Chapter 11: Response to Comments[1]

A. INTRODUCTION

This document summarizes and responds to comments on the Draft Environmental Impact Statement (DEIS), issued in February 2008, for the Portal Bridge Capacity Enhancement Project. Oral and written comments were received during the public hearing held on March 18, 2008. Written comments were accepted from issuance of the DEIS through the public comment period, which ended March 31, 2008.

Section B of this chapter lists the elected officials, public agencies, organizations, and individuals that provided relevant comments on the DEIS. Section C contains a summary of these relevant comments and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the chapter structure of the DEIS. Where more than one commenter expressed similar views, those comments have been grouped and addressed together.

Some commenters did not make specific comments related to the proposed approach or methodology for the impact assessments. Others had suggested editorial changes. Where relevant and appropriate these edits, as well as other substantive changes to the DEIS, have been incorporated into the FEIS.

B. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DEIS

ORGANIZATIONS

1. Alliance for Action, Inc., Philip Beacham, President, written submission dated March 19, 2008 (Alliance)
2. Associated General Contractors of New Jersey, Brian N. Tobin, Executive Director, written submission dated March 17, 2008 (Contractors)
3. County of Hudson, Department of Parks, Engineering and Planning, Stephen D. Marks, Planning Director, written submission dated March 28, 2008; and Borivoj Jasek, County Engineer, written submission dated March 31, 2008 (Hudson County)
4. East Coast Greenway Alliance, New Jersey Committee, Mike Selender, written submission dated March 30, 2008 (Greenway)
5. Institute for Rational Urban Mobility, Inc., George Haikalis, President, oral and written comments dated March 18, 2008 (IRUM)

[1] This chapter is new to the FEIS.

6. Jersey City Landmarks Conservancy, Mike Selender, Vice President, written submission dated March 31, 2008 (JCLC)
7. Lackawanna Coalition, David Peter Alan, Chair, written submission dated March 31, 2008 (Lackawanna)
8. Meadowlands Regional Chamber, Jim Kirkos, CEO, oral and written comments dated March 18, 2008 (MRC)
9. New Jersey Department of Environmental Protection, Office of Permit Coordination and Environmental Compliance, Kenneth C. Koschek, written submission dated April 17, 2008 (NJDEP)
10. New York/New Jersey Baykeeper, Betsy McDonald, Policy Director and Legal Advisor, written submission dated March 31, 2008 (Baykeeper)
11. Regional Rail Working Group, Joseph M. Clift, oral comments (RRWG)
12. Roman Wolchuk Consulting Engineers, Roman Wolchuk, Principal, written submission dated March 25, 2008 (Wolchuk)
13. Tierra Solutions, Inc., Enrique Castro, Project Manager, written submission dated March 27, 2008 (Tierra)
14. United States Coast Guard, Gary Kassof, Bridge Program Manager, written submissions dated May 16, 2008 (USCG)
15. United States Department of Commerce, National Oceanic and Atmospheric Administration, Stanley W. Gorski, Field Offices Supervisor, written submission dated March 31, 2008 (DOC)
16. United States Department of the Interior, Willie R. Taylor, Director, Office of Environmental Policy and Compliance, written submission dated April 17, 2008 (DOI)
17. United States Environmental Protection Agency, John Filippelli, Chief, Strategic Planning Multi-Media Programs Branch, written submission dated March 31, 2008 (USEPA)

INTERESTED PUBLIC

18. DGL, undated written submission (DGL)
19. Kevin M. Hale, written submission dated March 30, 2008 (Hale)
20. Jishnu Mukerji, written submission dated March 31, 2008 (Mukerji)
21. James T. Raleigh, Concerned Citizen, oral comments (Raleigh)
22. Jonathan Woolley, Fort Lee Resident, oral comments (Woolley)

C. COMMENTS AND RESPONSES

GENERAL COMMENTS

Comment 1: The project should reinforce the importance of the corridor to the region's economy. It needs to correct the current bottleneck at the Portal Bridge, especially when having to open for marine traffic and in

anticipation of the increased rail traffic from the two-track tunnel. (MRC)

Response: Comment noted.

Comment 2: The bridge is currently a liability to the economic health of the region and the project must be completed in order to function as a regional portal. (Alliance)

Response: Comment noted.

Comment 3: The project will create heavy construction jobs and improve regional transportation, strengthening the regional economy. (Contractors, L4, page 1)

Response: Comment noted.

Comment 4: Any concerns, including the development of a mitigation plan, should be resolved prior to finalizing the EIS. (DOI)

Response: As discussed in the FEIS, additional coordination and outreach has occurred to further develop mitigation plans, particularly with respect to wetland and parkland impacts. The FEIS has been updated to reflect these efforts, in particular in sections Chapters 5.1, "Land Use and Social Conditions," and 5.6, "Ecology." Project commitments and proposed mitigation measures will be finalized as part of the NEPA Record of Decision.

PURPOSE AND NEED

Comment 5: It is not clear that the study addresses operational inflexibility. The study does little to enhance capacity on the Northeast Corridor. There is doubt that the redundancy across the Hackensack River is going to be available to Amtrak's Northeast Corridor service. The EIS does not address optimizing existing infrastructure and planned improvements. (Raleigh)

Response: The project is intended to address operational inflexibility and capacity constraints in this section of the Northeast Corridor and particularly in its crossing of the Hackensack River. All four build alternatives would meet these objectives while the No Action Alternative would not. As currently designed, Amtrak would be able to use both bridges. However, the proposed three-track northern bridge would serve as the primary route of the Northeast Corridor (as opposed to the existing two-track bridge).

The alternatives optimize existing infrastructure by connecting Secaucus Transfer Station and Swift Interlocking/Kearny Connection (logical termini) and allowing Northeast Corridor trains to use either bridge to cross the Hackensack River. They also provide connectivity for future projects, such as NJ TRANSIT's Access to the Core (ARC) Project, while maintaining the connections to the Morris & Essex Line and Newark Penn Station (NPS).

Comment 6: On page 2-3 of the DEIS it states that the number of trains currently operating across the Portal Bridge are 23. There are two additional NJ TRANSIT trains that were missed, so it is 25 trains. In the ARC Major Investment Study (MIS), they talked about 30 trains crossing the Portal Bridge without new tunnels, so this should say 30 trains to be consistent. (RRWG)

Response: The DEIS refers to the nominal "clear signals," same-direction, single-line capacity of the existing Northeast Corridor between New York Pennsylvania Station (PSNY) and NPS, which is approximately 23 trains per hour. This does not represent the number of trains actually scheduled, which evidently is the "25 trains" to which the comment refers. As average train speed decreases, capacity increases. During peak periods, NJ TRANSIT and Amtrak schedule slightly more trains than the nominal "clear signals" capacity of the rail line in order to increase throughput. Consequently, signal delays increase and average speed decreases. ARC, which is a separate project, identified a maximum same-direction line capacity of 30 trains-per-hour in a No Build scenario. That number represents the best same-direction, single line capacity that could be realized with available and appropriate train control system technology without building any new tracks. That rate of same-direction train movements cannot be operated through the project area today without incurring serious signal delays.

Comment 7: On page 2-5 of the DEIS, the upper table states that the Wittpenn Bridge has a 40-foot clearance. It actually has a 25-foot clearance. The PATH Bridge has a 40-foot clearance as does the Lower Hack at high tide. In the DEIS it says 11 feet. The team was asked to look at bridges lower than 50 feet for a fixed span, and they did not, even though there are other bridges across the Hackensack with lower clearances. This makes a difference because for a 50-foot bridge, you need a 50-foot grade, and that results in trains not being able to get from the Northeast Corridor to the Kearny Yard. (RRWG)

Response: The listed vertical clearances above mean-high-water (MHW) for the Lower Hack and the Wittpenn Bridges have been corrected in the FEIS

to 40 feet and 25 feet, respectively. However, the clearances stated in the comment all apply to these moveable bridges when in the closed position. In the open position (i.e., raised), these bridges each have a vertical clearance of 135 feet above MHW. There are no fixed bridges with a clearance of 25 or 40 feet in this area of the Hackensack River as implied in the comment. The Portal Bridge project has proposed a moveable bridge with a 40-foot vertical clearance that would increase to 50 feet when raised. This would match the clearance of the proposed fixed-span bridge with other fixed spans along the river.

ALTERNATIVES

Comment 8: I do not support any of the four proposed alternatives in the DEIS. The project sponsors failed to consider comments during Scoping, namely to permanently close the existing Portal Bridge and to consider routing THE Tunnel via Hoboken to allow existing infrastructure to be better used. The awkward and time consuming loops at Secaucus would not need to be constructed, and commuters from Bergen and Passaic Counties would save 5-10 minutes using the more direct route via Hoboken to Manhattan (IRUM)

Response: Based on meetings and discussions with the U.S. Coast Guard (USCG), the existing Portal Bridge cannot be permanently closed due to requirements to provide a 50 foot vertical clearance above MHW on this navigable waterway. Furthermore, the proposed Portal Bridge project is intended to address capacity and operational constraints over the Hackensack River and its adjacent interlockings in this section of the Northeast Corridor. It is an independent undertaking from the ARC project and alternatives to that project are not part of the Portal Bridge study. Please also see Comment 10 below.

Comment 9: The Coast Guard in its bridge permitting responsibility cannot approve the location and clearances of any bridge structure until formal application is received and we have conducted our public review process. However, as a Cooperating Agency we have reviewed and followed the studies and analyses that form the basis for the DEIS. The various alternatives presented include combinations of fixed and movable bridges that provide 50 feet vertical clearance above mean high water (fixed) and 40 feet in the closed position above mhw (movable). It is the Coast Guard's opinion that these are reasonable navigational clearances to advance in your design studies. (USCG)

Response: Comment noted.

