

Subject: STB Docket No. FD 35852 - Notice of Intent to Prepare an Environmental Impact Statement Associated with the Canaveral Port Authority — Petition for Exemption to Construct and Operate a Rail Line Extension to Port Canaveral, Florida

Date: December 18, 2014

To: Dave Navecky, Office of Environmental Analysis, Surface Transportation Board

From: Beth Walls, Office of the National Environmental Protection Act, US Environmental Protection Agency, Region 4.

Background

EPA is submitting the following recommendations pursuant to the Surface Transportation Board's invitation to all interested parties to submit written comments on the draft scope of study, potential alternative routes for the proposed rail line, and other environmental issues and concerns for full consideration during the scoping process.¹

The Canaveral Port Authority requests a new rail line to connect with the KSC's existing rail facilities to access Florida East Coast rail system. CPA's proposed construction plans will entail significant impacts to wetlands, an estuary of national significance, a designated Outstanding Florida Water, essential fish habitat and valuable commercial/recreational fishery, including wildlife habitat of high ecological value and the associated recreational impacts to a national wildlife refuge. Additionally, CPA's proposed plans may result in the operation of 220 roundtrip cars, three to four trains per week, moving 10 miles per hour.

Agency Coordination Recommendations:

DOD Coordination - EPA recommends the Surface Transportation Board include the Cape Canaveral Air Force Station, Naval Ordnance Test Unit, and the US Army Surface Deployment Distribution Command to determine any impacts the proposed action may have to their operations. For example, the Cape Canaveral Air Force Station is one of the Kennedy Space Center's users. Additionally, both the Naval Ordnance Test Unit and the US Army Surface Deployment Distribution Command operate out of Port Canaveral.

NOAA Coordination - EPA recommends the Surface Transportation Board include the National Oceanic Atmospheric Administration's National Marine Fisheries Service regarding potential

¹ STB's October 27, 2014, notice of intent to Prepare an Environmental Impact Statement; Notice of Availability of the Draft Scope of Study for the Environmental Impact Statement; Notice of Scoping Meetings; and Request for Comments on Draft Scope. Available at <http://www.portcanaveralraileis.com/index.html>

impacts to any essential fish habitat,² federally protected species,³ and/or federal marine protected areas⁴ under NMFS's jurisdiction. The Merritt Island National Wildlife Refuge's portion of Mosquito Lagoon includes essential fish habitat.⁵ NMFS has jurisdiction over 125 endangered and threatened marine species.⁶ Additionally, Merritt Island National Wildlife Refuge is on NOAA's list of National System Marine Protected Areas.⁷

Alternatives Analysis Recommendations:

Alternative – 1: EPA recommends the Surface Transportation Board investigate and consider an alternative preserving the continued security of Kennedy Space Center operations and the Cape area, which has been a military/government enclave of high to maximum security. The Cape Canaveral Area's security characteristics and geographic features are of value to future space development and the nation's homeland security operations. To assist the Canaveral Port Authority in providing efficient and reliable transportation for its clients, it may be appropriate for the military⁸ to divert its use of State Road 401 - 528 corridor to using routes through military and KSC managed lands, i.e., State Road 401 north through Cape Canaveral Air Force Station, crossing the Banana River on NASA Parkway East, and using the KSC's railroad.⁹ For example, Naval Ordnance Test Unit is located at the Port's East Trident Basin, next to and on the ocean side of the US Army Surface Deployment Distribution Command. Moreover, the Defense Department can assist the KSC with maintaining its railroad infrastructure for joint agency use.

² Essential fish habitat is the habitat necessary for managed fish to complete their life cycle, thus contributing to a fishery that can be harvested sustainably. Essential fish habitat is identified for species managed in Fishery Management Plans under the Magnuson-Stevens Fishery Conservation and Management Act. EFH applies to each life stage of approximately 1,000 managed species. Different life stages of the same species often use different habitats.

³ NMFS is responsible for the management, conservation and protection of living marine resources. Under the Marine Mammal Protection Act and the Endangered Species Act, NMFS works to recover protected marine species.

