

Appendix F3

NYSHPO Correspondence

Western Rail Yard Platform Project
Section 106 Documentation
Proposed Area of Potential Effects (APE)
July 3, 2020

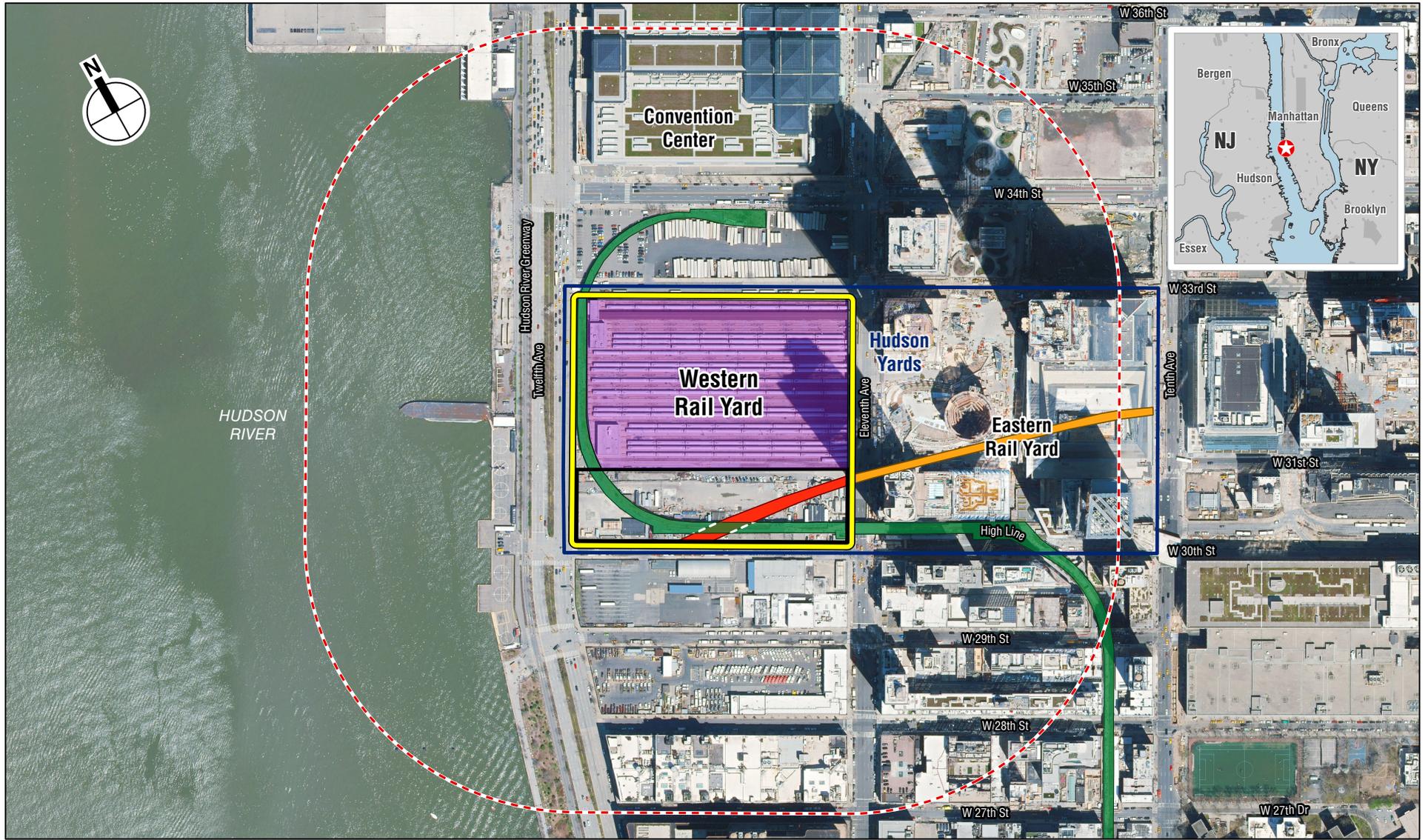
A. PROJECT OVERVIEW AND BACKGROUND

WRY Tenant LLC and the National Railroad Passenger Corporation (Amtrak) are partnering in a joint venture (the Project Sponsor) to seek Federal financial assistance through the Railroad Rehabilitation and Improvement Financing (RRIF) Program, which is administered by the U.S. Department of Transportation (DOT) Build America Bureau (Bureau). The Federal Railroad Administration (FRA) is the lead agency preparing the environmental impact statement (EIS) to ensure compliance with the National Environmental Policy Act of 1969 (NEPA) and other environmental laws. The Project Sponsor has expressed an interest in seeking financial assistance provided by the Bureau to fund the construction of a Platform and a Tunnel Encasement on the 13-acre Western Rail Yard site located on the western half of the Metropolitan Transportation Authority (MTA) Long Island Rail Road (LIRR) John D. Caemmerer Yard (aka “Hudson Yards”) (Block 676, Lot 3) in New York County (Manhattan), New York (**Figure 1**). The Proposed Action would include: (1) a structural Platform (Platform); and (2) a railroad right-of-way preservation Tunnel Encasement (Tunnel Encasement) (the “Proposed Action”, also referred to here as the “Project”) to allow for privately-funded mixed-use development and public open space above the Platform as described below.

The two components of the Project have previously been reviewed in accordance with local, state, and federal environmental planning requirements as follows:

- The Platform and mixed-use development (Overbuild) were reviewed in accordance with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law during the State Environmental Quality Review Act (SEQRA) and City Environmental Quality Review (CEQR) review for the Western Rail Yard Project (08PR03724, 08PR04116) in the 2009 *Western Rail Yard Project Final Environmental Impact Statement* (2009 SEQRA/CEQR FEIS). As part of that evaluation, New York State Office of Parks, Recreation and Historic Preservation (SHPO) determined that construction near and around the High Line in Western Rail Yard is appropriate (since historically buildings have been located in this manner) subject to the stipulations in a Letter of Resolution developed with MTA and the New York City Planning Commission. For archaeological resources, the 2009 SEQRA/CEQR FEIS relied on the assessment of potential archaeological sensitivity prepared for the 2004 *No. 7 Subway Extension-Hudson Yards Rezoning and Development Program FGEIS*, which concluded that the Western Rail Yard was not sensitive for archaeological resources. In a comment letter dated April 29, 2009, SHPO confirmed it had no further archaeological concerns with the Western Rail Yard Project. The Overbuild was approved in 2009 by the New York City Planning Commission and adopted by the New York City Council as zoning text and map amendments to the New York City Zoning Resolution. The Overbuild development is now as-of-right development, since it will be built in accordance with the New York City Zoning Resolution’s existing zoning controls, which regulate type of use, building envelopes, publicly accessible open space areas, street wall controls, retail continuity, and maximum floor area ratio (i.e., the ratio of floor area to lot size).
- The Tunnel Encasement is the third and westernmost segment of the entire right-of-way preservation concrete casing that previously underwent environmental reviews¹ led by FRA, which included reviews

¹ *Finding of No Significant Impact, Environmental Assessment for Construction of a Concrete Casing in the Hudson Yards, New York, New York*. (FRA and Amtrak, May 2013); and *Finding of No Significant Impact, Supplemental Environmental Assessment for Construction of a Concrete Casing Extension in the Hudson Yards, New York, New York*. (FRA and Amtrak, November 2014).



