Stromboli Road Extension from Spruill to Meeting Street Road. Component of Port Access Road Project.

10. Section 4, Page 150, at Grade Rail Crossings, Last Paragraph:

Seems interesting that Alternative 1 would reroute existing commodity trains to another rail line, but these rerouted trains are not analyzed, just because they are not ICTF trains. This approach is a significant fault of the study.

11. How will the citizens of North Charleston have confidence that all of the mitigation decisions in the document will be implemented?

12. Alternative 1 would have a substantial adverse impact on three intersections. The Spruill Avenue at Cosgrove Avenue/McMillan Avenue Realignment intersection (2018 PM, 2038AM and PM) would be adversely impacted due to higher volumes on Cosgrove Avenue as a result of the proposed ICTF and McMillan Avenue/Cosgrove Avenue Realignment. The Noisette Boulevard at Turnbull Avenue intersection (2038 AM and PM) would also be adversely impacted due to higher traffic volumes on Noisette Boulevard due to ICTF employee traffic and roadway network modifications altering traffic patterns. The stop-controlled Noisette Boulevard at Cosgrove Avenue/McMillan Avenue Realignment intersection (2018 AM and PM, 2038 AM and PM) would be adversely impacted due to higher volumes on both of the roadways.

General Comments:

- Some data has been changed since the creation of the document, ie page 3.243 other notable community resources. The County of Charleston is now the owner of the Chicora Life Center. Property changed in excess of 6 months ago. What is the date that information is valid to? How would data crafted in order to provide correct information?
- Some of the City's comments are applicable in all sections that are continued in the document under various headings.
- The distinction of colors on some of the exhibits are difficult to distinguish, ie light purple and dark purple.

One of the flaws in the FEIS is the Corps' limited focus on just the intermodal facility itself and not the Southern Route impacts. The FEIS instead relies on a future Surface Transportation Plan Study to address traffic, transportation, and drainage impacts of the project at grade road and rail crossings, along with road and rail grade separation improvement needs on the area outside of its defined study area. Therefore, the FEIS does not study the entire scope of the Rail project impacts. Palmetto Rails has commenced a number of condemnation actions to acquire land to construct the Southern Route. It is clear that the Southern Route extension to the intermodal facility is not a separate project but a part of the intermodal project.

We understand that the design of the Intermodal Project Southern Route may not be a complete enough to properly study the impacts to the City's transportation system or the necessary medication s to existing roads or bridges as contemplated in the 2002 MOU with the SC State Port Authority. Finally, it is the present intention of the Palmetto Rails to fund its intermodal projects through the Federal Railway Administration or some different division of the Federal Department of Transportation, such as the Build America Bureau and that the funding process may trigger its own environmental review process or it may adopt and rely on the Corps' approval. All of these facts may influence the Corps' deferral of these issues which otherwise should have been addressed in this FEIS. These facts however justify a request by the City to the Corps to either extend the comment period, withhold approval of the FEIS or delay the

FEIS Navy Base Intermodal Container Transfer Facility Comments

7/31/2018

Page 4

issuance of it Record of Decision until the South Route design is complete and the Surface Transportation Plan Study has been completed.

Thank you for the opportunity to provide comments to the FEIS document. If you have any questions, please do not hesitate to contact us.

Sincerely,



R. Keith Summey
Mayor



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 18 2018

U.S. Army Corps of Engineers
Charleston District Regulatory Division
69A Hagood Avenue
Charleston, South Carolina 29403

Re: Final Environmental Impact Statement (FEIS) for the Proposed Navy Base Intermodal Container Transfer Facility, North Charleston, South Carolina; CEQ# 20180148

Dear Lieutenant Colonel Palazzini:

Pursuant to Section 309 of the Clean Air Act (CAA) and Section 102(2)(C) of the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency reviewed the FEIS for the Proposed Navy Base Intermodal Container Transfer Facility (ICTF) developed by the U.S. Army Corps of Engineers (USACE), Charleston District, using a third-party contracting process as described in 40 CFR §1506.5. The FEIS was initiated because the USACE has received an application for a Department of the Army permit under Section 404 of the Clean Water Act (CWA) from Palmetto Railways (SAC 2012-00960). The EPA notes that these comments are limited to the NEPA review and not intended to be review comments on the Section 404 CWA permit.

The EPA previously provided scoping comments on December 30, 2013. On January 27, 2014, the USACE requested that the EPA participate as a cooperating agency in the development of the DEIS and on February 25, 2014, we accepted the invitation. The Federal Railroad Administration (FRA) also accepted the USACE's invitation to become a cooperating agency. As a cooperating agency, we participated in numerous meetings, conference calls and public meetings. The EPA provided comments on the Draft EIS (DEIS) on July 7, 2016.

Palmetto Railways proposes to construct a 130-acre ICTF at the former Charleston Naval Complex (CNC) to facilitate the transfer of international cargo containers between ships/trucks and rail (i.e., trains). The proposed project, also referred to as the Navy Base ICTF, would provide equal access to the Class I rail carriers (CSX Transportation (CSX) and Norfolk Southern Railway (NS)) that serve the Port of Charleston (Port) and various local businesses and industries. The proposed facility would be designed to accommodate existing and projected future intermodal container traffic within the region. The off-site infrastructure improvements would include building: (1) a private drayage road approximately 1-mile long connecting the ICTF to the Hugh K. Leatherman, Sr. Terminal (HLT), (2) rail improvements to the north and south of the ICTF, and (3) several roadway improvements and modifications, including the construction of a new overpass.

