

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Project: New Jersey-Pennsylvania Lackawanna Cut-Off Passenger Rail
Service Restoration Project, Minimal Operable Segment
Applicant: New Jersey Transit Corporation
Project Location: Morris and Sussex Counties, New Jersey

A. INTRODUCTION

The Lackawanna Cut-Off Passenger Rail Service Restoration Project is proposed by the New Jersey Transit Corporation (NJ TRANSIT), with the Federal Transit Administration (FTA), as the Lead Agency and the U.S. Army Corps of Engineers (USACE), as a cooperating agency.

The Lackawanna Cut-Off Passenger Rail Service Restoration Project proposes to restore rail passenger service on existing railroad right-of-way in New Jersey and Pennsylvania. FTA issued the New Jersey – Pennsylvania Lackawanna Cut-Off Passenger Rail Service Restoration Project Environmental Assessment (EA) dated June 2008 in compliance with the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.) and Federal Transit Administration's (FTA's) implementing regulations (23 CFR 771). Subsequent to the issuance of the EA, it has been decided to only issue the FONSI the Minimal Operable Segment (MOS) of the rail restoration project evaluated in that EA.

The Lackawanna Cut-Off Passenger Rail Service Restoration Project will be constructed in two phases. The MOS consists of a 7.3 mile corridor with infrastructure improvements from Port Morris, NJ to Andover, NJ and the construction of Andover Station. The service to be operated on the MOS portion of the project will extend service out to Andover, NJ from Hoboken, NJ, a distance of 52.3 miles, 45 miles of which are currently served by NJ TRANSIT Morris & Essex and Montclair-Boonton Line trains.

The second stage in the development of the Lackawanna Cut-Off Passenger Rail Service Restoration Project would extend service from Andover, NJ to Scranton, PA, an additional distance of 80.7 miles. That portion of the project would include infrastructure development and the construction of seven remaining stations and the Scranton Yard Facility. If both phases are completed, the Lackawanna Cut-Off Passenger Rail Service Restoration Project would provide service over 133 miles of railroad infrastructure from Scranton, PA to either Hoboken, NJ/Midtown Manhattan.

The EA addressed the full Lackawanna Cut-Off Passenger Rail Service Restoration Project. However, this FONSI is only being issued for the MOS due to the need for further environmental analysis on the non-MOS portion, between Andover, NJ and Scranton, PA, including wetland

delineations and threatened and endangered habitat studies. The FTA will complete NEPA on the non-MOS portion of the project subsequently once the analyses have been completed.

B. PROJECT PURPOSE AND NEED

The purpose of the MOS is to implement a passenger rail service between Andover, NJ and Hoboken, NJ. The MOS will utilize existing transportation rights-of-way thus limiting environmental impacts while benefiting the region's economy by providing a new modal option for travelers. The MOS will improve access to employment centers and increase transit usage in the corridor so that the region can proactively address its existing travel concerns and projected growth.

C. PROJECT/MOS DESCRIPTION

The MOS will restore passenger rail service from Andover, NJ to Port Morris, NJ to Hoboken, NJ, a distance of 52.3 miles. The 7.3-mile portion of the alignment between Andover, NJ and Port Morris, NJ is currently an inactive railroad right-of-way. NJ TRANSIT operates passenger rail service on the balance of the alignment between Port Morris, NJ and Hoboken, NJ.

The elements of the MOS are:

- Construction of one station and parking facility with 65 spaces in Andover, NJ;
- Construction of 7.3 miles of new railroad infrastructure (track, signals, communications and grade crossing improvements) on existing right of way in NJ; and
- Rehabilitation of the Roseville Tunnel.

One service pattern will be operated as part of the MOS:

- Eight trains in each direction will operate between Andover, NJ and Hoboken, NJ (52.3 miles) weekday.

Passengers boarding trains at Andover will be able to transfer to the Midtown Manhattan service at Dover or at several existing stations to the east of Dover.

D. AGENCY COORDINATION AND PUBLIC OPPORTUNITY TO COMMENT

A comprehensive public involvement program was an integral component of the development of the EA for the Project. A Technical Advisory Committee (TAC) was created in 1996 to provide a forum for ongoing communication with representatives of regulatory and review agencies, state and county planning agencies, and regional authorities, and elected officials. The TAC has met on several occasions since the NEPA work began in 2001 to discuss the Lackawanna Cut-Off Passenger Rail Service Restoration Project. Numerous supplemental meetings were held with selected TAC members as appropriate.

Correspondence, conference calls, and/or coordination meetings were conducted with federal, state, and regional resource agencies such as the U.S. Army Corps of Engineers (USACE), U.S. Department of the Interior (USDO), the NJ State Historic Preservation Office (NJSHPO), the PA Bureau for Historic Preservation (PASHPO), the PA Game Commission, the PA Fish and Boat Commission, the PA Department of Conservation and Natural Resources, the U.S. Environmental

Protection Agency (USEPA), the National Park Service (NPS), the U.S. Fish and Wildlife Service (USFWS) and the NJ Department of Environmental Protection (NJDEP).

Meetings with municipal representatives from Andover were conducted during the selection of the Andover Station site and the development of a conceptual site plan. Coordination meetings were held in May and June of 2008 to discuss the MOS with Stanhope, Byram and Andover.

Public Opportunity to Comment on the EA

FTA issued the EA on July 1, 2008. NJ TRANSIT advised the public of the availability of the EA, and where information concerning the Lackawanna Cut-Off Passenger Rail Service Restoration Project could be obtained. The public comment period was from July 1, 2008 through July 30, 2008. Two public meetings were held on July 10 (in Andover, NJ) and July 15 (in Stroudsburg, PA) to present the contents of the EA. Notifications appeared in area newspapers and were sent to those on the Project mailing list, CD's were sent to relevant agencies and officials, and the EA was made available for viewing online and at area libraries prior to the meetings. The meetings were attended by nearly 200 individuals. The public had an opportunity to review and comment on the full alignment, and NJ TRANSIT has responded to comments on the MOS.