- Project Site (Western Rail Yard)
- Area of Potential Effect (see accompanying APE Memo)
- Hudson Yards
- Approximate Terra Firma Area
- Proposed Platform
- Existing Concrete Encasement
- Proposed Tunnel Encasement
- Existing High Line Park (Remains Unaltered)

0 400 FEET

WESTERN RAIL YARD INFRASTRUCTURE PROJECT

Project Location and Area of Potential Effect

Figure 1

in accordance with Section 106 of the National Historic Preservation Act of 1966 (as amended). In a letter dated April 1, 2013, SHPO confirmed the agency had no archaeological concerns regarding the concrete encasement. In a letter dated July 22, 2014, SHPO concurred with FRA's determination that the undertaking would have no adverse effects on historic properties provided that construction monitoring of the High Line would occur per the New York City Building Code *Technical Policy and Procedure Notice #10/88* (14PRO2712).

As described in the Notice of Intent (*Federal Register* [June 15, 2020/Vol. 85, No. 115]), the purpose of the Proposed Action is to cover and protect the active railroad tracks and LIRR support facilities in the Western Rail Yard so that the Project Sponsor can provide additional new capacity for real estate development and house critical life safety and mechanical, electrical and plumbing support services for the Yard, including new lighting, sprinklers, and an extensive platform ventilation system. The purpose of the Tunnel Encasement is to preserve a right-of-way through the Western Rail Yard to support the future construction of a trans-Hudson passenger rail crossing into New York Penn Station.

FRA is coordinating the NEPA process for the Project with compliance with Section 106 of the National Historic Preservation Act (Section 106). FRA intends to identify a Preferred Alternative for the Project in the Draft EIS. The Project, which is also the undertaking for purposes of Section 106, would include the following major components:

PLATFORM COMPONENT

- Construction of a 425,000 square foot (9.8 acre) structural platform on the Western Rail Yard site, to be supported by approximately four hundred (400) caissons drilled up to 120 feet deep into bedrock below. The Platform would serve as the support for the as-of-right Overbuild of approximately 5.7 million gross square feet of new commercial, residential, and school uses and public open space.
- Installation of life safety and mechanical, electrical and plumbing support services for the Western Rail Yard, including new lighting, sprinklers and an extensive platform ventilation system, which would be integrated into the system for the Eastern Rail Yard site, across Eleventh Avenue.
- Reconstruction and upgrades to other LIRR support services including existing emergency electrical equipment, approximately 20,000 square feet of railroad staff facilities and rail car cleaning services. At its northern end, the Western Rail Yard contains a 12-car cleaning platform used to service and clean railroad equipment that is currently not in use because operations were moved offsite before construction of the adjacent Eastern Rail Yard. The cleaning platform and three LIRR service buildings on the western edge of the Western Rail Yard will be demolished to allow for the Platform construction. These structures have been built since the rail yard was reconstructed in 1986 and are not historic. Once construction of the Platform is completed, the cleaning platform will be reconstructed in its former location. Interim service buildings will be constructed on the western portion of the *terra firma* (at grade solid ground) site, adjacent Twelfth Avenue; LIRR's security fence would be extended around the interim service buildings site and would be controlled by LIRR. The service buildings will be reconstructed in approximately the same footprint, and in accordance with LIRR program requirements. The service buildings will be designed to comply with applicable codes for an enclosed rail yard, New York State Building Code requirements, and to meet accessibility requirements.

TUNNEL ENCASEMENT COMPONENT (RAILROAD RIGHT-OF-WAY PRESERVATION)

- The Tunnel Encasement would be an extension of the existing concrete casing, and would extend from Eleventh Avenue to 30th Street, to preserve railroad right-of-way through the southern portion of the Western Rail Yard site. This segment of Tunnel Encasement would connect to the recently constructed underground right-of-way preservation concrete casing, which begins just east of Tenth Avenue

(between 30th and 32nd Streets), runs beneath the Eastern Rail Yard, and terminates at the eastern edge of Eleventh Avenue just north of 30th Street (completed in 2015). The Tunnel Encasement would be 605 feet long, between 50 and 65 feet wide and between 27 and 38 feet high beneath Western Rail Yard. This Tunnel Encasement would be constructed through a *terra firma* portion of the Western Rail Yard site that will not be covered by the new platform. The Tunnel Encasement would originate at the western end of the underground concrete casing in the Eastern Rail Yard, extend under the Eleventh Avenue viaduct, and continue diagonally across approximately two-thirds of the Western Rail Yard, underneath a portion of the High Line², and end at 30th Street.

B. DEVELOPMENT OF THE AREA OF POTENTIAL EFFECTS

Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, or approve. If a federal or federally-assisted project has the potential to affect historic properties, a Section 106 review is required. Federal agencies carry out their Section 106 obligations according to the regulations issued by the Advisory Council on Historic Preservation at 36 CFR Part 800. Section 106 is a four-step decision-making process; one required step is to define the Area of Potential Effects (APE), which is “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if such properties exist” (36 CFR § 800.16[d]). Historic properties are buildings, structures, sites, objects, or districts that are listed in or eligible for listing in the National Register of Historic Places (NRHP). The APE is influenced by the scale and nature of an undertaking.

The proposed APE described herein and depicted in **Figure 1** has been developed by FRA to account for potential effects of the Project on historic properties, based on the conceptual design for the Project available at this time. In general, potential effects on historic properties can include demolition, physical alteration, or damage, including effects caused by vibration; isolation of a historic property from its surrounding environment; and the introduction of visual, audible, or atmospheric (e.g., pollutants) elements that are out of character with a historic property or that alter its historic setting and context.³ Effects may include reasonably foreseeable effects caused or enabled by the Project that may occur later in time, be farther removed in distance, or be cumulative with other effects from other projects. Adverse effects can occur when a project may alter any of the characteristics of a historic property that qualify the property for inclusion in the National Register of Historic Places (NRHP) in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.

