



FINAL ENVIRONMENTAL IMPACT STATEMENT AND FINAL SECTION 4(f) EVALUATION

APPENDIX 24

Final Section 4(f) Evaluation

24-1: Section 4(f) Correspondence



FINAL ENVIRONMENTAL IMPACT STATEMENT AND FINAL SECTION 4(f) EVALUATION

APPENDIX 24-1

Section 4(f) Correspondence



U.S. Department
of Transportation

1200 New Jersey Avenue, SE.
Washington, D.C. 20590

**Federal Railroad
Administration**

July 10, 2017

Ms. Michaela Noble
Office of Environmental Policy and Compliance
U.S. Department of Interior
1849 C Street, NW
MS5538
Washington, DC 20240

**Re: Hudson Tunnel Project
Hudson County, New Jersey and New York County, New York
Draft Environmental Impact Statement**

Dear Ms. Noble:

The Federal Railroad Administration (FRA) and NJ TRANSIT have released the Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the Hudson Tunnel Project (the Project). FRA and NJ TRANSIT are conducting environmental review of the Project in accordance with the National Environmental Policy Act (NEPA). The DEIS also provides documentation to meet requirements of Section 4(f) of the U.S. Department of Transportation Act (Section 4(f)) and Section 106 of the National Historic Preservation Act (Section 106).

FRA is requesting comments from the Department of the Interior on the Draft Section 4(f) Evaluation for the Hudson Tunnel Project. A USB drive containing the DEIS document is enclosed for your consideration. The DEIS is also available at the Project website: www.hudsonunnelproject.com/deis.html.

The existing Northeast Corridor passenger rail tunnel beneath the Hudson River, the North River Tunnel, is over 100 years old and sustained damage during Superstorm Sandy that must be repaired. This tunnel is a critical link in the Northeast Corridor and is used daily by thousands of Amtrak and NJ TRANSIT passengers. The Hudson Tunnel Project DEIS evaluates a Preferred Alternative that consists of construction of a new passenger rail tunnel between Secaucus, New Jersey, and Penn Station New York, along with accompanying infrastructure, to allow for the rehabilitation of the existing North River Tunnel without major interruption in Amtrak and NJ TRANSIT service. The DEIS also evaluates a No Action Alternative in which no new tunnel is built and the existing North River Tunnel is not rehabilitated. The DEIS examines the potential social, economic, and environmental effects of the Preferred Alternative and the No Action Alternative. The DEIS also contains a Draft Programmatic Agreement (PA) prepared in compliance with Section 106; the Draft PA explains what effects will occur to historic and archaeological resources as a result of the Preferred Alternative and how they will be avoided, minimized, or mitigated.

Public Comment Period

The public comment period for the DEIS began on July 7 with publication of the Notice of Availability in the Federal Register. Comments can be submitted at any time during the public comment period, which ends on **August 21, 2017**. Based on the findings of the DEIS and the comments received during the DEIS public review period, FRA and NJ TRANSIT will prepare a Final Environmental Impact Statement (FEIS). FRA and

NJ TRANSIT intend to prepare a combined FEIS and Record of Decision (ROD) unless the FEIS incorporates substantial changes to the Preferred Alternative that are relevant to environmental or safety concerns; or there are significant new circumstances or information relevant to environmental concerns and analysis of alternatives.

Draft Section 4(f) Evaluation Conclusions

The Draft Section 4(f) Evaluation concludes that the Preferred Alternative would require the use of one Section 4(f) resource, the New York Hudson River Bulkhead, which is a historic property that has been determined eligible for the National Register of Historic Places (NRHP). The new Hudson River Tunnel must pass directly through the substructure portion of the Hudson River Bulkhead, removing original components of the bulkhead and resulting in use of this Section 4(f) property. No prudent and feasible alternative to the use of the Hudson River Bulkhead exists.