The USACE used a three tiered screening process and considered the location of the ICTF in 12 different locations. After the screening process, two sites were considered for further study which

included the Applicant's Proposed Alternative and a site north of the Applicant's Proposed Alternative called the River Center Site. From these two ICTF site locations, the USACE formulated eight alternatives (i.e., seven action alternatives and the no action alternative) that were moved forward for further consideration. The USACE has not identified a preferred alternative in the FEIS citing the regulatory and pre-decisional nature of the Section 404 permitting process. It is anticipated that the USACE will identify the preferred alternative in the NEPA Record of Decision (ROD) and the Section 404 CWA Statement of Finding.

The EPA acknowledges the collaborative efforts of the USACE during the development of both the DEIS and FEIS. The EPA acknowledges the USACE's receptiveness to conducting appropriate levels of air quality modeling needed to properly consider air quality impacts associated with the proposed project. The FEIS addressed the EPA's recommendations from the review of the DEIS. The EPA also supports the USACE efforts in conducting a Health Risk Assessment and disclosing the findings within the FEIS. Additionally, the EPA appreciates the efforts made by the Palmetto Railways and the USACE to meaningfully engage environmental justice stakeholders throughout the NEPA process. These efforts have helped to foster ongoing community relationships and have led to the development of an Memorandum of Agreement that includes a \$4 million Community Mitigation Plan related to the impacts of the facility. The mitigation includes the development of a community recreation center, funding for affordable housing in the community, job training, educational initiatives, environmental measures, research activities, monitoring, health impact studies, assistance to youth, and capacity building training for community organizations. In addition, mitigation measures such as the development of noise barriers, natural recreational areas, and relocations assistance are also beneficial to the community. The EPA encourages the USACE to memorialize these avoidance, minimization and mitigation commitments within the Record of Decision and/or Statement of Findings.

The EPA appreciates the opportunity to provide comments on the proposed Navy Base ICTF. If you have any questions regarding this letter, please contact Ms. Jamie Higgins, of my staff, at (404) 562-9681, or by e-mail at Higgins.jamie@epa.gov.

Sincerely,



Carol J. Monell
Acting Director
Resource Conservation and Restoration Division



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Robert E. Martinez
Vice President
Business Development
and Real Estate

July 31, 2018

U.S. Army Corps of Engineers
Attn: Mr. Shawn Boone, Project Manager
Charleston District
69A Hagood Avenue
Charleston, SC 29403-5107

RE: Comments on Final Environmental Impact Statement for the Proposed Navy Base
Intermodal Container Transfer Facility, Charleston County, South Carolina
Project No, SAC-2012-00960

Dear Mr. Boone:

Norfolk Southern Railway Company (Norfolk Southern) has had an opportunity to review the Final Environmental Impact Statement (FEIS) published by the Army Corps of Engineers relating to the Navy Base Intermodal Container Transfer Facility (ICTF) in Charleston County, South Carolina as proposed by Palmetto Railways (Palmetto). The FEIS states that the overall purpose and need of the Navy Base ICTF project is “to provide a state-owned, near-dock ICTF that provides equal access to both Class I rail carriers and accommodates existing and projected future increases in intermodal container cargo transport through the Port of Charleston to enhance transportation efficiency in the state of South Carolina.” As evidenced throughout the FEIS, one of the Class I rail carriers referenced in that statement of purpose and need is Norfolk Southern. As such, Norfolk Southern has been involved in Palmetto’s scoping of the ICTF and herein provides comments relating to the accuracy of the statements contained in the FEIS that pertain to this involvement.

As an initial concern, the FEIS analyzes the ICTF alternatives with the incorrect assertion that if built, the Class I railroads will use both the north and south routes. As both Norfolk Southern and the other Class I railroad, CSX Transportation (CSXT), have made clear to the State and to Palmetto; that assumption is incorrect. Norfolk Southern and CSXT will be using the south access only, irrespective of whether Palmetto constructs the north and south access to the ICTF or merely the south access, if they are able to access the ICTF at all.¹ As a result of this inaccuracy, the FEIS divides impact that is based on railroad usage and train occurrences, *e.g.*, impacts to noise, vibration, air, traffic and transportation, and at-grade rail crossings, between the north and south access routes in Alternative 1 (the preferred alternative as so characterized in the FEIS). Alternative 4 (the all-

¹ Access to the ICTF is contingent upon the Class I railroads obtaining funding support to construct the necessary infrastructure.

south route) concentrates the train usage impacts solely on the south route.² Given that NS and CSXT will be using the all-south access, the higher train occurrence-dependent impacts resulting from Alternative 4 will all result on the southern portion of Alternative 1.

The Class I railroads' assertions that they will use only the all-south access does not arise from an uncooperative view with respect to the north access, as alleged by Palmetto. (See response to Class I comment letters dated February 3, 2017 from the law office of Willoughby and Hoefer.) Indeed, the railroads have worked collaboratively with Palmetto and the State of South Carolina to progress a safe and operationally acceptable project that will provide equal access. Rather, the sole use of the all-south route is based on operational and engineering hurdles associated with constructing the additional infrastructure that would be needed to use the northern access point Palmetto proposes in the preferred alternative.

Infeasibility of Northern Access for Class I Railroads

As noted in the FEIS, the Section 4(f) analysis evaluates alternatives and finds them infeasible if they cannot be built as a matter of "sound engineering judgment."

In determining whether an alternative is prudent, the FRA may consider whether the alternative would result in any of the following: (1) compromise the Project to a degree that is unreasonable for proceeding with the Project in light of its stated purpose and need, (2) unacceptable safety or operational problems, (3) after reasonable mitigation the Project results in severe social, economic, or environmental impacts; severe disruption to established communities; severe disproportionate impacts on minority or low-income populations; or severe impacts on environmental resources protected under other federal statutes, (4) additional construction, maintenance, or operational costs of an extraordinary magnitude, (5) other unique problems or unusual factors, (6) multiple factors that, while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude. ICTF FEIS at 8-13.

