FEDERAL RAILROAD ADMINISTRATION

Moynihan Station Development Project

New York, New York

FINDING OF NO SIGNIFICANT IMPACT

The New York State Urban Development Corporation doing business as the Empire State Development Corporation ("ESDC"), its subsidiary the Moynihan Station Development Corporation ("MSDC"), and the Port Authority of New York and New Jersey ("PANY/NJ") have proposed to redevelop the James A. Farley Building (the "Farley Building") and its Western Annex (together, the "Farley Complex") into a new intermodal transportation facility, to be called the Daniel Patrick Moynihan Station ("Moynihan Station"). It is proposed that the intercity passenger rail operations of the National Railroad Passenger Corporation, doing business as Amtrak, would be relocated to Moynihan Station. Moynihan Station would be one component of the Moynihan Station Development Project (the "Project"), which would also include non-station commercial redevelopment of the Farley Complex and the construction of a 1.1 million square foot mixed-use building on a nearby site with unused development rights associated with the Farley Complex.

In its role as a funding partner for Moynihan Station and as the federal agency that oversees Amtrak's programs, the Federal Railroad Administration ("FRA") is the lead federal agency for purposes of the National Environmental Policy Act (42 U.S.C. § 4321 et seq.) and applicable regulations and agency guidance (40 C.F.R. Parts 1500-1508; 64 FR 28545) (collectively, "NEPA"), and the Federal Transit Administration, the Federal Highway Administration, and the United States Postal Service ("USPS"), are NEPA cooperating agencies. FRA must satisfy the requirements of NEPA and other applicable environmental and historic review requirements, including Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629) ("Executive Order 12898"), Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and corresponding regulations (36 C.F.R. Part 800) (collectively, "Section 106"), and Section 4(f) of the U.S. Department of Transportation Act (49 U.S.C. § 303) ("Section 4(f)"), before providing approvals or funding for the Project.

FRA and ESDC have prepared the Moynihan Station Development Project Environmental Assessment dated April 2010 (the "EA") in order to develop information that would assist FRA in satisfying these environmental and historic review requirements. The EA includes a detailed review of the potential environmental impacts of the Project, a Section 106 analysis, a Section 4(f) evaluation and an environmental justice analysis prepared pursuant to Executive Order 12898.

Based on the EA and other documents attached and discussed below, FRA finds that the Project will result in no significant impact on the environment or adverse effect on historic resources and, therefore, is issuing this: (a) finding of no significant impact ("FONSI") pursuant to NEPA; (b) no adverse effect determination pursuant to Section 106; and (c) de minimis impact finding under Section 4(f).

I. Introduction

A. Project Location and Need

The approximately 1.3-million-square foot Farley Complex occupies a superblock from West 31st to West 33rd Streets and from Eighth Avenue to Ninth Avenue in the Borough of Manhattan, City and State of New York. Built over the Pennsylvania Station ("Penn Station") rail facilities, including the westernmost portion of most of the Penn Station passenger platforms, the Farley Complex is integrated into the larger Penn Station Complex. The Farley Complex is listed on the State and National Registers of Historic Places and is also a designated New York City Landmark. ESDC purchased the Farley Complex from the USPS in 2007.

The Penn Station Complex is America's busiest passenger transportation facility, handling over 530,000 people daily. Yet the present terminal, a three-level, largely subterranean complex constructed after the demolition of the original station in 1965, is inadequate to meet the needs of today's passengers. Already operating at capacity, Penn Station is expected to experience significant operational stress in coming years because of increasing demand for service and a growing passenger load.

The purpose of the Project, which is fully described in Chapter 3 of the EA, is to create a major transportation hub that improves circulation and relieves capacity constraints in the Penn Station Complex, restores and preserves the Farley Complex, and creates a dynamic mixed-used development opportunity in the Hudson Yards area that supports City and State planning and development policies for West Midtown Manhattan. The Project would, in addition, greatly expand connections to existing rail infrastructure and passenger operations in the Penn Station Complex.