Comments on the EA

During the public comment period, 57 comments were submitted via stenographer record, e-mails, and letters. Of these 57 comments, 29 expressed unconditional support for the project, citing a variety of quality of life issues that would be improved through the implementation of the project. An additional six comments expressed support for the project but also expressed a desire for the project to extend beyond the MOS phase and connect through to Warren County and to Pennsylvania as quickly as possible. Additional comments questioned the environmental assessment process and timing of the wetland and threatened and endangered studies, the relationship between the project and the Highlands Protection Act, the need for the project, the size of parking areas at stations, the locations of stations as well as the alignment, traffic associated with the stations, air quality associated with the train and driving to stations, the possibility of having express trains and shuttles to/from stations, water quality, noise impacts, development pressures, concern that the alignment would be used for freight trains carrying garbage, desire for a rail trail, and access to an existing trail.

As a result of the comments, the following commitments have been made by NJT that were not detailed in the EA:

1. With regard to the Highlands Trail, a hiking trail currently being established through Byram Township, NJ TRANSIT commits to work with Byram Township to evaluate potential options for a safe and feasible crossing of the Lackawanna Cut-Off right-of-way.
2. With regard to mitigation for wetland impacts along the railroad alignment in Byram Township, NJ TRANSIT commits to incorporating mitigation at Lake Lackawanna and along the Lubbers Run corridor in Byram Township as a first priority, pursuant to approval by the Federal and State regulatory authorities during the permit application process.

See Appendix A for a summary of the comments received on the EA related to the MOS, responses to those comments, and the full text of the comments. Comments received on the portion outside of the MOS, along with the additional environmental analysis will be addressed before the FTA can make an environmental finding on the non-MOS portion of the Lackawanna Cut-Off Passenger Rail Service Restoration Project.

E. ENVIRONMENTAL FINDINGS

The EA provided an analysis on twenty environmental issue areas. Following is a summary of the analysis performed for each of those twenty issue areas, and mitigation for impacts that were identified within those areas.

The analysis performed in the EA has concluded that the project will result in only limited impacts to these environmental issue areas, all of which will be mitigated as outlined in the following paragraphs. Specific mitigation will be implemented in the areas of noise, historic resources and wetland resources. Mitigation commitments are included in the following sections.

LAND USE, ZONING, AND CONSISTENCY WITH LOCAL PLANS

The MOS will not result in any impacts on land use, community facilities, zoning, or public policy. Construction of the Project will aid in achieving the goals and objectives of the New Jersey State Development and Redevelopment Plan and the Highlands Region Master Plan. The proposed project is consistent with all state, county and local plans.

In New Jersey, NJ TRANSIT, as a state agency, is not bound by local zoning. However, NJ TRANSIT typically confers and coordinates all proposed actions with local municipalities, and will coordinate and confer with the affected municipalities..

As a result there are no significant impacts with regard to land use, zoning, and consistency with local plans.

LAND ACQUISITIONS AND DISPLACEMENTS

The MOS does not require any land acquisitions. No mitigation is required.

As a result there are no significant impacts with regard to land acquisitions and displacements.

COMMUNITY FACILITIES AND PARKS/SECTION 4(F)

Community Facilities

The MOS will not introduce a new residential population; therefore, existing community facilities will be sufficient to efficiently provide protection and service. Community facilities include emergency services, recreational, cultural, and educational resources. The MOS will not impede or otherwise compromise access to these facilities, including the Andover Police Department, the Andover Township Volunteer Fire Department, the Lakeland Rescue Squad, the Andover Regional School District.

There will be less than a one minute increase in the response times of emergency services due to the MOS. However, this will only occur when a train is passing through the active grade crossing at Brooklyn Road in Stanhope. The Brooklyn Road grade crossing will be designed to adhere to the Federal Railroad Administration (FRA) guidelines promulgated in the publication "Guidance on Traffic Control Devices at Highway-Rail Grade Crossings". The short time (less than one minute)

that it will take for eight-car passenger trains to pass through a grade crossing, coupled with the limited frequency of service, will result in no significant impacts.

NJ TRANSIT will continue to work with the local municipalities to develop appropriate grade crossing protection measures and spread awareness regarding the new rail service to emergency service providers and school bus operators.

Parks/Section 4(f)

Two parks are located in the study area of the MOS, both in Byram Township: the Carol O. Johnson Municipal Park and an unnamed/undeveloped municipal park, north of Brookwood Road. Both parks are 100 feet or more from the alignment and would not be impacted by the project.

During public comment, Byram Township noted a trail that is currently being developed through the community within the vicinity of the project. Upon further research it was determined that this trail, the Highlands Trail, currently follows County Route 607, crossing the railroad alignment through an existing tunnel, although no formal agreement is in place with the County for use of this road. Presently, Byram Township has no specific plans for rerouting the trail and has requested that NJ TRANSIT work with the community to identify a permanent location for the trail's crossing of the alignment. NJ TRANSIT has committed to working with the community. The alignment's crossing of County Route 607 and the trail will not change as a result of this project, and the trail will not be affected by implementation of the MOS.

The Highlands Trail is under the stewardship of the New York-New Jersey Trail Conference. The Highlands Trail is an estimated 150-mile long distance hiking trail connecting the Hudson and Delaware Rivers. This trail is not publicly owned and thus is not subject to Section 4(f).

Byram Township expressed concern relative to the Highlands Trail. Through consultation with Byram Township and the Sussex County Planning Department, it was determined that no adopted plan is currently in place relative to the Highlands Trail. The planning process has not progressed to the point of identifying a location where the Highlands Trail may cross the Cut-Off. NJ TRANSIT is committed to work with Byram Township to evaluate any potential options for a safe and feasible crossing of the Lackawanna Cut-Off right-of-way.

