UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

January 13, 2025

Eric Rothermel
Federal Railroad Administration
RRD-30: Office of Environmental Program Management
1200 New Jersey Avenue, SE
West Building, Mail Stop 20
Washington, DC 20590

RE: Pelham Bay Bridge Replacement Project Essential Fish Habitat Assessment

Dear Mr. Rothermel:

We have reviewed the essential fish habitat (EFH) assessment provided to us for the replacement of the Pelham Bay railroad bridge over the Hutchinson River, in the Bronx, New York. The U.S. Department of Transportation's Federal Railroad Administration (FRA) is providing financial assistance to the National Railroad Passenger Corporation (Amtrak) to replace the Pelham Bay railroad bridge to maintain and improve passenger rail service along the Northeast Corridor (NEC). FRA is the lead federal agency and Amtrak is the non-federal representative for the purposes of National Environmental Policy Act (NEPA) compliance for this project, including consultation with us under the Magnuson Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act (FWCA).

The purpose of the proposed project is to maintain and improve passenger rail service along the Northeast Corridor (NEC) and to avoid delays due to frequent bridge maintenance and repairs necessitated by the aging infrastructure. Project activities include the demolition of the existing bridge and the construction of the new bridge, including construction of temporary structures (e.g., construction platforms, piers, access trestles, cofferdams) designed to facilitate demolition/construction. Construction will also include dredging, pile driving, and the installation of a new submarine communication cable. In total, the project is expected to temporarily impact approximately 14.75 acres of uplands, wetlands, mudflats, shallow water, and open water marine/estuarine habitat and permanently impact 4.70 acres of uplands, wetlands, mudflats, shallow water, and open water habitat. Specifically, 0.81 acres (0.75 acres temporary, 0.07 acres permanent) of emergent wetlands; 1.59 acres (1.52 acres temporary, 0.07 acres permanent) of mudflat; 4.29 acres (3.93 acres temporary, 0.35 acres permanent) of shallow sub-tidal; and 2.36 acres (2.14 acres temporary, 0.21 acres permanent) of open water will be disturbed from construction activities. Compensatory mitigation is anticipated for the permanent loss of emergent wetlands (0.07 acres) and mudflat (0.07 acres). However, a compensatory mitigation site has not been selected, and mitigation for shallow subtidal and open water habitats has not been included. Compensatory mitigation should include all permanent impacts to aquatic habitats and may be satisfied by the purchasing of credits at a federally-approved mitigation bank if the bank's service area includes the project site.

Because these construction activities will adversely affect EFH, we offer the following information to further avoid, minimize, or otherwise offset impacts to our trust resources.

Magnuson Stevens Fishery Conservation and Management Act

The MSA and FWCA require federal agencies to consult with us on projects such as this that may adversely affect EFH and other aquatic resources. Our recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. This process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in this consultation procedure. While our regulations also allow a federal agency such as FRA to designate a non-federal representative such as Amtrak to conduct the EFH consultation, it is important to note that the FRA remains ultimately responsible for compliance with sections 305(b)(2) and 305(b)(4)(B) of the MSA.

The project area has been designated as EFH for a number of federally managed species including winter flounder (*Pseudopleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), Atlantic herring (*Clupea harengus*), bluefish (*Pomatomus saltatrix*), summer flounder (*Paralichthys dentatus*), Atlantic butterfish (*Peprilus triacanthus*), Atlantic mackerel (*Scomber scombrus*), scup (*Stenotomus chrysops*), several species of skates and others. The Hutchinson River is also a migratory corridor for anadromous fishes such as alewife (*Alosa pseudoharengus*), and blueback herring (*Alosa aestivalis*) (collectively, river herring). River herring serve as prey for federally managed species. As a result, adverse effects to their migration and spawning can be considered an adverse effect on EFH.

