

Attachment A
Comments/Responses to the Final EIS (FEIS)

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This Attachment A to the ROD is a compilation of USCG formal responses to all of the comments received during the review period on the FEIS. As the venue of the FEIS/NOA Release was also used to initiate the public/agency review on the Draft General Conformity Determination (GCD), two categories of comments were received: (1) FEIS-related comments and (2) GCD-related comments. However, only the FEIS comments are addressed in this Attachment A, while the GCD comments are addressed in Attachment D of this ROD. None of the FEIS-related comments, either separately or in combination, results in the need to prepare a Supplemental EIS since they were not of substantial nature (i.e., *creating significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts*, as defined in CEQ regulations, Part 1502.9).

This document only provides a brief summarization of each comment received on the FEIS, followed by the USCG's response to that comment. The full comment letters or emails received in response to the FEIS can be reviewed on the project website at www.goethalseis.com, as well as on USCG's online docket (Docket No. USCG-2009-0097) at www.regulations.gov.

COMMENTS/RESPONSES TO THE FINAL EIS

A total of eleven (11) FEIS-related comments were received from six different federal/state/local agencies (i.e., NYCLPC, Linden EDC, NMFS, NJDEP, FHWA-NYC Metropolitan Office, and USACE); one commercial property owner in Staten Island (i.e., R. Baker); the College of Staten Island – CUNY; and two residential property owners (one in Elizabeth and one in Staten Island). Below are USCG's responses to the comments from each entity.

- **Comments #1 & #2: New York City Landmarks Preservation Commission (NYCLPC)**
Letters dated 8/10 & 8/24/10
Amanda Sutphin and Gina Santucci

Comment: The LPC concurs with FEIS text pertaining to archaeological and historic resources.

USCG Response: Noted.

- **Comment #3: Linden Economic Development Corporation (Linden EDC)**
Email dated of 9/09/10
Ron Stefanowicz, Director

Comment: The City of Linden is in full support of the new Goethals Bridge to expedite the growing flow of traffic between NY & NJ.

USCG Response: Noted.

- **Comment #4: College of Staten Island (CSI-CUNY)**
Letter dated 9/10/10
Jonathan R. Peters, Ph.D., Professor of Finance
Dr. Alan I. Benimoff, Ph.D., Lecturer in Engineering Sciences and Physics

Comment: Mr. Peters and Mr. Benimoff states that the proposed EIS fails to meet the terms of environmental justice analysis as mandated by Executive Order 12898, and in that regard, concludes that further consideration of this project without mass transit services as a component of the facility operations is a violation of federal policy.

USCG Response: The USCG wishes to re-iterate that one of the goals of the Proposed Project is indeed to consider a new bridge replacement with the accommodation of potential future mass transit system expansion in the corridor. As a result, each of the Build Alternatives described and evaluated in both the DEIS/FEIS was developed to address such goal, while also recognizing that its implementation would be pending an additional environmental review process at a time when more specific transit plans and logical termini beyond the PANYNJ's jurisdiction would be further developed in terms of future demand, routing concepts and coordination/commitment with involved transportation agencies. The Proposed Project will be designed with a 27-foot-wide mass transit corridor to provide sufficient horizontal and vertical clearances for either bus-rapid or light-rail transit services (BRT or LRT services), depending on which system may be warranted in the future as ridership forecasts will dictate. In this regard, the Proposed Project would be consistent with other nearby planning initiatives for mass transit services, which in turn could eventually allow for a cross-state transit service between NY and NJ.

As for the environmental justice (EJ) methodology used in the DEIS/FEIS, the USCG wishes to re-direct the commenters to the response to their previous comments in this regard as presented in Section 8.3 (*Comments and Responses, By Topic Area and Commenter*) on pp. 8-24 to 8-28 of the FEIS. The USCG has determined that the population group focused upon in the EJ analysis (i.e., the directly-affected 130 residents of the Bay Way/Krakow Street neighborhood as opposed to the population within a greater two-mile radius of the project as implied in the comment letter) is appropriate and consistent with the intent of Executive Order 12898 and various guidance documents on the subject of EJ. As a typical EJ analysis is about the consideration of "disproportionately high and adverse human health and environmental effects" and as the DEIS/FEIS did not find any potential impacts related to the Proposed Project beyond those 130 residents, this larger population group within a two-mile radius need not be evaluated for EJ concerns. Although it may be true that the population within this larger radius may be lacking in adequate mass transit services, the need to address that issue directly as part of the Proposed Project does not exist. In fact, by providing the potential to accommodate future mass transit, the Proposed Project could be viewed as a step in the right direction in serving the greater area surrounding the project corridor, including its minority and low-income populations, with the possibility of improved transit service in the future.

