New Jersey Turnpike Authority
Newark Bay–Hudson County Extension
Interchange 14 to Interchange 14A / Newark Bay Bridge Replacement and Associated Improvements

FINAL ENVIRONMENTAL ASSESSMENT APPENDIX G: SUMMARY OF COMMENTS AND RESPONSES

Submitted to:

UNITED STATES COAST GUARD
U.S. DEPARTMENT OF HOMELAND SECURITY

Submitted by:

New Jersey Turnpike Authority

April 18, 2025

NEW JERSEY TURNPIKE AUTHORITY

NEWARK BAY-HUDSON COUNTY EXTENSION INTERCHANGE 14 TO INTERCHANGE 14A/ NEWARK BAY BRIDGE REPLACEMENT AND ASSOCIATED IMPROVEMENTS

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Contents

A. Introduction

The New Jersey Turnpike Authority (Authority) proposes a modernization of the Newark Bay-Hudson County Extension (NB-HCE) between Interchange 14 in Newark, Essex County, and Interchange 14A in Bayonne and Jersey City, Hudson County (the Proposed Action), to:

(1) improve the long-term integrity of the structures on the NB-HCE between Interchanges 14 and 14A to maintain the structures in a state of good repair over a minimum 100-year service life to a goal of a 150-year service life by resolving the factors contributing to the deterioration of the structures and in so doing minimizing the frequency of disruptions to the roadway's users from maintenance and repair of the structures over the life cycle of the improvements; and

(2) improve mobility between Interchanges 14 and 14A by attaining level-of-service (LOS) D or better traffic flow quality and in so doing enhance access to communities, businesses, and multimodal facilities served by the NB-HCE near the interchanges, while safely and efficiently accommodating growing vehicular demand on this portion of the NB-HCE into the foreseeable future.

A major element of the Proposed Action is the replacement of Newark Bay Bridge (NBB), officially, the Vincent R. Casciano Memorial Bridge, which comprises nearly half of the total length of the NB-HCE between Interchanges 14 and 14A. Approval of the location and plans for the NBB replacement is needed through a bridge permit from the U.S. Coast Guard (USCG) pursuant to the General Bridge Act of 1946.

The Authority, the Project Sponsor, prepared a draft Environmental Assessment (draft NEPA EA) to evaluate the Proposed Action in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. § 4321 et seq.), Council on Environmental Quality's (CEQ) NEPA-implementing regulations (40 CFR §§ 1500-1508), and the USCG Environmental Planning Implementing Procedures (USCG 2020). The USCG, serving as lead federal agency issued Public Notice (PN) D01-209-2024 on May 9, 2024 (http://www.navcen.uscg.gov). Concurrently, the Authority posted the draft NEPA EA on its website (https://nbhce.njta.com/environmental-responsibility/) for public review.

The PN provided for a 30-day public comment period, which was extended for an additional 30 days by PN-D01-209a-2024 on June 12, 2024. Public comments were accepted by the USCG through close of business on Monday, July 15, 2024. Throughout the process for preparing the NEPA EA, the Authority and the USCG have continued coordination with the U.S. Army Corps of Engineers (USACE), National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS), U.S Fish and Wildlife Service (USFWS), and the Environmental Protection Agency (USEPA).

The Authority has applied for a bridge permit from the USCG and for other permits and approvals that are required for the Proposed Action to be constructed. Additional approvals or reviews are

required for the Proposed Action by USACE and USEPA for work in waters of the United States (regulated wetlands); USFWS and NOAA NMFS for potential impacts to threatened and endangered species; and New Jersey Historic Preservation Office (and other consulting parties) under Section 106 of the National Historic Preservation Act for potential impacts to historic and archaeological resources. A full list of permits and approvals required for the Proposed Action is included in Section 4 of the NEPA EA.

This document summarizes and responds to comments on the draft NEPA EA. The NEPA EA itself has been revised in response to public comments to identify additional protections to the environment, including the preparation of an Adaptive Management Plan (AMP), and the revised final NEPA EA has been posted on the Authority's website (https://nbhce.njta.com/environmental-responsibility/). The Authority thanks the public and cooperating and participating agencies for their comments.

B. Commenters on the NEPA EA

Individuals, elected officials, agencies, and non-governmental organizations ("commenters") were able to submit comments during the public comment period. The USCG received numerous electronic submissions through one or more internet platforms. Multiple individual commenters provided identical or similar comments through these platforms.

The list below identifies commenters who submitted comments that did not rely upon the internet platforms.

Similar comments received from multiple commenters have been combined and paraphrased into summarized comments, which are presented in this document as "Comments." While minor editing was performed on comments to improve readability and clarity, all efforts were taken to retain the substance and tone of comments received. Attachments 1 through 3 of this document provide the record of public comments received during the public comment period.

ELECTED OFFICIALS

1. Ras J. Baraka, Mayor, City of Newark (July 9, 2024)
2. Resolution (Res. 24-546) of the City of Jersey City (July 10, 2024)
3. Ravi S. Bhalla, Mayor, City of Hoboken (July 11, 2024)
4. Steven Fulop, Mayor, City of Jersey City (July 12, 2024)
5. Michael J. Silva, East Ward Councilman, City of Newark (July 24, 2024)

AGENCIES/TRIBAL ORGANIZATIONS

6. United States Department of Commerce National Oceanic and Atmospheric Administration (NOAA) Greater Atlantic Regional Fisheries Office (May 9, 2024)
7. United States Environmental Protection Agency (USEPA) (June 11, 2024)
8. United States Fish & Wildlife Service (USFWS) (June 11, 2024)
9. New Jersey Department of Environmental Protection Historic Preservation Office (June 13, 2024)
10. NOAA National Marine Fisheries Service (NMFS) (July 19, 2024)
11. Shawnee Tribe (July 31, 2024)

NON-GOVERNMENTAL ORGANIZATIONS

12. Tri-State Transportation Campaign (June 24, 2024)
13. Tri-State Transportation Campaign Summer Fellows (June 26, 2024)

14. Tri-County Sustainability (July 8, 2024)
15. New Jersey Alliance for Action (July 10, 2024)
16. Sustainable Jersey City (July 10, 2024)
17. Lackawanna Coalition (July 11, 2024)
18. EmpowerNJ and Turnpike Trap Coalition (represented by John H. Reichman, Esq.) (July 11, 2024)
19. McGinley Square Community Board (July 11, 2024)
20. Hackensack Riverkeeper and NY/NJ Baykeeper (July 12, 2024)
21. Ironbound Community Corporation, New Jersey Environmental Justice Alliance, South Ward Environmental Alliance (July 12, 2024)
22. Regional Plan Association (undated comments received July 12, 2024)
23. Sierra Club New Jersey Chapter (July 13, 2024)
24. Van Vorst Neighborhood Association (July 15, 2024)

GENERAL PUBLIC

Approximately 1,143 submissions were received during the comment period expressing general concern on the Proposed Action and potential community and environmental impacts. These general concerns were expressed in more specific ways by elected officials, agencies, and non-governmental organizations. The USCG addressed these comments from the public and agency representatives (most from a "DoNotReply" return email) and has revised the draft NEPA EA as needed to reflect these comments. The responses to comments provided in this document are inclusive of all comment submissions.

C. Comments and Responses

COMMENTS ON PROCESS & FUNDING

NEPA Process

Comment 1. The USCG should have prepared a NEPA Environmental Impact Statement (EIS) and not an Environmental Assessment (EA).

Response An Environmental Assessment (EA) and an Environmental Impact Statement (EIS) are both documents prepared under the National Environmental Policy Act. The EA is a concise public document that provides sufficient evidence and analysis for determining whether to prepare an EIS. A much more comprehensive discussion of the reasonable alternatives and an in-depth examination of the proposed effects that proposed activity will have on the receiving environment was not necessary because the EA offered a comprehensive analysis, suggestions and alternatives that satisfied all coordinating agencies and the USCG. The USCG followed proper NEPA procedure by preparing an EA for the Proposed Action. The USCG environmental procedures have not identified actions involving bridge replacements with more travel lanes as requiring preparation of an EIS, nor for that matter do Federal Highway Administration's NEPA regulations. In the case where it is uncertain if significant environmental impacts would exist from a proposed action, an EA is prepared. If, based on the analyses included in the EA, which, in this case, included detailed traffic, air quality, noise, wetlands, habitat, historic resources, and other assessments, it is determined that no significant impacts would occur, a Finding of No Significant Impact (FONSI) is prepared, and preparation of an EIS is not required. The USCG could also issue a "Mitigated FONSI" where identified mitigation measures for any impact are determined to have reduced the severity of impact so that the impact is not considered significant. The EA has been revised to include an Adaptive Management Plan to continue community outreach and address potential impacts that could be a concern to the community during construction. This determination takes into account context and intensity as per the CEQ NEPA regulations. Specifically, the context is that the project is entirely within a transportation corridor that was established in the 19th century and that continues to support the local, state, and national economies with substantial rail, port, and airport activity and employment. The project will not violate any laws or regulations. The project has been planned to avoid impacts where practicable and minimize and mitigate unavoidable impacts. It is noted that by some measures, environmental quality will be slightly lessened as compared to the No Build condition and, by other measures, environmental quality will improve over the No Build condition. It should be noted that the adjacent communities will share in the mobility, access, safety, and economic benefits of the project.

Comment 2. USCG should not have constrained its NEPA review of the Interchange 14 to Interchange 14A component of the broader NB-HCE Improvement Program.

Response A program of projects does not in and of itself prompt a NEPA review of the entire program if it can be demonstrated that the projects have independent utility from one another. For example, the Gateway Program, a comprehensive rail investment program that will improve reliability, resiliency and redundancy while creating new capacity for a critical section of the Northeast Corridor (NEC) leading into New York City, comprises several independent projects each of which has (or will) undergone(go) separate reviews under NEPA. As noted in Section 2.2 of the EA, "The Proposed Action [the Interchanges 14-14A Project] has independent utility from the three NB-HCE Program improvements proposed by the Authority east of Interchange 14A. Specifically, the Proposed Action: is independently justified, that is, it addresses a transportation purpose and need on its own without needing to construct other projects; has logical beginning and end points, that is, at Interchange 14 at the beginning of the NB-HCE and at Interchange 14A, which serves the substantial travel demand of Port Jersey PAMT, Bayonne, and the Greenville neighborhood of Jersey City via connections to NJ Route 440 and NJ Route 185; and does not limit the range of alternatives for the three NB-HCE Program projects east of Interchange 14A."

Traffic analysis conducted by the Authority confirms these points. Specifically, the traffic operating conditions on NB-HCE sections east of Interchange 14A were analyzed for the scenario under which the Proposed Action is constructed but there is no change to NB-HCE roadway capacity east of Interchange 14A. The analysis shows that the existing two-lane eastbound roadway east of Interchange 14A (to Interchange 14B) would not adequately serve the design year 2050 No-Build traffic volume forecasts during the weekday AM peak hour. Therefore, because the existing two-lane NB-HCE east of Interchange 14A would not acceptably serve design year 2050 forecast traffic volumes regardless of whether Interchange 14-to-Interchange 14A improvements are constructed, the Proposed Action does not force the Authority to make additional capacity changes east of Interchange 14A.

Implementation of the Proposed Action addresses a transportation purpose and need as a stand-alone project and has logical beginning and end points, as evidenced by the improvement in LOS between Interchanges 14 and 14A with implementation of the Proposed Action. Meanwhile, since it is unclear what geometry will be progressed east of Interchange 14A, construction of this geometric configuration up to the easterly Interchange 14 to Interchange 14A limit does not preclude the Authority from considering any improvement option or schedule.

Comment 3. To the degree that significance must be determined for potential impacts, EPA suggests that the lead agencies incorporate the changes in the NEPA Phase II regulations to go into effect July 1, 2024 and consider context and intensity. This entails focusing on various factors related to an impact's severity as they pertain to the community's affected interests and locality.

Response Determination of significance within the NEPA EA follows applicable guidance.

Comment 4. EPA appreciates the inclusion of the mitigation summary matrix table ES-4.

Response Noted. The NEPA EA, including Table ES-4 in the Executive Summary, which summarizes the measures taken to avoid, minimize, or mitigate impacts as well as any permit conditions identified by NJDEP, has been revised to incorporate revisions made pursuant to public comment on the draft NEPA EA.

Comment 5. EPA acknowledges that public meetings have occurred in Newark and Bayonne (as of 5/29/2024), however, the NEPA document should highlight the level of involvement the potentially impacted communities have had in the planning and mitigation development prior to the 2024 public meetings. Additionally, the comments received during the 2024 public meetings should be included in the EA along with NJTA's responses to those comments.

Response Please see Response to Comment 8 which summarizes the detail added to the NEPA EA on the level of involvement of potentially impacted communities and/or their representatives, in the planning and mitigation development of the Proposed Action. The Authority is preparing a separate Response to Comments document to address comments received during the three public information centers (PIC) that will be posted on the Authority website. Since receipt of the USEPA letter, a PIC was held in Jersey City on July 9, 2024, and several additional agency and municipal communications, as itemized in Section 5 of the NEPA EA, were conducted. The Authority acknowledges that public outreach and communication with adjacent communities will be ongoing throughout design and construction, as outlined in further detail in Section 3.4 of the NEPA EA, "Socioeconomics."

Comment 6. The Executive Summary of the draft NEPA EA, on page xvii, explains that the [United States Fish & Wildlife] Service is a cooperating agency for the project. While the Service will review the project for the Federal trust resources we are concerned about, we have not elected to be and are not a cooperating agency pursuant to the NEPA. Please correct this throughout the draft NEPA EA and in all future versions.

Response The NEPA EA has been revised to clarify that USFWS is not a cooperating agency pursuant to NEPA.

Comment 7. Federal Highway Administration (FHWA) should have been identified as a cooperating agency (or lead agency) under NEPA.

Response The Authority is not seeking federal funding for the Proposed Action. The only federal actions are the permits to be issued by the USCG and USACE. Thus, there is no requirement for FHWA involvement in the NEPA review of the Proposed Action. The Authority incorporated methodologies from FHWA guidance documents for traffic, noise, and air quality assessments. In addition, the Authority used the NJTPA travel demand model in the NEPA EA traffic analysis, which model has been reviewed and determined acceptable by FHWA and FTA for use in long-range transportation planning.