Here, as explained below, Palmetto's Alternative 1 /preferred alternative does not include significant infrastructure requirements that are necessary to accommodate Norfolk Southern's northern access, and if it did, it would necessarily create significant additional impacts and result in additional construction costs of an extraordinary magnitude. The failure to include these in the proposal – and in the FEIS analysis – renders the northern access for the Class I railroads infeasible as proposed, and as such it would not meet the stated purpose and need. Furthermore, it would create unacceptable safety and operational problems in its current configuration.

In December 2016, Norfolk Southern spent a significant amount of time reconsidering the northern access to determine if a feasible solution could be found that was in line with the proposed ICTF project as it had been proposed in Palmetto's permit application. Diagrams from the northern access engineering study are attached as Appendix A to this letter. To access the ICTF from the north, Norfolk Southern's Reads Branch would have to cross the CSXT line at the Meads Interlocker north of the proposed ICTF. This line consists of two tracks, the S and the A, and is part of CSXT's main line between the northeastern United States and the southeastern United States. The CSXT lines

² See, e.g., ICTF FEIS at 4-536 "Alternative 4 would have double (8/day) the number of train occurrences as Alternative 1 on the southern rail connection because all trains would enter and exit the ICTF utilizing a parallel southern rail connection (Section 4.8.11)." Notably, most other impacts of Alternative 4 are similar to or less than Alternative 1.

currently accommodate approximately 34 trains per day, consisting of both CSXT freight trains and Amtrak passenger trains. Because the traffic density on this line is very heavy, crossing the line with lengthy intermodal trains would not be possible without causing serious delays for existing freight and passenger train traffic. Moreover, CSXT has never agreed to a train dispatching protocol that allows long NS trains to move over the Meads Interlocker on the north access.

The 2016 evaluation established several facts relating to railroad operations near the north access route. In particular, Amtrak has six train movements per day and CSXT operates 28 train movements per day, for a total of 34 train movements across a two diamond rail crossing of NS and CSXT routes in a 24 hour window. Currently, the closest siding for Norfolk Southern to hold trains and wait for a clear signal from CSXT is 60 miles away from the Meads Interlocker at Rowesville, SC, which is located in Orangeburg County. Under Palmetto's preferred alternative, to access from the north, Norfolk Southern would need a clear signal to be held for two hours before an approach by an NS train could be made and cleared over the Meads Interlocker. To accommodate the proposed inbound volume for the ICTF, Norfolk Southern would require a clear signal at the Meads Interlocker twice daily. As a result of the distance from the nearest siding, CSXT would have to dedicate a minimum of four hours daily across the Meads Interlocker to allow for Norfolk Southern trains to cross. However, with the existing timetables on both the S and A tracks, CSXT is only able to offer 30 minute windows for clear signaling to prevent disruptions to both passenger and freight service. This amount of time is certainly not consistent with operational requirements for Norfolk Southern to cross the CSXT line at the Meads Interlocker. Route challenges exist to a similar degree on the two NS trains per day that would need to depart the ICTF.

This review illustrates that an at-grade access at the Meads Interlocker as it currently exists would be neither safe nor operationally viable. As such, to provide the north access, a grade separation at the Meads Interlocker would be required to accommodate the real-world operating conditions. But constructing a grade separation at the Meads Interlocker would not be a simple undertaking. A set of substantial infrastructure subprojects would be necessary to support construction of the grade separation. Specifically, at a minimum:

- The Reads Branch (the Norfolk Southern line that crosses the CSXT main line at the Meads Interlocking) would need to be raised by at least 30 feet above the CSXT main line elevation to allow for required clearances and bridge structures.
- Rivers Avenue would be impacted by the western approach and would have to be lowered by approximately 12 feet to clear the rail bridge.
- Attaway Street would need to be closed due to the conflict with the eastern approach.
- Significant disruption to residential and commercial property along the Reads Branch would be required to construct the embankment and structures needed for the rail overpass.
- In order to protect service to the existing North Charleston industrial customers, it would be necessary to double track the North Charleston Terminal Company (NCTC) line from S-Line Junction to a point short of the Noisette Creek Bridge.
- It is expected that a full reconstruction of the Noisette Creek Bridge will be required to support increased traffic levels.

Preliminary cost estimates for these subprojects that would be necessary to accommodate access to the ICTF from the north range from \$175 million to \$225 million. These estimates do not include additional soft costs and necessary right of way relocations. In addition to these costs, the preliminary engineering study revealed that the eastern approach of Norfolk Southern's Reads Branch to the CSXT crossing would be an unacceptably severe 1.78% grade. It would not be

possible to reliably or safely pull intermodal or local freight trains over a grade of this magnitude. The 2016 study concluded for these and other reasons that the all-south access to the ICTF is the only practicable and feasible option available to provide equally competitive and reliable rail access for both carriers to the ICTF. Palmetto has not considered impacts associated with any of this work in its northern access under Alternative 1.

Palmetto Railways and other major project stakeholders were advised in July 2016 that Norfolk Southern would not use a northern approach for these technical and operational reasons, among others. Instead, and with the full operational cooperation of CSXT, the all-south approach was vetted and approved by both Class I carriers as the only way to access the ICTF that was fair, equal, and operationally efficient. Agreement was reached with CSXT on a southern crossing, before which time Norfolk Southern did not have a way to access the proposed terminal from either north or south. The all-south approach marks the first time in the history of the project where Norfolk Southern has been given fair, equal and operationally efficient access to the ICTF that is in line with the purpose and need statement of the proposed ICTF project.

