



**SOUTHERN BRONX RIVER
WATERSHED ALLIANCE**
and a New Vision for the South Bronx

March 6, 2019

Erik Koester, P.E.
Project Director
Region **11**
NYS Department of Transportation
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Sara Gross, P.E.
Area Engineer
Federal Highway Administration
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47-40 21st Street
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Re: SUPPLEMENTAL COMMENTS
HUNTS POINT INTERSTATE ACCESS IMPROVEMENT PROJECT
NYSDOT P.I.N. X731.55
FWHA Docket No. 2017-10260 (EIS No. 20180112)

Dear Mr. Koester and Ms. Gross:

These **supplemental** comments are submitted on behalf of the Southern Bronx River Watershed Alliance ("SBRWA") and Rocking the Boat, Inc. ("Rocking the Boat") in response to the Draft Design Report, Draft Environmental Impact Statement and Draft Section 4(f) Evaluation, dated May 2018 (released on or about June 1, 2018) and prepared by the New York State Department of Transportation ("NYSDOT") on behalf of itself and the Federal Highway Administration ("FHWA") in accordance with, *inter alia*, the National Environmental Policy Act ("NEPA") and the New York State Environmental Quality Review Act ("SEQRA"), for the Hunts Point Interstate Access Improvement Project, PIN x731.55, Bronx County, New York (the "Hunts Point Project" or the "Project"). For purposes of these comments, the foregoing document will be referred to as the "DEIS."

SBRWA and Rocking the Boat submitted their initial set of comments on the DEIS on July 31, 2018. All of the comments expressed by SBRWA and Rocking the Boat remain valid and are incorporated herein. (See attached letter). However, in preparation of those comments, on June 7, 2018, SBRWA submitted a request under the New York State Freedom of Information Law and the United States Freedom of Information Act for modeling and other data which were relied on by the NYSDOT and the FHWA in support of the Project so that SBRWA's traffic expert, Mr. Norman Marshall of Smart Mobility, Inc., could adequately assess the impacts of the Project and the chosen alternative (the "Edgewater Road Alternative") on the community of Hunts Point



and the validity of the decision by the NYSDOT and the FHWA to summarily reject an alternative to the Project consistently recommended by the community, namely the Oak Point/Leggett Split Interchange (so called, "Concept 2" or the "Oak Point Alternative"). As indicated in the attached letter from SBRWA, dated January 23, 2019, the community waited six months to receive the information requested and, in fact, was forced to threaten legal action if the information request was not fulfilled and the community was not granted an opportunity to submit supplemental comments. (See attached letter). On January 31, 2019, the FHWA responded to SBRWA's January 23rd letter and indicated that the NYSDOT had mailed the requested information to Mr. Marshall on January 30, 2019, and that the agencies were granting additional time to submit supplemental comments on the DEIS until March 6, 2019. (See attached letter). Mr. Marshall finally received the information from the NYSDOT on or about February 4, 2019.

The Public Comment Period Remains Inadequate

Our first supplemental comment concerns the decision of the agencies to grant an additional comment period **ONLY** to SBRWA and Rocking the Boat, clearly stating in the FHWA's January 31st letter that the comment period for the rest of the public remains closed. Considering the continuous non-compliance with freedom of information laws by the NYSDOT and FHWA for six months, it is highly inappropriate for the agencies to hide the data from the rest of the public and not allow transparency behind the conclusions contained in the DEIS. We strongly believe that the provisions of NEPA and SEQRA for proper notice and public comment require that the DEIS be re-noticed with all of the supporting information disclosed and that a new public comment period be granted so that all interested parties are allowed to re-evaluate the DEIS with the additional information. Without this important step, the lack of transparency in the NYSDOT's and FHWA's decision making will be evident.