⁴ The National System of MPAs was developed pursuant to a Presidential Executive Order 13158. MPAs are designated and managed at all levels of government by a variety of agencies including parks, fisheries, wildlife, natural resource and historic resource departments. MPAs are increasingly recognized as an important management tool for managing or buffering impacts threatening the health of our oceans, including coastal and offshore development, overfishing and a changing climate. See NOAA's Framework for the National System of Marine Protected Areas available at <http://marineprotectedareas.noaa.gov/pdf/national-system/framework-mpa-oct14.pdf> or see the link for at <http://marineprotectedareas.noaa.gov/nationalsystem/framework/>.

⁵ Fishing Merritt Island National Wildlife Refuge and Canaveral National Seashore http://www.spacecoastoutdoors.net/Fishing_Lagoon_Feature_MINWR.htm

⁶ NMFS works with U.S. Fish and Wildlife Service to manage Endangered Species Act-listed species. Generally, NMFS manages marine species, while USFWS manages land and freshwater species.

⁷ The List of National Marine Protected Areas available at http://marineprotectedareas.noaa.gov/pdf/national-system/nationalsystem_siteslist_0713.pdf

⁸ I.e., Cape Canaveral Air Force Station, Naval Ordnance Test Unit, and the US Army Surface Deployment Distribution Command.

⁹ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 48, <http://www.portcanaveral.com/TIGER%20VI/pdf/Space%20Port%20Transp%20Infrastructure%20Assessment%20.pdf>

This alternative has been previously proposed because future port traffic volume growth will include the US Army's return of armored military vehicles from the Middle East. The 832nd Ordnance Battalion anticipates a six-year program of off- and trans-loading of 500 vehicles per load. These vehicles include the M1A1 Abrams tanks (68 tons; 130 tons/260,000 pounds loaded on flatbed truck) which exceeds the weight limit of all area bridges except for the Max Brewer Causeway Bridge and the Jay-Jay rail bridge. Because of the lift inadequacy of the State Road 401 bridges, the tanks will likely be routed through the Kennedy Space Center.¹⁰ This alternative would serve to divert the daylight movement of a continuous, 500-vehicle average load convoy movement, possibly for days at a time, each month, for potentially six years, from the State Road 401- 528 corridor. Consequently, this alternative could remove the anticipated military-induced traffic delays over the existing State Road 401- 528 corridor to the benefit of the Port's civilian clients.

Moreover, an option exists for the development of repair and refurbish returning equipment capabilities at a site on the Cape Canaveral Air Force Station or Kennedy Space Center. These capabilities could realize substantial cost savings and transportation time.¹¹ Vehicle refurbishment could occur within a secure perimeter of either KSC or CCAFS. This option may be necessary as the movable bridges on the NASA Causeway over the Indian and Banana Rivers may not be able to handle heavy or over-sized loads¹² like the Abrams Tanks. The finished vehicles could then be dispatched via the KSC railway to the Florida East Coast mainline. This project could create local jobs.

This alternative would have minimum environmental impact compared to the proposed action. It maintains the area's security enclave, provides for a DOD- KSC partnership to maintain a jointly used railroad system, and continues existing protections for the existing Merritt Island Refuge and the Indian Lagoon National Estuary, one of 28 recognized by EPA as an estuary of *national significance*.

Alternative – 2: EPA recommends the Surface Transportation Board investigate and consider existing plans to develop State Road 528 and Bennett Causeway into a multi-modal, multi-use super corridor in its alternatives analysis.¹³ The Orlando-Orange County Expressway Authority conducted a study of this corridor alternative to connect the Orlando International Airport State Road A1A near Port Canaveral.¹⁴ This study evaluated the expansion of existing corridors,

¹⁰ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 48.

¹¹ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 48.

¹² Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 22.