Additional Infrastructure Requirements for Southern Access

As the Class I railroads have stated in the past, each will continue to operate on its existing rights of way and use its existing facilities to serve existing and future freight customers, whether or not the ICTF is constructed. In order to use the ICTF, and consistent with the purpose and need for the project, there must be efficient and safe rail access for both Class I railroads. Palmetto's proposal, and therefore the FEIS, assumes that eight additional trains per day will ultimately operate over the corridors connecting the ICTF to the Class I railroads,³ but does not fully consider the capacity needed to support existing and future train movements on the only feasible lines leading to and from the ICTF by both carriers – the all-south route. While CSXT and Norfolk Southern have operational agreements that provide for joint use of certain track and crossings throughout the greater Charleston area, which are designed to improve each carrier's ability to operate efficiently and serve customers, the capacity to meet, pass, and stage trains supporting use by the Class I carriers is not reflected in the current preferred alternative and is not addressed in the FEIS, even in the context of cumulative effects, yet these must be addressed in order to connect both carriers with the facility.

Infrastructure requirements for the all-south route include but are not limited to:

- Providing an additional crossing for Norfolk Southern at SY Junction.
- Constructing a siding near MP-12 for Norfolk Southern to stage southbound trains waiting for a clear signal at SY.
- Developing a staging yard between Ashley Junction and the Meeting Street crossing.
- Providing a double track connection between the staging yard and the ICTF to allow for coordinated arrival and departures by either railroad.
- Minimizing the impact to the public by identifying crossing closures and a proposed grade separation at Meeting Street.

These infrastructure requirements for the all-south access actually to connect the railroads consistent with the ICTF's purpose and need statement were formally presented to Palmetto, the State of South Carolina, and other stakeholders on November 29, 2016. None are included, however, in any of the

³ Note that at page I-37, the FEIS states that the initial number will be 8 trains per day, and that it will ramp up to 8 trains per day by [2038]. We presume one of these numbers is incorrect.

alternatives evaluated in the FEIS or even contemplated in the cumulative effects section of the FEIS.

Norfolk Southern continues to offer no objection to the project and agrees that there is likely a need for some track extending from the north of the facility that offers train operation “headroom” to switch cars between tracks from the north end of the terminal. The manner in which Palmetto achieves this necessary operating north “headroom” feature does not have any bearing on how Norfolk Southern accesses the terminal. Impacts relating to ingress and egress by the Class I carriers cannot be discounted or separated from the proposed project, as the defined purpose and need statement makes clear, and at a minimum should be considered in the cumulative effects analysis. The proposed project and practical train access to the facility are inextricably linked. Without one, there is no need for the other.

The only way Norfolk Southern can and will access the proposed ICTF is from the south. If the funding support necessary to provide for the infrastructure required to access the facility from the south does not materialize, Norfolk Southern will be unable fully to utilize the terminal and will have no choice but to stay at its existing Seven Mile Yard location.

Thank you for your review and consideration.

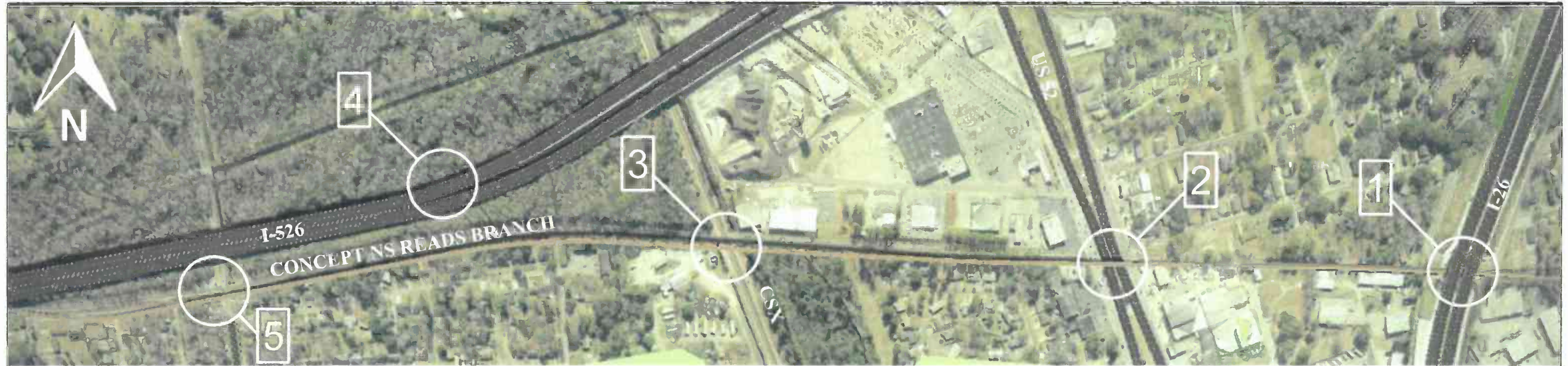
Sincerely,

A handwritten signature in black ink, appearing to read 'Robert E. Martinez', with a stylized flourish at the end.

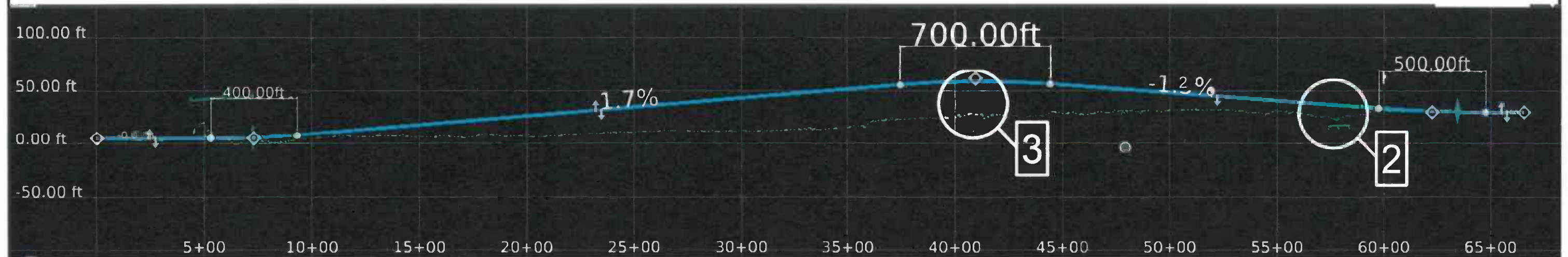
Robert E. Martínez
Vice President
Business Development
and Real Estate