The Community Preferred Alternative, Concept 2 (the Oak Point Alternative), Was Improperly Rejected and Must Be Properly Studied in the DEIS

As fully discussed in SBRWA's and Rocking the Boat's comments of July 31, 2018, the NYSDOT and the FHWA improperly rejected the Oak Point Alternative under the requirements of NEPA and SEQRA without the required in-depth alternatives analysis. Mr. Marshall used the modeling information recently received from the NYSDOT and the FHWA to demonstrate that, in fact, the Oak Point Alternative is the better alternative for achieving the stated goals of the Hunts Point Project as set forth in the DEIS and will enhance the goals of the concomitant Arthur Sheridan Enhancement Project (the "Sheridan Project").¹ (See the attached report of Norman Marshall, Smart Mobility, Inc., dated February 2019).

First, Mr. Marshall's report clearly demonstrates that the Oak Point Alternative eliminates (1) adverse impacts on Edgewater Road businesses and (2) the significant interference with

¹ In their July 31, 2018 comments on the DEIS, SBRWA and Rocking the Boat question the claim of independent utility of the two projects and believe they have been designed by the agencies together and should be studied as one project. Regardless of whether the position of the agencies is correct, the impact of the Hunts Point Project on the Sheridan Project is clearly at issue in determining the best alternative for the Hunt Point Project.



community access to Rocking the Boat, the Hunts Point Riverside Park and the Bronx River Waterfront. Impacts on the Edgewater Road businesses are especially significant relative to impacts on other streets, because it may be impossible to relocate these businesses as they also rely on water access. Many of these businesses submitted comments on the DEIS describing the harm that would be imposed on them by the Edgewater Road Alternative. Moreover, as argued in the July 31, 2018 comments of SBRWA and Rocking the Boat, the Hunts Point community fought long and hard for the development of the Hunts Point Riverside Park, located at the intersection of Lafayette Ave and Edgewater Road. Access to the Hunts Point Riverside Park will be significantly compromised by the Edgewater Road Alternative. Additionally, Rocking the Boat recently completed the purchase of its building at 812 Edgewater Road, where nearly 4,000 young people and community members come to build boats, restore the Bronx River, and learn to row and sail. The Point Community Development Corporation (a member of SBRWA) completed the remediation process of a former fur factory adjacent to Hunts Point Riverside Park where it hosts many community events throughout the year. The Edgewater Road Alternative results in all of these significant adverse impacts yet the DEIS ignores the fact that the Oak Point Alternative could avoid these impacts.

Mr. Marshall's report also demonstrates that the Oak Point Alternative will enhance the Sheridan Project, also of great importance and concern to the Hunts Point community. Mr. Marshall's modeling efforts, described in his report, show that the Oak Point Alternative performs better than the Edgewater Road Alternative during all times during the day, in both directions. In the morning, the modeling shows 10% less traffic southbound on the Sheridan, and in the afternoon in the same direction, the reduction is even greater at 17%. Northbound, morning traffic is 20% less, with the afternoon northbound traffic - a time when students are out of school and seeking to access the parks - showing a dramatic 47% decrease.

Both the July 31, 2018 comments and these supplemental comments clearly demonstrate the Oak Point Alternative to be the better one to eliminate significant adverse impacts resulting from the chosen Edgewater Road Alternative. Yet the reasons upon which the agencies relied to summarily reject the Oak Point Alternative before any meaningful analysis was conducted are completely inadequate, unsupported and may be, in fact, untrue. NEPA and SEQRA require that the alternatives analysis in the DEIS be redone to include the Oak Point Alternative in the analysis. As such the DEIS must be supplemented by the NYSDOT and FHWA and re-noticed for a new public comment period.

The Extension of the Comment Period was Not Done in Good Faith.

