# Tier I Record of Decision

## Cross Harbor Freight Program

## A. INTRODUCTION

The Federal Highway Administration (FHWA) and the Port Authority of New York and New Jersey (PANYNJ) have prepared a Tier I Environmental Impact Statement (EIS) to evaluate Cross Harbor Freight Program (CHFP) alternatives. This Tier I Record of Decision (ROD) identifies two Preferred Alternatives (preferred transportation modes and alignments) with the appropriate level of detail for a corridor-level decision. The Preferred Alternatives—the Enhanced Railcar Float Alternative and the Rail Tunnel Alternative—will be subject to subsequent environmental review in Tier II. Tier II will include analyses based on engineering designs and site-specific environmental effects, development of site-specific mitigation measures, and cost estimates, as appropriate.

### PURPOSE AND NEED

The primary purpose of the project is to improve the movement of freight across New York Harbor between the east-of-Hudson and west-of-Hudson regions. By improving the movement of goods across the harbor, the project would provide near-term and long-term improvements to the regional freight network, reduce truck traffic congestion, improve air quality, and provide economic benefits.

The New York and New Jersey area's highway system suffers from significant peak period traffic congestion, which continues to expand in duration beyond the typical commuting hours. Planned highway improvements would address some local constraints, but would not significantly alleviate region-wide congestion. Due to the region's overwhelming dependence on trucking, highway congestion has a tremendous impact on freight movement, increasing the costs and environmental impacts of goods movement, while decreasing reliability and speed of freight delivery and safety of roadways and infrastructure. With the expected future growth in freight transport, truck vehicle miles traveled (VMT) would increase and the current inefficiencies of freight movement would continue, with the higher transportation costs passed on to consumers.

Four goals, outlined below, were established for the CHFP. These goals are intended to address some of the freight movement and distribution problems described above; however, it is important to point out that the some of the project goals and objectives cannot be fully achieved by improvements that could be implemented under PANYNJ's current jurisdiction. Given the regional nature of the transportation network and goods movement, to fully address some of the project goals, cooperation across jurisdictional and geographic boundaries would be required for successful implementation and operation of the improvements proposed. It is also important to acknowledge that the various goals and objectives identified below may be accomplished at various timescales—i.e., short-term and long-term improvements would address these goals to a different extent—and at various levels of capital investment.

The four project goals are as follows:

1. Reduce the contribution of cross-harbor truck trips to congestion along the region's major freight corridors relative to No Action conditions.

2. Provide cross-harbor freight shippers, receivers, and carriers with additional, attractive modal options to existing interstate trucking services.
3. Expand facilities for cross-harbor goods movement to enhance system resiliency, safety and security, and infrastructure protection.
4. Support development of integrated freight transportation/land use strategies.

**NEPA PROCESS**

The CHFP EIS was prepared in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations using "tiering," a staged process applied to the environmental review of complex projects. A Tier I EIS is prepared to inform high-level decision-making regarding a project, prior to investing in detailed design and engineering of specific project elements. As detailed plans and designs are not developed at this time at the Tier I stage, specific environmental effects cannot be addressed with great precision, and therefore the Tier I EIS identifies areas of potential concern and describes additional studies that would be required once design and planning progresses, as part of a Tier II evaluation.

The goal of the CHFP Tier I EIS was to identify and broadly evaluate viable Build Alternatives. The focus of the evaluation was the identification of freight transport corridors, assessment of the demand for goods movement along those corridors, modes by which goods are moved, and identification of new or expanded infrastructure, including termini and support facilities as needed. The Tier I EIS broadly presented the benefits of the Build Alternatives and identified potential locations and environmental effects that may be of concern and require further study as part of any Tier II evaluation.

*NOTICE OF INTENT AND SCOPING DOCUMENT*

The development of this Tier I EIS began with the publication of a Revised Notice of Intent (NOI) in the Federal Register on May 13, 2010. The revision indicated the change in project sponsorship to the PANYNJ and the intent of FHWA and PANYNJ to use a tiered NEPA process to facilitate project decision-making.

The NOI initiated the environmental review process and publicized the availability of the Scoping Document, which described the project alternatives and environmental analysis methodologies. To solicit comments on the Scoping Document, a series of public scoping meetings were held in New York and New Jersey. Public comments on the Scoping Document were considered in developing the Tier I Draft Environmental Impact Statement (DEIS).

*DEIS*

The cover sheet of the DEIS was signed by PANYNJ acting as the project sponsor on October 31, 2014, and by FHWA acting as the lead agency on November 6, 2014. The document was then made publicly available in 49 repositories, most of which were public libraries, as well as some government and agency offices. The document was also posted on the project website (www.crossharborstudy.com). A Notice of Availability was published in the Federal Register on November 21, 2014, which established the public review period for the DEIS. Comments were accepted by mail, email, and fax, and as oral or written testimony at the public hearings. Seven public hearings were held between January 23rd and March 3rd, 2015. The comment period, originally scheduled to close on February 27, 2015, was extended to March 20, 2015.

*FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)*

As allowed and encouraged by the 2012 Transportation bill (MAP-21) mandating streamlined action under NEPA, the FEIS incorporated by reference certain portions of the DEIS and included an errata chapter to reflect updates and corrections to the DEIS. The cover sheet of the FEIS was signed by PANYNJ and FHWA on September 8, 2015, and September 9, 2015, respectively. Like the DEIS, the FEIS was made available to the public at numerous repositories and on the project website. A Notice of Availability was published in the Federal Register on September 25, 2015, which established the public review period for the FEIS. Comments were accepted by mail, email, and fax. The comment period ended on October 26, 2015. A summary of new substantive comments on the FEIS is included in Section F, "Comments and Responses on the Tier I FEIS."

## B. DECISIONS—PREFERRED ALTERNATIVES

Upon review of the conclusion presented in the FEIS and in consideration of all public input, FHWA, as the lead federal agency for the project, is selecting the Enhanced Railcar Float Alternative and the Rail Tunnel Alternative as the Preferred Alternatives for advancement to Tier II. Other Build Alternatives will not be considered in Tier II. Short descriptions of the two Preferred Alternatives and the reasons why they were selected are presented below. A summary of the alternatives development, evaluation, and selection process is included in Section C, "Alternatives Considered." The Tier II environmental review will more specifically evaluate the infrastructure needs and local effects of the Preferred Alternatives based upon further engineering design and operational data. Tier II will also include the No Action Alternative, which is considered in any environmental review.

### ENHANCED RAILCAR FLOAT ALTERNATIVE

The enhanced railcar float operation would expand existing service between Greenville Yard in Jersey City and 65th Street Yard in Brooklyn with regular service at full operation and reestablish the operation to 51st Street Yard in Brooklyn, which was temporarily discontinued in the aftermath of Superstorm Sandy. With the Enhanced Railcar Float Alternative, the railcar float operation west-of-Hudson terminus would continue to be the Greenville Yard. Brooklyn yards (at 51st Street and 65th Street) would serve as the east-of-Hudson crossing termini for this Build Alternative via railcar float, allowing freight to be delivered to the terminus closest to the destination market and/or connecting freight rail lines. Railcar float service between Greenville and the Bronx is not recommended for advancement to Tier II, based on the relative performance of the options considered as part of the Enhanced Railcar Float Alternative, as measured by their potential to divert freight. Based on the diversion potential, implementation of both carload and intermodal service is recommended. Supporting freight facilities needed to fully meet the demand for this Build Alternative would include Fresh Pond Yard, Maspeth Yard, Oak Point Yard, and existing and/or proposed facilities on Long Island.

The Enhanced Railcar Float Alternative was selected as a Preferred Alternative since it would make best use of the existing underutilized infrastructure and the existing freight facilities. While it would not provide as much long-term benefit as the Rail Tunnel Alternative or be sufficient to address the future regional freight movement challenges, it could more easily be designed and implemented. Furthermore, most of the rail system improvements, including improvements to freight facilities, which would be implemented as part of the Enhanced Railcar Float Alternative, would be beneficial and/or required for the operation of the Rail Tunnel Alternative. In summary, the Enhanced Railcar Float Alternative, with service between

Greenville and Brooklyn, was selected as one of the two Preferred Alternatives for the following reasons:

- Of the Waterborne Alternatives, it best meets the project goals and objectives.
- Of the Waterborne Alternatives, it has the potential to divert the most freight and to best increase modal balance in the region.
- Of the Waterborne Alternatives, it would have the greatest beneficial effect on the region, by reducing truck VMT, reducing the truck volumes and delays on highway crossings, and reducing energy consumption and greenhouse gas (GHG) emissions.

The use of established waterfront terminals, specifically the selection of Brooklyn instead of the Bronx as the preferred eastern terminus for this alternative, is consistent with the New Jersey Department of Environmental Protection (NJDEP) recommendation to minimize disturbance to benthic habitats across the proposed areas of development.

### RAIL TUNNEL ALTERNATIVE

The Rail Tunnel Alternative would provide a rail crossing from Greenville to the Long Island Rail Road (LIRR) Bay Ridge Branch. The tunnel would be constructed to accommodate double-stacked container railcars and would allow for bi-directional service (double track). Yards at the Brooklyn waterfront would process carload freight. Maspeth Yard in Queens would process both intermodal and carload freight. Oak Point Yard in the Bronx would process carload freight destined to and from northern parts of New York City. A Long Island facility for processing carload, intermodal, and international container freight was assumed in the EIS.

The Rail Tunnel Alternative was selected as a Preferred Alternative, because as compared with other Rail Tunnel Alternatives, it would:

- Have the least potential to result in localized impacts that could not be mitigated;
- Be the least costly;
- Be simpler to design and construct; and
- Require less land acquisition.

Furthermore, of the Rail Tunnel Alternatives, the Rail Tunnel Alternative without additional service, technology, or truck access received the most support and the least opposition from the public, and also received the most support from the cooperating agencies. In summary, the Rail Tunnel Alternative was selected as one of the two Preferred Alternatives for the following reason:

- It would improve the regional goods movement across the harbor in the long term and provide numerous regional benefits, while limiting the potential for localized adverse effects to an extent and magnitude that could likely be reasonably addressed by mitigation.

## C. ALTERNATIVES CONSIDERED

### ALTERNATIVES SCREENING PROCESS

The alternatives selection process began with the development of a list of 27 Build Alternatives (see **Table 1**) that included various modes and alignments/termini.

**Table 1**
**Long List of Alternatives**

| Alternative Class | No. and Source[1] | Alternative | Description |
|---|---|---|---|
| TSM | 1 (2004 DEIS – modified) | Freight Movement Efficiency/Safety Improvements | Maximize the utilization and efficiency of the existing transportation network with relatively low-cost improvements that can improve freight movement capacity beyond those committed projects that are included in the No Action Alternative. |
| | 2 (MIS – modified) | Railcar Float Efficiency/Safety Improvements | Employ high power and low emission tug boats; use barges of higher capacity; improve rail operations at the two termini to reduce transfer time. |
| | 3 (MIS) | High Speed Loading and Unloading of Railcar Floats | Decrease loading and unloading times for float bridge using specialized vessel design, advanced loading and unloading equipment, and new technology. |
| TDM | 4 (MIS – modified) | Bridge/Tunnel Pricing | Implement pricing strategies and other incentives or disincentives to optimize the freight movement demand, its geographic distribution, and time-of-day distribution. |
| | 5 (New) | "Managed Trucking" Facilities/Franchises | Cluster freight logistics, transportation, and distribution facilities, thereby reducing truck vehicle miles traveled. Examples of such facilities include truck drop-yards, consolidated distribution centers, freight villages, and inland ports. These facilities could be developed at any number of locations in the east-of-Hudson region. |
| Waterborne | 6 (MIS) | "Hub Tub" Concept for Port Activities Alternative/Strategy | Use large floating vessels to facilitate the transshipment of marine cargo between large ships and smaller vessels which would distribute cargo along the coastline and up major navigable rivers to inland destinations. |
| | 7 (MIS) | Use of a Containment Island for Port Activities | Create a containment island by filling an area of the harbor or ocean for ships to dock at and exchange their cargo, either for transfer to smaller ships or to a mode of transportation that would be created to connect to mainland locations. |
| | 8 (MIS/2004 DEIS) | Enhanced Railcar Float | Improve existing railcar float service from Greenville to Brooklyn and associated rail infrastructure and yards. Potentially develop additional railcar float termini in Brooklyn and Bronx. |
| | 9 (2004 DEIS) | Railcar Float Port Ivory Service | Develop a railcar float terminus at Port Ivory on Staten Island, from which railcars would be floated to Brooklyn. |
| | 10 (New) | Truck Ferry | Move truck trailers or whole trucks on a vessel between New Jersey termini and Brooklyn, Queens, or Bronx, with the truck drivers. |
| | 11 (New) | Truck Float | Move truck trailers or whole trucks on a vessel between New Jersey termini and Brooklyn, Queens, or Bronx, without the truck drivers. |
| | 12 (New) | Roll On-Roll Off (RORO) Container Barge | Provide barge service for international containerized cargo between New Jersey termini and Brooklyn or New England, with containers on rubber tire platform. |
| | 13 (New) | Lift On-Lift Off (LOLO) Container Barge | Provide barge service for international containerized cargo between New Jersey termini and Brooklyn or New England. |

**Table 1 (cont'd)**
**Long List of Alternatives**

| Alternative Class | No. and Source[1] | Alternative | Description |
|---|---|---|---|
| Airborne And Air Cargo Related | 14 (MIS) | Vertical Takeoff and Landing (VTOL) | Use a fleet of specially designed aircraft to airlift up to two 40-foot containers each between intermodal facilities on both sides of the Hudson River. |
| | 15 (MIS) | Link to JFK International Airport for Air Cargo Movements | Improve links to John F. Kennedy International Airport (JFK) for air cargo movements, as JFK is one of the highest-volume air cargo airports in the nation. Hundreds of trucking companies use JFK's cargo facilities. LaGuardia Airport (LGA) currently carries a negligible amount of freight and has very limited space to expand for freight operations. Newark Liberty International Airport (EWR) processes less cargo than JFK and most of it does not cross the harbor. |
| Rail Tunnel | 16 (MIS) | Access to the Region's Core with Freight Rail | Construct a rail tunnel (for both passenger and freight cars) under the Hudson River from New Jersey to Penn Station in Manhattan. Also suggested as part of Amtrak's Gateway project. |
| | 17 (MIS) | Staten Island to Brooklyn Shared Passenger and Freight Rail Tunnel | Provide a tunnel connection between the MTA's Staten Island Rapid Transit (SIRT) Line on Staten Island and the New York City subway system in Brooklyn to accommodate both rail freight and passenger subway service. Accommodate passenger rail on the Bay Ridge Branch. |
| | 18 (MIS/ 2004 DEIS) | Staten Island to Brooklyn Rail Tunnel | Construct a rail tunnel on the Staten Island to the Bay Ridge Branch in Brooklyn. |
| | 19 (MIS/2004 DEIS – modified) | Rail Tunnel | Construct a rail tunnel to provide a rail crossing from Greenville Yard to the LIRR's Bay Ridge Branch. Accommodate double-stacked container railcars and allow for bi-directional service (double track). |
| | 20 (New) | Rail Tunnel with Shuttle ("Open Technology") Service | Construct a rail tunnel from New Jersey to Brooklyn and provide short-distance intermodal rail service using "Open Technology" for trucks to be rolled on and off rail flatcars via loading ramps. The technology would also allow non-intermodal equipment—which cannot be easily lifted onto or off railcars—to use rail. |
| | 21 (New) | Rail Tunnel with Chunnel Service | Construct a rail tunnel from New Jersey to Brooklyn, adding chunnel service that would carry trucks through the tunnel on railcars. |
| | 22 (New) | Rail Tunnel with AGV Technology | Construct a rail tunnel from New Jersey to Brooklyn and use Automated Guided Vehicle (AGV) technology to provide service through the rail tunnel that combines aspects of traditional intermodal rail with service for trucks. |
| | 23 (2004 DEIS) | Rail Tunnel from New Jersey to Brooklyn Waterfront, near Owl's Head Park | Rail tunnel connection from New Jersey to the Brooklyn waterfront, near Owl's Head Park to provide access to port development along the waterfront. From this point, trains would continue to either the Bay Ridge Branch or to the Brooklyn waterfront, north along First Avenue to 46th Street where it would connect to the First Avenue Rail Line. |

