UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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NEW YORK, NY 10007-1866

SEP 0 8 2008

Robert E. Arnold, Division Administrator
Federal Highway Administration
Leo O'Brien Federal Building
Clinton Avenue and Pearl Street
Albany, New York 12207

Dear Mr. Arnold:

The Environmental Protection Agency (EPA) has reviewed the Federal Highway Administration/ New York State Department of Transportation's (NYSDOT) final environmental impact statement (FEIS) on the realignment and reconstruction of the existing Exit 122 interchange on New York State Route 17 (CEQ# 20080295) located in the Town of Wallkill, Orange County, New York. This review was conducted in accordance with Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609, PL 91-604 12(a), 84 Stat. 1709), and the Council on Environmental Quality's regulations for implementing NEPA (40 CFR Parts 1500-1508).

The purpose of the proposed project is to address the access and mobility problems associated with the currently overburdened Exit 122 on Route 17. The traffic using this exit, as well as Route 17 generally, has steadily increased as a consequence of residential and commercial growth in the Town of Wallkill. The NYSDOT plans to convert Route 17 to a Federal Interstate Highway to be numbered Interstate 86, with the remaining segments of Route 17 to be upgraded as separate projects.

Four alternatives and a modification to one of the alternatives to improve the Exit 122 interchange were evaluated for the project. During the draft EIS (DEIS) review, Alternative 2C Modified – Loop Ramp Interchange was the Preferred Alternative. However, after concerns over access to the proposed interchange were expressed by state and local agencies, NYSDOT re-evaluated the feasibility of the alternatives and determined that Alternative 2C(1) - Loop Ramp Interchange with Signalized Intersections along East Main Street and Crystal Run Road, would be the new Preferred Alternative. The project also includes new and widened bridges over Route 17. Alternative 2C(1) would pose direct impacts to 2.68 acres of wetlands (1.92 acres jurisdictional/0.76 acres non-jurisdictional), 3.1 acres of 100-year floodplain and 15.4 acres of forest. The new Preferred Alternative would directly impact an additional 0.43 acres of wetlands, impact a smaller acreage of forested habitat, and create less impervious surface area, as compared to the initial proposal.

Given that this is a new Preferred Alternative, the FEIS should have contained more detailed information for several impact areas. We are therefore requesting that the information be included in the Record of Decision as discussed further below.

The DEIS addressed impacts to Phillipsburg Creek, which included extending both sides of the existing box culvert located under Route 17. However, NYSDOT has indicated in the FEIS that

this is no longer feasible and that it is now necessary to relocate Phillipsburg Creek, under all of the build alternatives. The proposed work involves construction of a new culvert under Route 17 to the west of the existing culvert, and increasing the channel length. As noted in the FEIS, the Wallkill River is classified as a Class B surface water body and Phillipsburg Creek is tributary to it. Furthermore, a segment of the river is listed on the National Rivers Inventory. The impacts associated with this change to the project should have been addressed more fully in the report, including the direct and indirect impacts to surface waters, wetlands, fisheries and their habitat.

Approximately 19,461 square feet (sf) of the Wallkill River and 8,891 sf of Phillipsburg Creek will be impacted by Alternative 2C(1) (as compared to 19,827 sf and 8,708 sf, respectively, for Alternative 2C Modified). NYSDOT has consulted with the New York State Department of Environmental Conservation (NYSDEC) to assess whether work restriction dates will be established for the construction activities along these surface waters. While a final determination has yet to made in this regard, the parties have agreed to continue to coordinate, and any permits issued will identify the appropriate work restrictions to minimize impacts to the spawning, incubation and rearing of aquatic organisms and breeding and nesting of terrestrial organisms. According to the FEIS, the bottomless culvert or embedded culvert would provide a new natural stream channel with a stream bottom and a bioengineered channel. Phillipsburg Creek may also be enhanced as part of the project mitigation. These activities will be conducted during low flow periods and erosion and sedimentation controls will be in place to mitigate construction impacts.

The FEIS does state that NYSDOT will integrate bioengineering strategies into the stream relocation. Key components of this approach include creating a natural (e.g., meandering) channel, preserving and enhancing the aquatic and wildlife habitat, and providing a means for wildlife to safely access the site. EPA recommends that the proponent consider additional potential streambank bioengineering strategies including using natural, locally available materials (such as earth, rock and vegetation) and biodegradable erosion control fabric. Given the link between the Wallkill River, Phillipsburg Creek and the wetlands hydrologically connected to them, the proposed work must be conducted in a manner that retains the natural functions and resources of the surface waters.

To mitigate the wetlands impacts of the project, approximately 5.66 new wetland acres will be created, a 2:1 replacement ratio. Several of the potential mitigation sites are adjacent to the Wallkill River and all lie within the same drainage basin, which should help maintain the ecological integrity of the waterbodies. In addition, NYSDOT should develop and implement a maintenance and monitoring plan to ensure that the objectives of the stream relocation and wetlands creation are met over time. Runoff from the roadway and ramps will be mitigated through the use of stormwater ponds, wetlands created upgradient of the existing wetlands and between the project and the Wallkill River, and wet or dry swales. The stormwater management controls will be designed to treat 90% of the average annual stormwater runoff and direct most of the drainage to the Wallkill River. NYSDOT has also committed to coordinating with the ACOE and NYSDEC as part of the Section 401 Water Quality Certification process.

In our July 25, 2007 comment letter on the DEIS, we recommended that the project team investigate green highways technologies to reduce impacts associated with this project. The proponent has incorporated several green highways elements into the project, including wetland creation, stream restoration, preserved riparian buffers and control of non-native species. Examples of other green highways practices which may be feasible for this project include:

- innovative stormwater best management practices: bioretention, below grade infiltration, porous pavement (although the proponent has indicated soils underlying the roadway may be unsuitable for infiltration approaches)
- environmentally-friendly concrete: minimize use of portland cement and natural rock and substitute recovered mineral components (e.g., ground granulated blast-furnace slag, coal combustion fly ash and silica fume) in cement and concrete; maximize use of recycled concrete and water
- air emissions reductions: construction equipment retrofitted with diesel particulate filters/diesel oxidation catalysts and use of ultra-low sulfur diesel fuel.

In addition, regarding the air quality analysis presented in the FEIS, EPA noted that the NYSDOT concluded that the nearest monitor (Newburgh Fire Department) registered an annual PM2.5 concentration below the National Ambient Air Quality Standard of 15 micrograms per cubic meter, without specifying any actual monitored values. Therefore, we recommend that this data be included in any future project documentation.

Although the FEIS noted that pedestrian and bicycle access to Route 17 and Interstate 84 are prohibited and that there are no plans for protected bicycle traffic along any of the county or local roads in the project area, there may still be Transportation Demand Management (TDM) opportunities. TDM measures which are under consideration include improving public transit (bus and/or rail) access and ridership by construction of a park-and-ride lot in the project area. In light of the anticipated continued increase in population as well as retail and commercial development, this measure, along with others, should be incorporated to reduce traffic congestion and the growth impacts on the transportation infrastructure. Moreover, even if pedestrian and bicycle access are not planned for the project at this time, to the extent practicable the project design should allow for future development of pedestrian and bicycle links.

In summary, EPA requests that the ROD address direct and indirect impacts to wetlands and waterways, streambank bioengineering, wetlands monitoring, green highways strategies, air quality data and construction mitigation. Thank you for the opportunity to comment on this project. If you have any questions concerning our comments, please contact LeAndrea Dames of my staff at (212) 637-3705.

Sincerely yours,

John Filippelli, Chief
Strategic Planning and Multi-Media Programs Branch