As revealed by documents accessed on the NYSDOT website on January 15, 2019, NYSDOT is moving "full speed ahead" with the project even though the environmental review has not concluded and all the comments have not been received. These documents reveal that despite being unable or unwilling to make project files available to the public for over six months, the agency was able to draft a final RFP dated January 15 2019 "for the design, construction and other identified activities for the Project [Hunts Point Interstate Access Improvement Project]" and to begin interviewing shortlisted firms From January 22nd through March 7, 2019 to perform that scope of work. In fact, the agency was able to release a draft RFP on November 16, 2018,



the same day the Records Access Office sent us a letter notifying us of its 4th self-issued extension of the time period to respond to our request. This is an example of the State doing the minimum process so as to appear as though it is taking public comment into account, when in reality, the effort is just for show, with no real ability to alter, shape, or even inform the outcome of the process. This point is underscored by the fact that the comment period was not extended for the general public, but rather only for our groups.

Additionally, communication with NSYDOT and the Governor's office regarding the project and its environmental justice implications ceased until we sent our January letter threatening legal action. Constructive conversation, active communication and dialogue about the project could have continued during this period, but instead we just received continued notices that more time was needed to find the modeling files.

Furthermore, information contained in Mr. Marshall's review of the modeling files indicates a number of irregularities and/or improper or unexplained decisions in the modeling process that NYSDOT undertook, calling into question the validity of the DEIS and its ability to properly assess impacts on the surrounding community. In at least one instance, there is reason to suspect that the irregularities were caused by a rushed or incomplete process.

Community Harm is Improperly Assessed and Addressed.

Additional mitigations are required, especially for public health impacts, waterfront access, and construction impacts.

In the comments above, we elucidate the legal arguments that illustrate the ways that the the EIS and the alternatives analysis were performed inappropriately. Yet those arguments are constrained by the narrow view that NYSDOT takes on evaluating "success" and "harm." As we have argued and fought for publically for more than twenty years, any transportation plan or project for this area must meaningfully take into account land use, neighborhood-wide, and people-centered considerations. Special priority should be given to ensuring dignified access to unique natural resources, as well as to not repeating the irreversible and unmitigable errors that have been made in the past that consign low income communities of color to conditions that would not be acceptable elsewhere, and that are wholly avoidable. Yet instead of advancing such an integrated approach and the plans that embody it, with this project NYSDOT has again chosen to artificially and narrowly define its examination to look only at vehicle movements and the fastest way to make a once-in-generation infrastructure decision. In the process, it will reinforce existing barriers and erect new obstacles to accessing the Bronx River, and cause irreparable harm to the public who seeks to access it.

The so-called "mitigations" or "community benefits" that are described in the original DEIS as well as the six points outlined in a letter dated November 7, 2018, from NYSDOT to NYCDOT are insufficient to address the harm created by the ramps at Edgewater. They do not fundamentally address how community members will be able to access Hunts Point Riverside Park and Garrison Park easily and safely when they will have to cross underneath elevated structures, or across failing intersections, through a stream of traffic that will bring concentrated pollutants such as particulate matter 2.5, exposure to which compromises the well-being of those



SOUTHERN BRONX RIVER WATERSHED ALLIANCE

and a New Vision for the South Bronx

with respiratory conditions and has been shown to increase risk of developing cancer, among other diseases.

Investments in Garrison Park, which is already publically accessible, while polluting its air quality and making it harder and more dangerous to arrive at, do not mitigate the harm caused by Edgewater ramps. While there is an inherent conflict between siting ramps at Edgewater Road and waterfront access, it is also noteworthy that there has been no meaningful effort to engage the public in design considerations for Edgewater Road and its surroundings, including Hunts Point Riverside Park, Garrison Park, Concrete Plant Park and their access points. Access to the waterfront is a top community priority - and that includes safe, dignified, and accessible pathways to existing public access points, improving the air quality at those locations, as well as expanding opportunities for public access on additional sites in the area. The State should work with local partners at the City level and in the community to engage in a meaningful participatory design process for waterfront access and the State should commit to fund the outcomes of that process.