The officials with jurisdiction for the Hudson River Bulkhead are the Hudson River Park Trust (HRPT), since the Bulkhead is located within the boundaries of the Hudson River Park, and the New York State Historic Preservation Officer (NYSHPO). FRA and NJ TRANSIT have developed measures to avoid, minimize, and/or mitigate adverse effects on the Hudson River Bulkhead in consultation with the NYSHPO and others in accordance with Section 106. These measures are set forth in the Project's Draft PA that is being shared for consulting party review and public comment during the public comment period for the DEIS and are summarized as follows:

- The Project Sponsor will compile a report documenting the characteristics of the affected Hudson River Bulkhead location. This information will augment information about the bulkhead as previously documented in the 1989 Building-Structure Inventory Form on file with NYSHPO.
- To avoid damaging the structural integrity of the Hudson River Bulkhead structure while construction through the bulkhead is occurring, the Project Sponsor, in consultation with the FRA, NYSHPO, and HRPT, will develop and implement a monitoring plan to protect the remaining bulkhead structure. The monitoring plan will describe the procedures and instrumentation to be used to monitor the structure for movement/tilt and settlement.

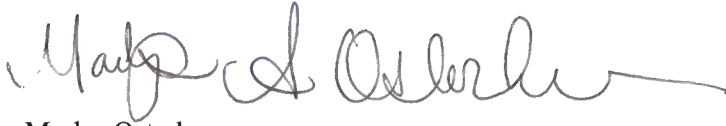
The Preferred Alternative would require limited construction activities within the boundaries of Hudson River Park in New York to facilitate tunnel construction. In this area, ground freezing with some cement grouting would be conducted to allow below-grade tunneling, which would avoid the potential for construction disruption that would otherwise be associated with cut-and-cover excavation. FRA believes that the ground freezing operation in Hudson River Park would qualify as a temporary occupancy that is so minimal as to not constitute a Section 4(f) use. FRA will coordinate with the official with jurisdiction, HRPT, regarding this proposed Section 4(f) conclusion during the public review period for the DEIS and Draft Section 4(f) Evaluation.

The Preferred Alternative would result in adverse effects to three railroad-related properties that are eligible for listing on the NRHP: the existing Northeast Corridor rail tunnel (the North River Tunnel); the Pennsylvania Railroad New York to Philadelphia Historic District; and the New York Improvements and Tunnel Extension of the Pennsylvania Railroad. 23 USC § 138(f) and 49 USC § 303(h) exempt from Section 4(f) review improvements to, or the maintenance, rehabilitation, or operation of railroad and rail transit lines, or elements thereof, that are in use or that were historically used for the transportation of goods and passengers, regardless of whether the railroad or rail transit line is eligible for listing on the NRHP. The Preferred Alternative involves improvements to and rehabilitation of these railroad-related historic properties. Therefore, FRA believes the adverse effects to these properties would not constitute a use under Section 4(f).

FRA requests comments from the Department of the Interior on the Draft Section 4(f) Evaluation for the Hudson Tunnel Project by August 24, 2017. If you have any questions regarding this information or if you need additional copies, please feel free to call or email Amishi Castelli in my office (617-431-0416,

amishi.castelli@dot.gov) or NJ TRANSIT's project manager, RJ Palladino (973-491-7791, rpalladino@njtransit.com). Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marlys Osterhues". The signature is written in black ink and is positioned above the printed name.

Marlys Osterhues
Chief of Environmental and Corridor Planning

cc: Carol Braegelmann, Diane Lazinski, USDOJ
Amishi Castelli, USDOT FRA
Jeremy Colangelo-Bryan, RJ Palladino, NJ TRANSIT
Julia Cowing, Stephen Holley, AKRF



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
15 State Street – 8th Floor
Boston, Massachusetts 02109-3572

August 15, 2017

9043.1
ER 17/0327

Amishi Castelli
U.S. DOT, Federal Railroad Administration
One Bowling Green, Suite 429
New York, NY 10004

**Subject: Draft Environmental Impact Statement and Draft 4(f) Evaluation
Hudson Tunnel Project
Hudson County, New Jersey and New York County, New York**

Dear Ms. Castelli:

The U.S. Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement and Draft Section 4(f) Evaluation for the proposed project to rehabilitate the North River Rail Tunnel between North Bergen, New Jersey and Manhattan, New York and to build a new tunnel parallel to the existing tunnel. The purpose of the project is to preserve current functionality of the Northeast Corridor (NEC) Hudson River rail crossing between New Jersey and New York and strengthen the resilience of the NEC.

