

7.0 Responses to Comments on the Draft EA



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Habitat Conservation Division
James J. Howard Marine
Sciences Laboratory
74 Magruder Road
Highlands, New Jersey 07732

September 29, 2005

Grace Musumeci
US Environmental Protection Agency
Region II
290 Broadway, 25th floor
New York, NY 10007-1866

Dear Ms. Musumeci:

Thank you for providing NOAA's National Marine Fisheries Service with copies of the preliminary Draft Comprehensive Port Improvement Program (CPIP) Environmental Assessment. We have reviewed the document and offer the following minor comments.

In accordance with the findings of the 2005 Biological Opinion issued to the Army Corps of Engineers for the Harbor Deepening Project, with the exception of occasional transients, threatened or endangered species under NMFS' jurisdiction are not expected to occur in the vicinity of the Port Newark, Port Elizabeth and Howland Hook Marine Terminals. Federally protected marine species may be found in the vicinity of the Port Jersey Terminal, the Peninsula at Bayonne Harbor, the South Brooklyn Marine Terminal and the Red Hook Terminal. The DEA could be updated to reflect this in Section 5.0 where the environmental concerns/issues of the individual terminals are discussed. **(F.1.1)**

The DEA should also note that the status of these species may change as new information becomes available and that additional species may be added as warranted. At the time any project is proposed, the federal action agency should confirm the status of the federally protected species to obtain the most current listings. **(F.1.2)**

Also, the list containing federally managed species for which essential fish habitat (EFH) has been designated is not complete. In addition to the species included in Table 3-5 and the accompanying paragraph, EFH for several species of sharks has also been designated within the project area. These include the following:

Dusky shark (*Carcharhinus obscurus*) – neonates/early juveniles
Sandbar shark (*Carcharhinus plumbeus*) – all life stages - neonates/early juveniles, late juveniles/subadults and adults
Sand tiger shark (*Carcharias taurus*) - neonates/early juveniles **(F.1.3)**

The DEA should also note that while this is the current list of federally managed species and their EFH, these designations may change as additional information about a particular species' life history or population status changes. At the time any project is proposed, the federal action agency should review the status of EFH and the federally managed species to obtain the most current designations. **(F.1.3)**

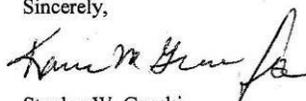
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Lastly, on page 3-51, in the first paragraph, fourth line down, there appears to be typo. The sentence currently states, "Adjacent to the site and along the northern boundary are founder marine intertidal flats." Founder should be changes to found. **(F.1.4)**

Thank you for the opportunity to provide comments on the preliminary draft EA for the CPIP. We look forward to receipt of the final Draft EA and to continued coordination on this and other projects in the New York/New Jersey Harbor area. If you have any questions or need additional information, please contact Karen Greene at 732 872-3023.

Sincerely,



Stanley W. Gorski
Field Office Supervisor

cf: PRD – J. Crocker
HCD Milford Office – D. Rusanowsky
NOS/OCRM – W. O’Beirne
ACOE – M. Lulka

FEDERAL	
F.1 U.S. Department of Commerce - National Oceanic and Atmospheric Administration, National Marine Fisheries Services	
F.1.1	CPIP EA Chapter 5.0 Potential Impacts of CPIP Alternatives, Sections 5.B.1.b.vii, 5.B.2.b.vii, 5.B.3.b.vii, 5.B.4.b.vii, 5.B.5.b.vii, 5.B.6.b.vi, and 5.B.7.b.vii have been revised to reference the 2005 Biological Opinion issued to the Army Corps of Engineers for the Harbor Deepening Project. This information is also included in Chapter 3.0 Existing Conditions, which also references letters provided by the resource agencies after file searches for records of protected species.
F.1.2	CPIP EA Chapter 5.0 Potential Impacts of CPIP Alternatives, Sections 5.B.1.b.vii, 5.B.2.b.vii, 5.B.3.b.vii, 5.B.4.b.vii, 5.B.5.b.vii, 5.B.6.b.vi, and 5.B.7.b.vii note that the status of protected species may change as new information becomes available and that additional species may be added, as warranted.
F.1.3	<p>The following are included in CPIP EA Chapter 3.0 Existing Conditions, Table 3-5:</p> <ul style="list-style-type: none"> • Dusky shark (<i>Carcharhinus obscurus</i>) – neonates/ early juveniles • Sandbar shark (<i>Carcharhinus plumbeus</i>) – all life stages • Sand tiger shark (<i>Carcharias taurus</i>) – neonates/early juveniles <p>Information on obtaining the most current lists of state and federally managed species and their essential fish habitat is available in the Environmental Screening Methodology Report and the Natural Resources Method Report, both of which are provided in CPIP EA Appendix C Environmental Analysis Methodologies. In addition, text has been added to CPIP EA Chapter 3.0 Existing Conditions.</p>
F.1.4	Typographical error has been corrected.



Eastern Region
Office of the Regional Administrator

1 Aviation Plaza
Jamaica, NY 11434-4809

OCT 3 2005

Grace Musumeci
US Environmental Protection Agency
290 Broadway, 25th Floor
New York, NY 10007-1866

Dear Ms. Musumeci:

Thank you for your letter dated September 14, 2005, requesting comments from the Federal Aviation Administration (FAA) on the Comprehensive Port Improvement Plan (CPIP). We have no comments on the documents from an environmental perspective. We normally comment on other federal agency environmental documents only from the perspective of the FAA's areas of responsibility; that is, whether the proposal will have effects on aviation and the National Airspace System (NAS).

However, we remind you that you will need to consider whether or not the project or its impact (e.g. taller ships in port located near an airport) will require formal notice and review from an airspace utilization standpoint. The requirements for this notice may be found in the Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace. This regulation is contained under Subchapter E, Airspace of Title 14 of the Code of Federal Regulations (CFR). We would like to remind you that if any part of the project exceeds notification criteria under FAR Part 77, notice should be filed at least 30 days prior to the proposed construction date. **(F.2.1)**

If you need information on the requirements for notifying the FAA, instructions for completing the forms, or other information regarding the airspace notification process, please visit our web site at: <http://oeaaa.faa.gov>.

Should you have further questions, please feel free to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Manny Weiss".

Manny Weiss
Regional Administrator

FEDERAL	
F.2 Federal Aviation Administration	
F.2.1	CPIP EA Chapter 6.0 Process for Future Environmental Reviews, Table 6-1 indicates that permits/concurrence for Objects Affecting Navigable Airspace could be required from the FAA as part of future environmental reviews of port projects. The citation in Table 6-1 has been modified to correctly reflect Part 77 of Title 14 of the Code of Federal Regulations.



In Reply Refer to
SP-05739

United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Jersey Field Office
Ecological Services
927 North Main Street, Building D
Pleasantville, New Jersey 08232
Tel: 609/646 9310
Fax: 609/646 0352
<http://njfieldoffice.fws.gov>



OCT 21 2005

Ms. Grace Musumeci
U.S. Environmental Protection Agency
290 Broadway, 25th Floor
New York, New York 10007-1866

Dear Ms. Musumeci:

The U.S. Fish and Wildlife Service (Service) has reviewed the September 2005 draft Environmental Assessment (DEA) for the Comprehensive Port Improvement Plan (CPIP) for the Port of New York and New Jersey (Port). The DEA was prepared pursuant to the National Environmental Policy Act of 1969 as amended (83 Stat. 852; 42 U.S.C. 4321 *et seq.*) (NEPA) by the U.S. Environmental Protection Agency (EPA); the U.S. Army Corps of Engineers, New York District (Corps); and the Federal Highway Administration (FHWA), acting as federal co-lead agencies.

AUTHORITY

The following comments are provided pursuant to NEPA and to Section 7 of the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531 *et seq.*) (ESA), and are consistent with the intent of the Service's Mitigation Policy (Federal Register, Vol. 46, No. 15, Jan. 23, 1981). Conservation of federal trust fish and wildlife resources such as migratory birds and fish is a Service responsibility pursuant to federal statutes including the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) and the Migratory Bird Treaty Act of 1918 (40 Stat. 755, as amended; 16 U.S.C. 703-712). These comments do not preclude separate future review and comments by the Service pursuant to these statutes, or on any future NEPA document, regarding Port planning or specific Port development projects.

BACKGROUND

Prepared by numerous federal, regional, and State agencies, the CPIP is a Port-wide plan intended to serve as a framework for the future development of Port facilities and associated transportation infrastructure through 2060. The focus of the CPIP is the seven major Port terminals within the Port District, which encompasses a 25-mile radius around the Statue of Liberty. These seven facilities are: Port of Newark Marine Terminal, Port of Elizabeth Marine Terminal, Port Jersey (Global Marine and Auto Marine Terminal), and the Peninsula at Bayonne

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Harbor in New Jersey; and Howland Hook Marine Terminal, Red Hook/North Brooklyn Container Terminal, and South Brooklyn Marine Terminal in New York. The CPIP process was initiated in January 2000, and the draft CPIP was issued in March 2005.

Through the CPIP planning process, four scenarios of future Port development were developed: Orange, Red, Yellow, and Blue. Each scenario involves adjusting the allocation of Port resources (primarily acreage) at each terminal facility to ensure that overall capacity meets or exceeds projected demand in 2060 for each category of cargo: containerized, automobiles, general, dry bulk, and liquid bulk. The four scenarios represent combinations of terminal-specific uses, and Port-wide arrangements of uses, that would collectively address future cargo-handling needs through 2060. The CPIP does not include specific actions or projects that would be necessary to implement any of the four scenarios. The CPIP-sponsoring agencies concluded that no one scenario shows significant advantage over the others and, therefore, the CPIP does not present a single preferred master plan for the development of the Port. Rather, the CPIP presents the four scenarios as possible alternative means for meeting projected capacity needs through 2060, in order to aid in the planning of future, specific development projects.

On April 18, 2003, the federal co-lead agencies issued a Notice of Intent to prepare an Environmental Impact Statement (EIS) for the CPIP (Federal Register, Vol. 68, No. 75, pp. 19207-19208). A draft Scoping Document was issued in October 2003. Through the CPIP planning process, the sponsoring agencies determined that Port capacity is sufficient for several decades for all cargo types; therefore, Port improvements (above those already planned or under construction) are not required until 2030 or beyond. The federal co-lead agencies determined that there are no near-term federal actions related to the CPIP, and canceled the EIS process via letter dated March 2, 2005. In place of an EIS, the federal co-lead agencies announced that they would prepare a programmatic EA.

The DEA provides a programmatic analysis of potential future no-action Port, warehousing, and transportation conditions, for comparison with the potential impacts of Port improvement under each of the four scenarios developed through CPIP. The DEA also identifies what future environmental analyses would be required of any improvement projects that may be proposed in the future.

Previous Service comments regarding the CPIP were provided via letters dated February 9, 2000; August 14, 2000; February 5, 2003; May 16, 2003 (two letters); and March 5, 2004. The Service participated in a federal interagency scoping meeting on November 20, 2003.

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SERVICE COMMENTS**General Comments**

Based on our review of the federal co-lead agencies' March 2, 2005 letter and DEA, the Service has no objection to programmatic evaluation of the CPIP through an EA rather than an EIS as originally planned.

According to the DEA, Port-wide adverse impacts to aquatic resources necessary to meet future cargo demand are substantially lower than previously estimated. In the 1999 *Feasibility Report for New York and New Jersey Harbor Navigation Study FEIS*, the Corps estimated that over 500 acres of fill would be required for future Port development. In contrast, the DEA indicates that the four scenarios range from 23 acres (Yellow) to 153 acres (Blue) of impacts to aquatic habitat. The Service encourages CPIP sponsors to promote those development strategies that meet future cargo demand with the least environmental impacts, particularly fill and other adverse effects to aquatic resources, including dredging, dredged material assessment, and disposal of dredged materials consistent with related compliance to other environmental protection and natural resource mandates.

The DEA addresses a key concern expressed in previous Service comments; that the CPIP should not promote environmentally damaging Port developments in the short term based on projected capacity needs in the long term. According to the DEA, Port improvements (and new impacts to aquatic resources) are not needed until 2030 or beyond. Through the DEA, CPIP sponsors defer such projects until they are warranted by actual future demand. The Service strongly supports this phased approach because forecasts of future capacity needs are certain to change over the long planning horizon, and future developments in technology and shipping practices may produce greater efficiencies on existing Port acreage with minimal environmental impacts. Deferral of major new Port improvements will ensure that unavoidable environmental impacts are incurred only as the specific needs for facility expansions actually materialize over time.

Specific CommentsAquatic Resource Impacts

The Service recommends revising the final EA to clarify the nature and extent of future (post-2030) impacts to aquatic resources. The summary information presented in Tables 5-4 through 5-8 is clear. However, information about aquatic resource impacts elsewhere in the document is inconsistent. **(F.3.1)**

- On page ES-3, the lower end of the range of future impacts should be 23, not 24 acres. **(F.3.2)**
- On page ES-8, and again on pages ES-11 and ES-12, the acres of fill listed for each site under each scenario should add up to the totals presented in Table 5-8. **(F.3.3)**

- In Table 1-5, the acres of estimated fill for scenarios Orange (82), Red (66), and Yellow (24) should be corrected for consistency with Table 5-8 (which gives 84, 64, and 23, respectively). **(F.3.4)**
- Throughout the document, clarify the acreage of future fill versus other types of impacts to aquatic resources, such as dredging and shading of shallow waters and any new shoreline hardening. Clarify if the acreage totals in Tables 5-4 through 5-8 include impacts to shallow waters from dredging the new berths listed in Table 1-5, and shading impacts from any new piers or other facilities to be constructed over the water. Revise Tables 5-4 through 5-8 to include separate columns for the acreage of fill, dredging, and shading impacts for each facility under each scenario. Also add columns to these tables, and narrative descriptions in the text, for the linear feet of any proposed new bulkheads or other hard shoreline structures. **(F.3.5)**

Warehousing

Forecasts produced by the CPIP indicate that approximately 457 acres of land will be needed to provide 8.0 million square feet of warehouse floor space in the Port area in 2060. This is a threefold increase over the 2.7 million square feet of warehousing on 142 acres in use in 1999. Most of this future need will be met in New Jersey due to greater land availability than in New York, as well as various economic factors.

According to page 2-6 of the DEA, the New Jersey Department of Transportation (NJDOT) maintains a Freight Opportunity Sites database containing more than 80 sites available for potential warehouse development. Because the future estimated needs of 457 acres represent only 6 percent of the total acreage in the database, CPIP sponsors conclude that future warehousing needs can be met without impacting wetlands or other environmentally sensitive areas.

In April 2005, the Port Authority of New York and New Jersey (PANYNJ) and the New Jersey Economic Development Authority (NJEDA) announced the Portfields Initiative (http://www.njeda.com/pdfs/portfields_initiatives.pdf), a partnership to advance the redevelopment of at least six brownfield sites in northern New Jersey as cargo distribution centers (*i.e.*, warehousing). The PANYNJ and the NJEDA identified 17 potential "Portfields" redevelopment sites. The Service recognizes that these are generally former industrial sites. However, new warehouse development on these Portfields sites would still entail environmental impacts (*e.g.*, air quality, traffic, noise), sometimes including wetland fill or other impacts to aquatic resources. For example, the Service has reviewed project information for 2 of the 17 Portfields sites, i-Port 12 in Middlesex County and DuPont ISP in Union County. Redevelopment of these sites with warehousing would each involve over 7 acres of wetland impacts for site preparation (landfill closure) or associated transportation needs (a New Jersey Turnpike connector road) for i-Port 12 and DuPont ISP, respectively.