We have reviewed the EFH assessment and agree with your determination that the adverse effects of this project on EFH will not be substantial, provided that our conservation recommendations are followed. As discussed in the EFH assessment, project activities have been designed to avoid and minimize impacts to the extent practical, which includes best management practices (BMPs) that reduce turbidity and noise. These BMPs include the use of a vibratory hammer and deploying a turbidity barrier to surround the work areas. We recommend that vibratory pile driving be used to the maximum extent practicable. Also, should an impact hammer be used, we recommend using soft start procedures and cushion blocks. The project schedule limits in-water work between January 1 and June 30 to avoid impacts to the early life stages of winter flounder (January 1 – May 31) and migrating river herring (March 1 – June 30). We also appreciate that the FRA and Amtrak intend to restore areas temporarily impacted and provide compensatory mitigation for the unavoidable permanent loss of emergent tidal wetlands and mudflats. However, compensatory mitigation should be provided for the loss of all aquatic habitats, inclusive of subtidal and open water, which are currently absent from this plan. While a mitigation site has not yet been determined, we expect that a mitigation plan will be finalized prior to construction. We are happy to continue to work with you on site selection as well as in the development of a mitigation, monitoring and adaptive management plan.

Essential Fish Habitat Conservation Recommendations
Pursuant to Section 305(b)(4)(A) of the MSA we recommend that you adopt the following EFH conservation recommendations to avoid, minimize or offset adverse impacts on EFH:

- Continue to avoid in-water work between January 1 through June 30, protective of winter flounder early life stages (January 1 – May 31) and migrating river herring (March 1 – June 30).
- Do not begin in-water construction activities until compensatory mitigation is finalized by having a final mitigation plan that has been reviewed by NMFS Habitat and Ecosystem Services Division and accepted by the US Army Corps of Engineers.
    - Continue to coordinate with our office on site selection and the development of the mitigation plan.
    - Incorporate monitoring, long-term and adaptive management plans, inclusive of goals and performance measures into the compensatory mitigation plan.
    - Initiate construction of the compensatory mitigation project prior to or concurrent with the impacts to the aquatic environment and monitoring shall be for five years, providing annual reports to our office.
- Ensure that work barges float (do not sit grounded on-bottom) during all stages of the tide.
- Use a vibratory hammer to the maximum extent practicable for the installation of piles and sheet piles (if needed).
- Should an impact hammer be necessary during pile installation, employ soft start procedures and cushion blocks as described in the 2017 NOAA Fisheries/Federal Highway Administration Best Management Practices Manual For Transportation Activities in the Greater Atlantic Region (https://media.fisheries.noaa.gov/dam-migration/nmfs-garfo-fhwa-bmp-manual-cover-v1-2017_0.pdf) found on our programmatic consultation website at https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/programmatic-consultations .

Please note that Section 305(b)(4)(B) of the MSA requires you to provide us with a detailed written response to these EFH conservation recommendations, including a description of measures adopted by you for avoiding, minimizing, mitigating, or offsetting the impacts of the project on EFH. In the case of a response that is inconsistent with our recommendations, Section 305(b)(4)(B) of the MSA also indicates that you must explain your reasons for not following the recommendations. Included in such reasoning would be the scientific justification for any disagreements with us over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects pursuant to 50 CFR 600.920(k). This response must be provided within 30 days after receiving our EFH conservation recommendations. Please also note that further EFH consultation must be reinitiated pursuant to 50 CFR 600.920(j) if new information becomes available, or if the project is revised in such a manner that affects the basis for the above determination.

Conclusion
We look forward to your response to our EFH conservation recommendations on this project. As always, we are available to coordinate with your staff so that this project can move forward efficiently and as expeditiously as possible. If you have any questions or need additional

information, please contact Jessie Murray in our Highlands, NJ field office at 732-872-3116 or Jessie.Murray@noaa.gov.

Sincerely,

Louis A. Chiarella
Assistant Regional Administrator
for Habitat and Ecosystem Services

cc:

GARFO PRD – E. Carson-Supino
GARFO HESD – K. Greene
ACOE New York District – S. Ryba, R. Miranda
USCG - D. Leoce
Amtrak – R. Snyder
NYSDEC – J. Socrates, C. Bauer
USFWS – S. Papa
USEPA – M. Finocchiaro
MAFMC – C. Moore
NEFMC – C. O'Keefe
ASMFC – R. Beal