Comment 10: "Fixing" Amtrak's existing Portal swing bridge in the closed position at 40 feet above mean high water is unacceptable to the Coast Guard as in our opinion it would not provide for the reasonable future needs of navigation. (USCG)

Response: Comment noted.

Comment 11: The four alternatives are very narrow and have no functional difference in terms of railroad operations. The project team did not look at using existing infrastructure, specifically the Lower Hack Bridge. (RRWG)

The four-track tunnel under the Palisades and the three-track lift bridge across the Hackensack River are already in place. Using these resources would reduce costs and completely eliminates the destruction of wetlands in the Meadowlands. (IRUM)

Response: In the 1980s NJ TRANSIT made a strategic decision to pursue the Kearny Connection, which was foreseen by the New Jersey Department of Transportation (NJDOT) as early as 1970 (more than a decade before NJ TRANSIT was formed and before Amtrak existed). It was opened in 1996 and was successful immediately. That service, plus all Amtrak service and several other NJ TRANSIT services, all operate by design into PSNY. Re-directing any of them to operate via Hoboken (i.e., using the Lower Hack Bridge) would not meet any of the goals of the Portal Bridge project and would leave Amtrak with an inadequate and unreliable swing bridge with relatively low clearance above MHW on the navigable Hackensack River. This segment of the Northeast Corridor has the highest train movement density of any rail line in North America. Moreover, there are no high-capacity routes that would allow NJ TRANSIT or Amtrak trains operating via the Northeast Corridor west of NPS to operate to Hoboken. It is true that the four proposed build alternatives have similar operational functionality, but all of them are feasible, meet the operational goals of the project, and meet the anticipated operating needs of NJ TRANSIT and Amtrak.

Comment 12: Because ARC changed its alternative configuration, Portal had to shift its tracks to the south side of the corridor, which reduced the flexibility of potentially using these tracks in the future to serve an East Side Access project. A three-track bridge over the Hackensack for the Northeast Corridor is not justified if you only need two tracks from the tunnel under the Hudson River. (RRWG)

Response: The existing two-track Northeast Corridor is essentially operating at saturation during the morning and evening peak periods. As a result, there are very few, if any, available operating “slots” on the two-track

Northeast Corridor between PSNY and Swift Interlocking during peak periods. This is true despite a prohibition on bridge openings during these peak demand hours. From Amtrak's perspective the 3/2 track configuration as provided in the project alternatives offer segregation of services (i.e., MidTOWN Direct trains and Northeast Corridor traffic), simplified dispatching, reduction in switching operations, redundancy/maintainability features and potential for a future additional Northeast Corridor track from Secaucus Transfer Station to NPS.

Comment 13: The number of tracks on the Northern (Fixed) Bridge should be increased from three to four, given the amount of rail traffic currently flowing through this corridor and the amount of rail traffic anticipated to be generated over the next 50 years by various new passenger rail corridors proposed in both New Jersey and Pennsylvania. This would provide maximum flexibility in rerouting trains if for some reason a track had to be closed down due to breakdown or maintenance issues or if the southern lift bridge had to be taken out of service for an extended period. In essence, the Northeast Bridge would function as an extension of the four-track Northeast Corridor "main" line to the existing NYPS while the southern lift bridge would function as the two-track "feeder" line to the new stub-end 34th Street Pennsylvania Station Expansion (NYPSE) proposed as part of the ARC project. Ultimately a fourth track would be cost effective in eliminating the need to add another track at a later date. (Hale)

Response: Please see response to Comment 15.

Comment 14: The alternatives schematics do not show a connection between the current westbound track line and the proposed Track 5 coming off the fly-over or duck-under to connect to the M&E Line. The drawings at the open house show that there is a westbound connection from the duck-under to the Main Line. Why is there a discrepancy between the two? (Woolley)

The project should build a connection from the duck-under to the main Northeast Corridor in that direction to increase operational flexibility even though current plans are to have all Northeast Corridor trains come out of PSNY. (Woolley)

There is no straightforward connection from the Penn Station Expansion to the Northeast Corridor or its branches in the westbound direction. There should be a track to mirror the function of Track 8 in the eastbound direction. (Mukerji)

Response: A connecting track segment between the proposed Track 5 on the southern alignment and the existing Northeast Corridor at Swift Interlocking has been anticipated. This infrastructure element is not required by the Portal Bridge project to meet any of the project goals. However, engineering for the Portal Bridge project does not preclude construction of this future connecting track by others when needed, and without requiring removal or reconstruction of new infrastructure that the Portal Bridge project would put in place. Some schematic diagrams prepared for presentation purposes may have omitted this element because it would be physically constructed as part of another project, or as a stand-alone project at a later date.

Comment 15: The inclusion of five tracks in the project alternatives is positive, but it should be six in order to avoid an additional environmental review in the future when the extra capacity is needed. (Woolley)

Response: Careful capacity analyses have been developed based on ridership projections made by NJ TRANSIT and Amtrak for 2030—which is well within the anticipated life of the proposed new bridge structures. Those forecasts translate to a possible peak hourly traffic of 39 trains in the peak direction over the Hackensack River. Since that would exceed the practical capacity of a two-track railroad, a minimum of three tracks would be required if there would be little or no growth in "reverse-peak" direction traffic from today's level. Because it is not reasonable to expect no growth in reverse-peak travel demand (e.g., eastbound to New York in the afternoon), at least four tracks across the Hackensack are clearly needed to meet 2030 demand projections and provide some spare capacity for maintenance activities. The project has taken a further step and proposed a fifth track. This will: (1) provide an opportunity to schedule daytime track, train control system, and catenary (electric traction power) maintenance and repairs; (2) provide a "detour" or overtake route in the event of delays or a breakdown; (3) support potential future extension of a third Northeast Corridor track both east and west of the project limits; and (4) support reasonably foreseeable rail traffic growth beyond 2030 for the life of the bridge structure(s), which could be 80 years or more, precisely to avoid construction-related impacts that would spring from a need to construct a third bridge. Traffic volume projections do not support a sixth track at this juncture.

Comment 16: It might make sense to build a third platform on the southern part of the Secaucus Transfer Station rather than just an island platform for two. This would provide additional operational flexibility to increase service and provide space for a train layover. (Woolley)

Response: Work at Secaucus Transfer Station involving a new platform is part of the ARC project and is not part of the Portal Bridge project.

Comment 17: The project should include provision for a westbound waterfront connection which would allow for two-way service on the waterfront connection during the rush, which is currently impossible. (Woolley)

Response: NJ TRANSIT envisions a potential westbound waterfront connection as a separate future project, and has identified a long-term need for this operational capability. However, this connection is not part of the Portal Bridge project.

Comment 18: The bridges should be built on the south side of the existing right-of-way (ROW) as this is the simplest. However, they should not take any more land away from the Riverbend Wildlife Preserve than is absolutely necessary. (Woolley)

Response: Under the southern alignment alternatives (Alternatives DS and FS), impacts to the Riverbend Wetland Preserve have been reduced substantially by using an elevated track structure for the bridge approach as opposed to an earthen or retained embankment and replacing the permanent access road with a temporary one.

Comment 19: Consideration should be given to adding an additional track for the Northeast Corridor between Swift and Hudson to alleviate the current bottleneck situation. The project should extend a branch from Track 1 at Hudson to connect to Track 6 at Swift. (Mukerji)

Response: NJ TRANSIT and Amtrak have both identified the desirability of this potential future infrastructure improvement, which is not part of the Portal Bridge project. A key benefit is that it would allow some NJ TRANSIT trains to avoid Northeast Corridor Track 2 when operating eastbound from NPS, freeing up capacity for faster Amtrak trains and other NJ TRANSIT trains. The Portal Bridge project has been designed to not preclude such a potential future capital project, such that it can be constructed when traffic volume may require it.

Comment 20: The overall cost of the project could be reduced by lowering the rail profiles at the Hackensack River crossings and their approaches and using a steel deck to reduce the structural depth and dead weight of the proposed bridges. A three-span continuous design for the Northern Bridge should reduce the cost and the number of bearings on the intermediate piers. (Wolchuk)

Response: Design considerations and related cost savings such as those discussed in the comment will be addressed during the preliminary engineering phase of the project if a build alternative is ultimately selected as part of the Federal Railroad Administration's (FRA) National Environmental Policy Act (NEPA) Record of Decision.

Comment 21: The project should permanently weld the current Portal Bridge and build a new two-track bridge adjacent to the closed bridge to avoid substantial loss of wetlands. Maritime traffic can be accommodated in lower profile vessels to allow the existing bridge to permanently close. (IRUM)

Response: Based on discussions with USCG, it would not be feasible to permanently weld shut the existing Portal Bridge and require maritime traffic to use lower profile vessels. The construction of a two-track bridge would still involve nearly the same amount of disturbance to wetlands as the three-track northern bridge.

Comment 22: With regards to the new Northeast Corridor bridge over Newark-Jersey City Turnpike, the bridge should be constructed with a minimum clearance of 14'6". (Hudson County)

Response: While further development of engineering design will occur during the preliminary engineering and final design phases, it has been assumed that the roadway clearances for any new overhead railroad bridges would meet or exceed existing clearances. The project is aware of roadway flooding issues associated with the Newark-Jersey City Turnpike and intends to maximize the clearances as much as geometrically possible given the rail profiles' constraints.