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The Service recommends revising the final EA as follows:

- Correct Table 1-6 so that the existing (1999) area of warehousing (142 acres) plus the estimated shortfall equals the 2060 forecast 457 acres. The shortfall is listed as 305 acres and should be 315 acres. **(F.3.6)**
- Correct the shortfall acreage on page 2-6 (should be 315 instead of 305), as well as the existing (1999) area, which is given as 89 acres instead of 142 acres as listed in Table 1-6. **(F.3.7)**
- Explain if the 17 Portfields sites under evaluation by the PANYNJ and the NJEDA were derived from the NJDOT's Freight Opportunity Sites database, and whether avoidance of wetland impacts was used as a screening criterion in site selection. **(F.3.8)**
- Explain that additional wetland impacts (above the totals given for future Port and transportation improvements) may be proposed for warehouse development, even on brownfield sites. If possible, estimate the acreage and time frames over which the future warehousing is likely to be developed, as well as the associated acreage of wetland impacts. If acreage estimates of wetland impacts can be developed, add these to the relevant tables (1-6, and 5-4 through 5-8). **(F.3.9)**

Other Comments

Several of the maps in the DEA are difficult to read and interpret. This readability problem can be corrected through color reproduction. Some of the maps (such as those in Chapter 3) feature dollar sign symbol markers that are not included in the legends. **(F.3.10)**

Tables ES-2 and ES-3 (and the identical Table 4-2) would be more useful with the addition of information regarding existing conditions for cargo demand and land/capacity allocations, respectively. **(F.3.11)**

On page ES-7, the fourth full paragraph would be more useful if the Port-wide land area requirements for 2060 were added across all cargo and transportation types. The total is 2,780 acres total, or about 4.3 square miles. **(F.3.12)**

The Service recommends revising Sections 3 and 5 of the final EA to address potential impacts to Liberty State Park under discussions of Port Jersey and the Peninsula at Bayonne Harbor. Although Liberty State Park is outside the 0.25-mile screening radius for open space, the park is within 0.5 mile of Port Jersey. Liberty State Park provides valuable habitat to migratory fish and birds, including 19 State-listed bird species. The Park is under study by the Corps and the New Jersey Department of Environmental Protection for a 200-250-acre restoration project via the Corps' Hudson-Raritan Estuary project. **(F.3.13)**

The Service recommends revising the final EA to mention the Cross Harbor Freight Movement project, a new freight rail tunnel proposed to be constructed under the Hudson River. The final EA should explain if this tunnel project was included in the analysis of the CPIP no-action

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alternative (*i.e.*, if CPIP sponsors assume the tunnel will be constructed absent implementation of any of the four CPIP scenarios), and what effect this project has on forecasts of future rail versus truck transport of cargo. **(F.3.14)**

Federally Listed Species

Except for an occasional transient bald eagle (*Haliaeetus leucocephalus*) or roseate tern (*Sterna dougallii*), no other federally listed or proposed endangered or threatened flora or fauna under Service jurisdiction are known to occur within the vicinity of the seven major Port terminals that are the focus of the CPIP. Information on listed species is frequently updated. Proponents of any Port-related project should contact the Service to determine if federally listed species may be present, and if any requirements of the ESA may apply. **(F.3.15)**

Federally listed species under the jurisdiction of the National Marine Fisheries Services (NMFS), such as shortnose sturgeon (*Acipenser brevirostrum*), occur in the core section of the Port District. The NMFS must be contacted to fulfill consultation requirements pursuant to Section 7(a)(2) of the ESA: **(F.3.16)**

National Marine Fisheries Service
Habitat and Protected Resources Division
Sandy Hook Laboratory
Highlands, New Jersey 07732
(732) 872-3023

State-listed Species

Formerly federally listed (endangered), the peregrine falcon (*Falco peregrinus*) is known to nest on man-made structures in the vicinity of the seven major Port terminals in both New York and New Jersey. In August 1999, the Service removed the peregrine falcon from the List of Endangered and Threatened Wildlife and Plants, removing all protections provided to the species under the ESA. The Service continues to monitor the species pursuant to Section 4(g)(1) of the ESA, and peregrine falcons continue to be protected under the Migratory Bird Treaty Act (40 Stat. 775 as amended; 16 U.S.C. 703-712), and as a State-listed (endangered) species in both New Jersey and New York. The Service recommends that project proponents contact the following State agencies for current information regarding peregrine falcon nesting activity in the Port District and recommendations to avoid impacts to this species. **(F.3.17)**

Kathleen Clark, Principal Zoologist
Endangered and Nongame Species Program
Division of Fish and Wildlife
Tuckahoe Wildlife Management Area
2201 Route 631
Woodbine, New Jersey 08270
(609) 628-2103

Mr. Peter Nye
New York State Department of
Environmental Conservation
Endangered Species Unit
625 Broadway
Albany, New York 12233-4753
(518) 402-8859

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As indicated in the DEA, numerous occurrences of other State-listed species are present in the vicinity of the seven major Port terminals that are the focus of the CPIP. We recommend that the DEA be provided to the New York and New Jersey Natural Heritage and Endangered Species Programs for review. Contact information for the New York State Endangered Species Unit is provided above; addresses for the New Jersey Natural Heritage Program and Endangered and Nongame Species Program are enclosed. **(F.3.18)**

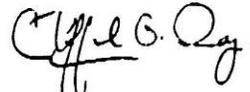
Essential Fish Habitat

The DEA appears to contain a “programmatic” assessment for Essential Fish Habitat.¹ If the federal co-lead agencies have not already done so, the Service recommends contacting the NMFS at the above address to determine if the assessment meets the requirements of federal law. **(F.3.19)**

CONCLUSION

The Service appreciates the opportunity to provide comments on the DEA for the CPIP. Please contact Wendy Walsh of my staff at (609) 646-9310, extension 48 if you have any questions regarding the above Service comments.

Sincerely,



Clifford G. Day
Supervisor

¹ Essential Fish Habitat. Identified by Congress as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity,” pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801-1883; P.L. 94-265).

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FEDERAL CANDIDATE AND STATE-LISTED SPECIES

Candidate species are species under consideration by the U.S. Fish and Wildlife Service (Service) for possible inclusion on the List of Endangered and Threatened Wildlife and Plants. Although these species receive no substantive or procedural protection under the Endangered Species Act, the Service encourages federal agencies and other planners to consider federal candidate species in project planning. **(F.3.20)**

The New Jersey Natural Heritage Program maintains the most up-to-date information on federal candidate species and State-listed species in New Jersey and may be contacted at the following address:

Coordinator
Natural Heritage Program
Division of Parks and Forestry
P.O. Box 404
Trenton, New Jersey 08625
(609) 984-0097

Additionally, information on New Jersey's State-listed wildlife species may be obtained from the following office:

Dr. Larry Niles
Endangered and Nongame Species Program
Division of Fish and Wildlife
P.O. Box 400
Trenton, New Jersey 08625
(609) 292-9400

If information from either of the aforementioned sources reveals the presence of any federal candidate species within a project area, the Service should be contacted to ensure that these species are not adversely affected by project activities. **(F.3.21)**

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FEDERAL	
F.3 United States Department of Interior, Fish and Wildlife Service	
F.3.1	Information about potential aquatic resource impacts has been corrected.
F.3.2	The noted correction has been made in the CPIP EA. The CPIP’s four scenarios for future Port-wide development would involve between 23 and 153 acres of impacts to aquatic habitat, rather than the more than 500 acres of waterfront fill originally estimated (<i>Feasibility Report for the New York and New Jersey Harbor Navigation Study FEIS</i> , December 1999).
F.3.3	Changes have been made to the CPIP EA text. The CPIP alternatives are summarized on page ES-8, including note of the estimated acreage of waterfront fills associated with each. The impacts described in Chapter 5.0 Potential Impacts of CPIP Alternatives, including in Table 5-9, reflect impacts to aquatic habitats including wetlands and dredging.
F.3.4	Changes have been made to the CPIP EA text. Chapter 1.0 Introduction, Table 1-5 has been corrected to include impacts to aquatic habits.
F.3.5	<p>The CPIP EA presents four possible Port-improvement scenarios that would not be developed for several decades, when additional port capacity is forecast to be required. The scenarios are presented at a conceptual level of detail that provides a “footprint” of each Port site and identifies the possible use for different areas of each site. There is no information available at this time on the type of pier or bulkhead that may be used at a particular Port site in the future. Therefore, it is not possible to discriminate between an impact associated with shading from a pier or relieving platform and a fill behind a bulkhead. Thus, the identification of areas of impact to aquatic habitat is conservative in that it does not characterize the type of impact at this time. That characterization and the severity of the impact must be determined when an actual CPIP-related Port-improvement project is evaluated through future environmental review processes. The assessment of impact must be based on the specifics of a project’s design.</p> <p>Early in the CPIP planning process, all scenarios included an additional berth in shallow water habitat at Port Newark North. However, in an effort to minimize impact, the footprint was reconfigured to eliminate the need for this berth and make better use of presently bulkheaded areas in Port Newark Channel, thus eliminating a dredging impact in shallow water habitat. This adaptive planning effort is expected to continue when a CPIP project is developed, thus addressing the NEPA requirement to seek to avoid impacts, and potentially resulting in more limited impacts.</p> <p>The Howland Hook site in Alternative Scenario Orange includes a new berth. The impact associated with dredging the berth, filling behind a bulkhead, or shading associated with a relieving platform would depend on the final design. Thus, the CPIP EA summary of potential impact, provided in Chapter 5.0 Potential Impacts of CPIP Alternatives, and in Table 5-9 for Alternative Scenario Orange, identifies areas of aquatic habitat that are expected to be impacted but without characterizing the type of impact.</p>

F.3.6	CPIP EA Chapter 1.0 Introduction, Table 1-6 has been modified to correctly reflect the estimated shortfall of 315 acres of warehousing space in 2060, compared to existing (i.e., 1999) warehousing acreage. It is noted that the estimated shortfall in 2020 has also been corrected, to 99 acres.
F.3.7	The shortfall acreage has been modified on CPIP EA Chapter 2.0 Purpose and Need for the Project, page 2-6 to correctly reflect the anticipated need for an additional 315 acres in 2060 and the existing (1999) 142 acres.
F.3.8	The 17 sites identified in the Portfields Initiative, an effort undertaken through a partnership between the PANYNJ and the New Jersey Economic Development Authority, were not derived from the NJDOT's Freight Opportunity Sites database. The Portfield Initiative seeks specifically to identify and help advance reuse of brownfield and/or underutilized sites within the Port District. Avoidance of wetland impacts was not a formal screening criterion in site selection; however, if an identified Portfield site includes wetland acreage, the initiative requires that only the non-wetland portion of the site will be identified for development.
F.3.9	<p>As noted in the comment, it is conceivable that future warehouse development may result in wetland impacts beyond those projected with the four CPIP scenarios considered in the CPIP EA. However, as stated in the EA, adequate suitable acreage for warehouse development is currently available in the Port area such that wetland impacts may be avoided; consideration of preserving acreage that is environmentally sensitive may be warranted by elected officials and state and local agencies with jurisdiction. As future warehouse development projects are proposed, appropriate environmental reviews will need to be undertaken, including assessment of wetlands impacts and including analysis of opportunities to avoid, minimize, or mitigate such impacts.</p> <p>As noted in the Final CPIP EA, approximately 99 and 315 additional acres of warehousing are projected to be needed in 2020 and 2060 (compared to the 1999 total of 142 acres). CPIP did not forecast warehousing need for interim years. As noted in the EA and above, however, warehousing need may be satisfied without impact to wetlands and other environmentally sensitive acreage if developed on appropriate, available land, as identified in the New Jersey Department of Transportation's Freight Opportunity Sites database.</p>
F.3.10	It is noted that several of the maps are difficult to read and interpret when reproduced in black and white. Electronic versions of these maps -- such as are available in the Draft CPIP EA that was posted on www.cpipeis.com and in the Final CPIP EA that will be available via the Federal Co-Lead Agencies' websites -- are in color and are legible. The dollar sign symbols are not features of the maps, as produced, in Chapter 3.0 Existing Conditions, but appear due to printer-related errors that result from use of some printers.
F.3.11	CPIP EA Tables ES-2 and ES-3 (and Table 4-2 in Chapter 4.0 Alternatives) have been modified to include information regarding existing conditions for cargo demand and land allocations and capacity, respectively.

F.3.12	On page ES-7, the fifth full paragraph has been modified to reflect that a total of 2,780 acres (about 4.3 square miles) would be required for all cargo and transportation types in 2060. Also, since the first paragraph on page 4-2 (in Chapter 4.0 CPIP Alternatives) is similar to the text on page ES-7; it has also been similarly modified.
F.3.13	The screening radius used to identify open space resources near the Port sites is one-half mile from each Port site, not one-quarter mile. Liberty State Park is located about one mile north of Port Jersey and the Peninsula at Bayonne Harbor. While Liberty State Park was not included within the analysis conducted for the CPIP EA, scoping conducted for future environmental review processes should consider whether Liberty State Park should be included in the assessment of the potential impact that specific, defined Port improvement projects proposed for Port Jersey and/or the Peninsula at Bayonne Harbor would have on the park and the habitat it provides.
F.3.14	<p>The CPIP planning studies and EA did not include the Cross Harbor Freight Movement project in the analysis of the CPIP no-action alternative, as the project is not programmed and committed for construction and operation.</p> <p>The CPIP Plan (September 2005) notes, in its discussion of linkages to transportation policies and plans relevant to the CPIP that "...it is not expected that the existence of the Cross Harbor tunnel will encourage much more than the typical proportion (currently around 14%) of containers onto rail unless as part of a special arrangement such as a rail shuttle serving a road and rail inland container depot west of the Hudson" (<i>CPIP Volume 1: The Plan</i>, September 2005, page 322).</p> <p>However, when the cargo volume forecast for the Port of New York and New Jersey is updated at intervals in the future, the list of projects that should be considered as part of the future baseline condition will need to be revisited, as will other assumptions that are factors in the forecasting methodology.</p>
F.3.15/F.3.16	The CPIP EA text has been modified to note that the status of species may change as new information becomes available, that additional species may be added, as warranted, and that updated species lists must be obtained from the agency at the time any project is proposed.
F.3.17	Information on obtaining the most current lists of state and federally managed species and essential fish habitat is available in the Environmental Screening Methodology Report and the Natural Resources Method Report, both of which are included in CPIP EA Appendix C Environmental Analysis Methodologies. In addition, text has been added to Chapter 3.0 Existing Conditions to note that project proponents must obtain current lists from appropriate agencies. Information to be requested should include the status of peregrine falcon nesting activity in the Port District. The peregrine falcon is not a federally listed endangered species at this time but is protected under the Migratory Bird Treaty Act and is listed as endangered by both New Jersey and New York.
F.3.18	The Draft CPIP EA was provided to the New York Department of Environmental Conservation and the New Jersey Department of Conservation. Comments received from state agencies are addressed herein.
F.3.19	The Draft CPIP EA was provided to NMFS and its comments are addressed herein.

F.3.20	CPIP EA Chapter 5.0 Potential Impacts of CPIP Alternatives, Sections 5.B.1.b.vii, 5.B.2.b.vii, 5.B.3.b.vii, 5.B.4.b.vii, 5.B.5.b.vii, 5.B.6.b.vi, and 5.B.7.b.vii note that the status of protected species may change as new information becomes available and that additional species may be added, as warranted.
F.3.21	Information on obtaining the most current lists of state and federally managed species and their essential fish habitat is available in the Environmental Screening Methodology Report and the Natural Resources Method Report, both of which are included in CPIP EA Appendix C Environmental Analysis Methodologies. In addition, text has been added to Chapter 3.0 Existing Conditions to note that project proponents must obtain current lists from appropriate agencies.



