



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

APR 28 2008

Tom Schulze  
New Jersey Transit  
One Penn Plaza East  
Newark, New Jersey 07105

Dear Mr. Schulze:

The Environmental Protection Agency (EPA) has reviewed the draft supplemental environmental impact statement (DSEIS) for the Access to the Region's Core (ARC) project (CEQ# 20080086). This review was conducted in accordance with Section 309 of the Clean Air Act, as amended (42 U.S.C 7609, PL 91-604 12 (a), 84 Stat. 1709), and the National Environmental Policy Act (NEPA).

The purpose of the proposed project is to increase the capacity of the trans-Hudson commuter rail system, provide new one-seat ride service to midtown Manhattan from various rail lines in New Jersey, provide a new station in New York City to relieve inadequate conditions at Penn Station, New York and enhance trans-Hudson commuter safety. On February 9, 2007, the Federal Transit Administration (FTA) and NJ Transit released the ARC Draft Environmental Impact Statement (draft EIS), which documented the ARC project's physical features, operating plan and environmental impacts. The DSEIS was prepared to incorporate public and agency comments on the draft EIS, including those in EPA's April 10, 2007 letter, and describes a refined build alternative intended to avoid, minimize or mitigate projected impacts. Changes in the refined build alternative documented in the DSEIS include a realignment of the proposed tracks to the south side of the Northeast Corridor, reconfiguration of the new Kearny Yard, increased depth of the rail tunnels under the Hudson River, and relocation of the New Penn Station further to the east.

While EPA remains supportive of public transportation projects because of their potential to improve air quality and reduce traffic congestion, we have several comments on the DSEIS and the environmental impacts of construction of the refined build alternative.

**Wetlands:**

- 1) The DSEIS does not map the acreages of each type of wetland that are proposed to be permanently impacted, temporarily impacted, fragmented or permanently shaded. The value, function, and acreage of wetlands need to be clearly identified in order to discern the potential impacts of the project and determine appropriate mitigation.

- 2) The Council on Environmental Quality's NEPA Implementing Regulations state at 40 CFR 1502.16(h) that the NEPA document should include a discussion of the "means to mitigate adverse environmental impacts." Accordingly, mitigation plans for impacts to wetlands and open water should be included in the final EIS.
- 3) The project will cross the Penhorn Creek at the Eastern and Western Arms of the Secaucus Loop, and to the east of Secaucus Road. The final EIS must describe these crossings in detail, and describe any mitigation for impacts to Penhorn Creek or its tributaries.
- 4) A more detailed quantitative discussion of the cumulative effects of ARC and other projects to the wetlands in the New Jersey Meadowlands should be presented in the document.

**Landfill Disruption:**

The refined build alternative will disturb 13 acres of the privately owned Malanka Landfill, both south of the Northeast Corridor and adjacent to the western arm of the Secaucus Loop. As the type and extent of waste materials and related contamination in and around the Malanka Landfill is largely unknown, the final EIS should discuss: the current state of knowledge regarding the landfill, the type and extent of contamination testing that will be performed, the construction methods that will be used in the landfill, and a schedule for obtaining a landfill disruption permit. Any existing or potential impacts to the adjacent wetlands due to contamination should be also discussed.

**Kearny Yard/Koppers Coke:**

- 1) The final EIS should include a discussion of the remediation to take place at the Koppers Coke site prior to its use by NJ Transit. This should include information as to any relationship between contamination at the Koppers Coke property and contamination at the Standard Chlorine property to the northwest.
- 2) The final EIS should also discuss whether the remediation at Koppers Coke will affect or be affected by the large amount of fill to be placed on the site to bring it to grade with the Morris and Essex Line.

**Air Quality:**

- 1) EPA is pleased to see proposed measures to mitigate diesel emissions from the construction phase of the project included in the SDEIS. We recognize that these measures are substantially similar to the Environmental Performance Commitments used in the Lower Manhattan reconstruction projects and will minimize public health and air quality impacts to the communities surrounding the project's construction sites, as well as to the construction workers.

- 2) Section J of Chapter 5.6 notes that the PM<sub>2.5</sub> background concentration at the 12<sup>th</sup> Avenue construction site may be lower during the project's construction period than the currently-monitored background concentration of 15.6 µg/m<sup>3</sup>, which is in violation of the annual PM<sub>2.5</sub> standard. To demonstrate that construction activities will not cause or contribute to a violation of the standard at the 12<sup>th</sup> Avenue site, NJ Transit will need to confirm that the future projected PM<sub>2.5</sub> background concentration, modeled by the NYS Department of Environmental Conservation for its PM<sub>2.5</sub> state implementation plan, is sufficiently below the standard of 15.0 µg/m<sup>3</sup>. It may also be appropriate to discuss the limitations of the chosen dispersion model and any uncertainties associated with the predicted annual PM<sub>2.5</sub> increment.

**Construction:**

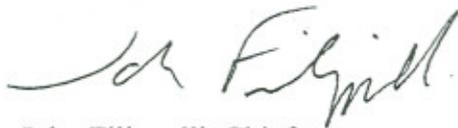
The Palisades Tunnels will include a wye cavern for future connection to the Northern Branch. This possible future connection must be discussed, and indirect impacts analyzed in the final EIS.

**Cumulative Impacts:**

While the Portal Bridge project has independent utility from the ARC project, the ARC draft EIS must include an evaluation of the impacts from the Portal Bridge project as part of its cumulative impacts analysis. As the Portal Bridge project is necessary to realize the full benefits of the ARC project, many of the construction impacts to air quality, wetlands and economics may occur simultaneously.

EPA has rated the DSEIS as EC-2 indicating environmental concerns and insufficient information (see enclosed rating sheet). If you have any questions regarding this review or our comments, please contact Lingard Knutson at 212-637-3747.

Sincerely yours,



John Filippelli, Chief  
Strategic Planning and Multi-Media Programs Branch

Enclosure

cc: Donald Burns, FTA

**SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION**  
**Environmental Impact of the Action**

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

**Adequacy of the Impact Statement**

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."