FRA anticipates that the following types of construction activities and permanent features would be necessary for the Project:

PLATFORM COMPONENT

- Construction of a 425,000 square foot (9.8 acre) structural platform, including new lighting, sprinklers and an extensive platform ventilation system, to be supported by hundreds of caissons drilled up to 120 feet deep into bedrock below;
- Reconstruction and upgrades to other LIRR support services including existing emergency electrical equipment, approximately 20,000 square feet of railroad staff facilities and rail car cleaning services.

² The High Line is an historic elevated former freight rail line, which has been converted into a public aerial linear park and greenway. The High Line was determined eligible for listing on the State and National Registers of Historic Places in 2004.

³ National Register Bulletin, Defining Boundaries for National Register Properties, prepared by the National Park Service.

At its northern end, Western Rail Yard contains a 12-car cleaning platform used to service and clean railroad equipment. The cleaning platform, and service buildings, will be demolished to allow for the Platform construction, and will be reconstructed as part of the Project, as described above. The interim service buildings will be constructed on the western portion of the *terra firma* site, adjacent Twelfth Avenue.

- Construction staging areas for the construction of the Platform (most staging is planned to occur on the Project site; possibly extending into some adjacent sidewalks and parking lanes during certain phases of construction). No off-site staging is anticipated.

TUNNEL ENCASEMENT COMPONENT

- Excavation of approximately 66,000 cubic yards of soil and 14,000 cubic yards of rock for the construction of the Tunnel Encasement for the preservation of rail right-of-way. The volumes of soil and rock to be excavated have been estimated by Amtrak based on the Tunnel Encasement design; these volumes will be more precisely determined during the bid process for procuring the Tunnel Encasement construction contractor.
- Demolition of LIRR's Emergency Services Building (ESB) (a structure that primarily houses utility infrastructure) in the Western Rail Yard, temporary relocation of ESB functions, and reconstruction of the building following completion of the Tunnel Encasement. The temporary ESB functions will be located in the southeast corner of the Western Rail Yard on a small portion of existing elevated concrete (at street level to maximize flood protection). This relocation will provide redundant fire water sourcing to the yard, eliminating the need for the existing secondary water tank and fire pump room. Therefore, the interim emergency services facility will function essentially as a substation for emergency facility (not train) power and communications.
- Temporary underpinning of the High Line. Temporary underpinning may be required where the Tunnel Encasement would cross beneath a portion of the High Line that runs along West 30th Street between Eleventh and Twelfth Avenues. This work will include approximately 280 feet of underpinning and re-support onto new foundations of either total (both) columns or partial (one) columns, as described in more detail below. The westernmost 80 feet of underpinning on 30th Street will re-support columns of the High Line that would require re-support for the Hudson Tunnel mining approach.
- Construction staging areas for the construction of the Tunnel Encasement. Most staging is planned to occur on the Project site; possibly extending into some adjacent sidewalks and parking lanes during certain phases of construction. No off-site staging is anticipated.

In addition, the privately-funded Overbuild, which would be enabled by the Project, includes 5.7 million gross square feet of residential, commercial, school, and open space uses on top of the Platform and on the *terra firma* portion of the Western Rail Yard site. Construction of the Overbuild would introduce new, permanent visual components on the Western Rail Yard site.

The proposed APE for the Project is discussed in greater detail below. Existing conditions in the proposed APE are depicted in **Figures 2 through 5**.

C. DESCRIPTION OF THE PROPOSED AREA OF POTENTIAL EFFECTS

The proposed APE (depicted in red-and-white dash in **Figure 1**) encompasses the area 800 feet in all directions from the Western Rail Yard site boundary (depicted in yellow in **Figure 1**). The proposed APE takes into account construction-related effects as well as the visibility of permanent above-grade Project components, including the proposed Platform and Tunnel Encasement. The proposed APE also accounts for the potential indirect effects of the Overbuild. The proposed APE encompasses a sufficiently large area



Source: AKRF

View south from West 34th Street and Hudson Boulevard East

1



Source: AKRF

View south from West 34th Street and Eleventh Avenue

2



Source: AKRF

View southeast from northern end of High Line, near Twelfth Avenue and West 34th Street 3



Source: AKRF

Eleventh Avenue, view north from West 30th Street 4



Source: AKRF

South side of West 30th Street, west of Eleventh Avenue 5



Source: AKRF

West 30th Street, view west from Eleventh Avenue 6



Source: AKRF

View east toward project site, from Route 9A at West 30th Street 7



Source: AKRF

North side of West 29th Street, west of Eleventh Avenue 8



Source: AKRF

View southeast from High Line, from roughly West 31st Street

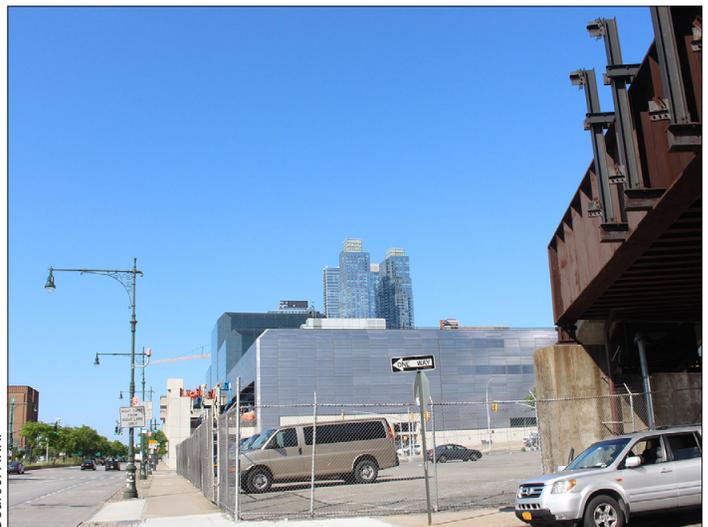
9



Source: AKRF

Eleventh Avenue looking north from near West 33rd Street

10



Source: AKRF

Route 9A, looking north from near West 33rd Street

11

to account for permanent visual impacts of the Project. The APE takes into consideration topography, vegetation, and the existing built environment that diminish sight lines. Field reconnaissance conducted by AKRF and information provided by the Project Sponsor regarding the characteristics of the Project components were utilized to help define the proposed APE. The analysis of potential effects to below-ground (archaeological) resources will be limited to the area of anticipated ground disturbance, which is within the Western Rail Yard site boundary.