New York State Office of Parks, Recreation and Historic Preservation
 Historic Preservation Field Services Bureau
 Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

October 18, 2005

Grace Musumeci
 Chief, Environmental Review Section
 U.S. Environmental Protection Agency
 290 Broadway, 25th Floor
 New York, NY 10007-1866

RE: Comprehensive Port Improvement Plan Draft Environmental Assessment
 Kings and Richmond Counties, NY
 03PR05773

Dear Ms. Musumeci:

Thank you for updating the State Historic Preservation Office (SHPO) on the environmental review of the Comprehensive Port Improvement Plan (CPIP) by providing us with a copy of the Draft CPIP Environmental Assessment (EA). We have begun to review this project in accordance with Section 106 of the National Historic Preservation Act of 1966 and the relevant implementing regulations.

We concur with the Cultural Resources Methodology Report (Appendix C) of the Draft EA for both archeological and historic resources. As CPIP-associated improvements may not occur until 2030 or beyond, properties within the various project APE's that are now less than 50 years of age will need to be evaluated in the future for potential National Register-eligibility. **(S.1.1)**

As this project moves forward in the years ahead we look forward to our continued participation in the CPIP environmental review process. Please inform us when more specifics of the project become available so we can continue our review under Section 106. If you have any questions please don't hesitate to call me at (518) 237-8643, ext. 3266. Please be sure to note the project review number noted above in any future correspondence.

Sincerely,

Kathleen A. Howe
 Historic Preservation Specialist

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STATE	
S.1 New York State Office of Parks, Recreation and Historic Preservation	
S.1.1	<p>Chapter 6.0, Section C.5, of the CPIP EA has been modified to indicate that although CPIP-associated improvements may not occur until 2030 or beyond, properties within future project-specific Areas of Potential Effect that are currently less than 50 years of age should be evaluated for potential National Register-eligibility.</p> <p>The Cultural Resources Methodology Report (provided in CPIP EA Appendix C Environmental Analysis Methodologies) has also been modified to reflect the need to re-evaluate properties that are now less than 50 years of age for potential National Register-eligibility at such time as projects are proposed in the future and environmental reviews are undertaken.</p>

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State of New Jersey

Richard J. Codey
Acting Governor

Department of Environmental Protection

Bridley M. Campbell
Commissioner

Environmental Regulation
Office of Pollution Prevention and Right To Know
401 E. State St., 3rd floor, Trenton, NJ 08625-0423
Tel.(609) 292-3600
Fax (609) 777-1330

November 9, 2005

Ms. Grace Musumecchi, Chief
Environmental Review Section
United States Environmental Protection Agency
290 Broadway, 25th Floor
New York, NY 10007-1866

**RE: Comprehensive Port Improvement Plan
Port of New York and New Jersey
Draft EA Comments**

Dear Ms. Musumecchi:

The Office of Permit Coordination and Environmental Review of the New Jersey Department of Environmental Protection (NJDEP) has completed its review of the Draft Environmental Assessment (EA) for the Comprehensive Port Improvement Plan (CPIP) for the Port of New York and New Jersey.

We offer the following comments on the Draft EA from the NJDEP's Division of Science, Research and Technology for your consideration.

- Since the programmatic CPIP EA will be used in the future as a basis for required project specific regulatory and environmental reviews, hard copies of the Final EA should be published and distributed to appropriate agencies and repositories. Limiting publication of the Final EA to electronic or CD-based formats may prove problematical for its future use as computer technology changes and the ability to "read" current electronic or CD-based formats may not be available. **(S.2.1)**
- Section 1.0-C (page 1-5) states that the "CPIP planning process identified the need for other potential roadway projects to alleviate forecasted port-related traffic congestion due to ongoing productivity increases at the port facilities." However, these "traffic congestion choke points" are not currently identified in the applicable regional transportation plans. What is the status of these identified projects *vis-à-vis* required federal and State environmental and regulatory reviews? **(S.2.2)**

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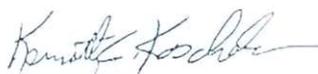
2

- Section 4.0-A-2 (page 4-2) assumes that increasing the vertical clearance of the Bayonne Bridge over the Kill van Kull will be implemented. However, since it appears that such changes to the bridge will be needed because the Harbor Navigation Study and its associated 50-foot channel deepening will allow the use of larger vessels, the potential environmental impacts of the bridge modifications should be evaluated as part of the CPIP process. **(S.2.3)**
- Section 4.0-A-4 (page 4-5) states that "traffic growth related to future cargo demand would not require significant local road or highway improvements." This statement appears to be inconsistent with other statements in the Draft EA, for example, see Comment #2 and the discussion of "Traffic" at the various port facilities in Section 5.0 - B (pages 5-9 to 5-27). In addition, the potential indirect impacts of any such projects (air quality, noise, etc.) would need to be evaluated. **(S.2.4)**
- Page 6-9 and Table 6-2, the discussion of New Jersey Executive Order #215 of 1989 (EO #215) is limited to the "EIS" level of analysis; smaller projects could require the preparation of an "EA". Also, additional permits/approvals beyond those discussed in this section of the Draft EA may be needed for a given project. **(S.2.5)**
- Homeland Security issues and associated potential effects on port operations were very briefly discussed in the Draft EA (for example, see Section 4.0-A-2 (page 4-1)). Since security issues/requirements could effect the ability of port facilities to move cargo, the CPIP EA should address this issue in more detail and provide for its continuing evaluation in future NEPA and other environmental planning and impact assessment processes. **(S.2.6)**
- It does not appear that oil/petroleum cargo forecasts and port facilities were included in the CPIP analyses. **(S.2.7)**

If you have any questions regarding the above comments, please contact Joel A. Pecchioli of the Division of Science, Research and Technology at 609-633-2200.

Thank you for the opportunity to review the Draft EA.

Sincerely,



Kenneth C. Koschek
Supervising Environmental Specialist
Office of Permit Coordination
and Environmental Review

C: Joel A. Pecchioli, NJDEP

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STATE	
S.2 New Jersey Department of Environmental Protection	
S.2.1	<p>The Federal Co-Lead Agencies for the CPIP EA will have hard copies of the Final CPIP EA and will provide access to the document via their respective websites. Hard copies will also be provided to the agencies comprising the CPIP Consortium (New York Empire State Development Corporation, New Jersey Department of Transportation/Office of Maritime Resources, New York City Economic Development Corporation, Port Authority of New York and New Jersey).</p> <p>The CPIP EA will remain accessible for future use, despite computer technology changes over time, as the Federal Co-Lead Agencies’ website technology will also change, consistent with computer technology development.</p>
S.2.2	<p>The need for additional roadway projects to alleviate forecasted future port-related traffic congestion due to ongoing productivity increases at port facilities is identified in the CPIP EA, based on the planning studies undertaken for the CPIP Plan. As such projects have only been identified as part of the CPIP planning effort, they would be required to undergo the appropriate future environmental reviews and other phases of transportation project development. The New York Metropolitan Transportation Council and the North Jersey Transportation Planning Authority – the Metropolitan Planning Organizations for the New York and New Jersey portions, respectively, of the areas within which the port sites are located – participated in the CPIP planning process and have been provided with the CPIP reports.</p>
S.2.3	<p>As noted in the CPIP EA, the CPIP planning process “assumed that increasing the vertical clearance of the Bayonne Bridge over the Kill van Kull would be carried out <i>when required</i> (emphasis added), in order to avoid restrictions on future container ships due to inadequate clearance.” While this potential future modification was assumed in the planning process and, therefore, reflected in the forecasts for port-related vessels, there are no known plans currently to modify the Bayonne Bridge’s vertical clearance, nor is the future time frame within which such modification may be proposed to be implemented known. Similarly, neither the bridge and approach design nor the construction and opening years for such modification, which would need to be defined to permit appropriate environmental evaluation, are known. As such, this potential future project is neither a programmed and committed project appropriate for inclusion in the No-Action baseline, nor a proposed project ripe for detailed evaluation. At such time in the future as vertical clearance of the Bayonne Bridge is proposed to be increased, the applicable environmental review process(es) will be required to be undertaken.</p>

<p>S.2.4</p>	<p>Port-related traffic and, more specifically, Port-related truck traffic will increase but, in most cases, will continue to constitute very small percentages of overall traffic. For example, while the regional highway system will be further stressed in future decades with growth in background (i.e., non-Port-related traffic) traffic, the total volume of Port-related truck volumes will increase from 0.05 percent in 2000 to 0.09 percent of total regional trips by 2060. On local, port-area connector roadways, Port-related truck traffic is forecast to comprise a large percentage of total traffic volumes at several Port sites (e.g., at Port Newark/Port Elizabeth, Howland Hook, and, in the Blue Scenario, at South Brooklyn), but comprise only a small component at others (Port Jersey, Bayonne Peninsula, Red Hook). Nevertheless, it is anticipated that future Port-related traffic volumes, particularly in combination with non-Port-related traffic increases, may warrant potential roadway projects, beyond those that have already been proposed by transportation agencies and included in the Transportation Improvement Programs of the North Jersey Transportation Planning Authority and the New York Metropolitan Transportation Council (respective projects listed in CPIP EA Appendix B.1 Traffic Projections and Programmed and Committed Projects, Tables B.1-21 and B.1-22). At such time as local roadway improvements are required and proposed, any applicable environmental reviews will need to be undertaken, including assessment of any potential indirect impacts (e.g., air quality, noise) of such projects.</p>
<p>S.2.5</p>	<p>The discussion of the New Jersey Executive Order 215 of 1989 on CPIP EA page 6-9 (in Chapter 6.0 Process for Future Environmental Reviews) explains that either an EA or an EIS may be prepared for major construction projects initiated or funded by the State. The determination as to whether an EA or an EIS is the appropriate level of environmental review for a given project is made at such time as a project is proposed with sufficient detail to assess its potential impacts.</p> <p>CPIP EA Tables 6-1 and 6-2 (in Chapter 6.0 Process for Future Environmental Reviews) identify potential permits/approvals that may be required for the implementation of future CPIP-related Port improvement projects. It is noted that specific permits and approvals that will be required for future projects cannot be firmly identified until such time as actual projects are defined with sufficient detail to allow evaluation of potential impacts.</p>
<p>S.2.6</p>	<p>The CPIP EA did not evaluate potential environmental effects of Homeland Security-related requirements as there are no specific security-related projects identified for implementation at the Port sites. To the extent that future security-related measures and/or infrastructure projects may be proposed for the Port sites and would pose potential environmental impacts, the applicability of and need for environmental review will be determined and the appropriate process(es) undertaken. Furthermore, once identified, the impacts of such measures will be included in the cumulative impact analyses, e.g., of traffic, for other projects that will affect the same resources.</p>
<p>S.2.7</p>	<p>Oil/petroleum (crude oil) was included in the CPIP forecasting studies as part of liquid bulk cargo demand.</p>



COUNTY OF UNION

DEPARTMENT OF ECONOMIC DEVELOPMENT
James Daley, Director

November 9, 2005

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Grace Musumeci
Chief, Environmental Review Section
US Environmental Protection Agency
290 Broadway, 25th Floor
New York, NJ 10007-1866

RE: Comment on Draft CPIP EA

Dear Ms. Musumeci:

The Comprehensive Port Improvement Plan (CPIP) of the bi-state Port District includes the Port facilities in the City of Elizabeth. CPIP EA plans for facilities to be in position to accommodate the growth of cargo demand to 2060.

Union County has undertaken several major initiatives to improve infrastructure for future needs of freight movements originating from Port Elizabeth. The Kapkowski Road Area Transportation Planning Study projected traffic demands based on local development projects to 2021 and resulted in engineering designs for the North Avenue Corridor Improvements leading directly from Port Elizabeth. We are also undertaking a Rail Freight project and the Tremley Point initiative as major efforts

Aside from existing and future traffic immediately exiting Port facilities, Union County continues to monitor the growth of all truck movements which include the first point of rest from the Port that are the focus of CPIP. With parallel increases in non-Port traffic, there is an ongoing need for the maintenance as well as further expansion to the ability of local infrastructure to support Port growth and forestall the emergence of critical choke points.

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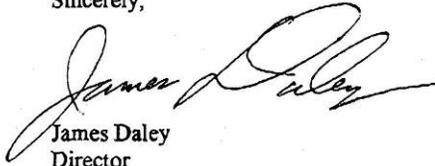
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Any effort to plan for Port expansion needs to address not only the regional impact of this growth, but the direct impact on the infrastructure within a ten mile radius of the Port. **(C.1.1)**

Sincerely,



James Daley
Director
Department of Economic Development

P. 20/20

NOV-16-2005 15:37

COUNTIES	
C.1 County of Union Department of Economic Development	
C.1.1	We agree that both local and regional impacts need to be considered. The appropriate study area or screening radius for evaluation of the direct impact of future CPIP-related projects on infrastructure will be defined based on the scope of the particular project that is proposed.

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**Written Comments on the Draft Environmental Assessment
for the Comprehensive Port Improvement Program**

Stephanie J. Tatham, Program Associate
James T.B Tripp, General Counsel

November 9, 2005

One of the primary CPIP goals is to "provide opportunities for ongoing public dialogue about Port development needs, related environmental issues and concerns, and reasonable and feasible solutions that will help the Port remain competitive, relative to other East Coast ports, in an environmentally sensitive and sustainable way."¹ We would like to take this particular opportunity for public comment to share our view that while CPIP does an excellent job with the effort to improve port productivity, the study is seriously flawed in that it fails to adequately recognize the impact of increased productivity on the region.

Port planning is of particular interest to Environmental Defense as we have extensively studied mobility investment options for freight transport in the Hudson Region. In 2004, Environmental Defense and the East of Hudson Rail Freight Operations Task Force released a report entitled *Investing in Mobility: Freight Transport in the Hudson Region*.² This report found that overcrowding is already crippling the roadways of the metropolitan area, creating severe delay-associated economic costs, air quality problems, and subsequent health problems and energy waste.

In 2003:

- The annual cost of congestion to the region was \$6.78 billion.
- Seventy percent of peak period travel (as a percentage of peak vehicle miles traveled) occurred in congested conditions.
- Sixty percent of system lane-miles were congested during the peak period.³

Over the next sixty years, the region's overall highway network, already choked with traffic, will have to accommodate an estimated 55 percent increase in total traffic, and an estimated 43 percent increase in truck traffic. These growth projections, taken from CPIP, clearly portend that the New York / New Jersey metropolitan region will need to take action to keep congestion from escalating to crisis levels.

CPIP estimates that between 85 and 95 percent of all commodities leaving Port terminals are currently transported by truck, rather than by rail or barge services.⁴ Port-related truck-traffic is

¹ U.S. EPA et al, "Comprehensive Port Improvement Plan: Draft Environmental Assessment." Oct. 2005. 6-2.

² Available at www.environmentaldefense.org/go/railfreight.

³ All statistics from Texas Transportation Institute, "2005 Annual Urban Mobility Report." May 2005. *The Mobility Data For New York - Newark, NY-NJ-CT*.

⁴ *Ibid*, page ED-10.