Section 4(f) Evaluation Comments

The Department concurs that there is no prudent and feasible alternative to the proposed use of 4(f) lands, which consist of the New York Hudson River Bulkhead. The partial demolition of this resource would be an adverse effect, which constitutes a 4(f) use. No other 4(f) uses have been defined for this project, although adverse effects have been defined for several properties exempt from 4(f) uses. These include: North River Tunnel (NY & NJ) and the Pennsylvania Railroad New York to Philadelphia Historic District (NJ). Additionally, several areas in New York may contain archeological resources that may be eligible listing in the National Register of Historic Places, but to which the Federal Railroad Administration currently does not have access. The Federal Railroad Administration has developed a draft programmatic agreement in consultation with the New Jersey Historic Preservation Officer, New York Historic Preservation Officer, Advisory Council on Historic Preservation, Federal Transit Administration, New Jersey Transit Corporation, and the National Railroad Passenger Corporation to provide a plan for identifying

potential archeological resources that may be impacted by the project, and for mitigating adverse effects to known historic properties. The measures to minimize harm under Section 4(f) must be explicitly consistent with the draft programmatic agreement. We note that a draft copy of the programmatic agreement has been included in the documentation of compliance for the project and is currently under public review. It reflects appropriate procedures for mitigating the adverse effects to cultural resources.

Thank you for the opportunity to review and comment on this project. If you have questions regarding these comments, please contact Cheryl Sams at (215) 597-5822 or Cheryl_Sams@nps.gov. Please contact me at (617) 223-8565 if I can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew L. Raddant", is displayed on a light blue rectangular background.

Andrew L. Raddant
Regional Environmental Officer

CC: SHPO-NJ (kate.marcopul@dep.nj.gov)
SHPO-NY (Michael.Lynch@parks.ny.gov)



HPO #16-1650-20-24
HPO-F2017-133

State of New Jersey

MAIL CODE 501-04B

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL & HISTORIC RESOURCES

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CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

August 14, 2017

Amishi Castelli, Ph.D.
Environmental Protection Specialist
U.S. Department of Transportation, Federal Railroad Administration
Environmental & Corridor Planning Division
Office of Railroad Policy and Development
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Dear Dr. Castelli:

Thank you for your letters of July 6, 2017 providing the New Jersey Historic Preservation Office (NJ HPO) an opportunity to review and comment on the revised Programmatic Agreement (PA) and Draft Environmental Impact Statement (DEIS) and Section 4(f) Evaluation for the following project:

**Hudson County, Hoboken, Jersey City, North Bergen, Secaucus,
Union City and Weehawken
Hudson Tunnel Project
Federal Railroad Administration**

Programmatic Agreement (PA)

The revised PA addresses the NJ HPO's April 18, 2017 comments on the earlier draft. My only comment on the current draft pertains to Section XI. Design Review. Due to security concerns, the current language exempts from the Section 106 process the review of architectural plans and specifications for tunnel interiors. The NJ HPO understands the need for security. However, because the adverse effect to the North River Tunnel results from proposed alterations to two of the tunnel's interior features, the bench walls and the ballasted track system, the NJ HPO asks what information or material the FRA proposes to submit to the NJ HPO—in lieu of project plans—to allow us the opportunity to ensure that the proposed work is in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

Draft Environmental Impact Statement (DEIS) and Section 4(f) Evaluation

The revised DEIS and Section 4(f) document, dated June 2017, addresses the HPO's May 25, 2017 comments on the earlier draft. Our comments on the current draft:

- Page 9-26. Table 9-4. Based on the lack of prudent or feasible archaeological survey methods, the HPO does not recommend to FRA a finding of adverse effect for pile-driven construction methods.

- Page 9-36, Section 9.8.1, Historic Architectural Resources. There appear to be a few extra words in the third line, namely “the Hudson River, and New York.”
- Page 9-38. Section 9.8.2.1, New Jersey.
 - First sentence. The NJ HPO does not recommend to FRA a finding of adverse effect for pile-driven construction methods.
 - Historic sea wall. Because this resource is in New York, consultation should be limited to the NY HPO and not the NJ HPO. I recommend that the entire document be checked to make sure that the state-appropriate SHPO is referenced for consultation.