Appendix A

Northern Access Engineering Study Diagrams



CORRIDOR OVERVIEW: NS READS BRANCH



CORRIDOR PROFILE: NS READS BRANCH



BIRD'S-EYE VIEW LOOKING EAST AT CONCEPT ELEVATED NS
READS BRANCH APPROACHING US 52



BIRD'S-EYE VIEW LOOKING EAST AT CONCEPT ELEVATED NS
READS BRANCH APPROACHING US 52



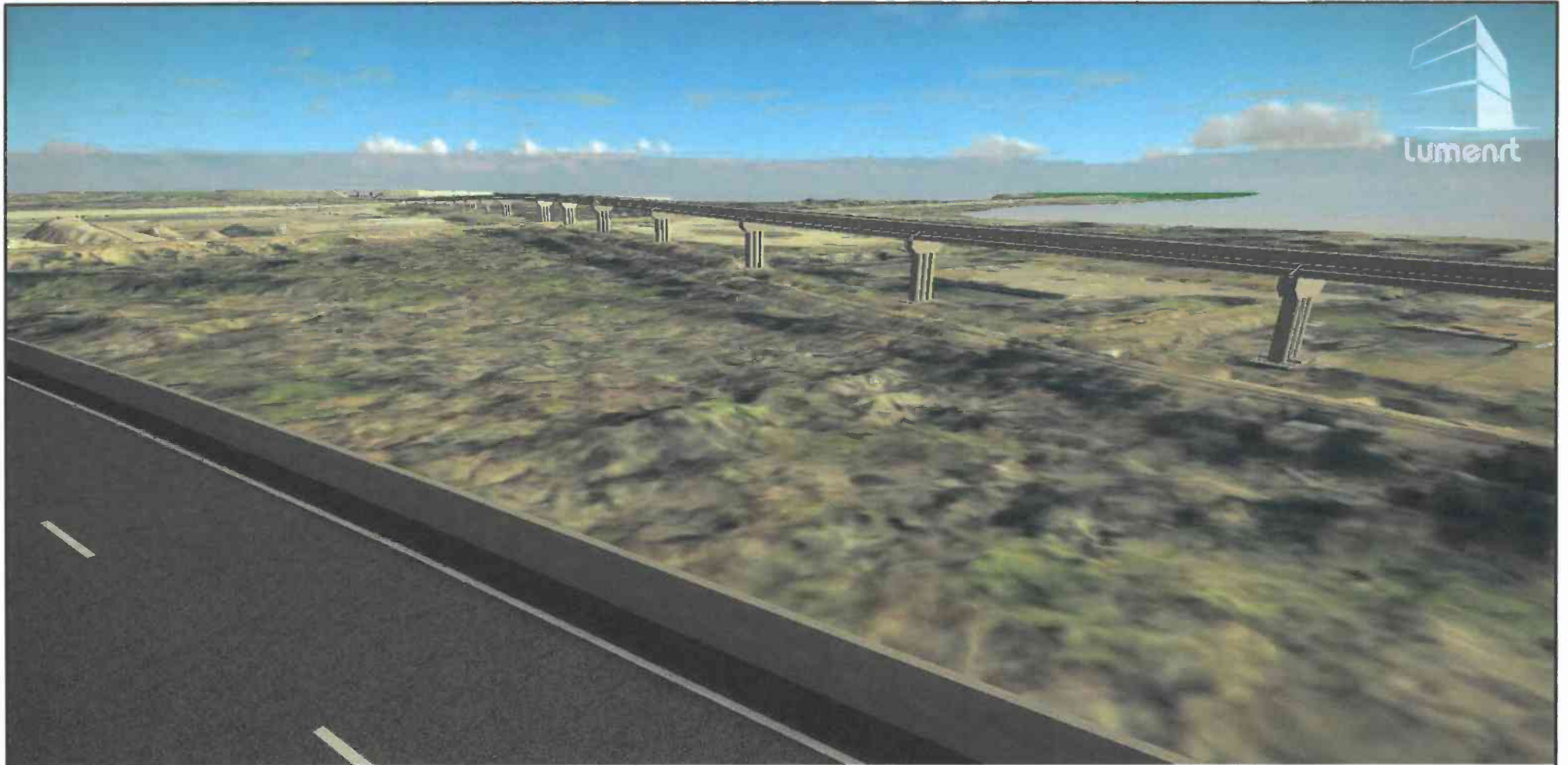
BIRD'S-EYE VIEW LOOKING EAST AT CONCEPT ELEVATED NS
READS BRANCH APPROACHING US 52