¹³ East Central Corridor Task Force, October 6, 2014, Assessment of Corridor Needs and Alternatives, available at http://www.ecfcorridortaskforce.org/doc/meeting_6/Assessment%20of%20Corridor%20Needs%20and%20Alternatives_DRAFT_2014-10-06_v2.pdf

¹⁴ SR 528 Multi-Use/Multi-Modal Corridor Study Draft Concept Development and Evaluation Study Report SR 528 Multi-Use/Multi-Modal Corridor Study Concept Development and Evaluation Study Final Report, July 2008, prepared for Orlando-Orange County Expressway Authority, available at

providing new transportation corridors, including dual track freight rail service. Both the Orlando International Airport and Orlando Utilities Commission have expressed an interest in a new east-west freight rail corridor in the vicinity of the existing State Road 528 corridor in order to accommodate projected growth in their respective facilities.¹⁵ The Canaveral Port Authority may have freight rail opportunity associated with these plans.

Alternative – 3: EPA recommends the Surface Transportation Board investigate and consider the Canaveral Port Authority's Rail Barge Service and Inland Port plans as part of the STB's alternative analysis. According to CPA, it plans to construct a Rail Transfer Bridge to unload rail cars to and from the port, operate a Rail Barge service, and construct an inland port at the Orlando Utilities Commission's Power Plant on the Indian River Port St. John.¹⁶

Affected Environment:

Proposed Action: The Canaveral Port Authority proposes to build and operate 11 miles of new rail line over the Banana River and part of the Kennedy Space Center to link to KSC's existing rail line to the Florida East Coast's Railway mainline. While the potential wetlands impacts remain to be identified, unofficial estimates suggest the proposed 100-foot-wide rail corridor, depending on which the two proposed alignments is selected, could potentially directly impact 73 or 90 acres of wetlands.¹⁷ This includes roughly 46 acres across the Banana River for Option A and almost 30 acres of the lagoon for Option B. Additionally, wetland impacts could be expected to extend beyond the acres covered by the track and corridor.

Merritt Island National Wildlife Refuge: This Refuge exists almost entirely upon lands owned by NASA/Kennedy Space Center. It is comprised of upland and wetland areas of high ecological value. These areas consist of scrub, pine flatwoods, and a unique mixture of subtropical and temperate plants. The Refuge is also comprised of salt marsh areas, aquatic inland freshwater swamps and marshes. It supports large wintering populations of migratory waterfowl including resident wading birds.¹⁸ Furthermore, because public access to the Merritt Island National

https://www.cfxway.com/Portals/0/docs/Future-Plans-and-Studies/Concept-Studies/SR%20528%20Multi-Use%20Multi-Modal%20Corridor%20Study/SR528MM_ExecutiveSummaryConclusion.pdf

¹⁵ SR 528 Multi-Use/Multi-Modal Corridor Study Draft Concept Development and Evaluation Study Report SR 528 Multi-Use/Multi-Modal Corridor Study Concept Development and Evaluation Study Final Report, July 2008, Section 7.1, p. 7-2.

¹⁶ Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, Field Hearing before the Subcommittee on Government Operations of the Committee on Oversight and Government Reform House of Representatives One Hundred Thirteenth Congress Second Session February 10, 2014 Serial No. 113–87, p. 55, <http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg87175/pdf/CHRG-113hhrg87175.pdf>.

¹⁷ Top 5 concerns on Port Canaveral cargo rail plan, FLORIDA TODAY, December 11, 2014, <http://www.floridatoday.com/story/money/business/2014/12/11/top-concerns-port-canaveral-cargo-rail-plan/20245977/>.

¹⁸ Testimony of Charles Lee, the Director of Advocacy, Audubon Florida, in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, Field Hearing before the Subcommittee on Government Operations

Wildlife Refuge is controlled by the Kennedy Space Center's need for maximum security, the Refuge has relatively undisturbed wildlife habitats. These habitats range from saltwater estuaries and freshwater impoundments and marshes, to dunes, hardwood hammocks, and scrub. Over 1000 species of plants, 117 species of fish, 68 amphibians and reptiles, 330 birds, and 31 mammal species, of which 21 are listed as endangered either by the state of Florida or by the US federal government, are known to inhabit the Refuge.

Banana River: The proposed project is located within and adjacent to the Banana River. The Banana River is designated as an Outstanding Florida Water and subject to anti-degradation criteria under state water quality standards. Some of the waters within the project area are also classified by the Florida Department of Agriculture and Consumer Services as conditionally approved for shellfish harvesting. Additionally, the Banana River is one of the three lagoons comprising the Indian River Lagoon.