Additionally, since no park resources are impacted by the project, Section 4(f) does not apply to the above noted resources.

As a result there are no significant impacts with regard to community facilities and parks.

HISTORIC RESOURCES

Four historic resources will be altered as a result of the MOS; however, these alterations will be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR part 68) and applicable guidelines. The MOS will not change the character or original intended use of an historic resource and will not change physical features within the property's setting that contribute to its historic significance. No visual, atmospheric or audible elements that diminish the integrity of any historic resources and its major historic features will be introduced as a result of the MOS. The MOS will not cause the neglect of a property, which will cause its deterioration. In addition, the MOS will not transfer, lease, or sell an historic property out of Federal or state

ownership or control without adequate and legally enforceable restrictions or conditions to ensure the long-term preservation of the property's historic significance.

The following historic resources will be directly affected by the MOS:

- Delaware, Old Main DL&W Railroad Historic District – an eligible district extending from Hoboken Terminal to Washington in Warren County, then following the historic route of the Warren Railroad to the Delaware River;
- Delaware Lackawanna and Western (Lackawanna) Cut-Off – a 28-mile eligible rail alignment between the Delaware River and Port Morris;
- Roseville Tunnel – a contributing resource to the Lackawanna Cut-Off, the Roseville Tunnel is a 1,024-foot long, double-track tunnel 132 feet below the surface that is partially concrete lined; and,
- Port Morris Interlocking Tower – located in Port Morris Yard, the tower is potentially eligible for contributing to the Lackawanna Cut-Off.

The MOS will have no adverse effect on these resources in accordance with the stipulations defined in the Programmatic Agreement. The Programmatic Agreement has been executed among the FTA, PA SHPO, NJ SHPO and NJ TRANSIT documenting the analyses, stipulations and mitigation measures required to maintain no adverse effect on the listed historic resources identified in the project area. Future activity within the project area will abide by the stipulations and mitigation measures set forth in the Programmatic Agreement, a copy of which is presented in Appendix B.

As a result there are no significant impacts with regard to historic resources.

ARCHAEOLOGY

The proposed Andover station site has not been subjected to prior archaeological field testing, and as such, no historic period archaeological sites have been recorded within the boundaries of this parcel. However, based upon research and site walkovers conducted for this study, the Andover Station property has archaeological sensitivity due to its proximity to natural water sources, soil characteristics, and apparent lack of modern disturbance.

Archaeological Impacts will be mitigated as follows:

- Soil borings that will be available during the engineering phase will be reviewed by accredited archeologists to determine if there are potential archeological resources present. Analysis of the soil borings may eliminate the need for a Phase IB testing program.
- If, as a result of the soil boring review by accredited archeologists, there is deemed a potential presence of archeological resources, then a Phase 1B archeological investigations will be conducted by accredited archeologists during the engineering phase at the proposed Andover station.
- If Phase 1B investigations reveal the presence of resources, further archeological evaluation will be performed by accredited archeologists and will be mitigated in consultation with the appropriate SHPO.

In the event that previously non-recorded archeological resources are encountered during construction, all such activities will halt in the subject area pending investigation and review by the accredited project archeologist. Upon the archeologist's consultation with the SHPO in accordance with the project Programmatic Agreement discussed above, construction activities may resume as modified by the results of such consultation. These responses are further characterized in the project Construction Environmental Control Plan.

As a result there are no significant impacts with regard to archaeology.

VISUAL

As a result of topography, adjacent land uses and overall distance, the construction of the Andover station will not obstruct "view corridors" to / from visual resources and nearby residential areas.

Best Management Practices will be utilized during project construction to minimize any minor impact to sensitive resources in the corridor. Best Management Practices will include using screened staging areas within the existing right-of-way wherever possible.

As a result there are no significant impacts with regard to visual resources.

TRANSPORTATION

Traffic

The MOS service will increase vehicular traffic in the vicinity of the Andover station, particularly as it introduces turning movements from roadways into and out of the parking lot. Physical improvements, such as additional signage, will be implemented as necessary. The traffic analysis results presented in Section 3.7 of the EA determined that the intersections affected by the proposed Andover Station would not result in significant traffic impacts over the No Build Condition. The new intersection of Roseville Road and the proposed station access driveway will have an LOS of A in the AM Peak Hour and A/B in the PM Peak Hour, indicating that Roseville Road will not be impacted by commuters accessing or leaving the station. Therefore there will be no need for any mitigation related to the station and/or to Roseville Road.

Meetings and discussions have occurred with Stanhope, Byram, Andover, and Sussex County throughout the planning process to discuss the traffic assessment methodologies and findings. Contact with the affected agencies will continue through the design phase to ensure a coordinated effort on the minor improvements.

Pedestrians

Pedestrian activity will increase near the Andover station, particularly where patrons will walk from the rail platform to their cars or local destinations. Sufficient lighting and secure pedestrian passages will be provided to safely direct patrons from the train to their cars. Pedestrian accommodations were a consideration in the development of station plans for the Project. Pedestrian elements include appropriately placed sidewalks, lighting and signage. All pedestrian facilities will be fully compliant with the Americans with Disabilities Act (ADA).

Parking

New parking spaces will be provided at the Andover station to accommodate the estimated demand. Therefore, the MOS will not result in any impact on the supply of existing parking spaces in the study area nor does the MOS rely on other projects for meeting its parking demand.

Transit

A number of public and transit providers operate service in the study area. NJ TRANSIT provides local bus and community shuttle services in Sussex and Morris Counties. In Morris County, private shuttle buses are provided by several large companies between local rail stations and nearby office complexes.

