



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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MAY 02 2011

Mr. Gary Kassof
Bridge Program Manager
First Coast Guard District
U.S. Department of Homeland Security
One South Street
Battery Park Building
New York, NY 10004-1466

Dear Mr. Kassof:

The Environmental Protection Agency (EPA) has received your April 15, 2011 letter responding to several agencies' comments on the U.S. Coast Guard's Final Environmental Assessment (FEA) to permit the construction of the Tremley Point Connector Road (TPCR). The proposed project would be a new, approximately 1.1 mile long roadway/bridge that would be county-owned and maintained, four lanes, and predominantly pile-supported. The proposed TPCR will intersect with Industrial Highway in Carteret, Middlesex County, traverse the Rahway River and connect at Tremley Point Road in the City of Linden, Union County, New Jersey. The purpose of the TPCR is to provide a better alternative to the existing local roads for vehicle traffic to access a proposed large scale development called the Tremley Point Redevelopment area, and the applicant is the New Jersey Turnpike Authority.

In our August 30, 2010 comment letter, EPA stated that the FEA did not demonstrate that the project would not result in any significant impacts (i.e., a Finding of No Significant Impact (FONSI)). The FEA did not include a detailed, approved wetlands mitigation plan, and therefore the Coast Guard cannot conclude that the significant impacts to wetlands are mitigated. We refer you to the Council of Environmental Quality (CEQ) January 14, 2011 guidance "Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact." Quoting from this guidance:

"Many federal agencies rely on mitigation to reduce adverse environmental impacts as part of the planning process for a project, incorporating mitigation as integral components of a proposed project design before making a determination about the significance of the project's environmental impacts.

Mitigation measures included in the project design are integral components of the proposed action, are implemented with the proposed action, and therefore should

be clearly described as part of the proposed action that the agency will perform or require to be performed.”

The mitigation plan must be incorporated into the EA in order that affected agencies and the public can determine whether the impact of the project is mitigated to the point of “no significant impact” and to allow comment on the mitigation during public comment. The applicant’s statements that mitigation will be addressed during the U.S. Army Corps of Engineers permitting process do not meet the requirements under the National Environmental Policy Act (NEPA) as clarified in the CEQ guidance. We would like to also note that the emissions from the mitigation construction should also be incorporated into the General Conformity Applicability Analysis for the project.

EPA also commented on changes of land use in the Tremley Point area as evidence that the traffic and land use analyses in the FEA are outdated. We suggested that changes in the land use, new leases, and ownership of several parcels of the 400 acres of the Tremley Point Redevelopment brownfields would seem to indicate that the traffic analysis needs to be updated in order to ensure appropriate sizing of the TPCR and verify the purpose and need. After reading the comments of the existing growth in the area listed by the Linden Economic Development Corporation in the Coast Guard letter, we are further convinced that the analyses used are outdated.

Moreover, as part of the applicant’s discussion disputing that new analyses are needed, they state, “The TPCR team met with representatives of Kinder Morgan to identify a modified route alternative that provides the requested clearance distance between the roadway and Kinder Morgan Tanks and pipes.” Any change to the preferred alternative should be documented, and environmental impacts assessed. This referenced change has not been part of the NEPA process.

Indirect and Cumulative Impacts:

In your April 15 submittal letter, it states that the “TPCR will mitigate existing traffic congestion...” and will “...also manage traffic volumes associated with additional growth.” In contrast, the original Draft Environmental Assessment (DEA) stated that the TPCR would “facilitate and enable the rehabilitation and redevelopment of approximately 400 acres of brownfields at Tremley Point.” The DEA even described the Port of New York and New Jersey’s evaluation criteria for brownfields, citing “The Tremley Point brownfield areas in Linden meet all these criteria, with the exception of having easy access to a major highway.” Several of the Letters of Support listed in the April 15 submittal stated that the “TPCR is essential to economic progress and growth.” EPA too, believes that the TPCR will induce more construction in the Tremley Point Redevelopment area. Regardless of whether the TPCR would induce development on the brownfields (indirect impacts) or the development is already foreseen (cumulative impacts), the impacts of redevelopment must be analyzed in the FEA.

Finally, EPA disagrees with the applicant’s statement, “the only potential cumulative impact of the brownfield redevelopment would be several small wetland areas within the

limits of the site.” New construction and business operations will require roads and infrastructure that will disturb contaminated soils and increase runoff, impact air quality, water quality and impact the existing wetlands in the area. As we have previously stated, an appropriate cumulative environmental impacts analysis of the TPCR should include the Tremley Point Redevelopment area, the International Trade and Logistics Center Roadway Improvements at Exit 12, the New Jersey Turnpike Exit 12 improvements, SCS Energy, Rahway Arch and any other past or reasonably foreseeable future projects in the area.

In conclusion, despite the responses proffered by the Coast Guard and the applicant, the EPA still finds that the FEA does not support a FONSI. Moreover, it does not include new information that may affect the purpose and need of and the general findings for the TPCR. Should the Coast Guard determine that a meeting to discuss these issues is necessary, we would request that the Federal Highways Administration be invited. If you have any questions on our comments, please call Lingard Knutson of my staff at (212) 637-3747.

Sincerely yours,



Grace Musumeci, Chief
Environmental Review Section

cc: K. Green, NOAA
S. Mars, FWS