Comment 23: The DEIS references several methods to minimize fills; however, the total amount of fill has yet to be quantified. Any final actions regarding fill discharge in waters of the U.S. must be in compliance with the Section 404 (b)(1) Guidelines of the Clean Water Act (33 U.S.C. 1344 *et seq.*). (DOI)

Response: The amount of fill in wetlands was quantified in the DEIS in Table 5.6-5. The total amount of fill shown in the table was conservative as it did not reflect some of the methods which were intended to minimize fills such as the use of elevated structure in the wetland areas on the east bank of the Hackensack River. The table has been updated in the FEIS (Table 5.6-6) and includes these refinements as well as additional measures, such as the relocation of the permanent access road for Alternatives DS and FS. The wetland impacts have been substantially reduced from those disclosed in the DEIS for all alternatives, and in

consideration of the Section 404 (b)(1) Guidelines of the Clean Water Act, which require demonstration that there is no practicable alternative to discharge of fill material in the wetlands.

Comment 24: FRA should consider alternatives to the proposed project, including using best available technology to reduce any fill proposed in the aquatic environment. If an alternative is deemed viable and involves any adverse impacts to the aquatic environment, FRA should develop a comprehensive mitigation plan with the U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), USEPA, New Jersey Meadowlands Commission (NJMC), and NJDEP to offset the expected adverse impacts to aquatic resources, prior to completion of the FEIS. (DOI)

Response: As discussed above, the wetland impacts of the build alternatives have been substantially decreased since publication of the DEIS. Since the existing bridge and approach tracks must remain in operation while the new bridges are constructed, it is not possible to avoid all impacts to the surrounding wetlands. On the east bank of the Hackensack River, the existing two-track Northeast Corridor embankment is surrounded by wetlands and any new construction would affect these adjacent areas. The project sponsors are working with the Meadowlands Conservation Trust to develop compensatory mitigation for the project and are coordinating this effort with the Meadowlands Interagency Mitigation Advisory Committee (MIMAC), which includes representatives from NJDEP, ACOE, USEPA, NMFS, and USFWS.

TRANSPORTATION

Comment 25: The safety and security section needs to address more than construction vehicles in a post 9/11 environment. (Raleigh)

Response: The commenter is correct that the safety of the project site during the construction phase is addressed in Chapter 6, "Construction." In addition, the safety and security of the operation of the project is discussed in Chapter 4, "Transportation Effects." Amtrak and NJ TRANSIT have provided operating crews with security awareness information and training related to security along the right-of-way. In the future, surveillance along the alignment would continue. Chapter 4 also discusses how the two parallel bridges would provide an enhanced measure of safety and security to the rail transportation system itself, since in the event of a failure of one bridge structure, the other could still accommodate some of the rail traffic. During the preliminary engineering and final design phases of the project, following further

design of the structures and additional infrastructure, a complete System Security and Emergency Management Preparedness Program Plan (SSEMPPP) and System Safety Program Plan (SSPP) with Fire/Life Safety Report will be prepared to comply with FRA and Federal Transit Administration (FTA) regulations.

ENVIRONMENTAL IMPACTS

LAND USE AND OPEN SPACE

Comment 26: In order to divert Green Acres parkland or open space, the property owner (Hudson County) must submit an application for approval from the Commissioner of the NJDEP and the State House Commission. The diversion process and a mitigation plan for the loss of this property as open space should be described in the FEIS and compared to the estimated construction start time. (USEPA)

Response: Text describing the diversion process and possible schedule implications has been added to the FEIS (see Chapter 5.1, "Land Use and Social Conditions").

Comment 27: A number of properties that may be impacted by the proposed project are subject to NJDEP's Green Acres program. Jurisdictional determination is based on information found in the local unit's Recreation and Open Space Inventory (ROSI) on file with the Green Acres program and additional available information. Block 287, Lot 33; and Block 3, Lot 3 are not listed on the owner (NJMC)'s ROSI and therefore are not encumbered by Green Acres. Block 1, Lot 3 is owned by Hudson County and is encumbered by Green Acres. Block 285, Lots 11 and 13; and Block 286, Lot 33 are properties owned by the Town of Kearny. Lots 11 and 13 are held for wetland purposes and may be potentially held for conservation purposes. The three lots are not listed on the Town of Kearny's ROSI filed with Green Acres. (NJDEP)

While all lands held for conservation and/or recreation purposes at the time the local unit last received funding from Green Acres should be listed on the ROSI, such lands come under the jurisdiction of the Green Acres program even if the property is not listed on the ROSI. Such lands are those owned, leased, or otherwise controlled by the local unit and may include land owned in fee, land leased from the Board of Education (or a private entity) for recreation purposes, land owned by a private entity upon which the local unit holds a conservation easement, or any land in which the local unit holds a specific recreation and/or conservation interest. (NJDEP)

Response: In Chapter 5.1 of the DEIS/FEIS, "Land Use and Social Conditions," Block 1, Lot 3 is referred to as the expansion area at Laurel Hill Park. The DEIS states that this parcel of land was purchased by Hudson County and the NY/NJ Baykeeper through the Green Acres program. The chapter has been updated to clarify the applicability of the Green Acres program to the other parcels.

Comment 28: Any activities on Green Acres' encumbered parkland that are not in direct support of conservation or recreational uses will be considered a diversion and will require prior approval from the Commissioner of NJDEP and the State House Commission per N.J.A.C. 7:36-26. (NJDEP)

Response: Since all four build alternatives of the proposed project would require the acquisition of two acres of a Green Acres property—the expansion area of the Hudson County Park at Laurel Hill—the diversion of this property to transportation use will follow the necessary requirements of the Green Acres program. The FEIS has been revised to state that any proposed mitigation for the Green Acres property will require the prior approval of both the Commissioner of NJDEP and the State House Commission.

Comment 29: Hudson County is an urbanized region with a largely disadvantaged population and is ranked last when calculating residents per acre of Preserved Open Space in New Jersey. Under SCORP's "Balanced Land Guidelines" Hudson County does not come close to the standards established by NJDEP. FRA and NJ TRANSIT should make every effort to mitigate the loss of parkland and open space in the project area within Hudson County. (Hudson County)

Response: The project alternatives have been designed to minimize the taking of parks, open space and conservation areas to the extent practicable. This has been accomplished through the use of elevated structures in the area of the newly acquired Laurel Hill Park and the Riverbend Wetland Preserve. Between the DEIS and the FEIS, the project has also eliminated the permanent service road that was planned to the south of the southern bridge in the Riverbend Wetland Preserve. With respect to the newly acquired section of the Hudson County Park at Laurel Hill (and as discussed in the Section 4(f) evaluation), there are no prudent and feasible alternatives to the use of the parkland. FRA, NJ TRANSIT, and Amtrak are committed to providing all necessary measures, both long-term and during construction, to minimize the harm from such a use of the County parkland. In addition, the current condition of the Laurel Hill Park expansion area is an inaccessible wetlands area. In an

effort to minimize harm, proposed mitigation measures for the loss of this Section 4(f) property could include the following: replacement parkland possibly with the purchase of new open space or through the development of a conservation easement; improvements to the existing Laurel Hill Park; improvements to the future park at the expansion parcel that would also provide waterfront access as envisioned by the coastal zone management regulations; and linear access to the Hackensack River to be located on either side of the river to the extent feasible and in consideration of potential security concerns (which would adhere to existing coastal zone management and waterfront access regulations).

Comment 30: With regards to Laurel Hill Park, the two acres in question are both parkland and wetlands. The mitigation for one may not meet the mitigation standards for the other. In particular, the Green Acres program and Statehouse Commission process require the replacement of parkland diverted to other uses, not the enhancement of existing parkland as appears to be suggested in the DEIS. (Hudson County)

The build alternatives for the Portal Bridge project will require acquisition of approximately two acres of Laurel Hill Park owned by Hudson County and the New Jersey Meadowlands Commission. Appropriate mitigation measures for the loss of this open space area will need to be developed in conjunction with Hudson County and the New Jersey Meadowlands Commission. (DOI)

Response: The Laurel Hill Park expansion parcel is owned by Hudson County. It is correct that impacts to the expanded Laurel Hill Park will require compensatory mitigation for adverse impacts to both parklands and wetlands. This may require separate mitigation measures for the wetlands and parkland impacts. In addition, the project's sponsors recognize the requirements under the Green Acres program and will work with the county in the diversion/disposal process. However, it should be noted that the NJDEP Green Acres program rules (N.J.A.C. 7:36-26.10) state that disposal or diversion of parkland could involve monetary compensation that could be used for parkland improvements.

Comment 31: Abandonment of the existing Portal Bridge would provide an opportunity to mitigate the effects of the project upon the Pennsylvania Railroad Historic District. The proposed southern lift bridge should be sited on a new alignment away from the existing alignment. After removal of the existing swing span and pivoting drum from the Portal Bridge, a new high level hiking/biking "memorial" fixed replacement span should be designed to reconnect the two approach portions of the

bridge and the bridge and its approach lands should be make a part of Laurel Hill County Park. This would serve the dual purposes of compensating Laurel Hill County Park for the loss of lands to the new fixed bridge alignment and at the same time preserve a scenic section of the Pennsylvania Railroad "High Line" for purposes of historic interpretation to the public. It might also satisfy proponents of the East Coast Greenway trail who have been seeking an appropriate crossing of the Hackensack River. (Hale)

Response: See responses to Comments 10, 34, 37, and 38.