The proposed APE for the Project is consistent with the APE developed for the 2009 SEQRA/CEQR FEIS for the Western Rail Yard site, and encompasses the smaller APE developed for FRA's previous evaluation of the entire right-of-way preservation concrete encasement (of which the Tunnel Encasement is the westernmost third segment, as described above).

PLATFORM COMPONENT

Potential effects as a result of construction of the Platform are included in the proposed APE. Construction effects could include noise and vibration effects to nearby architectural resources from construction activities, including heavy truck movements. The Platform development would involve subsurface ground disturbance on the site, which could directly impact archaeological resources if any are present. Once constructed, the Platform would not introduce any permanent visual components; it would be covered by the privately-funded, as-of-right Overbuild (described above).

TUNNEL ENCASEMENT COMPONENT

Construction of the railroad right-of-way preservation Tunnel Encasement is included in the proposed APE. Construction effects could include noise and vibration effects to nearby architectural resources from construction activities, including heavy truck movements. Construction of the Tunnel Encasement would involve subsurface ground disturbance on the site, which could directly impact archaeological resources if any are present. Once constructed, the Tunnel Encasement would not introduce any permanent visual components above grade.

CONSTRUCTION STAGING AREAS

The proposed APE includes the construction staging areas for the Platform and the Tunnel Encasement. At-grade and subsurface ground disturbance would occur in these areas, which could directly impact archaeological resources if any are present. The construction staging areas would not have permanent visual impacts. Therefore, the potential for construction-related impacts for these two Project components would be limited to a 100-foot buffer around the Western Rail Yard site boundary, that falls within the 800-foot APE.

UNDERPINNING OF STRUCTURES

Underpinning, which consists of the re-supporting of the below-grade foundations of an existing building or structure on new foundations, may be required beneath the High Line where the Tunnel Encasement would cross beneath a portion of the High Line that runs along West 30th Street between Eleventh and Twelfth Avenues. In general, beams will be installed across the proposed open cut (one on each side of the columns), the High Line columns will be supported on those beams utilizing brackets mounted to the columns, new foundations will be built down to the concrete casing roof of other new deep foundations, and support of the High Line will be transferred onto these new, permanent foundations.⁴ Underpinning

⁴ In accordance with High Line Park's easement to utilize the rail structure, which states that the original rail use must be able to be restored, the underpinning for permanent re-support of the High Line incorporates full historic rail live loading, which is significantly greater than the current park use.

the High Line would not have permanent visible impacts. The potential for construction-related impacts for this work, which could occur as a result of vibration from construction activities, falling debris, and/or inadvertent damage caused by heavy machinery, among other things, would be limited to a 100-foot buffer around the portions of the High Line to be underpinned, that falls within the 800-foot APE.



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

July 3, 2020

Mr. Daniel Mackay
Deputy Commissioner
Division for Historic Preservation
New York State Historic Preservation Office
Pebbles Island State Park, P.O. Box 189
Waterford, NY 12188

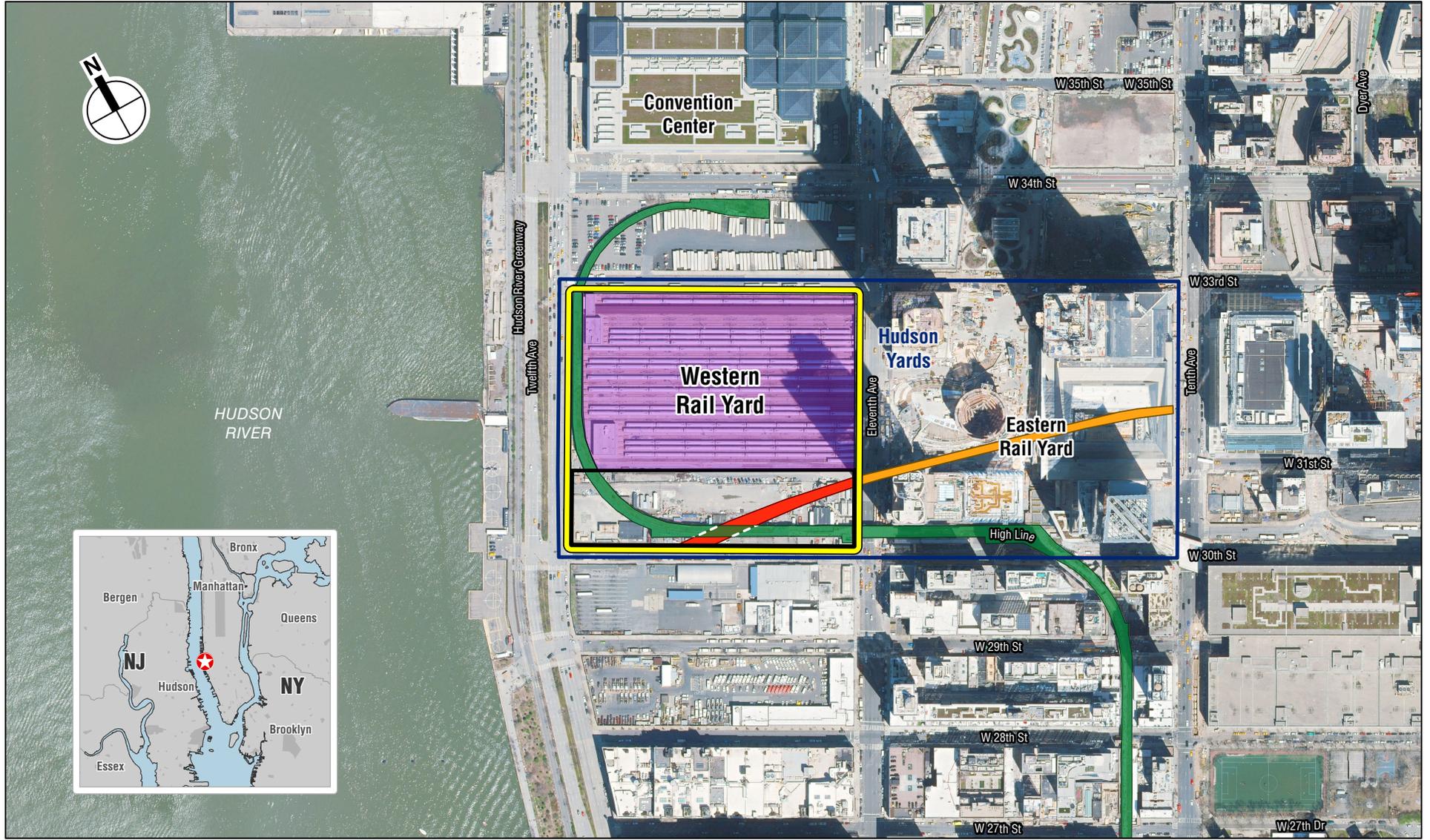
**Re: Western Rail Yard Platform Project, New York County, NY
Initiation of Section 106 Consultation
Proposed Area of Potential Effects
Preliminary List of Consulting Parties**