**Table 1 (cont'd)**
**Long List of Alternatives**

| Alternative Class | No. and Source[1] | Alternative | Description |
|---|---|---|---|
| Rail Tunnel | 24 (MIS – modified) | Rail Tunnel with Truck Access | Construct a rail tunnel from New Jersey to Brooklyn and allow rubber-tired vehicles to use the tunnel during periods when trains are not present (12/7 Tunnel). With this alternative trucks would use the tunnel during the day and trains would use it at night. |
| | 25 (MIS – modified) | Rail Tunnel with Continuous Truck Access | Construct a rail tunnel from New Jersey to Brooklyn and accommodate continuous truck access through dedicated truck lanes, without impacting rail operations (24/7 Tunnel). |
| Other Rail | 26 (MIS) | Rail Freight Connection to the Brooklyn Navy Yard | Provide a rail freight connection to the Brooklyn Navy Yard from the existing east-of-Hudson rail network. |
| | 27 (TZB) | Tappan Zee Bridge Freight Rail | Accommodate rail freight on a commuter rail alignment on the Tappan Zee Bridge. |

**Notes:**
1. The source documents that describe each of the alternatives in more detail are listed as abbreviations in parentheses next to the alternative number. The full reference or explanation for each source abbreviation is provided below:
**(MIS)** - New York City Economic Development Corporation (NYCEDC), *Cross Harbor Freight Movement Major Investment Study (MIS)*, 2000.
**(2004 DEIS)** New York City Economic Development Corporation, *Cross Harbor Freight Movement Draft Environmental Impact Statement*, 2004.
**(TZB)** New York State Department of Transportation, New York State Thruway Authority, and MTA Metro-North Railroad, *Tappan Zee Bridge/I-287 Environmental Review, Alternatives Analysis Report*, 2006.
**(modified)** Reflects an alternative that is generally based on prior studies (MIS or 2004 DEIS) but that has since been refined or modified.
**(New)** Reflects an alternative that was developed as part of the stakeholder input or scoping process for the Cross Harbor Freight Program Tier I Environmental Impact Statement.

Thirteen of these alternatives were eliminated in an initial screening/fatal flaw evaluation step. The remaining 14 alternatives were assessed for their ability to meet project goals and objectives based on preliminary freight demand forecasting, mode choice, and broad qualitative criteria. Four of the alternatives considered were eliminated due to their inability to sufficiently address project goals and objectives. The remaining Build Alternatives were selected for further evaluation of potential regional and local effects; these included transportation demand, socioeconomic factors, and broad environmental effects.

## BUILD ALTERNATIVES SELECTED FOR FURTHER EVALUATION IN THE EIS

In addition to the No Action Alternative, the following 10 Build Alternatives, evaluated in the Tier I EIS, were considered in the selection of the Preferred Alternatives.

*WATERBORNE ALTERNATIVES:*

- Enhanced Railcar Float Alternative
- Truck Float Alternative
- Truck Ferry Alternative
- LOLO (lift on-lift off) Container Barge Alternative
- RORO (roll on-roll off) Container Barge Alternative

*RAIL TUNNEL ALTERNATIVES:*

- Rail Tunnel Alternative
- Rail Tunnel with Shuttle Service Alternative
- Rail Tunnel with Chunnel Service Alternative
- Rail Tunnel with Automated Guided Vehicle (AGV) Technology Alternative
- Rail Tunnel with Truck Access Alternative

The following criteria were considered in the alternatives selection process. Each of the 10 Build Alternatives was evaluated based on these criteria.

- Ability to meet the project goals and objectives.
- Projected freight diversion and associated regional benefits (e.g., reduction in truck vehicle miles traveled, economic benefits, greenhouse gas reduction benefits, air quality benefits), which contribute to the alternative's ability to meet CHFP's **Goal 1 and Goal 2** (see Section on Purpose and Need, above).
- Implementation timeline and potential implementation challenges.
- Cooperating Agency input.
- Public comments.
- Potential adverse impacts and potential mitigation options (e.g., local air quality, noise and vibration, local traffic, safety, hazardous materials, natural resources, water resources, cultural resources, and environmental justice).

## D. TIER II EVALUATION AND POTENTIAL MITIGATION MEASURES

### TRANSPORTATION

Tier II will include an assessment of the effect of the Preferred Alternatives on railroad train assignments and operations, yard operations, local vehicular traffic, and marine terminal operations. The analyses would include consideration of a refined train assignment process; assessment of impacts on the rail system, considering daily train operating schedules and yard operating plans; rail simulation and operational assessment with up-to-date schedules of passenger trains and light (empty) moves, including a "discrete event" simulation; and a detailed operational analysis of railyards. For the Enhanced Railcar Float Alternative, Tier II will also include an assessment of the condition and operations of the termini and the channels approaching each terminal. Tier II would also include a more detailed traffic analysis at intersections adjacent to or along primary routes leading to and from the freight facilities identified for the Preferred Alternatives to quantify traffic effects and determine appropriate mitigation measures. These mitigation measures could range from low-cost and easily implementable improvements such as signal timing/phasing adjustments and travel-lane-use reconfigurations to more high-cost measures such as right-of-way (ROW) acquisitions for roadway widening.

Tier II would also explore mitigation strategies, where appropriate, to address potential adverse impacts of the proposed changes in railroad and local vehicular operations. Such strategies may include scheduling adjustments to reduce conflicts with passenger traffic, rerouting, adding sidings, modifications of signal controls, signal timing changes, parking policy changes,

installation of new traffic signals and signs, truck route changes, and restriping approaches. Strategies to ensure the maritime traffic associated with the Enhanced Railcar Float Alternative can be accommodated safely and efficiently may include upgrades to berths, equipment purchases or upgrades, dredging of berths or channels, and/or landside access improvements.

**LAND USE**

The sensitivities to environmental effects identified in the Tier I EIS would guide subsequent, detailed environmental review(s) as appropriate, at which time engineering and survey information would be available at a level of detail appropriate to determine effects and their significance. Potential areas of detailed analysis in Tier II include land use, neighborhood character, and social conditions, using detailed property acquisition information for the Preferred Alternatives, results of detailed traffic, air quality, and noise and vibration modeling, most current Census data, and the assessment of potential impacts during construction. Options to reduce and eliminate adverse impacts will be evaluated.

**ECONOMIC CONDITIONS AND EFFECTS**

Additional studies to be undertaken as part of Tier II may include more detailed analysis of freight transport costs, based on detailed operating plans; more refined construction costs and resulting changes in economic impacts from construction; inclusion of operation and maintenance cost estimates; further analysis of potential revenue streams and financing options; benefit-cost analysis; economic impact analysis; and development of mitigation strategies to address potential adverse economic effects.

**CULTURAL RESOURCES**

As Preferred Alternative design progresses in Tier II, the project Area of Potential Effect (APE) boundaries may be refined and data would be updated to account for changes in baseline conditions. Any revisions to the APE would be undertaken in consultation with the New York State Historic Preservation Office (NYSHPO), New Jersey Historic Preservation Office (NJHPO), New York City Landmarks Preservation Commission (NYCLPC), and involved Tribal Historic Preservation Offices (THPOs) and/or Tribal Organizations. Coordination under Section 106 with NYSHPO/NJHPO and any consulting and interested parties will be initiated in Tier II. Archaeological documentary studies and field investigations (where appropriate) would be conducted in potentially sensitive portions of the archaeological APE in order to determine the presence or absence of potentially State/National Register (S/NR)-eligible archaeological resources. If unavoidable potential direct and/or indirect adverse effects are identified during the Tier II evaluation, measures to minimize and/or mitigate these effects would be identified in consultation with NYSHPO, NJHPO, NYCLPC, involved THPOs and/or tribal organizations, American Council on Historic Preservation (ACHP) (if appropriate), and any involved Consulting Parties, as defined in Section 106 (National Historic Preservation Act) and discussed in 36 CFR 800.2(c).

**SECTION 4(F) ANALYSIS**

Tier II would include more detailed engineering design and environmental analysis which may identify a use or uses of Section 4(f) resources. If such a use if identified, a Section 4(f) Evaluation will be included as part of any Tier II evaluation. The Section 4(f) Evaluation would examine avoidance alternatives as well as measures to minimize harm to the resource if its use cannot be avoided.

## VISUAL RESOURCES

Further analysis of potential effects on visual and aesthetic resources would be undertaken in Tier II and may consider: more detailed information describing any needed land acquisition and project-related changes to that land, visual effects of rail-related vertical structures (such as signal towers), night-time lighting at rail yards, construction activities and equipment, and construction zone lighting. Tier II evaluation would inform the selection of appropriate measures to avoid, minimize, or mitigate adverse effects.

## ENERGY AND CLIMATE CHANGE

Tier II will explore strategies to reduce GHG emissions during operation and construction of the Preferred Alternatives. During operation, strategies may include more efficient new locomotives, efficient tugs and hybrid propulsion technology, use of biodiesel, use of fuel-efficient tug boats and railcar float design, use of energy efficient yard equipment and operation, shutting down of tug boat and equipment engines when not in use, high-efficiency jet and ventilation shafts for the tunnel, location of the tunnel ventilation fans to optimize energy efficiency, control of tunnel ventilation rate based on real-time rail traffic and air quality data, and use of energy efficient lighting at rail yards and in the tunnel.

During construction, strategies may include use of biodiesel; use of rail for construction material transport; use of locally purchased construction materials; reuse of excavated material; options for maximizing the fly ash, slag, and interground limestone content of cement; use of recycled steel; energy efficient equipment and best practices for equipment operation; enforcement of "no idling" policy; GHG emission reductions from construction employee commutes; and adherence to PANYNJ Sustainable Infrastructure Guidelines.

Tier II would also evaluate potential design and construction measures to make the project infrastructure less vulnerable to the more likely projected effects of climate change. Such measures could include: protecting infrastructure with dikes and levees, elevating critical infrastructure, new, heat-resistant or -resilient materials, design changes to reduce stresses in rail lines, moving critical infrastructure systems inland, building more robust and resilient structures, designing for higher storm surges that progress further inland, strengthening and elevating port and harbor facilities, installing surge barriers, and others.

## AIR QUALITY

Tier II will include a detailed analysis of emissions from yard, rail line, and tunnel ventilation operations, and air quality (with a focus on particulate matter and nitrogen dioxide [$NO_2$] levels) at the tunnel portals, and will explore options to reduce any adverse air quality impacts of the Preferred Alternatives, primarily through the use of newer locomotives that meet Tier 4 requirements. The use of low-emission engines, and clean fuel, fuel-efficient, or hybrid engines in tugs or other propulsion for the railcar floats would be evaluated. Optimization of routes and limiting engine use when railcar floats reach shore would be explored. Truck routes would be designated to the extent practicable to avoid residential areas and no-idling laws would be enforced. Furthermore, non-road diesel-powered equipment would use ultra-low sulfur diesel (ULSD) to control the emissions of particulate matter. The freight facilities would not use anti-skid abrasives and would institute dust control plans to minimize potential particulate matter up to 10 micrometers in size ($PM_{10}$) emissions.

Potential effects of construction on air quality would be analyzed in more detail in Tier II. The analysis would include both on-site and on-road sources of air emissions, and the overall

combined impact of both sources, where applicable. Strategies to reduce emissions would include use of ULSD, maximizing the use of rail and marine modes for transporting construction materials and debris, use of electricity for equipment at freight facilities, use of clean fuel, best available tailpipe reduction technologies, use of newer equipment, tug boat emissions reduction, and idling restrictions.

**NOISE AND VIBRATION**

The Rail Tunnel Alternative and the Enhanced Railcar Float Alternative are predicted to generate noise and vibration impacts at receptor locations adjacent to most, if not all, rail segments, based on the general assessment performed in Tier I. As part of Tier II, a detailed analysis will be performed in accordance with Federal Transit Administration (FTA) methodology, and the feasibility, practicability, and effectiveness of mitigation measures would be examined as part of a detailed noise evaluation in Tier II. Effective noise mitigation measures for rail projects include, but are not limited to, stringent vehicle and equipment specifications; operational restrictions; wheel treatments; vehicle treatments; guideway controls on turns; speed restrictions, and alternative warning devices; sound barriers; enclosures; alteration of railway alignments; alteration of design of at-grade and aerial guideways; ballast and/or resilient track support; sound barriers; building construction modifications, such as building façade insulation and/or upgrade, window upgrades or window treatments (additional sound attenuating windows); and alternate means of ventilation. Measures to address vibration may include: planning and design of special track work; vehicle specifications; and special track support systems (i.e., resilient fasteners, ballast mats, resiliently supported ties, floating slabs, and other marginal treatments) and trenches.

The Rail Tunnel Alternative would include ventilation shafts located near Greenville Yard and along the Bay Ridge Branch, near the 65th Street Yard. The ventilation shafts would be designed to comply with all federal, state, and local noise standards. Noise mitigation measures as part of the Enhanced Railcar Float Alternative, such as tug boat/float alternate means of signaling will be evaluated in partnership with the local Captain of the Port Office. Compliance with the Inland Navigation Rules, including 33 CFR Part 8—Annex III: Technical Details of Sound Signal Appliances will be ensured.

In addition, as part of the Tier II evaluation, a detailed analysis of construction-related noise/vibration effects would be performed in accordance with the FTA methodology. The analysis would examine potential effects at close sensitive receptor locations and any potential damage at nearby buildings due to construction. Tier II will also explore mitigation strategies to address construction noise/vibration, where appropriate.

**NATURAL RESOURCES**

Further Tier II evaluation of natural resources would inform the need for mitigation measures, such as the erection of sound barriers around the facilities' perimeters to reduce the potential effect on wildlife inhabiting adjacent habitats and incorporation of lighting sensitive to adjacent habitats (primarily a concern in parts of Long Island where facilities may be developed).

Measures to minimize potential temporary effects on aquatic biota from any needed dredging would be developed in consultation with the U.S. Army Corps of Engineers (USACE), NJDEP, New York State Department of Environmental Conservation (NYSDEC), and National Marine Fisheries Service (NMFS). Best Management Practices may include: using hydraulic dredging when feasible; using a closed clamshell (required for dredging in Upper New York Harbor); implementing certain dredging practices to reduce suspended sediments when using a clamshell

dredge, such as maximizing the size of the bite taken by the clamshell; slowly withdrawing the clamshell through the water column; not hosing down or rinsing sediments off the sides and gunwales of the barge; no barge overflow (this is required for dredging in Upper New York Bay); shunting; seasonal restrictions to minimize potential adverse effects on anadromous or other migratory finfish, nesting shorebirds, etc.; on-board independent dredging inspectors certified by NMFS to observe dredging operation and ensure compliance with permit conditions; and silt curtains in waters where currents are less than 1 knot.

For the Rail Tunnel Alternative, mitigation measures associated with installation of the tunnel sections would be implemented to minimize suspended sediment in the water column during placement of any fill material or the rock layer. These measures may include moderating the speed at which the material is brought to the bottom to reduce suspension. Mitigation for temporary habitat loss during dredging of the immersed tube portion of the tunnel and the change in habitat type from soft bottom to hard bottom within the area above the immersed tube portion of the tunnel may include habitat enhancement or improvement within the area affected—or elsewhere as identified by state and federal agencies—or the application of construction activity moratorium windows.