Comment 32: NJDEP permits disposal of parks and open space for transportation projects, but strongly discourages it. (Hudson County)

Response: The project recognizes the need to protect parklands and open space and, as a project under the jurisdiction of the U.S. Department of Transportation (USDOT), is subject to Section 4(f) of the Transportation Act of 1966. This Act provides special protection to public parklands and as part of the Section 4(f) evaluation the project sponsors must demonstrate that there is no prudent and feasible alternative to the "use" of such parkland. This has been demonstrated for the proposed Portal Bridge project as discussed in Chapter 8, "Section 4(f) Evaluation," of the EIS. The parkland in question is also afforded special consideration under the Green Acres program and mitigation has been proposed for the loss of the parkland. Text has also been added to the FEIS to discuss the diversion process for property under the jurisdiction of the Green Acres program.

Comment 33: The Hackensack River Swing Bridge is an eligible site for the State Register of Historic Places. The 2007 County Park plan also lists parcels immediately south of Laurel Hill Park for acquisition and the future expansion of the park. (Hudson County)

Response: As described in Chapter 5.1, "Land Use and Social Conditions," the Hackensack River Walkway would not be adversely affected by the proposed project. Chapter 5.2, "Historic Resources," addresses the historic character and eligibility of the Hackensack River Swing Bridge (i.e., Portal Bridge) and the proposed mitigation measures concerning this historic resource. As described in Chapter 5.1, "Land Use and Social Conditions," and Chapter 5.9, "Environmental Justice," the project sponsors will continue to work in conjunction with Hudson County and other stakeholders to develop appropriate mitigation measures for the property acquisition.

Comment 34: Discussion should be included as to whether or not the completion of other areas of the Hackensack River Walk is being considered as mitigation for other property acquisitions. (Baykeeper)

Response: As of this point in the project development, off-site completion of the Hackensack River Walk has not been assessed. However, in keeping with the project sponsors' commitments to provide mitigation for the impacts to public parkland and open space, areas outside of the immediate project site may be suitable for compensatory mitigation.

Comment 35: The NJMC Master Plan proposes a "Secaucus Trail" from Laurel Hill Park along the railroad/utility road south past the PSEG Hudson Generating Station to "link Lincoln Park and Liberty Gap Trail." (Hudson County)

Response: The proposed routes of the "Secaucus Trail" (also known as the "Hackensack River Walk") are described on pages 5.1-13 and 5.1-18 of Chapter 5.1, "Land Use and Social Conditions." The proposed project would not adversely affect the proposed routes of the Hackensack River Walk.

Comment 36: The East Coast Greenway recommends using the Boonton Line swing bridge over the Hackensack River as a locally preferred alternative off-road alternative. (Hudson County)

Response: All build alternatives would maintain current access along the Boonton Line and would not preclude this option for the East Coast Greenway. As described in the DEIS and currently on page 5.1-19 of the FEIS, the proposed project would not adversely affect either of the known potential routes of the East Coast Greenway in the study area.

Comment 37: Per request by Hudson County, the feasibility of adding bicycle/pedestrian access to one of the two planned replacements for the Portal Bridge should be studied during the engineering phase of the project. It may be possible to combine bicycle/pedestrian access with service vehicle access. (Greenway, DGL)

Response: The addition of a bicycle/pedestrian walkway to the railroad's bridge structures would create an unacceptable safety and security hazard for Amtrak and NJ TRANSIT. Due to security reasons, transportation infrastructure access is being limited to qualified and experienced railroad workers who have been cleared and meet the requirements of federal bridge safety standards.

Comment 38: Public access (bicycle and pedestrian) should be provided along the Portal Bridge service road from Belleville Turnpike as part of the planned mitigation efforts. (Greenway)

Response: Parallel access along the railroad embankment, adjacent to the service road, would pose safety and security issues which may render this option infeasible or difficult to implement. However, during the preliminary design phases, in conjunction with the safety and security assessment, the project sponsors will work with the County and other stakeholders to provide waterfront access in this area to the extent feasible.

Comment 39: NJ TRANSIT and FRA should coordinate efforts with Hudson County and the New York/New Jersey Baykeeper regarding other public access and open space projects that could be helped by the project. (Baykeeper)

Response: The project sponsors are committed to providing mitigation for impacts to the Hudson County Park at Laurel Hill and working with the County on measures to improve public access to the waterfront particularly as it relates to the area encompassing the recently acquired property adjacent to the proposed northern bridge. The project sponsors would also work with other stakeholders, such as the New York/New Jersey Baykeeper and East Coast Greenway Alliance, to enhance existing public access to the waterfront.

Comment 40: The project must include public access and open space components as part of the mitigation plans to offset impacts to the surrounding community and environment. Although there is proposed mitigation in the DEIS, it is problematic that there is no discussion of other mitigation measures such as preserving surrounding property for public access and open space. (Baykeeper)

Response: As discussed in the DEIS and currently on page 5.1-19 of the FEIS, the project sponsors are committed to working with the County in developing mitigation measures that could include access, infrastructure, and/or facility improvements at Laurel Hill Park. These improvements could occur on the new portion of the park, the existing Laurel Hill Park, or another location. However, there are environmental, safety and security issues which must be considered as part of the development of any public access in this area. The project sponsors will continue to work with the County on a mutually agreeable plan to mitigate the impacts to open space and parklands from construction of the preferred alternative.

HISTORIC/CULTURAL RESOURCES

Comment 41: The existing bridge falls under Section 106 of the National Historic Preservation Act and reuse of the structure looks unlikely. The existing bridge should be documented to relevant historic archival standards before it is removed and/or dismantled. (JCLC)

Response: As discussed in the DEIS and currently on page 5.2-15 of the FEIS, as part of the mitigation for the adverse effects on historic resources, the project will prepare Historic American Engineering Record (HAER) documentation for the existing Portal Bridge.

AIR QUALITY

Comment 42: The dollar value of construction as a surrogate for emissions for a project of this size, cost, and construction duration should not be used. Despite the DEIS concluding that general conformity de minimis thresholds are not exceeded during construction, it does not provide any supporting information. Once a preferred alternative is selected, a general conformity applicability analysis and subsequent conformity determination (if warranted) must be conducted. There will be a different mix of non-road equipment than what was used for Lower Manhattan, making it a poor model. Specifically, the DEIS states that material delivery and disposal, and construction of the bridge piers will be accomplished using barges, and we expect there would be at least one tug in operation. Delivery of other materials along with track and overhead wire work would be accomplished using trains. As such, a project-specific, detailed emissions inventory should be completed. Further, Sulfur Dioxide (SO_2) is a $PM_{2.5}$ precursor and must also be addressed in the general conformity determination. (USEPA)

Response: For its intended purpose of determining whether air pollutant emissions during construction of the project would exceed the General Conformity thresholds, the DEIS methodology is appropriate for several reasons. First, the required accuracy is much less than if a detailed microscale simulation of actual pollutant concentrations was required. This type of analysis would be required if sensitive receptors like residences or schools were in close proximity (less than several hundred feet) of the construction equipment. The purpose of the DEIS analysis was to determine whether or not construction of the Portal Bridge project could result in emissions exceeding 50 or 100 tons per year, depending upon the specific pollutant. As discussed in the Air Quality chapter, the NO_x emissions are the highest at 15 tons per year and are still well below the

threshold value of 100 tons per year. Even if the estimates were doubled the emissions would remain well below the thresholds.

Secondly, while there would be a somewhat different mix of non-road diesel-powered construction equipment between the Portal Bridge and Lower Manhattan transportation projects, many of the larger sources (which contribute a disproportionate share of the annual emissions) would be the same. For example, construction of the Portal Bridge project would involve substantial use of cranes for erecting steel and drilling caissons, generators to supply power for machinery and lighting and equipment for pouring concrete foundations. This is similar to the cranes and dozers, welders and impact wrenches, air compressors, pumps, and generators which were the major sources of NO_x and particulate matter for the Lower Manhattan transportation projects. Equipment unique to the Portal Bridge project, such as diesel-powered marine engines or diesel locomotives would not be used everyday and would be used rather sparingly for specific tasks such as moving a barge from one pier location to another.

Thirdly, in terms of emissions, the comparison is also based on the same level of mitigation—Tier 2 engines with after-market retrofits such as diesel particulate filters or diesel oxidation catalysts. Therefore, since the major sources of emissions are the same and the controls are similar the use of a proportional model based on construction cost is appropriate.

Comment 43: Pages 6-16's discussion of USEPA's "Clean Air Non-Road Diesel Rule" implies the rule would require after-market retrofits of Tier 2 non-road engines. This is not true for Tier 2-certified engines. We note that the project is close to Laurel Hill Park where children may be exposed to increased concentrations of particulate matter and air toxics for the duration of construction. FRA can ensure the cleanest diesel engines are used during construction by adopting clean diesel practices and enforcing these measures through contracts. (USEPA)

Response: The language regarding the USEPA's "Clean Air Non-Road Diesel Rule" has been clarified in the FEIS. With respect to the use of clean diesel practices, the project intends to require the use of Tier 2 engines with after-market filters to the extent practicable and technically feasible to reduce emissions of NO_x and particulate matter from non-road engines. While the project is proposing these mitigation measures to reduce overall emissions of these pollutants, it should be noted that the project site is located in an isolated area which substantially reduces the potential for exposure to elevated pollutant concentrations for the general public and, particularly, susceptible populations such as the

elderly, infirmed, or children. In fact, the more commonly used portions of Laurel Hill Park, such as the ballfields, are more than ¼-mile from the nearest area of construction. The closest publicly accessible areas are approximately 1,000 feet away. In addition, these areas are physically separated from the project site by Snake Hill, which reduces the possibility that direct emissions from non-road construction equipment, due to line-of-sight limitations, could substantially affect ambient pollutant levels in the park.