Comment 8. The Authority did not conduct sufficient public outreach and refused to consider or address concerns expressed by Jersey City and other stakeholders that the Proposed Action would be an economic detriment and an environmental disaster. The Authority failed to conduct a New Jersey Executive Order 172 (E.O. 172) hearing.

Response Section 3.4.5.2 of the NEPA EA has been revised to provide additional details on engagement with the adjacent communities. Engagement began during concept planning in the first quarter of 2022, continued throughout preparation of the preliminary design and the draft NEPA EA, and will continue through final design and construction. The AMP further explains the proposed ongoing community outreach that will be conducted in advance of and throughout project construction. Overall, there were 24 meetings with officials from Newark, Bayonne, and Jersey City and with Essex and Hudson counties; 13 meetings with elected officials representing the adjacent communities at the municipal, state, and federal levels; and five meetings with community groups, specifically, Hudson County Complete Streets, Ironbound Community Corporation, Newark Affirmative Action Review Council, the South Ward Environmental Alliance, and I Love Greenville.

Additional engagement with adjacent communities occurred in the form of a Virtual Public Information Center (267 views on YouTube) and Fact Sheets posted on the project website (over 6,435 website homepage views to date). The Fact Sheets were translated into six languages, including Arabic, Hindi, Polish, Portuguese, Spanish, and Tagalog.

The USCG issued Public Notice (PN) D01-209-2024 on May 9, 2024 (http://www.navcen.uscg.gov). Concurrently, the Authority posted the draft NEPA EA on its website (https://nbhce.njta.com/environmental-responsibility/) for public review. The PN provided for a 30-day public comment period, which was extended for an additional 30 days by PN-D01-209a-2024 on June 12, 2024. Public comments were accepted by the USCG through close of business on Monday, July 15, 2024. Over 1,100 separate comment submissions were received.

Meanwhile, there were three in-person Public Information Centers (PIC) between February 2024 and July 2024 (one each in Newark, Bayonne, and Jersey City) attended by approximately 500 attendees to further engage with the adjacent communities and listen to their concerns. The project team has received, reviewed, and addressed more than 1,100 comments from the public and agency representatives (most from a “DoNotReply” return email) and has revised the draft NEPA EA and posted this Response to Comments document (Appendix G of the NEPA EA) on the NB-HCE website for public access.

The Authority will continue to conduct stakeholder and community meetings throughout design and construction of the Proposed Action, including in compliance with New Jersey E.O. 172. The community engagement will focus on engaging and partnering with community organizations at their events, and co-hosting small business and employment opportunity events.

Project Funding

Comment 9. Public tax dollars should not be spent on this project.

Response Like all Authority capital improvements, this Program will be paid for entirely from Authority toll revenues. No local, county, state, or federal tax dollars are being used.

Comment 10. Funds should be invested in public transit instead of highway widening.

Response The Authority contributes, on average, half a billion dollars a year to the State for public transit purposes. Once the reconstruction between Interchanges 14 and 14A is completed, the Authority will have contributed $6 billion to the State for public transit purposes. The Authority is also committed to contributing up to $89 million annually to the Hudson Tunnel Project, overseen by the Gateway Development Commission, which will provide long-term resiliency, reliability, and redundancy to hundreds of thousands of daily passengers who travel into Manhattan. The Hudson Tunnel Project consists of the construction of a new, two-track passenger rail tunnel under the Hudson River, and other supporting projects.

The Turnpike Authority and NJ TRANSIT are two completely separate entities. Funding already allocated to the Proposed Action is not available to support NJ TRANSIT capital projects nor to subsidize NJ TRANSIT fares or otherwise eliminate the need for fare increases. The Authority has a covenant with its bondholders requiring this money to be spent on vehicular transportation projects. The agreement requires that the money be borrowed for capital infrastructure projects rather than operational needs.

EA SECTION 2: ALTERNATIVES CONSIDERED

Comment 11. The Turnpike Authority should rehabilitate the existing NBB instead of constructing two new bridges at a higher cost.

Response For years, the NB-HCE's 29 bridges have carried loads heavier than they were designed to carry. The anticipated wear and tear caused by age have been made worse by the increased volume of larger, heavier trucks and electric vehicles. Right now, frequent, costly, and disruptive construction and maintenance are required to keep the bridges safe.

Rehabilitating these bridges instead of rebuilding them would result in significant and lengthy construction and increased traffic congestion on local roads without resolving the existing safety issues. The safe and efficient operation of the NB-HCE requires that the bridges be replaced.

Comment 12. The Turnpike Authority should consider replacement of the existing NBB with one new structure with three lanes in each direction.

Response: As indicated in Section 2.3 of the EA, the alternative that would replace the Newark Bay Bridge with three lanes in each direction (Alternative 5) was rejected

because it would not meet the project Purpose and Need and not achieve the objective of Level of Service D through, at a minimum, 2050. Without four lanes in each direction, imbalances between merging or exiting lanes and through lanes would continue, thereby retaining existing safety deficiencies.

Comment 13. The Turnpike Authority should replace the Newark Bay Bridge with a single structure with three lanes in each direction with the possibility of reversing on lane during rush hours.

Response As noted within the assessment of Alternative 7 in Section 2.3 of the NEPA EA, for reversible lanes to be effective as a congestion reduction strategy, there needs to be a relatively large percentage difference in the directional traffic volumes, such as on freeway corridors that exhibit heavy commuter-oriented traffic directionality, so that the "lane-donor" direction's traffic flow is not negatively impacted by the shift of a travel lane for use by the other direction. As shown by the traffic volume data in Table 1.4-2, directional volumes between Interchanges 14 and 14A are relatively balanced during the peak travel hours with a 55.5%/44.5% eastbound/westbound split in the morning peak hour and a 51.9%/49.1% eastbound/westbound split in the evening peak hour. In FHWA's Freeway Management and Operations Handbook (on-line edition, 2017), Chapter 8 - Managed Lanes, Section 8.2.5.5 states that "(t)o warrant reversible lanes, peak-period traffic volumes should exhibit or anticipated to exhibit significant directional imbalance (e.g., 70%/30%)." The capacity distribution on a reversible lane configuration on a six-lane facility is 66.7%/33.3% in the reversible configuration, regardless of lane width, shoulder configuration or new versus rehabilitated facility. Consequently, reversible lanes between Interchanges 14 and 14A would not be effective as a congestion reduction strategy either with the existing configuration or a six-lane configuration.

Comment 14. The analysis presented in appendices B and C fails to mention future efforts to coordinate with NJ Transit to explore additional public transportation investments or service adjustments that could help reduce traffic congestion. New Jersey's transit and road networks are inextricably connected, the State must analyze mobility across modes, especially when congestion issues are largely limited to peak hours. Improving bus service could solve the congestion problems on the NB-HCE; NJTA should have considered ways to increase the number of bus passengers at the Holland Tunnel.

Response Multi-modal transportation planning and service provision in New Jersey is conducted by multiple agencies. In Northern New Jersey, long-term multi-modal planning is coordinated through the North Jersey Transportation Planning Authority (NJTPA) and its long-range regional transportation planning process which is conducted every five years. The NJTPA's North Jersey Regional Transportation Model – Enhanced (NJRTM-E), a tool which reflects the highway and transit networks in 2050, was the basis for traffic analysis (see Section 3.7.2.1 and Appendix B of the NEPA EA). The traffic analysis is an input to the air quality analysis. Consequently, the traffic and air quality analyses reflect highway and transit coordination at the regional level.

The Authority is the designated entity to provide express roadway service, and not other modes of public transit. Nevertheless, as noted above, the Authority

annually contributes, on average, half a billion dollars a year to the State for public transit purposes.

The suggestion that commuter bus congestion within the Lincoln Tunnel (leading to the Port Authority Midtown Bus Terminal) could be relieved by redirecting commuter buses through the Holland Tunnel is not valid. The Port Authority of New York & New Jersey (PANYNJ) is investing approximately $10 billion into a reconstructed midtown bus terminal to improve and expand bus access into Manhattan from New Jersey. Holland Tunnel design and clearance restrictions do not support significant bus diversions via the NB-HCE. A PANYNJ Trans-Hudson Commuting Capacity Study (2016) noted that up to only 20 peak-hour buses could be diverted from the Lincoln Tunnel to the Holland Tunnel. Nevertheless, the design of the Proposed Action would not preclude the continued use of the NB-HCE by buses, as is currently available.

Comment 15. The Newark Bay Extension (NBE) of the NJ Turnpike is nearly 70 years old. It is at the end of its planned life. The enhanced capacity of a new Newark Bay Extension is necessary to allow for the already approved as well as the continued growth of both commercial and residential development in Hudson County. The NBE Project will not affect community character. In fact, in will enhance it by lessening impacts on local streets. The NBE Project will support the thriving ports of the region, as well as associated warehousing and distribution supply chain activities of the area. They are a major economic factor in both Hudson and Essex Counties.

Response Comment noted. Section 1, "Purpose and Need for the Action," of the NEPA EA provides specific information regarding the points raised by this commenter.

EA SECTION 3.3: LAND USE

Impacts on Local Parks

Comment 16. NJTA has not adequately addressed the impact of the Proposed Action on existing and planned open spaces [in Jersey City] within proximity of the highway, including the Morris Canal Greenway and proposed Mill Creek Greenway.

Response The draft NEPA EA at Section 3.3.5.1 states "The NBB spans the proposed route of the Hackensack RiverWalk multi-use path. The Proposed Action does not cross the Morris Canal Greenway route but is in proximity of the planned route. The Proposed Action will not interfere with implementation of these public open space connecting assets described in the City's Land Use Element." Section 3.3.5.1 also assesses the potential impact of the Proposed Action on open spaces in Newark and Bayonne.

Consistency with State or Local Plans

Comment 17. The Proposed Action is inconsistent with the 2030 New Jersey Long-Range Transportation Plan (Transportation Choices 2030), which advocates for reducing travel demand on the highway system through minimizing solo driving

trips, increasing walking and bicycling (among other approaches) and expanding public transit.

Response: While the Proposed Action would not address the stated objectives within the 2030 New Jersey Long Range Transportation Plan (completed in 2008), the Long-Range Transportation Plan specifically identifies the Proposed Action for further study as a potential roadway improvement to reduce congestion along key regional roads: "The NJ Turnpike Authority should advance studying long-term options for widening or replacing the Newark Bay Bridge." [1]

Comment 18. The Proposed Action conflicts with County and local strategies advocating for safer and more sustainable road designs, as well as increased public transit funding, in an effort to reduce car dependency overall.

Response The Proposed Action would not preclude County or local community implementation of local roadway design strategies to enhance safety (e.g., Vision Zero Plans), reduce car dependency, or promote non-motorized transportation options or enhanced public transit along local roads In addition the newer, modern replacement Bridge, with modern design standards, lane widths, full emergency shoulders, access and egress ramp improvements will improve incident management and reduce routine incidents, congestion and delays.

EA SECTION 3.4: SOCIOECONOMICS

Comment 19. The NB-HCE divided the community.

Response The Turnpike Extension was constructed on industrial lands and within a railroad corridor in 1956, well before Liberty State Park was created. To improve connectivity, the Authority is planning improvements to the Bayview Avenue Viaduct that will improve access between residential neighborhoods in Jersey City to the west and Liberty State Park to the east. As such, the Proposed Action will not affect community cohesion in the study area as the Proposed Action involves widening and improving a highway and NBB that have been in place for nearly 75 years under which existing travel corridors crossed by the NB-HCE will be retained.

Comment 20. The Proposed Action will result in negative effects on local economic development.

Response As noted in Section 3.4.5.1 of the draft NEPA EA, the Proposed Action will not affect the community character or opportunities for local economic development of the study area as it will not affect those factors influencing community character or economic development: land use plans and planned investments in open space, the Morris Canal Greenway, and transit-oriented development around Hudson-Bergen Light Rail Stations, among other changes to the physical environment. It is anticipated that the Proposed Action will not affect community cohesion in the study area as the Proposed Action involves widening and

[1] New Jersey's Long-Range Transportation Plan (Transportation Choices 2030), Urban Supplement Report – City of Jersey City, page 51. (https://www.nj.gov/transportation/works/njchoices/pdf/jerseycity.pdf)

improving a highway and NBB that have been in place for nearly 75 years under which existing travel corridors crossed by the NB-HCE will be retained. The Proposed Action will not affect potential future investments along major north-south corridors that are expected to enhance community cohesion and opportunities for economic development, such as increased neighborhood retail development identified in the Jersey City Master Plan along the JFK Boulevard and Garfield Avenue corridors. Construction of the Proposed Action is anticipated to generate approximately 25,500 total jobs and approximately $2.0 billion in labor income by employees. The Authority will implement local hiring and apprenticeship programs as well as outreach to local small-business and minority-owned business enterprises throughout the construction period.

Comment 21. A report of the Federal Interagency Working Group on Environmental Justice & NEPA Committee, Promising practices for EJ Methodologies in NEPA Reviews, provides methodologies gleaned from current agency practices to both consider environmental justice concerns during environmental analyses and encourage effective participation by communities with environmental justice concerns. Specifically, EPA would like to highlight the following:

- When developing the baseline characterization of the affected environment, agencies should consider 1) exposure pathways and 2) direct, indirect and cumulative ecological, aesthetic, historic, cultural, economic, social, or health impacts.
- Agencies should be mindful that minority and low-income populations may be differently affected by past, present, or reasonably foreseeable future impacts than the general population.
- Non-chemical stressors can include current health status (e.g. pre-existing health conditions) and past exposure histories, and social factors such as community property values, sources of income, level of income, and standard of living.

Response In January 2025, Executive Order (E.O.) 14148 revoked E.O. 14096. E.O. 14173 revoked E.O. 12898. While USCG continues to evaluate impacts of the Proposed Action on the human environment, USCG no longer evaluates potential disproportionate impacts to environmental justice communities. The NEPA EA has been revised to reference the appropriate Executive Orders and reference documents. Although some terms have been modified to comply with E.O. 14148 and E.O. 14173, as directed by USCG, the Authority's environmental commitments outlined in the NJ E.O. 215 EIS remain. Collectively, the requirements of NJ E.O. 215 EIS, the Authority's NEPA environmental mitigation outlined in the AMP, and State and Federal permit requirements, represents a comprehensive program to ensure community awareness as the Authority advances construction. The Authority's outreach efforts with adjacent communities and the general public as outlined in the AMP will continue as the Authority obtains additional design and construction-related information. Section 3.4.5.1 of the NEPA EA includes relevant demographic information for Newark, Bayonne, and Jersey City to allow the Authority to mitigate potentially adverse impacts on adjacent communities and additional information is included in the AMP. The communities of Newark, Bayonne, and Jersey City have elevated indices of ground-level ozone, fine

particulate matter, diesel particulate matter, and other air toxics that are typically associated with asthma and higher rates of cancer. Many of these indices are above the 80th percentile of indices of other communities within New Jersey. The high-density urban pattern with relatively low ratios of open space and tree canopy was developed on and around former industrial properties with histories of contamination and is now in close proximity to transportation infrastructure (road and rail) with high volumes of heavy vehicles. These stressors tend to exacerbate public health concerns within adjacent communities. The NEPA EA has been revised to include additional detail on an Adaptive Management Plan and outreach to adjacent communities to improve communication and minimize potential impacts during construction.

