

construction closures, both arrivals and departures must share runway 4L–22R. Construction closures that shorten the length of cross-wind runway 11–29 may reduce the number of arrivals and departures that can use that runway.

EWR is one of the busiest airports in the nation and currently experiences significant delay. A4A argues construction closures, and the resulting decreased throughput, likely will increase airport delays. The FAA, the Port Authority, and airlines have discussed mitigations of construction-related delays, and the construction schedule, which limits the closures, reflects those discussions.

#### FAA Analysis

Under the Order limiting scheduled operations at EWR, slots must be used at least 80 percent of the time. This rule is expected to accommodate routine weather and other cancellations under all but the most unusual circumstances. Slots not meeting the minimum usage rules will not receive historic precedence for the following corresponding scheduling season.<sup>3</sup> The FAA may grant a waiver from the slot usage requirement in highly unusual and unpredictable conditions that are beyond a carrier's control and affect a carrier's operations for a period of five or more consecutive days. However, the FAA does not routinely grant general waivers to the usage requirement except under the most unusual circumstances.

The FAA has determined that the projected operational, congestion, and delay impacts of the 2012 EWR runway construction meet the requirements for a temporary waiver of the slot usage requirement. Considering the throughput impacts during construction, reducing operations to minimize congestion and delays is in the public interest. Carriers that temporarily reduce flights and elect to temporarily return slots to the FAA rather than transfer them for another carrier's use should not be penalized by permanently losing the authority to operate.

#### FAA Decision

In consideration of the foregoing, A4A's request for a waiver is *granted with conditions*. This waiver applies only to EWR slots for the following days: (1) Saturdays and Sundays from April 15 through November 15; (2) May 4 through May 9, and (3) September 8 through September 17. To obtain a waiver for a specific slot held, a carrier must temporarily return to the FAA slots that it will not operate during the

waiver period. The carrier will retain historical precedence for these temporarily returned slots. These temporary slot returns permit the FAA to plan for days on which construction closures and resulting operational impacts occur. If the closure dates change due to weather, the FAA will apply the waiver, including retroactively, if a carrier notifies the FAA that the temporarily returned slots will not be operated on any new closure dates. For summer 2012 slots, the temporary slot return deadline is Friday, March 16, 2012. For winter 2012–13 slots, the temporary slot return deadline is Wednesday, August 15, 2012. Temporary slot returns should be submitted to the Slot Administration Office by email at [7-awa-slotadmin@faa.gov](mailto:7-awa-slotadmin@faa.gov) or by facsimile at (202) 267–7277. These return notifications should indicate they are subject to this waiver.

Issued in Washington, DC, on January 4, 2012.

**Rebecca B. MacPherson,**

*Assistant Chief Counsel for Regulations.*

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**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement: Erie County, NY

**AGENCY:** Federal Highway Administration (FHWA), United States Department of Transportation (DOT).

**ACTION:** Rescinded Notice of Intent.

**SUMMARY:** FHWA is issuing this rescinded notice to advise the public that FHWA will not be preparing and issuing a Final Environmental Impact Statement for the proposed Peace Bridge Expansion Project in the city of Buffalo, Erie County, New York and the town of Fort Erie, Ontario Canada (NYS DOT Project Identification Number: 5753.58). The Peace Bridge Expansion Project (project) is a proposal for operational improvements at the Peace Bridge crossing between the United States and Canada. A notice of intent to prepare an EIS was published in the **Federal Register** on October 9, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Jonathan D. McDade, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, Suite 719, 11A Clinton Avenue, Albany, New York 12207. Telephone (518) 431–4127, or Farhan F. Haddad, P.E., Deputy Director, Major Projects Office, New

York State Department of Transportation, 50 Wolf Road, Albany, New York 12232. Telephone (518) 457–7282.

**SUPPLEMENTARY INFORMATION:** FHWA in cooperation with the New York State Department of Transportation (NYSDOT) and the Buffalo-Fort Erie Public Bridge Authority (PBA) previously intended to prepare an EIS to evaluate the impacts and alternatives to constructing a companion bridge to the existing structure and to expand the border crossing plaza for Federal inspection agencies with reconstruction, relocation, and improvements to connecting roadways as well.

As the project and environmental documentation developed from the original scope, significant spatial challenges resulted from the design and operational complexities required to meet the defined objectives (security requirements and operational improvements). At this time, the significantly large footprint and associated impacts that are required for an adequate design to meet the objectives of the project has caused the cost to escalate beyond the sponsor's ability to secure sufficient funding. This determination was reached as a result of the extensive analysis and coordination that has been conducted on this project to date. Additionally, as a result of the comprehensive environmental review and coordination with Federal and state resource agencies, the community and resource agency concerns relating to historic impacts, relocations, and other environmental impacts were at this time becoming increasingly paramount.