Additional Comments

Thank you again for providing us with the opportunity to review and comment on the two revised draft documents. Please reference the HPO project number 16-1650 in any future calls, emails, submission or written correspondence to help expedite your review and response. If you have any questions, please feel free to contact Meghan Baratta of my staff at (609) 292-1253 or Meghan.Baratta@dep.nj.gov with any questions on architectural history and Vincent Maresca at (609) 633-2395 or Vincent.Maresca@dep.nj.gov with any questions on archaeology.

Sincerely,



Katherine J. Marcopul
Deputy State Historic
Preservation Officer

KJM/MMB/VM/NZ

Cc:

Laura Shick, USDOT Federal Railroad Administration
Johnette Davies, Amtrak
Jeremy Colangelo-Bryan, NJ TRANSIT
RJ Palladino, AICP,PP, NJ TRANSIT
Dara Callender, P.E., NJ TRANSIT



Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

July 27, 2017

Ms. Amishi Castelli
Environmental Protection Specialist
U.S Department of Transportation, Federal Railroad Administration
One Bowling Green, Suite 429
New York, NY 10004-1415

Re: FRA
Hudson Tunnel Project
16PR03710

Dear Ms. Castelli:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (NY Environmental Conservation Law Article 8).

We have reviewed the Draft Environmental Impact Statement and the revised Programmatic Agreement that were provided to our office on July 7th, 2017. Based upon our review, we find the DEIS acceptable for historic and cultural resources, and we concur with the conclusions and recommendations regarding archaeological and architectural resources as presented. We find the text of the revised Programmatic Agreement to be acceptable; however we request the following change in signatory for our office:

1. Please change the signatory for our office to:

Daniel Mackay
Deputy, State Historic Preservation Officer

If additional information correspondence is required regarding this project it should be provided via our Cultural Resource Information System (CRIS) at www.nysparks.com/shpo/online-tools/. Once on the CRIS site, you can log in as a guest and choose "submit" at the very top menu. Next choose "submit new information for an existing project". You will need this project number and your e-mail address. If you have any questions, I can be reached at (518) 268-2182.

Sincerely,

Olivia Brazee
Historic Site Restoration Coordinator
olivia.brazee@parks.ny.gov

via e-mail only

Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • www.nysparks.com



Preserving America's Heritage

September 5, 2017

Ms. Laura Shick
Federal Preservation Officer
U.S. Department of Transportation
Federal Railroad Administration
Environmental & Corridor Planning Division
Office of Railroad Policy and Development
1200 New Jersey Avenue, SE
Washington D.C. 20590

Ref: *ACHP Comments on Second Draft Programmatic Agreement regarding the Hudson Tunnel Project Hudson County, New Jersey and New York County, New York*

Dear Ms. Shick:

The Advisory Council on Historic Preservation (ACHP) has completed its review of the Second Draft Programmatic Agreement (PA) among the *Federal Railroad Administration (FRA), the New Jersey Historic Preservation Officer, the New York Historic Preservation Officer, the Advisory Council on Historic Preservation, the Federal Transit Administration, the U.S. Army Corps of Engineers, the New Jersey Transit Corporation, the National Railroad Passenger Corporation (Amtrak), and the Port Authority of New York & New Jersey Regarding the Hudson Tunnel Project in Hudson County, New Jersey and New York County, New York* submitted to ACHP via email on July 11, 2017. The Federal Railroad Administration (FRA) revised the Second Draft PA to address the comments submitted by the consulting parties after reviewing the First Draft PA. The ACHP recommends a few additional revisions before FRA executes the final PA. Our comments should be considered along with other relevant revisions and edits submitted by other consulting parties who are participating in the Section 106 consultation process.

Whereas Clauses

- The PA should include a Whereas Clause that clarifies when the Project Sponsor(s) is selected then FRA will need to amend the PA in accordance with Stipulation XVI.

