

Chapter 21 Agency Coordination and Public Participation

21.1 INTRODUCTION

This chapter describes the agency coordination and public participation process that is being conducted for the proposed Project. A list of anticipated permits and approvals required for the project and a summary of meetings held to date are provided.

21.2 AGENCY COORDINATION

As discussed in this DEIS, FTA and NJ TRANSIT have consulted with federal, state, and local agencies during the preparation of the environmental analyses. Agency coordination has occurred throughout the NEPA process and would continue during the design and construction phases, particularly with the agencies that have regulatory jurisdiction and permitting authority.

In accordance with the federal CEQ regulations (40 CFR § 1508.5 [2014]), “Cooperating Agency” means any federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative. “Participating Agencies” are those federal, state, or local agencies or federally recognized tribal governmental organizations with an interest in the project. A Technical Advisory Committee (TAC) was formed to facilitate effective and timely decision-making and an efficient environmental review process. The TAC includes project team members and Cooperating and Participating Agencies.

Permits and approvals that are anticipated to be required for the operation and construction of the Build Alternative are described below. In addition to these permits, FTA and NJ TRANSIT are coordinating with several agencies regarding processes that have been integrated with NEPA (e.g., Section 106 of the National Historic Preservation Act [NHPA]), Section 7 of the Endangered Species Act [ESA], etc.).

Appendix C “Historic Resources” contains all Section 106 consultation and NJHPO correspondence. Other interagency correspondence is provided in Appendix D, “Agency Coordination.” These interagency correspondences are summarized below.

United States Fish and Wildlife Service (USFWS) Information Planning and Coordination (IPaC) Report – After submitting an online IPaC report request, USFWS responded on April 3, 2017 and reported their findings on December 19, 2018. Their determination was that there was no listed species or critical habitats that lie within the vicinity of the proposed Project.

New Jersey Department of Environmental Protection (NJDEP) Natural Heritage Program (NHP) Request letter – A Request letter was submitted on February 22, 2016 to the NJDEP NHP and a response letter was received on March 8, 2016. Their determination was as follows: there is one rare plant species covered by the Flood Hazard Area Control Act (FHACA) Rules within one mile of the proposed Project area. The

wafer-ash (*Ptelea trifoliata* var. *trifolia*) is a state protected vascular plant. There are fourteen species of special concern (Rank 2 and 3) within one mile of the proposed Project area. There are three state threatened species (Rank 4) within the one-mile area of the proposed Project area. There is one federally protected species within one mile of the Project site. The Shortnose sturgeon (*Acipenser brevirostrum*) is Federally Listed Endangered and State Endangered species with a migratory corridor in the Hudson River.

United States Army Corp of Engineers (USACE) Section 404 Request – On March 23, 2016, the FTA submitted a request for concurrence from the USACE for the proposed milestone schedule for the Clean Water Act Section 404 permit for the proposed Project.

National Marine Fisheries (NMFS) Request Letter – Original request letter submitted July 19, 2016 with a response received August 4, 2016. Follow-up request sent March 29, 2017, with a response received March 31, 2017. Consultation remained the same. No federally listed or proposed threatened or endangered species under their jurisdiction are known to exist in or on the site of the proposed project. The project has areas that are designated as Essential Fish Habitat (EFH) for certain species and would require an EFH Assessment. An EFH Confirmation Letter was sent April 4, 2017. A response was received on February 23, 2018 stating that an EFH Assessment was no longer necessary based on revisions to regulations.

Federal Aviation Administration (FAA) – An invitation to comment on/participate in the Project's environmental review process (this DEIS) was sent to FAA on September 28, 2018. Initial review and correspondence provided on November 23 and November 26, 2018 resulted in FAA declining to participate in the TAC review process. FAA did request that the project proponent (NJ TRANSIT) complete FAA's online Notice Criteria Tool prior to commencement of construction since the proposed Project is in the vicinity of Newark Liberty International Airport.

NJDEP Tidelands Review – A tidelands instrument review request was submitted to Signature Information Solutions, LLC. on February 24, 2017, November 5, 2017 and February 8, 2018. The responses show the Tideland claims on the parcels of the proposed Project area.

NJDEP NEPA Notice of Intent to Prepare a Draft EIS Letter – On February 24, 2016, NJDEP Office of Permit Coordination and Environmental Review sent a letter with comments on the *NEPA Notice of Intent to Prepare a Draft EIS and Draft Scoping Document*.