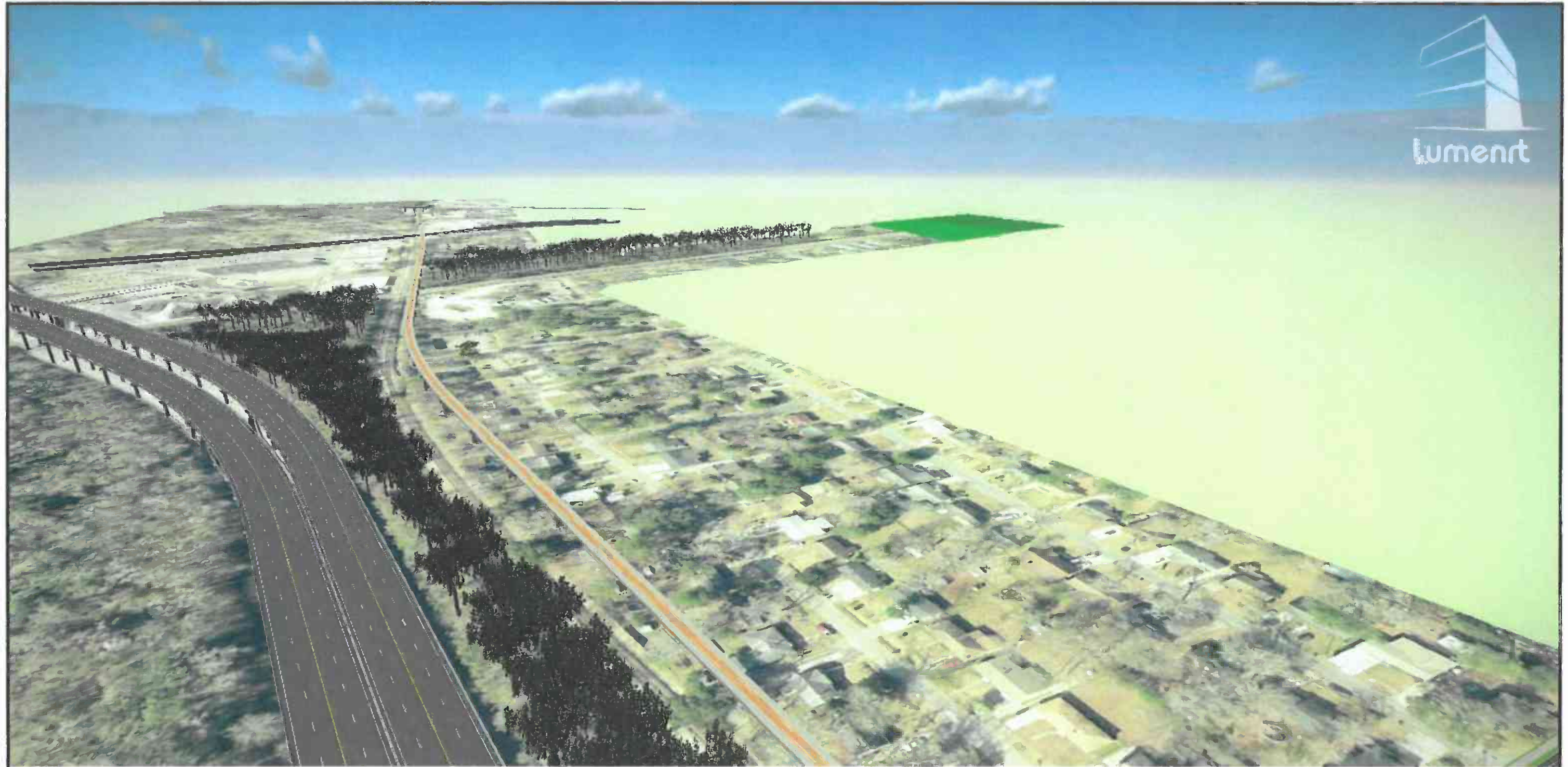
VIEW FROM US 52 SOUTHBOUND LOOKING NORTH AT CONCEPT
ELEVATED NS READS BRANCH OVER ROADWAY



VIEW ALONG CSX ROW LOOKING SOUTH CONCEPT ELEVATED NS
READS BRANCH OVER A LINE



VIEW FROM I-526 WESTBOUND LOOKING NORTHWEST AT
CONCEPT ELEVATED NS READS BRANCH OVER CSX



BIRDS EYE VIEW LOOKING NORTHWEST WITH EXISTING VEGETATION

NAVY BASE INTERMODAL FACILITY
NORTH ACCESS CONCEPT
FEASIBILITY STUDY

JANUARY 2017



EXHIBIT 4A: ELEVATED NS
TRACK ABOVE EXISTING
BRANCH





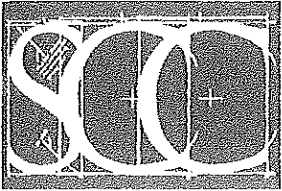
BIRDS EYE VIEW LOOKING NORTHWEST





JUL 30 2018

Appendix D



SOUTHERN CRAFTSMAN
CONSTRUCTION

mail P.O. BOX 71652
NORTH CHARLESTON, SC 29415

tel 843 718 4302 fax 866 571 9473

www.southerncraftsmanconstruction.com
info@southerncraftsmanconstruction.com

July 29, 2018

Army Corps of Engineers
Charleston District
69A Hagood Avenue
Charleston, SC 29403

RE: Environmental Impact Study
Navy Base Transfer facility

Gentlemen:

As a general contractor and developer of affordable housing in South Carolina for the past thirty years, I feel that insufficient attention has been paid to the possibility of saving the approximately eight duplexes and three single family homes currently slated for demolition due to their location in the path of the new rail trackage adjacent to the historic Charleston Naval Hospital.

These houses are all contributing buildings to the Charleston Naval Hospital National Historic District, and, as such, need to be saved and not destroyed. There is a suitable site for their relocation only a few blocks away on property currently owned by Palmetto Railways in front of and to the left of West Yard Lofts.

The successful relocation of these properties would result in the creation of approximately **twenty affordable or workforce housing units**. The architectural style, after renovation, would resemble houses in Oak Terrace Preserve- another successful housing development in North Charleston.

Although I understand that the EIS has already been approved, I would appreciate it if the Army Corps of Engineers would utilize its influence to save historic structures from the wrecking ball while assisting in the creation of much needed affordable/workforce housing in North Charleston.