Stipulations

- Stipulation II. A should be revised to clarify that the Lead Federal Agency will be responsible for the “coordination” of the PA rather than the “maintenance” of the PA. Section 106 agreement documents are not maintained.
- Stipulation II.B should be written in the future tense since the “party or parties” have not been selected.

- The termination in Stipulation XVII.A should include the following text:

If any Signatory to this PA determines that its terms will not or cannot be carried out or if circumstances change over time and warrant revision of the stipulations, that Signatory shall immediately consult with the other Signatories to attempt to develop an amendment per Stipulation XVI to the PA. If within thirty calendar (30) days (or another period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the PA upon written notification to FRA and the other Signatories with the obligations accruing up to the date of termination remaining in full force and effect.

- In Stipulation XX please change the Point of Contact for the ACHP to read as follows:

Reid Nelson
Director
Office of Federal Agency Programs

The ACHP looks forward to receiving the Final PA from FRA once it has been signed by the other signatories. If you have any questions, please contact Sarah Stokely who can be reached at (202) 517-0224 or via e-mail at sstokely@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing and Assistance Section



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

April 23, 2021

Ms. Carol Braegelmann
Team Leader
U.S. Department of the Interior
Office of Environmental Policy and Compliance
1849 C Street NW
Washington, DC 20240

**Re: Hudson Tunnel Project
Hudson County, New Jersey and New York County, New York**

Dear Ms. Braegelmann:

The Federal Railroad Administration (FRA) is currently preparing the Final Environmental Impact Statement (FEIS) and Final Section 4(f) Evaluation for the Hudson Tunnel Project (the Project) on an expedited schedule. We respectfully request review and concurrence of the revised Section 4(f) Evaluation by the U.S. Department of Interior (DOI) consistent with the requirements of Section 4(f) of the U.S. Department of Transportation Act of 1966.

FRA initially requested concurrence from DOI in accordance with the requirements of Section 4(f) in 2017 during the public comment period for the Draft Environmental Impact Statement (DEIS) for the Hudson Tunnel Project. At that time, DOI reviewed the Draft Section 4(f) Evaluation and in a letter dated August 15, 2017, DOI concurred with FRA's conclusion that the Project would result in a use of one Section 4(f) property, the Hudson River Bulkhead, and with FRA's proposal to apply a temporary occupancy exception to temporary construction activities at another Section 4(f) property, Hudson River Park. However, during preparation of the FEIS and Final Section 4(f) Evaluation, FRA determined that it is more appropriate to conclude that a use of Hudson River Park would occur during construction for the Project.

Therefore, we are now requesting DOI's review of the attached revised Section 4(f) Evaluation that presents FRA's conclusion that construction activities would constitute a use of Hudson River Park. We have also included a version that shows changes made since the Draft Section 4(f) Evaluation that DOI reviewed in 2017. To facilitate your review, this letter also summarizes the changes made to the Section 4(f) Evaluation.

Draft Section 4(f) Evaluation, July 2017

The July 2017 Draft Section 4(f) Evaluation for the Hudson Tunnel Project identified one use, that of the Hudson River Bulkhead, a historic property along the Hudson River waterfront in New

York, New York. Construction of the new Hudson River Tunnel as part of the Project would involve tunneling through the foundation of the bulkhead, resulting in the demolition of that portion of the Section 4(f) property. This was also found to be an adverse effect under Section 106 of the National Historic Preservation Act of 1966, and the Draft Section 4(f) Evaluation summarized the mitigation developed through Section 106 consultation. That mitigation was detailed in the Draft Programmatic Agreement for the Project, which was included in the DEIS. In a letter dated August 15, 2017, DOI (Andrew Raddant) concurred that there was no feasible and prudent alternative to the proposed use of the Hudson River Bulkhead.

The July 2017 Draft Section 4(f) Evaluation also identified temporary construction activities within Hudson River Park, a park property along the Hudson River waterfront in New York, New York. The construction activities for the Project described in the Draft Section 4(f) Evaluation would affect Hudson River Park for 18 months. During that time, the Draft Section 4(f) Evaluation described that a construction staging site would be established in the park, in an area not used for recreational purposes. In addition, about half the width of a park walkway would be closed (10 feet of the current 20 feet), for a length of about 150 feet, for approximately nine months, with intermittent closures at other times during the rest of the 18-month construction period. The total affected area was approximately 1,500 square feet of the park walkway and a small adjacent area of parkland. The Draft Section 4(f) Evaluation proposed applying the temporary occupancy exception to the temporary construction activity in Hudson River Park.