**WATER RESOURCES**

Tier II will include additional environmental studies at the local study areas to assess the potential for additional contamination sources (e.g., soils and groundwater) and identify the potential for adverse impacts on groundwater quality due to construction activities. Construction of new or upgraded facilities could entail excavation below the water table and/or dewatering to temporarily lower the water table. Prior to any such construction, groundwater testing would be conducted to determine the quality of the groundwater that would be encountered and the necessary treatment identified to meet requirements for discharge to surface waters to minimize the potential for adverse impacts on surface water quality.

Given the potential for adverse impacts on surface water quality during construction of the Rail Tunnel Alternative, Tier II would include a detailed assessment of the potential for this alternative to adversely affect surface water quality. Measures to avoid or minimize adverse impacts on water quality due to the construction of the Rail Tunnel Alternative, including evaluation of alternative dredging techniques to reduce sediment resuspension, the feasibility of using turbidity curtains, and alternative tunnel construction techniques, would be evaluated in Tier II.

**HAZARDOUS MATERIALS**

Tier II would likely include subsurface site investigations, which would be designed to characterize the nature and extent of contaminated materials at all construction areas. In locations where contamination is identified either in the soil or groundwater, additional testing may be performed to further delineate the extent of contamination. The sampling plan would be submitted to the NYSDEC or NJDEP, for review and approval, as applicable prior to implementation. Preventative measures would be used to avoid the possibility of adverse effects from any contamination discovered in the areas of concern. Construction of new facilities would comply with all applicable regulations regarding handling and disposal of contaminated materials. Health and Safety Plans (HASPs) approved by NYSDEC or NJDEP, as applicable, would be developed for the various construction activities associated with the project to reduce the potential for worker or public contact with wither soil or groundwater contamination. An appropriate testing program where groundwater is known or suspected to be contaminated would

be developed as part of potentially needed dewatering permit(s), which would be sought from the appropriate regulatory agencies. Treatment would be to the levels specified in local sewer ordinances for sewer discharges or applicable water quality regulations for discharges to waterbodies and wetlands. At locations where construction requires demolition or renovation of lift bridges or other structures, any asbestos, lead-based paint, universal waste and/or polychlorinated biphenyls (PCBs) would be removed in accordance with all local, state, and federal regulations.

### ENVIRONMENTAL JUSTICE

In Tier II, appropriate public involvement and community outreach would be undertaken. The environmental justice assessment would rely on the most current Census data available at that time. Tier II evaluation of potential localized effects of the project will be needed to pinpoint and confirm many of the potentially adverse impacts identified in Tier I of this EIS. These targeted analyses will be required to determine whether the impacts borne by environmental justice communities may be disproportionately high. Avoidance measures or mitigation would be developed to reduce impacts on environmental justice communities, as appropriate. Building upon the project's robust public outreach program in Tier I, subsequent Tier II public outreach efforts would include outreach specific to environmental justice communities to ensure broad community participation.

## E. PUBLIC INVOLVEMENT

### SCOPING

Public engagement was sought from the outset of the CHFP. To solicit comments on the Scoping Document, a series of public scoping meetings were held in New York and New Jersey. Public comments on the Scoping Document were considered in developing the Tier I DEIS.

### DEIS PUBLIC HEARINGS AND OUTREACH

The DEIS Notice of Availability and public hearings were advertised in local and regional news and specialty publications. Over thirty information briefings were conducted. The document was available at numerous repositories, on the project website, and was also distributed to cooperating and participating agencies, elected officials, and other interested parties. There were a total of seven public hearings on the DEIS for the communities in the study area (Newark and Jersey City, NJ; Manhattan, Brooklyn, Bronx, Queens, and Suffolk County, NY). Public comments were also accepted via email, mail, and fax.

The information provided at the public hearings included: the Tier I DEIS as a "for reference" hard copy, as well as take-away CDs, comment forms, project newsletters, project display boards, a copy of the legal notice announcing the dates, times and locations of the public hearings, and a project overview video.

To accommodate Limited English Proficiency populations, newsletters summarizing the project, as well as the published legal notices of all seven public hearings, were available in English and also translated into Spanish, Chinese, and Yiddish. In addition, interpretation services and other accommodations were offered and made available upon request at all public hearings, and this opportunity for interpretation services was widely publicized.

**DEIS COMMENTS**

More than 180 agencies, elected officials, organizations, and members of the public commented on the DEIS. Comments were received from both New York and New Jersey agencies and residents, expressing both support for the project and opposition related to concerns regarding potential local impacts. Comments were received on the alternatives evaluated and many included recommendations on the alternatives to be advanced to Tier II. Other comments focused on the review process and public participation, as well as on specific local areas where infrastructure or supporting facilities are proposed, and on specific environmental concerns (air quality, noise, hazardous materials, environmental justice, etc.).

**FEIS AVAILABILITY**

The availability of the FEIS at repositories and on the project website was announced in the Federal Register and was also advertised in local and regional news and specialty publications.

## F. COMMENTS AND RESPONSES ON THE TIER I FEIS

This section identifies the organizations and individuals who provided relevant comments on the FEIS and contains a summary of comments received during the comment period that started with the publication of the Notice of Availability in the Federal Register (September 25, 2015) and ended on October 26, 2015, along with the responses to those comments. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim.

All of the comments received on the Tier I DEIS and FEIS were noted and carefully evaluated. The comments on the Tier I DEIS were seriously considered in selecting the Preferred Alternatives. None of the comments received on the FEIS raised issues that warranted changing the conclusions reached therein.

A number of comments on the FEIS, as detailed in the Comments and Responses section below, expressed dissatisfaction with the FEIS because it does not contain a detailed analysis and evaluation of air, noise, and traffic impacts on specific local communities, resulting from the Preferred Alternatives. As pointed out in the Comments and Responses section below, these comments appear to stem from a misunderstanding of how a tiered environmental review is conducted under NEPA (see Section A of this document, under "NEPA Process"). Specifically, the Tier I EIS informs high-level decision-making (selection of viable Build Alternatives, transportation modes, alignment, and termini). Tier I also broadly examines environmental effects and identifies potential areas of concern to focus on in Tier II. Further evaluation and more detailed studies are intended and will be performed in Tier II. Such studies include evaluation of local traffic effects, local air quality impacts along the rail corridor, near rail yards, near tunnel ventilation system exhaust and tunnel portals, a detailed noise assessment along rail lines, near rail yards, and ventilation structures, potential effects of vibration, potential impacts on traffic, air quality, and noise during construction, the potential effect of additional rail traffic on the rail network, potential effects on public health and safety, potential effects on cultural resources, and other detailed studies noted in the EIS. Deferring those studies to Tier II is appropriate in a tiered NEPA document and is not dismissive of public comments and concerns. Rather, these studies can more appropriately be performed when more detailed information regarding project design is developed in Tier II. The outreach to agencies and interested communities will continue in Tier II and input regarding specific local concerns will be sought and considered as part of that process.

Another group of commenters, as detailed in the Comments and Responses section below, expressed concerns about the availability of funding for implementation of either or both of the Preferred Alternatives. While securing project funding is not a requirement for a Tier I EIS, it is acknowledged that obtaining funding is a challenge, and will likely require partnerships involving different levels of government and potentially the private sector. However, the need to move freight more efficiently, as the demand for freight grows, is essential in maintaining and improving the regional economy and quality of life. The problems associated with the existing regional overdependence on trucks, such as traffic congestion, air pollutant emissions, contribution to climate change, and the cost of road maintenance will not go away and will likely get worse. The Preferred Alternatives will create a new gateway for goods movement across the New York Harbor, resulting in modal diversification and greater efficiency and resiliency of the freight transportation system. The benefits of the Preferred Alternatives include reductions in VMT, reduction of trucks on existing highway crossings, regional air quality benefits, reduction in energy usage, and reduction of emissions that contribute to climate change. Given the importance of the project purpose and need, funding will be actively pursued. A number of funding sources are envisioned and it is noted that the proposed transportation reauthorization bill that was recently passed by the U.S. House of Representatives includes a separate freight title which, if enacted into law, would create a substantial allocation of federal funds dedicated solely to freight projects.

In conclusion, FHWA is grateful for the range and depth of public comments received on the DEIS and the FEIS, and has considered all such comments carefully before issuing this Record of Decision. We will continue to actively solicit and encourage public input during Tier II, in an effort to ensure that all concerns—including those voiced by or on behalf of specific local communities—are clearly understood and carefully evaluated as the environmental review process moves forward.

**LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE TIER I FINAL ENVIRONMENTAL IMPACT STATEMENT**

*AGENCIES*

1. Beth Cumming, Coordinator, Technical Services, New York State Historic Preservation Office (NYSHPO)
2. Kevin Fleming, Transportation Planner, Office of Environmental Planning, Connecticut Department of Transportation (CTDOT)
3. Ruth W. Foster, Ph.D., Acting Director, Permit Coordination and Environmental Review, New Jersey Department of Environmental Protection, Office of Permit Coordination and Environmental Review (NJDEP)
4. Vincent Maresca, M.A., Senior Historic Preservation Specialist, New Jersey Historic Preservation Office (NJHPO)
5. Kamal Saleh, PP, AICP, Supervisor, Bureau of Planning and Economic Development, Union County Department of Economic Development (Saleh)

*GENERAL PUBLIC*

6. Mr. Orrin Getz (Getz)
7. Mr. Paul Pollinger (Pollinger)
8. Mr. Arnold Reinhold (Reinhold)
9. Mr. David Vassar (Vassar)

*ELECTED OFFICIALS*

10. Honorable Joseph P. Addabbo, Jr., New York State Senator, 15th District (Addabbo)
11. Mr. Alvin M. Berk, Chairman, Brooklyn Community Board No. 14 (Berk)
12. Honorable Elizabeth Crowley, New York City Councilwoman, 30th District (Crowley)
13. Mr. Gary Giordano, District Manager, Queens Community Board No. 5 (Giordano)
14. Honorable Andrew Hevesi, New York State Assemblyman, 28th District (Hevesi)
15. Honorable Karen Koslowitz, New York City Councilwoman, 29th District (Koslowitz)
16. Honorable Margaret Markey, New York State Assemblywoman, 30th District (Markey)
17. Honorable Grace Meng, Congresswoman, United States House of Representatives, 6th District (Meng)
18. Honorable Michael Miller, New York State Assemblyman, 38th District (Miller)
19. Honorable Catherine Nolan, New York State Assemblywoman, 37th District (Nolan)

*ORGANIZATIONS AND BUSINESSES*

20. Mr. Jim Newell, President, Brookhaven Rail (Newell)
21. Ms. Mary Parisen, Chair, Civics United for Railroad Environmental Solutions (CURES)
22. Leadership Committee, South Greenville Neighborhood Association (SGNA)

**COMMENTS AND RESPONSES**

**Comment 1:** We urgently need a new cross-harbor tunnel for Jersey City, New Jersey to Brooklyn, New York to handle freight trains. From Brooklyn the freight rail system must be able to connect with the Long Island Rail Road and the Hell Gate Bridge. We need to be able to provide good freight rail service to Long Island, Southern New England, and the eastern side of the Lower Hudson Valley. (Getz)

**Response:** Comment noted.

**Comment 2:** Comment 6.7-7 in the Tier I FEIS omits the language italicized below, which was included in a DEIS comment submitted by me on March 19, 2015. The omissions significantly change the meaning of the original comment.

*With respect to measurement, Community Board 14 (CB14) wishes to offer some comments on techniques. First, the community board questions the appropriateness of using $L_{eq}$ or $L_{dn}$ measures to assess noise impacts at residential sites along the track. These measures compute average absolute sound levels over extended periods, and do not directly indicate peak sound levels, as when trains are passing. Transient levels are what correlates with human sensibility. Those levels must be revealed.*

Brooklyn Community Board 14 requests that the complete comment appear in the ROD. (Berk)

**Response:** $L_{eq}$ and $L_{dn}$ were used as the descriptors for the noise impact analysis, as is recommended in the FTA's "Transit Noise and Vibration Impact Assessment"

guidance manual (also used by the Federal Railroad Administration [FRA]), specifically being described in section 2.5.6. As that document explains, both the $L_{eq}$ and the $L_{dn}$ combine the number of rail pass-by events with each pass-by event's $L_{max}$ and duration, all into a cumulative noise exposure, accounting for all of the noise produced by the proposed project. Because of the variability of noise levels, an analysis based on $L_{max}$ noise levels would find nearly no difference between existing and proposed project conditions, because even a single high-noise event (e.g., an emergency siren or aircraft fly-over) could produce a single instantaneous $L_{max}$ event that would be comparable or greater in magnitude to that of the proposed project. By combining the magnitude, duration, and number of rail pass-by events into an aggregate noise metric, such as $L_{eq}$ or $L_{dn}$, compared with an aggregate existing conditions noise metric that would minimize the effect of infrequent and short duration events, the impact analysis is more conservative and is more likely to show a greater difference between existing and proposed project conditions. This is the reason that the FTA's guidance manual (in addition to FHWA guidance, U.S. Department of Housing and Urban Development (HUD) guidance, NYSDEC guidance, and noise impact evaluation guidance from many other agencies) specifies the use of $L_{eq}$ and $L_{dn}$ for noise impact analysis.

**Comment 3:** Air Quality Planning (AQP) has reviewed the response to comments for the CHFP and would like to provide further comment concerning the response (6.6-3) that State Implementation Plan (SIP) budgets account for emissions associated with certain construction activities (nonroad sources). Section 93.158 (Criteria for determining conformity of general Federal actions) of the Federal General Conformity regulation states, "For any criteria pollutant or precursor, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration or reasonable further progress milestone or in a facility-wide emission budget included in a SIP in accordance with §93.161." In order for emissions to be included in a SIP budget they must be specifically identified. Your response (6.6-3) and reiteration of the response in the Errata sheet does not provide a basis of your conclusion that the emissions from certain construction activities (nonroad sources) are included in the SIP budgets. Please provide exactly where the project emissions are specifically identified and accounted for in the applicable SIP. (NJDEP)

**Response:** In Tier II, close coordination with NJDEP is planned, to ensure that all emissions of concern are properly accounted for as part of General Conformity. The SIP budgets referred to in the FEIS are emission budgets for nonroad construction equipment, as well as for marine and locomotive sources. While not specific to the CHFP, these budgets generally account for construction emissions throughout New Jersey, by county, based on the value of construction. NJDEP guidance will be sought in Tier II to properly identify any

nonroad and construction emissions that need to be specifically accounted for, without double-counting any emissions that may already be included in the SIP.

**Comment 4:** The CHFP if implemented would greatly mitigate pollution, noise, and congestion impacts for many communities in New York City; though perhaps not all, as I've surmised from others' comments. The prospect of any socially inequitable environmental impacts is troubling. Please address these commenters' concerns adequately before going forward with the Program.

The one salient nightmare scenario that comes to my mind is that of a container ship's massive spillage of cargo or even fuel waste into our waterways—with consequent disastrous pollution.

A truly comprehensive program should aim at a reduction of all motor traffic on all the City's roads, peripheral and otherwise. Increased local gasoline taxes and vehicle registration fees for private motorists throughout the affected region should be implemented.

I like to imagine at least some portion of FDR Drive and the Hudson Thruway/9A/West Street motorways transformed into additional rail corridors, both for freight transport and passenger service, with the remainder dedicated to expanding our greenways for bicycling.