Comment 44: This proposed project falls under the requirements of the Federal Transportation Conformity Rule which requires the relevant Metropolitan Planning Organization (MPO)—in this case, the North Jersey Transportation Planning Authority (NJTPA)—to demonstrate that the transportation projects in their Transportation Improvement Programs (TIPs) and Transportation Plans (TPs) are in conformity with the air quality emissions budgets established in the State Implementation Plan (SIP). This project is included in the NJTPA TIP for Fiscal Years (FY) 2008-2012 under the reference number T539. A discussion on transportation conformity should be included in the EIS. (NJDEP)

Response: Since FRA is the lead federal agency for NEPA review, the project is subject to General Conformity and not Transportation Conformity (which would apply if FTA or the Federal Highway Administration [FHWA] was the lead federal agency).

Comment 45: While generally supporting public transportation projects because of their environmental benefits, due to lack of a General Conformity analysis and mitigation plans, especially one to address impacts to wetlands, each of the four build alternatives is being rated EC-2 (Environmental Concerns–Insufficient Information). (USEPA)

Response: A general conformity analysis was prepared for the DEIS to address wetland impacts and mitigation plans, and can be found in Chapter 5.4, "Air Quality" of the FEIS. Discussion of additional mitigation is included in Section F of Chapter 5.6, "Ecology."

NOISE

Comment 46: All alternatives would have moderate and severe noise impacts on the expanded Laurel Hill Park (which should be visually represented on a map) and should address the possible impacts on the fauna of the area. Noise should be analyzed under the cumulative impacts section of the

document and include the increase in train traffic from ARC. Mitigation for these impacts should be included in the FEIS. (USEPA)

Response: The noise impacts for all alternatives (including the No Action Alternative) is a result of the more than 500 daily trains that traverse this portion of the Northeast Corridor. Due to these operations, noise levels within several hundred feet of the rail corridor currently exceed FTA criteria for outdoor recreation. It is only the recently acquired portion of the expanded Laurel Hill Park that would fall within the noise impacted area and only once it becomes publicly accessible sometime in the future. There are no adverse noise impacts at the site of the current Hudson County Park at Laurel Hill which is separated from the project site by the New Jersey Turnpike.

With respect to fauna, the local wildlife is already exposed to these elevated noise levels and would be expected to have adjusted to the local conditions (e.g., nesting away from the rail line) over the years. By itself the proposed project would not have a measurable effect on ambient noise levels over the long-term and therefore would not affect local fauna from that perspective. The cumulative effects analysis does consider the increase in trains and its effect on ambient noise levels. As stated in the DEIS and currently on page 7-14 of the FEIS, the additional trains over the bridge would extend the noise impacted area by 54 feet. It also states that the noise levels at any given point would increase by less than 3 dBA which is an imperceptible change. Attempting to reflect these small differences in impact area on a map of the scale required for the Portal Bridge project would not provide any additional detail since only a small portion of one property is affected.

ECOLOGY

Comment 47: The DEIS lacks discussion of the impacts of the proposed project on Essential Fish Habitat (EFH). The project area is designated as essential fish habitat for a variety of federally managed species. EFH regulation at 50 CFR 600.905 mandates the preparation of EFH assessments. Section 305(b)(2) of the Manguson Stevens Act (MSA) requires all federal agencies to consult with NMFS on any action that may adversely affect EFH. Since the DEIS does not include an EFH assessment as required in the EFH Final Rule, FRA must either provide a separate assessment or include one in a revised DEIS. (DOC)

Response: The EFH was included in the Appendix C to the DEIS. See page 5.6-12 under the section labeled *Fish* for the reference to the EFH. A summary of the EFH has been added to Chapter 5.6, “Ecology,” of the FEIS.

Comment 48: Under the section "Anadromous Species" on page 5.6-14 and 15, please note that alewife and blueback herring, collectively called river herring, have been designated as species of concern by NMFS. Both of these anadromous fish species occur in the Hackensack River and spawn in the river's upper freshwater reaches. (DOC)

Response: The reference to alewife and blueback herring has been added to the discussion in the FEIS.

Comment 49: In the section "Threatened and Endangered Species" on page 5.6-16, the citation "Green 2007" is incorrect. It should read "Greene 2007." (DOC)

Response: This has been corrected in the FEIS.

Comment 50: On page 6-24, anadromous fish migration and spawning runs are likely to be from March 1 to June 30, not April 1 to June 30. (DOC)

Response: The text has been changed in the FEIS to "typically April through June by the NJDEP and March through June by the National Oceanic and Atmospheric Administration (NOAA)."

Comment 51: FRA should continue to coordinate with the FWS, NMFS, and NJDEP to determine if seasonal restrictions or other requirements are necessary to avoid adverse impacts to aquatic organisms. At a minimum, all in-water work should be avoided from April 1 to June 30, to protect anadromous fish. (DOI)

Response: See responses to Comments 50 and 53.

Comment 52: NJ TRANSIT should coordinate with the NJMC and Hudson County because additional approvals to impact the area or additional compensation above the required wetlands mitigation may be necessary. (DOC)

Response: The project's sponsors have, and will continue to, coordinate with NJMC and Hudson County with respect to certain approvals that are needed for any of the build alternatives. These approvals and permits will require mitigation measures that can only be developed in a coordinated process. It is expected that once a preferred alternative is selected and the preliminary engineering phase begins, coordination among the parties will increase as the project begins to develop land use and wetland permit applications.

Comment 53: NJDEP's Division of Fish and Wildlife (DFW) has threatened and endangered species (T&E) concerns. The area is utilized by the northern harrier, glossy ibis, and snowy egrets. There is a peregrine falcon nest buffer to the south outside of the project area. A timing restriction of March 15 to August 15 would be necessary to protect these species during their breeding season. This timing restriction would also serve to protect other species that are protected under the Federal Migratory Bird Treaty Act. (NJDEP)

Response: The EIS acknowledges the potential for a number of T&E species and other species of concern to occur within the project area, including several bird species such as peregrine falcon. The Portal Bridge project sponsors will will work in consultation with the NJDEP to evaluate the presence/absence of key species and adjust construction methods and schedule during the restricted period (March 15th to August 15th) to reduce impacts to T&E birds based on their seasonal presence in the project area.

Comment 54: NJDEP's DFW also has fisheries concerns. A water timing restriction of March 1 to June 30 is necessary to protect the anadromous fish species from any sediment generating activity and/or pile driving. (NJDEP)

Response: The EIS acknowledges the potential for a number of fish species of concern to occur within the project area, including several anadromous fish species such as American shad, blueback herring, and alewife. As part of the permitting process, the project sponsors will work in consultation with the NJDEP to adjust construction methods and schedule during the regulatory-restricted periods to reduce impacts to anadromous fish species based on their seasonal presence in the project area. For example, herring migration is closely linked to water temperature. Water temperatures that vary significantly from those at which herring species migrate and/or spawn may allow for some flexibility in the permitted construction methods and schedule.

Comment 55: The affected zone for wetlands impacts is too small. Contaminated sites have plumes that are far bigger than surface analysis will indicate. This is more than just concern about impacts to a bird sanctuary. The team has to look at the cumulative effect on wetlands of many transportation projects going on, including ARC and the Secaucus connection to Xanadu. (Raleigh)

Response: The wetland impact in Chapter 5 of the DEIS discussed both direct and indirect effects. The indirect effects analysis considered such issues as the ecological effects from increased shading due to additional rail infrastructure over open water and wetland areas. The contaminated

materials assessment included a very large study area and discussed potential effects on both public health and the environment. The analysis also included a discussion on measures to be employed during construction to avoid inadvertent discharges of contaminated materials that could result in adverse effects on the ecological resources of the Meadowlands.

Additional discussion of the indirect or secondary effects over a large area is contained within Chapter 7, "Secondary Cumulative Impacts." In this chapter of the EIS, the potential adverse effects of the proposed project, in conjunction with other foreseeable projects in the New Jersey Meadowlands are discussed. These potential indirect effects include issues related to habitat fragmentation, displacement of wildlife, etc as a consequence of the project's direct effects that are removed in time and space from the direct effects. Measures to mitigate any secondary or indirect impacts in these areas are discussed in the chapter. Furthermore, NJ TRANSIT has been coordinating with the appropriate regulatory agencies to discuss potential compensatory mitigation for the cumulative impact to wetland due to both the Portal Bridge and ARC projects. See also response to Comment 88.

Comment 56: Eight acres of lost wetlands and twenty acres of disruption would be unnecessary if the project looked at other alternatives that were not tied to ARC. (RRWG)

Response: With or without the ARC project, two new bridges would be required over the Hackensack River to meet the future needs of Amtrak and NJ TRANSIT. These bridges will inevitably result in impacts to wetlands since construction of at least one bridge must be off-line from the existing Northeast Corridor thereby requiring construction in adjacent wetland areas. Due to the physical constraints of the project site, any construction in this area would result in unavoidable impacts to wetlands both temporary and permanent. The project has minimized its impacts on adjacent wetlands by maximizing the use of elevated structures as opposed to filled embankment for much of the track work through the wetland areas.

Comment 57: With regards to page 6-25 of the DEIS, if moving power lines involves impacts to wetlands or waters, these impacts should be included in the DEIS. (DOC)

Response: At this time the exact design of the relocation of the 138Kv transmission line that feeds the Amtrak catenary system has not yet been determined. While the impacts to wetlands for the foundations of several monopoles has been included in the impact quantities it is not

yet defined if, and if so where, any new poles would be located. The 138Kv feeder system would be carried on the new Northern bridge structure for as long as possible before diverting to the existing pole line along the west side of the Norfolk Southern Boonton Line.