The July 2017 Draft Section 4(f) Evaluation also identified that consultation with the official with jurisdiction for Hudson River Park was ongoing.

Revised Section 4(f) Evaluation/draft Final Evaluation, April 2021

Since publication of the DEIS and Draft Section 4(f) Evaluation, a potential alternative method for construction activities near Hudson River Park has been identified. The alternative construction method would reduce risk to the Hudson River Bulkhead, but would affect a larger portion of the Hudson River Park walkway. Construction activities would have the same duration of 18 months, but the following, more intrusive, construction activities would occur in Hudson River Park:

- A construction staging site would be established in the park, in an area not used for recreational purposes but also extending into the recreational area of the park (the park walkway).
- To accommodate that staging site, the full width of the walkway would be temporarily closed for about 200 feet (total area of closure approximately 4,000 square feet) for the 18-month construction period. So that a walkway could remain open, a detour for the walkway could be to create a narrower walkway (8 feet wide rather than the current 20 feet) that intrudes into a bikeway adjacent to, but outside of, the Park boundary. The detour would result in a narrower bikeway (10 feet wide rather than the current 15 feet) for this 200-foot length to accommodate the detoured walkway. The bikeway is part of New York State Route 9A, an adjacent eight-lane urban arterial highway, and its primary purpose is as a north-south transportation corridor; it is not part of Hudson River Park nor is it a Section 4(f) property.
- In addition, some truck traffic would also cross the walkway and Route 9A bikeway for the 18-month construction period and dedicated flaggers would be present to stop pedestrians and bicyclists when needed. The peak period for trucking activity would be a 2-month period

during which there would be 4 trucks per hour; during the rest of the 18-month period, truck activity would be limited to 1 to 2 trucks per hour.

The FEIS and draft Final Section 4(f) Evaluation discuss both construction methods: the method identified in the Draft EIS and the alternative construction method identified after completion of the DEIS.

Through continued consultation with the Hudson River Park Trust, the official with jurisdiction for Hudson River Park, FRA has determined that the temporary occupancy exception is not appropriate for Hudson River Park for either construction method because narrowing the walkway may affect recreational activities. Therefore, FRA has determined that construction activities would result in a use of Hudson River Park.

There is no prudent and feasible alternative to the use of Hudson River Park for the same reasons there is no prudent and feasible alternative to the use of the Hudson River Bulkhead, as described in the 2017 Draft Section 4(f) Evaluation. Hudson River Park is in the same location as the Hudson River Bulkhead, and, like the bulkhead, is a linear resource that extends approximately four miles along the Manhattan Hudson River waterfront. Thus, the tunnel alignment for the Preferred Alternative must pass beneath the park. This limitation of any Build Alternative that includes construction of a new tunnel is described in the draft Final Section 4(f) Evaluation, which also identifies mitigation that will be incorporated into the Project.

Request for DOI Review

As noted, FRA is currently preparing the FEIS and Final Section 4(f) Evaluation for the Project. We respectfully request your assistance in meeting the schedule to release a FEIS and Final Section 4(f) Evaluation at the end of May. FRA requests that DOI review the draft Final Section 4(f) Evaluation and provide comments no later than May 14, 2021.

We are available to answer any questions during your review. Please do not hesitate to contact me (202-493-0413 or Marlys.Osterhues@dot.gov) or Amishi Castelli (617-431-0416 or Amishi.Castelli@dot.gov) to schedule a meeting or to address any concerns or questions.