The MOS will provide a new public transportation option for the study area in the future as demand exceeds capacity for bus service and travel times increase. Coordination between area transit operations and the MOS operations will continue.

As a result there are no significant impacts with regard transportation.

AIR QUALITY

Air quality was examined on the microscale (local) and mesoscale (regional) level to assess potential impacts resulting from both mobile and stationary sources. A worst-case scenario study examined the locations within the MOS that had the potential to generate the greatest quantity of air pollutants measured by traffic volume or parking capacity, with the assumption that locations with lower traffic volume or fewer parking spaces would generate less pollution.

For Andover Station, the maximum predicted concentrations for CO, PM₁₀ and PM_{2.5} comply with the corresponding mobile and stationary standards for each pollutant. As a result, the Project will not adversely impact air quality at the local level.

A regional level analysis was performed for the full Build Alternative to Scranton. A portion of commuters are projected to switch modes from automobile to rail service, reducing regional auto VMT, and consequently, the quantities of vehicular-emitted pollutants. However, new emissions resulting from locomotives will negate some of the benefits of reduced vehicle emissions. The net effects are a slight increase in NO_x, PM₁₀ and PM_{2.5} emissions (0.030, 0.001, and 0.001 tons/day respectively) and a slight reduction in CO and HC emissions (0.754 and 0.043 tons/day respectively). Since the MOS would have much less locomotive VMTs (since the MOS alignment between Port Morris and Andover is only 7.3 miles, as compared to 88 miles between Port Morris and Scranton) the emissions would be even less for the MOS portion of the project.

This Lackawanna Cut-Off Passenger Rail Service Restoration Project was analyzed in the Northern New Jersey Air Quality Conformity Determination. It was demonstrated that each non-attainment area or maintenance area in the NJTPA region passes the appropriate budget test. This Conformity Determination was approved by NJTPA Board of Trustees on May 12, 2008.

Subsequent to the public distribution of the EA, the Board of Trustees for the North Jersey Transportation Planning Authority adopted the FY 2009 – 2012 TIP, dated July 29, 2008. The Lackawanna Cut-Off Rail Service Restoration Project, DBNUM T535 was included in this TIP for

FY 2009, and thus will continue to be included in the Northern New Jersey Air Quality Conformity Determination.

The following measures will be implemented during construction and operation to reduce particulate matter and NOx emissions:

- Options to purchase new locomotives that meet or exceed USEPA's emission standards;
- Retrofit and/or rebuild of older locomotives to achieve a better air quality rating;
- Repowering equipment with generator set/hybrid technology; and,
- Use of cleaner diesel fuel or alternative fuel.

As a result there are no significant impacts with regard to air quality.

NOISE AND VIBRATION

Noise

Aerials and topographic maps were examined, and field visits were conducted to determine which residences or institutional facilities are located within calculated impact distances of the rail alignment, access roads, and the Andover station. Without mitigation, approximately 82 residences will be moderately impacted by the MOS, and 5 residences will be severely impacted by the MOS. Further details on these impacts are presented in the response to comments on noise issues beginning on page 28 of Appendix A of this FONSI.

Mitigation is required for noise impacts at the proposed Brooklyn Road grade crossing in Stanhope, NJ. A Quiet Zone at this grade crossing is proposed and would eliminate the severe impacts. Moderate impacts do not require mitigation as per FTA requirements. As required by the Federal Railroad Administration (FRA), the county/municipality will be required to petition the FRA for Quiet Zone designations, in accordance with FRA's Interim Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings (49 CFR Part 222 and 229). The Project will provide funding for support of the application, design and installation of the Quiet Zone safety measures. Initial conversations with Stanhope (06/10/03, 05/07/04, 6/22/08) have indicated their desire to have a Quiet Zone incorporated into the project.

A field reconnaissance of the Brooklyn Road grade crossing in Stanhope indicates that the installation of appropriate infrastructure for a Quiet Zone designation is feasible. The roadway is sufficiently wide and the sight lines appear to be adequate for four-quadrant gates and median barriers. However should it be determined during the engineering phase that the installation of a quiet zone at Brooklyn Road is not physically feasible, NJ TRANSIT is committed to adopting substitute measures to reduce noise, while still complying with FRA regulations. These measures include the use of directional horns at the grade crossing whose purpose is to direct noise down the roadway or the installation of noise-reduction windows in the homes severely impacted by the train noise. NJ Transit commits to eliminating all impacts in the severe range.

Vibration

The major existing source of vibration in the corridor is truck and bus traffic on local roads. With the MOS, passenger trains will operate on the alignment. A vibration assessment was performed

according to the procedures and impact curves identified in FTA's Noise and Vibration Assessment guidelines. Using aerial photography and topographic maps, it was determined that no buildings in the MOS study area were within the distances of potential impact, and therefore there will be no vibration impacts as a result of the MOS.

As a result, given that the Quiet Zone would be implemented, there are no significant impacts with regard to noise and vibration.

ENERGY

The projected indirect and direct energy expenditures of the MOS are marginal when compared to the overall statewide figures for New Jersey. The increase in energy demand should be easily managed by existing New Jersey power resources.

Therefore, no mitigation is required and no significant impacts to energy will result.

SAFETY AND SECURITY

Corridor Safety

The FTA requires each state with fixed rail guideway transit systems to develop and implement a Safety and Security Program Plan (SSPP) standard (*State Safety Oversight of Rail Fixed Guideway Systems*, 49 CFR, Part 659). The State of New Jersey requires each rail transit system within the State to develop and implement an SSPP that meets the requirements of the state standard (*New Jersey Department of Transportation Fixed Guideway Safety Oversight Standard*, NJAC 16:53 E-4). The Project will follow NJ TRANSIT SSPP standards.