NJDEP Green Acres Jurisdictional Determination – Based on comments provided by the NJDEP in February 2016 to the *NEPA Notice of Intent to Prepare a Draft EIS and Draft Scoping Document*, a letter was submitted to the NJDEP Green Acres Program on July 19, 2016. It was determined that none of the proposed Project parcels are Green Acres encumbered. A follow-up letter was sent to the NJDEP Green Acres Program on March 28, 2017. On November 10, 2017, an email was sent to NJDEP Green Acres inquiring about the follow-up letter sent in March. NJDEP Green Acres responded on November 22, 2017, stating that 3 properties were encumbered by the Green Acres Program. After further review by NJ TRANSIT, no construction was to occur within NJDEP Green Acres encumbered properties and a reply notification was sent on December 1, 2017. NJDEP Green Acres accepted the notification and it has been deemed that this project will not impact properties encumbered by NJDEP Green Acres.

21.2.1 Technical Advisory Committee (TAC) Coordination

The roles and responsibilities of the federal, state and local agencies that are Cooperating and Participating Agencies in the NEPA process are described in Table 21-1 and a summary of the TAC coordination that has or will occur during the DEIS and FEIS/ROD is provided in Table 21-2. TAC coordination completed to date includes the initial project introduction and NEPA overview meeting which was held on October 29, 2015; the preliminary *Draft Scoping Document* review, which occurred in December 2015 and January 2016; a virtual meeting reviewing the proposed Project and development process on June 22, 2016; the preliminary DEIS review, which occurred in February and March 2019 and a virtual meeting reviewing the proposed Project and environmental analysis which was held on March 5, 2019. Several agencies provided comments on the preliminary *Draft Scoping Document* and those comments and responses are included as an attachment to the *Final Scoping Document* available at <http://njtransitresilienceprogram.com/documents/>. One agency provided comments on the preliminary DEIS, those comments are included in Appendix D, “Agency Correspondence.” Beyond their involvement in the TAC as a Participating Stakeholder, Amtrak has been involved in discussions with NJ TRANSIT related to the design of the replacement of Substation No. 41 with the new Kearny Substation.

21.2.2 Permits and Approvals

The environmental permits and regulatory approvals anticipated to be required to construct and operate the proposed Project are described below.

Federal

- USACE Jurisdictional Determination (JD), which is required to determine the presence or absence of wetlands in the Project area;
- USACE Section 404 Individual Permit, which is required for the discharge of dredged or fill materials into a surface water of the United States; and
- Compensatory Mitigation, required for the placement of fill in waters of the U.S., and required taking of inland freshwater resources.
- FAA review of Obstruction Evaluation through submittal of online Notice Criteria Tool for proposed obstacles off airport property.

State

- Title V, Nonattainment New Source Review/Emissions Offset and Prevention of Significant Deterioration permit, which is required to comply with the Clean Air Act (CAA). This is a federal requirement, which is administered through NJDEP;
- NJDEP Flood Hazard Area (FHA) Individual Permit and FHA Verification, which is required for excavation or filling in regulated flood hazard areas, and riparian zones;

- NJDEP Waterfront Development Upland and In-Water Individual Permit, which is required for activities within the NJDEP regulated Waterfront Development Zone and activities above the mean high water line of a surface water;
- NJDEP Freshwater Wetland General Permit No. 2: Underground Utility Lines for the installation of the natural gas pipeline;
- NJDEP New Jersey Pollutant Discharge Elimination System (NJPDES) Surface Water General Permit, which are issued limiting the mass and/or concentration of pollutants which may be discharged into groundwater, streams, rivers, and the ocean;
- NJ Department of Transportation (NJDOT) access permit for connection to Route 7 (if required);
- NJ Sports and Exposition Authority (NJSEA)/Meadowlands Regional Commission (MRC) coordination on Redevelopment Plan Zoning Certification requirements; and
- NJDEP Site Remediation Program coordination for Pre-Construction Investigation Work Plan approval.

Local

- Hudson Essex Passaic Soil Conservation District (HEPSCD) Soil Erosion and Sediment Control (SESC) Certification, which is required for land disturbance above a specified threshold; and
- Sanitary sewer and water main extension permits.
- Sewer Use Permit