CHFP, if done right and with the benefit of all of New York and New Jersey in mind, will prove beneficial to all of us. (Vassar)

**Response:** The commenter's concerns were addressed in the FEIS and measures to reduce or eliminate environmental impacts in environmental justice communities will be evaluated in Tier II. Container ships are not proposed as part of the Preferred Alternatives. All regulations pertaining to safety of freight transport via the railcar float will be followed. The purpose and need of the project is to improve the movement of freight across the New York Harbor. Therefore, repurposing of existing roadways and measures that would be aimed at reducing personal vehicle traffic are not considered. Further, the prospect of bringing Manhattan-bound freight into Manhattan by rail is complicated by the absence of yards, or suitable sites to develop yards, to receive and process freight railcars in that borough.

**Comment 5:** I know containers have been discussed, but I believe I can make a presentation resulting in favorable economic advantages for barges and containers, but I don't know your present costs. Perhaps we can communicate in more detail.

Attached is a drawing of our container on barge. They could be towed in open water with two hulls in each train. A few years ago, I did find a crane company that more or less automated the whole process. (Pollinger)

**Response:** The container barge alternatives were not selected as Preferred Alternatives for advancement to Tier II. The Tier I EIS concluded that, compared to the other Waterborne Alternatives, the Enhanced Railcar Float Alternative best meets the goals of the EIS. The suggestion made by the commenter does not affect the

Preferred Alternative selection. This finding does not prohibit or discourage other parties from advancing other waterborne freight services.

**Comment 6:** I previously commented on a number of aspects of the draft EIS, in particular the assumptions used in the EIS modeling of energy usage, costs and traffic impact. These were not satisfactorily addressed in the final Tier I EIS documents. (Reinhold)

**Response:** The comments were addressed in the FEIS and the responses are further expanded on in this ROD, in the response to specific comments below.

**Comment 7:** I support the final Tier I EIS recommendation (Chapter 13, p.18) of a phased approach that would start with the Enhanced Car Float and would only begin Tier II analysis of the tunnel alternative afterwards. The enhanced car float alternative should collect data on rail operations and the Tier II tunnel study, when and if it happens, should be based on actual experience, rather than dubious computer models. (Reinhold)

**Response:** The phased approach does not assume that the Rail Tunnel Alternative Tier II analysis could not be pursued prior to collecting data as part of the Enhanced Railcar Float Alternative implementation. The use of models is acceptable for planning studies, analysis of alternatives, and EIS documentation. Any new data available at the time of Tier II would be used, as appropriate.

**Comment 8:** The Tier 1 EIS relies heavily on computer modeling. But computer models are only a good as the data fed to them. As Charles Babbage, the inventor of the first digital computer, said, "I have been asked, 'Pray, Mr. Babbage, if you put into the machine wrong figures, will the right answers come out?' I am not able rightly to apprehend the kind of confusion of ideas that could provoke such a question."

The Tier 1 EIS uses a figure for fuel consumption per ton mile that is based on data for US Class I railroads, whose average haul distance is 990 miles. These numbers are likely wildly optimistic for the short haul operations envisioned by the EIS recommended Rail Tunnel Alternative, which projects 20–25 trains per day through the tunnel and 16–21 trains per day on the Bay Ridge branch through densely urban Brooklyn. (Chapter 14, Figure ES-7). Additional rail freight operations in eastern Long Island and through the Bronx to New England will be needed to meet the project's mode change goals. These short haul freight movements cannot be as fuel efficient as the long haul operations of the Class I railroads. But environment effects such as $CO_2$ generation and air pollution are generally proportional to fuel consumption. Thus the results presented in the EIS are unrealistic. The EIS responds by saying "The energy efficiency data used and the GHG presented in the DEIS are appropriate. FHWA has performed a legal sufficiency review of the DEIS and concluded that it meets the requirements of NEPA." This hardly explains why using Class I data is

appropriate. It may be true that rail operations through the proposed tunnel alternative would produce a net reduction in greenhouse gases, such as $CO_2$, and other pollutants, but under the NEPA it is up to the EIS to provide an analysis based on realistic data to prove this. (Reinhold)

**Response:** The best available models and data were used for the CHFP EIS. The commenter quotes the Response to Comment 2-3 and does not acknowledge responses to comments in chapter 6.5 (referenced in the Response to Comment 2-3), where the question of the fuel consumption per ton mile is adequately addressed. Specifically, the Response to Comment 6.5-3 states that Class 1 railroads would carry the freight for the majority of the rail trip considered in the analysis. While Figure ES-7 shows the local area operations only, it is not true that EIS envisions only short haul operations.

**Comment 9:** Cost formula based on mileage. The EIS estimates costs based on a formula that is mileage based. This ignores the actual railroad geography of the New York City and Long Island market, where the longer, low-elevation route developed by the New York Central Railroad in the nineteenth century has always been competitive with the shorter but mountainous route developed by the Pennsylvania Railroad. A mileage-only cost formula unfairly penalizes the former New York Central route over the former Pennsylvania Railroad route. The EIS responded by stating that it used the Oak Ridge National Laboratory's national rail network model, but did not address the cost proportional only to mileage problem. Perhaps the Oak Ridge model addresses this issue appropriately, but the response does not indicate how and EIS Appendix A says otherwise. (Reinhold)

**Response:** The cost estimation approach described in Appendix A is consistent with approaches used in a number of rail market analyses, rail project benefit-cost analyses, and in USDOT TIGER grant applications nationwide. The approach does not unfairly penalize the New York Central route via Selkirk. One important value-added result from this effort was to quantify the amount of rail traffic that the Rail Tunnel Alternative or the Enhanced Railcar Float Alternative would be likely to attract from existing Selkirk and Mechanicville rail routings. The diversion percentages and totals were calculated for year 2007 traffic, and inflated to 2035 projected volumes based on the growth rates provided by the Class I railroads. The analysis was sensitive to different levels of service (interchange costs, service delays, etc.) between the three operating scenarios associated with the Rail Tunnel Alternative (Seamless, Base, and Limited Operating Scenarios) and the Enhanced Railcar Float Alternative. In every case, traffic over Selkirk and Mechanicville was projected to grow substantially and the rate of that growth was projected to be modestly reduced by the Rail Tunnel Alternative (4.7% reduction in growth between 2007 and 2035), and only slightly by the Enhanced Railcar Float Alternative (1.8% reduction in growth between 2007 and 2035).

**Comment 10:** The EIS apparently assumes incorrectly that a double stack intermodal rail car carries the equivalent of four truck loads, when in reality such a rail car only carries two full size containers. The EIS responded to my Comment 5-95 by saying: "The DEIS does not state that a single rail car carries the equivalent of four trucks. The assumption made in the EIS is that on average a merchandise railcar carries 3.5 truckloads and that **one truck carries one intermodal container**." (Emphasis added).

That response would satisfy my concern, but it is contradicted by the EIS Response to Comment 5-154 from the City of New York, where the EIS says: "It is assumed in the Tier I DEIS that, on average, three-and-a-half loaded trucks would carry the payload of one merchandise railcar; **two loaded trucks would carry the payload of one single-stack intermodal railcar; and four loaded trucks would carry the payload of one double- stack intermodal railcar.**" (Emphasis added). Which response reflects the analysis on which the EIS is based? The answer to the City of New York would overstate the traffic reduction from rail container movements by a factor of two. This must be clarified. (Reinhold)

**Response:** In the EIS, it is assumed that the average truck load would be the weight of a twenty-foot equivalent unit (TEU). That is why "one truck carries one intermodal container". One single-stack railcar would carry two TEUs; and one double-stack railcar would carry four TEUs. That is why it is also correct to say "two loaded trucks would carry the payload of one single-stack intermodal railcar; and four loaded trucks would carry the payload of one double- stack intermodal railcar."

**Comment 11:** I would not like to see any further money spent on the Tier I study, given the EIS's recommendation that Tier II tunnel analysis should take place after the implementation of the Extended Car Float alternative. (Reinhold)

**Response:** The Tier I study has been completed. The phased implementation of the Preferred Alternatives would not preclude preparation of Tier II documentation for the Rail Tunnel Alternative in advance of the implementation of the Enhanced Railcar Float Alternative.

**Comment 12:** I write in strong opposition to the Cross Harbor Rail Tunnel Alternative. The DEIS as yet to properly evaluate the impacts of the alternative on the communities adjacent to the Fresh Pond Yard. For example, the General Noise Assessment was not performed "due to the large number of alternatives initially considered." An assessment should have been done. That there is a "lack of sufficient information regarding equipment, operations and...configuration of freight facilities." It is not acceptable for an EIS dismiss serious impacts on the community by simply stating that there are too many variables. (Nolan)

**Response:** As discussed in Chapter 6.7, "Noise and Vibration," General Noise Assessment was performed for the rail corridor to account for the projected increase in freight trains. Segments considered in the analysis included the rail corridor by Fresh Pond Yard. Refined analysis of the rail corridor and analysis of noise at each of the facilities would be conducted in Tier II. The analyses conducted to date were sufficient to select the Preferred Alternatives, as part of Tier I, and to identify areas of concern that will require further consideration and evaluation of mitigation strategies in Tier II.

**Comment 13:** The construction of the rail tunnel would bring additional trains and an intermodal facility in Maspeth where goods would be offloaded between trucks and trains. I strongly oppose this plan. With no plans to protect the surrounding community, including Ridgewood and Maspeth, from the severe impacts, the increased train and truck traffic cannot be permitted. (Nolan)

**Response:** The potential for localized adverse effects of the Preferred Alternatives will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 14:** I am very concerned that the tunnel project would siphon away funds for other necessary projects in our region. (Nolan)

**Response:** Funding sources for construction of the Enhanced Railcar Float Alternative and/or the Rail Tunnel Alternative have not yet been determined. The Tier II analysis will include a study of how such Preferred Alternatives can be funded. It is likely that such funding will come from a number of different sources, including partnerships between federal, State and local levels of government, and/or with the private sector.

The Port Authority and FHWA recognize that the issue of funding is complicated by the fact that several other large-scale regional transportation projects, each requiring a significant capital investment, have been proposed for implementation (e.g., construction of a new passenger rail tunnel or tunnels from New Jersey to Pennsylvania Station in New York City). Nonetheless, the Port Authority and FHWA continue to believe that the need to develop a more efficient way to move freight into and through the Greater New York/New Jersey metropolitan region, which is critical today, will become even more critical in the years to come as the demand for goods in the region grows. As such, efforts must and will continue to identify and secure the necessary funding to advance any Alternative(s) which is (are) recommended for implementation following completion of Tier II. Implementation of any such Alternative is not predicated upon, and is not intended to result in, the diversion of funds from other needed projects. In this regard, it should be noted that the proposed transportation reauthorization bill which was recently passed by the U.S. House of Representatives includes a separate freight title which, if enacted into law,

would create a substantial allocation of federal funds dedicated solely to freight projects.

**Comment 15:** Unless significant private funding is available, the tunnel is unfeasible. It is apparent that if a tunnel was the chosen option there would have to be a plan for private funding if bonds were issued against future revenues what would the fees Railroads would have to pay to pay off the debt? And what would the shipping rates be? Even if this analysis is done one would need to have an analysis prepared by a financial analysis consultant with experience in financing of such facilities. This analysis, as well as a true cost-benefit analysis would be helpful to evaluate the viability of a tunnel plan. (Nolan)

**Response:** See Response to Comment 14. The type and amount of user's fees to be charged for use of a Rail Tunnel have not yet been determined and will not be determined until (a) the analysis in Tier II is completed, including more detailed refinement of tunnel design and alignment, and (b) a financing plan is developed and secured. It is expected that a financial analysis of costs, projected freight volumes, and the pros and cons of various methods of accessing the capital markets would be undertaken in conjunction with development of a financing plan. Shipping rates, which are driven by market forces as well as by the costs of providing service, would be determined at a later date in time.

**Comment 16:** The project is wasting scare public fund planning for government to do something that's already being done by a private company, CSX. With so many infrastructure needs, the region can't afford to spend $10B on a back-up plan for the Water Level Line. (CURES) I am concerned that billions of taxpayer dollars will be spent on a project that will never be the main rail path from the west into New York City. In its testimony, CSX states that there is an "assumption that the majority of CSX freight to and from New York City passes through Trenton." CSX goes on to say that this is not so. CSX further states that Cross Harbor would serve as a "supplemental route" at best. I respectfully request that all expenditure of monies on this project stop until a commitment has been obtained from the railroad companies guaranteeing a certain degree of utilization. (Koslowitz)

**Response:** See Response to Comment 14. The commenter suggests that the Preferred Alternatives merely duplicate a service offered by CSX Transportation, presumably a reference to the Selkirk rail gateway located near Albany, New York. This is incorrect. The purpose of the CHFP is to improve the movement of freight across New York Harbor between the West of Hudson and East of Hudson regions. Specific goals of the CHFP, recognizing our area's current over-reliance on interstate trucking for goods movement, include reducing the contribution of cross-harbor truck trips to congestion along the region's major freight corridors, and providing freight shippers, receivers and carriers with additional, attractive modal options to existing interstate trucking services. In

keeping with these goals, the Preferred Alternatives, if implemented, offer a potential new freight gateway to the East of Hudson region, supplementing (not duplicating or replacing) the Selkirk gateway, and utilizing water and rail (rather than truck) to move freight in a more fuel-efficient, environmentally friendly manner, reducing congestion and wear and tear on highway infrastructure.

**Comment 17:** It is common knowledge that there is no funding for Tier II or implementation now or in the foreseeable future. The Cross Harbor program picked the problem they wanted to solve in one transportation corridor and spent all their money proving it is financially infeasible to solve it. Don't give them more funding. (CURES)

**Response:** See Response to Comment 14. Contrary to the assertion made by the commenter, there is no legal or factual basis to presume that funding will never be available to conduct the Tier II analysis or to implement one or both of the Preferred Alternatives.

**Comment 18:** Benefits from this project are paltry compared to other regional projects for which there is a great need, support, and payoff. Fund those projects. PANYNJ is already developing the Cross Harbor Float. (CURES)

**Response:** The DEIS and FEIS amply demonstrate that implementation of either or both of the Preferred Alternatives will result in measurable reductions of daily truck traffic over harbor crossings, and in regional VMTs, as well as other economic and environmental benefits.

**Comment 19:** Our research informs us that "Port Authority Chairman John J. Degnan expressed doubts about the freight rail tunnel alternative in light of competing demands on Port Authority resources, including the Gateway Project passenger rail tunnel under the Hudson, which is estimated to cost $20 billion, and a new Port Authority Bus Terminal costing up to $10 billion. He is quoted as saying that it is hard for him to imagine, given competing demands for federal government funding for other projects that it would commit to funding on that order of magnitude." Wikipedia.org The continuation of this project will waste additional scarce public funds, while so many rail infrastructure needs, such as a new Hudson River Tunnel for Amtrak's North East Corridor, are much more viable, necessary and urgent. (Giordano)

**Response:** The Port Authority and FHWA agree that the Gateway and Port Authority Bus Terminal projects noted by the commenter are desirable and much-needed transportation initiatives. Consistent with Port Authority Chairman John Degnan's remarks, the agencies further agree (and have repeatedly stated at public hearings and briefings on the Tier I DEIS) that expecting any one funding source, such as the federal government, to shoulder the full cost of the Rail Tunnel Alternative is unreasonable, and that funding will likely need to come

from a variety of sources, including partnerships with other levels of government and/or with the private sector. The agencies disagree that further expenditure of public funds in support of the Tier II analysis, or in advancing any Alternative recommended in Tier II for implementation would "waste additional scarce public funds." The problems stemming from the region's over-reliance on trucks for freight movement, such as traffic congestion, air pollution, and infrastructure damage, will only become worse over time, as demand for goods in the region increases. It is critical that work to identify and implement more efficient ways to move freight across the harbor begin now, and continue through implementation of the chosen alternative(s). The CHFP is intended to serve as a vehicle for such efforts.