Comment 58: In order to satisfy the Clean Water Act Section 404 requirements, the FEIS will need to identify a preferred alternative. If the preferred alternative has greater wetland impacts than other practicable alternatives, the FEIS must explain why it was selected. The FEIS will further need to identify, map, and quantify acreages of each type of wetland that are proposed to be permanently impacted, temporarily impacted, fragmented or permanently shaded. (USEPA)

Response: The FEIS does identify a preferred action and build alternative (DS) with a slightly greater impact on wetlands than one other build alternatives (DE). While substantially reduced from the DEIS estimates, Alternative DS would require approximately 0.3 additional acres of permanent fill in the Riverbend Wetland Preserve as compared to Alternative DE. The other alternatives (FS and FE) would result in a greater impact to wetlands than the preferred alternative. The selection of Alternative DS as the preferred alternative is discussed in Chapter 9, "Preferred Alternative," and does include an analysis of why an alternative with slightly higher impacts on wetlands was selected.

Comment 59: The FEIS should explain how the statement "the ARC project was considered in the development of the feasible Portal Bridge build alternative and is considered for its potential to cause cumulative effects" with respect to how this affects the acreage of wetlands impacted by the project. While earlier reports recommended two bridges with two tracks each, the build alternatives include one bridge with three tracks. The FEIS must demonstrate the necessity of the third track due to rail volume or safety reasons. (USEPA)

Response: The ARC project, along with other future actions and present needs, were considered in developing feasible build alternatives. One of the project objectives was not to preclude the possible construction of the ARC project. Therefore, it was necessary to provide for future connectivity to the ARC project in the assumption that it would ultimately be constructed. It would not be prudent to construct new river crossings and related infrastructure without consideration of another potential future project that would affect project planning. However, the ARC project does not effect the provision for a third track on the northern bridge. The third track is intended to provide the Northeast Corridor with the required connectivity for a future Track 4 that could

extend west of Swift Interlocking to NPS. A three-track northern bridge is also required to support Amtrak's goal of at least a three Northeast Corridor tracks from Secaucus to NPS. The statement that the "ARC project was considered for its potential to cause cumulative effects" is related to the increase in train service that would occur if both projects were constructed. This is discussed in Chapter 7, "Secondary Cumulative Impacts."

Comment 60: In Chapter 5.6, Section E, the term "regulated wetland buffer" should be defined. (USEPA)

Response: Regulated wetland buffer is defined at N.J.A.C. 7:7-3.28. Wetland buffer or transition areas are areas of land adjacent to wetlands which minimize adverse impacts on the wetlands or serve as an integral component of the wetlands ecosystem. In New Jersey, wetland buffer or transition areas of up to 150 feet in width are established by regulation adjacent to all wetlands defined and regulated under the Freshwater Wetlands Protection Act (N.J.A.C. 7:7A). For all other wetlands, including wetlands regulated under the Coastal Wetlands Act of 1970, a wetlands buffer of up to 300 feet has been established.

Comment 61: Cedar Creek Marsh was to have been the Mitigation Project for the Kearny Connection Project, but it was never carried out. The Mitigation Project would have reduced flooding problems that occur frequently on the Newark-Jersey City Turnpike under the Northeast Corridor Bridge. Some of the Portal Bridge alternatives involve construction or permanent impacts to the Cedar Creek Marsh. (Hudson County)

Response: Appropriate mitigation measures for the Kearny Connection project were identified and implemented by NJ TRANSIT through coordination with the Hackensack Meadowlands Development Commission (now NJMC) and other agencies. It is correct that the Portal Bridge project's build alternatives would potentially impact Cedar Creek Marsh. The impact would consist of permanent and temporary impact to a portion of this wetland area to allow for additional tracks along this segment of the Northeast Corridor. As discussed in Section E of Chapter 5.6, "Ecology," of the EIS, these impacts have been minimized. During the preliminary engineering phase of the project, detailed hydrological studies will be conducted in connection with the permits required for construction in wetlands and floodplains. These studies will identify improvements needed to reduce flooding along the Newark-Jersey City Turnpike. It should also be noted that some budget has been allocated in the construction cost estimates shown in Chapter 3, "Project Alternatives," for drainage improvements along the corridor.

Comment 62: The proposed project will need numerous permits and approvals form the NJDEP's Division of Land Use Regulation. NJ TRANSIT should continue to work with the Division of Land Use Regulation as the project advances through design to construction. (NJDEP)

Response: The project recognizes that numerous approvals and permits will be required from NJDEP including, but not limited to Waterfront Development, Tidelands and Flood Hazard Control permits from the Land Use Regulation Program, dewatering and discharge permits from the Divisions of Water Quality and Water Supply, ISRA and a No Further Action determination from the Bureau of Site Remediation, as well as approvals from the Green Acres program and the Historic Preservation Office.

Comment 63: No further consultation pursuant to Section 7(a)(2) of the ESA is required by FWS. If project plans change, or if new information is obtained that indicates the occurrence of a federally listed species at the proposed project site, this determination may be considered. (DOI)

Response: Comment noted.

Comment 64: Consultation with the NMFS regarding the federally listed shortnose sturgeon needs to be concluded. (DOI)

Response: The project initiated the informal Section 7 consultation process with NMFS by requesting a list of regulated species in the project area. The NMFS responded that "No threatened or endangered species under NMFS' jurisdiction are expected to occur in the project area" by way of memorandum dated September 28, 2007. This memorandum is provided in Appendix C. The memorandum also acknowledges that the waters of the Hackensack River provide habitat for other species of interest to the NMFS, but that are not legally protected under the Endangered Species Act. The NMFS' recommendations for protecting these species include an April 1 through June 30 in-water restriction period—a period also codified under NJDEP regulations. The memorandum is silent on "Critical Habitat;" however, the memorandum indicates that further EFH consultation by the lead federal agency will be necessary as part of the federal permitting process. The EFH for the project is also provided in Appendix C. The NMFS memorandum also recommends that compensatory mitigation for impacts to wetlands and waters of the U.S. be provided. This mitigation is included as part of the project, as appropriate. Based on the project sponsors' understanding of the Section 7 consultation process, its review of the Final ESA Section 7 Consultation Handbook, and the conclusions of the NMFS

memorandum, the informal consultation process ends with no formal consultation required.

Comment 65: FWS is unaware of any mitigation efforts being proposed at the Kane Tract, contrary to a reference in the DEIS that the Kane Tract is being considered. Therefore, a mitigation plan should be developed prior to the finalization of the EIS. (DOI)

Response: As discussed in Section F of Chapter 5.6, "Ecology," of the EIS, a preferred option is to purchase credits from an established wetland mitigation bank. Currently, there are no approved banks available within the Meadowlands District. However, credits may become available from the Kane Tract prior to Portal Bridge construction commencement in December 2011. The Kane Tract is being developed by the Meadowlands Conservation Trust as a wetland mitigation bank specifically for transportation projects in the Meadowlands District. Other options for providing compensatory mitigation for the project include: completion of a project-specific mitigation project at a site in the Meadowlands, modeling possibly a portion of the Kane Tract on Oritani Marsh; completion of a mitigation project in conjunction with the ARC project, which would also result in wetland impacts in the Meadowlands District; establishment, restoration or enhancement of the wetland areas bordering the Portal Bridge project site; or a combination of the above mitigation strategies. Project commitments and mitigation measures will be finalized as part of the NEPA Record of Decision.

Comment 66: The mitigation section does not interpret the guidance on compensatory mitigation provided by MIMAC of which NMFS is a member. MIMAC has not received any proposal to construct a mitigation bank on the Kane Tract from the property owners or any other entity. While it is possible a compensatory mitigation bank could be developed, no bank exists now and it is not likely a bank will be approved before NJ TRANSIT needs to have its compensatory mitigation plan identified for its permits and for construction. NJ TRANSIT should look elsewhere for suitable mitigation sites, or design a stand-alone compensatory mitigation project at the Kane Tract that would not be included in any future bank. (DOC)

Compensatory mitigation, proposed to offset unavoidable adverse impacts, must be evaluated during the NEPA planning process in order to assess net impacts from the project. (DOI)

Response: See response to Comment 65.

CONTAMINATED MATERIALS

Comment 67: In response to the numerous areas of concern noted in the DEIS, NJDEP's Site Remediation Program is actively reviewing reports involving sites that will be needed to construct and implement the project. NJ TRANSIT should continue to work with NJDEP on site remediation issues as the project advances to design, construction, and operation. (NJDEP)

Response: The project team will continue to work with NJDEP's Site Remediation Program on specific concerns for each specific property that may be affected by construction of the preferred alternative. Detailed site investigations and remedial investigations will be conducted during the preliminary engineering phase of the project which would commence after the ROD.

Comment 68: Construction of the Portal Bridge will involve disturbance on both sides of the Northeast Corridor to properties that are designated NJDEP Hudson County Chromate Chemical Production Waste Sites. (Tierra)

Response: This has been disclosed in the DEIS/FEIS and it is recognized that additional investigations, analysis, and design will be required during the next phases of the project to avoid any adverse effects related to these sites.

Comment 69: There should be a higher level of scrutiny for properties within the project study area to ensure the most up-to-date information regarding contaminated materials. There should be direct contact with property owners, local officials, and/or occupants of the specific property. (Tierra)

Response: Since the studies for the DEIS focused on a large number of alternatives that were ultimately reduced to four build alternatives, the contaminated materials assessment did not include extensive site investigations of each potentially affected site. As the project proceeds into preliminary engineering, preliminary site assessments and detailed subsurface investigations will be conducted for the selected alternative. The level of information developed as part of these investigations will allow for a more refined development of specific measures to be employed at each site where subsurface disturbance would occur. These measures will then be adopted into the construction documents for the project.