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projected to grow by nearly 170 percent by 2060.⁵ Although Port-related truck trips are expected to continue to comprise less than ten percent of total regional traffic in 2060⁶, this contribution to area congestion is not insignificant, particularly in major highway corridors serving specific Port sites. **(IG.1.1)**

First, Environmental Defense disagrees with CPIP's conclusion that "increases in auto travel will be the major factor for future diminished performance of the regional highway system." Our research, as documented in *Investing in Mobility*, shows that over the next twenty years, the region's major highways will have to accommodate an estimated 48 percent increase in truck volume at the same time that car traffic is expected to grow by 30 to 40 percent VMT. Increases in truck travel will surely be a major factor in future regional congestion. **(IG.1.2)**

Additionally, it is worth considering that for every truck taken off the road, space is made for four cars. Environmental Defense would be interested to know if CPIP accounted for the amount of road space consumed by trucks relative to passenger vehicles in concluding that auto travel will be the major factor in future congestion, or if it made its determination based on simply the number of trucks versus cars on the road. Finally, CPIP should consider that trucks produce greater harmful pollutant emissions, per vehicle, than cars. **(IG.1.3)**

Finally, the significance of port-related traffic is underestimated because CPIP fails to examine the movement of goods after the first trip. Goods moved by express rail down to southern New Jersey and then put on a truck and driven north up the New Jersey Turnpike or Interstate-95 would only be considered by CPIP as rail movements. CPIP's failure to consider subsequent, and obviously port-related, truck traffic undermines the conclusion that this traffic does not significantly contribute to regional congestion. Environmental Defense first raised this issue during the CPIP draft process, and we continue to recommend that CPIP extend its scope of examination beyond the first move. **(IG.1.4)**

Another of CPIP's principles is to: "seek opportunities to divert increasing proportions of cargo transport to/from the Port sites from truck to other modes, notably including rail and barge."⁷ If CPIP were to look beyond the first move, it would understand the value of modal diversification in Brooklyn, which is not properly accounted for in the majority of CPIP scenarios under consideration. CPIP authorities must seriously examine the rail and road investments that would be needed to support viable port operation and expansion in the East-of-Hudson region, particularly in the South Brooklyn area. **(IG.1.5)**

According to the EA, the Port Inland Distribution Network (PIDN) "envisions a mode share under which 23 percent of containers would leave the Port via non-highway modes (rail, barge) by 2010 and 33 percent by 2020."⁸ Unfortunately, future growth in rail mode spit is limited to

⁵ *Ibid*, page 2-5.

⁶ *Ibid*, page 6-1.

⁷ *Ibid*.

⁸ *Ibid*, page ED-10.

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the Port Newark/Port Elizabeth and Howland Hook sites, while in South Brooklyn expansion of freight rail is considered under only one of the four proposed CPIP scenarios (Blue). Even then, consideration is limited to on-dock service between two container terminals because the CPIP found that mode split in South Brooklyn was "not relevant due to inconvenient rail access." We respectfully disagree.

NYC EDC, prepared a DEIS for the Cross Harbor Tunnel Project, which indicated that "upgrading of [rail] tracks along 1st Avenue between 39th Streets and 51st Streets in Sunset Park to serve intermodal and port facilities along the Brooklyn waterfront" will be completed by 2010.⁹ This study also indicated that, in the same timeframe, EDC is planning to develop "intermodal rail facilities including on-dock rail yards and other short term improvements at the South Brooklyn Marine Terminal."¹⁰ These improvements will surely increase the convenience of rail access to the site. **(IG.1.6)**

Moreover, the Cross Harbor Railroad (CHRR) has made a business out of serving the 51st Street cross harbor float bridge. Between 2003 and 2004, the number of cars carried by the CHRR more than tripled, increasing from 1,120 to 3,406 cars.¹¹ That a small short-line railroad with a continually sinking float bridge is experiencing such an increased demand for freight rail services speaks to the economic convenience of this area for freight rail. Certainly, it is more convenient than taking New York bound goods by rail to a distribution terminal in southern New Jersey, transferring those goods onto a truck, and then driving them north on the region's already congested roads.

As New York's roads become more and more congested in the coming decades, it is clear that the east-of-Hudson will need to modally diversify its freight transport. The advantages of advanced rail capacity from a public policy perspective are numerous: less congestion, lower diesel exhaust emissions that are linked to asthma and other respiratory diseases, and more transportation options for shippers are some of the major highlights. Given that public benefits like these stem from investment in freight rail, we recommend that CPIP authorities undertake a closer examination of rail options in the east-of-Hudson region, and particularly in South Brooklyn port area. **(IG.1.7)**

Environmental Defense would welcome the opportunity to discuss these issues in more detail. Please do not hesitate to contact us if you have any questions about these comments.

James T.B. Tripp, General Counsel
Phone: 212-616-1247
Email: jtripp@environmentaldefense.org

Stephanie Tatham, Program Associate
Phone: 212-616-1233
Email: statham@environmentaldefense.org

⁹ EDC, "Cross Harbor Freight Movement DEIS." April 2004. Page 2-5.

¹⁰ *Ibid.*

¹¹ Authors' conversation with Don Hutton of the Cross Harbor Railroad. February 28, 2005.

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NOV-09-2005 16:31

INTEREST GROUPS	
IG.1 Environmental Defense Organization	
IG.1.1	<p>Traffic analyses conducted during the CPIP planning process evaluated the potential impact of forecast volumes of Port trucks on the regional highway network and the highway corridor system surrounding the Port (as well as on the local Port terminal connector roads that link port terminals to those corridors). Using several traffic-performance measures of regional consequence (average daily traffic, average daily Port-related truck traffic, vehicle hours traveled, vehicle miles traveled, delay, average speed), the analyses concluded that, although traffic volume would increase steadily throughout the study period and average speed would drop significantly, these results for the regional highway network are not attributable to Port-related truck trips, regardless of the Scenario, but to non-Port traffic. Furthermore, with the No-Action alternative, regional truck trips would likely increase dramatically as the cargo demand above Port capacity would be met by truck and, to a lesser extent, rail transport of cargo into the region from other ports.</p>
IG.1.2	<p>Commenter directly compares increases in truck volume and increases in vehicle-miles-traveled (VMT) by cars, two very different measures of traffic congestion, which do not permit direct comparison. As is always the case with percentages, the size of the principle to which a percent is applied is critical to understanding the magnitude of the actual increase.</p> <p>Also, the estimated 48 percent increase in truck volume cited in the comment, and noted in <i>Investing in Mobility</i>, appears to refer to total truck volume, not specifically to Port-related truck traffic, which is the focus of the CPIP’s analysis and planning. As the CPIP EA reports (Chapter 1.0 Introduction, Table 1-3), the CPIP Plan’s traffic forecasts for 2020 -- absent implementation of any of the Port-improvement scenarios considered in the EA -- predict an increase in regional highway traffic of approximately 7.6 million total daily trips (23 percent growth), of which approximately 145,000 will be truck trips (12 percent growth), including approximately 8,000 (0.06 percent growth) <i>Port-related</i> truck trips.</p>
IG.1.3	<p>The CPIP forecasts of future traffic volumes did not specifically factor in the difference between cars and trucks (i.e., passenger-car-equivalents of trucks). The focus of the CPIP Plan’s travel demand forecasting was to predict the future volume of <i>Port-related</i> truck traffic; its likely effect on regional highways, Port-related highway corridors, and local roadway networks in the Port sites’ vicinities; and the degree to which future cargo transport may be shifted from truck to rail mode.</p> <p>Finally, regarding air quality considerations, future vehicle emissions are estimated to decrease by more than 60 percent by 2020, offsetting any potential air quality effects of the increased <i>proportion</i> of Port-related trucks to total traffic (i.e., 0.01 percent increase between 2000 and 2020). (As reported in the CPIP EA, in Chapter 5.0 Potential Impacts of CPIP Alternatives, page 5-9, CPIP analyses using MOBILE6.2 modeling predict decreases in carbon monoxide, volatile organic compounds, nitrogen oxides, and particulate matter less than 10 and 2.5 microns in size.)</p>

<p>IG.1.4</p>	<p>The CPIP project’s focus was planning for and evaluating the consequences of future increases in waterborne cargo demand in the Port of New York and New Jersey. The forecasts of future traffic conditions considered Port-related trucks as the initial, or primary, movement of goods with Port area origins and/or destinations. Secondary movements were reflected in the evaluation of overall regional truck traffic movements on the highway network (see CPIP Plan, Task E Technical Memorandum: Market Demand and Port Capacity, Volume 3: Current and Planned Capacity of Regional Transportation Network – HIGHWAYS, Final Draft, July 2004).</p> <p>As noted in the CPIP EA, traffic issues will need to be evaluated in detail in environmental reviews of actual CPIP-related projects that will be proposed in the future. At such time, the scope of future traffic analyses will be defined, based on project specifics, and will address potential traffic impacts of cargo transport by individual modes as well as via intermodal and/or secondary moves.</p>
<p>IG.1.5</p>	<p>The CPIP planning process did address the potential need for Port-related rail and road investments in the East-of-Hudson region, including in the South Brooklyn area, and concluded that: 1) traffic growth related to the Port-improvement scenarios would not require significant local road or highway improvements; and 2) that local rail infrastructure improvements would be required to address capacity constraints of the existing rail network, even assuming capacity enhancements that are underway or programmed and committed for implementation.</p> <p>Future rail improvements suggested in the CPIP Plan are cited in the CPIP EA (see Chapter 4.0 CPIP Alternatives, page 4-5), including a new on-dock rail terminal in South Brooklyn. Changes to rail infrastructure that are anticipated by 2020, as inventoried in the CPIP, relate to on-dock rail terminals, rail yards, rail terminals, the Conrail Shared Assets system (shared CSX and Norfolk Southern access to terminals and yards), and the wider rail system (mid-Atlantic and new England).</p>
<p>IG.1.6</p>	<p>On-dock and landside rail improvements at Red Hook, 65th Street Yard, and South Brooklyn Main Terminal are included in the CPIP EA’s list of baseline improvement projects in the New York Metropolitan Transportation Authority’s (NYMTC) Transportation Improvement Program (TIP) (see CPIP EA Appendix B.1 Traffic Projections and Programmed and Committed Projects). The CPIP Plan also suggests future rail improvements, including a new rail terminal at South Brooklyn (see CPIP EA Chapter 4.0 CPIP Alternatives, page 4-5).</p> <p>In discussing 2020 port-related truck traffic on the port terminal connector roads, the CPIP reports for South Brooklyn that port-related trucks will constitute between 1 and 8 percent of all traffic on 39th Street and 2nd Avenue roadway segments, the principal access routes in the terminal area. The CPIP also considered potential effects on port-related truck volumes if the truck-rail mode split were optimistically assumed, through rail enhancements, to gain in the rail share of cargo transport. With increases in the rail freight percentage, which the CPIP forecasts would occur at South Brooklyn with implementation of the Blue Scenario, CPIP forecasts minor improvements in congestion on the local connector roadways, and concludes that 39th Street and 2nd Avenue are expected to operate below capacity , even out to 2060 (CPIP, Volume 1: The Plan, page 185, September 2005).</p>
<p>IG.1.7</p>	<p>Please see responses IG.1.5 and IG.1.6, above.</p>

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Natural Resources Defense Council
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November 10, 2005

Grace Musumeci (212-637-3738)
Chief
Environmental Review Section
United States Environmental Protection Agency
290 Broadway, 25th Floor
New York, NY 10007-1866

By Federal Express

Re: Draft Environmental Assessment of the
Comprehensive Port Improvement Plan

Dear Ms. Musumeci:

I enclose a corrected copy of the comment letter of the Natural Resources Defense Council ("NRDC") regarding the Draft Environmental Assessment of the Comprehensive Port Improvement Plan, dated October 2005. In addition to the documents enclosed with yesterday's letter, please accept this version as NRDC's official comment letter and include it in the administrative record in this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Bradford H. Sewell", is written over the typed name.

Bradford H. Sewell
Senior Attorney

02/20/05

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November 9, 2005

Grace Musumeci (212-637-3738)
Chief
Environmental Review Section
United States Environmental Protection Agency
290 Broadway, 25th Floor
New York, NY 10007-1866

By Federal Express

Re: Draft Environmental Assessment of the
Comprehensive Port Improvement Plan

Dear Ms. Musumeci:

Please accept these comments on behalf of the Natural Resources Defense Council ("NRDC") regarding the Draft Environmental Assessment of the Comprehensive Port Improvement Plan, dated October 2005 ("Draft EA").¹ For the reasons outlined below, NRDC believes that (1) the Draft EA is inadequate, and (2) the CPIP EIS process must be restarted and an EIS completed expeditiously.

I. The Draft EA is Inadequate.

A. The Draft EA Mischaracterizes the Initial Phase of the CPIP.

The Draft EA labels the initial phase of the CPIP, through the year 2020, as a "No Action" condition. This characterization is incorrect. CPIP implementation prior to 2020 indisputably involves significant federal action. Among other things, the CPIP is a coherent plan for Port improvement that has been developed and will be implemented by federal agencies, working with regional and local partners. Federal permits will be necessary for planned berth deepening and construction/modification of piers and other structures at various Port facilities; federal funds will be expended and approvals required **(IG.2.1)**

¹ Pursuant to the CPIP website (www.cpipeis.com), written comments on the Draft EA must be mailed no later than November 9, 2005.

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in connection with transportation improvements associated with the CPIP; and federal funds will be used and approvals required in connection with channel deepening associated with the CPIP.

The characterization of the pre-2020 CPIP phase as “no action” is also inconsistent with the CPIP-EIS scoping document, which stated that the “no action” alternative would be the future condition, described on a per annum basis, “without the CPIP.” CPIP, Public Scoping Information Packet (Nov. 2003) at 7 (emphasis in original). Moreover, the Memorandum of Understanding for the CPIP EIS process (“MOU”) (at Subsection D) stated specifically that the EIS would give “particular detail and focus” to impacts in the years 2010 and 2015. **(IG.2.2)**

The Draft EA bases its “no action” characterization on determinations that, for the Port growth anticipated during this period: (1) aggregate capacity of all the Port facilities is adequate and thus wetland fill will not be necessary, (2) sufficient warehousing capacity is currently “available,” and (3) there will be no significant increase in region-wide Port-related truck traffic, measured as a percentage of total traffic. As discussed below, these rationales -- which were also advanced in substantially the same form and then appropriately dismissed five years ago when the CPIP-EIS process was initiated -- are unsupported.² **(IG.2.3)**

Finally, the agencies make no commitment to conducting an EIS at any point during CPIP implementation, including for purposes of post-2020 activities; nor does the Draft EA state what the triggers would be for such an EIS. In 2000, it was EPA’s objection on these grounds that contributed to the decision to conduct the CPIP EIS. **(IG.2.4)**

B. The Draft EA Contains a Flawed Alternatives Analysis.

The analysis of alternatives is the “heart” of the NEPA process. 40 C.F.R. § 1502.14. Accordingly, an EA must consider alternative plans, including those that would mitigate the impacts of the proposed action. 40 C.F.R. § 1508.9(b); Senville v. Peter, 327 F. Supp. 2d 335, 353 (D. Vt. 2004) (EA must consider reasonable alternatives, even if impacts are not adjudged significant and no SEIS done).

The Draft EA’s alternatives analysis is flawed for the following reasons. First, because the pre-2020 phase of CPIP implementation was labeled the “no action alternative,” the Draft EA discusses no alternatives at all for this period. Similarly, there is no meaningful discussion of mitigation – let alone any commitment to any specific mitigation -- for the CPIP’s likely impacts.³ **(IG.2.5A)**

² The Draft EA’s projections concerning future Port traffic are questionable. Based upon current polling and expert opinion, it is at least reasonably foreseeable that the Panama Canal will be expanded, which would result in far greater ship traffic to the Port than forecast in the Draft EA.

³ For example, we note that a Port Inland Distribution Network has been proposed to shift container traffic from trucks to alternative modes (rail and barge), thus helping delay or reduce the need for highway improvements.