**Comment 20:** New Jersey Historic Preservation Office (HPO) concerns were addressed in the 2011 MOA. The HPO looks forward to the opportunity to comment as needed on the future Tier II draft environmental impact statement pursuant to Section 106 of the National Historic Preservation Act, as amended. (NJHPO)

**Response:** Comment noted.

**Comment 21:** In quick review of the CHFP Tier I EIS Car Float Alternative I'd be interested on the roadway impacts to the NJ Turnpike and Routes 1&9 especially in relation to these roads in Union County. For the Rail Tunnel Alternative I'd be interested on the Lehigh line improvements needed and the Port Elizabeth/Newark improvements that would be needed to accommodate future freight demands in the area. (Saleh)

**Response:** As Chapter 5 shows, the segment Lehigh Line in Union County is projected to operate at a level of service (LOS) of "C" (50-75% of theoretical capacity) in the No Action 2035 Alternative, which assumes a third track is constructed between Aldene and Newark (Page 5-39). Neither of the Preferred Alternatives would change that LOS rating. The Rail Tunnel Alternative may require some capacity improvements in other areas, such as in the vicinity of Manville Yard in Somerset County, for example. Highway segment truck volumes were analyzed along the NJ Turnpike in the vicinity of Exit 13A in Union County and on U.S. 1/9 in Hudson County (data points on 1/9 in Union County were not monitored). The Enhanced Railcar Float Alternative is expected to reduce truck volumes by approximately 80 daily trucks on the NJ Turnpike and by 275 daily trucks on U.S. 1/9. The Rail Tunnel Alternative is expected to reduce truck volumes by approximately 400 trucks per day on the NJ Turnpike and by approximately 40 trucks per day on U.S. 1/9.

**Comment 22:** I have concerns about the potential impacts of the CHFP on the Fresh Pond Junction freight yard and on surrounding communities and cannot support any rail tunnel alternative that would increase the amount of freight that would pass through Fresh Pond Junction without addressing the many quality of life issues

that my constituents and many community groups have already brought to light. (Miller)

**Response:** The EIS acknowledges that improvements will be necessary at Fresh Pond and acknowledges the need to address quality of life issues, specifically air quality, noise, and vibration. The potential for localized adverse effects of the Preferred Alternatives, including the Rail Tunnel Alternative, will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 23:** The DEIS and FEIS do not address the safety and reliability problems of the shortline railroad on which all the Cross Harbor alternatives rely. Currently, NY&Atlantic (NY&A) is undergoing a Federal Railroad Administration safety sweep, after a crash in Maspeth on July 8, 2015. This is not the first incident that has occurred including multiple derailments on the LIRR. Before any project is to move forward, the safety issues must be first addressed. (Miller, CURES) While the FRA investigation was ongoing, on September 15, NY&A derailed an open Plate F car full of garbage from Tunnel Hill Partners Coastal on the two track mainline, throwing LIRR commuter rail service into chaos for two days. Turns out LIRR's equipment and crew can't rerail the fully loaded Plate F rail car they let NY&A use. (CURES) Rail safety has deteriorated and any project that intends to increase rail use must also highlight methods in which rail safety will be upgraded (Meng).

**Response:** The railroad improvements associated with the CHFP alternatives will modernize the freight rail lines, especially in the east-of-Hudson area, including both the Bay Ridge Branch and Lower Montauk Branch, where the incident happened. The improvements would include capacity expansion (double track), clearance upgrading to Plate H, curve improvements, and signal/control modernization, which will contribute substantially to enhancing the safety of freight rail operations in this region.

**Comment 24:** CTDOT provided minor comments on the DEIS during the comment period for that document. I did not see them in the comments section of the FEIS, however, so they are attached. CTDOT will comment further on the project once the Tier II document is drafted and ready for comment. In general, CTDOT supports efficient and cost effective movement of freight that addresses environmental and safety considerations. The following are in alignment with CTDOT goals:

- Transportation Systems Management (TSM) Alternatives
- Transportation Demand Management (TDM) Alternatives
- Truck Ferry Alternative
- Rail Tunnel with Shuttle ("Open Technology") Service Alternative

The remaining alternatives not listed below are not necessarily opposed to CTDOT goals, but are judged to have limited impact on how freight will be moved to, from, and through CT. (CTDOT)

**Response:** We have no record of receiving CTDOT comments on the DEIS. The Preferred Alternatives were selected based on their ability to meet the goals and objectives of the CHFP and other factors, as described in Chapter 13, "Preferred Alternatives".

**Comment 25:** I am writing to express my strong opposition against the Tier 1 Final Environmental Impact Statement for the proposed CHFP. A freight solution focused on this single corridor is not the answer to New York's goods movement dilemma. The surrounding community is already burdened with freight train noise during the night and congested roadways during the day. Therefore, the State should instead evaluate the current rail operating environment and improve existing infrastructure before spending $10 billion on a new project. Improvements are needed to signaling, rail equipment, freight clearance, weight issues and train operating rules. (Crowley)

**Response:** The Preferred Alternatives would address a significant gap in the regional and New York's goods movement system by enhancing the existing underutilized East-of-Hudson freight rail infrastructure and connecting it to the well-developed West-of-Hudson freight rail network. Noted improvements (to rail signaling, rail equipment, freight clearance, weight issues and train operating rules) are proposed as part of the Preferred Alternatives. A substantial amount of the estimated cost of the Rail Tunnel Alternative includes upgrades to existing infrastructure. The potential for localized adverse effects, including noise from freight trains, will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 26:** A key component of this proposal would increase freight volume along the Lower Montauk line, particularly at the Fresh Pond Rail Terminal, which already brings critical challenges to the surrounding residential community. The antiquated locomotives at the terminal produce excessive noise late at night and vibrations which have been shown to damage homes, as well as dispersing air pollution through residential neighborhoods. I cannot support a proposal that will exacerbate this already serious problem. (Crowley)

**Response:** As discussed in the EIS, the potential for localized adverse effects (including air, noise, and vibration) of the Preferred Alternatives will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 27:** The proposal calls for intermodal shipping facilities and warehouses, and would make Maspeth Yard a site to break down the freight brought into the City and then load it onto trucks. This would further burden my district and exacerbate

existing traffic issues caused by trucks. Trucks traveling from the Maspeth Industrial Business Zone to the Brooklyn-Queens Expressway and the Long Island Expressway clog up roadways in my district and very negatively affect my constituents' quality of life. Placing a Cross Harbor truck rail terminal at Maspeth Yard would make this much worse. By any estimate or alternative, an expanded truck rail terminal in Maspeth will bring hundreds more trucks through my district each day, which is infeasible and unsustainable given current infrastructure constraints. (Crowley) Projections related to a freight rail tunnel in the DEIS indicate that, when trains are processed at various proposed rail yards in Brooklyn and Queens, there would be a tremendous number of truck trips generated with freight from the rail cars. The increased truck trips generated by a freight rail tunnel would overwhelm our city streets, significantly increase air pollution in Queens and Brooklyn communities, and would utilize roadways not built to accommodate truck traffic. (Giordano)

**Response:** Currently, there is an operating freight rail yard in Maspeth. As discussed on EIS page 6.1-13, the area of Maspeth that includes the rail yard has been recognized as a Significant Maritime Industrial Area and has also been identified by the Mayor's Office of Industrial and Manufacturing Business as an Industrial Business Zone (IBZ). Consistent with the plans for this area, the CHFP proposes expanding the existing yard while also making improvement to the existing yard and the surrounding truck route network.

The projected increase in truck traffic at Maspeth Yard associated with the Preferred Alternatives was disclosed in the EIS. Based on preliminary engineering studies, the use of Maspeth Yard would be feasible, with the proposed infrastructure and other improvements. Proposed improvements to highway truck access in the vicinity of Maspeth Yard would potentially reduce truck traffic on local truck routes. One of the purposes of the Tier II evaluation would be to assess the adequacy of the roadway infrastructure in greater detail and explore mitigation strategies, as appropriate.

It should be noted that even under the existing freight movement system, which is almost totally dependent on long-haul trucks, truck traffic does not stop once trucks have crossed the harbor by way of a bridge or tunnel. These truck movements continue until the freight reaches the factory, warehouse, distribution center, residence or other location where it is to be delivered. As a result, many of these trucks travel over local highways and over streets and roadways in local communities. Without the project, these trucks would still be on the roads to deliver commodities to local destinations and their trips would be longer. The Preferred Alternatives would reduce truck traffic by shifting them to rail. By virtue of relegating truck transport to the "last mile travelled," the Preferred Alternatives would reduce overall truck VMT and vehicle hours traveled in Brooklyn and Queens. That means less congestion and less air pollution in Queens and Brooklyn communities.

**Comment 28:** The Port Authority of New York and New Jersey is already developing the Cross Harbor Float, so there is no reason to waste scarce funds further to serve private shippers that have shown little interest in a route which a freight rail tunnel might provide. (Giordano)

**Response:** The development referenced in this comment is part of the No Action Alternative. Market research, involving outreach to shippers throughout the region, as summarized in Appendix A, suggests that demand for the Enhanced Railcar Float Alternative will be approximately 2.8 million tons (in addition to the No Action), and demand for the Rail Tunnel Alternative will be 7.2 million to 9.6 million tons (in addition to the No Action), in 2035.

**Comment 29:** As stated by the Regional Plan Association, instead, our rail operating environment and our investment strategy should be comprehensively rethought, including focusing on improvements to existing signaling, rail equipment, weight issues and train operating rules. This will allow us to create conditions that will foster regional interoperability of freight and passenger rail and make the improvements in both services that the region urgently needs. For instance, the locomotives currently leased by New York and Atlantic Railway from the LIRR, for freight rail operations, are polluting Stage Zero locomotives that are long overdue for replacement. (CURES, Giordano, Hevesi)

**Response:** The CHFP Tier I EIS, as well as previous regional freight studies, have looked at the regional freight problem and examined various ways to improve the existing system. The Preferred Alternatives would open up an additional freight corridor utilizing existing freight infrastructure, which would be improved. The Preferred Alternatives will include improvements to rail equipment, signaling, weight issues, and train operating rules. As an example, such improvements could include new locomotive technologies, such as the ultra-low-emissions technology utilized in three (3) new locomotives recently purchased by New York New Jersey Rail, LLC and forming part of the No Action Alternative. These new locomotives have dramatically reduced air emissions from New York New Jersey Rail (NYNJR) operations. However, without opening up a new corridor, across the Hudson, these improvements alone would not sufficiently meet the CHFP purpose and need. Chapter 4, "Alternatives" explains that these TSM improvements are needed but are not enough to achieve the regional benefits that the Preferred Alternatives would achieve by opening the Southern Gateway system, consisting of the Oak Island-Greenville-Enhanced Railcar Float/Rail Tunnel-Long Island route. See Response to Comment 25 regarding improvements to existing infrastructure.

**Comment 30:** CSX Railroad, the primary Class I railroad serving the area, stated in Comment 5-88 that the vast majority of freight to and from New York City is west-west in orientation, and crosses New York State between Buffalo and Selkirk, and would travel the same distance south to New York City whether on the west

side or east side of the Hudson River. Much of the current freight rail traffic is putrescible solid waste, and since one of their main customers, Waste Management Co., has a new landfill in Rochester, NY, there will almost certainly be much less need to transport NYC waste south. CSX transports approximately 90% of all rail freight into and out of NYC, and since they seem to have virtually no interest in using any planned freight tunnel as proposed, building a freight rail tunnel seems even more superfluous. (Giordano) More bad news for the tunnel is that Waste Management has a new landfill in Rochester (located next to the Water Level Route). http:www.democratadnchronicle.com/story/news/local/2013/11/10/watchdog-rochester-region-king-of-the-hill-in-trash/3478083. No need for that "southern' route" to export NYC's trash. (CURES)

**Response:** The purpose of the Preferred Alternatives is not to capture the market currently served by CSX via Selkirk. Furthermore, advancing the Preferred Alternatives is not predicated on carrying Municipal Solid Waste from New York City. Depending on the operating scenario, 91 to 93 percent of freight that would be carried by the Preferred Alternatives would be from modal shift of short-haul and long-haul truck trips to rail and rerouting of rail trips that use routes other than the Selkirk route.

**Comment 31:** CSX is the Cross Harbor Tunnel's fatal flaw, which tunnel planners didn't understand or research, or failed to disclose. As a result the modeling results for projected rail tonnage in the EIS are fatally flawed. There can be no confidence in the conclusions about rail traffic. Appendix A of the DEIS tells us that the premise underlying rail traffic modeling for the tunnel was that rail traffic would be diverted in Selkirk and in Mechanicville to the tunnel and that shippers would use that route because it was a shorter and cheaper, and new and better rail route. Here is an example of this thinking from A-20, Appendix A:

> One important value-added result from this effort was to quantify the amount of rail traffic that the Rail Tunnel Alternative or the Enhanced Railcar Float Alternative would be likely to attract from existing Selkirk and Mechanicville rail routings. The diversion percentages and totals were calculated for the year 2007 traffic, and inflated to 2035 projected volumes based on the growth rates discussed previously. The analysis was sensitive to different levels of service (interchange costs, service delays, etc.) between the three operating scenarios associated with the Rail Tunnel Alternative (Seamless, Base, and Limited Operating Scenarios), the Rail Tunnel with Shuttle Service Alternative, and the Enhanced Railcar Float Alternative. In every case, traffic over Selkirk and Mechanicville was projected to grow substantially and the rate of that growth was projected to be modestly reduced by the Rail Tunnel Alternative and the Rail Tunnel Alternatives with service and technology options, and only slightly by the Enhanced Railcar Float Alternative.

Planners looked at a railroad map and imagined commodities could move along any series of connections. Here's what CSX had to say about these faulty assumptions and their fatal implications for the tunnel in its FEIS Testimony:

> Comment 5-88: ...The DEIS, however, appears to assume that the majority of CSX freight to and from New York City passes through a Trenton, New Jersey gateway, and thus takes a "circuitous" path north via Selkirk. While this routing is taken by some municipal solid waste (MSW) movements to Virginia, the vast majority of CSX freight to/from New York City is west-west in orientation, crosses New York State between Buffalo and Selkirk, and would travel the same distance south to New York City whether on the west side or east side of the Hudson River.
>
> Consequently, the Cross Harbor alternatives would likely serve only as a supplement to CSX's primary route to New York City, including the east-of-Hudson region (Armbrust).

Appendix A of the Cross Harbor DEIS shows that the planners were going after business on Long Island. The Cross Harbor tunnel modeling assumption was that because their route was shorter in miles, the tunnel route would prevail over CSX's facilities—government competing with the private sector, trying to divert business from a private company. Did the planners think that CSX was going to divert traffic to the tunnel so they could pay a user fee? CSX has an intermodal terminal in NJ. Did the planners think CSX would cut that business for this tunnel? FEIS testimony indicates that CSX won't route traffic through the tunnel:

> Comment 6-5-8: In addition to serving as a supplement to CSX's primary Water Level Route, the Cross Harbor alternatives could serve as a temporary alternative route in the event of a sustained emergency condition to CSX's primary route (Armbrust)

After CSX called out government for incompetence and planning to compete with them, the FEIS responses were careful to agree that the $10B tunnel was not a replacement for the Water Level Line, as the DEIS had envisioned it for some traffic. Here is an example:

> Response 5-88: The Preferred Alternatives would provide for an alternative "southern" route to the current CSX routing through Selkirk. They are not indented to replace the current alignment. (CURES)

**Response:** See Response to Comment 30.

**Comment 32:** CSX hauls over 90% of all freight into and out of NYC. CSX has leverage in rate negotiations, the best route in and out of NYC, and won't use the tunnel. CSX's testimony proves that the rail tunnel lacks Class 1 railroad participation—unlike PANYNJ projects west of Hudson. What about Norfolk Southern (NS)? CURES is informed that NS can't block a train for Long Island the way CSX can, so the tunnel route doesn't work well for them. Anything from the west that NS can bring to New Jersey and through the tunnel has to

come through the Horseshoe Curve, and CSX beats that with the Water Level Route. The principal the Cross Harbor planners didn't think to use is that if the rates don't work, the traffic won't move on rail. Why didn't they pick up the phone and talk to CSX? (CURES)

**Response:** The Class I railroads, NY&A, and the passenger commuter railroads served on the Technical Advisory Committee for the Tier I EIS (see Appendix B). Both Class I railroads are capable of blocking trains for East-of-Hudson destinations at various locations in their systems today or by 2035. Geometric features of the national rail network, such as Horseshoe Curve, are known, but do not affect all traffic projected in the Market Analysis.