Sincerely

A handwritten signature in cursive script that reads 'Dan Ligon'.

Dan Ligon



Appendix D

UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office

263 13th Avenue South

St. Petersburg, Florida 33701-5505

<http://sero.nmfs.noaa.gov>

July 31, 2018

F/SER47:CC/pw

(Sent via Electronic Mail)

Lt. Col. Jeffrey Palazzini
Charleston District, Corps of Engineers
69A Hagood Avenue
Charleston, South Carolina 29403-5107

Attention: Shawn Boone

Dear Lt. Colonel Palazzini:

NOAA's National Marine Fisheries Service (NMFS) reviewed *Final Environmental Impact Statement for the Proposed Navy Base Intermodal Container Transfer Facility North Charleston, South Carolina* dated June 2018 (Final EIS) and the corresponding public notice (SAC-2012-0960) dated June 29, 2018. The South Carolina Department of Commerce, Division of Public Railways d/b/a Palmetto Railways (Palmetto Railways), proposes to construct a state-of-the-art Intermodal Container Transfer Facility (ICTF) at the former Charleston Naval Complex (CNC). The applicant is proposing compensatory mitigation for impacts to essential fish habitat (EFH). The Charleston District did not make an initial determination whether the proposed action would or would not have substantial individual or cumulative adverse impacts on EFH or federally managed fishery species. As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, the NMFS provides the following comments and recommendations pursuant to authorities of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Description of the Proposed Project

Palmetto Railways proposes to construct and operate an ICTF on a 135-acre site at the former CNC and undertake off-site roadway and rail improvements for a total of 231.28 acres. The facility would include processing and classification railroad tracks, wide-span gantry cranes, container stacking areas, administrative buildings, and vehicle driving lanes. The off-site infrastructure improvements would include building: (1) a private drayage road approximately one-mile-long connecting the ICTF to the Hugh K. Leatherman Sr. Terminal (HLT), (2) rail improvements to the north and south of the ICTF, and (3) several roadway improvements and modifications, including the construction of a new overpass.

Project History

The NMFS completed a review of the *Draft Environmental Impact Statement for the Proposed Navy Base Intermodal Facility at the former Charleston Naval Complex, North Charleston*, dated April 2016 (Draft EIS), and the corresponding public notice (SAC-2012-0960), dated April 29, 2016. In response, by letter dated July 2016, NMFS recommended:



1. The applicant should reduce the amount of fill proposed for salt marsh habitat.
2. The project should include BMPs to reduce direct and indirect impacts to salt marsh and the Cooper River.
3. The project should include a mitigation plan developed in coordination with the NMFS and resource agencies.

Essential Fish Habitat in the Project Area

Correspondence during 2016 regarding the Draft EIS summarized EFH in the project area, and the NMFS incorporates those summaries here by reference.

Impacts to Essential Fish Habitat

Under the proposed project, the applicant would affect directly 15.84 acres of Waters of the U.S. by placing fill and/or shading activities, including 7.79 acres of tidal wetlands and 8.05 acres of freshwater wetlands. The majority of impacts to tidal salt marsh are associated with construction of the bridges for the Drayage Road. The largest impact to freshwater wetlands is associated with the southern rail connection. Tidal open waters would be directly impacted in six impact locations, with the largest impact occurring to tidally influenced ditches near the Hobson/Bainbridge Road realignment.

Avoidance and Minimization

The proposed project has changed since the Draft EIS stage, the applicant has incorporated measures in response to earlier NMFS conservation recommendations. Potential impacts to Noisette Creek have been reduced by reusing an existing bridge rather than construction of a new one. Potential impacts to Shipyard Creek have been reduced by the redesign of the Drayage Road including single ingress/egress at the Drayage Road Bridge, elimination of a flyover at the Port Access Road, and change from a two-way roadway to a one-lane divided roadway. The Final EIS has also identified a variety of avoidance and minimization strategies for EFH including environmental work windows for in-water construction activities, use of pile driving noise reduction techniques, in-water turbidity and sedimentation control measures, and plans to hire an on-site marine biologist during in-water construction activities to help avoid potential impacts.

Compensatory Mitigation

For unavoidable impacts to freshwater wetlands, the applicant has proposed to purchase 86.3 wetland mitigation credits from Pigeon Pond Mitigation Bank. For unavoidable impacts to EFH from the proposed project, the applicant has proposed a permittee-responsible mitigation (PRM) plan to restore and protect approximately 40.6 acres of tidal marsh at the former Kings Grant Country Club and Golf Course in North Charleston, Dorchester County. The PRM plan provided in the Final EIS is still conceptual in nature and the applicant indicates a fully engineered PRM plan will be submitted later for review. The NMFS believes the proposed conceptual PRM plan has potential as compensatory mitigation, but recommends the applicant replace the drainage system culverts located under the existing road with larger bottomless or embedded culverts wide enough to ensure natural tidal exchange throughout the site. In addition to the performance standards presented in the conceptual PRM plan, the NMFS recommends measures of nekton habitat utilization, relative to a reference site, be assessed as a means of evaluating success. Given the conceptual nature of the PRM plan, additional EFH conservation recommendations may be provided in the future after more details have been provided.

EFH Conservation Recommendations

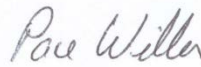
Section 305(b)(4)(A) of the Magnuson-Stevens Act requires the NMFS to provide EFH Conservation Recommendations for any federal action or permit which may result in adverse impacts to EFH. Therefore, the NMFS recommends the following to ensure the conservation of EFH and associated fishery resources:

1. The permittee-responsible mitigation plan should include improvements to the drainage system culverts located under the existing road to ensure natural tidal exchange throughout the site.
2. The permittee-responsible mitigation plan should include nekton habitat utilization performance standards, relative to a reference site.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and implementing regulation at 50 CFR Section 600.920(k) require the Charleston District to provide a written response to this letter within 30 days of its receipt. If it is not possible to provide a substantive response within 30 days, an interim response should be provided. A detailed response then must be provided ten days prior to final approval of the action. The detailed response must include a description of measures proposed by the Charleston District to avoid, mitigate, or offset the adverse impacts of the activity. If the response is inconsistent with an EFH conservation recommendation, a substantive discussion justifying the reasons for not following the recommendation must be provided.