Additionally, the project sponsors have met with NJDEP, USEPA, and potentially affected property owners to discuss the status of investigations and remedial activities. The FEIS has been updated to

reflect more accurate information provided by property owners and others.

Comment 70: Sites 47, 48, 50, 51, 58, 103, 113, and 131 reportedly contain deposits of chromite ore processing residue (COPR). The DEIS should recognize that the COPR sites are part of a separate effort to investigate, characterize, and assess remediation alternatives under a Consent Order between representatives of the Site 113 (Diamond Shamrock) property owner and NJDEP. (Tierra)

Response: The FEIS has been updated to reflect this information regarding the current status of the chromate chemical production waste sites.

Comment 71: Care should be taken when using information in the regulatory and archived files such as federal and state databases because some information and reviewed information from those sources has yielded discrepancies, errors, and omissions with regards to sites affected by this project. Such concerns include the absence of some sites, incorrect addresses or site demarcation, or designation of sites eliminated from previous NJDEP lists. (Tierra)

Response: It is recognized that the federal and state databases have limitations and may contain outdated information. As stated above, the project sponsors met with NJDEP, USEPA, and potentially affected property owners to discuss the status of investigations and remedial activities. The FEIS has been updated based on recently provided information. Once an alternative is selected as part of the project's ROD and the preliminary engineering phase begins, detailed studies (including surface investigations and additional coordination with property owners and regulatory agencies) will be conducted for the affected sites.

Comment 72: Table 5.7-4 in Chapter 5.7, "Contaminated Materials," contains some outdated and/or incomplete information regarding the following: Item Nos. 13, 15-20, 40 and 46. Furthermore, COPR Sites 47, 51, 103, and 131 are missing. (Tierra)

Response: The table has been updated in the FEIS to reflect the information provided by the commenter.

Comment 73: The information in the DEIS regarding the remediation of the Koppers Coke site and sediments in the Hackensack River needs to be updated. (Tierra)

Response: The text has been updated in the FEIS.

Comment 74: The discussion of chromate ore in Chapter 5.7, "Contaminated Materials," is misleading because the material of interest at the Hudson County chromate sites is in fact the fraction of chromate in chromite ore processing residue (COPR). There are 9 COPR sites in the vicinity of the Portal Bridge. Sites 50, 103, 113, and 131 would be affected by any of the alternatives while Sites 51 and 58 would *potentially* be affected (Tierra)

Response: The FEIS has been updated to reflect the fact that the material of interest is the chromate in the chromite ore processing residue (COPR).

Comment 75: The discussion in the December 2006 Scoping Document regarding Hudson County Chromate sites is also relevant to the Chapter 5.7, "Contaminated Materials," including health and safety measures, contaminated materials management, disturbance of nearby wetlands areas, maintaining structural integrity of the dike and coordination with ongoing remedial investigation. (Tierra)

Response: Comment noted.

Comment 76: There is a discrepancy between the December 2006 Scoping Document and Figures S-1 and S-4 of the Executive Summary. There is a difference between the Swift Interlocking designation between the two documents. (Tierra)

Response: The figure in the 2006 Scoping Document illustrating the location of Swift Interlocking was updated in the FEIS to better represent the actual limits of the interlocking.

Comment 77: The tasks listed in the December 2006 Scoping Document seem to appear to analyze long-term impacts only. There will be significant disturbance of lands adjacent to the Northeast Corridor that are filled with anthropogenic materials including COPR. As such, any activities that disturb the caps or the underlying COPR will have to provide protection for construction workers and nearby property occupants and address appropriate management of disturbed COPR. (Tierra)

Response: The analysis in the DEIS/FEIS includes both short- and long-term effects for each of the affected resource areas.

Comment 78: The EDR report is missing Sites 48, 59, 103, 113, and 131; and correct locations for sites 47 and 58 are provided in an accompanying map. Site 116 is located just north of the Northeast Corridor rather than south of it. (Tierra)

Response: The map in the Appendix has been removed.

Comment 79: FRA should contact USEPA and NJDEP to determine if the siting of the Portal Bridge project would compromise any efforts to remedy the contaminated sites adjoining the project site. (DOI)

Response: Both NJDEP and USEPA are part of the project's Technical Advisory Committee (TAC) and the project has also met with these agencies specifically with respect to the adjacent contaminated sites (e.g., Standard Chlorine, Diamond Shamrock). If a build alternative is selected in the ROD, as the project moves forward into the preliminary engineering phase, more extensive coordination will occur with these agencies particularly NJDEP. The project will continue to coordinate with these agencies on additional studies and investigations to ensure that construction of the selected alternative does not compromise their efforts in the remediation of these sites.

Comment 80: With regards to the preliminary site screening methodology, care needs to be exercised when reviewing and using information in the referenced archived files. In the past there have been many discrepancies, errors, and omissions. (Tierra)

Response: It is recognized that some of the previous studies have limitations that will be addressed during the more detailed studies required under preliminary engineering if a build alternative is selected.

COASTAL ZONE MANAGEMENT

Comment 81: The DEIS does not address the State's revised Coastal Zone Management Rules. (Hudson County)

Response: Chapter 5.8, "Coastal Zone Management," of the DEIS addressed coastal zone policies. The DEIS was published in February 2008 and the NJ Coastal Zone Management Rules were subsequently updated in April 2008. The FEIS has been revised to include the new regulations and analysis in Chapter 5.8, "Coastal Zone Management."

Comment 82: With regards to 7:7E-3.50 (Lands and waters subject to public trust rights) as well as 7:7E-8.11 (Public trust rights), FRA and NJ TRANSIT should comply with the spirit and letter of the Public Trust doctrine and facilitate public access to the Hackensack River waterfront. (Hudson County)

Response: The FEIS has been revised to include the analysis of regulations 7:7E-3.50 and 7:7E-8.11 as they are both applicable to the proposed project.

See responses to Comments 35, 36, 37, 40, and 84 for additional information regarding facilitating access to the Hackensack River waterfront.

Comment 83: With regards to 7:7E-3.40 (public open space), FRA and NJ TRANSIT should take all necessary precautions to minimize the taking and disturbance of parks, open space, and conservation areas within the Project Area, including Laurel Hill Park, and facilitate public access to the Hackensack River waterfront. (Hudson County)

Response: Please see response to Comment 29.

Comment 84: With regards to 7:7E-3.43 (Special urban areas), NJ TRANSIT should take special consideration to treat Hudson County as an "Urban Complex" pursuant to "State Plan." (Hudson County)

Response: Chapter 5.8 "Coastal Zone Management" has been revised to indicate that Policy 7.7E-3.43 does apply to the proposed project. The FEIS has also been revised to describe Hudson County as an "Urban Complex."

Comment 85: Attention should be given to rules 7:7E-6.1 (Rule on location of linear development) and 6.2 (Basic location rule). (Hudson County)

Response: The FEIS has been revised to include the analysis of these two policy regulations. As described in Chapter 3, "Project Alternatives," the project sponsors have chosen the most direct routes possible along the existing transportation corridor in developing alternatives for the proposed project. Since any feasible build alternative must maintain rail service along the Northeast Corridor, the proposed project must use some adjacent parklands and wetlands to develop a set of alternatives that maintains this service. As described in Chapter 5.1, "Land Use and Social Conditions," and Chapter 8, "Section 4(f) Evaluation," the project sponsors would continue to coordinate with Hudson County and NJMC to minimize any potential adverse environmental impacts on public open space and sensitive wetland areas within the study area.

Comment 86: With regards to 7:7E-7.5 Transportation Use rule, FRA and NJ TRANSIT should mitigate public access restraints to the Hackensack River waterfront through the construction of waterfront trails, bike lanes, and footpaths. (Hudson County)

Response: Chapter 5.8, "Coastal Zone Management," has been revised to include regulation 7:7E-7.5, as it does pertain to the proposed project. The project sponsors look forward to working with the County in an effort to

improve waterfront access in the project area particularly in the area of the Hudson County Park at Laurel Hill and along the Hackensack River.

ENVIRONMENTAL JUSTICE

Comment 87: NJ TRANSIT should implement Executive Order 12898 to mitigate all Environmental Justice impacts to Minority Populations and Low-Income Populations. (Hudson County)

Response: The DEIS/FEIS follows the regulations set forth in Executive Order 12898 (see Chapter 5.9, "Environmental Justice"). The chapter analyzes and concludes that the proposed project would not result in any disproportionately high impacts to minority or low-income communities in the study area. While the analysis does recognize that the park at Laurel Hill Park serves the entire Hudson County, that as a whole is 65 percent minority, the adverse impacts on this inaccessible portion of the parkland are not high and disproportionate.

SECONDARY AND CUMULATIVE EFFECTS

Comment 88: The cumulative impacts section should quantify all known and reasonably foreseeable impacts to the wetlands in the Hackensack Meadowlands. It should further quantify expected wetlands losses from other transportation projects, such as the Teterboro Airport Runway Safety project. (USEPA)

Response: The DEIS recognized that there is substantial potential for numerous projects to cumulatively impact wetlands in the Hackensack Meadowlands. However, it would be difficult to provide a quantitative estimate of potential wetland impacts from all of the foreseeable projects in the Hackensack Meadowlands since individual projects are constantly undergoing changes which make any estimate inaccurate relatively quickly. To the extent that this information was available it has been included in the FEIS. However, it should be noted that while some projects are approved with known wetland impacts, others may be in various stages of development or planning and design review. Ultimately, some projects may be terminated while new ones will be announced. The key issue with respect to the cumulative analysis is that while there is substantial development pressure on these valuable resources, there are also mechanisms in place to avoid the types of adverse cumulative effects that normally would have occurred in the past. The special protections afforded the wetland resources in the Hackensack Meadowlands, particularly through the permitting and mitigation process and the oversight by the NJMC and MIMAC are intended to reverse the adverse effects of the past and provide for a

future where compensatory mitigation is provided for the loss of any wetlands. Therefore, it is expected that the Portal Bridge project will be required to provide compensatory mitigation in excess of any loss resulting from construction of the selected build alternative.