Comment 22. The EPA notes that, per the USCG Commandant Instruction M26475.1D (NEPA Implementing Procedures and Policy for Considering Environmental Impacts), all USCG actions are required to be consistent with the DOT Order 5610.1C. DOT Order 5610.1C states that all relevant environmental reviews, authorizations, and consultations should be integrated into the NEPA process. Two such directives are Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096 - Revitalizing Our Nation's Commitment to Environmental Justice for All.

Additionally, under Executive Order 14096, environmental justice is now evaluated based simply on disproportionate and adverse impacts. The Fact Sheet that accompanied the E.O. indicates that "The Executive Order uses the term 'disproportionate and adverse' as a simpler, modernized version of the phrase 'disproportionately high and adverse' used in Executive Order 12898. Those phrases have the same meaning but removing the word 'high' eliminates potential misunderstanding that agencies should only be considering large disproportionate effects." EPA recommends the lead agencies revise the EA to reflect this guidance.

Response USCG Commandant Instruction M26475.1D was cancelled on April 23, 2019, by COMDTINST 5090. In January 2025, Executive Order (E.O.) 14148 revoked E.O. 14096. E.O. 14173 revoked E.O. 12898. While USCG continues to evaluate impacts of the Proposed Action on the human environment, USCG no longer evaluates potential disproportionate impacts to environmental justice communities. The NEPA EA has been revised to reference the appropriate Executive Orders and reference documents. Although some terms have been modified to comply with E.O. 14148 and E.O. 14173, as directed by USCG, the Authority's environmental commitments outlined in the NJ E.O. 215 EIS remain. Collectively, the requirements of NJ E.O. 215 EIS, the Authority's NEPA environmental mitigation outlined in the AMP, and State and Federal permit requirements, represents a comprehensive program to ensure community awareness as the Authority advances construction. The Authority's outreach efforts with adjacent communities and the general public as outlined in the AMP will continue as the Authority obtains additional design and construction-related information.

Comment 23. In the event that disproportionate and adverse impacts to minority and low-income populations are anticipated, then avoidance, minimization, and mitigation measures should be developed. The measures should be developed in

coordination with the impacted communities in order to address specific identified needs. EPA encourages the lead agencies to incorporate the guidance from CEQ's Appropriate Use of Mitigation and Monitoring and Clarifying the Use of Mitigated Findings of No Significant Impacts (January 14, 2011).

Response

In accordance with recent Executive Orders, the USCG no longer evaluates potential disproportionate impacts to environmental justice communities. The NEPA EA has been revised to identify the outreach measures the Authority undertook and will continue to undertake to identify potential mitigation measures, and comply with NJ EO 215. The NEPA EA has also been revised to provide additional details regarding potential localized, community-based outreach, mitigation and development of an Adaptive Management Plan to be implemented by the Authority post-EA, as further described below. Proactive community outreach is intended to anticipate and minimize potential community issues and resolve them quickly.

Comment 24.

EPA acknowledges that the EA does propose noise and air quality best management practices for the mitigation of construction phase impacts (as stated in table ES-4). In order to determine whether potential impacts are adequately mitigated, especially if additional mitigation measures are intended to be developed during final design or collaboration with the communities, potential mitigation options should be clearly described in the final EA or, at minimum, the draft Finding of No Significant Impact (FONSI) along with the steps the lead agencies intend to tend to ensure mitigation commitments are implemented.

Response

The NEPA EA has been revised to clearly describe potential mitigation options, where appropriate, including incorporation of an Adaptive Management Plan. The draft NEPA EA included numerous noise and air quality mitigation measures, including mitigation measures and traffic, air, noise and vibration monitoring plans, recommended by NJDEP in its review of the NJ EO 215 EIS and in the permit issued by NJDEP. The draft NEPA EA provided conservative estimates of traffic, air, noise and vibration impacts that could be anticipated in residential neighborhoods immediately adjacent to the Proposed Action. As the Authority reviews conditions within the communities in the study corridor, the Authority will interpret and anticipate potential secondary or indirect impacts to the communities beyond the immediate 0.25-mile study corridor and construction zone, as part of an Adaptive Management Plan. The Authority is committed to community coordination and addressing community concerns during final design and construction.

Comment 25.

The EPA notes that, while some noise impacts are mitigated according to Federal Highway Admiration's noise abatement criteria, it is important that the lead agencies involve potentially affected minority and low-income populations as agencies develop and implement mitigation and monitoring measures. Examples of mitigation measures may include:

- Vegetative noise and air pollution barriers;
- Community center investments and improvements;
- Greenspace revitalization and / or expansion;

- Local scale electric and public transit infrastructure investment;
- Commitments to monitoring noise and air quality before, during, and after construction;
- Providing additional residential scale noise shielding or air purifiers if noise or air quality impacts are identified.

Response

The EA has been revised to provide additional details on mitigation measures to address noise and other impacts, including measures that have resulted from involvement with adjacent communities. Many of the mitigation measures to be employed relate to the examples noted by USEPA.

As noted in the revised NEPA EA at Section 3.4.5.1, the Authority has committed to additional mitigation and community outreach. The Authority will implement the following project-specific measures in coordination with adjacent communities to mitigate potential effects on adjacent communities:

- Extension of the Hackensack RiverWalk greenway north of Rutkowski Park in Bayonne in support of public access to the Newark Bay waterfront.
- Financial support by the Authority to waterfront access improvements planned by the City of Newark in its Riverfront Park.
- Construction of a nest box in a conservation area of Newark for relocating peregrine falcons that have been nesting on the Newark Bay Bridge.
- Removal of the proposed ramp between the intersection of JKF Boulevard and West 56th Street to NJ Route 440 southbound in Bayonne to address community concerns regarding local traffic accessing regional transportation links.
- Financial support by the Authority of revitalization efforts by Hudson County in Mercer Park in Jersey City.
- Planting trees on the former Marist High School property to enhance the environment for neighbors of the property.
- Additional greenspace, landscaping, tree planting, and related improvements to be coordinated with specific communities as the project advances.
- Where space and safety considerations permit, plant vegetative barriers within NJ Turnpike right-of-way adjacent to residential neighborhoods between JFK Boulevard and Avenue C in Bayonne.
- Coordination with Hudson County to support its efforts to conduct a summer Vo Tech Camp to encourage Vo Tech careers.
- The Authority is also considering an option to advance the construction of a new noise barrier adjacent to neighborhoods in Bayonne and have it in place before the roadway improvement construction begins.

As further outlined in Section 3.4.5.1 of the revised EA, the Authority will implement best-practice measures in its construction procurement and construction management to avoid or minimize potential effects on adjacent communities. Additional community-specific programs will be developed, discussed, and reviewed with local communities before the start of construction adjacent to residential communities. The Authority will implement an Adaptive Management Plan to monitor the effectiveness of mitigation measures during

construction. During the post-EA time frame, additional community-based programs will be discussed and implemented prior to construction.

Comment 26. EPA notes that the Promising Practices for EJ Methodologies in NEPA Reviews Report recommends developing an adaptive management plan and conducting implementation and effectiveness monitoring when mitigation measures are proposed to address impacts to minority and low-income populations. By using effectiveness monitoring, an agency and community can learn if the mitigation measures are providing the predicted outcomes. An adaptive management plan provides agencies with a means for taking corrective action if mitigation implementation or effectiveness monitoring indicates the measures are not achieving the intended outcomes. Additionally, if the lead agencies intend to prepare a mitigated FONSI, the FONSI should include a monitoring and compliance plan consistent with 40 CFR 1505.3(c). For additional information on the elements of the mitigation and compliance plan see 40 CFR 1505.3(d).

Response The Authority has committed to implementing an Adaptive Management Plan to monitor the effectiveness of mitigation measures during construction. During the post-EA time frame, additional community-based programs will be discussed and implemented prior to construction.

The Authority is coordinating with the USCG on a monitoring and compliance plan, and associated reporting, that will be finalized as part of issuing a mitigated FONSI.

Comment 27. EPA also recommends the EA include outreach / communication plans for the periods during and after construction. Communication plans should include measures for identifying stakeholders, providing accessible method of communication, and providing tools for stakeholders to reach out to the lead agency with any questions or concerns regarding the project.

Response The NEPA EA has been revised to provide additional information on the outreach/communication plans before, during, and after the construction period. Specifically, following the completion of the NEPA EA and prior to construction, more detailed information at a community level will be available to review with residents and community representatives, seek feedback, and discuss mitigation options before the start of construction activities adjacent to communities. There is sufficient time prior to construction to review potential project-specific design, traffic, construction, scheduling and other impacts with individual communities, seek input on their concerns and recommend mitigation including:

- Operation of a walk-in outreach and information center for community residents, while construction activities are ongoing proximate to their neighborhoods.
- A project website, email, and outreach “hotline” that will monitor and expeditiously address construction concerns. Customized, community-specific outreach plans will be developed for Newark, Jersey City, and Bayonne working with, and in coordination with, elected and community representatives.

- Depending on the individual neighborhood and proximity to construction, specific monitoring activities could include air, traffic, noise, vibration, and dust, among other potential construction-related concerns.
- Construction monitoring programs and mitigation options will be drafted and discussed with residents and community representatives; and
- A comprehensive strategy will be developed and customized for communities in the project area, that addresses concerns of adjacent communities. As needed, the outreach effort will include translation materials customized for the localized communities.

Comment 28. EPA suggests the EA include commitments to performing pre-construction surveys on the homes in the vicinity of construction zones to ensure a mechanism to address potential residential property impacts during the project construction.

Response The NEPA EA has been revised to include an Adaptive Management Plan and the Authority will require contractors to comply with the Authority's standard specification for pre-construction surveys and monitoring plans, the content of which will be approved in advance by the Authority.

EA SECTION 3.5: HISTORIC RESOURCES

Comment 29. Pursuant to 36 C.F.R. Part 800.14, the USCG has identified that the development of a programmatic agreement (PA) is the appropriate treatment option for resolving the undertaking's *adverse effects* on historic properties. In consequence, the HPO looks forward to additional consultation developing the PA in consultation with any consulting parties that may wish to participate. Please be aware, a program of mitigation has been developed in consultation with NJTA within the attached NJDEP permit (Permit #0000-23-0012.2 LUP230001). Consultation with consulting parties pursuant to Section 106 of the National Historic Preservation Act may identify additional mitigation as part of the development for the PA.

Response Comment noted. The Authority has developed an archaeological monitoring program and a PA in response to comments from prior technical assistance from HPO.

Comment 30. The Proposed Action is out of the Shawnee Tribe's area of interest.

Response Comment noted.

EA SECTION 3.6: VISUAL RESOURCES

There were no comments on this section of the draft NEPA EA.

EA SECTION 3.7: TRAFFIC AND TRANSPORTATION

Post-Pandemic Traffic

Comment 31. The Authority should conduct a new traffic study using post-pandemic traffic counts.

Response Section 3.7.1.1 of the draft NEPA EA describes how regional traffic data were collected and adjusted to account for any seasonal or COVID-19 effects. As noted in Section 3.7.2 of the draft EA, future travel demand growth on the NB-HCE and other roadways was estimated using NJTPA's NJRTM-E travel demand model, a model approved for forecasting regional travel demand by the Federal Highway Administration and Federal Transit Administration. Both the NJTPA and its counterpart on the New York side of the Hudson River, the New York Metropolitan Transportation Council, anticipate a future demand that approximates the demand anticipated prior to the COVID-19 pandemic. Neither entity has adjusted its long-term travel demand forecasts from the factors underlying pre-COVID-19 forecasts.

This conclusion regarding continued vehicle-miles traveled (VMT) and congestion growth following the COVID-19 pandemic is further supported by a recently published study from the national transportation data analysis firm, StreetLight (*The State of VMT & Congestion: How Rising Trends Impact U.S. Metros*, September 2024), regarding VMT and congestion trends in major U.S. metropolitan areas for the January 2019 to May 2024. Regarding the New York-Newark-Jersey City, NY-NJ-PA metropolitan area, the study found that VMT grew 14% and congestion grew 2.2% during the 2019-2024 analysis period. Further, the study noted that the "New York metro, including New York City, ...stands out as seeing the biggest increase in both congestion and VMT among the top 25 metros' urban cores" and that "[w]hen ranking metros by population, the New York City metro region saw congestion worsen over the 5-year period faster than the next 47 most populous cities."

These data further support that an appropriate method was used to estimate the traffic and travel demand growth on the NB-HCE reported in the draft EA.

Induced Demand

Comment 32. The EA is deficient as it does not account for induced demand.

Response Typical of highway capacity expansion projects, the Proposed Action (and the proposed NB-HCE Program) can be expected to create some level of induced travel. The induced travel assessment developed for the EA used quantitative and qualitative analyses to assess the potential for induced travel. Specifically, the Federal Highway Administration's Interim Guidance on the Application of Travel and Land Use Forecasting in NEPA.

The Interim Guidance lays out a process and approach for analyzing induced travel that uses a combination of travel modeling and other tools and was, therefore, chosen as the analytical framework for assessing the potential for the NB-HCE Program to cause induced travel.

A sub-area roughly bound by the I-287 corridor in New Jersey was identified to apply the federally approved NJRTM-E travel forecasting model developed and maintained by NJTPA to analyze highway route diversions and highway trip lengths as documented in Appendix B, sections 7.8 and 12.3. The modeled highway diversions were included in the Proposed Action traffic volumes documented in Section 3.7.5 of the EA.

The NB-HCE Program, as proposed, is estimated to increase sub-regional (within the I-287 corridor) VMT from 27,462,357 under the No Action Alternative to 27,556,659 under the Proposed Action Alternative (cumulatively, the proposed NB-HCE Program), or a relatively inconsequential 0.34%.