Table 21-1 Cooperating and Participating Agencies

Agency	Role	Responsibilities
US Environmental Protection Agency (EPA)	Cooperating Agency	Compliance with Clean Air and Water Acts, remedial activities/brownfields (permits administered through NJDEP)
US Army Corps of Engineers (USACE)	Cooperating Agency	New Jersey Meadowlands District wetlands jurisdiction
US Department of Energy (DOE)	Participating Agency	Interest in advancing energy technologies, expertise in NEPA documentation for energy projects
US Department of Transportation (DOT), Federal Railroad Administration (FRA), Region 1	Participating Agency	Northeast Corridor jurisdiction
Federal Emergency Management Agency (FEMA), Region 2	Participating Agency	General interest
US Department of Housing and Urban Development (HUD), Regions 1 and 2	Participating Agency	General interest
US Federal Aviation Administration (FAA)	Participating Agency	Regulatory oversight for lighting requirements for stacks and monopoles.
Amtrak	Participating Stakeholder	Owns and operates on Northeast Corridor, project elements include modification to Amtrak infrastructure
NJ Department of Environmental Protection (NJDEP)	Participating Agency	Land use, Coastal/Waterfront Redevelopment, Freshwater Wetlands, Flood Hazard Area, NJPDES/Stormwater management permits, Air Resources (Title V, et al), Construction Plan approval, as required
NJ Board of Public Utilities (NJBPU)	Participating Agency	Regulatory oversight and expertise in interconnection agreements with PSE&G
NJ Department of Transportation (NJDOT)	Participating Agency	General interest
NJ Office of Emergency Management (NJOEM)	Participating Agency	Interest in secure facility
NJ Office of Homeland Security and Preparedness (NJOHSP)	Participating Agency	Interest in secure facility
Meadowlands Regional Commission	Participating Agency	Koppers Coke Peninsula Redevelopment Plan (February 2013) encompasses the project site
Hudson County Improvement Authority (HCIA)	Participating Agency	Current owner of project site for Main Facility and Natural Gas Pipeline connection parcels
Hudson County Planning	Participating Agency	Facility to be located in Hudson County
Hudson Essex Passaic Soil Conservation District (HEPSCD)	Participating Agency	Permit approval

Table 21-2 Technical Advisory Committee Coordination

TAC Meeting Topic	Approximate Timeframe	Coordination Activity	Notes
1. Project Briefing	Fall 2015	Review Project concept and agency coordination objectives	Project overview and proposed Project NEPA schedule presented to meeting attendees.
2. Public Scoping	Winter 2015/2016	Review/revision of scoping materials prior to public meeting	Draft Scoping Document provided to TAC members for review prior to public review period and public meeting. Comments provided by TAC members incorporated, as appropriate. Final Scoping Document published May 2016.
3. Alternatives	Spring 2016	Review alternative technologies and siting study	Proposed Project progress and alternative siting analysis presented to meeting attendees.
4. Preliminary DEIS	Winter 2019	Review/revision of document prior to publication	Preliminary DEIS provided to TAC members for review prior to public review period and public hearing. Comments provided by TAC members incorporated, as appropriate, into DEIS.
5. FEIS/ROD	Fall 2019	Review/revisions of DEIS comments and responses and ROD	

21.3 PUBLIC PARTICIPATION

The public involvement process includes tools and activities for public outreach and engagement, for the purposes of satisfying the public outreach requirements of NEPA and other applicable regulations and to provide information to interested individuals beyond the regulatory requirements. The tools and deliverables to facilitate this program include, but are not limited to, the following project tasks.

21.3.1 Database

A Project outreach database (i.e., mailing list) has been developed and will be maintained throughout the duration of the project. The database includes information on all project stakeholders (elected officials, community groups, local businesses, public agencies, affiliated team members, and other interested parties). All issues, correspondence, and feedback received through the NEPA process will be tracked and recorded. The NJ TRANSITGRID database was and is continuing to be developed through comments logged at public meetings or sent via the NJ TRANSITGRID Resilience Project website. Additionally, people are added through sign-up sheets at public meetings or via the sign-up form on the website.

21.3.2 Fact Sheets

Project fact sheets are issued as an effective way to keep interested parties informed about project developments and key milestones. Fact sheets are made available in both English and Spanish, and available in printed form for distribution at meetings. Fact sheets are issued on an as needed basis and posted to the NJ TRANSIT's resilience website and/or in email blasts in electronic form (PDF).

21.3.3 Website

A Project website is being maintained to provide information on the Project and upcoming milestones or meetings. It also provides feature postings on Project benefits and goals, a calendar of upcoming events, informational video and environmental documentation. The website is accessible through NJ TRANSIT's resilience website (<http://njtransitresilienceprogram.com/>).

21.3.4 Targeted Meetings and Outreach

Targeted meetings with key stakeholders with an interest in the project are held as needed to identify and address questions and concerns and obtain feedback.

A public scoping meeting was held on February 3, 2016 to provide further information on the proposed Project, solicit input from the public on the DEIS analysis, and respond to concerns and comments expressed by members of the local community. Public notification was done by distributing a notification to those who subscribed to the email distribution list via the NJ TRANSIT Resilience Program website, and via fliers, all of which were provided in English and Spanish and were distributed to public libraries and local Section 8 housing developments. The fact sheets are included in Appendix G, "Public Involvement."