Indian River Lagoon: The Indian River Lagoon has also been designated as an aquatic preserve, an Outstanding Florida Waterway, and a Surface Water Improvement and Management Program Water Body. Additionally, EPA designated the Indian River Lagoon as *an estuary of national significance* in April 1990.¹⁹ Both EPA and the State have recognized the nationally significant ecological resources of the Lagoon by incorporating it into the National Estuarine Program. The Lagoon's valuable ecological resources include natural water quality improvement, shoreline erosion protection, and flood storage, and fish and wildlife habitat, including breeding and nursery areas, food chain support, for regionally important commercial/recreational fisheries and shell fishing industries.

CWA 404 roles: EPA and the USACE

Section 404 Permitting Program: The Clean Water Act established a program (Section 404) to regulate the discharge of dredged or fill material into waters of the United States. Section 404 requires the avoidance of permitting dredged or fill material discharge into the aquatic environment when a less damaging practicable alternative exists or the Nation's waters would be significantly degraded. Both the US Army Corps of Engineers and the Environmental Protection Agency jointly administer this program. USACE performs the majority of the geographic jurisdictional determinations and EPA reviews these determinations.

USACE's Role: Section 404(a) authorizes the US Army Corps of Engineers to issue permits for all discharges of dredge or fill material at specified sites in waters of the United States. In

of the Committee on Oversight and Government Reform House of Representatives One Hundred Thirteenth Congress Second Session February 10, 2014 Serial No. 113-87, p. 55, <http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg87175/pdf/CHRG-113hhrg87175.pdf>.

¹⁹ See EPA's Estuaries and Coastal Watersheds website, <http://water.epa.gov/type/oceb/nep/index.cfm>.

making a permit decision, USACE solicits and considers the views of the public as well as State and Federal resource agencies.

EPA's Role: The Environmental Protection Agency reviews the proposed Section 404 permits for consistency with the Section 404(b)(1) Guidelines. These Guidelines' provide a regulatory process for USACE to follow in reviewing proposed Section 404 permits. They prohibit avoidable or significant adverse impacts to waters of the U.S. by requiring the *least environmentally damaging practicable alternative*. Additionally, the Guidelines require avoidance of adverse effects. Where unavoidable, the Guidelines require adverse effects to be minimized and compensated. They specifically prohibit the violation of water quality standards and significant degradation of U.S. waters. Furthermore, the Guidelines provide for procedures to evaluate impacts to Special Aquatic Sites. These Sites include sanctuaries and refuges, wetlands, mudflats, vegetated shallows, riffle and pool complexes.

Additionally, the Environmental Protection Agency enforces CWA Section 404 provisions and has oversight authority over USACE permit decisions. For example, EPA recently sent the Jacksonville District Corps of Engineers a letter²⁰ regarding the Canaveral Port Authority's proposed shoreline stabilization project due to concerns of significant adverse impacts to onsite wetlands and the Banana River, which are part of the nationally significant Indian River Lagoon ecosystem.

EPA Section 404 Recommendations: The Environmental Protection Agency recommends it be given, during the Surface Transportation Board's NEPA process, all relevant information that would be required in a Section 404 permit application. This will allow EPA opportunity to review and coordinate with the Jacksonville District Corps of Engineers before the Canaveral Port Authority officially submits their Section 404 permit application. For example, EPA's Section 404 review will include the following. A functional assessment for wetland areas proposed to be impacted. An evaluation objectively documenting the function or condition of US waters proposed to be impacted. An alternatives analysis identifying the least damaging practicable alternative. A proposed mitigation plan that includes: a detailed mitigation and maintenance plan; an identified responsible party for the long-term management of the mitigation area; an appropriate assurance for the long-term protection of the mitigation area, e.g., a perpetual conservation easement; detailed performance standards to achieve mitigation success; detailed monitoring requirements; detailed long-term management plan; detailed adaptive management plan; documented financial assurance to ensure the mitigation site is maintained in perpetuity; and a detailed description of the net benefit the proposed mitigation will provide to the environment.