The State should also make changes to the project commitments clear, and demonstrate how those will impact the project. For example, while we are supportive of the inclusion of additional bike infrastructure and shared use paths along Edgewater Road from Lafayette to Garrison Avenue, revised drawings and explanatory text about how that will affect operations of all users on the very narrow portion of Edgewater Road have not been shared with the public. "Commitments" that are not public, and that are not made through enforceable agreements cannot reasonably be considered commitments. Case in point: the "commitment" to fully study the Oak Point alternative was quickly abandoned when it did not suit NYSDOT's purposes.

The significant adverse impacts identified by the DEIS are construction impacts. The total construction period is estimated to be a minimum of 6 years, which forms the greater part of most people's childhoods, meaning that an entire generation of children will be impacted by the "temporary" construction. Construction noise, pollution, and vibrations - all acknowledged as the DEIS as impacts on parks and surrounding areas- receive no special considerations for their mitigation, and are dismissed as "temporary" and mitigated by measures that take effect after construction. Since the publication of the DEIS, work on the Arthur Sheridan Boulevard conversion project has begun. This approach is insufficient. Already, even as a comparatively much smaller and faster project, communication with the public has been poor, causing confusion and disruption in daily schedules that could have been avoided.

If and when the Hunts Point project advances, it will be essential for the State to create and fund a construction mitigation plan with the local community, as well as to designate a full-time employee whose full responsibility is in liaising with the public and trouble-shooting issues that arise - for community members, pedestrians, drivers, businesses, and workers - during the construction period. All of these constituencies are acknowledged in the DEIS to be impacted by construction, but no meaningful mitigation plan is described within. While the DEIS references a liaison (4-167) it does not detail the scope of that person's role, whether it will be a dedicated position, or whether that person will engage in dialogue with the community on co-designed plans or rather perform one-way communication. In addition to working collaboratively with



**SOUTHERN BRONX RIVER
WATERSHED ALLIANCE**
and a New Vision for the South Bronx

local partners, it will be essential for that person to also communicate with other State and City agencies about projects that are happening or planning in the area, to minimize the cumulative impacts and to facilitate the smooth implementation of projects related to open space upgrades and other community priorities.

As mentioned in our July comments, the DEIS does an insufficient job of analyzing impacts on the health and safety of the community, especially because it fails to take into account the unique vulnerabilities of an environmental justice community. In Hunts Point and Longwood, the asthma emergency department visit rate among children ages 5 to 17 in Hunts Point and Longwood is nearly double the citywide rate and the top reason for premature death is heart disease. Despite these staggering rates of pulmonary and cardiac disease, much of which can be attributed to hazards in the built environment, there has been no detailed Health Impact Analysis to accompany this project to examine the unique ways that this low income community of color will be impacted. The project should not move forward without such a full analysis, as well as a community benefits agreement that outlines strategies and commits funding to mitigate those impacts.

Finally, it must be acknowledged that the overwhelming justification for and the primary beneficiary of the Hunts Point project as proposed is the Hunts Point Food Distribution Center. Even though the Oak Point alternative would better meet their needs (while also meeting community needs) this project is being advanced with poor process in the name of advancing their interests. As the community that hosts this economic activity, we value their contribution and the jobs that the Distribution Center creates, but also recognize that the costs of the economic activity and freight movement more broadly in the Bronx are externalized on the backs of the health of our community. Policy-making and project decision-making around transportation fails to take the human costs (and the costs of healthcare, missed school and work due to illness) into account. The cost of the infrastructure is "one-shot" and time-bound, but the impacts on our health are ongoing, as is the need to mitigate those health impacts. We welcome and call upon NYSDOT, any other State or City agency or elected official, and our partners in the business community to change this paradigm and to work with us to craft solutions that factor the costs of pollution into business calculations, generate ongoing revenue streams to mitigate impacts, and ultimately shift our freight movement system to become sustainable, safe, and healthy for the surrounding community.

Respectfully submitted,

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