The public scoping meeting was held at Saint Peter's University from 4pm EST to 8pm EST, where a presentation of the Project started at 6pm EST. The presentation, included in Appendix G, provided a Project description, the purpose and need, the NEPA review process, and the Scoping process. Approximately eight people from the general public attended. One comment was received during the meeting and is provided in Appendix G.

21.3.5 Environmental Justice Outreach

The environmental justice process requires federal agencies to evaluate and avoid, minimize, and mitigate disproportionately high and adverse human health and environmental impacts to environmental justice communities resulting from federal actions. It also requires federal agencies to ensure public participation by communities with substantial minority or low-income populations who may be affected by a project. The study area includes environmental justice communities, so outreach efforts are targeted to reach these communities. Minority and low-income populations within a two-mile radius around the Main Facility site and in areas adjacent to the transmission line routes and substation improvements were identified in order to target outreach to Environmental Communities. Outreach materials were provided

in English and Spanish, as well as other languages if requested or deemed necessary, based on interest in the Project. Provisions for translation services at the public scoping meeting were made available.

Outreach efforts included posting fliers at the listed Section 8 housing developments:

- Montgomery Gardens, 563 Montgomery Street, Jersey City, NJ 07302
- Booker T. Washington, 200 Colden Street, Bldg. #2, Jersey City, NJ 07302
- Thomas J. Stewart, 88-92 Erie Street, Jersey City, NJ 07302
- Barbara Place Terrace, 471 Pacific Avenue, Jersey City, NJ 07304
- Glennview Townhouses I, 463 Pacific Avenue, Jersey City, NJ 07304
- Lafayette Senior Living Center, 463 Pacific Avenue, Jersey City, NJ 07304
- Lafayette Village, 579 Grand Street, Jersey City, NJ 07304
- Pacific Court, 148 Bramhall Avenue, Jersey City, NJ 07304
- Woodward Terrace, 148 Bramhall Avenue, Jersey City, NJ 07304
- Berry Gardens, 199 Ocean Avenue, Jersey City, NJ 07305
- Curries Woods, 3 New Heckman Drive, Jersey City, NJ 07305
- Dwight Street Homes, 315 Randolph Avenue, Jersey City, NJ 07305
- Hudson Gardens, 27-29 Palisade Avenue, Jersey City, NJ 07305
- Ocean Pointe East and West, 460 Ocean Avenue, Jersey City, NJ 07305
- Gloria Robinson Court Homes, 348 Duncan Avenue, Jersey City, NJ 07306
- Marion Gardens, 57 Dales Avenue, Jersey City, NJ 07306
- Holland Gardens, 241 Sixteenth Street, Jersey City, NJ 07310

21.4 PUBLIC SCOPING

Public Scoping initiated the NEPA process. A *Draft Scoping Document* was made available for public review on January 7, 2016 on the Project web page (<http://njtransitresilienceprogram.com/>). A Public Scoping Meeting was held on February 3, 2016 at St. Peter's University in Jersey City, NJ. Availability of the scoping document and notice of the meeting were advertised in the Federal Register on January 7, 2016, and in English- and Spanish-language newspapers, and notices were posted at 11 public libraries and 17 Section 8 housing complexes. In addition, e-blast notifications were sent to stakeholders and web subscribers. At the Public Scoping Meeting a project fact sheet was available and a short presentation was given that described the NEPA process and provided a description of the Project including the purpose and need. Copies of the *Draft Scoping Document* were provided at the Public Scoping meeting. A video loop of the

presentation was available and is posted on the Project web page. Comment forms in English and Spanish as well as services of a stenographer and laptop computer with access to the Project web page were provided during the meeting for the attendees to submit comments. The presentation provided the Project web page and NJ TRANSIT Resilience Department address for the public to submit questions outside of the Public Scoping meeting.

One written comment was provided during the Public Scoping meeting. A Bayonne resident that regularly uses NJ TRANSIT, provided his support for the Project. The comment expressed the Bayonne resident's belief the Project would benefit local residents and NJ TRANSIT riders by providing both improved reliability and safety.

Several stakeholders expressed written support for the proposed Project. One stakeholder, the Town of Kearny, opposes the location of the proposed Project in Kearny, NJ. The Kearny Town Council adopted Resolution 2016-68 on January 26, 2016 to formally oppose the location of the Main Facility within Kearny city limits. The Resolution (see Appendix G, "Public Involvement") identified concerns related to adverse environmental, economic and social impacts as the basis for the opposition. A *Final Scoping Document*, which summarizes the comments received during public scoping and responses to those comments, was posted to the Project web page in May 2016 (<http://njtransitresilienceprogram.com/>). Notice of its availability was widely distributed.