²⁰ Letter Dated 2, 2014 addressed to Colonel Alan M. Dodd, District Engineer, Jacksonville District Corps of Engineers regarding Canaveral Port Authority; Permit Application Number SAJ-2014-01028 from Tony Able, Chief, Wetlands and Streams Regulatory Section, US EPA Region 4.

Environmental Impacts Analysis Recommendations:

Aquatic Ecosystem of National and Regional Significance: The proposed action proposes to protect the environment and local quality of life by taking thousands of trucks off a heavily traveled road network by using intermodal freight rail. The proposed action will divert intermodal freight through a sensitive, aquatic ecosystem of national and regional significance through a suburban and rural landscape. EPA recognizes the air quality benefits associated with the use of the nation's railroad system for the transfer of commodities to and from the nation's ports. EPA is concerned over the proposed action's potential impacts to an aquatic ecosystem of national and regional significance that has been the recipient of extensive federal and state resource investments to address issues associated with measures of habitat decline associated with an expanding urban environment.

Aquatic Ecosystem Impacts: EPA recommends the Surface Transportation Board thoroughly analyze impacts to the area's aquatic ecosystems, including Migratory Bird Act and the federal and state endangered/threatened species-related acts for both terrestrial and aquatic species, as part of its environmental impacts analysis. Again, EPA reemphasizes STB reach out to National Marine Fisheries Service as part of its impact assessment efforts. Additionally, STB's impacts analysis should include impacts to federal, state, and county resource investments made to protect, maintain, and restore the natural environment. This analysis will also assist the Canaveral Port Authority in avoiding actions that may undo or conflict with past and ongoing resource protection, restoration, and maintenance activities. For example, the most serious threats to the health of the Indian River Lagoon include reduced water quality due to manmade hydrologic changes, non-point source pollution, loss and fragmentation of habitats, overuse/overharvest of resources, and the threat of invasive exotic species.²¹ EPA appreciates CPA's efforts to be a good local neighbor. Additionally, CPA recognizes that it too is a beneficiary of these governmental resource investment actions.

Filling of Submerged Lands by CPA: Limited or insufficient land appears to be available at Port Canaveral to develop a freight and/or passenger rail facility.²² According to the Canaveral Port Authority, it has been granted permitted rights to 250 acres of submerged land north and east of State Road 401 to allow for expansion.²³ Parts of these submerged lands are overlapped by a submerged lands permit to the Kennedy Space Center in 1963 for a buffer as part of the

²¹ Indian River Lagoon — Facts and Figures, Florida Atlantic University, available at <http://www.fau.edu/hboi/meh/IRL.Fact.Sheet.pdf>

²² SR 528 Multi-Use/Multi-Modal Corridor Study Draft Concept Development and Evaluation Study Report SR 528 Multi-Use/Multi-Modal Corridor Study Concept Development and Evaluation Study Final Report, July 2008, p. 7-4,

²³ Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, (February 10, 2014) Serial No. 113-87, p. 55.

*manned lunar space program.*²⁴ CPA is seeking KSC's release of 100 acres that overlap with the Port's own submerged lands permit.²⁵ CPA has indicated it is doing an EA to fill submerged lands to add 50 acres of land to support parts of the proposed rail connection.²⁶ Access to KSC's submerged lands will allow the CPA to place its proposed new rail out of the Port's planned expansion area.²⁷ Additionally, the Port sees the remaining 200 acres as filling opportunities to create land needed for future Port growth associated with its rail access. CPA has indicated direct rail service to be a critical component to its ability to grow its cargo/freight capacity.

EPA recommends the Surface Transportation Board's environmental impacts analysis thoroughly analyze impacts associated with CPA's plans to fill 250 acres to increase its available land to provide increased cargo/freight capacity. Because the proposed action is to provide a critical component to CPA's ability to provide direct rail service to Florida East Coast's mainline and increased land space is necessary to implement the operation of the proposed action once constructed, CPA's planned filling of submerged lands are impacts associated with the proposed action. This analysis will also be of value to the Canaveral Port Authority in determining its financial resource needs associated with implementing its planned Port expansion goals. And how to mitigate its impacts to the County's efforts to promote ecotourism of the area and protect its natural resources.