**Comment 33:** Tunnel advocates have been asserting that New York City is the only major city in the U.S. that is not connected to the national freight rail network, as on this recent WNYC radio program where Congressman Nadler publicized the tunnel, http://www.wnyc.org/story/new-yorks-roads-trucked-up/. CSX's testimony in the FEIS puts that argument to rest. Residents in the Outer Boroughs east of Hudson certainly are burdened with freight rail connections. Maybe tunnel advocates mean Manhattan is not directly connected? Do they want to bring back the High Line, which is as reasonable as building a rail tunnel with truck terminals in the Queens and Brooklyn of 2015? (CURES)

**Response:** The EIS correctly describes the deficiency of the existing rail freight system in Chapter 1, "Purpose and Need". As noted on page 1-8, "the principal deficiency of the regional network is the lack of a direct rail link between the national rail hubs in northern New Jersey (e.g., Oak Island Yard) and the east-of-Hudson region. The nearest conventional railroad crossings of the Hudson River are owned by Amtrak, and are currently restricted to passenger service. Freight to and from Long Island, destined for customers across the Hudson River, must either complete the 48-hour (300-mile) trip via Fresh Pond Yard in Queens and the old New York Central Bridge in Selkirk, New York, or travel via NYNJR on a railcar float service between the Bay Ridge Branch (65th Street Yard) and Greenville Yard". The use of the High Line is not proposed as part for CHFP. Based on the projected demand for freight movement and environmental and engineering evaluations to date, the Rail Tunnel Alternative as proposed is feasible.

**Comment 34:** General Noise Assessment response shows that the project team lacked basic knowledge about the freight rail system on which the tunnel and float rely: The Cross Harbor planners included outdated rail noise data in the DEIS, a fact CURES pointed out in its testimony. The outdated data does not appear in the FEIS. 6.7-9 states that this was removed. The excuse for not producing new data was "The General Noise Assessment for freight facilities was not performed due to the large number of Alternatives initially considered, the number of alternative freight facility locations, as well as lack of sufficient information

regarding equipment, operations, and precise configuration of the freight facilities." In other words, the project team couldn't test for noise along the rail line because they didn't know enough about the rail system, even though it is fixed in place. Planners spent scarce public funds modeling rail traffic without sufficient inforation to even do sound tests. CSX said Cross Harbor planners don't understand their system either. This ignorance produced fatally flawed results. (CURES)

**Response:** It should be noted that the General Noise Assessment ***was*** performed for the rail line segments. The use of older site-specific data is preferable to use of estimates based on population density, as explained in Response to Comment 6.7-12. While it would have been possible to obtain more recent noise measurements along the rail line, the information was not necessary for making the corridor level decisions appropriate for Tier I and to identify areas where additional studies would be needed in Tier II.

Information regarding General Noise Assessment methodology was removed from the freight facilities section (page 6.7-9), as the General Noise Assessment for freight facilities was deferred to Tier II, when the needed information would become available. An analysis of noise from the operation of each of the freight facilities that would be used for the Preferred Alternatives would be required and will be conducted as part of Tier II. Such analysis was not needed to reach the conclusions drawn in Tier I. Therefore, deferring the noise assessment of the freight facilities to Tier II is fully consistent with NEPA and the structure of the tiered EIS process, and represents an efficient use of public funds.

**Comment 35:** Testimony shows that Cross Harbor planners discarded practical alternatives with immediate or bigger payoffs to pursue the tunnel. The FEIS states the Cross Harbor team didn't change any conclusions in response to public testimony on the DEIS. Alternatives that would provide relief in the short term, or have greater impacts in the long term were dismissed in the DEIS and FEIS. These included incentives for off-hour truck deliveries, which the Cross Harbor testimony of the executive director of the New Jersey Motor Truck Association said the organization would support. (CURES, Miller)

**Response:** The statement that the FEIS states that there was no change to "any conclusions in response to public testimony on the DEIS" is inaccurate. The assertion in the comment seems to be based on a misinterpretation of the introductory section of Chapter 14, "Errata," on page 14-1. The noted edits in the Errata chapter were clarifications, corrections, or additions to text made in response to comments. These changes, which were minor in nature, did not alter the overall Tier I decisions and conclusions, regarding the selection of mode and alignment and the selection of the Preferred Alternatives. Public testimony regarding preference for alternatives and concerns regarding local impacts were very seriously considered in the selection of Preferred Alternatives (see Chapter 13, 'Preferred Alternatives," page 13-13) and in better identifying local areas and

impacts requiring further study in Tier II. The reasons why certain alternatives were not selected for further study, including off-hour truck deliveries, are documented in the EIS (see Chapter 4, "Alternatives," page 4-18), so it is inaccurate to claim that those alternatives were "dismissed." It should also be noted that an organization representing truckers may have an interest in maintaining the truck dominated status quo and is therefore unlikely to support alternatives that are aimed at diverting freight to other modes.

**Comment 36:** The new maps in the FEIS show more than 1,300 truck a day concentrated at points in Brooklyn and Queens—for reduction of 700 to 900 trucks on eastbound Hudson River and harbor crossings in a 23-county area, all the way up to Beacon-Newburgh. The FEIS asserts in Response to Comment 5-139 that there is "no increase in truck trips in any county" ignoring the problem of concentrating traffic impacts. Toth makes the same point that CURES offered in its DEIS testimony (Comment 5-23), stating that with few exceptions the final leg of the shipment will move by truck and that truck shipments would not be reduced, and that the project would merely move the location for pick-up and/or delivery. (CURES)

**Response:** The reduction of 700 to 900 trucks on the crossings accounts for east-bound traffic only. Adding westbound trips yields a total reduction of 1,400 to 1,800 truck trips. The approximately 1,300 trucks noted at sites in Brooklyn and Queens includes both inbound and outbound movements to the proposed freight facilities. As explained in Response to Comment 27, many of the trucks associated with the Brooklyn and Queens facilities would also be there without the Preferred Alternatives. Both truck miles traveled and truck hours traveled will be reduced in both Brooklyn and Queens with the Preferred Alternatives. That means less congestion and less air pollution in Queens and Brooklyn. By shifting truck shipments to rail and thus reducing the truck trip length in terms of both distance and time, the Preferred Alternatives would benefit the region.

**Comment 37:** Bigger payoff alternatives involving passenger rail or commuters also were dismissed, as many who offered testimony noted, including Toth in her Comment 4-43, stating that the study does not include a recommendation for increasing commuter rail or providing ferry service for cars and buses, that cars and buses combined make up more than 90 percent of the traffic and cause far more congestion and emissions, and that ultimately, the congestion these vehicles create increases the cost of goods. (CURES)

**Response:** See Response to Comment 4-5 in the FEIS regarding passenger rail alternatives. Please see Response to Comment 4-43 regarding the noted comment from Toth.

**Comment 38:** Testimony indicates that the tunnel will create impassable bottlenecks at key locations: The FEIS defends a DEIS that churned out fatally flawed tunnel alternatives at public expense without understanding that that amount of traffic

would create impassable bottlenecks at key locations. Jim Newell's testimony in this regard was confirming.

Tunnel proponents assert the myth that there is a rail system east of Hudson that is not being used, as this comment to WNYC on October 12, 2015, by Congressman Nadler: "We have a rail system that was developed a century ago which is basically unused by freight," he said " We should use it." http://www.wnyc.org/story/new -yorks-roads-trucked-up/. (CURES)

**Response:** The railroad network analysis in the EIS indicated that no new bottlenecks would be created in the regional rail network as a result of either of the Preferred Alternatives. As presented in the section on Regional Rail Network Effects (page 5-39), the Preferred Alternatives would have a minor effect on the Level-of-Service of the regional rail network compared to the No Action Alternative. Parts of the east-of-Hudson rail system are underutilized, including the Bay Ridge Branch, a portion of Lower Montauk Branch, the Fremont Secondary Line, and the Bushwick Branch. Portions of the LIRR Main Line and New Haven Line north of the Bronx are expected to exceed their theoretical capacity in 2035 with or without the Preferred Alternatives, and would likely require improvements to accommodate additional capacity.

**Comment 39:** The traffic at Fresh Pond today is straining the capacity NY&A has, especially because much of it goes past Jamaica. This has to go out and come back in defined LIRR operating windows using Automatic Speed Control (ASC) equipped locomotives, of which NY&A has eight. Crews have to be trained to work these routes. The long-term growth projections indicate severe problems ahead. Even if most of that was diverted to rail, the problems would still be here because the rail system on Long Island is already congested. Today NY&A moves almost 30,000 carloads, about three times the traffic LIRR moved in 1996. However, they have a derailment on the main line and for two days LIRR has to reduce service, just like what you see on the LIE when there's an accident or breakdown. (CURES)

**Response:** The preliminary engineering evaluation performed as part of Tier I indicates that Fresh Pond Yard could provide a capacity higher than the current traffic and could be expanded and improved to accommodate more traffic with the Preferred Alternatives. A major portion of rail traffic in the Preferred Alternatives would pass through Fresh Pond directly to the north and the west. A relatively small portion would be classified at Fresh Pond before being moved to other destinations, including those in Long Island. Other rail improvements would be made to keep the system fluid, including sidings at East New York and another classification yard at Oak Island. The institutional arrangement for operating the east-of-Hudson freight rail system with the Preferred Alternatives would be investigated in the Tier II, with the aim of reducing interchanges between operators, minimizing idle time in yards, and maximizing the number of through trains. The operators under the new service agreements would be

able to increase their capacity and improve efficiency and safety of their operations.

**Comment 40:** Cross Harbor planners should have asked how many freight trains a day east of Jamaica are possible under LIRR's operating windows now and after East Side Access opens. CURES is informed that LIRR is projecting as many as 1,500 trains a day. Although a certain increase will be on the Pt. Washington line and thus have no impact on the Main Line east of Jamaica, LIRR hopes to be able to run many more trains into the 2 track Main Line from Floral Park to Hicksville. That means more deadheading. Where they are going to put all those trains heading into Manhattan? Instead of wasting more money on failed Cross Harbor planning, plan and implement improvements that make the rail system east of Hudson functional, clean, and safe. (CURES)

**Response:** We have coordinated with the Long Island Rail Road and will continue to do so. The LIRR has confirmed that capacity is available and that available operating windows outside of the peak commuter travel hours would be sufficient.

**Comment 41:** Responses demonstrate planners failed to synthesize information about limitations of the freight rail system with conceptual expansion plans, producing uinrealistic Preferred Alternatives. FEIS responses acknowledge that the freight rail lines east of Hudson can't be moved, and that double stack, and other visionary elements are impractical. However, the FEIS continues to defend a rail tunnel alternative that shows NY&A handing off 7-12 trains per day to CSX, Figure 5-13. NY&A presently hands off one or two trains a day to CSX. Even if tracks or portals that feed into Fresh Pond Yard are enhaced to handle more freight, all the traffic still switches at Fresh Pond Yard.

Here is an example of how the limitations of Fresh Pond Yard impact the amount of traffic that rail yard, thus the freight rail system, can handle in a day. CURES noticed this summer that NY&A had removed a switch within Fresh Pond Yard. When CURES asked why the switch was removed, this is what Paul Victor, President of NY&A wrote: "Pending a redesign of the east end of Fresh Pond yard, the track geometry for longer cars creates a high derailment risk. Better to lose some flexibility than risk a derailment." (CURES)

**Response:** Based on the preliminary engineering evaluation prepared as part of Tier I, it would be feasible to achieve double-stack clearance along the Bay Ridge Branch and the Lower Montauk Branch. There is no need to "move" any existing rail lines or ROW. The institutional arrangement for operating the east-of-Hudson freight rail system with the Preferred Alternatives would be investigated in the Tier II, with the aim of reducing exchanges between operators, minimizing idle time in yards, and maximizing the number of through trains. The operators under the new service agreements would be able to increase their capacity and improve efficiency and safety of their operations. With respect to potential interchanges at Fresh Pond, the commenter

misinterprets the FEIS. The analysis is not based on the assumption that 7 to 12 trains will stop in Fresh Pond daily. Some of these trains will be through-movements and others may not be handled by CSX. The Preferred Alternatives include improvements that enhance both safety and capacity at Fresh Pond Yard. These improvements include: capacity expansion (double track), clearance upgrading to Plate H, curve improvements, and signal/control modernization. In addition, at Fresh Pond the modification and renovation of the wye was among the proposed improvements for the Rail Tunnel Alternative. There would also be capacity improvements at the Upper Yard and East New York, which would substantially reduce the congestion of north-south rail traffic in the Preferred Alternatives.

**Comment 42:** CURES is informed that the high derailment risk assessment from the railroad's president must come from experience with car movements there. It is also a clear indication that Fresh Pond's trackage alignments are both antiquated and dangerous. NY&A recently received Plate F clearance throughout their entire service territory. But what hasn't changed at Fresh Pond, and what really can't be changed is that the inbound cars come into the Freemont area trackage, which is perpendicular to the Fresh Pond yard trackage and connected by a single track that has a very high curvature. So while NY&A has clearance now for the Plate F cars, it doesn't mean they can effectively handle too many, since they have had to take a switch out of service because cars are derailing there. The planners gave their imaginations free play on taxpayers' dime and produced fatally flawed Preferred Alternatives. (CURES)

**Response:** See Response to Comment 41.

**Comment 43:** As consideration is given in the future to improvements in east of Hudson rail, no government partnership, funding, or support should be extended to lawbreakers. Since the DEIS and FEIS include possible use of Brookhaven Rail Terminal (BRT) and Jim Newell stepped forward to offer DEIS testimony but did not mention these activities, information reported by Atlantic Northeast Rails & Ports is provided as part of this comment. Andy Kaufman's innovative work with solid waste management and railroading in New Jersey played a role in the passage of the Clean Railroads Act. (CURES)

**Response:** The commenter appears to be referring to an ongoing legal dispute between the BRT and the Town of Brookhaven. That dispute involves alleged activities by BRT that have no relationship to, and no bearing upon, the CHFP or either of the two Preferred Alternatives recommended for advancement to Tier II. Neither of the Preferred Alternatives is conditioned or dependent upon the use BRT as a transloading terminal.

**Comment 44:** The FEIS erroneously defends 7-8 trains a day going out to Long Island rail facilities for the rail tunnel alternative, Figure 5-13. In a letter dated August 5,

2015, the New York and Atlantic Railway confirmed system limitations that the Cross Harbor FEIS failed to acknowledge. NY&A's letter is a repudiation of a permit application involving Tunnel Hill Partners, NY&A's business associate at the Coastal transload facility in Farmingdale Yard. NY&A told NYSDEC that it couldn't increase from one to two trains a day to serve Tunnel Hill Partners' facilities in Suffolk County because of the "complex" operating environment on Long Island. (CURES)

**Response:** We have been coordinating with LIRR and NY&A throughout the duration of this project. We do not have any correspondence from either entity indicating that they do not have adequate capacity for the projected number of trains associated with the Preferred Alternatives.