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Second, the Draft EA fails to analyze a true “no action” alternative for both the pre-2020 and the 2020-2060 phases of the CPIP. As just noted, the Draft EA discusses only one alternative for the pre-2020 phase, an alternative that incorporates channel and berth deepening, reconfiguration of port facilities and transportation infrastructure improvements for purposes of accommodating significant increases in Port-related commerce. This is indisputably not a “no action” alternative. Similarly, for the 2020-2060 period, four different alternative scenarios are discussed, all of which include expansions of physical facilities and other actions necessary to provide for yet more growth in container traffic and thus also do not represent “no action” alternatives. **(IG.2.5B)**

C. The Draft EA Provides Inadequate Analyses of Environmental Impacts.

1. Traffic-related impacts

The Port’s huge growth under the CPIP will result in a similarly huge increase in truck traffic, particularly over the next decade. *See, e.g.*, Draft EA at 2-5 (170 percent increase in Port-related truck traffic by 2060); Edwards and Kelcey, Portway Extensions Concept Development Study, prepared for N.J. Dep’t of Transp. (Sept. 26, 2003) (“Portways Extension Study”) at I-1 & VII-5 (125 percent increase in container truck trips associated with Port over current levels). The Draft EA provides a grossly-inadequate discussion of this anticipated increase in truck traffic and the resulting impacts. **(IG.2.6A)**

First, and most importantly, the Draft EA consistently uses inappropriate metrics in analyzing these impacts. The Draft EA focuses its discussion of truck traffic-related impacts on virtually-irrelevant study area-wide metrics. For example, while Port-related truck traffic may constitute only three percent of total truck traffic in the 17-county study area, if one were to look only at Essex, Hudson, Richmond, and Union Counties, the percent of truck traffic from the Port *triples*, to over nine percent. *See* The Port Authority’s Strategic Plan for the Port: Land Side Transportation Issues, attached as Exhibit 13, at 2. Moreover, truck traffic is concentrated on certain routes; indeed, on some routes in the study area, it constitutes the majority of the traffic.⁴ Portways Extension Study at I-2. As even the Draft EA recognizes, routes closest to Port facilities are particularly highly-congested. Finally, the Draft EA fails to recognize that, because of their physical size, trucks contribute disproportionately to congestion. **(IG.2.6B)**

⁴ It is also noteworthy that the primary movement of goods across the harbor is limited to only two river crossings. And only one of these crossings, the George Washington Bridge, is part of National Highway Network, the designated system of highways for 53-foot trailers. USDOT, FHWA, FRA, & NYCEBC, Cross Harbor Freight Movement Project Draft Environmental Impact Statement (April 2004) (“Cross Harbor Tunnel DEIS”), at 1-6.

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Second, the Draft EA wholly fails to consider cumulative traffic-related impacts. **(IG.2.6C)** 40 C.F.R. § 1508.7 (agency must consider "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future action"). As stated in the EIS being prepared for the proposed Cross-Harbor Freight Tunnel, the anticipated increase in truck traffic through 2025 "cannot be absorbed by the region's freight transport system without significant detrimental effects on the region's highway system, its economy, and its environment." Cross Harbor Tunnel DEIS at 1-5.

2. Air quality impacts

The Draft EA contains no meaningful analysis of the CPIP's air quality impacts. These impacts are likely to be significant, given the anticipated increase in truck traffic. Trucks are notoriously disproportionate polluters. According to EPA, heavy-duty trucks and buses -- while constituting just one percent of vehicles nationwide -- currently account for one-third of NOx emissions and one-quarter of PM emissions from mobile sources; in urban areas, like those found within the Draft EA's study area, the contribution is even greater. EPA, Regulatory Announcement: Heavy-Duty Engines and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements. Air and Radiation, Office of Transportation and Air Quality. EPA420-F-00-057 (Dec. 2000) at 2. Thus, an increase of truck traffic by even just one percent could in fact be significant for the region, as NOx pollution would increase dramatically. Moreover, the harmful impacts from increased PM pollution could be locally severe, because of the physical nature of the pollutant and the high rate of truck traffic in certain areas. See, e.g., Cross Harbor Tunnel DEIS at 9-3. **(IG.2.7)**

The Draft EA also ignores air pollution from (1) the CPIP-proposed Port facilities (including proposed 24-hour operations), (2) the increased number of ships using the Port, and (3) construction equipment and vessels associated with CPIP improvements, such as dredging and roadway improvements. In part because they are among the most poorly-regulated sources of pollution in the country, marine ports are widely-recognized as heavy polluters. In addition to trucks, most of the vehicles, vessels, rail, and equipment associated with ports and their operations use highly-polluting diesel fuel. Vehicles and equipment for construction also generally run on diesel. **(IG.2.8)**

3. Wetlands, wildlife habitat, and wildlife impacts

The Draft EA significantly understates the CPIP's likely harmful impacts on wetlands, wildlife habitat, and other important natural areas.

First, the Draft EA's assertion that wetlands fill at the Port facilities themselves will be limited to between 24-153 acres (depending on the exact "scenario" used) during the post-2020 phase of CPIP understates even this particular problem. This calculation concerning the timing of wetlands fills at the Port is based upon a determination that aggregate port capacity will be sufficient in the interim. But the CPIP planning **(IG.2.9)**

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documents make clear that there is nothing to stop any individual Port facility from making improvements sooner if adjudged to be in its best commercial interests. Indeed, according to the CPIP planning documents, it is foreseen that this will occur. Nor does the Draft EA represent that wetlands fills for such purposes would be disallowed. Indeed, there is no commitment to any cap on wetlands fills, regardless of timing.

Moreover, the Draft EA does not explain why the loss of approximately 100 acres is itself insignificant, particularly given that the Port region has already lost the vast majority of its wetlands and scientists consider the remaining acreage to be vitally important. *See, e.g.,* R. Tiner, Wetlands of Staten Island, New York: Valuable Vanishing Urban Wildlands, A Cooperative National Wetlands Inventory Publication, at 14. Nor does the Draft EA explain why the loss of 100 acres after 2020 (the Draft EA's projection) is meaningfully different from the loss of 500 acres after 2040 (the EIS' projection and an amount of wetlands loss that EPA stated in 1999 was unacceptable). **(IG.2.10)**

In addition, wetlands fill at the Port facilities is only a small part of the wetland and habitat loss likely to be caused by the CPIP. First, it is conceded that the Draft EA's estimates do not include harmful impacts from deepening and/or berth extensions. Task F Technical Memorandum, Vol. 1, CPIP (June 2004) at 147. Harm to wetlands bordering the channels as a result of vessel wakes is also not addressed. **(IG.2.11)**

Second, development of warehousing capacity to serve the Port will also harm wetlands and other natural areas. While the Draft EA determines that there is "available" warehousing space to serve the Port's projected needs through 2020, it fails to discuss the environmental impacts of the use of these areas. We note that the CPIP EIS would have been an appropriate forum in which to discuss the relative environmental merits of building warehousing capacity in different areas, such as in the so-called "brownfields" proximate to the Port, or further away from the facilities, such as called for in the Port Inland Distribution Network Plan ("PIDN"). *Cf.,* Portways Extension Study at VIII-3 & -6. **(IG.2.12)**

Third, the Draft EA ignores the harm to wetlands and natural areas resulting from the Port-associated roadway and rail improvements.⁵ The Portways project, for example, consists of hundreds of millions of dollars of transportation improvements being done "in conjunction" with improvements at the Port facilities themselves and is for purposes of handling demand from increased Port-related activity. *See, e.g.,* Portways Extension Study at I-2 & I-4. Phase I of the Portways project alone consists of 11 roadway improvement projects. *Id.* at II-1. Given the location of these projects, it is indisputable that there will be impacts on wetlands and natural areas. Similarly, the PIDN – which will create a series of "dense trade clusters" within a 75-400 mile radius, in less

⁵ Although the United States Department of Transportation, Federal Highway Administration is listed as a co-lead agency for the Draft EA, the document fails to consider impacts on public recreational lands and parklands pursuant to Section 4(f) of the United States Department of Transportation Act.

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developed areas – will have different, and also wholly unaddressed, impacts on natural areas. *Id.* at II-3. **(IG.2.13)**

On a different note, the Draft EA's analysis of endangered species impacts notably ignores impacts on the gravely-endangered northern right whale. The increased number of larger, faster vessels enabled by CPIP implementation will likely result in increased takes of right whales. Accordingly, the involved agencies should immediately initiate formal consultation with the National Marine Fisheries Service to ensure compliance with the Endangered Species Act. **(IG.2.14)**

4. Impacts from sea level rise

Even though it purports to consider impacts through the year 2060 concerning physical facilities providing important goods and services for the region, the Draft EA ignores the obvious threat posed by sea level rise. See, e.g., http://metroeast_climate.ciesin.columbia.edu/index.html **(IG.2.15)**

II. The Agencies Should Restart the EIS Process.

In 1999, in the final stages of developing the EIS for the Harbor Navigational Study ("HNS"), the agencies correctly decided to develop the CPIP and the accompanying EIS. This process was to have remedied, albeit in post-hoc fashion, the failure of the EIS to adequately analyze significant impacts of the channel deepening project, including certain cumulative impacts and landside impacts, such as related to transportation changes induced by Port growth. For example, the 1999 EIS was quite clear in saying that the impacts of "landside improvements," such as noise, air quality and infrastructure impacts, were to be addressed in the CPIP process. Indeed, the 1999 EIS noted that these impacts and the underlying decision-making "require[] the preparation of an EIS." HNS EIS at 3-13. Further, the MOU stated: **(IG.2.16)**

IV.C. The parties to this MOU acknowledge that some components of the HNS have not been fully evaluated in that study and, therefore, are not proposed in the HNS for construction until the requisite studies are completed. Accordingly, supplemental environmental documentation will be required before construction of those components can be considered for authorization. Such supplementation environmental documentation can be included in the CPIP-EIS directly or by reference, if considered separately. *Moreover, the cumulative impacts of all past, present, and reasonably foreseeable future port improvement projects, including those authorized upon completion of the HNS, shall be evaluated in the CPIP-EIS.*"[emphasis added]

As the CPIP scoping document later described, the intended purpose of the EIS was to evaluate "cumulative impacts," including "both port and associated transportation improvements." Public Scoping Information Packet for CPIP EIS (Nov. 2003) at 9. It was important to many, including NRDC, that the initiation of the CPIP-EIS was also

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intended to result in the development of an environmentally-sustainable plan for the Port's expansion. In light of the centrality of the HNS and associated EIS to this proceeding, NRDC requests that the full administrative record concerning the HNS and the EIS be incorporated into the administrative record for this proceeding, including but not limited to public and agency comments concerning the EIS. **(IG.2.17)**

The imperatives that compelled the initiation of the CPIP-EIS have not changed. As the Draft EA itself discloses, the CPIP will cause significant congestion and air pollution impacts. There will also be significant impacts on wetlands and other natural areas. Moreover, the reasons cited for discontinuing the EIS process -- a purported decrease in the amount of wetlands impacts, an insignificant increase in Port-related truck traffic when measured on a regionwide scale, and current availability of adequate warehousing space -- are specious. As already discussed, these rationales add up to a distorted and incomplete view of CPIP's environmental impacts. Moreover, all three of these rationales existed at the time that the CPIP-EIS was initiated and were discounted appropriately; the Draft EA fails to provide an explanation why they deserve more weight now. Finally, the Draft EA fails to explain why the other underlying purposes to the CPIP-EIS are no longer important, such as (1) to support ongoing restoration of the Harbor and its environment, (2) to ensure the environmental sustainability of Port expansion, and (3) to be a "good neighbor" to affected communities. **(IG.2.18)**

The purpose of the NEPA review process is to ensure informed agency decisionmaking on matters of environmental concern and identify alternatives that will reduce adverse environmental impacts. Therefore, an agency must not make any "irreversible and irretrievable commitment of resources" to the proposed work until the NEPA review is complete, so that it has the benefit of a complete assessment of environmental impacts and alternatives, as required by law, to guide its decisions. Accordingly, absent expedient completion of the CPIP-EIS, the EIS for the HNS will again be inadequate and require supplementation. Moreover, individual projects incorporating federal action and related to the CPIP should not move forward. **(IG.2.19)**

III. Enclosed documents

In addition to this letter, we request that the enclosed documents, listed as follows, be incorporated into the administrative record for this matter: **(IG.2.20)**

1. Press Release from New Jersey Department of Environmental Protection. April 28, 2005. "DEP Commissioner Responds to American Lung Association Report." 1 p.
2. Press Release from New Jersey Department of Environmental Protection. July 18, 2005. "Clean Air Council Report Calls for Action on Harmful Air Pollution Impacting Public Health and the Economy." 2 pp.
3. Press Release from New Jersey Department of Environmental Protection. June 15, 2005. "DEP Seeks Input on Strategies for Improving Air Quality." 1 p.

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4. Joshi, Rajesh. September 16, 2005. "Big Apple's Port Gets to the Core of its Problems." *Lloyds List*. 2 pp.
5. Letter from Janine Bauer, Tri-State Transportation Campaign; Andy Willner, the NY/NJ Baykeeper; Cindy Zipf, Clean Ocean Action; James T. B. Tripp, Environmental Defense Fund; Ed Lloyd, Rutgers Environmental Law Clinic; and Carolyn Summers, Natural Resources Defense Council to William J. Muszynski, P.E., Deputy Administrator, U.S. EPA Region 2. February 18, 2000. Re: MOU on the Comprehensive Port Improvement Plan. 2 pp.
6. Letter from Therese Langer to Thomas Shea, III, Project Planner, Flood Control & Navigation Section, U.S. Army Corps of Engineers, New York District. November 22, 1999. Re: Harbor Navigation Study, Draft Main Report. 4 pp.
7. Letter from Janine Bauer, Therese Langer, Ed Lloyd, Andy Willner, and Cindy Zipf to William J. Muszynski, P.E., Deputy Administrator, U.S. EPA Region 2. December 1, 1999. Re: Draft MOU for a comprehensive port improvement plan. 8 pp.
8. Letter from Therese Langer to Policy Review Branch, Policy Review and Analysis Division. February 28, 2000. Re: Final Feasibility Report for the New York and New Jersey Harbor Navigation Study. 7 pp.
9. Comprehensive Port Improvement Plan Environmental Impact Statement (CPIP EIS) Public Scoping Presentation. PowerPoint presentation slides. 18 slides.
10. Tripp, Jim. May 18, 1999. Memo to DMMIWG Re: May 3, 1999 DMMIWG Meeting. 6 pp.
11. Matsil, Marc A. June 7, 1999. Memo to NY/NJ Habitat Workgroup and Acquisition and Restoration Subworkgroup Re: Minutes from May 6, 1999 Habitat Workgroup and Acquisition and Restoration Subworkgroup Meeting, Staten Island Institute of Arts and Sciences. 10 pp.
12. Mobilizing the Region. April 1, 2002. Issue 359. "Port Development Plan Off to Slow Start." Available at <http://www.tstc.org/bulletin/20020401/mtr35910.htm>. Accessed April 14, 2005.
13. The Port Authority's Strategic Plan for the Port: Land Side Transportation Issues. Draft. No date. 6 pp.
14. Environmental and Transportation Groups. No date. Memo to Empire State Development Corp., NJDOT, NJ Maritime Resources, NYCEDC and Port Authority Re: Vision and mission, goals and objectives statements for a port and estuary planning process. 6 pp.
15. Bailey, D., T. Plenys, G. M. Solomon, T. R. Campbell, G. Ruderman Feuer, J. Masters, and B. Tonkonogy. March 2004. Harboring Pollution: The Dirty Truth About U.S. Ports. Published by the Natural Resources Defense Council and Coalition for Clean Air. Pp 1-28.
16. CPIP. No date. Attachment A. Performance of Expert Professional Planning Services for the Preparation of a Comprehensive Port Improvement Plan for the Port of New York & New Jersey. 14 pp.
17. Letter from Eugenia Flatow, Coalition for the Bight; James Tripp, Environmental Defense Fund; and Sarah Chasis, Natural Resources Defense Council to Colonel William H. Pearce, District Engineer, U.S. Corps of Engineers, New York