Comment 89: Portal is not a precursor to ARC, as it started later and is dictated by ARC. The only benefit to Amtrak from the Portal project is a new bridge which costs approximately $300 million. The rest of the $1.2 billion project elements are all tied into ARC which does not benefit Amtrak. Therefore NJ TRANSIT will have to put up the remaining funds for this project (RRWG)

Response: The benefit to Amtrak is not only a new bridge, which by itself was the impetus for the project, but also improved rail infrastructure from Secaucus Transfer Station to Swift Interlocking. Amtrak will also benefit from the grade separation provided by the duck-under between the Northeast Corridor and the westbound M&E Line as well as the pocket tracks which are intended to segregate to the extent possible the M&E Line traffic from the Northeast Corridor. Furthermore, while Amtrak and NJ TRANSIT share of the project costs has not yet been determined, the cost of the northern bridge and related infrastructure would be more than $300 million.

Comment 90: The Portal Bridge project has no independent utility. The ARC project is putting $1.5 billion of its costs onto Portal. (RRWG)

Response: See responses to Comments 89 and 92. With or without the ARC project, the Portal Bridge project would involve the construction of two new bridges across the Hackensack River. In an independent study conducted by Amtrak in 2005 the costs of two new bridges over the Hackensack River were estimated to be over $1 billion to construct. Therefore, it cannot be said that $1.5 billion of the ARC project costs are being borne by the Portal Bridge project.

Comment 91: Portal Bridge and ARC projects should not be segmented and both projects should be remanded for consolidation as a single project, as it is "impermissibly misleading." A no build option for ARC does not require any additional capacity that would be associated with Portal Bridge. Thereby, ARC appears less expensive than it actually is. (Lackawanna)

Response: Under NEPA, "segmentation" refers to separating an action into discrete elements to avoid or minimize the significance of potential adverse impacts of the entire project. To avoid segmentation, projects are required to demonstrate their "independent utility" from other related or

subsequent projects that the agency may be contemplating or planning. The usual test for "independent utility" is whether or not the project could function and is a reasonable expenditure even if no other additional transportation improvements in the area are completed. As discussed in Chapter 2, "Project Purpose and Need," the Portal Bridge project is intended to solve four distinct issues of the Northeast Corridor's crossing of the Hackensack River. In planning for this future crossing, it is necessary to consider other future actions that may affect the development and ultimate selection of alternatives. It would not be prudent to select an alternative that would be obsolete if another project in the planning process was approved. Therefore, the Portal Bridge alternatives were developed so as not to preclude the ARC project. This obviously affects the design of the build alternatives for the Portal Bridge project but does not connect them into one action. There are many issues that determine why the two projects are separate undertakings, all of which were discussed at length during the Scoping Process for the Portal Bridge project. (Documentation for these discussions can be found under "Scoping Document—Comments & Responses" at http://www.portalbridgenec.com/library.html) These issues include separate goals and objectives, different project termini, separate project owners and different lead federal agencies.

Comment 92: Segmenting the Portal Bridge and ARC projects has enabled NJ TRANSIT and Amtrak to avoid consideration of a Hoboken routing. This is a credible, cost-effective solution that needs to be considered. (IRUM)

NJ TRANSIT claimed the Hoboken alternative as presented by the Institute of Rational Urban Mobility and the Regional Rail Working Group was "outside the scope" of the project, but this is only because the scope was set too narrowly. (Lackawanna)

Response: The Portal Bridge project is intended to address the transportation problems associated with the Northeast Corridor between Secaucus Transfer Station and Swift Interlocking particularly at the crossing of the Hackensack River. It is not intended to address trans-Hudson passenger rail capacity constraints such as that studied by NJ TRANSIT's ARC project. While both projects serve to provide benefits to the same rail passenger community they do so for different parts of the same system. NJ TRANSIT and Amtrak's capital programs have many projects which are intended to serve the same general purpose but have independent utility as in individual piece of the system. Also, see responses to Comments 8, 11, 89, 91, and 93.

Comment 93: If the ARC and Portal Bridge projects truly have independent utility, and the ARC project is not assumed in the Portal Bridge No Build, then there is no apparent use for the Southern Bridge and the Northern Bridge should be adequate to address traffic and reliability issues. (Mukerji)

Response: The first goal of the project is to enhance capacity to meet current and future demand—including new service—along the Northeast Corridor. As one of the objectives in meeting that goal it was determined that at least four tracks should be constructed for the Northeast Corridor across the Hackensack River. That was consistent with Amtrak's long-term goals for the corridor and did not preclude the extension of Northeast Corridor Tracks 1 and 4 from Secaucus to Newark. During the Alternatives Screening Process, it was determined that these four tracks, which ultimately was increased to five (due to requirements for efficient rail operations), should be constructed on two bridges for operational, constructability and redundancy reasons. It was also important that the feasible alternatives not preclude construction of the ARC project as currently planned.

Comment 94: While Hudson County recognizes the benefits of the ARC and Portal Bridge projects, these projects should be mitigated to minimize the impact to the local community and environment. (Hudson County)

Response: NJ TRANSIT and Amtrak look forward to working further with Hudson County on the development and implementation of measures to minimize both short- and long-term impacts of the Portal Bridge project. The project sponsors also recognize the cumulative effects on Hudson County when the Portal Bridge project is considered in conjunction with NJ TRANSIT's proposed ARC project. As disclosed in the DEIS/FEIS, measures to mitigate adverse impacts on parklands, cultural resources and ecological resources within Hudson County have been proposed and will continue to be developed during ongoing coordination and review with the representatives of the county. While the cumulative effects of both projects have been considered in this FEIS, the ARC project is responsible for proposing measures to mitigate the adverse effects which are attributable to it.

SECTION 4(f) EVALUATION

Comment 95: The Department of the Interior (DOI) concurs that there is no prudent and feasible alternative to the proposed use of Section 4(f) properties including the Portal Bridge and portions of the Pennsylvania Railroad Historic District by each of the build alternatives.

The measures to minimize harm to the historic resources must be explicitly consistent with the Memorandum of Agreement developed with the New Jersey State Historic Preservation Office and FRA. A signed copy of that agreement documenting compliance with Section 106 of the National Historic Preservation Act should be included in the final documentation for the project to reflect the procedures for protecting cultural resources determined in consultation with the New Jersey State Historic Preservation Officer. (DOI)

Response: Comment Noted. A signed copy of the MOA for compliance with Section 106 of the NHPA is included in Appendix B.

MISCELLANEOUS COMMENTS

Comment 96: Requests were made to the project contact for supporting information on the costs included in the DEIS. This additional information was not provided. NEPA requires information to be provided to the public so that they can comment. You cannot tell from the summary information how much is just to build the Portal Bridge and its approaches and how much to build the southern bridge. The record will need to remain open until those details are provided. (RRWG)

Response: Additional summary information for the estimates shown in the DEIS have been provided to the commentator.

Comment 97: Bridge design recommendations should be incorporated with cost estimates into the DEIS and there should be the opportunity to present recommendations at a future public hearing. (Wolchuk)

Response: During the preliminary engineering and final design phases of this project, additional evaluations of bridge design (i.e., simple span versus continuous structure, truss versus plate girder, etc.) including the costs and benefits of each type will be conducted. As with every transportation project, the type, size and location of the recommended bridge design will be finalized at the end of the preliminary engineering phase. This recommended bridge design will be presented to the project stakeholders, Amtrak, and NJ TRANSIT, for their evaluation and concurrence.

Comment 98: There has never been a proper MIS for the Portal Bridge study that may have convinced USCG to allow a lower bridge, which would have saved money. (Lackawanna)

Response: A Major Investment Study (MIS) is not required for the proposed project. As a cooperating agency, the USCG is aware of the cost of the

build alternatives. Cost is only one factor in the determination of feasible alternatives of any project and must be balanced with other engineering, operational and environmental considerations in keeping with the project goals and objectives. One of the project goals is to minimize the conflicts with maritime users and maintain the navigable waters of the United States. In recognition of that objective, the vertical clearance for the proposed bridges has been set, in coordination with USCG, at a height which is intended to avoid further reducing the vertical clearance on the river from its current 50 feet.

Comment 99: Regarding page 6-10, Hudson County will have to approve work over the Newark-Jersey City Turnpike. (Hudson County)

Response: Comment noted.

Comment 100: The process basically means that public opinion doesn't count. (Raleigh)

Response: The EIS is being performed in accordance with NEPA requirements. NEPA is a procedural act aimed at ensuring that environmental information is available to the public and public officials before decisions are made and actions are undertaken. Public participation is a requirement of the environmental review process. In addition, NEPA regulations require thorough and complete documentation of participation by all involved government agencies and other interested parties. FRA, as the lead agency, is committed to overseeing this process in accordance with the requirements of NEPA. While the public is afforded the opportunity to participate in the process and comment on all aspects of the work, and public and agency input has contributed to changes in the configuration of the project, the ultimate selection of a preferred alternative is the responsibility of the project sponsors and lead agency. ✷