**Comment 45:** In the FEIS, Jim Newell opines on how BRT, the tunnel, and the float could work together, without addressing inevitable complications. CURES is informed that Newell's concept would require a manifest train or a unit train that is already blocked for BRT only. But where will this job be done? That's what Selkirk does for NY&A. There's no facility in Jersey that can really do this. Some NS yard in Pennsylvania, perhaps?

A unit train or pre-blocked manifest train just has to be picked up at the tunnel and moved to Yaphank. Even that may be a problem for NY&A because they will have to go get the train with their ASC locomotives or they will have to stop at Freemont, change locomotives and go out east. And what if they have to wait and hold before Jamaica because of a problem on the Main Line?

Timing is a problem, and ASC is a problem. Operationally the NY&A, and largely because of what they were given to work with—ASC, tiny Fresh Pond Yard, supremacy of passenger on LIRR, and much more—just can't do what the planners envision.

Just imagine this scenario: CSX is able to schedule trains into Fresh Pond because they make that train in Selkirk. How are these trains bound for Brooklyn going to be scheduled? It won't be for the convenience of NY&A. So you'll have mile long trains waiting in Brooklyn every day. How long? Maybe NY&A can lease more equipment and have a crew ready to do this every day, and then switch power? (CURES)

**Response:** Further evaluations in Tier II will analyze the institutional arrangement for operating the east-of-Hudson freight rail system with the Preferred Alternatives would be investigated in Tier II, with the aim of reducing exchanges between operators, minimizing idle time in yards, and maximizing the number of through trains. The operators under the new service agreements would be able to increase their capacity and improve efficiency and safety of their operations. The trains that use the southern corridor would be able to be classified and blocked at points west of the Hudson. The unit trains of Class I railroads would pass through Fresh Pond Yard and continue to their destinations in Long Island.

**Comment 46:** And the truck terminals? Here is Comment 5-153:

> Several areas, (i.e., East New York, South Brooklyn Marine Transfer Station, 51st Street Yard, etc.) would experience significant truck volumes as a result of the proposed program. Please note that guidelines for mitigation measures to address significant adverse impacts presented in the 2014 *CEQR Technical Manual* would not suffice to address traffic impacts resulting from the introduction of over 700 trucks daily into these areas. The program would require mitigation measures to address significant adverse impacts by increasing roadway capacity, improving existing infrastructure, modifying truck route, widening ramp, etc. (City of New York)

Even assuming they were able to start some kind of container service going, the business would soon evaporate because it would take so long to get containers onto trucks and take/load empties. Somebody might say, "These details can be worked out. Just build the tunnel." They can't be worked out. Trains have to be processed. You need space. (CURES)

**Response:** There would not be any transfer activity and additional truck traffic at East New York with the Preferred Alternatives. The yards at the Brooklyn waterfront would only process merchandise railcars. All city-bound intermodal railcars would go to Maspeth Yard. The Tier I analysis estimated the number of carloads and truck trips that would be generated by a transload facility, as well as the space required to operate it. As explained in Response to Comment 27, many of the trucks associated with the proposed facilities would also be there without the Preferred Alternatives. Tier II will include detailed traffic analysis, and an examination of strategies to process rail cars and truck trips as efficiently and with as few external impacts as possible. The potential impacts of increasing truck traffic on local communities will be evaluated and mitigation measures will be explored in Tier II, as appropriate.

**Comment 47:** The changes made to the DEIS, as indicated in the FEIS Errata mainly reflect unaccountable mistakes and substantive omissions on the part of the Cross Harbor team that never should have appeared in the DEIS. The FEIS makes only slight changes in response to community concerns, such as characterization of Visual and Aesthetic Considerations, e.g., changing "The acquisition of property and expansion of yard facilities at this location would be expected to result in no changes to the visual and aesthetic conditions of the site or in the surrounding area," to "The acquisition of property and expansion of yards at this location would not be expected to result in substantial changes to the visual and aesthetic conditions of the site or in the surrounding area. (CURES)

**Response:** The changes noted in the Errata chapter of the FEIS reflect additional information, concerns, and minor omissions brought up by commenters. As there were no major omissions or extensive additional information, the changes noted in the Errata were minor and did not result in a change to the conclusions

presented in the DEIS (see Chapter 14, "Errata", page 14-1). In the specific instance of the Visual and Aesthetic Considerations, the noted change on page 14-17 was made to acknowledge community input provided as part of comments on the DEIS (see Chapter 12, "Response to Comments," Comment 6.4-1). While the DEIS implied that there would be no changes to the visual and aesthetic conditions, the Errata clarified that there would be changes, but that those changes would not be substantial (see page 14-17).

**Comment 48:** After spending many years and many millions of dollars on the EIS process, the CHFP failed to substantively address the fundamental reason for a federal EIS. The stated purpose of an EIS on the FHWA website is that "NEPA requires Federal agencies to prepare EISs for major Federal actions that significantly affect the quality of the human environment." It is very disturbing that community and human health impacts that should have been included in Tier I were not—something as simple as noise testing, or quantifying the number of people within 200 feet who would be impacted by pollution along the freight rail line. Instead, Congresswoman Meng and others who submitted testimony were told in the CHFP's FEIS Responses to Comments that such community impacts may be studied if that's deemed "appropriate" in Tier II. (CURES)

**Response:** The CHFP environmental review is consistent with the NEPA requirements and purpose for a Tier I EIS. As discussed on page 2-2 of the EIS, complex projects can be evaluated in accordance with NEPA using a "tiered" approach. As defined in CEQ's NEPA regulations (40 CFR 1508.28), tiering "refers to the coverage of general matters in broader environmental impact statements...with subsequent narrower statements or environmental analyses...incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared." FHWA's NEPA regulations that also provide for tiering note: "For major transportation actions, the tiering of EISs as discussed in the CEQ regulation...may be appropriate. The first tier EIS would focus on broad issues such as general location, mode choice, and areawide air quality and land use implications of the major alternatives. The second tier would address site-specific details on project impacts, costs, and mitigation measures." Therefore, noise testing was not required to meet Tier I NEPA requirements. In addition, without performing detailed impact analyses, which are appropriate for Tier II, the number of impacted people within 200 feet cannot be determined.

**Comment 49:** The NYC Department of Health and Mental Hygiene's (NYCDOH-MH) NYC Community Air Survey has proved that conformity with federal air quality standards does not mean people are not being harmed by local air quality problems at street level. The October 1, 2015 Air Quality Symposium at the City University of NY sponsored by NYCDOH-MH and the Commoner Center at Queens College featured many public health experts and members of

environmental justice communities who expounded on the problem of pollution hotspots in NYC, like the ones this project would create. (CURES)

**Response:** National Air Quality Standards (NAAQS) address ambient air, including "hot spots", and were developed to provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. The potential for air quality impacts of the Preferred Alternatives at the localized level, including street level, will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 50:** Comment and Response 5-48: Tier 1 deferred exploration of the most up-to-date proven waterborne technologies to Tier II. The NYC Department of Sanitation (DSNY), NYSDEC, PANYNJ, and other agencies will continue to pursue and use more efficient development of waterborne transport, and in a broader geographic area, even without Tier II. Through implementation of the Solid Waste Management Plan (SWMP), DSNY is moving toward Fair Share that includes the use of barging and rail. While many locations are unsuitable for barging, except in an extreme emergency, NYSDEC Regional Director Venetia Lannon's presentation gives a broader and more realistic perspective on the use of waterborne freight to move vast amounts of some commodities (May 8, 2013, Federation of New York Solid Waste Associations conference, Superstorm Sandy Response: Lessons Learned from a Storm Debris Management Perspective). It should be noted that the Surface Transportation Board (STB) conditioned approval of BRT's license on not participating in solid waste business when the Town of Brookhaven objected. (CURES)

**Response:** CHFP is supportive of the strategies that other agencies and private sector partners are pursuing to divert waste and other commodities from truck to water and rail, in emergency response and day-to-day goods movement. The Preferred Alternatives (Enhanced Railcar Float Alternative and Rail Tunnel Alternative) best meet the goals of the EIS. Advancement of the Preferred Alternatives to Tier II does not discourage, challenge, or preclude the development of other waterborne and rail freight transportation services throughout the region.

**Comment 51:** Metro NYHC comprises coastal islands that face rising seas. Waterborne transport will be increasingly needed. Figure 4.5 map from the New York Metropolitan Transportation Council (NYMTC) Regional Freight Plan 2040 shows the robust network of waterborne terminals in greater Long Island. CURES submitted the following comment on the DEIS. There is no response to this in the FEIS, which only answered comments deemed "relevant" by Cross Harbor planners:

> Lack of redundancy is a vulnerability that is identified in NYMTC's Interim Freight Plan. NYMTC's Summary section of the recent plan update states that the two marine highway corridors that traverse the NYMTC region, the Cross Sound Enhancement Project, Trans-Hudson

Freight Connector Project, and Hudson River Food Corridor Initiative "offer the potential to support the region's maritime economy, complement landside transportation services, and relieve landside congestion" Unlike the "daunting" rail freight limitations east of Hudson, NYMTC's Interim Freight Plan says that investment can overcome current limitations in the waterborne freight system. NYMTC's Interim Plan shows the Port's network of bulk and breakbulk terminals, including those along the North Shore of Long Island. DSNY has two 20-year contracts with Covanta to barge and burn Municipal Solid Waste. During the Hurricane Sandy emergency, debris was taken directly off Long Island by water. Tunnels, roads, and rail lines went down in the flooding. When there is a freight train derailment, passenger service often goes down too. The Cross Harbor DEIS proposes waterborne Alternative that cost far less than the tunnel and can be implemented more quickly.

Again, CURES respectfully requests that this wasteful project be terminated. (CURES)

**Response:** The regional dependence on trucks is discussed throughout the EIS and the need for redundancy and resilience to climate change, including rising sea levels is noted. For example, see page 6.5-18 of the DEIS. Both of the Preferred Alternatives provide redundancy to the existing truck dependent movement of essential goods and both of the Preferred Alternatives would make our region more resilient to the likely effects of climate change.

**Comment 52:** In response to Brookhaven Rail (BR) DEIS comment that the BR facility is not fully described in the Tier I DEIS, the PANYNJ in FEIS Response No. 6.1-17 indicated that BRT will be described in FEIS Chapter 14, Errata. However, the on-line version of the FEIS Chapter 14 Errata does not mention the BR facility. It is requested that the Final Record Copy of the FEIS include an informative description of the BR facility. (Newell)

**Response:** The BR facility was mentioned and considered in the DEIS as an illustrative example of a facility on Long Island and the description included was comparable to the description provided for the proposed Pilgrim Intermodal Terminal, which is also an illustrative example of a facility on Long Island. The additional information regarding the facility provided by BR is appreciated, but it does not affect the evaluation and conclusion presented in the Tier I EIS and therefore does not warrant inclusion. BR input as part of Tier II is encouraged.

**Comment 53:** Regarding the elimination of LOLO/RORO Container barge float capacity. Because the DEIS diversion model ONLY predicted 0.4 million tons of freight per year to rail, it is recommended that Tier II analyses include a limited or spot checking of that conclusion. (Newell)

**Response:** The estimated diversion of 0.4 million tons to the LOLO/RORO Alternative is due to the level of service, which includes considerations of the expected travel time on water, wait time based on operating schedule assumptions, and landside travel time between waterfront termini and the origins/destinations, compared to trucking and rail.

**Comment 54:** In considering the extent of containerized freight that will reach the eastern shoreline of the U.S. and the extent to which that freight crosses and is projected to cross the Hudson by truck on stressed bridges and highways through NYC, the CHFP analysis does not address the operational and pricing changes in the rail freight system which would maximize the containerized rail freight diversion. Then identify and analyze what changes, equipment, operating and pricing policies would be necessary by the various public owners of the ROW's and operating systems to achieve the benefits which could result from that diversion. An alternative diversion model should be run where the cross-harbor freight rates used reflect the alternative operating scenarios and pricing where unification of the system is achieved with highest economically viable Cross Harbor equipment and facilities and where pricing policies are set to achieve market competitiveness and purposefully draw rail freight tonnage because of the regional economic and environmental benefits that accrue from it. The criteria used in the model such as current cross-harbor pricing, pre-determines the result of "non-economic viability" of interim measures to attract containerized freight during the tunnel planning, design, implementation and ramp-up phases. This conclusion should be tested in Tier II or it appears that the CHFP analysis is structured or biased to not target or achieve containerized freight in the immediate short term. (Newell)

**Response:** We agree. Tier II will evaluate a number of potential operating scenarios, estimate the level of service parameters of those scenarios, and develop an operating plan for the Preferred Alternatives.

**Comment 55:** Additionally, with regard to further testing Tier I conclusions and projecting rail freight tonnage, it is recommended that BR participate in a Tier II target industry demand projection by commodity group based on known logistics and costs which would include predicting rail freight potential based on the demand for higher efficiency and reliability access to the freight market on the eastern side of the Hudson River. For example, a few individual commodities, such as building materials or food and beverage can cause huge percentage jumps in total tonnage diverted to rail, as BRT has been demonstrating. The commodity group analysis would be strategically targeted to those product groups which have a combination of high general usage in the market area and which combine with product characteristics like weight/bulk ratios, potential for onsite value added processing such as mixing or packaging and supply chain logistics which might result in greater jumps in rail freight diversion than a straight line method. (Newell)

**Response:** The market research summarized in Appendix A included focus groups, interviews, and surveys targeting shippers, receivers, and carriers of many commodity groups, including those mentioned in this comment. The outcomes of the market research were used to develop the demand model and demand estimates for the alternatives. Brookhaven Rail LLC's continued involvement through Tier II would be welcomed.

**Comment 56:** Brookhaven Rail believes that the statement in the DEIS, Appendix A, Market Demand Paragraph G, LOLO, RORO and Container Barge Alternative Demand Analysis, that, "The volume of containers transported via container barge can be influenced by public policy as well as private-sector market demand" is correct. Exploring the impact of possible policy changes should be a crucial area of Tier II focus. Therefore, without running and reporting on a Freight Demand Diversion Model or "Industry Specific" survey which presumes potential 'favorable' market operational, pricing and other Agency Policy decisions, the elimination of the LOLO/RORO alternative is premature at this time. The relevant essential elements of Public Policy issues are listed in Tier 1 DEIS in Chapter 4 Short List of Alternatives which includes pricing strategies for bridges and tunnels; and also includes, "Other fees, regulations, or policies affecting transportation behavior and choices..." to optimize freight movement. In the context of rail freight this would have to include cross-harbor pricing and operational scenarios for terminals and service. Public policies, that should be factored into Tier II analyses (which might be able to shift demand for rail freight tonnage captured) could include "unification" measures by the Port and other Public Agencies such as placing west and east side terminals, Harbor Crossing, and rail freight operations under a single franchised operator, public private funding of infrastructure upgrades, as well as operating practices including the atypical prohibition on the shipping of propane tank cars. The Tier II Scoping and Analysis should include an open multiagency AND stakeholder dialogue on the relevant aspects of these considerations. (Newell)

**Response:** The level of service provided by the LOLO/RORO Alternatives does not meet the project's goals as well as the Preferred Alternatives, based on the market demand analysis. Public policy changes would not be sufficient to overcome the other constraints on the level of service. Further consideration of this alternative by others would not be precluded by the selection of the Preferred Alternatives.