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- District. November 9, 1999. Re: Extension of the comment period for the New York and New Jersey Navigation Study (the Navigation Study) and Dredged Materials Management Plan (the DMMP). 1 pp.
18. Port Authority of NY & NJ, Engineering Department. 2004. 2004 Construction Program. 28 pp.
 19. The Port Authority of NY & NJ. No date. Fact Sheet: Improving Inland Access. 2 pp.
 20. Howland Hook Container Terminal. No date. Howland Hook Terminal Construction Update. Available at <http://www.hhook.com/construction.htm>. Accessed December 14, 2004.
 21. Mobilizing the Region. July 2, 1999. Issue 227. Paving Portway. Available at <http://www.tstc.org/bulletin/19990702/mtr22709.htm>. Accessed November 1, 2005.
 22. Edwards and Kelcey Engineers, Inc. May 2000. Cross Harbor Freight Movement Major Investment Study. Prepared for New York City Economic Development Corporation.
 23. Environmental Defense and East of Hudson Rail Freight Operations Task Force. 2004. Investing in Mobility: Freight Transport in the Hudson Region.
 24. Move NY & NJ. No date. The Cross Harbor Rail Freight Tunnel: Connecting New Jersey-Improving Our Communities; Critical for New York's Future; Critical Benefits for Brooklyn; Critical Benefits for Staten Island.
 25. Hughes J. W. and J. J. Seneca. April 2005. A Transportation-Driven World-Class Economy: New Jersey at Risk. Rutgers Regional Report Issue Paper Number 23. Published by Edward J. Bloustein School of Planning and Public Policy. Pp. 16-17.
 26. EPA. December 2000. Regulatory Announcement: Heavy-Duty Engines and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements. Air and Radiation, Office of Transportation and Air Quality. EPA420-F-00-057. 2 pp.
 27. New York/New Jersey Harbor Roundtable. January 24, 2005. Developing an Environmental Agenda for 2006-2007. Draft 0.91. 24 pp.
 28. Tripp, J., D. Suszkowski, A. J. Willner, A. Brash, E. Flatow, and M. Bystryn. March 18, 2005. Joint Statement Regarding U.S. Army Corps of Engineers Appropriations for Fiscal Year 2006 Federal Channels in the Port of New York & New Jersey. Appropriations Subcommittee on Energy & Water Development. United States House of Representatives. 4 pp.
 29. Larrabee, R. M., R. Gimello, E. Mildemberger, and K. Ascher. March 18, 2005. Joint Statement Regarding U.S. Army Corps of Engineers Appropriations for Fiscal Year 2006 Federal Channels in the Port of New York & New Jersey. Appropriations Subcommittee on Energy & Water Development. United States House of Representatives. 5 pp.
 30. Letter from Neil D. Levin, Executive Director of the Port Authority of NY & NJ to George E. Pataki, Governor of the State of New York and Donald D. DiFrancesco, Acting Governor of the State of New Jersey. June 21, 2001. 7 pp.

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31. Piken, S. February 2001. NY & NJ Harbor. The Port Authority of NY & NJ. PowerPoint presentation slides. 15 slides.
32. The Port Authority of NY & NJ. No date. Building a 21st Century Port. 38 pp.
33. Frederic R. Harris, Inc. February 1999. Port Inland Distribution Network Project. Prepared for The Port Authority of NY & NJ, Port Commerce Department.
34. The Port Authority of NY & NJ. No date. Port of New York/New Jersey Factsheet: Building a 21st Century Port. 2 pp.
35. CPIP. No date. Attachment A: Statement of Work for Preparation of the Environmental Impact Statement for the Comprehensive Port Improvement Plan. 15 pp.
36. The Regional Plan Association. May 2003. Needs and Opportunities for Environmental Restoration in the Hudson-Raritan Estuary. Prepared for the U.S. Army Corps of Engineers. 55 pp.
37. Environmental and Transportation Groups. No date. Memo to Empire State Development Corp., NJDOT, NJ Maritime Resources, NYCEDC and Port Authority Re: Vision and mission, goals and objectives statements for a port and estuary planning process. 13 pp.
38. Tripp, J. and T. Wakeman. October 29, 2003. Memo to DMMIWG Re: Agenda for November 3 Meeting. 5 pp.
39. O'Dowd, J. B. March 31, 2004. Clean Air Act final General Conformity Determination, New York and New Jersey Harbor Deepening Project. 3 pp.
40. Chambers, S. March 16, 2005. "A Packed Port Seeks Room to Grow." *New Jersey Star-Ledger*.
41. NYCT Expansion. No date. A Solution for the New York Harbor Today. A Leader for the Shipping World Tomorrow. 10 pp.
42. Parsons Brinckerhoff-QD, Inc. June 28, 2004. Developing a Framework to Assess Goods Movement in New Jersey. Prepared for The New Jersey Department of Transportation. 56 pp.
43. USDOT, FHWA, FRA, and NYCEDC. April 2004. Cross Harbor Freight Movement Project Draft Environmental Impact Statement. Chapters 1-4, 8-10, 13, 17-19.
44. United States Army Corps of Engineers New York District. December 2003. Harbor Air Management Plan for the New York and New Jersey Harbor Deepening Project.
45. Edwards and Kelcey. September 26, 2003. Portway Extensions Concept Development Study. Prepared for New Jersey Department of Transportation. Sections II, IV, VI-XIII, Appendix E.
46. Starcrest Consulting Group, LLC. April 2003. The New York, Northern New Jersey, Long Island Nonattainment Area Commercial Marine Vessel Emissions Inventory. Prepared for the Port Authority of NY & NJ. Volumes 1 and 3.
47. Starcrest Consulting Group, LLC. June 2003. The Port of New York and New Jersey Emissions Inventory for Container Terminal Cargo Handling Equipment, Automarine Terminal Vehicles, and Associated Locomotives. Prepared for the

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Ms. Grace Musumeci, EPA
Nov. 9, 2005
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Port Authority of NY & NJ, United States Army Corps of Engineers, New York
District.
48. Report Re Port Expansion, undated.

* * * *

If EPA, the Corps, or the Federal Highway Administration have any questions or
concerns regarding these comments, please contact Bradford H. Sewell at (212) 727-
4507, bsewell@nrdc.org.

Respectfully Submitted,


Bradford H. Sewell
Senior Attorney

P.13/20

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INTEREST GROUPS	
IG.2 Natural Resources Defense Council	
IG.2.1	<p>The CPIP cargo demand forecasts and assessment of Port-wide capacity concluded that there is sufficient total capacity at the sites to accommodate forecasted cargo demand for several decades, for all cargo types, such that implementation of CPIP port improvements is not required in the near-term. However, as the CPIP EA states, it is possible that individual terminals may reach the potential capacity of their existing acreage sooner than others and may, therefore, propose terminal expansion before all of the existing Port-wide surplus capacity is used. Decisions regarding the scope and timing of any such nearer-term expansion at a specific Port site will be driven by market forces as well as by physical capacity, and have not yet been identified nor proposed.</p> <p>The CPIP EA has been revised to clarify that the 2020 conditions described are a characterization of future, interim-year conditions for which data and projections can be provided with some degree of certainty, based on extensive studies conducted during the CPIP planning process. CPIP forecasts no Port-wide need for expansion nor identifies any Port site-specific projects within the 2020 timeframe. With no identified nor proposed projects by 2020, there are no CPIP-related Federal actions involved, nor Federal permits required.</p> <p>Any projects involving a Federal action that have not been included in the CPIP baseline will, at the time they are proposed, have to 1) demonstrate their purpose and the need for the project, and 2) complete the requisite environmental analyses for both the No-Action conditions and conditions with the project, as described in CPIP EA Chapter 6, including a cumulative impacts analysis.</p>
IG.2.2	<p>The Scoping Document for the CPIP EIS represented the information available at the time of its preparation and distribution, which preceded completion of the CPIP planning and cargo demand forecasting effort. The effort concluded that there is sufficient Port capacity to accommodate forecasted cargo demand for several decades, for all cargo types, such that implementation of port improvements is not required in the near-term. Were there not sufficient capacity, such that nearer-term projects were needed, 2010 and 2015 would have been focused on, as stated in the MOU, and an EIS would have been prepared.</p> <p>The true No-Action condition for purposes of considering CPIP projects is the condition in future years beyond 2020, in the 2030s and 2040s when future CPIP-related projects will be required, depending on cargo type, based on the CPIP forecasts of cargo demand. While the CPIP EA identifies port, traffic, and warehouse conditions in 2020 for informational purposes, it does not attempt to characterize No-Action conditions in the 2030s or 2040s due to the degree of uncertainty associated with such long-range projections. At such time as future CPIP projects are proposed and the necessary environmental reviews are undertaken, the No-Action conditions will be evaluated and reported. The No-Action alternative will define conditions, absent implementation of the proposed CPIP project, in the years for which construction and operation of the project are proposed. The No-Action alternative will be evaluated and reported in the appropriate environmental documentation (e.g., EA, EIS).</p>

<p>IG.2.3</p>	<p>The rationales underlying the CPIP determinations cited in the comment are supported by recent and planned improvements in Port throughput efficiencies and the cargo demand forecasting and associated long-term Port planning conducted for the CPIP. As with all long-term forecasts, it is understood that cargo demand forecasts for the Port of New York and New Jersey must be re-evaluated at regular intervals in the future, employing refined assumptions that may be logically made at those times (e.g., assumptions regarding expansion of the Panama Canal may presumably be based, in the future, on tangible evidence of movement in that direction, rather than on polling and expert opinion). Should future forecasts indicate more accelerated growth in cargo demand than presented in the CPIP forecasts of cargo demand in the Port, they can then provide bases for nearer-term identification and implementation of Port-improvement projects.</p>
<p>IG.2.4</p>	<p>The CPIP EA clearly states that environmental reviews, including EISs, will need to be undertaken for future CPIP-related projects: “When the need for a future project has been demonstrated and sufficient site-specific design and operations-related information is available to allow detailed assessment of impacts, any proposed projects must be evaluated in subsequent EAs or EISs” (Draft CPIP EA, page 6-2).</p> <p>The CPIP EA, notably Chapter 6.0 Process for Future Environmental Reviews, “...provides a framework for the identification of future analyses that may be required for port-improvement projects or port-related transportation projects proposed in the future” (Draft CPIP EA, page 6-2).</p> <p>While the three federal agencies have not committed to preparing the future NEPA documents, it is understood that the responsible lead federal agency will do so, as required by NEPA, and will include the impact analyses outlined in CPIP EA Chapter 6, including cumulative analyses. Per NEPA requirements, future CPIP-related EISs will be circulated for public review.</p> <p>Triggers for future environmental reviews are provided in the CPIP EA, Chapter 6.0, Section C. Future Environmental Reviews. Please see Table 6-1 Potential Permits and Approvals and Table 6-2 Permits/Approvals and Triggers for CPIP Alternatives.</p>

<p>IG.2.5A</p>	<p>As described in CPIP EA Chapter 4, Section A, the alternative CPIP scenarios were developed through a formal planning process to develop generalized strategies to guide future port development. The alternatives do not define specific future projects that would be required to implement a given scenario, as future decisions about the scope and timing of individual port site improvements will be dictated both by future capacity needs and market forces. Key factors considered in the planning process included land acreage required to accommodate future cargo demand by cargo type; required berth lengths and widths; new building needs; and port site-specific conditions and attributes. Based on the port site attributes and port-planning considerations, 36 site-specific improvement options were defined, while seeking to avoid or minimize impacts to wetlands and aquatic habitat. Site-specific options were then combined into four Port-wide scenarios, each representing a combination of provisions for different cargo types at the seven port sites that would meet or exceed the overall Port-wide demand in 2060.</p> <p>Because no near-term CPIP-related port-improvement projects are needed, discussion of mitigation is unwarranted at this time, and will properly be undertaken at such time as future port-improvement projects are proposed, environmental reviews are conducted, and significant impacts requiring mitigation are identified.</p> <p>The CPIP EA’s alternatives analysis correctly focused on the CPIP’s purpose and need, which is defined by the cargo demand forecasts and assessed capacity of the Port, on the basis of which it has been concluded that port-improvement projects are not needed for several decades. The CPIP EA has been revised to clarify that the 2020 conditions described are a characterization of future, interim-year conditions for which data and projections can be provided with some degree of certainty, based on extensive studies conducted during the CPIP planning process. The No-Action alternative will be defined in the future when CPIP-related projects are proposed.</p>
<p>IG.2.5.B</p>	<p>Regarding “a true no-action alternative,” please see responses to Comments IG. 2.1 and IG.2.2, above.</p> <p>The EA does not define a pre-2020 alternative, but describes four alternative scenarios that would guide Port development to the year 2060 in order to accommodate forecast cargo demand (see Chapter 4.0). These four scenarios are defined as Port-improvement alternatives; there is no representation in the EA that these are no-action alternatives.</p> <p>The EA discussion (in Chapter 5.0) of channel and berth deepening, reconfiguration of port facilities, and transportation infrastructure improvements portrays activities that are not CPIP-related but have either been completed in recent years or are likely to be implemented by 2020 at the various Port sites and the transportation networks that serve them.</p>

<p>IG.2.6A</p>	<p>The EA summarizes growth in traffic, including truck traffic, that the CPIP Plan has forecast for local, corridor, and regional highway networks serving each of the Port sites in order to characterize future traffic conditions within the Port. As the CPIP Plan concluded that there is no near-term need for such improvements for several decades, there are no CPIP-related Federal actions nor Federal permits required at this time. Therefore, project-specific impact assessments of future truck volumes will be conducted at such time as port-improvement and associated transportation-improvement projects are proposed in the future.</p> <p>Details of the 2020 forecasts are provided in EA Appendix B.1 for informational purposes to facilitate future environmental reviews that will be undertaken as CPIP-related projects are proposed; these forecasts will need to be updated for such future environmental reviews.</p> <p>Details of total and truck traffic forecasts are presented in <i>CPIP Volume 1: the Plan</i>, CPIP Consortium, Chapter 9, September 2005, and <i>Task E Technical Memorandum, Market Demand and Port Capacity, Volume 3: Current and Planned Capacity of Regional Transportation Network – HIGHWAYS</i>, Final Draft July 2004.</p>
<p>IG.2.6B</p>	<p>Please see response to Comment IG.2.6A, notably regarding the CPIP Plan documents, which are incorporated in the EA by reference.</p>
<p>IG.2.6C</p>	<p>As noted in the comment, the Cross Harbor Freight Movement EIS concludes in its statement of that project’s purpose and need that the region’s freight transport system cannot absorb anticipated growth in truck traffic without detrimental effect. The Cross Harbor EIS chapter on secondary and cumulative impacts includes a qualitative assessment of potential cumulative impacts, including transportation effects, noting that “...many of the highway projects planned over the next 25 years would most likely lead to a reduction in future congestion as currently planned in the project’s freight forecasting methodology” (page 18-7). Similarly, environmental studies of future proposed CPIP projects will conduct cumulative analyses to forecast likely conditions resulting with the project and other past, present, and reasonably foreseeable future actions.</p> <p>However, the CPIP planning studies and cargo demand forecasts indicate that no near-term capacity improvements are needed at the Port sites; consequently, there are no near-term Federal actions requiring review under NEPA, nor any required Federal or state approvals required. At such time as future projects are identified and proposed, the necessary environmental reviews, including cumulative impact assessments, will be undertaken. As is noted for each of the Port sites, in CPIP EA Chapter 5.0 Potential Impacts of CPIP Alternatives: “It is likely that future cumulative impact evaluations should focus on the environmental categories identified above, notably for traffic....”</p>