B. Project History

As described in detail in Chapter 2 of the EA, planning for a new intermodal transportation facility in the Farley Complex has undergone considerable environmental and historic review by both Federal and State agencies over the course of nearly twenty years.

In 1991, Amtrak identified the need to improve passenger circulation in Penn Station and create additional retail space to generate income for operational costs and, in 1992, proposed to convert portions of the Farley Building into an Amtrak passenger terminal to address both of those needs. Two years later, Congress appropriated the first of several federal grants for the further development of these plans. FRA, as the lead federal agency, initiated environmental and historic preservation reviews of the Pennsylvania Station Redevelopment Project pursuant to NEPA, Section 106 and other environmental and historic review requirements, which resulted in the issuance of a Draft EA for public comment in 1995.

Further refinement of the project scope and more detailed cost estimates revealed that the project could best be implemented through a funding partnership among the federal, state, and city governments and the integration into the project of a private development component. To lead and coordinate that relationship, ESDC formed a subsidiary in 1995, the Pennsylvania Station Redevelopment Corporation ("PSRC", which is now known as MSDC).

In 1999, FRA and ESDC prepared and issued an EA pursuant to NEPA and the New York State Environmental Quality Review Act ("SEQRA"), which contemplated development of a new intermodal transportation station and PSRC's lease of certain portions of the Farley Building from the United States Postal Service ("USPS"), which owned the Farley Complex. Based on that EA, in 1999 FRA issued a FONSI under NEPA (copy attached hereto as Attachment A) for the project under consideration and in 2000 ESDC issued a Negative Declaration under SEQRA. USPS was a cooperating agency in the development of both the 1995 Draft EA and the 1999 EA.

In 2002, ESDC proposed to purchase the Farley Complex from USPS for the new intermodal transportation facility and commercial center. In 2003, USPS, ESDC, FRA and other involved and cooperating agencies prepared a Draft Supplemental EA ("SEA") to address this proposal. A Final SEA was not issued due to ongoing project refinements.

As a result of such refinements, in 2004 MSDC and ESDC initiated the Farley/Moynihan Station Redevelopment Project (the "Farley/Moynihan Project"), which would incorporate the station concept analyzed in the Draft SEA, but would also expand the potential for private sector involvement in the project. In 2006, a Draft Environmental Impact Statement ("DEIS") and Final Environmental Impact Statement ("FEIS") were prepared under SEQRA for this plan. The FEIS concluded that the project, as then conceived, would not result in any significant unmitigated adverse impacts to the environment. As a result, MSDC and ESDC issued formal findings under SEQRA to that effect.

Based on the FEIS, in 2006 the USPS prepared a NEPA EA with FRA as a cooperating agency; later that year USPS issued a FONSI and entered into a Memorandum of Agreement with ESDC and the New York State Historic Preservation Office ("SHPO") to satisfy its Section 106 historic review obligations. Also in 2006, based on a review of the project's conceptual design, SHPO issued a letter to ESDC (the "2006 SHPO Letter") indicating that no adverse effects to historic resources were expected to result from the project provided that the project's final design was developed in consultation with SHPO. Subsequent to its receipt of the 2006 SHPO Letter, FRA entered into a Section 106 Programmatic Agreement with ESDC, MSDC, SHPO and MSDC's conditionally designated developer, to address the potential adverse effects to historic resources and satisfy FRA's Section 106 requirements with regard to the project. However, FRA and other federal transportation agencies did not complete NEPA findings on the 2006 Farley/Moynihan Project, since the project was not approved by the New York State Public Authorities Control Board and was subjected to further project planning that resulted in an expanded project scope. That expanded project scope was ultimately not pursued and the current Project is similar to the project assessed in the 2006 FEIS, 2006 EA, 2006 USPS FONSI, 2006 Memorandum of Agreement, the 2006 SHPO Letter and the 2006 Programmatic Agreement.