Brevard County's Recreation and Ecotourism: The waters around and in the path of the rail plan in its current state are commonly used for recreation by locals and visitors. Consequently, EPA recommends the Surface Transportation Board's environmental impacts analysis address impacts to existing recreational and ecotourism uses, including observing wildlife and enjoying quiet wilderness environs, and the citizen's efforts to protect its natural resources. Concerns have been expressed regarding the noise and vibration associated with operating trains. Additionally, the proposed rail tracks appear to cross the Merritt Island National Refuge's Oak Hammock hiking trail twice. In addition to the noise and interruptions to wildlife observation opportunities, there may be lengthy delays for hikers due to the passage of long trains. Additionally, long freight trains may impact the planned *Coast to Coast Bike Trail*, from Pinellas County to Brevard.

The Brevard County's citizens, in 1990, voted to tax themselves \$55 million dollars to purchase and protect Brevard County's environmentally sensitive lands. Thereby creating the Environmentally Endangered Lands Program for conservation, passive recreation, and

²⁴ Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, (February 10, 2014) p. 55.

²⁵ Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, (February 10, 2014) p. 55.

²⁶ Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, (February 10, 2014) p. 55.

²⁷ Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, (February 10, 2014) p. 55.

environmental education. Under a second referendum in 2004, these citizens reaffirmed their commitment to their EEL Program.²⁸ The EEL Program protects Brevard County's unique natural habitats, while managing them for their rare, threatened, endangered, or endemic plants and animals. This Program provides passive recreation opportunities, such as hiking and wildlife observation. Brevard County prides itself as having the largest collection of endangered wildlife and plants in the continental United States. This is in addition to being the birthplace of U.S. manned spaceflight, the home of the second-busiest cruise port in the world, and having 72 miles of beautiful Atlantic Ocean beaches.²⁹ Consequently, the Surface Transportation Board's environmental impacts analysis should address impacts to these Citizens' natural resource investments.

Existing Suburban and Rural Environmental Use: People gravitate to rural and suburban areas for their quality of life needs. In the Project Study Area, there has been no previous commercial use of rail and residents are perceiving an unwanted nuisance coming to them after they have made significant financial resource investments for their quality life. Consequently, EPA recommends the Surface Transportation Board's environmental impacts analysis address impacts to these residential financial resource investments and quality of life. Concerns have been expressed that the proposed action essentially will be laying tracks to convert a rural, suburban and agricultural area into an industrial environment.

New Bridge and Jay Jay Railroad Bridge Use Impacts to Recreational Navigation: The Jay Jay Railroad Bridge has a movable bascule structure over the Intercoastal Waterway channel. This structure is usually left up to avoid impeding marine vessel traffic. The proposed action will likely realize increased frequency and times when this structure will be lowered to facilitate rail crossing of the Channel. The proposed new bridge will likely have a similar structure to facilitate navigation. Recreation and ecotourism use of the area involves aquatic sports, including sailing, kayaking, standup paddle boarding, swimming, etc., Concerns have been expressed over whether kayakers and canoers will be forced into the middle of the Intercoastal Waterway Channel in order to traverse from and to the west and east shores. Consequently, EPA recommends the Surface Transportation Board's environmental impacts analysis address impacts to the recreational and ecotourism navigation. EPA recommends the Surface Transportation Board's environmental impacts should include issues such as construction and operations impacts to navigation, including the passage of vessels to the Canaveral lock; impacts to sail boat traffic to the No-Motor-Zone; impacts to non-motorized vessels access to the east side launch of the NMZ.

Railroad Use Mishaps: History is replete with stories of railroad operations involving mistakes having catastrophic impacts to the surrounding environment and communities. Consequently,

²⁸ The Environmentally Endangered Lands (EEL) Program website at <http://www.brevardcounty.us/EELProgram/Home>

²⁹ Brevard County website at <http://www.brevardcounty.us/Error404.aspx>

EPA recommends the Surface Transportation Board's environmental impacts analysis address reasonably foreseeable mishap impacts to the surrounding environment, communities, etc., associated with the planned operation of the proposed action.