The NJRTM-E also includes a customized New Jersey Transit (NJT) mode choice model as the basis for estimation of auto and transit mode shares. The transit network includes NJ TRANSIT rail and bus networks, some private bus lines, and ferry services. The entire mode choice model was used to estimate the Program's potential to induce mode shifts by comparing mode shares under modeled Build and No-Build conditions. The No Action (No-Build) model estimates 952,404 transit trips out of 21,775,832 total person-trips in 2050 in the transit network. The Proposed Action (Build) model estimates a shift of 3,467 transit trips to auto trips in the state, or a relatively inconsequential reduction of 0.36% in transit trips with the NB-HCE Program constructed as proposed.

FHWA's Interim Guidance references National Cooperative Highway Research Program Report 466: Desk Reference for Estimating the Indirect Effects of Proposed Transportation Projects as providing a framework and supporting analyses for estimating the land use effects of proposed transportation projects. Report 466's analysis framework was used as the primary basis for assessing the NB-HCE Program's potential to induce development and alter land development patterns. Applying the NCHRP Report 466 screening framework, the Program will not measurably influence land development. The Program's purpose is to improve the long-term integrity of the structures on the NB-HCE and improve mobility between interchanges on the NB-HCE. The Program has no explicit or implicit land development purpose.

The likely effect of travel cost (time) savings and improved reliability on auto-ownership and frequency of auto trip making from the Program is also extremely small when compared to the average annual cost of owning a vehicle which was estimated by the Bureau of Transportation Statistics to have been approximately $12,000 in 2023. The addition of NB-HCE tolls, including peak period pricing, to this average cost further supports the expectation of an extremely low travel cost effect on VMT because of the Program.

The Program will add approximately 21 lane-miles. This represents about 0.61% of the estimated 3,441 Freeway/Expressway and Principal Arterial lane-miles in the sub-regional model network or 0.31% of the estimated 6,711 total roadway lane-miles in the sub-regional (within I-287) model network, and further reinforces the expectation of an extremely small, induced travel effect from the Program.

Based on the analyses, it can be concluded that the principal induced travel effect of the Proposed Action will manifest as highway route diversions. These estimated highway route diversions are included in the traffic impact analysis of

the Proposed Action, as well as in the air quality impact analysis. Little to no induced travel is expected from induced land development, transit to auto mode shifts, or traveler behavior effects attributed to the Proposed Action.

Consequently, the congestion-relief benefit of the Proposed Action is not overstated. Because the VMT and mobile source air toxics analyses results reported for the Proposed Action capture the route diversion effects of the Program, those impacts are not understated. The expected limited effect of the Proposed Action on VMT (and air quality) is supported by the past roughly 20 years of VMT data in New Jersey as a whole and in Northern New Jersey, which indicates that VMT growth is strongly correlated to population growth and not to highway lane-mile additions, a trend that is expected to continue well into the future.

Bottlenecks & Local Congestion

Comment 33. By providing four lanes in each direction between Interchange 14 and Interchange 14A, the Proposed Action will create a bottleneck for vehicles traveling east beyond Interchange 14A. Such a bottleneck will result in increased traffic congestion on local streets.

Response The Proposed Action eliminates two known bottlenecks that have affected levels-of-service (LOS) in Newark and Bayonne/Jersey City. In Newark, vehicles heading eastbound over the NBB must navigate a transition from 5 lanes east of Interchange 14 to the 2 lanes carried over Newark Bay. In Bayonne/Jersey City, vehicles heading westbound over the NBB must navigate a transition from 4 lanes to 2 lanes carried over Newark Bay (including the significant grade from Interchange 14A to the NBB). By providing two additional travel lanes in each direction, the Proposed Action minimizes the merging activity between these points, thereby enhancing performance and safety. In its evaluation of traffic flow within the Interchange 14 to Interchange 14A corridor, the Authority did consider potential effects on traffic heading east of Interchange 14A. Operation of the Proposed Action would not result in the creation of any bottleneck on the NB-HCE that would make it attractive for motorists to instead divert to and use local streets.

Meanwhile, there is sufficient length for a lane-drop between the Interchange 14A ramps and the two-lane eastbound roadway east of the Interchange 14A ramps to provide adequate transition for vehicles making the transition to the two-lane roadway section.

Comment 34. The Proposed Action will create a bottleneck of vehicles looking to access the Holland Tunnel and impacts to local streets in Manhattan.

Response Growth in volumes on the NB-HCE is driven largely by population and employment growth in Newark, Bayonne, and Jersey City (as documented in the NJTPA Long Range Plan). The Authority's analysis using independent traffic data indicates that, of the AM eastbound traffic between Interchanges 14 and 14A, approximately 79% is destined to locations in Hudson County while only 21% are destined to the Holland Tunnel.

Because the Proposed Action will divert a portion of traffic, including Holland Tunnel-bound traffic, from nearby parallel alternate routes to the approach to the Holland Tunnel, e.g., the Pulaski Skyway, the net effect is similar traffic volumes entering the Holland Tunnel in the future under the Proposed Action as compared with the No Action. Accordingly, the Proposed Action will have little to no effect on the volume of traffic on the Manhattan side of the Holland Tunnel.

Comment 35. The Proposed Action will increase traffic, especially truck traffic, on local roads. This additional traffic will affect public safety.

Response The Authority completed several separate traffic studies using the North Jersey Transportation Planning Authority's NJRTM-E travel demand model to demonstrate that, with the improvements in place between Interchange 14 and Interchange 14A, there would be negligible increases in truck traffic on local streets within the Ironbound community of Newark, Greenville neighborhood in Jersey City, or within northern Bayonne. The NEPA EA has been revised to include these studies.

Specifically, for the final EA (Section 3.7), two local street study areas were used to assess the potential for traffic impact on streets nearby the NB-HCE, specifically: (1) in Newark, a study area bound by South Street, McCarter Highway, Raymond Boulevard, and U.S. Routes 1 and 9; and (2) in Bayonne and Jersey City, a study area bound by West 53rd Street, Newark Bay, West 63rd Street/Pamrapo Avenue/Gates Avenue, and Broadway/Garfield Avenue. The NJRTM-E was used to estimate the effect of the NB-HCE Program on local street traffic volumes in 2050 compared with volumes under the No Action alternative. NJRTM-E has 57 roadway links (essentially, blocks) in the Newark local street study area and 28 roadway links in the Bayonne/Jersey City local street study area. The model was used to estimate daily traffic volumes for the No Action and Proposed Action conditions in 2050 and the difference in volumes was calculated for each roadway link. The Authority's analysis of local street traffic under the Proposed Action indicates minor changes in traffic volumes on local streets relative to the No Action. Based on this analysis, the Authority estimates that in 2050 that daily traffic volumes on approximately 65% of the roadway links (blocks) in the Newark local streets study area will be lower in the Proposed Action than in the No Action, and that overall traffic volumes in the local streets study area will decrease. This overall decrease in traffic volumes in the Newark local streets study area under the Proposed Action can be explained by the diversion of a portion of regional traffic to the NB-HCE under the Proposed Action from such parallel routes as U.S. Route 1 and 9, which forms the eastern boundary of the Newark local streets study area. The roadway links that are estimated to have increased daily volumes, primarily on South Street and on Ferry Street, will have minor increases in daily traffic of approximately 5% or lower.

Meanwhile, the Authority estimates that in 2050 that daily traffic volumes on approximately 71% of the roadway links (blocks) in the Bayonne/Jersey City local streets study area will be lower in the Proposed Action than in the No Action, and that overall traffic volumes in the local streets study area will decrease. This overall decrease in traffic volumes in the Bayonne/Jersey City local streets study area under the Proposed Action can be explained by the diversion of a portion of regional traffic to the NB-HCE under the Proposed Action from such parallel

routes as NJ Route 440. The roadway links that are estimated to have increased daily volumes, primarily on West 53rd Street between Avenue C and Broadway in Bayonne, on Avenue C between West 53rd Street and NJ Route 440 in Bayonne, and on Merritt Street between Old Bergen Road and Garfield Street in Jersey City, will have minor increases in daily traffic of between approximately 3% to 8%. This new traffic on local streets would have minimal impact on operating conditions on local streets The Authority will continue coordination with Newark, Bayonne, and Jersey City on the potential effect of the Proposed Action on local streets and on measures, such as changes in signal timing or intersection striping, to mitigate any localized impact.

Comment 36. The Authority should be considering implementation of "complete streets" as a design option to reduce impacts on local streets.

Response Complete streets are "designed and operated to enable safe access for all users. Pedestrians, bicyclists, motorists and transit riders of all ages and abilities must be able to safely move along and across a complete street."[2] Implementation opportunities for complete streets and non-motorized mobility is a goal of several regional, county, or local entities, but it is not appropriate to apply these principles to a regional express roadway. Express roadways and the Interstate system's exclusive purpose is moving high volumes of vehicles at higher speeds and non-motorized mobility options would not be safe. The NB-HCE project does not preclude implementation of complete streets (or similar) projects on local roads by the host communities.

Freight

Comment 37. The Authority should have considered alternative methods for handling increased volumes of freight arriving at the ports including rail or marine transport, or off-hour pickup and deliveries or staggered port deliveries and pickups as a way to dissipate peak hour traffic.

Response The Authority does not manage nor control logistics for the shipping of freight to warehouse and distribution centers. However, the Authority works closely with PANYNJ to review its ongoing plan to increase on-dock rail, technology and operational advancements, and other goods movement efficiency options. As noted in Section 1.4 of the draft NEPA EA, "Traffic growth and substantial port-related heavy vehicle/truck activity have degraded operating conditions in the corridor and have contributed to the current poor physical conditions of the NB-HCE's roadway pavement and bridges, leading to development of a Proposed Action that addresses the associated state of good repair and mobility needs, while addressing substandard roadway and structural features. The North Jersey Transportation Planning Authority (NJTPA) Long-Range Plan addresses multiple projects for mass transportation and roadway improvements. The Proposed Action is necessary even with all of these other planned and programmed investments in mass transportation to handle projected increases in vehicular

[2] Definition of the National Complete Streets Coalition contained in NJ Department of Transportation's *Complete Streets Design Guide* (https://nj-dot.nj.gov/transportation/eng/completestreets/pdf/NJCS_DesignGuide.pdf)

trips (including those originating and destined for Jersey City) and other freight-based trips associated with regional port activity."

EA SECTION 3.8: AIR QUALITY

General Conformity Analysis

Comment 38. EPA notes that the project area is located in the New York-N. New Jersey-Long Island, NY-NJ-CT non-attainment area, which is classified as severe for the 2008 ozone standard. The VOC and NOx de minimis thresholds for severe non-attainment areas are 25 tons per year (see 40 CFR Part 93.153). Table 3.8-2 of the EA incorrectly cites de minimis thresholds of 50 tons per year. The analysis of construction-related emissions shows that the estimated annual NOx emissions from the project exceed the appropriate de minimis threshold, therefore a General Conformity Determination is required. Please note that construction emissions from applicable all years should be calculated as part of the determination.

Response The NEPA EA has been revised to address the change in non-attainment status and the lower thresholds for VOC and NOx. The General Conformity applicability analysis has also been updated based on additional information relating to construction-period schedule, equipment, and emissions-control technology, among other factors. Based on the updated applicability analysis, the total NOx emissions in the peak year of construction would be 20.8 tons (see revised NEPA EA at Table 3.8-15) as compared with the NOx *de minimis* threshold of 25 tons. Accordingly, a General Conformity Determination is not required. Additional detail on the applicability analysis is found in Section 3.8.5.2 of the NEPA EA.

Comment 39. EPA recognizes that it is predicted that there will be expected exceedances of Annual PM2.5 with the recently passed standard. With the new, lower annual PM2.5 NAAQS of 9 µg/m3 in mind, there are values reported in tables 3.8-7 and 3.8-8 that would be above this standard. While this new NAAQS will have to be met moving forward, EPA has not yet completed the formal designation process for identifying nonattainment areas under the new standard. Therefore, EPA has analyzed this EA for compliance with CAA conformity requirements with respect to the PM standard(s) for which the area is currently in a maintenance status (1997 and 2006 PM2.5 NAAQS). This allows for EPA's continued approval of the values reported relating to air quality impacts. However, due to the lower standard for PM2.5 and the elevated levels of PM2.5 expected to be seen as a result of construction, EPA recommends that additional air quality mitigation efforts be pursued to further combat any adverse air quality impacts and to help attain the new standard in the future.

Response The NEPA EA has been revised to provide additional air quality analysis of PM2.5 given the recently passed standard. Section 3.8.5.2 indicates that, based on 2050 traffic along the project corridor, 2034 traffic resulting from construction activities and current motor vehicle tailpipe emission standards, the Proposed Action modeled concentration is not expected to exceed the recently lowered NAAQS for PM2.5.

As noted in Section 3.8.5.2 of the draft NEPA EA, the Authority is already implementing measures to reduce PM2.5 emissions, including annually transferring $500 million to the State of New Jersey to use for public transportation purposes, and providing a portion of funding of the Gateway Program.

In addition, standard construction management and dust control protocols are planned, such as frequent "street" sweeping and spraying down with water (during dry conditions) of its roadways to reduce fugitive dust. The Authority will implement an adaptive management plan (including monitoring of air quality) near residences and other sensitive receptors and will employ other measures, as needed, to further reduce PM2.5 concentrations, given the updated NAAQS.

Comment 40. For clarity, EPA suggests the EA provide an explanation of why the maximum modeled concentrations for CO and PM2.5 in 2050, tables 3.8-7 and 3.8-8 respectively, are similar in the No Action and Proposed Action scenarios. EPA recommends including a discussion highlighting the major factors contributing to the concentrations of pollutants for the two alternatives.

Response Section 3.8.5.1 of the NEPA EA has been revised to provide this explanation. To summarize, the similarity of the maximum modeled concentrations between the No Action and Proposed Action scenarios is a function of traffic flowing at congested speeds on the NB-HCE under the No Action Scenario versus a higher traffic volume attributed to diversions of traffic from other roadways to the NB-HCE operating under free-flow speed under the Proposed Action scenario. In effect, these factors essentially offset one another resulting in the similarity of the maximum modeled concentrations between the scenarios.

Comment 41. [The EPA would] like to note that hot spot analyses are still required per 93.109(e) because the project lies in a CO and PM2.5 maintenance area.