The project has been envisioned for over two decades and engendered controversy since its inception. The analysis and consultation which FHWA has conducted with the other lead agencies has established that the original purpose of improving operations and security at the border can be accomplished without a combined bridge and plaza improvements project and addressed by a project of more limited scope. The PBA will be evaluating a series of plaza operational improvements and minor construction projects and will not be seeking Federal funding for such work. In light of this information and funding constraints, FHWA has determined that the plaza improvements and bridge construction have independent utility with logical termini and do not foreclose future improvements or projects with respect to either facility. In light of this rescinded notice terminating the project, the actions of

<sup>3</sup> 76 FR 18618 (Apr. 4, 2011).

the PBA comport in all respects with Federal law.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 315; 23 CFR 771.123.

Issued on: January 4, 2012.

**Jonathan D. McDade,**

*Division Administrator, Federal Highway Administration, Albany, New York.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in Utah

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by FHWA and other Federal agencies.

**SUMMARY:** This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed transportation corridor project (Provo Westside Connector) in Provo, Utah County in the State of Utah. These actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the FHWA actions on the highway project will be barred unless the claim is filed on or before July 8, 2012. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For FHWA: Mr. Edward Woolford, Environmental Program Manager, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84129; telephone (801) 955-3524; email: [Edward.Woolford@dot.gov](mailto:Edward.Woolford@dot.gov). The FHWA Utah Division's regular business hours are Monday through Friday, 7:30 a.m. to 4:30 p.m. MST.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Utah: the Provo

Westside Connector in Provo, Utah County, Utah, project number FHWA-UT-EIS-10-01-F. Federal Lead Agency: Federal Highway Administration.

**Project description:** The Selected Alternative (1860 South Alternative) implements a transportation project consisting of: (1) A new arterial roadway from the Interstate 15 interchange located at 1860 South/University Avenue (the Interchange) to 3110 West Street near the entrance to the Provo Airport (Mike Jense Parkway) in Provo; (2) three-way intersections located at 500 West, 1100 West, and Mike Jense Parkway; (3) the typical cross-section for the roadway consists of a total of five travel lanes: two travel lanes in each direction, and a center turn lane median, a 2-foot paved shoulder on each side, curb and gutter on the north side of the roadway, and a 10-foot paved trail on the south side of the roadway separated from the paved roadway by a 9-foot vegetated drainage swale (without curb and gutter); (4) three (3) parking pull-out locations are planned for trail access. One of these, at 500 West, replaces and improves an existing recreational access maintained by the Utah Division of Wildlife Resources; and an unpaved roadway accesses would be provided for private and public land parcels south of the roadway.

The actions by the FHWA and other Federal agencies, and the laws under which such actions were taken, are described in the FEIS for the project, approved on October 12, 2011, in the FHWA Record of Decision (ROD) issued on January 3, 2012, and in other documents in the FHWA administrative record. The FEIS, ROD, and other documents in the FHWA administrative record are available by contacting the FHWA at the address provided above. The FHWA FEIS and ROD can be viewed and downloaded from the project Web site at <http://www.provowestsideconnector.com> or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128];
2. *Air:* Clean Air Act [42 U.S.C. 7401-7671(q)];
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303];
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and Section

1536]; Migratory Bird Treaty Act [16 U.S.C. 703-712];

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*];

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209];

7. *Wetlands and Water Resources:* Safe Drinking Water Act [42 U.S.C. 300f *et seq.*]; TEA-21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood disaster Protection Act [42 U.S.C. 4001-129]. Executive Orders: E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 13112, Invasive Species. Nothing in this notice creates a cause of action under these Executive Orders.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: January 4, 2012.

**James C. Christian,**

*Division Administrator, Salt Lake City.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Intent To Prepare an Environmental Impact Statement on the Bottineau Transitway Project From Minneapolis to Maple Grove in Hennepin County, MN

**AGENCY:** Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Notice of intent to prepare an environmental impact statement (EIS).

**SUMMARY:** The FTA, as the lead federal agency, the Hennepin County Regional Railroad Authority (HCRRRA), and the Metropolitan Council intend to prepare an EIS for the proposed Bottineau Transitway project located along the Bottineau Transitway Corridor in Hennepin County, Minnesota. The proposed transitway, approximately 13 miles long, would connect downtown Minneapolis with North Minneapolis