- **Comment #5: NOAA-National Marine Fisheries Service (NMFS)
Letter dated 9/13/10
Stanley W. Gorski, Field Office Supervisor, Habitat Conservation Division.**

Comment: NMFS summarizes several issues and potential mitigation measures previously presented in a July 1, 2010 letter prepared as part of the Essential Fish Habitat (EFH) consultation process, and which had been responded to by the USCG on August 27, 2010. NMFS also requests a complete copy of the conceptual mitigation plan and specifies particular information to be included in the plan.

USCG Response: The USCG will stipulate NMFS recommendations in its bridge permit, thereby concluding the EFH consultation pursuant to the Magnuson Stevens Fishery Conservation and Management Act. In addition, the Record of Decision (ROD) requires that the PANYNJ should keep NMFS involved during the final design/environmental review of the proposed compensatory mitigation for the unavoidable loss of regulated wetlands and aquatic habitats.

- **Comment #6: Bressler, Amery & Ross, P.C**
Letter dated 9/13/10
Donald J. Camerson II, Attorney
Representing Walter Baker, commercial property owner of 250 N. Washington Avenue, Staten Island, NY

Comment: A number of concerns regarding erroneous statements included in the DEIS, as stated in a letter dated July 28, 2009 made on behalf of property owner Walter Baker, were reiterated.

USCG Response: The USCG duly acknowledges and appreciates Mr. Baker's update on his current negotiations with the NYSDEC for the intended remediation of contamination on the site; whereby Mr. Baker has entered into an "Order On Consent and Administrative Settlement" with the NYSDEC for the development and implementation of a Supplemental Investigation Work Plan. It is also understood that additional sampling will be conducted by Mr. Baker at the property. In turn, it is also noted that the ultimate responsible party for any remediation, if necessary, will be determined upon such negotiations between Mr. Baker and the NYSDEC.

In light of the anticipated acquisition of Mr. Baker's property under the Preferred Alternative by the PANYNJ, compensation to private property owners for property acquisitions will be performed in accordance with, and to the extent provided by, the applicable law for just compensation under the PANYNJ's right of eminent domain by condemnation, as stipulated in this ROD and previously detailed in Section 8.3 (*Comments and Responses, By Topic Area and Commenter*) on pp. 8-15 to 8-17 of the FEIS.

- **Comment #7: New Jersey Department of Environmental Protection (NJDEP)**
Letter dated 9/14/10
Scott Brubaker, Director of the Office of Permit Coordination and Environmental Review

Comment: NJDEP's Office of Permit Coordination and Environmental Review submitted comments on behalf of the Bureau of Case Management and the Bureau of Air Quality Planning.

USCG Response: The USCG acknowledges the comments made by the NJDEP's Office of Permit Coordination and Environmental Review on behalf of the Bureau of Case Management (BCM), including its observation that it can only comment generally, "as an EIS pursuant to the National Environmental Policy Act (NEPA) is not a document regulated pursuant to the NJDEP Technical Requirements for Site Remediation (TRSR N.J.A.C. 7:26E)". Furthermore, the USCG notes that indeed New Jersey has enacted a Site Remediation Reform Act, which among other matters, establishes a program for the licensing of Licensed Site Remediation Professionals. Moreover, with regard to the Goethals Bridge Replacement Project, contamination within lands acquired for the Project will have to be addressed in accordance with applicable law.

Comments submitted on behalf of the Bureau of Air Quality Planning for the Draft DCG are addressed in Appendix D of this ROD.

- **Comment #8: Federal Highway Administration (FHWA) – NYC Metropolitan Office**
Email dated 9/16/10
John Formosa, NYC Metro Office Major Projects Manager

Comment: The NYC Metro Office of FHWA comments on the FEIS's silence on the future use of the current right-of-way that supports the current alignment.

USCG Response: The USCG acknowledges FHWA's question regarding the future land uses and ownerships for the current right-of-way once the new bridge will be constructed and the old

one demolished. It should be noted that the new bridge, under the Preferred Alternative (as well as for any of the other three Build Alternatives evaluated in the DEIS/FEIS), will be constructed in very close proximity to the existing bridge and will tie back to the existing termini. Therefore, portions of right-of-way for the new bridge will overlap the right-of-way of the existing bridge. In addition, the PANYNJ anticipates that most of the remaining "old" right-of-way will be committed for use as security offset, and would thus remain within the PANYNJ's ownership.