Dear Mr. Mackay:

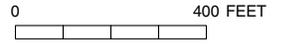
WRY Tenant LLC and the National Railroad Passenger Corporation (Amtrak) are partnering in a joint venture (Project Sponsor) to seek Federal financial assistance through the Railroad Rehabilitation and Improvement Financing (RRIF) Program, which is administered by the U.S. Department of Transportation (USDOT) Build America Bureau (Bureau). The Project Sponsor has expressed an interest in seeking financial assistance provided by the Bureau to fund the construction of a Platform and a Tunnel Encasement on the 13-acre Western Rail Yard site located on the western half of the Metropolitan Transportation Authority (MTA) Long Island Rail Road (LIRR) John D. Caemmerer Yard (aka “Hudson Yards”) (Block 676, Lot 3) in New York County (Manhattan), New York (**Figure 1**).

The Proposed Action includes: (1) a structural Platform (Platform); and (2) a railroad right-of-way preservation Tunnel Encasement (Tunnel Encasement) (the “Proposed Action,” also referred to here as the “Project”) to allow for privately-funded mixed-use development and public open space above the Platform. The USDOT’s Federal Railroad Administration (FRA) is the lead federal agency preparing an environmental impact statement (EIS) for the Project to ensure compliance with the National Environmental Policy Act of 1969 (NEPA) and other applicable environmental laws.

The purpose of the Project is to cover and protect the active railroad tracks and LIRR support facilities in the Western Rail Yard so that the Project Sponsor can provide additional new capacity for real estate development and house critical life safety and mechanical, electrical and plumbing support services for the yard, including new lighting, sprinklers and an extensive platform ventilation system. The Platform would serve as the support for privately-funded mixed-use



- Project Site (Western Rail Yard)
- Hudson Yards
- Approximate Terra Firma Area
- Proposed Platform
- Existing Concrete Encasement
- Proposed Tunnel Encasement
- Existing High Line Park (Remains Unaltered)



WESTERN RAIL YARD INFRASTRUCTURE PROJECT

Project Location
Figure 1

development and public open space above. Construction of the Platform would include the reconstruction and upgrades to other LIRR support services including existing emergency electrical equipment, approximately 20,000 square feet of railroad staff facilities, and rail car cleaning services. Once complete, the entire yard would contain comprehensive state-of-the-art life safety systems, securing this critical infrastructure and protecting both the workers and the railroad equipment in the yard. The Tunnel Encasement would be constructed underneath the Western Rail Yard site. The purpose of the Tunnel Encasement is to preserve a right-of-way through the Western Rail Yard to support the future construction of a trans-Hudson passenger rail crossing into New York Penn Station. New rail infrastructure is part of Amtrak's effort to maintain a functional, resilient, and improved trans-Hudson passenger rail crossing into New York Penn Station, maintain existing Amtrak intercity and NJ TRANSIT commuter rail service on the Northeast Corridor, and to support future increases in the capacity of the regional rail system should they be pursued. The Project does not include any efforts to make the encasement operational. This preserved right-of-way may be used by a new Hudson River Tunnel that is being evaluated by FRA as part of the separate and independent Hudson Tunnel Project, which is the subject of an on-going Environmental Impact Statement (EIS).

The two components of the Project have previously been reviewed by your office in accordance with local, state and federal environmental planning requirements as follows:

- The Platform and mixed-use development (Overbuild) were reviewed in accordance with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law during the State Environmental Quality Review Act (SEQRA) and City Environmental Quality Review (CEQR) process in 2009 for the Western Rail Yard Project in 2009 (08PR03724, 08PR04116) in the 2009 *Western Rail Yard Project Final Environmental Impact Statement* (2009 SEQRA/CEQR FEIS). Your office determined that construction near and around the High Line in Western Rail Yard is appropriate (since historically buildings have been located in this manner) subject to the stipulations in a Letter of Resolution (LOR) developed with MTA and the New York City Planning Commission. Your office suggested developing the LOR because the design details for the Overbuild were not yet available. The Overbuild was approved in 2009 by the New York City Planning Commission and adopted by the New York City Council as zoning text and map amendments to the New York City Zoning Resolution. The Overbuild development is now as-of-right development, since it will be built in accordance with the New York City Zoning Resolution's existing zoning controls, which regulate type of use, building envelopes, publicly accessible open space areas, street wall controls, retail continuity, and maximum floor area ratio (i.e., the ratio of floor area to lot size). For archaeological resources, the 2009 SEQRA/CEQR FEIS relied on the assessment of potential archaeological sensitivity prepared for the 2004 *No. 7 Subway Extension-Hudson Yards Rezoning and Development Program FGEIS*, which concluded that the Western Rail Yard was not sensitive for archaeological resources. In a comment letter dated April 29, 2009, your office confirmed it had no further archaeological concerns regarding the Western Rail Yard project.

- The Tunnel Encasement is the third and westernmost segment of the entire right-of-way preservation concrete casing that previously underwent environmental reviews led by FRA, which included reviews in accordance with Section 106 of the National Historic Preservation Act of 1966 (as amended) and its implementing regulations at 36 Code of Federal Regulations (CFR) Part 800. In a letter dated April 1, 2013, your office confirmed it had no archaeological concerns regarding the concrete encasement. In a letter dated July 22, 2014, your office concurred with FRA's determination that the undertaking would have no adverse effect on historic properties provided that construction monitoring of the High Line would occur per the New York City Building Code *Technical Policy and Procedure Notice #10/88* (14PRO2712).

FRA is preparing an EIS for the Project in compliance with NEPA, the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500-1508), 23 U.S.C. § 139, and 23 CFR part 771 and 774. The Notice of Intent was published on June 15, 2020 (*Federal Register, Vol. 85, No. 115*). Consistent with regulations issued by the Advisory Council on Historic Preservation (36 CFR part 800), FRA intends to coordinate compliance with Section 106 of the NHPA with the preparation of the EIS. By way of this letter and in accordance with 36 CFR 800.3, FRA is initiating Section 106 review for the Project (which is also the Undertaking for purposes of Section 106). The Overbuild that would be supported by the Platform is within the development envelope adopted by the New York City Council as zoning text and map amendments to the New York City Zoning Resolution. The Project site, including construction staging areas, have not been expanded from what was previously reviewed by your office. The design for the Platform has not changed substantively, although minor refinements have been made as MTA-LIRR review of the design has progressed. As the Section 106 process for the Project advances, FRA will update your office if there are any changes in conditions related to the construction of the Tunnel Encasement from the 2014 no adverse effect determination.