All grade crossings will be designed to adhere to the FRA guidelines that were promulgated in the recently released "Guidance on Traffic Control Devices at Highway-Rail Grade Crossings" (November 2002), and will be enhanced to include modern active gates, flashers and audible warnings, except where Quiet Zones have been approved for noise mitigation.

NJ TRANSIT, local railroad authorities and local municipalities, separately or in cooperation, will undertake a public information campaign or campaigns in the project area to brief local residents on the implementation of rail service and safety issues to bear in mind when in close proximity to the right-of-way. Such information campaigns have been successful in promoting safety in several major U.S. cities that recently have implemented new rail services.

Station Area Safety

Vehicular traffic will increase in the vicinity of the Andover station, particularly as it introduces turning movements from roadways into and out of the proposed parking lot. Physical improvements, such as additional signage, will be implemented as necessary. Pedestrian activity will increase near the Andover station, particularly where patrons will walk from the rail platform to their cars or local destinations. Sufficient lighting and secure pedestrian passages will be provided to safely direct patrons from the train to their cars.

Station Area Security

Currently, NJ TRANSIT police perform random patrols at all stations and along all rights-of-way in the NJ TRANSIT rail system. This practice will continue. In addition, NJ TRANSIT will work closely with municipal police departments along the project corridor to ensure that security needs are met.

As a result of the security measures discussed above, and through the adherence to regulations laid out by the FRA and the State of New Jersey, no impacts to safety and security will occur as a result of the MOS.

Although no impacts to safety and security will occur as a result of the implementation of the MOS, preventative measures enacted by NJ TRANSIT will help ensure a safe environment during construction and revenue service operation. Measures include a safety protocol; coordination between NJ TRANSIT police and local law enforcement for station area patrols; and the installation of modern active gates, flashers, and audible warnings at grade crossings.

As a result there are no significant impacts with regard to safety and security.

GEOLOGY, SOIL, AND TOPOLOGY

Given the limited construction activity required for the MOS, permanent impacts to geology, soils and topography will not occur. Minor excavation and grading will temporarily disturb existing soils and vegetation at the Andover station site; however, there will be no permanent impacts.

To mitigate temporary impacts for the MOS, a Soil Erosion and Sediment Control Plan will be developed during the engineering phase. Suitable excavation, construction and soil erosion techniques will be implemented during construction in coordination with county soil management district requirements.

As a result there are no significant impacts with regard to geology, soil, and topology.

WATER QUALITY

Impacts to water quality will be minimal due to the inherent nature of the MOS (i.e. reusing an existing railroad infrastructure). Reactivating rail service on the existing rights-of-way will require limited additional construction and will create minimal additional impervious surface above what already exists.

As a part of the MOS, the Andover station site and associated parking facility will create the majority of additional impervious surfaces.

Mitigation of water quality and quantity effects will first be directed towards avoidance, followed by minimization. Excess stormwater runoff resulting from impervious surfaces associated with the project will be mitigated through the use of wet ponds, stormwater infiltration or detention facilities and bio-retention Best Management Practices as outlined by the NJDEP Land Use Regulation Program.

A New Jersey Pollution Discharge Elimination System (NJPDES) water quality certificate will be obtained prior to MOS implementation for each stormwater management system. A Section 402 National Pollutant Discharge Elimination System (NPDES) permit will be required if discharges are made into adjacent federally regulated surface waters. Implementation of approved Soil Erosion and Sediment Control Plans/Water Encroachment and Obstruction Permits will minimize impacts to surface waters during construction.

As part of any permit approval (see Section G for discussion of permit needs), certain restrictions regarding construction activities located within migratory fish waterways will be required. Specifically, construction within such watercourses will most likely be prohibited between April 1 to June 30 and September 1 to November 30. The construction schedule will be developed accordingly.

As a result there are no significant impacts with regard to water quality.

WETLANDS AND STREAMS

Freshwater wetland areas were initially identified adjacent to and within the right-of-way boundaries using the NJDEP Geographic Information Systems (GIS) freshwater wetlands mapping information and US Fish and Wildlife Services (USFWS) National Wetland Inventory (NWI) freshwater wetland mapping. A freshwater wetland assessment of the entire alignment was performed during which time additional unmapped linear wetland areas were identified crossing, parallel and within the existing right-of-way property boundaries. Field assessments were confirmed during site visits conducted in July 2007 and then wetland delineations performed in July 2008, following the issuance of the EA. The results of this work is in Appendix C of this FONSI

Impacts for the MOS were estimated based on the preliminary design of the proposed 7.3-mile project impact area and the Andover station. The maximum (worst case) total impact to wetlands and other surface waters by the proposed project is 4.3 acres.

Wetland Delineation Report for the Minimal Operable Segment.

For the MOS, a total of 18 freshwater wetland areas were delineated along the project right-of-way and at the proposed Andover Station location. The wetlands delineated consisted of linear freshwater wetland and state open water complexes. The linear wetland complexes most likely developed where former railroad drainage swales functioned during active operation, generally where the existing right-of-way is located within an earth cut. Several complexes drain into adjacent freshwater wetland complexes and state open waters. Several of these wetlands are connected through reinforced concrete pipes beneath the right-of-way.

The proposed Andover Station location contains small isolated linear wetland areas approximately 0.2 acres in size. These areas were most likely formed from adjacent roadway run-off subsequently forming drainage patterns. A portion of the proposed Andover Station location is within the 300-foot Special Water Resource Protection Area (SWRPA) buffer of Andover Junction Brook, an NJDEP State Water Quality classified Category 1 stream. A 300-foot SWRPA buffer is required for Category 1 streams or threatened/endangered species habitat. Development is permitted within the SWRPA area for linear developments, unique hardships or disturbance within the outer 150 feet of the SWRPA if the area is already disturbed. The overall function and value of the SWRPA would need to be maintained or improved. An area of the station location appears to be used for all terrain vehicle access onto the existing right-of-way, with debris littering the area including old tires, construction

debris and garbage. The conceptual design currently shows the Andover Station within the SWRPA. NJ TRANSIT would coordinate with NJDEP Land Use Program to determine if the project could qualify for a waiver for the C1 waterbody development regulations. During final design, and in coordination with NJ DEP, the layout of the parking area could be modified to reduce the area within the SWRPA, and to maintain or improve the overall function and value of the SWRPA.

