



United States Department of the Interior



In Reply Refer to:
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FISH AND WILDLIFE SERVICE
New Jersey Field Office
Ecological Services
927 North Main Street, Building D
Pleasantville, New Jersey 08232
Tel: 609/646 9310
Fax: 609/646 0352
<http://www.fws.gov/northeast/njfieldoffice>

FEB. 02 2007

Ms. Christie Marcella
Portal Bridge Capacity Enhancement Project
c/o Howard/Stein-Hudson Associates, Inc.
517 West 35th Street, 7th Floor
New York, New York 10001

Dear Ms. Marcella:

The U.S. Fish and Wildlife Service (Service) has reviewed the Scoping Document for the proposed Portal Bridge Capacity Enhancement project located in Kearny and Secaucus, Hudson County, New Jersey.

AUTHORITY

This response is provided pursuant to the National Environmental Policy Act of 1969 as amended (83 Stat. 852; 42 U.S.C. 4321 *et seq.*) (NEPA), the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) (ESA), the Migratory Bird Treaty Act of 1918 (40 Stat. 755, as amended; 16 U.S.C. 703-712), and consistent with the intent of the Service's Mitigation Policy (*Federal Register*, Vol. 46, No. 15, Jan. 23, 1981). These comments do not preclude separate review and comments by the Service pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) or future review pursuant to NEPA.

BACKGROUND

The Federal Railroad Administration (FRA) (lead federal agency), Amtrak, and the New Jersey Transit Corporation propose to improve or replace the nearly 100-year-old Portal Bridge, which is a two-track, moveable swing-span rail bridge over the Hackensack River. On December 12, 2006, the FRA issued a Notice of Intent (NOI) to prepare an Environmental Impact Statement pursuant to NEPA. Alternatives under consideration include replacement, rehabilitation or modification of the existing bridge along with the construction of an additional bridge for added capacity. The general purpose of the project is to address mechanical, operational, maintenance, and capacity problems with the existing bridge. The Portal Bridge project is being coordinated with planning for the Access to the Region's Core (ARC) project, which involves a new passenger rail tunnel under the Hudson River and other new rail infrastructure.

The Portal Bridge Enhancement project may require State permits, a U.S. Coast Guard permit pursuant to Section 9 of the Rivers and Harbors Act of 1899 (30 Stat. 1151, as amended; 33 U.S.C. 403 *et seq.*), and a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*) and/or Section 10 of the Rivers and Harbors Act. The Service met with project proponents during the December 20, 2006 meeting of the Meadowlands Interagency Mitigation Advisory Committee (MIMAC), and attended a January 9, 2007 scoping meeting.

FEDERALLY LISTED SPECIES

Except for an occasional transient bald eagle (*Haliaeetus leucocephalus*), no other federally listed or proposed endangered or threatened flora or fauna under Service jurisdiction are known to occur within the vicinity of the proposed project site. Therefore, no further consultation pursuant to Section 7 of the ESA is required by the Service. If additional information on federally listed species becomes available, or if project plans change, this determination may be reconsidered.

MEADOWLANDS ECOSYSTEM

The Hackensack Meadowlands includes 8,400 acres of wetlands and uplands that support remarkable biodiversity. Species that use the Meadowlands include seventy-five percent of the 443 migratory bird species documented in New Jersey, 65 species of nesting birds, over 50 species of fish and shellfish, approximately 25 State-listed species, and 42 species considered rare or uncommon in the urban core. Over the last 150 years, industry and development have filled over half of the Meadowlands' original 21,000 wetland acres, and have polluted and fragmented its lands and waters. Congress has directed the Service to provide technical assistance for the restoration and protection of the Meadowlands (P.L. 109-54; see H.R. 109-80). The Service's New Jersey Field Office is fulfilling this directive through the *Hackensack Meadowlands Initiative: Preliminary Conservation Planning* and other work activities (fact sheets enclosed).

Wetlands and open waters adjacent to the subject rail bridge are targeted for restoration through the U.S. Army Corps of Engineers, New York District's (Corps) Hackensack Meadowlands Ecosystem Restoration Study (HMER). Candidate HMER restoration sites along the Portal Bridge approaches include Kearny Brackish Marsh, Laurel Hill Park Wetland, and Riverbend Wetland Preserve (U.S. Army Corps of Engineers, 2004). According to New Jersey's Landscape Project mapping, these wetlands provide foraging habitat for colonial-nesting waterbirds (Niles *et al.*, 2004). The New Jersey Meadowlands Commission (NJMC) is currently working with Hudson County and the New York-New Jersey Baykeeper on development of a restoration plan for Laurel Hill Park Wetland.