In addition to initiating Section 106 consultation, FRA requests your review of the enclosed preliminary list of entities to be invited to participate in the Project's Section 106 review as consulting parties in accordance with 36 CFR. 800.2(c) (**Attachment A**). In accordance with 36 CFR 800.4(a)(1), FRA has also developed the proposed Area of Potential Effects (APE) for the Project, to account for potential effects on historic properties based on the conceptual design for the Project and potential indirect effects of the Overbuild. A memo providing additional background and an overview of the Project and detailing the proposed APE is enclosed for your review.

Due to the ongoing coronavirus disease 2019 (COVID-19) public health emergency, and consistent with the Centers for Disease Control and Prevention's guidance regarding large events and mass gatherings, FRA will conduct a virtual public scoping for the Project. FRA will also hold other Project meetings virtually, including Section 106 Consulting Party meetings, and encourages submission of comments for the Project electronically. Such meetings will be advertised as required. The EIS is being prepared on an accelerated schedule. The schedule for the environmental review and other Project information is posted at www.westernrailyardinfrastructure.com and at Regulations.gov, Docket Number: FRA-2020-

0039.

If you have any questions please contact me at laura.shick@dot.gov, or (202) 366-0340.

FRA looks forward to consulting with your office on this Project and receiving your comments on potential consulting parties and the proposed APE.

Sincerely,

A handwritten signature in blue ink that reads "Laura Shick".

Laura Shick
Supervisory Environmental Protection Specialist
Office of Railroad Policy and Development

Enclosures

cc: Stephanie Perez-Arrieta, Supervisory EPS, FRA
Andrea Poole, EPS, FRA
Rebecca Blatnica, EPS, Volpe, The National Transportation Systems Center

ATTACHMENT A:
Western Rail Yard Platform Project
Section 106 Consultation – Potential Consulting Parties

New York State Historic Preservation Officer

Mr. Daniel Mackay
Deputy Commissioner for Historic Preservation / Deputy SHPO
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188

Amtrak

Johnette Davies
Senior Historic Preservation Specialist
Amtrak
30th Street Station
2955 Market Street, Mailbox 55
Philadelphia, PA 19104

Advisory Council on Historic Preservation (to be invited)

Jaime Loichinger
Assistant Director, Federal Permitting, Licensing, and Assistance Section
401 F Street NW, Suite 308
Washington, DC 20001
Sarah Stokely
FRA Liaison, Federal Permitting, Licensing, and Assistance Section
1100 Pennsylvania Avenue NW
Washington, DC 20004

FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBES

Delaware Nation

Ms. Neckole Alligood
Tribal Historic Preservation Officer
Delaware Nation
ATTN: Cultural Preservation Department
PO Box 825
31064 State Hwy 281
Anadarko, OK 73005

Delaware Tribe

Blair Fink
Delaware Tribe Historic Preservation Office
Temple University, Department of Anthropology
Gladfelter Hall, Room 207
1115 W. Polett Walk
Philadelphia, PA 19122

Delaware Tribe of Indians, Oklahoma

Chester Brooks, Chief
Delaware Tribe of Indians, Oklahoma
Delaware Tribal Headquarters
5100 Tuxedo Blvd.
Bartlesville, OK 74006

Stockbridge-Munsee Community of Mohican Indians of Wisconsin

Shannon Holsey, President
Stockbridge-Munsee Community of Mohican Indians of Wisconsin
N8476 MoHeConNuck Road
Bowler, WI 54416

Shinnecock Indian Nation

Bryan Polite, Daniel S. Collins, Sr., Eugene Cuffee, II, Trustees
Shinnecock Indian Nation
Shinnecock Indian Nation Tribal Office
PO BOX 5006
Southampton, NY 11969-5006

OTHER NATIVE AMERICAN TRIBES

Eastern Delaware Nation

Corrine Remington, Secretary
Eastern Delaware Nation
corrine.remington@yahoo.com

Eastern Lenape Nation of Pennsylvania

Doris Pieschel, Secretary
Eastern Lenape Nation of Pennsylvania
21 Cedar Land
Mountville, PA 17554

**REPRESENTATIVES OF LOCAL GOVERNMENTS WHERE THE UNDERTAKING
MAY TAKE PLACE**

New York City

New York City Landmarks Preservation Commission

Sarah Carroll, Chair
New York City Landmarks Preservation Commission
David N. Dinkins Municipal Building
1 Centre Street, 9th Floor, North
New York, NY 10007

New York City Department of Parks and Recreation

Mitchell J. Silver, Commissioner
The Arsenal

Central Park
830 Fifth Avenue
New York, NY 10065

OTHER AFFECTED PARTIES

Hudson River Park Trust

Noreen Doyle
Executive Vice President
Hudson River Park Trust
Pier 40, 2nd Floor
353 West Street
New York, NY 10014

Friends of the High Line

Robert Hammond
Co-Founder and Executive Director
820 Washington Street
New York, NY 10014

OTHER ARCHAEOLOGICAL AND HISTORIC RESOURCE INTEREST GROUPS

Archaeology Interest Groups

Society for Industrial Archeology

Sandy Needham, President

Roebling Chapter

Society for Industrial Archeology

235 West End Avenue, Apt. 14C

New York, NY 10023-3648

Professional Archaeologists of New York City (PANYC)

c/o S. Spritzer

P.O. Box 1503

Murray Hill Station

New York, NY 10156-1503

Railroad History Interest Groups

Anthracite Railroads Historical Society

Kermit Geary Jr., President

P.O. Box 519

Lansdale, PA 19446

Erie Lackawanna Historical Society

Michael J. Connor, President

c/o David Start, Membership Chairman

Erie Lackawanna Historical Society

22 Ice Plant Road

Lafayette, NJ 07848-2403

National Railway Historical Society, Inc.

Albert L. Papp, Jr., President

New York Chapter

P.O. Box 254

Basking Ridge, NJ 07920

Railway & Locomotive Historical Society

Tommy Meehan, Chapter Chair

New York Chapter

42 Portland Pl., Fl. 2

Yonkers NY 10703-2206

Tri-State Railway Historical Society, Inc.