Response The draft NEPA EA in Section 3.8.5.1 included operational hot-spot analyses for CO and PM2.5 for 2050 Proposed Action and No Action conditions. The NEPA EA has been revised to include additional information relating to the potential for construction-period effects, including hot-spot emissions analysis of relatively high project activity levels at three locations considering proximity to residences or schools in each community and along planned haul routes to construction staging areas in the peak year of construction. The additional hot-spot analyses did not identify any significant impacts or exceedances of NAAQS. Additional information is found in Section 3.8.5.1 of the NEPA EA.

Comment 42. EPA recommends the EA or air quality appendix include a more thorough explanation of how the hot spot analysis receptors were placed along the grid.

Response Section 3.8.2.1 of the NEPA EA has been revised to provide additional detail on how the analysis grid was defined to incorporate receptors, including the Woodrow Wilson Community School. Appendix C of the NEPA EA has also been revised to provide a more thorough explanation of how the hot-spot analysis receptors were placed along the grid.

Construction-Period Emissions

Comment 43. EPA acknowledges the project construction emissions (other than NOx) are estimated to be below *de minimis* levels, however, the potential exists for impacts to overburdened communities during the construction timeframe. The staggered construction timeline means that construction will take place over approximately 5 years and while the magnitude of the impacts may be lessened with this approach, the duration of potential effects should be considered when determining the activity's potential for impact on the nearby community and sensitive receptors such as the Woodrow Wilson Elementary School.

In order to support the lead agencies' conclusion that there are no adverse impacts to air quality during construction, particularly to minority and low-income populations, EPA suggests that the lead agencies:

1) Evaluate construction emissions on a local scale to evaluate the potential for impacts to already overburdened communities and sensitive receptors. EPA suggests a hot-spot emissions analysis would be an appropriate tool for this evaluation.

2) Include a discussion on how the magnitude of that impact will change over the course of the construction time period, and whether the cumulative exposure has the potential to exacerbate existing burdens or potential impacts.

3) Include and describe how other construction projects located in close geographic proximity may or may not contribute the impacts of the local air quality (other segments of Newark Bay-Hudson County Extension (NB-HCE) improvements program).

Response The NEPA EA has been revised to include additional information relating to the potential for construction-period effects, including a hot-spot emissions analysis of relatively high project activity levels, e.g., planned haul routes, in the peak year of construction. Additional information is found in Section 3.8.5.1 of the NEPA EA.

The hot-spot analysis indicates that CO, NO_2, and PM2.5 concentrations at the hot-spot analysis locations are estimated to be below the national ambient air quality standards for these pollutants, including the recently lowered PM2.5 standard. The Authority will develop and implement an Adaptive Management Plan to monitor the effectiveness of mitigation measures during construction. The program team estimates that during the post-EA time frame, before the initiation of construction activities near residential neighborhoods, additional community-based programs including implementation of an Adaptive Management Plan will be discussed and implemented prior to construction.

The NEPA EA has been revised to identify how project activity, as measured by materials hauling and equipment usage, is expected to change over the course of the construction period, and how exposure to emissions has the potential to exacerbate impacts.

The NEPA EA has been revised to identify other projects in close geographic proximity to the Proposed Action and which have construction schedules that overlap to a certain extent with that of the Proposed Action. Further, the NEPA EA assesses how each of the other projects may or may not contribute to air quality

impacts in the communities surrounding the Proposed Action. The identified projects include the following:

- The rehabilitation of certain bridges throughout the limits of the NB-HCE in Jersey City between Interchanges 14A and the eastern terminus at Jersey Avenue (construction is anticipated between September 2024 and December 2027).
- The Authority's proposed NB-HCE Improvements Program east of Interchange 14A in Jersey City includes projects with independent environmental approvals and stakeholder engagement for which construction is scheduled in the 2030s, including:
  - Interchanges 14A to 14B (construction timeline is uncertain at this time)
  - Interchanges 14B to Columbus Drive (construction timeline is uncertain at this time)
  - Columbus Drive to Jersey Avenue (this is the second priority project with construction estimate to commence in 2031)
- Port Authority of New York & New Jersey's Port Street Improvement Project, Newark (currently underway and scheduled for completion in 2028)
- U.S. Army Corps of Engineers' New York and New Jersey Harbor Deepening and Channel Improvements (scheduled to occur between 2024 and 2040)
- USEPA's Diamond Alkali Superfund Site Operable Unit 3 (Newark Bay Study Area) Cleanup (the cleanup schedule is anticipated to be identified in 2025; however, EPA has indicated to the Authority that while it expects there will eventually be cleanup activity in the vicinity of the Newark Bay Bridge, the cleanup will be scheduled to avoid overlap with the Newark Bay Bridge reconstruction).

Of these projects, the NB-HCE rehabilitation of bridges project east of Interchange 14A and the Port Street Project, which parallels the NB-HCE between Interchange 14 and Doremus Avenue, are in closest geographic proximity to the Proposed Action. However, these projects are expected to be substantially complete by the start of construction of the Proposed Action and be completed well before the peak years of the Proposed Action's construction: 2033 to 2035. The Authority has been coordinating with PANYNJ to minimize impacts of the Port Street Project and the Proposed Action on each other.

Except for the Interchanges 14A to 14B Improvements and Interchange 14B to Columbus Drive Improvements projects, whose construction timing is uncertain, the other projects are between 0.70 and 2.75 miles away from the Proposed Action at their closest points. The Authority expects that some of these projects could use portions of haul routes anticipated to be used during construction of the Proposed Action, specifically, the NB-HCE, NJ Route 440, and U.S Truck Route 1/9. The exact timing and volume of truck hauling by the other projects relative to the Proposed Action cannot be determined. However, by maintaining two travel lanes in each direction during construction, the Proposed Action will minimize impacts of that portion of the truck hauling by the other projects that may occur on the NB-HCE.

The NEPA EA has been updated to identify the numerous initiatives being undertaken by the Authority to reduce emissions from its facilities and from the vehicles that use its roadways, e.g., emissions reductions from such energy

efficiency measures as building management systems, using LEED standards in the design of new buildings, transition to LED roadway and facilities lighting, adding hybrid and electric vehicles to the Authority's fleet, and establishing EV charging stations in Turnpike and Parkway Service Areas.

Comment 44. The EA's air quality analysis with respect to EJ communities, found in section 3.4.5.1, considers only regional air quality and comparisons to the NAAQS and *de minimis* thresholds to support the conclusion that there would be no disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, or overburdened communities. In considering impacts, the lead agencies must recognize and acknowledge that compliance with the National Ambient Air Quality Standards (NAAQS) or *de minimis* thresholds does not equate to no potential impacts and localized harm to human health and the environment. EPA acknowledges the use of a hot-spot analysis for the consideration of localized impacts to air pollution in 2050. However, EPA encourages NJTA to incorporate an analysis of the localized impacts of air quality during construction years into the potential impacts on environmental justice communities.

In order to rigorously support a conclusion that there are no significant or disproportionate adverse impacts to minority populations and low-income populations, EPA recommends the EA include:

1) The existing burdens faced by the affected communities (direct, indirect and cumulative ecological, aesthetic, historic, cultural, economic, social, or health impacts);

2) An evaluation of how the project's impacts may contribute to the existing burdens. This includes how the local air quality will be impacted during construction in areas of EJ concern;

3) The efforts to meaningful engage the affected communities; and

4) How community feedback has been incorporated into the design of the project and mitigation options.

Response As noted in the responses to the USEPA's Air Quality comments, the NEPA EA has been revised to update the air quality analysis to include more detail on estimated construction-period effects, including a construction hot spot analysis. In addition, prior to the start of construction an Adaptive Management Plan will be implemented to monitor and measure air quality proximate to residential neighborhoods.

See Response to Comment 8 for details on the Authority's meaningful engagement with the adjacent communities.

The NEPA EA has been revised to provide information on how community feedback has been incorporated into the design of the project and mitigation options. Examples of outcomes from community feedback to-date are the following:

- Redesign of stormwater management as part of the Proposed Action in Bayonne.

- Extension of the Hackensack RiverWalk greenway north of Rutkowski Park in Bayonne in support of public access to the Newark Bay waterfront.
- Financial support by the Authority of waterfront access improvements planned by the City of Newark in its Riverfront Park.
- Construction of a nest box in a conservation area of Newark for relocating peregrine falcons that have been nesting on the Newark Bay Bridge.
- Initiatives by the Authority to use the services of local small businesses and vendors.
- Removal of the proposed ramp between the intersection of JFK Boulevard and West 56th Street to NJ Route 440 southbound in Bayonne.
- Financial support by the Authority of revitalization efforts by Hudson County in Mercer Park in Jersey City.
- Planting trees on the former Marist High School property to enhance the environment for neighbors of the property.
- Coordination with Hudson County to support their efforts to conduct a summer VoTech Camp to encourage students to advance VoTech careers.
- Additional greenspace, landscaping, tree planting and related improvements to be coordinated with specific communities as the project advances.

The Authority continues to proactively meet with residents of the adjacent communities and assess ways to incorporate community feedback into the design and construction of the Proposed Action and the mitigation of impacts. See the Adaptive Management Plan (Appendix H) for additional details on proposed monitoring.

Comment 45. The draft NEPA EA does not include an assessment of greenhouse gas emissions. Given that the Proposed Action would increase emissions, it is in conflict with the state's environmental goals, specifically Executive Order 274 which established an interim greenhouse gas reduction target of 50 percent below 2006 levels by 2030.

Response The analysis of greenhouse gas (GHG) emissions included in the draft NJ EO 215 EIS compares the projected regional levels of greenhouse gas emissions if this project is built to the projected levels if it is not built. The analysis found a less than one-fifth of one percent difference. This analysis was based on emissions levels from cars and trucks on the road today. If drivers continue switching to electric cars and trucks and other zero-emission vehicles, it is anticipated there will eventually be no difference in greenhouse gas emissions between the Build and No-Build conditions.

Executive Order 274, issued by Governor Murphy in 2021, commits New Jersey to reducing greenhouse gas emissions to 50% below 2006 levels by 2030. The New Jersey Department of Environmental Protection is developing regulatory requirements for this Executive Order. The Authority will comply with any mandates once those regulations are adopted.

EA SECTION 3.9: NOISE

Comment 46. The Proposed Action will increase noise pollution in surrounding communities, many of which are environmental justice communities.

Response Section 3.9 of the NEPA EA includes detailed assessment of potential increases in noise levels as a result of the Proposed Action. Section 3.9 provides information on potential adverse impacts at several receptors. However, with implementation of proposed noise walls those impacts will be mitigated to the maximum extent practicable such that they would not be considered significant impacts. In addition, the Authority will implement an Adaptive Management Plan to monitor and measure noise during construction and respond quickly to potential issues.

EA SECTION 3.10: HAZARDOUS MATERIALS

Comment 47. EPA understands that hazardous materials will be removed in accordance with state and federal regulations. To provide a better understanding of potential impacts, EPA recommends the EA describe how the demolition debris will be stored, transported and disposed during each phase of the project.

Response The NEPA EA has been revised to include additional information on how demolition debris will be stored, transported, and disposed during each phase of the project.

Comment 48. The EPA suggests that the NEPA document should clarify if dredging in Newark Bay is anticipated to facilitate work vessel access for the construction of the new bridge or demolition of the existing bridge.

Response No dredging is currently proposed to facilitate work vessel access for the demolition of the existing bridge or construction of the new bridge. A trestle system, constructed above the Bay's water surface and supported on piles, will be used to facilitate access and to minimize potential impacts to Newark Bay sediments.

Comment 49. The draft NEPA EA Report indicates that cofferdams will be constructed for the new bridge foundations, such that removal of contaminated sediments and foundation construction would be conducted within the cofferdams to prevent impacts to Newark Bay. EPA suggests the NEPA document describe the design elements included to prevent scour and erosion, which can resuspend contaminated sediments into the water column and expose biota and people to contaminants, from occurring near the cofferdams and new bridge piers and adjacent to potential scour protection structures (e.g., rip rap around pier footings) and future fender systems (both during construction and in the post-construction period).

Response The NEPA EA has been revised to include additional detail on how bridge pier foundations will be constructed in water and on measures to minimize resuspension of sediments and scour. The NEPA EA (at Section 3.11.5.1), notes that "During construction, impacts due to the increase of TSS and turbidity, and

release of metals and chemicals from the sediment into the water column would be mitigated through controlling soil movement and minimizing the resuspension of sediments in the water column. The methods that will be used to achieve this will be specified in the SESC plan that would be developed prior to the initiation of field activities. This plan will specify the best management practices that will be used to minimize the impact of construction. Control measures that may be used to meet the conditions of the permit include turbidity barriers, hay bales, silt fences, dikes, swales, and cofferdams. Implementation of this plan will be carefully monitored during construction to facilitate utilization of the best sediment management options during construction activities" (emphasis added). Further, the NEPA EA specifies that "Measures will be taken during construction of the piers (i.e., cofferdams, turbidity barriers, etc.) to minimize disturbance of bottom sediments and reduce such sediment resuspension, thereby not affecting turbidity. Trestle piles would be driven within casings; steel sheetpiles will be installed with vibratory hammers; drilled shafts will be advanced with turbidity barriers or bubble curtains; and bridge pier construction and demolition will be performed in dry conditions within cofferdams."

Comment 50. EPA recommends NJTA develop a comprehensive resuspension control plan to monitor the water column and lay out a decision process/means and methods for potential corrective action to mitigate sediment resuspension during construction (including resuspension caused by work vessel traffic), if required.

Response The Authority will require the Final Design team to develop a comprehensive resuspension control plan that is consistent with the requirements of the NJDEP Waterfront Development Permit (the Water Quality Certification) to monitor the water column and to establish a procedure for potential corrective action to mitigate sediment resuspension during construction, if required.

Comment 51. The draft NEPA EA Report notes environmental concerns for the existing bridge demolition with regard to lead paint, asbestos-containing materials, and PCB electrical equipment. EPA recommends that the EA outline how the foundations of the existing bridge will be demolished to describe how the contaminated sediment will be contained and managed during the process.

Response The NEPA EA has been revised to include additional detail on how any lead paint, asbestos-containing materials, and PCBs will be handled during demolition of the existing bridge. The NEPA EA has also been revised to describe how contaminated sediment will be contained and managed during the construction process.