The northern approach to the Portal Bridge passes along the 67-acre, privately-owned Malanka Landfill. Operation of the landfill ceased in 1983, but the site was not formally closed in accordance with State standards (New Jersey Meadowlands Commission, 2004). A closure plan for the landfill was prepared in 1999 (U.S. Corps of Engineers, 2004). The southern approach and the bridge itself cross an area of land and water currently under investigation by the New

Jersey Department of Environmental Protection¹ for environmental contamination related to three known contaminated sites: Diamond Shamrock Corporation, Koppers Company Inc. Seaboard Plant, and Standard Chlorine Chemical Company Inc.

SERVICE RECOMMENDATIONS

The Service will provide ongoing input to the Portal Bridge project through the MIMAC and the NEPA process. We offer the following preliminary recommendations based on the NOI, the Scoping Document, and meetings attended to date.

- Contact the New Jersey Endangered and Nongame Species Program² (ENSP) to determine the recent history of nesting by the State-listed (endangered) peregrine falcon (*Falco peregrinus*) on bridges in the vicinity of the Portal Bridge. The ENSP may recommend Conservation Measures to protect peregrines during construction and/or provisions for post-construction bridge operation and management. Peregrines are known to nest on man-made structures within 1.5 miles of the Portal Bridge.
- Contact the New Jersey Natural Heritage Program³ to determine any need to survey the project area for the presence or absence of the State-listed (endangered) plant wafer ash (*Ptelea trifoliata*), which is known to occur in the general vicinity.
- Avoid and minimize impacts to wetlands, especially candidate HMER restoration sites.
- Coordinate with the Hudson County Planning Department and the New York-New Jersey Baykeeper to ensure the Portal Bridge project does not jeopardize restoration of Laurel Hill Park Wetland.
- Construct any new or expanded rail infrastructure on elevated structures rather than fill embankments, when location of such facilities in wetlands is unavoidable.
- Remediate contamination in any new or expanded rights-of-way to the final clean-up standards specified by the U.S. Environmental Protection Agency and/or the New Jersey Department of Environmental Protection, since the presence of new rail infrastructure will preclude any additional remedial efforts following construction.
- Assess the potential release of environmental contaminants from temporary disturbances to wetlands and open waters. Use best management practices to contain contaminants during construction, and provide for post-construction remediation and long-term (3-10 years) contaminants monitoring of disturbed areas.
- Investigate options for compensatory mitigation at HMER candidate restoration sites. Any such plans would require early coordination with the Corps, the NJMC, and the MIMAC.
- Investigate combined mitigation with the ARC project.

¹ <http://www.state.nj.us/dep/srp/kcs-nj/hudson/kcs0907.htm>

² <http://www.state.nj.us/dep/fgw/ensphome.htm>

³ <http://www.state.nj.us/dep/parksandforests/natural/heritage/>

Thank you for the opportunity to review the Scoping Document. Please contact Wendy Walsh of my staff at (609) 646-9310, extension 48 if you have any questions regarding the above Service comments.

Sincerely,



John C. Staples
Assistant Supervisor

Enclosures

References

- New Jersey Meadowlands Commission. 2004. NJMC Master Plan. Lyndhurst, New Jersey. 213 pp. http://www.meadowlands.state.nj.us/land_use/Publications/Master_Plan.cfm. Accessed January 30, 2007.
- Niles, L.J., M Valent, J. Tash and J. Myers. 2001. New Jersey's The Landscape Project: wildlife habitat mapping for community land-use planning and endangered species conservation. Project Report. Endangered and Nongame Species Program, New Jersey Division of Fish and Wildlife, New Jersey Department of Environmental Protection. 20 pp. <http://www.state.nj.us/dep/fgw/ensp/landscape>. Accessed November 1, 2005.
- U.S. Army Corps of Engineers. 2004. Meadowlands environmental site investigation compilation; Hudson-Raritan Estuary, Hackensack Meadowlands, New Jersey. U.S. Army Corps of Engineer, New York District, New York, New York. 336 pages.