The 4.3 acres of wetland impacts (0.2 acres at the Andover Station and 4.1 acres along the MOS alignment), which will result from the construction of the MOS, will be mitigated at a ratio between 2:1 and 4:1 pursuant to the New Jersey Freshwater Wetlands Protection Act (N.J.S.A. 13:9B), administered by the NJDEP and the Federal Clean Water Act, Section 404 and the Rivers and Harbors Act, Section 10 administered by the USACE and USEPA. The wetland mitigation strategy for both the MOS and the larger Build Alternative will be developed in coordination with the USACE and USEPA.

Impacts will be mitigated within the project limits in accordance with discussions with the USACE Philadelphia District, if possible. In the event that onsite restoration of impacted wetlands is not feasible, mitigation will consist of wetland creation that is determined to be practicable and feasible. If these activities cannot be accommodated within the existing site footprint, property will only be acquired as part of wetlands mitigation in conformance with Federal and State permit requirements as necessary. For the wetland impacts along the railroad alignment in Byram Township, at the request of Byram Township, NJ TRANSIT commits to incorporating mitigation at Lake Lackawanna and along the Lubbers Run corridor in Byram Township as a first priority, pursuant to approval by the Federal and State regulatory authorities during the permit application process.

Coordination with the USACE, USEPA, and NJDEP has been ongoing since January, 2007. Meetings were held in April, 2007 to discuss the potential impacts to wetlands and to agree on the methodology that would be used to estimate the extent of wetland impacts. Additional coordination meetings and conference calls were held between May and August 2007, with concurrence that wetlands would be delineated and mitigation measures developed during final design. At the later request of USEPA, wetland delineations were performed for the areas within the MOS. In July 2008 the wetland delineation was performed for the MOS, as described above. This delineation was then forwarded to the USACE, the USEPA, and the USFWS. The USEPA determined in their letter dated August 28, 2008 (refer to Appendix E) that the additional analyses and commitment to implement appropriate mitigation is acceptable and that a FONSI for the MOS seems appropriate. The USEPA further emphasized in their letter that onsite compensatory wetlands mitigation is the preferable remedy for wetlands impacts, followed by off-site mitigation within the same watershed. They also noted that should the five-acre threshold for impacts be exceeded, USEPA will review and comment on the New Jersey Major Discharge Permit application to ensure that impacts have been avoided and minimized to the maximum extent feasible. The USACE stated in their letter dated September 5, 2008 (refer to Appendix E) that based upon the FTA's more extensive analysis of the wetlands to be impacted in the MOS, that they concur that no further analysis under the existing EA is warranted for the MOS project. Additionally, the NJDEP met with NJ TRANSIT in August 2008 to discuss the information. NJ TRANSIT, at the request of NJDEP will continue consultation with NJDEP during project design to minimize wetland impacts and to agree to mitigation measures.

No construction will occur until NJ TRANSIT has received the appropriate wetlands permits as regulated by the agencies having jurisdiction.

As a result there are no significant impacts with regard to wetlands and streams.

FLOODPLAINS

Floodplains along the project corridor were identified using the Federal Emergency Management Agency (FEMA) Flood Insurance Program GIS Q3 Flood Data. FEMA Flood Insurance Rate Maps (FIRM) were also used to identify floodplains throughout the study corridor. In the MOS floodplain areas are located adjacent to and through the alignment. The alignment is located intermittently within the 100-year flood zone of several different water bodies.

Construction and staging area activities will be contained within the existing right-of-way in this portion to the maximum extent possible. There will be minimal disturbances to floodplains along the corridor, limited to bridge and culvert replacement which would temporarily disturb floodplain areas.

Mitigation measures to minimize impacts and/or restore and preserve natural floodplain values will include using structures to cross floodplains instead of fill material, providing adequate flow circulation, reducing grading requirements and preserving natural drainage when possible, as per the requirements of Federal Executive Order 11988.

As a result there are no significant impacts with regard to floodplains.

ENDANGERED SPECIES

Information provided by the USFWS New Jersey field office and NJDEP Natural Heritage Program was reviewed and compiled to identify areas of potential concern for threatened and endangered flora or fauna species along the corridor and station locations.

Federal-listed species in New Jersey are the bog turtle, bald eagle, and Indiana bat. In New Jersey, 17 threatened and endangered fauna species and 14 flora species known to inhabit lands in and around the vicinity of the rail corridor. Two of these flora species, Canada Hawkweed (*Hieracium kalmii*, state endangered) and Shrubby St. John's-Wort (*Hypericum prolificum*, state endangered) have been observed growing on the railroad embankment at various locations in New Jersey.

In the EA, NJT assumed impacts for all endangered species. After the EA was distributed for public comment, habitat field surveys were conducted along the MOS to identify the presence of state- and Federally-listed threatened and endangered species to determine specific impacts. A summary of the results of those surveys follows.

Supplemental Threatened and Endangered Surveys for the Minimal Operable Segment

A supplemental assessment was performed to determine if any of the EA identified floral or faunal species identified in the EA were located within the MOS. This assessment is documented in the Lackawanna Cut-off Passenger Rail Service Restoration Project, Supplemental Threatened and Endangered Species Assessment, dated July 31, 2008, and can be found in Appendix D of this FONSI, and has been posted on the NJ TRANSIT website. The supplemental analysis was performed by qualified environmental professionals and focused on the suitability of habitat for any of the EA identified faunal species, and to identify if any of the EA identified floral species were located within the project limits.

