



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

October 2, 2024

Jessie Murray
Marine Habitat Resource Specialist for NJ and NY
Mid-Atlantic Habitat Conservation Branch
NOAA Fisheries
55 Great Republic Drive
Gloucester, MA 01930
Via email: jessie.murray@noaa.gov

Re: **Response to Essential Fish Habitat Conservation Recommendations**
Amtrak Sawtooth Bridges Replacement Project
Town of Kearny and Town of Harrison
Hudson County, New Jersey

Dear Ms. Murray,

This letter is in response to your letter dated September 23, 2024, in which you provided Essential Fish Habitat (EFH) Consultation Conservation Recommendations (CRs) for the reconstruction of Amtrak Bridges No. 7.80 and No. 7.96, collectively referred to as the Sawtooth Bridges, located in the Town of Kearny, Hudson County, New Jersey (Project). The Federal Railroad Administration (FRA) is providing funding to Amtrak for design and construction of the Project. By way of this letter and as required by the Magnuson Stevens Fishery Conservation and Management Act (Act), FRA is providing NMFS with its response to the CRs. FRA has coordinated these responses with Amtrak, who is responsible for designing and implementing the Project including the CRs.

The CRs and FRA's responses are provided below:

Essential Fish Habitat Conservation Recommendations:

Pursuant to Section 305(b)(4)(A) of the MSA we request that you adopt the following EFH conservation recommendation to minimize or offset adverse impacts on EFH:

- *Construction activities shall not start until compensatory mitigation is finalized either by demonstrating credits are available and providing proof of purchase or by having a final permittee-responsible mitigation plan with monitoring and adaptive management included.*
- o *If permittee responsible mitigation is selected, construction of the compensatory mitigation project shall be prior to or concurrent with the impacts to the aquatic environment and monitoring shall be for five years, providing annual reports to our office.*

Response: *FRA accepts this CR.*

Wetland mitigation will be required as a condition of the environmental permit approvals for the Project. Amtrak will be responsible for acquiring compensatory mitigation via the purchase of credits from an approved wetland mitigation bank prior to the start of construction activities. Amtrak will notify FRA and

NOAA prior to construction. Kane mitigation bank (EnviroFinance Group) and/or the Upper Penhorn Creek mitigation bank (Green Vest) will be utilized for these mitigation requirements for the Project.

Description of adopted measures for avoiding, mitigating, or offsetting the Project's Impacts on EFH:

FRA and Amtrak have adopted measures for avoiding, minimizing, or offsetting the Project's impacts on EFH. Impacts have been mitigated by minimizing the trestle footprint over the Passaic River and by substantially elevating the structure to limit shading impacts. In addition, Amtrak proposes a phased construction schedule to reduce impacts in the Passaic River. Phasing the trestle installation and removal will help mitigate the temporary shading effects to wetlands vegetation and aquatic habitat. In addition, wetland mitigation will be required as a condition of the environmental permit approvals. This compensatory mitigation will be accomplished via the purchase of credits from an approved wetland mitigation bank as noted above. In compliance with NOAA Fisheries' conservation recommendation, construction activities will not start until this compensatory mitigation is finalized. FRA certifies that, in coordination with Amtrak, we have used the best scientific and commercial data available regarding this consultation.

Thank you for working with FRA and Amtrak to address EFH compliance for this important rail project. If you have any questions or concerns or require additional information, please contact Monica Zabroski, FRA Environmental Protection Specialist, at monica.zabroski@dot.gov or (640) 208-1308, or Andrea Finn, Amtrak Lead NEPA Specialist, at andrea.finn@amtrak.com or (267) 283-7802.

Sincerely,



Laura Shick
Supervisory Environmental Protection Specialist
Environmental Review Division
Office of Environmental Program Management

cc:

Andrea Finn, Amtrak
Craig Caldwell, Amtrak
Ryan Pascullo, Amtrak
Wisam Kaskas, Amtrak
Monica Zabroski, FRA