The NMFS appreciates the opportunity to provide these comments. Please direct related correspondence to the attention of Cindy Cooksey at our Charleston Area Office. She may be reached at (843) 460-9922 or by e-mail at Cynthia.Cooksey@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc: COE, Shawn.A.Boone@usace.army.mil
DHEC, trumbumt@dhec.sc.gov
SCDNR, DavisS@dnr.sc.gov
SAFMC, Roger.Pugliese@safmc.net
EPA, Laycock.Kelly@epa.gov
FWS, Karen_Mcgee@fws.gov
F/SER4, David.Dale@noaa.gov
F/SER47, Cynthia.Cooksey@noaa.gov

JUL 31 2018

PRESERVATION
ESTD SOCIETY 1920
of CHARLESTON



July 31, 2018

Mr. Shawn Boone
US Army Corps of Engineers
69A Hagood Ave.
Charleston, SC 29403

Mr. John Winkle
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Final EIS- P/N #2012-0960

Mr. Boone and Mr. Winkle,

Historic Charleston Foundation, the Preservation Society of Charleston, and the Naval Order of the United States would like to thank you for your engagement with us during this permit review. We have greatly appreciated your accessibility and candor. While all three of our organizations have signed the Memorandum of Agreement, we continue to have significant concerns about the proposed project that we wish to memorialize.

We believe that Alternative #2 has been improperly evaluated by both the Corps and the FRA pursuant to the requirements of Section 106 and Section 4(f). We again request that the FRA or the Corps ask CSX directly whether or not the S-Line is available for Palmetto Railways' use. We argue that the evidence presented in the Final EIS regarding the S-Line's availability is insufficient. The Corps and FRA appear to have determined the availability of the S-Line based on the following:

- A November 2, 2012 letter from CSX to Palmetto Railways rejecting an offer from Palmetto Railways to purchase the S-Line that was well below market value;
- Boilerplate language from a July 15, 2016 Draft EIS comment letter submitted by CSX;
- The unilateral representations of Palmetto Railways.

We do not believe it is appropriate for the Corps and FRA to rely solely on the above evidence for such an important determination. We regret the fact that despite our repeated requests, neither agency was willing to ask CSX directly about the availability of the S-line. We contend that it is inappropriate for both agencies to rely so

heavily on the representations of the permit applicant, especially given that Palmetto Railways has a clear economic interest in Alternative #2 being found to not be viable.

Should any new information demonstrating the availability of the S-Line be introduced to the record for this permitting, our three organizations respectfully ask that the Corps re-open the EIS to re-evaluate Alternative #2. We make this request fully aware of Palmetto Railway's current argument for the technical infeasibility of Alternative #2, which per the Final EIS was independently verified by the FRA's engineers. We remind both the Corps and the FRA that Palmetto Railways consistently represented to all three consulting parties that should the S-Line be available, it would be not only feasible but their preferred alternative. We do not possess the technical expertise to refute their present argument as to its technical feasibility, and greatly appreciate the FRA's independent evaluation, but this blatant inconsistency is impossible for our three organizations to ignore.

We additionally are concerned that the Corps is permitting a project that is opposed by multiple entities crucial to its success. The purported end users of this facility, CSX and Norfolk Southern, have both clearly stated that they will not use the facility if it is built as proposed. Both Class One railroads have proposed and prefer a dual south access route that would avoid all impacts to historic structures. All three of our organizations believe that this route is superior to the proposed alternative. The City of Charleston is also opposed to this project. Palmetto Railways proposes to cross a crucial intersection within the City of Charleston at grade disrupting not only vehicular traffic but also a new bus rapid line. We question whether the Corps and FRA have all of the information necessary to evaluate this permit application absent agreements between Palmetto Railways and these entities. Additionally, with those entities in opposition it is difficult if not impossible to envision this project being successful if built as proposed. We thus believe that it is irresponsible for the Corps to permit this project and irresponsible for the FRA to finance it.

Despite these serious concerns all three of our organizations have signed the Memorandum of Agreement (MOA). We do not wish for our signatures on the MOA to be interpreted as complete agreement with this project as proposed, but rather a necessary measure given the aforementioned findings by the Corps and FRA that we continue to dispute. Our organizations were willing to sign the MOA because we believe the mitigation provisions contained within to be adequate. The concerns we have expressed pertain primarily to alternatives analysis, not mitigation, and our three organizations feel it imperative to establish protections for the remaining historic resources at the Charleston Naval Hospital Historic District should this project be built as proposed.

We would like to thank the Corps for working with us as well as SHPO and the ACHP to craft the MOA, and we look forward to supporting the new historic preservation trust it establishes. We hope to convene a meeting of the Board of Directors of the new trust as soon as possible to establish by-laws and an organization framework. Our three organizations are committed to the long-term preservation and

interpretation of all three National Register Historic Districts at the former Charleston Navy Base, and we look forward to having an active partner in that work in North Charleston.

Very truly yours,

Christopher Cody
Staff Attorney
Historic Charleston Foundation

Robert Gurley
Director of Preservation
Preservation Society of Charleston

Don Campagna
The Naval Order of the United States

Cc: Dr. Eric Emerson, State Historic Preservation Officer
Betsy Merritt, Deputy General Counsel, National Trust for Historic Preservation