**Comment 57:** The FEIS includes revised data regarding vertical rail clearances on Page 1-9. In connection with vertical clearances, the FEIS does not include a discussion of what measures would be necessary by the multi-jurisdictional Agencies involved to achieve double stack container capability either through the use of deep well equipment (which has been previously tested on Long Island modified for 3rd rail cover clearance and/or the physical amelioration of clearance impediments.

Further, BR concurs with the DEIS's conclusion in Chapter 4, Alternatives, that rail freight tonnage projections achievable with clearance mitigation are sufficient for the Tunnel alternative; and that clearance mitigation is identified in Chapter 4 as a required" infrastructure improvement needed to implement the Rail Tunnel - Build Alternative and to realize its full benefits. Tier II work should gather existing documentation that the rail freight agencies have already completed, if any, on rail clearance conditions, survey results, mitigation designs and cost estimates. The Tier 1 EIS does not discuss which Agencies would be involved and what institutional measures would be required to address the amelioration of clearances necessary to support the Tunnel and interim alternatives. (Newell)

**Response:** At this time, use of double-stack (Plate H) equipment in the joint use territory (i.e., Long Island Rail Road network east of Jamaica) is not anticipated. If double-stack railcars are contemplated in the joint use territory in the future, an analysis of the vertical clearance constraints and needs to overcome those constraints would be studied in Tier II.

**Comment 58:** The FEIS states that, public-private partnerships and cost-sharing opportunities and cost-efficient design and operation considerations will be evaluated for the alternatives that advance to Tier II. BR wants to indicate that rail clearance amelioration under a unified operating and pricing scenario should be focused on as a PPP opportunity and an appropriate economic viability analysis should be scoped and implemented in Tier II work. The underwriting would go to the feasibility of structuring private capital, in part, into the planning, design and construction of clearance mitigations; where operating costs, capital costs and return on investment are serviced by freight rates, other funding and credit enhancements. (Newell)

**Response:** Comment noted. See Response to Comment 14 with respect to funding for the Preferred Alternatives. PANYNJ and FHWA agree that certain bridge clearance improvements along the Bay Ridge Branch and along the network of the LIRR are necessary elements of any project intended to increase the movement of freight by rail from West of Hudson to Long Island.

**Comment 59:** FEIS Response 1-3 states that the demand for shipments to Long Island is also evidenced by the continued growth of the BRT. Additionally, the shipper survey and market analysis (Appendix A) show the potentially significant demand for and diversion of freight traffic created by the Rail Tunnel Alternative. The premise that the "significant demand" will be created by the Rail Tunnel Alternative referred to in Response 1-3 based on projected tunnel operational scenarios, by definition, would also be achievable with other alternatives. Since the freight and Long Island market is a given, what is inherent is that with system pricing and some level or configuration of system 'seamlessness" and enhancements - related levels of "significant demand" of rail freight diversion

would be achievable. BR continues to be willing to assist in the efforts to determine the potential demand for rail freight given the right cost and the reliability of service, knowledge that we are convinced will demonstrate the need to move forward with the planning and funding for an interim waterborne alternative and then the Rail Tunnel. (Newell)

**Response:** The Preferred Alternatives are best able to meet the project's goals. Brookhaven Rail, LLC's continued involvement in the project would be welcomed.

**Comment 60:** I reiterate my concerns with any freight alternative that would increase truck and rail traffic in New York's 6th Congressional District, specifically the impacts on Fresh Pond Yard, Maspeth Yard and the surrounding communities. The concerns pertaining to noise and freight frequency raised in my previous comments to the Tier I DEIS have not yet been considered. As you investigate the preferred alternatives listed in the Tier I FEIS at the next stage of Tier II DEIS, I ask that you focus on truck and rail traffic in the surrounding areas in addition to safety upgrades and the effects of noise and air pollution. There must be a significant and bold mitigation strategy before I will be able to support any of the freight alternatives. (Meng)

**Response:** The concerns pertaining to noise and freight frequency will be addressed in Tier II, consistent with NEPA guidance, and as indicated in the Response to Comments chapter of the FEIS. Tier II will evaluate localized impacts of truck and rail traffic, noise, and air emissions. Mitigation strategies will be explored, as appropriate.

**Comment 61:** While I appreciate the Tier I Final Environmental Impact Statement explanation that community concerns and public comments were considered as required by NEPA, I am troubled that these comments did not elicit changes from the original Draft Environmental Impact Statement. (Meng)

**Response:** The changes made to the DEIS in the response to comments are noted in FEIS Chapter 14, "Errata". Public input was also considered in selecting the Preferred Alternatives, as noted in FEIS Chapter 13, "Preferred Alternatives".

**Comment 62:** I would like to take this opportunity to express my opposition to the proposed CHFP and provide input on the Tier I DEIS. A cross-harbor rail tunnel with its primary hub concentrated at the over-burdened 10-acre Fresh Pond Rail Yard, could have extremely negative impacts on residential neighborhoods located adjacent to the facility. Train traffic could increase by 16 to 21 trains a day in an area that is already subject to noise, vibration, emissions, sleep disturbances and other negative impacts of existing activity at the rail yard. (Addabbo)

**Response:** Fresh Pond Yard is an existing transportation facility at the cross roads of existing rail lines. The projected increase in daily trains has been disclosed in the EIS and the need to address the potential effects of noise, vibration, and

emissions on the local neighborhoods has been affirmed. Tier II will evaluate the potential localized impacts and explore mitigation strategies, as appropriate.

**Comment 63:** The DEIS for the overall CHFP contains projections of impacts on a 54 county area and, as such, does not adequately address or reflect the realities for neighborhoods and residents in Queens whose daily quality of life would be significantly affected by a cross-harbor rail tunnel, nor in my opinion was the incomplete DEIS, namely the lack of a General Noise Assessment, a credible study for this freight program. (Addabbo)

**Response:** The DEIS included a General Noise analysis of the rail segments and deferred the General Noise analysis of freight yards to Tier II when more specific local information will become available. Consideration of regional projections is necessary and appropriate for Tier I. The Tier I EIS has also disclosed the local areas of potential concern and the types of potential impacts that would require additional consideration in Tier II.

**Comment 64:** In the interest of pursuing a goal that we all want to achieve—that of improving freight movement in an environmentally friendly manner that helps to protect our infrastructure without severely overburdening individual communities I hope that the PANYNJ and the FHWA will reject the tunnel option in favor of alternatives that might make better use of local waterways, aid in upgrading existing and antiquated rail freight systems, reduce traffic congestion and otherwise improve upon current transport methods. (Addabbo)

**Response:** One of the selected Preferred Alternatives—the Enhanced Railcar Float Alternative makes use of the local waterways. Both Preferred Alternatives include upgrading the antiquated rail freight system, which would reduce traffic congestion and improve the current transportation network. The potential for adverse effects of the Preferred Alternatives on individual communities will be further evaluated and in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 65:** It was very disappointing to read the comments and responses in the Draft EIS for the Tier I Environmental Impact Statement for the Cross Harbor Freight Study. Your responses to the points raised by me and others were made in broad regional terms, but my concern is a very local one. The rail tunnel alternatives put a negative bulls-eye on my Maspeth/Middle Village communities where the principal NYC freight rail yard is located. Health and safety issues caused by both truck traffic and rail train movements in and adjacent to the residential and commercial areas of our communities were not addressed. The subject of noise along rail lines was deferred until a further Tier II study, and of course, that also means environmental issues. (Markey)

**Response:** A broad regional assessment is appropriate for a Tier I EIS. The comments regarding local impacts have been noted and the concerns raised regarding local

impacts, including noise, health and safety, will be addressed in Tier II. The Preferred Alternatives will not be implemented until the Tier II studies are completed. Tier II will evaluate the potential effects of the Preferred Alternatives on local communities and explore mitigation strategies, as appropriate.

**Comment 66:** The study does not seem to take into consideration the physical reality of the available rail network and rail yards east of the East River. Doing something about trans-Hudson traffic without dealing with the impact of those alternatives on Queens and Brooklyn is a fatal flaw in this environmental review. (Markey)

**Response:** This study absolutely takes into account the physical reality of the available East-of-Hudson rail network. The Bay Ridge Branch, including Fresh Pond Yard, is a dedicated freight rail right-of-way that has been in operation for over a century. Where necessary, improvements to the existing network have been proposed to provide the needed capacity, efficiency and safety to meet the projected demand. See Response to Comment 39 for a description of some of the improvements in Queens and Brooklyn. The potential effects of the Preferred Alternatives on local areas, including Queens and Brooklyn neighborhoods of concern, would be evaluated in Tier II and mitigation strategies will be explored, as appropriate. Consistent with NEPA requirements, the Tier I EIS focused on corridor-level decisions and selection of the Preferred Alternatives—alignment, mode, and termini. This is not a fatal flaw and it is appropriate for the localized impacts of the Preferred Alternatives to be studied in greater detail in Tier II.

**Comment 67:** Many of the neighborhoods in Western Queens carry a burden with the present low level of rail freight traffic. Phased increases in rail movement of municipal waste on the narrow rail corridor through our communities that are already planned are certain to make existing matters even worse. Any of the rail alternatives proposed in your Tier I report could be catastrophic for our communities. (Markey)

**Response:** The potential environmental effects of the Preferred Alternatives on local communities will be evaluated in Tier II in combination with any existing and future planned growth along the rail corridor. Mitigation strategies will be explored, as appropriate. Community outreach to potentially affected communities would continue in Tier II, to discuss local concerns.

**Comment 68:** Even if this project works perfectly, it only gets 2.5% of trucks off cross Hudson and harbor crossings in a 23-county area, while concentrating adverse impacts in areas already unduly burdened with transportation, environmental, and public health problems. With so many infrastructure needs, the region cannot afford to spend $10 billion on this project. (CURES, Hevesi, Miller,) For such a large

amount of money and a small improvement rate, the benefit does not justify the cost. (Crowley)

**Response:** A Rail Tunnel Alternative would be part of a solution to the regional congestion and freight movement problem. The diversion of freight under the Preferred Alternatives yields meaningful benefits to the region by relegating truck transport to the "last mile travelled" for a great number of freight shipments, thereby reducing overall truck VMT, congestion, and emissions.

**Comment 69:** In March of this year, the South Greenville Neighborhood submitted over 200 questions about the impact of the proposed freight movement on our South Greenville community and surrounding communities. Many, if not most, of these legitimate questions were inadequately addressed in the Port Authority's Tier 1 EIS. (SGNA)

**Response:** All of the comments and questions submitted by the South Greenville community were addressed in the FEIS. Concerns raised by the South Greenville community were considered in selecting the Preferred Alternatives. Alternatives that would likely have resulted in train and truck traffic effects that would have been challenging to mitigate were not selected as Preferred. In consideration of the community concerns, and as required by NEPA, the potential for localized adverse effects of the Preferred Alternatives will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 70:** The South Greenville neighborhood, which the Port Authority admits will bear the brunt of the negative health and environmental effects of the CHFP if it goes ahead, is undeniably an Environmental Justice community. In 1994, President Bill Clinton signed into law Executive Order 12898—Federal Actions to Address Environmental Justice in Minority and Low-Income Populations. This law is intended to assure environmental justice for all people. Its purpose is to protect low-income and minority populations (e.g., South Greenville, Newark) and to prevent the disproportionate adverse health and environmental effects that a program such as the CHFP would inevitably bring. The CHFP is clearly a violation of Executive Order 12898. In addition, the Port Authority has violated the spirit and letter of Executive Order 12898 by circumventing the EIS Process, and purchasing land and increasing operations before this program is even approved. (SGNA)

**Response:** No determination that the South Greenville neighborhood "will bear the brunt of the negative health and environmental effects of the CHFP" has been made in the EIS. Environmental justice communities are acknowledged in the EIS (for example, see page 6.11-8): "In addition to these potential impacts from the expansion of support facilities for this alternative, the alternative would generate an increase in train trips along the Bay Ridge Branch (nearly all of which is adjacent to environmental justice communities), on the Greenville Branch

(which passes through environmental justice communities in Jersey City) and along other rail segments (most of which are also located adjacent to environmental justice communities, at least in part)." Tier I EIS did not determine that CHFP would result in disproportionate adverse health and environmental impacts and did not violate Executive Order 12898. The potential for localized adverse effects of the Preferred Alternatives will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate. PANYNJ has not purchased land at Greenville and has not circumvented the EIS process. The NEPA process by which the approval for the No Action improvements at Greenville Yard was obtained is discussed in the Tier I FEIS Response to Comment 2-11, Response to Comment 3-46, and Response to Comment 6.11-16.

**Comment 71:** If these plans proceed as outlined, Greenville's air will be significantly more polluted. Diesel locomotives and diesel trucks emit toxic air pollutants. Diesel pollution causes asthma, heart disease, high blood pressure, impaired lung growth in children, and low birth weight in newborn babies. Diesel causes cancer. Our residents will be subjected to loss of income from increased sick days, and our students will miss learning opportunities due to loss of school days from illness, not to mention significant, non-recoverable loss of property values. (SGNA)

**Response:** An increase in truck traffic at Greenville is not projected with the Preferred Alternatives. As part of the No Action Alternative, PANYNJ has upgraded NYNJR by purchasing three (3) new ultra-low-emissions locomotives, which dramatically reduce air pollution from NYNJR operations. The potential for localized adverse effects of the Preferred Alternatives will be further evaluated and analyzed in Tier II and potential mitigation strategies will be explored, where appropriate.

**Comment 72:** While I wholeheartedly support the primary purpose of this project, to improve the movement of freight in the 54 affected counties of this proposal, I am concerned that certain environmental, health, and social consequences have not been adequately addressed in your analysis. (Hevesi)

**Response:** At the Tier I stage, detailed analyses of environmental, health, and social impacts were not performed. Rather, potential areas of environmental concern were identified for further study in Tier II. Tier II will evaluate and analyze potential adverse impacts and will explore potential mitigation strategies, where appropriate.

**Comment 73:** The City of New York backs the No Build Alternative, which assumed that CHFP would not be implemented but that other planned and funded actions of independent utility would move forward such as the redevelopment of Greenville Yards. City of New York Comment G-12. (CURES)

**Response:** The City of New York and Mayor de Blasio voiced strong support of the CHFP, in particular the Preferred Alternatives, with the Enhanced Railcar Float recommended for implementation in the near term and the Rail Tunnel Alternative as a long-term solution. See Tier I FEIS Comment 4-1, Comment 4-4, Comment 5-149, Comment 5-3, Comment 5-5, and Comment 5-6. Comment G-12, which expressed the City's support of the No Action improvements, including the redevelopment of Greenville Yards, should not be misconstrued as the City's opposition to the Preferred Alternatives.

**Comment 74:** CURES has contacted my office requesting that FHWA and the PANYNJ shut down this project. They are concerned that the supporting data for the preferred alternatives contains avoidable planning errors. (Hevesi)

**Response:** The concerns regarding planning errors have not been substantiated. As reflected in the response to comments from CURES, the organization appears to have misunderstood the purpose and need for the project and is under the incorrect impression that the purpose of the Rail Tunnel Alternative is to capture the market currently served by CSX via Selkirk. In fact, the Preferred Alternatives would mostly divert freight currently moved by trucks, thereby improving the movement of freight across the New York Harbor.

**Comment 75:** SHPO concurs with proposed actions regarding archaeological resources described in DEIS. We agree with the need for new architectural survey for Tier II analysis to identify potential resources that have not been previously identified (NYSHPO)

**Response:** Coordination with SHPO will continue in Tier II and the needed surveys will be conducted.

National Environmental Policy Act
**Record of Decision**
Federal Highway Administration

**Signatory:**

**Federal Highway Administration**

Peter W. Osborn
Division Administrator

Date: December 9, 2015