Michael DeVecchio, President

P.O. Box 1217

Morristown, NJ 07962



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

August 3, 2020

Laura Shick
Supervisory Environmental Protection Specialist, Office of Railroad Policy and Development
USDOT, Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: FRA
Western Rail Yard Platform Project
20PR03990

Dear Ms. Shick:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (NY Environmental Conservation Law Article 8).

We note that the project area contains a portion of the High Line Freight Railroad, which is eligible for listing in the State and National Registers (S/NR) of Historic Places. We further note that the following historic resources are located just outside of the project area: the West Chelsea Historic District, which is eligible for listing in the S/NR and is also a locally designated LPC Historic District; the former W&J Sloane Warehouse and Garage at 541-561 West 29th Street, which is eligible for listing in the S/NR; and the Hudson River Bulkhead, which is eligible for listing in the S/NR. We have reviewed the Section 106 initiation letter and the project overview and Area of Potential Effect (APE) memorandum that were submitted to our office on July 6th, 2020. Based upon our review, we concur with the proposed Area of Potential Effect and with the proposed list of Consulting Parties. We further note that our office has no archaeological concerns with the proposed undertaking.

If additional information or correspondence is required regarding this project it should be uploaded to our Cultural Resource Information System www.nysparks.com/shpo/online-tools/. Once on the CRIS site, you can log in as a guest and choose "submit" at the very top menu. Next choose "submit new information for an existing project". You will need this project number and your e-mail address. If you have any questions, I can be reached at (518) 268-2182.

Sincerely,

Olivia Brazee
Historic Site Restoration Coordinator
olivia.brazee@parks.ny.gov

via e-mail only

cc: Gina Santucci and Amanda Sutphin, NYC LPC
Jennifer Morris and Stephen Holley, AKRF, Inc.

Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • parks.ny.gov



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

November 13, 2020

Laura Shick
Supervisory Environmental Protection Specialist, Office of Railroad Policy and Development
USDOT, Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: FRA
Western Rail Yard Platform Project
20PR03990

Dear Laura Shick:

Thank you for continuing to consult with the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

We cannot concur with FRA's proposed determination. We agree that there are five historic properties eligible for listing in the National Register of Historic Places in the APE: the New York Improvements and Tunnel Extension of the Pennsylvania Railroad (North River Tunnel), the High Line, Hudson River Bulkhead, the former W & J Sloane Warehouse and Garage and the West Chelsea Historic District. We further agree that we have no archeological concerns.

We cannot concur with the proposed determination as we have no details regarding potential impacts to the High Line which is near the project. We acknowledge that in 2010 we signed a Letter of Resolution (LOR) under section 14.09 of our State Historic Preservation Act. However, the stipulations of this LOR have not been fulfilled and cannot substitute for review under Section 106. Please provide the following additional information:

1. Design plans for the proposed development project as it may affect the High Line.
2. A construction protection plan, protecting all historic resources within 90 feet of the proposed construction.

Documentation requested in this letter should be provided via our Cultural Resource Information System (CRIS) at <https://cris.parks.ny.gov/>. Once on the CRIS site, you can log in as a guest and choose "submit" at the very top menu. Go to "Other Options" and choose "submit new information for an existing project". You will need this project number and your e-mail address. If you have any questions, I can be reached at 518-268-2181.

Sincerely,

Beth Cumming
Senior Historic Site Restoration Coordinator
e-mail: beth.cumming@parks.ny.gov

via e-mail only

Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • parks.ny.gov



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

January 12, 2021

Mr. Daniel Mackay, Deputy Commissioner
Division for Historic Preservation
New York State Historic Preservation Office
Peebles Island State Park, P.O. Box 189
Waterford, NY 12188

**RE: Western Rail Yard Infrastructure Project, New York County, NY (20PR03990)
Section 106 Consultation: Determination of No Adverse Effect with Conditions**

Dear Mr. Mackay:

This letter continues the U.S. Department of Transportation (USDOT) Federal Railroad Administration's (FRA) consultation with your office pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) for the Western Rail Yard Infrastructure Project (20PR03990). The Project Sponsor, which is a joint venture between WRY Tenant LLC¹ and the National Railroad Passenger Corporation (Amtrak), is seeking Federal financial assistance through the Railroad Rehabilitation and Improvement Financing (RRIF) Program, a loan program administered by the USDOT's Build America Bureau (Bureau). FRA is performing the necessary analyses and consultations in accordance with the National Environmental Policy Act (NEPA), Section 106, and other federal environmental review requirements. The Project includes construction of (1) a structural Platform (Platform) and (2) a railroad right-of-way preservation Tunnel Encasement (Tunnel Encasement) to allow for privately-funded mixed-use development and public open space (Overbuild) above the Platform which would be constructed by WRY Tenant LLC.

FRA initiated Section 106 consultation on July 03, 2020, via an online submission to your office's Cultural Resource Information System; our submission included the proposed Area of Potential Effects (APE) for the undertaking, and a list of potential Consulting Parties. On August 03, 2020, your office concurred with the proposed APE. On October 15, 2020, FRA submitted a Historic Architectural Resources Background Study and Effects Assessment (HARBS/EA). On November 13, 2020, your office concurred with the HARBS/EA's findings regarding the eligibility of historic properties within the APE. However, your office was unable to concur with FRA's finding of no adverse effect. FRA has subsequently reevaluated the potential effects of the undertaking as outlined below.

¹ WRY Tenant LLC is an affiliate of the Related Companies LP.

Assessment of Effects

As detailed in the HARBS/EA report, FRA identified five historic properties eligible for listing in the National Register of Historic Places (NRHP-eligible) in the APE: the New York Improvements and Tunnel Extension of the Pennsylvania Railroad (North River Tunnel), the High Line, Hudson River Bulkhead, the former W & J Sloane Warehouse and Garage, and the West Chelsea Historic District. No NRHP-listed historic or archaeological properties were identified in the APE. One of the NRHP-eligible historic properties, the West Chelsea Historic District, is locally designated by the City of New York.

FRA has applied the criteria of adverse effects to the Hudson River Bulkhead, W & J Sloane Warehouse and Garage, and the West Chelsea Historic District. FRA finds that the Platform and future Overbuild is consistent with the built environment and setting in which these properties currently exist and that the undertaking will have no direct or indirect; physical, auditory, or visual effect on these historic properties.