Sincerely,

**MARLYS A
OSTERHUES**

Digitally signed by MARLYS A
OSTERHUES
Date: 2021.04.23 13:59:03
-04'00'

Marlys Osterhues
Chief of Environment and Project Engineering
Federal Railroad Administration

Enclosure: administrative draft Final Section 4(f) Evaluation

cc: A. Castelli, FRA
R. Palladino, NJ TRANSIT
B. Engle, PANYNJ



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

In Reply Refer to:
9043.1
ER 17/0327F

Via Electronical Mail Only

May 10, 2021

Ms. Marlys Osterhues
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington, DC 20590
Marlys.Osterhues@dot.gov

**Subject: Final Environmental Impact Statement and Section 4(f) Evaluation –
Hudson Tunnel Project, Hudson County, New Jersey and New York County,
New York**

Dear Ms. Osterhues:

The Department of the Interior (Department) reviewed the Final Environmental Impact Statement (FEIS) and Section 4(f) Evaluation (the U.S. Department of Transportation Act of 1966 (codified at 49 USC § 303; 23 CFR 771.135)) for the Hudson Tunnel Project. The proposed project would consist of a new two-track railroad tunnel, Hudson River Tunnel, and the rehabilitation of the existing tunnel, the North River Tunnel. The new Hudson River Tunnel would consist of two new tracks extending from the Northeast Corridor (NEC) in Secaucus, New Jersey, beneath the Palisades and the Hoboken, New Jersey waterfront area, and beneath the Hudson River to connect to the existing approach tracks at Penn Station in New York. The purpose of the project is to preserve current functionality of the NEC Hudson River rail crossing between New Jersey and New York and strengthen the resilience of the NEC.

The Federal Railroad Administration (FRA) initially requested concurrence from the Department in accordance with the requirements of Section 4(f) of the U.S. Department of Transportation Act in 2017 during the public comment period for the Draft Environmental Impact Statement for the Hudson Tunnel Project. At that time, the Department reviewed the Draft Section 4(f) Evaluation and in a letter dated August 15, 2017, the Department concurred with FRA's conclusion the project would result in the use of one Section 4(f) property, the Hudson River Bulkhead (Bulkhead); and FRA would apply a temporary occupancy exception for temporary construction activities at another Section 4(f) property, the Hudson River Park. However, during preparation of the FEIS and Final Section 4(f) Evaluation, FRA determined a Section 4(f) use of Hudson River Park would occur during construction for the project.

We offer the following comments on this project for your consideration.

Section 4(f) Evaluation Comments

The Department concurs there is no prudent and feasible alternative to the proposed use of 4(f) lands which are defined as: parks and recreational areas of national, state, or local significance that are both publicly owned and open to the public; publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public; and historic sites of national, state, or local significance in public or private ownership regardless of whether they are open to the public (23 USC § 138(a)). For this project, the 4(f) lands for proposed use consist of the Bulkhead and Hudson River Park. The partial demolition of the Bulkhead would be an adverse effect, which constitutes a Section 4(f) use. No other Section 4(f) uses have been defined for this project, although adverse effects have been defined for several properties exempt from Section 4(f) uses. These include: North River Tunnel located in New York and New Jersey and the Pennsylvania Railroad New York to Philadelphia Historic District located in New Jersey.

The Department notes the FRA, working with project partners, stakeholders, and other agencies, developed mitigation plans to offset construction impacts, and we also understand this project is being reviewed in accordance with Section 106 of the National Historic Preservation Act. For this project, the Section 106 consultation has involved coordination with the New York State Historic Preservation Office (NYSHPO), Hudson River Park Trust, the New York City Landmarks Preservation Commission, and other Consulting Parties in the Section 106 process regarding the Preferred Alternative's potential effects to the Hudson River Bulkhead and proposed measures to minimize, avoid, and mitigate adverse effects. We understand these mitigation measures are set forth in a draft Memorandum of Agreement (MOA) with the NYSHPO that is currently being reviewed by all parties and encourage FRA to complete their consultation with the MOA signatories.

We appreciate the opportunity to provide these comments. Please contact Mark Eberle at the National Park Service, mark_eberle@nps.gov or 215-597-1258, if you have any questions regarding these comments.

Sincerely,

STEPHEN TRYON

Digitally signed by STEPHEN
TRYON
Date: 2021.05.10 14:54:55 -04'00'

Stephen G. Tryon, Director
Office of Environmental Policy and
Compliance

cc: SHPO-NJ (kate.marcopul@dep.nj.gov)
SHPO-NY (daniel.mackay@parks.ny.gov)