Three areas adjacent to the alignment were found to have suitable habitat for the bog turtle. However, direct impacts to bog turtles or their habitat are not expected as a result of this project. During project design, NJ TRANSIT will coordinate with NJDEP and the USFWS to determine whether construction activities in the vicinity of bog turtle habitat would require mitigation during construction. Such mitigation would include timing restrictions and construction monitoring.

The bald eagle is not a concern for this section of the alignment as there are no known active nest sites or foraging habitat. Habitat does exist for roosting Indiana bats within the project area. A seasonal restriction on tree clearing between April 1st and September 30th for potential summer roosting areas would be implemented. Impacts to the barred owl, bobcat, Cooper's hawk, red-shouldered hawk would be nominal because the project is not expected to impact preferred habitat areas. Similarly, the project would not impact the foraging habitat of the great blue heron. Impacts to wood turtle habitat are expected to be negligible during operation; however, to minimize impacts during construction, timing restrictions, construction monitoring, and exclusion fencing are recommended. The two plant species identified as having the potential to be located on site, Canada hawkweed and Shrubby St. John's wort, were not identified during field investigations.

Therefore, the results of this supplemental analysis concluded that there are no significant impacts to federal or state-listed threatened or endangered species, or state-listed species of concern associated with the operation or the construction of the project within the MOS.

Coordination with wildlife resource agencies has been ongoing at both the Federal and State levels since 2004. In May, 2004 USFWS requested that bog turtle habitat surveys be conducted in areas with emergent and shrub/scrub wetlands along the proposed project route and additionally information regarding potential impacts to the Indiana bat. In August, 2004, USFWS met with NJ TRANSIT and agreed to an appropriate plan for continued consultation. NJ TRANSIT committed in writing (via its September 2, 2004 letter) to future coordination and consultation with the USFWS for the protection of federally listed threatened and endangered species and their habitats. USFWS noted in their November 12, 2004 letter that due to the timing of project planning and development, NJ TRANSIT may perform necessary surveys and studies during the final design and development stages of the proposed project, and that NJ TRANSIT would document this ongoing consultation in the EA. Coordination continued in May 2007, with the USFWS reiterating their request for a Bog turtle habitat study. A Bog turtle habitat study was performed, as described above, in July 2008. We are awaiting a Section 7 Consultation Summary from the New Jersey office of the USFWS. This summary was discussed in a September 11, 2008 conference call with the USFWS, FTA and NJ TRANSIT. During the call it was agreed to that given the study's findings, "monitoring during construction" could be performed by a qualified bog turtle surveyor, as well as buried double silt fencing, in lieu of Phase II surveys in the areas with the potential to provide suitable habitat (Areas B, E, and F described in Appendix D). Between March 15 and October 15 the qualified bog turtle surveyor should monitor the fence conditions weekly and immediately after storm events. Between October 15 and March 15, monitoring should take place every two weeks and immediately after storm events. Additionally, regarding the Indiana bat, the USFWS recommends prohibiting the removal of trees between April 1 and September 30, to which NJ TRANSIT agreed. Should tree clearing be proposed during the restricted season, further consultation with the USFWS will be required. The Section 7 Consultation Summary from the USFWS, dated September 12, 2008, confirms the statements discussed during the conference call described above. A Memo of Consultation from the US Department of Interior is forthcoming. NJ TRANSIT will continue its communications and consultation with these agencies during project design and implementation.

As a result there are no significant impacts with regard to endangered species.

HAZARDOUS WASTE

There are no hazardous waste disposal sites regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) located within the MOS.

If contaminated media are encountered during construction, additional investigations will be necessary to implement mitigation activities required to support construction. Such activities will include design and operation of on-site groundwater treatment equipment, implementing special handling, characterization, and disposal procedures for contaminated soils or implementation of engineering controls (slurry walls, infiltration trenches, etc.) to prevent affecting natural fate and transport parameters of existing groundwater contaminant plumes. Additionally, the results of the contamination assessment activities will be utilized to assess the need for performance of a more detailed contamination assessment or Remedial Action Plan for the potential contamination sites.

In the event that hazardous or regulated materials are encountered during construction, such materials will be handled and classified for offsite disposal in accordance with the project Contaminated Soils, Water and Materials Management Plan and in accordance with (ISRA) concerning the handling, disposal, and remediation of hazardous materials and petroleum products and Resource Conservation and Recovery Act (RCRA), which regulates the treatment, storage, transportation, and disposal of solid hazardous waste. Monitoring and remediation plans would be developed and approved by NJDEP.

Additionally, although the project construction requirements do not project ground water dewatering as part of necessary construction activities, should dewatering be required, all ground water will be handled and disposed of in accordance with applicable Federal, state and local regulations as detailed in the management plan referenced above.

As a result there are no significant impacts with regard to hazardous waste.

ENVIRONMENTAL JUSTICE

To identify relative concentrations of minority and low-income individuals, data on race/ethnicity, median household income, and poverty were examined for census block groups within an approximately 1,000-foot radius of sites proposed for the Andover Station area. This data was compared with data on race/ethnicity, median household income, and poverty for the municipality, and the county. The analysis determined that no target populations are present within Andover station area or the MOS study area.

Therefore, no mitigation is required and no significant environmental justice-related impacts will result.

CONSTRUCTION IMPACTS

Temporary short-term construction-induced impacts will occur within communities adjoining the MOS rail alignment and the Andover Station. The nature and extent of the proposed work varies

along the corridor and consists of the reconfiguration and installation of trackage; replacement and rehabilitation of bridges; stabilization of the Port Morris Interlocking Tower, and construction of the Andover Station and parking area.