Civilian Use of KSC's Non-Railway Infrastructure: The Port's future growth is currently constrained by the long term, scarcity of vacant land and additional dock space.^{30, 31} The proposed action makes accessible to the Port, the Kennedy Space Center's existing infrastructure and vacant land, i.e., the Merritt Island National Wildlife Refuge. According to the Canaveral Port Authority, it has started to buy land south of the port and on Merritt Island as it becomes available to accommodate its plans for Port growth.³² Consequently, it is reasonably foreseeable for the proposed action to facilitate the future use of the KSC's infrastructure for civilian port-related purposes. EPA recommends the Surface Transportation Board's environmental impacts analysis address impacts associated with Port's reasonable foreseeable future use of KSC's vacant infrastructure. Particularly upon the Merritt Island refuge, EPA's designated estuary of national significance: the Indian River Estuary, water quality, aquatic ecosystems, essential fish habitat, threatened and sensitive species,³³ recreation, tourism, the surrounding communities, and those small businesses dependent upon a healthy and vibrant aquatic environment.

Continued Space, Homeland Security, and Military Operations: EPA recommends the Surface Transportation Board's environmental impacts analysis include impacts to the Cape Canaveral Air Force Station, Naval Ordnance Test Unit, and the US Army Surface Deployment Distribution Command's operations in the area. Again, EPA recommends these military entities be contacted and involved in STB's environmental impacts analysis. Additionally, STB should address impacts to the continued use of the Kennedy Space Center for space-related launch, research, commercial, and other uses.

KSC Railroad Infrastructure Upgrades: The Canaveral Port Authority's proposed action will increase traffic on and use of an existing rail line. While the Kennedy Space Center has maintained its rail line and resources for its needs, it is unclear whether the existing infrastructure is sufficient to meet CPA's needs. Consequently, EPA recommends the Surface Transportation Board's environmental impacts analysis include the extent of upgrades required and the associated environmental impacts. For example, it has been stated that the Jay Jay yard provides

³⁰ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 18, <http://www.portcanaveral.com/TIGER%20VI/pdf/Space%20Port%20Transp%20Infrastructure%20Assessment%20.pdf>

³¹ Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, (February 10, 2014) p. 55.

³² Testimony of John E. Walsh, CEO, Canaveral Port Authority in *Assessing NASA's Underutilized Real Property Assets at The Kennedy Space Center*, (February 10, 2014) p. 55.

³³ Including the species subject to protections under the federal Endangered Species Act and Marine Mammal Protection Act and corresponding state laws.

modest switching capability. It is unclear whether this switching capability is sufficient to meet the Port's needs.

Increasing Railway Traffic on FEC: The Canaveral Port Authority has stated its proposed action is critical to growing its Port business. This action will realize increased traffic on Florida East Coast's mainline. All East Coast Florida Ports have the same growth and rail access ambitions as CPA. Consequently, EPA recommends the Surface Transportation Board's environmental impacts analysis discuss the reasonably foreseeable impacts associated with increased rail traffic on the existing FEC mainline. It is unclear whether FEC's mainline will require upgrades and result in environmental impacts. It is also unclear whether there will be conflicts with Norfolk Southern and CSX traffic, use of the local area, and result in environmental impacts. For example as rail traffic increases on the FEC railroad from/to Port of Miami, northbound rail traffic stopping at the yard associated with the Norfolk Southern Titusville Ramps NS Railroad-FEC Railway may block Golden Knights Blvd for extended periods of time and impede US 1 traffic flow.³⁴

Changing the Flow of Goods from Trucks to Rail: The Canaveral Port Authority estimates its development of direct freight rail capability could eliminate 1,350 loaded truck trips per week. Doubling this number to account for empty truck return trips translates into the avoidance of 2,700 truck trips per week.³⁵ It appears these empty truck returns may be an opportunity for the Canaveral Port Authority to grow its Port operations in a manner to facilitate trucks returning full instead of empty.