IG.2.7	Increased demand for cargo in the region served by the Port of New York and New Jersey will increase port-related truck traffic, as indicated in the CPIP and EA. Port-related traffic will not, however, be the primary contributing factor to overall regional traffic nor air quality, even though individual truck emissions may still be greater than other individual vehicle emissions over time. However, when specific projects, port-related or otherwise, are proposed, air quality will be analyzed at that time. (See CPIP EA Tables 5-5 through 5-8, which identify potential environmental concerns/issues at each of the Port sites with the four CPIP alternatives, and Table 6-2, which identifies triggers for future environmental reviews, including air quality concerns.)
IG.2.8	The CPIP EA identifies potential future air quality, and other, environmental concerns and issues that will likely need to be evaluated through appropriate environmental review processes at such time as future port-improvement projects are identified and proposed. (See CPIP EA Tables 5-5 through 5-8, which identify potential environmental concerns/issues at each of the Port sites with the four CPIP alternatives, and Table 6-2, which identifies triggers for future environmental reviews, including air quality concerns).
IG.2.9	<p>The CPIP EA’s conclusion that wetland-related impact will be limited to between 23 and 153 acres, depending on the particulars of each CPIP scenario, is based on CPIP planning assumptions about Port-site expansions that will be required in future decades, and are thus included within the four Port-improvement scenarios defined to guide future development of the Port of New York and New Jersey. Should market forces and/or individual Port site-specific capacity constraints warrant consideration of a Port site’s expansion in the near term, the necessary environmental reviews -- including wetland-related evaluations, notably including the requirement of the Clean Water Act to establish a purpose and need for the fill and seek to avoid, then minimize, then mitigate wetland impact -- and permits identified in the CPIP EA (e.g., in Chapter 6.0 Table 6-2 Permits/Approvals and Triggers for CPIP Alternatives) would need to be considered for the specific project proposed.</p> <p>While a cap is not specifically being established, projects that vary from the scenarios identified in the CPIP and that require fill will have to demonstrate that the new proposal complies with the 404(b)(1) guidelines and does not unnecessarily call for more fill than proposed by a CPIP scenario.</p>
IG.2.10	The CPIP EA acknowledges that the estimated fills associated with port scenarios are “major amounts,” and notes that the fill is not anticipated in the near term (see Chapter 1, page 1-6). The agencies do not view the loss of wetlands now or in the future as “insignificant.” Future port-improvement projects that may be proposed will be held to the requirement to avoid, minimize, or mitigate impacts to wetlands.

<p>IG.2.11</p>	<p>Task F Technical Memorandum, Vol. 1, CPIP (June 2004) is a document prepared by the CPIP Consortium and its consultant team. The CPIP EA acknowledges that each of the scenarios includes a new berth that will impact approximately 17 acres (see Executive Summary, page ES-11; Chapter 1, Table 1-5; Chapter 5, Table 5-9). The cargo demand forecasts prepared during the CPIP planning process concluded that additional port facilities are not needed until 2037. At that time, the existing conditions of wetlands and aquatic habitats may have changed from today's conditions. When a port improvement project is proposed in the future, specific details of new berths and possible berth extensions will be available, and a full analysis of impacts to wetlands, aquatic habitats, and buffer areas will be prepared, including consideration of potential impacts from vessel wakes and any other indirect effects. The design must also meet the requirement to avoid or minimize impacts.</p>
<p>IG.2.12</p>	<p>Regulatory agencies may use the CPIP as a point of comparison with regard to fill permits for warehousing development proposed in the future.</p>
<p>IG.2.13</p>	<p>When future Port-related transportation projects are proposed and the necessary environmental reviews are undertaken, their potential direct, secondary, and cumulative impacts to wetlands and natural areas will be conducted. The cumulative analyses will consider all past, present, and reasonably foreseeable future actions. While Portways, other Port-associated improvements, and PIDN are not CPIP-related, they will be included in the analyses of cumulative impacts of CPIP-related projects proposed in the future.</p>
<p>IG.2.14</p>	<p>The North Atlantic right whale (<i>Eubalaena glacialis</i>) is close to extinction in the North Atlantic. Overfishing by the whaling industry in past centuries precipitated the decline. Since 1935, the right whale has been protected by international treaty; however, its population has continued to decline. NMFS has identified collisions with ships and entanglement in fishing gear as the most significant anthropomorphic threats. In June 2005, NMFS presented its draft environmental assessment to implement the operational measures of the North Atlantic Right Whale Ship Strike Reduction Strategy. Based on the findings of the EA, NMFS has begun preparing an EIS of the strategy. Alternatives considered included ship size and seasonal speed restrictions within 20 to 30 navigation-miles of a port site. The ship strike reduction strategy and its environmental documents should be consulted for measures to reduce impacts to northern right whales. Ships operating in the Port of New York and New Jersey will be obligated to conform to current regulatory requirements stipulated to protect northern right whales.</p> <p>NMFS did not identify protection of northern right whales as an issue for the port sites identified in the CPIP Plan (NMFS letter of December 13, 2004). As the shipping fleet changes to include new state-of-the-art vessels, larger and faster ships are calling at existing port sites. When a specific CPIP-related project is brought forward for environmental review, NMFS will be consulted to determine the analysis required to assess impacts to northern right whales and the need for a Biological Opinion.</p>

IG.2.15	<p>As for all other potential impact categories, there is currently no basis for evaluating sea-level or other aquatic impacts in the absence of near-term Port-improvement projects and, consequently, no required Federal actions. Also, there is currently no widely accepted method for evaluating the impacts of sea-level rise. As is stated in the CPIP EA, at such time as future projects are identified and proposed, the necessary environmental reviews, including any related to sea-level rise (at such time as an appropriate evaluation method is available), will be required to be undertaken.</p>
IG.2.16	<p>The CPIP process indicated that there is sufficient capacity at the Port to accommodate projected cargo demand to 2037. Since we are unable to anticipate the environmental impacts of projects that may occur in/after 2037, preparing an EIS on such future projects at this time would not be reasonably possible and would lack accuracy. However, the agencies have clearly indicated that future proposed projects will need to undergo the appropriate environmental analyses, and the cumulative impacts to resources such as air quality, noise, and wetlands will be evaluated. Should the projections of the CPIP not hold true, projects may be proposed earlier than 2037 and the necessary environmental analyses will then be completed in a timely manner.</p> <p>A baseline cumulative impacts analysis could have been completed at this time to facilitate future environmental reviews, but it is not specifically required by NEPA.</p>
IG.2.17	<p>Whereas the HNS is referred to in the CPIP documentation, its administrative record is considered to be part of the CPIP’s administrative record. However, the HNS administrative record will not specifically be replicated in hard copy for inclusion in the CPIP administrative record.</p>
IG.2.18	<p>Prior to initiating the CPIP effort, the Federal Co-Lead Agencies determined that projects constituting major federal actions with significant environmental impacts would be identified in the CPIP. That determination was made on the basis of previous cargo demand forecasts for the Port of New York and New Jersey. However, as documented in the CPIP EA, the CPIP cargo demand forecasts were considered in tandem with estimates of the Port’s assessed capacity, by cargo type, to determine the timeframes within which shortfalls in capacity would occur. The conclusion of the CPIP forecasting effort is that Port-improvement projects are not required for several decades; therefore, there are no near-term federal actions, and an EIS is no longer the appropriate level of environmental review for the CPIP.</p> <p>The goals of the CPIP project, including both the Plan and the EIS, were to prepare a comprehensive port improvement plan for the Port of New York and New Jersey that would address projected cargo demand to the year 2060; would be economically viable and environmentally sustainable; and would support ongoing restoration of the harbor and its environment (see CPIP EA, Chapter 2.0 Purpose and Need for the Project). Contrary to the commenter’s assertion that these purposes are no longer important, these purposes collectively were the underpinning of the planning process through which the four Port-improvement scenarios were developed and refined to minimize impacts, to the extent that they could be identified for the conceptual Port-improvement strategies. The CPIP Plan and programmatic EA will serve as framework documents and guidance for future identification and environmental evaluation of specific Port-improvement projects, reinforcing the underlying purposes of CPIP in the future.</p>

<p>IG.2.19</p>	<p>For the reasons cited in the Federal Co-Lead Agencies’ August 29, 2005, <i>Federal Register</i> “Notice of Termination of Environmental Impact Statement for the Comprehensive Port Improvement Plan Within the Port of New York and New Jersey (PONYNJ),” in the CPIP EA, and in the response to NRDC comment IG.2.16, above, the Federal Co-Lead Agencies’ determined that an EA, rather than an EIS, is the appropriate level of environmental review and documentation for the CPIP. Absent the need for near-term Port-improvement projects, based on the CPIP forecasts of future cargo demand and assessment of Port capacity, there is no basis under NEPA for an EIS, as there are no near-term federal actions to evaluate in detail. Therefore, the current CPIP environmental review is not the appropriate process to address any issues related to the adequacy or supplementation of the Harbor Navigation Study EIS.</p> <p>The programmatic CPIP EA documents the CPIP’s purpose and need and related alternatives planning and development process; discloses potential impacts that would result with each of four conceptual Port-improvement scenarios defined to address the CPIP purpose and need; identifies uncertainties that remain regarding selection of a preferred alternative scenario; and provides an environmental framework for consideration of future CPIP-related projects that may be proposed. As stated in the CPIP EA, future “individual projects, incorporating federal action and related to the CPIP,” will be required to undergo the NEPA environmental review processes appropriate to each.</p>
<p>IG.2.20</p>	<p>The 48 documents transmitted with the National Resources Defense Council correspondence dated November 9, 2005, are considered part of the CPIP’s administrative record. However, the documents will not be replicated in hard copy for inclusion in the CPIP administrative record.</p>

Enclosed comment is in response to
~~request~~ (3 pages) request for another
public comment on
Draft Env. Assess. of CIP

It is from myself.

Sandra R. Lieberman

190 W 24th St #A53

Bayonne NJ 07002

Sandra R. Lieberman 10/11/05

Written Comment on ENVIRONMENTAL IMPACT of CPIP

Since June 2002 ongoing to present I have engaged on a regular (weekly or more frequent) basis in voluntary efforts to achieve and maintain a relatively clean and attractive waterfront and shoreline in Bayonne, NJ—specifically on the western shoreline (of Newark Bay). My comprehensive work areas have been W 24th St—W 24th St to the bay (directly across, at 2 W 24th St, from the Port Elizabeth (E) / Port Newark (W) division), and the Kill Van Kull beach area adjacent to the Bayonne Bridge (Kennedy Blvd + W 1st St). I have been recognized for my work in a Bayonne Community News Article (11/10/04). This volunteer work effort has been successful, to an extent, in generating parallel momentum of others who have received their own press coverages for their efforts and activities. There is much more focus now (than 3 years ago & prior) on environmental impacts of and on waterway, waterfront, and watershed conditions in Bayonne, and the need to generate, maintain, and progress in positive environmental actions and behaviors; remedial, maintenance, and ameliorative.

This focus is not, however, without its challenges and obstacles.

① A long-term stagnation in Bayonne in waterfront appearance which only recently has shown signs of turning around. In this respect, the mayor's advocacy and quoted statements have 'led'.

② A public attitude, probably not too different from elsewhere, of "anything goes" regarding what can be done and tolerated waterfront.

Some of the more negative aspects of this have undergone some educational address, but there is too much of a "you can't change the status quo" attitude that remains; from habit, from the discouragement of seeing garbage that keeps on coming ashore (many inclusive of myself believe the volume has lessened recently), and, maybe most significantly, from the dearth of consistent, regular, multi-person work-together.

Coordination to tackle these factors, decide on acceptable waterfront cleanup norms and goals, and put specific plans into effect to achieve them.

Waterfront real estate value increase has (irrationally) not been paralleled by enough of coordinated ongoing efforts to maintain healthy waterfront appearance in Bayonne, and also in the other CPIP municipalities; Elizabeth, Newark, Jersey City, and Bayonne are the 4 NJ municipalities under potential CPIP environmental impact that should have more coordinated regular waterfront cleanup efforts, similar to what the Hackensack and Passaic River border towns engage in and benefit from via two known leadership organizations - the Hackensack Riverkeeper and the Passaic Valley Sewer Commission River Restoration Program, and their respective affiliated groups. In the 3+ years that I've been involved in this work, not only have I observed carefully the various patterns and composites of the debris I've collected, but I've heard from other observers in my work locales (e.g. fisherman) that ~~some~~ some of the ships that pass up and down Newark Bay have been seen discarding debris into the water. The dredging conducted by the USACE has also brought in its share of additional long-submerged debris. Without a heightened monitoring level (and even with it), the CPIP plan, with its added waterway traffic, certainly has the potential to damage the shoreline further, and much more heavily: (I.1.1)

It's my (oft-stated) opinion that ongoing regular maintenance is the key to waterfront with health and aesthetic environmental acceptability. (although other options are of value in providing some relief). [All the 'no litter' signs you can post cannot achieve freedom from litter - work achieves that.]

I strongly believe that the Port of NY/NJ and the federal lead agencies listed [EPA, USACE, FTA] have a basic, and

Very, very strong responsibility to take leadership roles in the NJ areas (let alone Staten Island and Brooklyn) in generating waterfront cleanups. This does not simply mean actions such as "allocating funds to municipalities for yearly contest winners on Earth Day." This does mean advertising regular (monthly, at least) scheduled cleanups open to the public at large and/or targeted to special interest groups, and the Port NY/NJ/CPIP agencies providing their own personnel to run (or help run) them! Dearth of leadership in this area is a major, major problem. Certainly, Port/CPIP entities can combine with local people and endeavors on these. But, providing the potential (or actual) problems, and then refusing to be hands-on in their solutions, is irresponsible. (I.1.2)

My efforts along with those of others have (and I believe the mayor would agree) generated a very strong base of interest in Bayonne in participation in this type of community-spirited effort. The base remains in large part sublimated at this time because enough outlet and opportunity for frequent activity has not been organized and provided. The potential for much more frequent citizen waterfront work (and fun) has barely been tapped.

To sum up: I am asking of all the above listed lead agencies to incorporate, as part of remediation of potential CPIP impact, cleanup programming—inclusive of

- ① CPIP/Port NY/NJ personnel participation, hands-on and leadership roles
- ② paging for public advertising/noticing of cleanups/light refreshments
- ③ tangibly contributing to the organizing, equipment, and debris removal expenses. Providing for the "fun" aspect of cleanups to boost attendance.
- ④ taking on line-item organizing roles in waterfront cleanups firstly in Bayonne, and by extension to the communities "land-water-bordering" Bayonne - Staten Island, Brooklyn, Elizabeth, Newark, and Jersey City. (I.1.3)

Very, very strong responsibility to take leadership roles in the NJ areas (let alone Staten Island and Brooklyn) in generating waterfront cleanups. This does not simply mean actions such as "allocating funds to municipalities for yearly contest winners on Earth Day." This does mean advertising regular (monthly, at least) scheduled cleanups open to the public at large and/or targeted to special interest groups, and the Port NY/NJ/CPIP agencies providing their own personnel to run (or help run) them! Dearth of leadership in this area is a major, major problem. Certainly, Port/CPIP entities can combine with local people and endeavors on these. But, providing the potential (or actual) problems and then refusing to be hands-on in their solutions is irresponsible.

My efforts along with those of others have (and I believe the mayor would agree) generated a very strong base of interest in Bayonne in participation in this type of community-spirited effort. The base remains in large part sublimated at this time because enough outlet and opportunity for frequent activity has not been organized and provided. The potential for much more frequent citizen waterfront work (and fun) has barely been tapped.