Comment 52. It is possible that EPA's future remedy (not yet selected) for the Newark Bay Study Area will require construction activity proximal to the existing/new bridge alignment, to remediate comparatively elevated areas of contamination in surface sediment. EPA strongly recommends the document include a discussion of the potential impacts and required coordination of sediment dredging and subaqueous cap construction in the vicinity of the new bridges.

Response The NEPA EA has been revised to acknowledge USEPA's current interim remedial plan for Newark Bay and focus areas proximate to the Newark Bay Bridge. The

Authority will continue to coordinate with USEPA to share information on remediation and construction schedules to avoid conflicts.

Comment 53. Please be aware that the activities will be taking place approximately 250 ft south of the Lower Creek Section of Pierson's Creek Superfund Site Operable Unit 1. In addition, a culverted section of Pierson's Creek Operable Unit 1 passes under the Newark Bay-Hudson County Extension (NB-HCE) at the western extremities of Interchange 14 before turning east on the north side of the New Jersey Turnpike Authority Maintenance District 7 Maintenance Yard. The EPA, under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. (CERCLA), as amended, is currently overseeing a remedial investigation/feasibility study of this Site.

Pierson's Creek is contaminated with a number of hazardous substances, including but not limited to mercury, polychlorinated biphenyls (PCBs), lead, volatile organic compounds (VOCs) and other metals. Please be aware that while the project construction is not expected to impact Pierson's Creek because surface excavation in this is anticipated to be minimal, the activities could disturb contaminated sediments, so planning for those activities should include safeguards against adverse impacts to Pierson's Creek. Any contaminated conditions of the Pierson's Creek site should not be exacerbated during construction. Please coordinate with EPA related to any construction near Pierson's Creek. Failure to take reasonable steps to prevent and manage resulting releases to prevent the exacerbation of contamination, including distribution of sediments, could result in liability under Section 107 of CERCLA, 42 U.S.C. Section 9607.

Response The NEPA EA has been revised to acknowledge USEPA's current interim remedial plan for Newark Bay and focus areas proximate to the Newark Bay Bridge. The Authority will continue to coordinate with USEPA to share information on remediation and construction schedules to avoid conflicts.

Comment 54. Measures should be put in place to protect public health, including real-time monitoring of air and water quality during construction, prompt reporting of contamination incidents, and clear communication with local communities about potential risks and mitigation efforts.

Response Prior to the start of construction, the Authority will implement an Adaptive Management Plan that includes a comprehensive community outreach effort to advise local communities of upcoming construction activities and remain advised of any construction-related concerns.

As part of its permitting requirements, the Authority has received a Section 401 Water Quality Certification from the NJDEP affirming NJDEP's assessment that the Proposed Action will not violate the State's water quality standards, provided that best practices and other supplementary measures are used during the construction process. The Authority will continue to coordinate with USEPA as it implements its remediation plans for Superfund sites to avoid any conflicts in work periods or areas. The Authority will require its contractor to implement a sediment monitoring program to avoid resuspension of sediments within Newark Bay. (See also, responses to comments in Section 3.8, "Air Quality").

EA SECTION 3.11: NATURAL RESOURCES

Wetlands & Water Quality Protection

Comment 55. The EPA suggests that the document should provide the wetland impacts for the alternatives that were eventually dismissed in reaching the Proposed Action.

Response Section 2.4 of the NEPA EA has been revised to include estimated wetland impacts of the three alternatives that the draft NEPA EA identified as passing the first round of the comparative alternatives analysis, i.e., those alternatives that were found to meet all elements of the stated purpose and need. These alternatives were Alternative 1 (the Proposed Action), Alternative 3 (Fully Replace NBB and Add New Parallel NBB Structure to the South), and Alternative 4 (Fully Replace NBB with Structures Having Shorter Main Spans).

Estimated permanent and temporary disturbances to regulated areas associated with these three alternatives are presented below.

Regulated Area	**Approximate Permanent Disturbance (Acres)**		
	Southern Alignment Alternative	**Northern Alignment Shorter Main Span**	***Northern Alignment (Proposed Action)***
Intertidal & Subtidal Shallows	2.37	2.42	*2.05*
Tidal Waters	3.78	4.18	*3.81*
Freshwater Wetlands	9.90	9.12	*9.12*
Total	**16.05**	**15.72**	***14.98***

Regulated Area	**Approximate Temporary Disturbance (Acres)**		
	Southern Alignment Alternative	**Northern Alignment Shorter Main Span**	***Northern Alignment (Proposed Action)***
Intertidal & Subtidal Shallows	5.32	5.81	*5.45*
Tidal Waters	11.19	10.74	*10.37*
Freshwater Wetlands	8.25	10.46	*10.46*
Total	**24.76**	**27.01**	***26.28***

Comparatively, the Proposed Action would result in the least amount of permanent disturbance to regulated areas as compared to the other two alternatives shown in the tables above. The New Parallel Structure to the South alternative would result in the least amount of temporary disturbance.

As noted in the draft NEPA EA, the New Parallel Structure to the South alternative would result in the permanent closure of a city street in Bayonne and displace residents of over 20 single- and multi-family buildings and would require relocation of a section of the Colonial Pipeline in Newark. All of these impacts are avoided by the Proposed Action.

In addition to having greater permanent impacts to intertidal and subtidal shallows and tidal waters than the Proposed Action, the Shorter Main Spans alternative would result in a narrower Newark Bay North Reach Federal Navigational Channel, which constitutes an alteration under 33 CFR 408, and

vessel passage would be more restricted than maintaining the existing Navigational Channel width, as provided under the Proposed Action.

The NEPA EA alternatives evaluation, Section 2.4, has been updated to add the details of the other two alternatives and their estimated impacts to regulated areas as compared to those of the Proposed Action.

Comment 56. The EPA suggests that the document should discuss overall alternatives to minimize wetland impacts for the Proposed Action.

Response The NEPA EA has been updated at Section 2.4 to provide additional information on potential wetland impacts of the Proposed Action and other alternatives that met an initial screening for meeting the purpose and need for the project.

During pre-application meetings with the NJDEP Division of Land Resource Protection, the NJDEP review team acknowledged that the project would be obtaining permits in the Preliminary Design phase. NJDEP requested that the Authority provide permit plans and proposed impacts for the worst-case scenario to avoid the need for a permit modification in the future. NJDEP noted that impacts could be further reduced in final design and coordination with the Mitigation Unit could occur to more accurately provide compensation for disturbances to regulated areas. Therefore, the impacts reported in the draft NEPA EA are conservative per NJDEP's request. Ultimately, the final impacts will be less than those reported in the NJDEP Land Use permit and the NEPA EA.

As part of its review of the Section 404 permit application, USACE requested changes to proposed permanent wetland impacts to reduce the potential for overall wetland impacts. In response, the Authority modified proposed construction plans to reduce areas of potential permanent access impacts.

Comment 57. The EPA suggests that the document should better characterize the proposed permanent wetland impacts associated with the Proposed Action, particularly the fill associated with "permanent access & maintenance." This fill accounts for 9.72 acres of the proposed permanent impacts. The document should provide more specifics regarding the purpose for this fill and measures taken to minimize impacts.

Response Permanent impacts from access and maintenance include gravel fill to provide access underneath the structure for inspections, maintenance activities, and a security fence. Permanent access and maintenance impacts account for approximately 8.76 acres of impacts in freshwater wetlands and 0.97 acres of impacts in tidal marsh. The permanent access and maintenance area is aligned with the footprint of the NB-HCE roadway from eastbound bridge fascia to westbound bridge fascia. Per NJDEP's request to overestimate impacts, the preliminary design of this area covered the entirety of the road footprint and will ultimately be reduced during final design. NJDEP recommended that the project permit for the worst-case scenario of disturbance and further detail impact reduction subsequently (i.e. for mitigation purposes). Section 3.11.5.1 of the NEPA EA has been updated to incorporate the details noted herein regarding permanent access and maintenance.

Comment 58. The EPA suggests that more detail should be provided regarding the 26.28 acres of temporary wetland impacts. This should include measures taken to minimize these impacts and the specific restoration measures to be taken after their removal. A discussion of the regrading, planting and monitoring activities associated with post-removal of these impacts should be included.

Response The updated design now has 26.236 acres of temporary impacts comprising the following components:

Project Element	Temporary Impacts (acres)
New road	0.071
Cofferdams (piers/fenders)	4.444
Construction access	8.315
Construction trestle*	13.406
Note: * -- Of the 13.406 acres, 12.846 acres results from trestle shading (nearly half of the 26.236 acres of total temporary impacts). Installation of trestle piles will amount to approximately 0.560 acres of temporary fill in wetlands and tidal waters.	

Temporary disturbances in-water would be restored upon removal, as tidal waters will refill trestle and cofferdam sheet pile areas. Trestle and cofferdam sheet pile areas, and construction access routes located in estuarine or freshwater marshes will be regraded to original elevations and re-planted or seeded, as detailed on the approved NJDEP Freshwater Wetland/Waterfront Development Restoration Plans.

Low marsh areas will be replanted with *Spartina alterniflora* plugs on 3-foot centers. High marsh areas will be replanted with *Spartina cynosuroides*, *Disticulus spicata*, and *Juncus gerardii*. Freshwater wetlands will be re-seeded with an emergent wetland mix containing *Andropogon gerardii*, *Panicum virgatum*, *Panicum amarum*, *Leersia oryzoides*, *Echinocloa walterii*, and a mixture of native forbs and rushes. Along the lower elevations of freshwater wetland, shrubs will be planted, including *Baccharis halimifolia*, *Myrica pensylvanica*, *Clethra alnifolia*, and *Amorpha fruticosa*. Many of these wetland areas are dominated by *Phragmites australis* currently and may require herbicidal treatment post-construction to ensure native species establishment. Wetland transition areas and upland locations will be re-seeded with a coastal successional field mix consisting of various warm-season grasses and perennial wildflowers.

Monitoring of temporarily disturbed and restored areas is not a requirement of the NJDEP permit, but restored grades will be reflected in as-built drawings and re-vegetated wetland areas will be revisited during the first growing season following construction to determine the success of the replanting and seeding. Adaptive management may include herbicide treatment of invasive species and/or spot re-seeding and replanting as needed to ensure the restored areas return to their intended condition.

Section 3.11.5.1 of the NEPA EA has been updated to reflect the additional detail of temporary impacts and post-construction restoration.

Comment 59. The draft NEPA EA explains that the proposed project will permanently impact 3.808 acres of tidal waters, 2.025 acres of tidal wetlands, and 9.118 acres of nontidal freshwater wetlands. Mitigation for these impacts includes the restoration of 0.817 acres of tidal open water through the removal of the existing bridge piers and either purchasing mitigation credits from an existing bank within Watershed Management Area 5 and 7 or the development of a permittee-responsible mitigation project. If mitigation bank credits are not able to be purchased and permittee-responsible mitigation is proposed, the [USFWS] requests the opportunity to review the mitigation plan. The draft NEPA EA lacks sufficient detail on how the proposed mitigation measures will effectively compensate for the specific ecological functions lost in the affected wetlands of Newark Bay.

Response If permittee-responsible mitigation is proposed for any portion of the mitigation required for the project, the Authority will provide the USFWS the opportunity to review the mitigation plan.

Comment 60. The Proposed Action will result in water quality impacts within Newark Bay that would affect Environmental Justice communities.

Response As part of its permitting requirements, the Authority has received a Section 401 Water Quality Certification from the NJDEP affirming NJDEP's assessment that the Proposed Action will not violate the State's water quality standards, provided that best practices and other supplementary measures are used during the construction process. The Authority will continue to coordinate with USEPA as it implements its remediation plans for Superfund sites within and adjacent to Newark Bay to avoid any conflicts in work periods or areas. The Authority will require its contractor to implement a sediment monitoring program to avoid resuspension of sediments within Newark Bay.

Comment 61. EPA recommends the EA make clear whether the adverse water quality impacts associated with construction would be mitigated to below significant levels through the measures outlined in the document (work time restrictions, soil erosion and sediment control plans, turbidity barriers, bubble curtains, etc.).

Response The NEPA EA has been revised to clarify that, with implementation of NJDEP-required and other proposed control measures, expected water quality impacts will be below significant levels. Receipt of a Section 401 Water Quality Certification by NJDEP demonstrates the required review.

Threatened & Endangered Species

Upland Species

Comment 62. The [U.S. Fish & Wildlife] Service appreciates that the Service's Information for Planning and Consultation (IPaC) tool was used to obtain an official species list (dated April 2, 2024). As described within the list, the tricolored bat (*Perimyotis subflavus*, proposed endangered) and monarch butterfly (*Danaus plexippus*, candidate) are the only species to consider within the action area. The northern long-eared bat (*Myotis septentrionalis*, endangered) was also included on the list.

However, northern long-eared bat does not need to be considered/evaluated pursuant to Section 7(a)(2) of ESA since the action area is within a portion of New Jersey that only needs to be considered/evaluated if wind turbine operations are proposed.

Response Comment noted.

Comment 63. On September 14, 2022, the [U.S. Fish & Wildlife] Service published a proposal in the *Federal Register* (FR) to list the tricolored bat as endangered under the ESA (FR Vol. 87 (177): 56381-56393). A final determination to either list the tricolored bat under the ESA or to withdraw the proposal is anticipated during Fiscal Year 2024.

In 2023, the tricolored bat was acoustically detected within 6.5 miles of the action area. It is a small insectivorous bat that typically overwinters in caves, abandoned mines and tunnels, and road-associated culverts (southern portion of the range). They spend the rest of the year in a wide variety of forested areas where they roost and forage, including adjacent and interspersed non-forested areas such as emergent wetlands and adjacent edges of agricultural fields, old fields, and pastures. This also includes forests and woodlots containing trees with potential roost substrate (i.e., live and dead leaf clusters of live and recently deceased deciduous trees, Spanish moss (*Tillandsia usneoides*), and beard lichen (*Usnea trichodea*)), as well as linear features such as fencerows, riparian forests, and other wooded corridors. Tricolored bats will roost in a variety of tree species, especially oaks, and often select roosts in tall, large diameter trees, but will roost in smaller diameter trees when potential roost substrate is present (e.g., 4-inch [10-centimeter]; Leput 2004). They may also roost in human-made structures, such as bridges and culverts, and occasionally in barns or the underside of open-sided shelters (e.g., porches, pavilions).