Construction impacts are temporary, and will cease with the completion of construction. To minimize overall impacts during construction, the proposed project will be planned, designed, scheduled and staged to minimize disruption to existing traffic, abutting neighborhoods and the environment. Contractors will be required to make considerable efforts to avoid staging equipment and traversing areas beyond the construction site boundaries. NJT will implement the following:

- Use of screened staging area within the existing right-of-way wherever possible.
- Avoidance of sensitive areas for staging, including the wetlands identified in the wetlands delineation report (Appendix C of this FONSI), and the Port Morris Interlocking Tower and/or environmentally sensitive areas where mature vegetation and potential fish and wildlife habitats are present. Parklands will also be avoided as staging areas (Carol O. Johnson Park and the unnamed/undeveloped municipal park, north of Brookwood Road), and access to parkland and public recreational resources will be maintained.
- Coordination between NJ TRANSIT and the involved municipalities and NJDOT to develop construction plans and regular, on-going coordination and communication with the affected municipalities throughout construction process.
- Reduction of fugitive dust, particularly near historic resources, through measures including: application of water or other soluble moisture-retaining agents to dirt areas; cleaning construction equipment and adjacent paved areas that may be covered with dirt or dust; covering haul trucks carrying loose materials to and from construction sites; use of clean fuels in construction equipment; deployment of clean diesel construction equipment (new, retrofit, rebuilt or repowered), and the implementation of anti-idling practices at construction sites.
- Measures to mitigate noise and vibration, particularly near historic resources, including: use of specific equipment, including concrete cutters rather than pavement breakers; proper maintenance of construction equipment mufflers installation of temporary noise barriers; and rerouting of heavy equipment and truck movements, where practical and necessary.
- Measures to mitigate traffic impacts, including: development and implementation of a Maintenance and Protection of Traffic (MPT) plan; limiting temporary grade crossing and roadway lane closures by doing the relevant construction during off-peak traffic hours when viable; providing public and business notification of future closures and detour routes; use of well-positioned closure and detour warning signs; and the appropriate scheduling and coordination of all construction activities that will occur at the same grade crossing or within the same area.
- Measures to mitigate impacts to surface water quality including: soil erosion reduction techniques (a combination of silt fences, hay bale filters, inlet filters, stone rip-rap and temporary vegetative covers) and ground water such as dewatering and proper construction equipment maintenance procedures; and immediate containment and disposal of spills.
- Measures to mitigate wetland impacts including the use of temporary signs and fences; erosion and sediment control measures consisting of silt fences, hay bales, mats or temporary

drainage systems; spill prevention plans; restricting washing activities to areas distant from wetlands and other sensitive resources.

- Measures to mitigate impacts to threatened and endangered species include construction timing/seasonal restrictions, construction monitoring, and exclusion fencing.
- Measures to mitigate impacts from hazardous materials, including further investigation and testing and development and implementation of monitoring plans, remediation plans and an Emergency Response Plan, as necessary.

As a result there are no significant construction impacts.

CUMULATIVE EFFECTS AND INDIRECT IMPACTS

The MOS is not anticipated to result in adverse indirect or cumulative impacts. The provision of an alternate means of transportation, in concert with similar planned improvements in the region, will contribute to an overall improvement in mobility and will likely stimulate positive economic growth. While economic growth resulting from improved access may result in some population growth, the impact will be incremental, and the mitigation of individual projects will address localized issues, including potential impacts to natural resources, water quality, and flood plains. No indirect or cumulative impacts are anticipated to community facilities, recreational resources, and other such disciplines that are affected by population growth. The MOS, combined with other planned regional projects, will not disproportionately impact low-income or minority populations, but will instead benefit all social and economic sectors equally. Environmental and social factors affected traffic and associated pollution would likely experience positive cumulative effects as a result of an anticipated decrease in VMT and highway congestion resulting from the combination of the MOS rail service and regional highway improvement projects.

Therefore, no mitigation is required and no significant cumulative effects or indirect impacts would result.

F. MEASURES TO MINIMIZE HARM

The MOS will be built in a manner consistent with that described in the EA and NJ TRANSIT will implement the mitigation measures described in the EA and this FONSI. The EA is incorporated by reference into this FONSI, and detailed mitigation measures and findings are contained therein.

Prior to the start of construction, the following plans will be developed by NJ TRANSIT in compliance with applicable regulations and in cooperation with municipal, agency, and industry representatives:

- Maintenance and Protection of Traffic Plan (MPT)
- Contaminated Soils, Water, and Materials Management Plan
- Construction Environmental Control Plan
- Emergency Control Plan
- Safety Protocol - This plan will continue to serve the Project during revenue service

The plans will be distributed to contractors, and compliance will be required as a means to minimize impacts resulting from construction activities. MOS requirements for permits are discussed in Section G of this FONSI. All mitigation measures, as previously described in Section E will be followed by NJ TRANSIT.

G. PERMITS REQUIRED

The MOS will involve on going coordination with Federal, State and local agencies throughout the design process. Agencies such as NJDEP and the USACE will have direct involvement through the regulatory permitting process. Other agencies will have a permitting or coordinating role through the design and into construction/implementation.

NJT will work closely with all the regulatory agencies throughout the design completing all required permitting and consultation activities. The EA provides a complete listing of the involved agencies as well as description of the permitting requirements associated with the project.

H. DETERMINATION

FTA NEPA FINDING

FTA has reviewed the *New Jersey – Pennsylvania Lackawanna Cut-Off Passenger Rail Service Restoration Project Environmental Assessment* and finds that the Minimal Operable Segment (MOS) of the Lackawanna Cut-Off Passenger Rail Service Restoration Project will have no significant impact on the environment in accordance with the National Environmental Policy Act and pursuant to 23 CFR 771.121.



Brigid Hynes-Chern
Regional Administrator, Region II
Federal Transit Administration

9/12/08
Date