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- ④ taking on line-item organizing roles in waterfront cleanups firstly in Bayonne, and by extension to the communities "land-water-bordering" Bayonne - Staten Island, Brooklyn, Elizabeth, Newark, and Jersey City.

INDIVIDUAL	
I.1 Sandra R. Lieberman (Bayonne, New Jersey)	
I.1.1	The CPIP EA identifies the types of potential impacts that would result with implementation of any of the four identified Port-improvement scenarios (see CPIP EA Chapter 5.0 Potential Impacts of CPIP Alternatives), and provides a framework and guidance for environmental review of CPIP-related projects that might be proposed in the future. While the CPIP EA does not explicitly cite shoreline damage, it does address potential impact to on- and off-site aquatic habitat, special habitat, and protected species. At such time as future project-specific environmental reviews are undertaken, the scope of analysis will be refined, including consideration of community-based concerns, as cited in commenter’s letter.
I.1.2	Port-related “clean-ups” that directly engage the public and/or interest groups may be sponsored and scheduled by the agencies involved in the CPIP project, though such would not be undertaken within the context of the CPIP Plan and EA.
I.1.3	<p>As documented in the CPIP EA, based on the CPIP forecasts of cargo demand and assessment of Port capacity, Port-improvement projects will not be required for several decades. At such time as CPIP-related projects are proposed in the future, the necessary environmental reviews will be undertaken to identify project-related impacts and associated mitigation. The details of mitigation, potentially including shoreline maintenance and clean-up of wind-blown debris, will be defined for specific impacts in the course of future environmental review processes for specific proposed projects.</p> <p>The agencies will take it into consideration to sponsor shoreline clean-up events, but agency budgets may be a limiting factor with regard to such voluntary activities, which are not specifically part of the agencies’ missions.</p>

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November 12, 2005

Ms. Grace Musumeci
Chief, Environmental Review Section
U.S. Environmental Protection Agency
290 Broadway, 25th Floor
New York, NY 10007-1866

Re: Draft CPIP EA

Dear Ms. Musumeci,

As a retired USPHS regulator, I find the posted draft of the Comprehensive Port Improvement Plan Environmental Assessment to be particularly distressing, because it is supposed to be the combined expression of federal policy by three federal agencies with notable statutory obligations for the protection of the general public and the environment.

Instead, the draft is nothing more than a regurgitation of the nonsensical stream of media spin that has been emanating from the Port Authority of New York and New Jersey about the port expansion over the last few years. Especially disturbing is the presumption within the draft that the three agencies would allow the filling of 500 acres of wetlands in order to accommodate port growth. Considering the fact that warehousing cannot be considered a water dependent operation and the fact that cargo can be warehoused at any location, the Port Authority has never demonstrated a need to use wetlands for warehouse use. Furthermore, the entire harbor deepening and port expansion process has been overshadowed by a presumption that there can be no limit placed on the expansion of Port Authority operations because cargo will arrive at the Port of New York and its immediate consumer market in any event. During his time in charge of the USACE office in Manhattan, Colonel Dowd constantly repeated this sentiment both in person and in the press. Such sentiments are, however, insufficient justification for the participating agencies to abandon statutory requirements for the protection of clean water and the environment. Firstly, if the federal regulators would read the December 2004 and May 2005 editions of "PortViews", the newsletter of the Port Authority of New York and New Jersey, they would note that the Port Authority has been out in Chicago, Montreal and Toronto hosting receptions for shippers in those locations. Secondly, if cargo vessels arrive at the Port of NY/NJ and port facilities are not available, the vessels will divert to Norfolk or Baltimore or Halifax. Clearly, the Port Authority's ambitions to control most of the cargo destined for the entire northeastern North American Continent, must be balanced against the statutory requirements for the control of environmental impacts. Certainly, the desire of the Port Authority to move replica Tiffany lamps and Chinese hooked rugs to Chicago by going through the most densely populated and traffic-impacted areas of the country must be weighed against environmental impacts upon natural resources and the general public. Instead of moving ahead blindly and ignoring any

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potentially significant indicators of environmental quality, the federal agencies might even want to consider an initiation of an evaluation of empirical criteria to determine if there is any correlation between the progress of harbor dredging and the abandonment of heron nesting sites within the Harbor Herons Complex. **(I.2.3)**

In addition, there is no justification for the federal agencies' blind acceptance of the assumption that port traffic will not exceed 8.6 million TEUs per year before 2040. The port cleared 4,067,812 TEUs in 2003. For the preceding eleven years port container growth averaged 8.5% annually. Considering the rapid development of container facilities at the Howland Hook/Port Ivory complex on Staten Island and using basic trend analysis, a projection that the port will reach an annual volume of 8.6 million TEUs on March 2, 2013 would be completely justifiable. That would be a little over 7 years away, instead of 35 years away. The federal agencies should also not have permitted the CPIP to base port traffic impacts solely upon truck movements. At present, port economic statistics define the benefits of the port to include 413,000 jobs nationally. Considering the implications of 413,000 jobs on commuter movements, food and service trips, emergency calls, and regulatory and dignitary visits, the true impact of current port operations would likely exceed one million trips daily. Considering the enormity of port growth, the failure of the CPIP and the EA to define the impact of port growth in terms of comprehensive traffic impacts is likely to result in a severe underestimation of the need for rail and road infrastructure that will required to accommodate port traffic. In addition, the CPIP and EA do not consider the traffic impacts of adjunct "value added" facilities planned around the port, notably in Liberty Corridor. Even minimal blister packing of imported items like camera memory routinely increases the cube or volume of goods by one hundred times. At a value-added facility, one truck container can rapidly become one hundred truck containers of packaged goods. A failure to consider the traffic implications of value added operations at the port is likely to result in a severe underestimation of port-related traffic impacts and a severe underestimation of the rail and road infrastructure necessary to move goods coming into the port. The traffic impacts associated with port growth are incredibly significant to the environment and the health, safety, and welfare of the general public and the ability of the average person to commute and conduct business. **(I.2.4., I.2.5)**

In this regard, it is entirely inappropriate that the federal agencies are proposing an abandonment of the statutory protections afforded by a formal Environmental Impact Statement in favor of a meaningless Environmental Assessment, that has been constructed to allow the federal agencies to step aside and allow the Port Authority to move forward with its plans to bring as much cargo as possible through one of the most congested, traffic-compromised areas of the country. Once the arrival of cargo at the port is facilitated, it will be too late to begin construction of the road and rail infrastructure necessary to move the cargo across New Jersey. The expenditure of over \$15 billion has been proposed to bring cargo into the port. This would include \$3.2 billion for the harbor dredging, \$7.2 billion for Liberty Corridor for facilities near the port, and \$4.77 billion for the Cross Harbor Freight Tunnel from Brooklyn to Jersey City. In addition to the Arthur Kill Lift Bridge, the Port Authority would like a truck-only connector from Howland Hook onto the Goethals Bridge into New Jersey. With this amount of port commerce,

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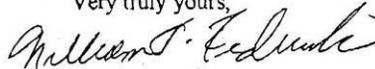
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all destined for New Jersey, where is the commensurate investment in New Jersey road and rail infrastructure to accommodate the increased traffic? How can professional traffic planners simply repeat the mistakes made at the Port of Long Beach, when the first wave of China trade hit Los Angeles? With 200 rail crossings of local roads at grade, the decision to use an archaic rail and road system to move marine cargo resulted in massive gridlock in southern Los Angeles, and commensurate increases in air pollution caused by lines of stalled motor vehicles. Ultimately, the Alameda Corridor, a high-speed, below-grade rail connector with no grade crossings, had to be constructed to mitigate traffic and environmental impacts. Considering the fact that the archaic New Jersey rail system has 1,000 road crossings at grade, and freight lines sharing commuter track in a non-attainment state for ground level ozone, the proposal within the draft EA to study traffic impacts, after port growth has resulted in economic gridlock on the roads and a general environmental disaster, represents a reckless exercise of statutory authority. The proposed draft EA even ignores potential significant impacts upon grade crossings of the Rahway Valley at Route 22 in Union and of the Port Reading Secondary at Route 35 in Woodbridge. Considering the enormity of the port expansion, there is simply no basis to conclude that port growth will have no significant traffic and environmental impacts, there is no basis to abandon the statutory requirement for a formal EIS and there is no reason to replace a formal EIS with an EA that pretends that the federal agencies do not know that adding port facilities and millions of truck containers a year on New Jersey's transportation infrastructure will not result in significant traffic and environmental impacts. How can any of the federal agencies conclude that the intensive development of port facilities on both sides of the harbor will not result in the same traffic, economic and environmental nightmare that took place at the Port of Long Beach? **(I.2.6)**

Increasing the number of port containers moving by rail from 12% to 23%, will still leave 77% of container cargo to move by road. Blocking major roadways like Route 35 in Woodbridge and Route 22 in Union with freight trains will severely impact commuter and freight movements on those and many other roadways. In the 21st Century, the implementation of a draft EA, that essentially maintains that modern traffic planning cannot anticipate traffic growth and the interaction of road and rail carrying capacity, would be a reckless abomination of the planning process and an abandonment of the statutory intent of NEPA. What New Jersey probably needs is a new, double-track, high-speed rail line with no grade crossings, originating at the port and traversing the state, to even begin addressing the infrastructure necessitated by port expansion. The proposed draft EA allows the Port Authority to ignore the need for additional road and rail infrastructure caused by port growth, and dumps the consequential environmental and traffic impacts primarily on the general public in New Jersey. I would therefore respectfully suggest that the overall impact of port growth is so significant that the statutory requirements of NEPA mandate the implementation of a formal EIS, including evaluations of indirect impacts to air quality and traffic in New Jersey under the requirements of 40CFR1502.16(b) as defined at 40CFR1508.8. The proposed draft EA should therefore be replaced by a formal EIS. **(I.2.7)**

Very truly yours,



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INDIVIDUAL	
I.2 William T. Fidurski (Clark, New Jersey)	
I.2.1	<p>Statutory requirements for the protection of clean water and the environment have not been abandoned. Through extensive deliberation reaching the CPIP planning process' conclusions regarding future cargo demand and assessed Port capacity (i.e., that Port-improvement projects will not be required for several decades), the Federal Co-Lead Agencies determined that a programmatic CPIP EA, in lieu of an EIS, is the currently appropriate level of environmental review for the CPIP.</p> <p>The CPIP EA has been prepared to provide a framework and guidance for the necessary environmental reviews that will be undertaken when actual CPIP-related projects are proposed in the future, to ensure the protection of all aspects of the human and natural environment.</p> <p>As stated in the CPIP EA, the CPIP's four Port-improvement scenarios for future Port-wide development may involve between 23 and 153 acres of impact to aquatic habitat in navigable waters, including wetlands (see CPIP EA, Chapter 1.0 Introduction, page 1-6). These estimated amounts comprise substantially less waterfront fill than the estimated 532 acres anticipated at the inception of the CPIP process. The agencies are not allowing the fill of 500 acres of wetlands, nor are they even deciding at this point to allow the amounts identified in the port-iomprovement scenarios.</p> <p>Regarding warehouse demand, the CPIP EA reports that there is adequate suitable acreage for future warehouse development in the New Jersey counties in the Port's vicinity, precluding the need to affect wetlands or other environmentally sensitive areas. Warehousing that may be proposed in wetlands will need to demonstrate through the permit process that the fill is necessary. This will be difficult, given that the CPIP has indicated that fill is not necessary for warehousing.</p>
I.2.2	<p>As documented in the CPIP (Volume 1: The Plan, September 2005), the primary market of the Port of New York and New Jersey is a 13-state area, comprising New York, New Jersey, New Hampshire, Vermont, Connecticut, Rhode Island, Maine, Massachusetts, Pennsylvania, Delaware, West Virginia, Virginia, and Maryland, plus Washington, D.C. An additional four states (Illinois, Indiana, Ohio, Michigan) also receive goods that arrive at the Port of New York and New Jersey. The Port's share of the US market for containerized cargo is approximately 25 percent (compared, for example, to 27 percent for other East Coast ports and 32 percent for the West Coast). As noted in the CPIP, no single US port has its own captive hinterland that is free from competition from other ports. Given this, but also reflecting environmental mandates, the CPIP's purpose is to strategically plan for projected cargo demand in the Port of New York and New Jersey in a manner that balances the Port's economic viability and environmental sustainability, while also supporting ongoing restoration of the harbor and its environment.</p>

I.2.3	<p>New York City Audubon has been conducting an annual census of breeding herons, egrets and ibises since the early 1980s. The 2005 monitoring report notes that wading birds began recolonizing small islands in New York Harbor in 1974 and, in the summer of 2004, there were over 1,700 breeding pairs. This is less than the number found in 2003 (1,836 pairs) but more than found in 2001 (1,655 pairs) and 2002 (1,522 pairs). Audubon’s updated 2004 Nesting Bird Survey notes that “although populations of most species remain stable, it appears that the overall population of long-legged waders continues to be lower than the peak populations documented nearly a decade ago.” Data collected for the New York City Audubon monitoring reports and nesting surveys should be considered by the federal agencies to determine whether additional studies of harbor herons is needed. When a future CPIP-related project is ripe for detailed design and possible construction, state and federal agencies may consider suggesting or requiring monitoring of harbor herons.</p>
I.2.4	<p>The CPIP included an extensive analysis of cargo demand (see CPIP Task E Technical Memorandum, Market Demand and Port Capacity, Volume 1: Market Forecast and Outlook, February 2003) The Federal Co-Lead Agencies did not “blindly” accept the forecasts, but used them as the most current and pertinent basis for considering alternative Port-improvement in the CPIP EA. As with all forecasts, it is understood that the waterborne cargo demand forecasts for the Port of New York and New Jersey must be re-visited at regular intervals in the future; refined; and, as appropriate, used to refine the scenarios for future Port development. The need to re-visit the forecasts in the future, and to potentially refine future Port-improvement plans as a consequence, has been emphasized in the Final CPIP EA (Executive Summary, CPIP Conclusions; and Chapter 2.0 Purpose and Need for the Project, Section B. 2040/2060 Cargo Forecasts). Any port-related improvement/expansion projects that are proposed earlier than what has been identified as necessary by the CPIP will have to conduct and present a cargo demand analysis.</p>
I.2.5	<p>As documented in the CPIP Plan (Port of New York & New Jersey Comprehensive Port Improvement Plan, Volume 1: The Plan, September 2005), employment, as well as population, growth forecasts to 2060 were developed for the counties within the Port area to enable indicative overall traffic forecasts for years up to 2060.</p> <p>At such time as specific CPIP-related Port-improvement projects are proposed in the future, the necessary environmental reviews will evaluate the full traffic impacts of each proposed project, including its cumulative impacts when considered with other past, present, and future reasonably foreseeable projects.</p>
I.2.6	<p>The CPIP EA does <i>not</i> “conclude that port growth will have no significant traffic and environmental impacts.” In fact, the agencies state that the level of significance of impacts of future port facility expansions cannot be determined at this time, thus making current preparation of an EIS inappropriate, but that the appropriate environmental reviews will be carried out whenever specific port expansions are proposed.</p> <p>The CPIP EA specifically identifies the types of impacts, including traffic, that will likely be of concern at each Port site and will need to be evaluated in detail when actual CPIP-related Port-improvement projects are proposed and the necessary environmental review processes are undertaken (CP/IP EA, Chapter 5.0 Potential Impacts of CPIP Alternatives).</p>
I.2.7	<p>Please see Response I.2.6, above. Any major federal actions associated with road and rail infrastructure will comply with NEPA when specific actions are proposed.</p>