This project is not likely to jeopardize the continued existence of the tricolored bat therefore, ESA Section 7(a)(4) conference is not required. Once a final rule to list the tricolored bat is published and goes into effect (typically 30–60 days after publication), Section 7(a)(2) requirements for consultation and Section 9 prohibitions against unpermitted "take" of the species will apply. However, informal Service review may be requested for actions that may affect a proposed species. The Service encourages that project impacts are analyzed to ensure that effects to proposed species are reviewed if/when they are officially listed. Given that construction is not proposed to begin until 2026, this will be beneficial to the USCG since it will help to prevent potential future delays or complications for project construction. Therefore, the Service recommends that the effects of the proposed project on tricolored bat and their habitat is analyzed and minimized.

Conservation measures the Service recommends to ensure the proposed action is not likely to adversely to affect the tricolored bat include:

1. Ensuring that the cutting or other means of knocking down, bringing down, or trimming of trees that contain suitable roosting substrate (i.e., live and dead leaf clusters of live and recently deceased deciduous trees, Spanish moss (*Tillandsia usneoides*), and beard lichen (*Usnea trichodea*)) is avoided during the pup season from May 15 to July 31 (recommended from April 1 to September 30).

The Newark Bay Bridge and other structures within the action area may serve as a roosting location for tricolored bats. However, given the urbanization of the area and active use of the bridge/associated roadways this appears to be extremely unlikely to occur/is discountable.

Response

The NEPA EA has been revised to reflect this statement regarding tricolored bats and the Newark Bay Bridge and other project structures. The NEPA EA has been revised to reflect the recommendation that removal or trimming of any tree within the project limits that provides suitable roosting substrate will be performed between October 1 and March 31.

Comment 64.

The monarch butterfly was designated a candidate for ESA listing in December 2020. Although candidate species receive no substantive or procedural protection under the ESA prior to listing, the [U.S. Fish & Wildlife] Service encourages consideration of these species in project planning. The monarch butterfly range includes all of New Jersey, including small habitat patches within developed areas. The draft NEPA EA explains that milkweed was found within one upland sample point within the action area. The Service encourages adherence to best management practices for avoiding impacts to the monarch and improving habitat where possible. The following is recommended:

1. Identifying presence of and avoiding impacts to suitable monarch butterfly habitat. If avoiding impacts to suitable monarch habitat is not possible, avoid impacts during times of year monarch's may be present from May 1 to September 30. Review the "Mowing and Management: Best Practices for Monarch's" handout at: https://monarchjointventure.org/blog/revised-handout-mowing-and-management-best-practices-for-monarchs to see if any other conservation measures are applicable to this project/can be implemented.

2. Review the conservation measures and descriptions included in Section VII of the "Monarch CCAA Application" that can be found at: https://rightofway.erc.uic.edu/working-group-access/monarchccaatoolkit. Although the Candidate Conservation Agreement for monarch butterfly is not applicable for this project, we recommend reviewing the application to help aid in the development of possible conservation measures.

3. Review the Services website at: https://www.fws.gov/initiative/pollinators/monarchs, New Jersey Department of Environmental Protection's (NJDEP) (2017) Monarch Butterfly Conservation Guide, and the Monarch Joint Venture website at: https://monarchjointventure.org/mjvprograms/science/roadside-habitat-for-monarchs/best-management-practices-resources for possible conservation measures to implement.

If future listing of the monarch butterfly occurs before or during project construction, the Service may recommend additional conservation measures.

Response

Based on field surveys, the Authority has determined that suitable habitat for monarch butterfly is limited to only small areas within the project limits. Where milkweed is present and proposed for removal, it will be removed between October 1 and April 30 (inclusive of avian species) outside of the active season for

monarchs in New Jersey. The NEPA EA has been revised to reflect this statement regarding monarch butterfly habitat within the project limits.

The Authority will review and consider the Candidate Conservation Agreement application. The Service should note that temporarily disturbed areas will be revegetated post-construction. Wetland transition areas will be reseeded with a coastal successional field mix comprised of warm season grasses and perennial wildflowers, a mix which includes five (5) species of milkweed (*Asclepias* spp.) and includes but is not limited to various nectar species such as asters (*Symphyotrichum* spp.) and goldenrods (*Solidago* spp.). Palustrine emergent wetlands will be re-seeded with a native emergent wetland mix which also includes native forbs such as beggarticks (*Bidens* spp.), seaside goldenrod (*Solidago sempervirens*) and perennial saltmarsh aster (*Symphyotrichum tenuifolium*). The NEPA EA has been revised to reflect the above-mentioned language regarding temporarily disturbed areas and monarch habitat.

The Authority will monitor the Service's website, the NJDEP Monarch Butterfly Conservation Guide, and the Monarch Joint Venture websites for potential conservation measures and best management practices. The Authority understands the potential for the monarch butterfly to be listed in the ESA in the future and will continue to work with the Service to limit impacts to monarch butterflies and their habitat.

Comment 65. The saltmarsh sparrow (*Ammospiza caudacuta*) is under review for Federal listing per the ESA and may be present within the salt marshes of the project area. It is also a [U.S. Fish & Wildlife] Service identified priority at-risk species, indicating that its populations are declining and that they are "at-risk" of becoming candidates for ESA listing. It is a tidal marsh-obligate songbird that breeds in coastal states from Maine to Virginia (Hartley and Weldon 2020). Saltmarsh sparrows generally nest in high marsh areas just above the mean high-water line. They are most frequently sited and prefer habitats in salt marsh ecosystems where *Spartina* (usually *patens*) and *Distichlis spicata* are present (Hartely and Weldon 2020). Due to the historic loss and degradation of salt marsh habitat, especially high marsh, as well as accelerated sea level rise, saltmarsh sparrows have experienced an 87 percent population decline since 1998 (Hartley and Weldon 2020). Concentrated efforts are being made for the saltmarsh sparrow to preclude the need for listing and improve salt marsh habitat. The Atlantic Coast Joint Venture developed a Saltmarsh Sparrow Habitat Prioritization Tool to identify and rank salt marsh habitat patches within the species' breeding range. The salt marsh/tidal wetlands in the project area contain habitat patches within the species breeding range. The saltmarsh sparrow habitat prioritization tool is available at: https://fws.maps.arcgis.com/apps/MapSeries/index.html?appid=1bc5b29be4ac43d8949b2941d2ce5174.

Species under review for listing and Service priority at-risk species do not receive any protections under the ESA, and the Service has not yet determined if listing of the saltmarsh sparrow is warranted. A determination for ESA listing of the saltmarsh sparrow is anticipated in Fiscal Year 2024. The National Listing workplan for Fiscal Years 2024-2028 can be found at: https://www.fws.gov/project/national-listing-workplan for more information

on species listing timelines. If saltmarsh sparrow is proposed for or listed pursuant to the ESA before or during construction, potential delays/additional consultations may be necessary. As such, the USCG may wish to analyze effects to them, to help avoid or minimize delays if they are listed before or during project construction.

The saltmarsh sparrow was observed adjacent to the proposed project at Richard A. Rutkowski Park and also at other sites within 5 to 10 miles of the project area (ebird accessed 2024). Provided that the species has previously been observed in the vicinity and that potentially suitable salt marsh/tidal wetland habitat with *Spartina* is proposed to be permanently impacted, the Service recommends the following conservation measures:

1. As possible, avoid impacting high and adjacent low marsh areas that may contain suitable saltmarsh sparrow habitat.

2. If work in potentially suitable saltmarsh sparrow habitat cannot be avoided, utilize a time of year restriction within high and adjacent low marsh areas from May 1 to September 15, to avoid impacts during sensitive times of year when saltmarsh sparrows may be breeding, nesting, and have unfledged juveniles (Hartley and Weldon 2020; Service 2020). Saltmarsh sparrows typically nest in high marsh areas to avoid tidal flooding and forage in the adjacent low marsh areas. The *Spartina* saltmarsh/tidal wetlands located on the western portion of the Newark Bay Bridge is the area that appears most likely to contain habitat for this species.

3. Refer to the Atlantic Coast Joint Venture's Saltmarsh Sparrow Conservation Plan (Hartley and Weldon 2020). The document provides a description of saltmarsh sparrow and their habitat. We recommend reviewing this document and any other applicable information to confirm if suitable habitat is present and, if necessary, to develop additional conservation measures.

Additional conservation measures may be required if the species is listed in the future. The saltmarsh sparrow is also protected pursuant to the MBTA, and the measures described below are recommended for conserving the species.

Response

The Authority understands the likelihood of saltmarsh sparrow listing in Fiscal Year 2024 and will incorporate the species into the NEPA EA special status species evaluations. Suitable saltmarsh sparrow habitat is present on the west side of Newark Bay but is limited within the project limits. There is a small area of low marsh south and adjacent to the Bridge (~1 acre), but the low/high marsh matrix located north of the Bridge provides the most suitable saltmarsh sparrow habitat (~6 acres) located outside of the project limits. This is reflected in the Atlantic Coast Joint Venture Saltmarsh Sparrow Habitat Prioritization tool. Proposed permanent impacts to tidal wetland areas comprise approximately 0.624 acres on the west side of Newark Bay and consist of Phragmites-dominated marsh and tidal creek – areas not considered suitable for saltmarsh sparrows. Regardless, marsh vegetation in the areas to be permanently disturbed will be removed between September 15 and March 15, inclusive of other migratory birds.

Temporary impacts are proposed in approximately 0.825 acres of tidal marsh from the temporary trestle and include approximately 0.653 acres of Spartina alterniflora low marsh habitat. 0.653 acres represents marsh areas shaded from

the trestle deck and is not indicative of displaced marsh area. There is approximately 0.034 acres (~68 piles) of proposed temporary fill from trestle piles in low marsh habitat. Activity on the trestle may deter bird use of nearby marsh due to noise and the presence of moving equipment and human activity, but it will not physically impact individuals once installed due to the raised position of the trestle deck. Temporarily disturbed areas will be restored post-construction and replanted with *Spartina alterniflora*, *Spartina cynosuroides*, *Disticulus spicata*, and *Juncus gerardii* plugs. The Authority will continue to coordinate with the USFWS. If the saltmarsh sparrow is formally listed prior to construction, additional protective measures may be implemented. The NEPA EA has been revised to incorporate the saltmarsh sparrow and the associated impact minimization measures.

Currently, the intent is to off-set impacts from both permanent and long-term temporary disturbance from the project from wetland mitigation banks in the appropriate Watershed Management Areas. Ultimately, mitigation banks provide more extensive and higher quality high and low marsh habitat for saltmarsh sparrows. If permittee-responsible mitigation is proposed for the project, high marsh and low marsh habitat will be considered and the Service will be provided the opportunity to review the mitigation proposal.

The Authority will review the Atlantic Coast Joint Venture's Saltmarsh Sparrow Conservation Plan and consider additional conservation measures, if appropriate.

Comment 66. Migratory birds are a Federal trust responsibility and are afforded protection under the MBTA. Unlike the ESA, the MBTA does not currently have a regulation specific to the incidental take of migratory birds. Birds such as the peregrine falcon (*Falco peregrinus*), barn swallow (*Hirundo rustica*), and the saltmarsh sparrow (mentioned above) may utilize the structures and habitat within the project area for breeding, foraging, resting or other purposes. Notably, peregrine falcons have definitively been documented nesting on the Newark Bay Bridge. For all birds, nests, eggs, chicks, and adults that have recently molted are most at risk of being impacted by the proposed activities since they are unable or unlikely to fly away. As such, to ensure that future activities do not cause actions prohibited under the MBTA (such as the wounding, killing, trapping capturing, or collecting of migratory birds and their nests or eggs) without prior authorization by the Service, [U.S. Fish & Wildlife Service] recommends the creation of a migratory bird protection plan for the project.

The migratory bird protection plan should identify project areas that have the potential to adversely impact birds and explain how the NJTA plans to avoid actions prohibited by the MBTA during construction. At a minimum, the plan should involve:

1. Identifying the project areas that are likely to be inhabited by migratory birds and determining the times of year there may be nests, eggs, and flightless birds (e.g., chicks, birds that recently molted). This is already known for some species in the project area, such as the peregrine falcons that nest on the Newark Bay Bridge. The structures, wetlands, and trees within the project area may also contain habitat for nesting birds. Tools such as ebird; the Migratory Birds section of the Service requested official species list; NJDEP landscape shapefiles;

communications with the NJDEP; and previous documentation/studies of the area may also be helpful to accomplish this goal (ebird accessed 2024; NJDEP accessed 2024; Service accessed 2024). The draft NEPA EA does evaluate potential affects to migratory birds and this step may have already been completed for the project.

2. For work anticipated to occur within the areas identified above and during times of year that nests, eggs, and flightless birds may be present (most likely March 15 to September 15, depending on the species): the Service recommends that a person(s) knowledgeable and capable of bird identification visually inspects the identified areas for the presence of nests, eggs, and flightless birds no more than five days prior to project activities commencing. For visual inspections of areas where peregrine falcons are/may occur, the breeding period of March 1 to July 31 should be utilized. Please ensure that the plan considers the difficulty of detecting species that may be present in that area.

When discussing impacts to terrestrial vegetation and wildlife (including birds) the draft NEPA EA explains that "marsh vegetation would be removed outside of the breeding window for these species in New Jersey (March through August) to eliminate the potential for nesting during the active season if work cannot abide by breeding season timing restrictions for migratory bird species. Based on this analysis, pursuant to the Migratory Bird Treaty Act, the Proposed Action will not result in a take of migratory birds or the parts, nests, or eggs of such bird." This measure will be especially helpful for the conservation of birds, such as the saltmarsh sparrow. While the Service appreciates this measure and agrees that it will be helpful to reduce the possibility of actions prohibited under the MBTA, we recommend additional measures including:

- Expanding the breeding window referenced to be inclusive of March 15 to September 15 to protect species such as the saltmarsh sparrow.
- Continuing to visually inspect the wetland areas (as explained above), regardless of if the vegetation is removed as bird nesting in the area remains possible. Visual inspections should be relatively brief if vegetation is already removed.
- Visually inspecting structures proposed for construction, prior to it occurring to ensure that active nests will not be destroyed.

3. If nests, eggs, and flightless birds are present, the Service recommends avoiding work that could cause actions prohibited under the MBTA (such as the wounding, killing, trapping, capturing, or collecting of migratory birds and their nests or eggs) without prior authorization by the Service. An example of a prohibited activity would be removing or relocating the peregrine falcon nest while it is being used or permanently impacting a wetland that contains an active nest. Destruction of inactive nests (contains no eggs or chicks and is no longer being used by birds for breeding) is not prohibited under the MBTA, provided that no possession occurs during the destruction. More information about bird nests and the MBTA can be found at the Service's website (Accessed 2024b).