- **Comment #9: U.S. Army Corps of Engineers (USACE) – NY District
Letter dated 9/16/10
Stacey M. Jensen, Chief, Eastern Permits Section, Regulatory Branch**

Comment: The USACE notes that several comments on the DEIS in their letter dated August 18, 2009 were not addressed completely in the FEIS, as they are proposed to be discussed in the Department of the Army (DA) Permit application for the project. The USACE provides further clarification regarding their requirements.

USCG Response: The USCG acknowledges USACE's observations that some of their comments on the DEIS (USACE Letter of August 18, 2009) had not been fully addressed in the FEIS (i.e., alternative evaluation for compliance with the CWA *Section 404(b)(1) Guidelines for Specifications of Disposal Sites for Dredged or Filled Materials*; and a fully-developed compensatory mitigation plan) in anticipation that those concerns would be addressed in the DA permit application package upon further development of the design plans by the PANYNJ. At this point of the NEPA environmental review process, it should be noted that the design level of the Preferred Alternative is still conceptual in nature and not yet fully developed for the purpose of regulatory permitting review. Nonetheless, and as part of its DA permit application, the PANYNJ is committed to:

- ✓ Provide a full evaluation/demonstration of how the Preferred Alternative will comply with the CWA Section 404 (b) (1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material.
- ✓ Prepare/submit a draft mitigation plan for USACE review and approval (pursuant to the regulations of 33 CFR 332, *Compensatory Mitigation for Losses of Aquatic Habitat*) prior to issuance of a DA permit. This review process may include additional refinements to the proposed draft mitigation plan. Ultimately, the final approved compensatory mitigation plan will include all necessary planning and documentation components listed in 32 CFR 332.4(c), *Mitigation Plan*.

The USCG also acknowledges that the USACE had requested that the PANYNJ submit its DA permit application package by September 30, 2010. However, USCG understands that the PANYNJ has already responded to the USACE on such matter indicating there are no regulatory requirements for imposing such timeline to the permit applicant.

- **Comment #10: Elizabeth Resident at 119 Bayway Avenue
Email dated 9/28/10
Joseph Doherty**

Comment: The resident asks about acquisition of his property related to the Proposed Project.

USCG Response: The USCG wishes to reiterate that compensation to private property owners for property acquisitions will be performed in accordance with, and to the extent provided by, the applicable law for just compensation under the PANYNJ's right of eminent domain by condemnation, as stipulated in this ROD and previously detailed in Section 8.3 (*Comments and Responses, By Topic Area and Commenter*) on pp. 8-73 to 8-74 of the FEIS.

- **Comment #11: Staten Island Resident at 237 Arlene Street**
Email dated 10/26/10
George Kaufer

Comment: Mr. Kaufer requests that rights-of-way for mass transit should be placed on the Goethals Bridge in order to encourage use of mass transit between New York and New Jersey.

USCG Response: The USCG acknowledges Mr. Kaufer's request for the implementation of mass transit services (buses/HOVs and rail) on the bridge. As further detailed in the FEIS (Section 3.0 or Appendix B), the ridership forecasting conducted with the Goethals Transportation Model (GTM) – which was created and detailed specifically to forecast travel demand in the Goethals Bridge corridor and study area – showed insufficient ridership to warrant implementation of new transit services across the Goethals Bridge at this time. However, as ridership potential in the Goethals Bridge corridor may become more robust in the future, the Preferred Alternative will be designed to include sufficient additional width between the eastbound and westbound roadway decks so as to not preclude potential future transit use (either BRT or LRT services), in the event that future conditions warrant inclusion of higher-capacity transit at higher service levels on the new Goethals crossing. Prior to construction, such provisions will then be incorporated into PANYNJ's final design plans.

As part of its proposed traffic mitigation measures for the Preferred Alternative, it should also be noted that the PANYNJ will operate a managed use lane (MUL) for buses and high-occupancy vehicles (HOV) to manage traffic flows and conditions on the new bridge during congested travel periods, which are forecast to be the peak AM and PM traffic commuting hours. Outside the peak hours and when not operating as a MUL, the designated lane in each direction will be open to all vehicles. However, in coordination with NYSDOT's bus lane/MUL on the Staten Island Expressway, this proposed mitigation measure does not preclude the PANYNJ from further refining the time periods and directions in which the MUL will be operated (in response to dictating traffic conditions in the future) in order to maximize the efficiencies on the new bridge and improve mobility in the corridor.