FRA has applied the criteria of adverse effect to the New York Improvements and Tunnel Extension of the Pennsylvania Railroad (North River Tunnel). Because the Tunnel is completely underground through the APE, FRA has determined that the undertaking will have no direct or indirect; physical, auditory, or visual effect on this historic property. FRA recognizes that the nature of the work is such that there is the potential for inadvertent effects to the North River Tunnel caused by construction-related vibration.

FRA has applied the criteria of adverse effect to the High Line and determined that the construction of the Platform and Tunnel Encasement will have no direct; physical, auditory, or visual effect on this historic property. FRA recognizes that the nature of the work is such that there is the potential for inadvertent effects to the High Line due to construction related vibration and underpinning activities. FRA has determined that the undertaking could result in adverse effects to the High Line from the future Overbuild on the Platform, proposed by WRY Tenant LLC. These potential effects to the High Line were identified during development of the 2009 SEQRA/CEQR FEIS pertaining to the Western Rail Yard site and are fully described in the subsequent *Letter of Resolution Among Metropolitan Transportation Authority, New York City Planning Commission, New York State Office of Parks, Recreation and Historic Preservation, and WRY Tenant LLC Regrading The Western Rail Yard Project Manhattan, New York County (LOR)*, which states:

“**Whereas**, the Development Project could affect the High Line in the following ways: 1) by providing at least one access point a minimum of 12 feet in width to the High Line from the corner of West 30th Street and Twelfth Avenue; 2) physically altering the portion of the High Line along Twelfth Avenue to provide direct access between the High Line open space and the adjacent Western Open Space that would be located on the Development Site. Access would be provided along a minimum length of 75 feet and a maximum length of 150 feet of High Line frontage, requiring the removal of a portion of the High Line's eastern railing along Twelfth Avenue; 3) including a building at the southwest corner of the Development Site that could, in accordance with the zoning text amendment, be located adjacent to and above the High Line (provided that no portion of

the building is located within five feet of the edge of the High Line and any portion of the building above the High Line be located above a height of 50 feet above the High Line bed); 4) designing the two proposed buildings on the north side of the High Line along West 30th Street to extend under the High Line with a low-rise extension of the buildings' shared podium (none of the High Line's structural columns would be removed to accommodate such an extension); and 5) creating potential connections between adjacent buildings on the Development Site and the bed of the High Line.”

Determination of Effects

FRA has determined that the potential effects of the undertaking are as follows: possible inadvertent effects to the North River Tunnel and High Line during construction of the Platform, Tunnel Encasement, and/or Overbuild, and possible indirect physical and/or visual effects related to construction and operation of the Overbuild. USDOT/FRA will include conditions as part of its environmental decision regarding the Project, i.e., in the Record of Decision (ROD) for the Environmental Impact Statement in accordance with NEPA, and in any loan agreement to be negotiated between the Bureau and the Project Sponsor, to ensure that these potential effects to historic properties are not adverse. These conditions include: requiring the Project Sponsor to develop a Construction Environmental Protection Plan (CEPP) for the construction of the Platform and Tunnel Encasement in order to protect the North River Tunnel and High Line. The CEPP will be required to meet the guidelines set forth in the New York City Department of Buildings (DOB) *Technical Policy and Procedure Notice #10/88*, the *Protection for Landmarked Buildings* guidance document of the New York Landmarks Preservation Commission, and the National Park Service's *Preservation Tech Notes, Temporary Protection #3: Protecting a Historic Structure during Adjacent Construction*. The ROD and loan agreement will also require the Project Sponsor (which includes WRY Tenant LLC, a signatory to the LOR) to meet all of the conditions of the LOR which includes review of Overbuild design by the New York State Historic Preservation Office and New York City Landmarks Preservation Commission as well as development of a CEPP to protect the High Line during construction of the Overbuild.

Based on the application of the above conditions to the Project, FRA finds that the undertaking will have no adverse effect on historic properties (36 CFR 800.5(b)).

Request for Review and Comment

FRA respectfully requests that your office provide comment and concurrence on FRA's determination that the undertaking will have No Adverse Effect on historic properties because sufficient conditions will be imposed on the undertaking, through the ROD and loan agreement, to avoid adverse effects (36 CFR 800.5(b)). Based on your concurrence with FRA's No Adverse Effect finding and in consideration of the views of consulting parties, FRA intends to make a *de minimis* impact determination for the minor Section 4(f) use of The High Line. Should you disagree with FRA's finding, please notify us within 30 days. An e-mailed response is preferred to ensure timely receipt of your communications; FRA is working remotely at this time, and has limited access to mailed responses.

By copy of this letter, FRA is also providing its finding of effect to Consulting Parties for their review and comment concurrent with your office.

FRA recently requested an update from WRY Tenant LLC regarding the proposed Overbuild and has been reassured that the Overbuild is still very much in the conceptual design stage. At FRA's request, WRY Tenant LLC's consultant, AKRF, will reach out to your staff in the next couple of weeks to provide an informational update on the current concept for the Overbuild.

If you have any questions or wish to discuss this undertaking, please contact me at WRYProject@dot.gov or (202) 366-0340.

Sincerely,



Laura A. Shick
Supervisory Environmental Protection Specialist
Environmental & Corridor Planning
Division Office of Railroad Policy and
Development

cc: Nathan Allison, Tribal Historic Preservation Office, Stockbridge-Munsee Mohican Tribe
Marie Corrado, Senior Director, Gateway Program, Amtrak
Timothy Frye, Director of Special Projects & Strategic Planning NYC Landmarks
Preservation Commission



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

February 11, 2021

Laura Shick
Supervisory Environmental Protection Specialist, Office of Railroad Policy and Development
USDOT, Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: FRA
Western Rail Yard Platform Project
20PR03990

Dear Laura Shick:

Thank you for continuing to consult with the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

We have reviewed your letter dated January 12, 2021. Based upon this review, it is the SHPO's opinion the proposed platform project will have No Adverse Effect provided the following conditions are met:

1. A construction Environmental Protection Plan (CEPP) shall be developed for the construction of the Platform and Tunnel Encasement to protect the historic North River Tunnel and High Line.
2. During design of the development project, the developer shall consult with the SHPO regarding those aspects of the design that relate to the High Line. Designs shall be submitted at the preliminary and pre-final design stages. If the SHPO makes substantive comments during the review stages, they may request the opportunity to comment on the final design plans.
3. If during design review, there are unavoidable adverse impacts to the historic resources, mitigation measures shall be developed in consultation with SHPO.

If you have any questions, I am best reached via e-mail.

Sincerely,

Beth Cumming
Senior Historic Site Restoration Coordinator
e-mail: beth.cumming@parks.ny.gov

via e-mail only