4. Regardless of time of year, if native migratory birds are present at the time of the proposed construction, the Service recommends providing an opportunity for

those birds to leave the area before construction occurs. This will help to ensure that birds are not incidentally wounded or killed by the proposed action.

For future activities that cannot avoid actions prohibited by the MBTA, project proponents should contact the Service for further information on how to proceed. If a migratory bird protection plan is developed, the Service requests to review it in coordination with the NJDEP to ensure it will achieve conservation results. The Service appreciates that the NJTA has already coordinated with the NJDEP regarding the nesting peregrine falcons.

In addition to the issues described above, the proposed project includes installations that may introduce new lighting into areas where birds may be present. As such, the Service recommends that the NJTA uses (as applicable) lighting that reduces adverse effects to migratory birds at night. We recommend that these measures are incorporated into the future version of the Environmental Assessment. For more information, please refer to Enclosure A - Beneficial Practices to Reduce the Potential Impact of Lighting on Migratory Birds.

Response

The Authority anticipates removing all upland and freshwater wetland vegetation (trees, shrubs, herbaceous) proposed for permanent and temporary disturbance between September 15 and March 15. Tidal marsh vegetation in areas proposed for permanent and temporary disturbance will be removed between September 15 and March 15. In compliance with the NJDEP Permit No. 0000-23-0012.2 "Threatened and Endangered Species Special Conditions" the Authority coordinated with the NJDEP Endangered and Nongame Species Program to develop a "Peregrine Falcon Impact Avoidance Proposal" to outline efforts to encourage falcon nesting on a proposed nesting platform north of the proposed bridge, in the northern tidal marsh. Part of the Proposal includes peregrine falcon monitoring, which will occur from March 1 to July 31 of each season until Newark Bay Bridge demolition.

The Authority proposes to expand upon the peregrine falcon monitoring to include all migratory bird species and will develop a Migratory Bird Monitoring Plan to be implemented prior to and during construction between March 15 and September 15 by qualified wildlife biologists with avian experience. The monitoring will consist of daily visual searches of structures and remaining vegetation in or adjacent to work areas to determine bird use. The NEPA EA has been revised to reflect the implementation of a Migratory Bird Monitoring Plan.

As noted previously, the Authority proposes to develop a Migratory Bird Monitoring Plan to be implemented prior to and during construction between March 15 and September 15 by qualified wildlife biologists with avian experience. Migratory bird monitoring will occur even after vegetation is removed in areas proposed for disturbance and on structures proposed for construction. The NEPA EA has been revised to reflect the implementation of a Migratory Bird Monitoring Plan.

The Authority will avoid work that would cause actions prohibited under the MBTA without prior authorization. The intent of a Migratory Bird monitor would be to prevent disturbance or destruction to nests, eggs, or flightless birds during construction activities.

The Migratory Bird monitor would actively monitor bird use in or near construction areas. The monitor would encourage the contractor(s) to allow native migratory birds to vacate areas prior to commencing construction activities.

Upon the development of a Migratory Bird Monitoring Plan, the Authority will coordinate with the Service and the NJDEP to ensure that the plan achieves conservation results. Due to the NB-HCE's proximity to Newark-Liberty International Airport, the project is required to abide by Federal Aviation Administration (FAA) lighting standards, but the Authority will consider the provided Service guidance regarding lighting impacts on migratory birds and use recommendations, where appropriate.

Comment 67. As explained in the draft NEPA EA, bald eagles (*Haliaeetus leucocephalus*) have been documented nesting within 1.5 miles north of the project area. Additionally, bald eagles likely forage in the project area. Bald eagles are protected by the BGEPA and impacts from the proposed project may require the NJTA to apply for a permit from the [U.S. Fish & Wildlife] Service if nesting is observed within 660 feet of the proposed activities. The Service recommends using the Northeast Bald Eagle Project Screening Form to determine if further review by the Service is required for bald eagles in the future (available at: https://www.fws.gov/sites/default/files/documents/northeast-bald-eagle-project-screening-form-2021-12-01.pdf). Please review the Service's Eagle Management Program website(https://www.fws.gov/program/eagle-management) for additional information and appropriate contacts for questions or concerns. Unlike birds protected solely under the MBTA, removal of inactive bald eagle nests would still require approvals/permits pursuant to the BGEPA. Additionally, please be aware that the bald eagle is listed as endangered (breeding season) and threatened (non-breeding season) under New Jersey's Endangered and Nongame Species Conservation Act of 1973 (New Jersey Statutes Annotated 23:2A-1 to 23:2A-1:16). As such, when the proposed work proceeds in the future, the NJDEP's Endangered and Nongame Species Program may need to be consulted to ensure compliance with the New Jersey Endangered Species Conservation Act of 1973. Information about bald eagles in New Jersey can be found at: https://dep.nj.gov/wp-content/uploads/njfw/baldeagle.pdf.

Response The Northeast Bald Eagle Project Screening form was utilized to determine if further review is required by the Service. Due to the distance of the nest from the project limits, the Authority anticipates implementing the applicable avoidance measures for each proposed activity with the potential of disturbing Bald Eagles. The NEPA EA has been revised to reflect the applicable avoidance measures to avoid disturbance to bald eagles during project construction. Additionally, bald eagles were not a species of concern during NJDEP permit review. The NJDEP is proposing to de-list bald eagles from the NJ Endangered Species list, as announced in June 2024.

Wetland & Aquatic Species

Comment 68. The construction activities associated with the Proposed Action will lead to the destruction of critical wetland habitats that support a diverse array of flora and

fauna. It is important to schedule construction activities so as not to interfere with migration and nesting periods to reduce any inadvertent harm to local wildlife.

Response: Extensive consultation has been conducted with USACE, USFWS, NOAA NMFS, and NJDEP to minimize the effect of construction activities. The Authority will provide USFWS the opportunity to review the mitigation plans. As noted above, the Authority proposes to develop a Migratory Bird Monitoring Plan to be implemented prior to and during construction between March 15 and September 15 by qualified wildlife biologists with avian experience. The monitoring will consist of daily visual searches of structures and remaining vegetation in or adjacent to work areas to determine bird use.

CUMULATIVE IMPACTS

Comment 69. EPA acknowledges that this project is a part of the larger NB-HCE Improvements Program but can be considered a discrete action from the other planned projects due to its independent utility. EPA also acknowledges the definition of cumulative effects included in section 3.1 of the EA.

Response Comment noted.

Comment 70. EPA understands that the traffic and air quality modeling incorporates the projects listed in Appendix B. However, it is unclear if these projects and other reasonably foreseeable actions (federal and non-federal) have been considered for each resource area. EPA recommends the lead agencies revise the EA to either include a discussion of the cumulative impacts of concurrent and reasonably foreseeable projects in each respective resource category, or in a dedicated cumulative impacts chapter/section. EPA recommends that the lead agencies include a table in the main body of the EA which lists reasonably foreseeable projects which are expected to occur between planning and construction completion along with their respective construction timelines.

Response The Authority relied upon the North Jersey Transportation Planning Authority's Regional Transportation Model-Enhanced (NJRTM-E) which includes the existing transportation facilities (highway and transit) in the regional network plus all fiscally constrained transportation projects in the approved 2050 Regional Transportation Plan as an authoritative source for future projects and development activity between now and 2050. That model is the appropriate tool for the traffic analysis because it has been approved by the Federal Highway Administration and the Federal Transit Administration for modeling the transportation network and air quality effects of future transportation projects contained in the federally approved 2050 regional transportation plan for the 13-county North Jersey region, which includes Essex and Hudson counties.

The basis for the traffic growth projections in the model are the future (2050) estimates of population and employment growth established by NJTPA through coordination with the counties and municipalities. As population and employment are allocated geographically in the model, the model in effect accounts for anticipated future development beyond currently proposed projects. It is noted that the County Executives of Essex and Hudson Counties, the Mayors

of Newark and Jersey City, and the Chairman of the Port Authority of NY &NJ are members of the NJTPA Board of Trustees among whose responsibilities are voting to adopt the regional transportation plan and its underlying demographic and traffic assessments.

The NB-HCE Improvements Program's projects are included in the model. In accordance with acceptable modelling standards and protocols, the No Build Alternative traffic volumes were projected by running the model without the NB-HCE Program projects. The traffic analysis in the draft NEPA EA is a cumulative impact assessment because it includes all "past, present, and reasonably foreseeable" transportation projects in North Jersey to 2050 included in the NJTPA model; is reflective of future growth and development in North Jersey, including the NB-HCE corridor to 2050 as included in the NJTPA model; and includes all the NB-HCE Improvements Program projects.

In turn, the draft NEPA EA's air quality and noise analyses are based on the traffic analysis. It is noted, for example, that the design of the replacement noise wall in Bayonne is based on traffic volumes with the entire NB-HCE Program being implemented.

For other large concurrent or reasonably foreseeable projects that are not transportation or development related, e.g., USEPA Newark Bay remedial action, the Authority will coordinate with agencies conducting those projects to identify projected schedules and areas of work to avoid or minimize overlapping effects.

Information on other reasonably foreseeable projects was included, as applicable and appropriate, in assessments of potential impacts in the land use, traffic, air quality, noise hazardous materials, and natural resources assessments in the NEPA EA.

Comment 71. EPA recommends the EA include a discussion on potential impacts of concurrent construction or dredging projects located in close proximity.

Response Section 3.10.5 of the NEPA EA has been revised to include updated information and discussion on how the Authority will coordinate with USEPA's proposed schedule and location of remedial actions within Newark Bay and USACE's New York and New Jersey Harbor Deepening and Channel Improvement projects near the Proposed Action. Due to uncertainties in USEPA's ultimate implementation of remedial actions, the Authority has agreed to continue to coordinate with USEPA to share information on remediation and construction schedules to avoid conflicts.

Comment 72. Appendix B states that the Port Authority of New York and New Jersey Port Master Plan was incorporated into the NJTPA traffic model but that the potential port expansion projects are not included in the model. Given that the 2050 air quality and level of service modeling relies on the results of the NJTPA traffic model, EPA recommends that the EA address the potential impact of the port expansion projects on projected level of service and local air quality in minority and low- income communities.

Response NJTPA's NJRTM-E does include port areas as "special trip generators" with information on projected changes in trips provided by the Port Authority of New

York & New Jersey. The NB-HCE project team continues to coordinate with the Port Authority and monitor Port-specific projects and forecasts in coordination with the NB-HCE Improvements Program project and schedule. Specific port improvement projects are not identified in the NJRTM-E, but estimates of future trips generated by anticipated port expansions are included in the NJRTM-E and, therefore, reflected in the Project's traffic analysis.

Comment 73. For additional information and resources for developing the cumulative impacts analysis, EPA recommends the lead agencies refer to CEQ's cumulative effects guidance, Considering Cumulative Effects Under NEPA.

Response USCG is no longer required to evaluate cumulative impacts. In an effort to identify and minimize unanticipated potential impacts to residential communities during construction, the Authority will implement an Adaptive Management Plan to monitor, measure and report on issues that could contribute to impacts.

Comment 74. The EA does not include an assessment of cumulative impacts.

Response The travel forecasting model of the North Jersey Transportation Planning Authority (NJTPA) is the basis for the travel demand growth projections for the 2050 analysis year in the draft NEPA EA.

That model is the appropriate tool for assessing traffic analysis because it has been approved by the Federal Highway Administration and the Federal Transit Administration for modeling the transportation network and air quality effects of future transportation projects contained in the federally approved 2050 regional transportation plan for the 13-county North Jersey region, which includes Essex and Hudson counties.

The basis for the traffic growth projections in the model are the future estimates of population and employment growth established by NJTPA through coordination with the counties and municipalities. The county executives of Essex and Hudson Counties, the Mayors of Newark and Jersey City, and the Chairman of the Port Authority of NY &NJ are members of the NJTPA Board of Trustees among whose responsibilities are voting to adopt the regional transportation plan and its underlying demographic and traffic assessments.

The NB-HCE Program's projects are included in the model. The No Build Alternative traffic volumes were projected by running the model without the NB-HCE Program projects.

The traffic analysis in the draft NEPA EA includes all "past, present, and reasonably foreseeable" transportation projects in North Jersey to 2050 included in the NJTPA model; is reflective of future growth and development in North Jersey, including the NB-HCE corridor to 2050 as included in the NJTPA model; and includes all the NB-HCE Program projects.

In turn, the draft NEPA EA's air quality and noise analyses are based on the traffic analysis. (The design of the replacement noise wall in Bayonne is based on traffic volumes with the entire NB-HCE Program being implemented).

In an effort to identify and minimize unanticipated, potential impacts to residential communities during construction, the Authority will implement an

Adaptive Management Plan to monitor, measure and report on issues that could contribute to community impacts.

Comment 75. The EA should have accounted for planned expansion of New York Penn Station.

Response The Authority relied upon NJTPA's NJRTM-E to evaluate the effect of regional transportation improvements in the 2050 Regional Transportation Plan. As the Metropolitan Planning Organization (MPO) for this portion of New Jersey, NJTPA is responsible for identifying planned or programmed transportation improvements and modeling those improvements for conformity with Clean Air Act standards. Thus, their position that "[t]he Gateway Program provides redundancy and reliability" (and not increases in service and capacity) is the considered position of the entity charged with planning for and evaluating transportation improvements within this region. Further, while RPA cites the fully-funded Hudson Tunnel portion of the Gateway Program, expansion of Penn Station New York is not fully-funded (nor is it fully planned or designed), nor are several of the other key components of the Gateway Program that would allow for increases in service. Once those improvements have been advanced to a point where the regional travel demand model would need to be updated it would be up to NJTPA to do that work.

Comment 76. The EA must include potential cumulative impacts to Newark Bay associated with construction of the Proposed Action and USEPA's Newark Bay Superfund Project.

Response The EA has been revised to acknowledge USEPA's current interim remedial plan for Newark Bay and any focus areas proximate to the Newark Bay Bridge. The Authority will continue to collaborate with USEPA to share information on remediation and construction schedules to avoid conflicts. The Authority will require the Final Design team to develop a comprehensive resuspension control plan to monitor the water column and to lay out a decision process/means and methods for potential corrective action to mitigate sediment resuspension during construction, if required.