C. Project Description

As described in Section ES.3 of the EA Executive Summary and EA Chapter 3, the Project consists of a comprehensive program of improvements to the Farley Complex and certain western portions of the Penn Station complex, including the following elements:

- New facilities for rail passengers in the Farley Complex including a new, iconic, sky-lit Train Hall main concourse constructed largely within the Farley Building's original courtyard, and an Intermodal Hall with glass and metal skylight at street level.
- New entrances to the Penn Station West End Concourse through the Farley Building from Eighth Avenue and an approximately 30 percent increase in the combined total of passenger stairs, escalators, and elevators; an approximately 50 percent increase in passenger circulation space; and direct access to almost all the railroad platforms
- Dedicated drop-off lanes and curb cuts for taxi access located on the mid-block of West 33rd Street and/or West 31st Street.
- Extension and widening of the West End Concourse on the lower concourse level to the train shed's southern retaining wall and to Platform 12, providing access to seventeen tracks as compared to the nine tracks served today.
- Building systems and infrastructure improvements.
- Planned restoration program for the Farley Complex, including a comprehensive exterior building restoration, with stonework and mortar cleaned and refurbished, and windows restored and replaced as necessary.
- Enhanced access to the Eighth Avenue A, C, and E subway line and access improvements to the Eighth Avenue subway entrance, along with improved access for riders with disabilities through expansion and renovation of the existing 33rd Street Connector between Penn Station and the Farley Building, and the West End Concourse.
- A wide pedestrian corridor within the Farley Complex—along the alignment of West 32nd Street—that would provide pedestrian circulation between the Intermodal Hall and Ninth Avenue.
- Approximately 86,000 square feet of transit-related retail and commercial space.
- Activation and renovation of the diagonal mail platform (Platform 12) and the two adjacent tracks beneath the Farley Building.
- Potential new baggage handling corridor to be constructed at the far west end of the station, to facilitate Amtrak baggage handling and movements.
- USPS lease and continued use of approximately 265,000 square feet of the Farley Complex, including the historic postal lobby in the Farley Building.
- Non-station commercial development in the Farley Complex including retail, banquet facility, and/or hotel space in the Farley Building and a mix of commercial uses in the Western Annex, which could include large-scale retail anchors ranging from full-floor to two-floor users, as well as smaller category retail businesses.
- The utilization of approximately 1.0 million square feet of development rights associated with the Farley Complex at a site located on the western end of the One Penn Plaza block, fronting the east side of Eighth Avenue between West 33rd and West 34th Streets, for a mixed-use building.

II. Environmental Considerations

The Moynihan Station Development Project EA, which is attached as Attachment B, assesses the potential environmental impacts resulting from the construction and operation of the Project in the following fourteen technical areas: land use and socioeconomic conditions; historic properties; visual and aesthetic considerations; station circulation; transportation; air quality; noise and vibration; infrastructure and utilities; energy; natural resources; contaminated materials; construction impacts; public safety; and commitment of resources. In each instance, the EA concludes that no significant adverse environmental impacts are expected. The detailed analysis for each technical area is set forth in a separate subsection within Chapter 4 of the EA and is summarized in the Executive Summary.

III. Public and Agency Comments

Notice of the availability of the EA along with an invitation for the submission of public comments was published in the Federal Register on April 29, 2010 (75 FR 22674). The 30-day public comment period ran from April 28 to May 28, 2010. In addition, pursuant to Section 106, a Consulting Parties meeting was held on April 15, 2010 to discuss the Project and a draft of the Amended and Restated Programmatic Agreement (discussed below) was made available to attendees. Consulting Parties were invited to submit comments on the Project and EA during the meeting and comment period ending May 28, 2010. Comments on the draft Programmatic Agreement were accepted during the meeting and until May 3, 2010.

In parallel with the preparation of the EA pursuant to NEPA, ESDC and MSDC prepared a technical memorandum pursuant to SEQRA (the "Technical Memorandum") to assess whether new information, changed circumstances or proposed changes to the Project would result in any new or substantially different significant adverse impacts than what had been described in the 2006 FEIS or SEQRA Findings. ESDC and MSDC held a public hearing on April 28, 2010 and accepted public comments on the Project and Technical Memorandum until May 28, 2010. One joint Response to Comments was prepared that identified and responded to all of the comments received on the EA, Technical Memorandum and the Project during the public hearing and public comment period. This Response to Comments is attached hereto as Attachment C.

IV. Finding of No Significant Impact

No comments were received on the EA, Technical Memorandum or the Project that took issue with the conclusion that the Project would not have a significant adverse effect on the environment. The EA sets forth a detailed analysis of the potential environmental impacts of the Project, and provides the basis for its conclusions. The EA and its conclusions are incorporated herein by reference. For the reasons set forth in the EA, FRA finds that the Project will not result in a significant impact on the environment.

V. Environmental Justice

Chapter 4.25 of the EA includes a detailed evaluation of the Project with respect to its impacts on minority and low-income communities in accordance with Executive Order 12898. This analysis determined that the Project is not expected to result in any disproportionately high and adverse impacts on minority and low-income populations. Therefore, FRA finds that the Project is in accordance with the requirements of Executive Order 12898 and the Department of Transportation Order To Address Environmental Justice in Minority Populations and Low-Income Populations (62 FR 18377).

VI. Section 106

The EA assessed the effects of the Project on historic resources in accordance with Section 106. A study area—known as the Area of Potential Effect ("APE")—was identified for the Project and consisted of an approximately 400-foot radius around the Farley Complex and the receiving site for utilization of the development rights associated with the Farley Complex. In addition to the Farley Complex, there are fifteen historic properties located in the APE.

The current Project is substantially similar to the project that was the subject of the 2006 SHPO Letter and 2006 Programmatic Agreement. Based on a review of the conceptual design of the current Project, SHPO again has issued a letter indicating that no adverse effects to historic resources are expected, provided the Project continues to be developed in consultation with SHPO. That letter from SHPO, dated January 5, 2010 (the "2010 SHPO Letter") is attached hereto as Attachment D. In addition, the 2006 Programmatic Agreement has been amended and restated through a consultative process with SHPO and the Advisory Council on Historic Preservation ("ACHP") to address Project modifications since 2006 and to add new parties. This Amended and Restated Programmatic Agreement (the "2010 Programmatic Agreement") has been executed by FRA, ESDC, MSDC, SHPO, PANY/NJ, ACHP, and MSDC's conditionally designated developer and is attached as Attachment E. The 2010 Programmatic Agreement sets forth the historic resources consultation and review process for interim and final project plans. A Construction Protection Plan consisting of an overall plan for protecting and avoiding damage to historic properties is required as part of the Programmatic Agreement. Thus, based on the EA, 2010 Programmatic Agreement and 2010 SHPO Letter, FRA finds that no adverse effects to historic resources are expected to result from implementation of the Project.

VII. Section 4(f)

Section 4(f) prohibits FRA from allowing a transportation project to use the land of a historic site of national, State, or local significance, unless (1) there is no prudent and feasible alternative to using that lands and the project includes all possible planning to minimize harm to the historic site; or (2) FRA determines that the project will have a de minimis impact on the historic site. See 49 U.S.C. § 303(c), (d). Based on the EA, 2010 Programmatic Agreement and 2010 SHPO Letter, FRA finds that the Project will have a de minimis impact on historic resources pursuant to Section 4(f).

VIII. Summary and Conclusion

The FRA has concluded that the Moynihan Station Development Project will not have a significant adverse impact on the human or natural environment.

Joseph C. Szabo
FRA Administrator

7/20/10
Date

List of Attachments

Attachment A	1999 FRA FONSI
Attachment B	Environmental Assessment dated April 2010
Attachment C	Response to Comments
Attachment D	2010 SHPO Letter
Attachment E	2010 Programmatic Agreement