EPA recommends the Surface Transportation Board's environmental impacts analysis discuss how much the existing and estimated future port trucking traffic actually serves local and inland centers and will be affected by the Port's access to direct rail. For example, the CIDCO Industrial Park, Ambassador Services' City Point Transload Center that is supported by Florida East Coast Railway's Staging Facility, Norfolk Southern's Staging and Transloading facility are all local centers that have evolved to use the existing State Road 401 – 528 corridor. EPA recommends STB address how these centers and the surrounding economy and land use will be impacted by the proposed action. Urban blight is a difficult environmental challenge to overcome and can be associated with a replacing a local trucking-based economy with a rail infrastructure. For example, only one driver is needed for 220 railcar-long train.

³⁴ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 30.

³⁵ August 8, 2014 letter to David Navecky, STB's OEA, RE: finance Docket 35853, Canaveral Port Authority – Construction and Operation Exemption – Rail Extension to Port Canaveral, Florida, from Jay C. Johnson of Venable LLP, Washington, D.C.

Flow of Goods Out of Central Florida: The expansion of the Panama Canal to a 50-foot depth and a 12,000 TEU³⁶ capacity to serve the anticipated new Panamax ships has triggered a race between several East Coast ports such as Miami, which is authorized to 50 feet by 2014, New York (50 feet by 2014), and Savannah (47 feet by 2017). Other ports like Charleston, SC, (52-foot depth proposed), Jacksonville (47-foot depth proposed), Canaveral (47-foot depth proposed), Everglades (47-foot depth proposed), Lake Worth (41-foot depth proposed), and Manatee (45-foot depth proposed) all have port-improvement-related deepening plans. According to one transportation expert, the expense of these deepening projects³⁷ may outweigh the marginal benefits conveyed.³⁸ The Canaveral Port Authority is competing with several Atlantic Coast Florida ports, including Miami, Everglades, Jacksonville, and Lake Worth. All of whom have plans to connect to the Florida East Coast mainline.

EPA recommends the Surface Transportation Board's environmental impacts analysis discuss how much the existing and estimated future port trucking traffic actually serves local and inland centers and would not be affected by the Port's access to direct rail. For example, the opening of three new cargo docks on the north side of Port Canaveral is likely to be used for the off-loading of crushed rock brought in on special-purpose aggregate freighters. When in full production, estimates are for 500 loaded dump trucks per day to distribute aggregate to the Central Florida region.³⁹ An Aggregate Processing Plant exists locally. Additionally, 300 trucks per week of break bulk and cold chain move from the Port to destinations throughout Central Florida.⁴⁰ As the Central Florida Region grows, it will require distribution of commodities inland to and from the Port where no rail exists. Consequently, it is unclear how the north-south trending Florida East Coast Rail will transport crushed rock throughout the inland portions of the growing Central Florida region and what will be the associated impacts.⁴¹

Other NEPA Cross Cutting Issues:

Section 4(f) Implications: EPA recommends the Surface Transportation Board evaluate its compliance with Section 4(f) of the Department of Transportation Act⁴² with respect to the

³⁶ TEU refers to twenty foot equivalent. An inexact unit of cargo capacity often used to describe the capacity of container ships and container terminals. One TEU is the volume of a 20-foot-long intermodal container, a standard-sized metal box, which can be easily transferred by crane between ships, trains, and trucks.

³⁷ For example, Port Jacksonville still has to find around \$150 million in local funding for its proposed \$700 million dredging project to deepen Jacksonville Harbor. From: Jacksonville Split Over Joining A Southern Port Dredging Frenzy, NPR article at <http://www.npr.org/2014/11/26/366615226/jacksonville-split-over-joining-a-southern-port-dredging-frenzy>

³⁸ Channel Depth at Major North American Container Ports, from the *Geography of Transport Systems*, Dr. Jean-Paul Rodrigue, Dept. of Global Studies & Geography, Hofstra University, New York, USA. Available at <https://people.hofstra.edu/geotrans/eng/ch4en/conc4en/uswaterwaysystem.html>

³⁹ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 45.

⁴⁰ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 17.

⁴¹ Space Port Area Transportation Infrastructure Assessment (Oct. 2011), p. 46.

⁴² 49 U.S.C. Section 303 and 23 U.S.C. Section 130.

development of an avoidance alternative if any properties needed for the right-of-way under those alternatives deemed eligible under the National Historic Act.

Section 6(f) Implications: EPA recommends the Surface Transportation Board evaluate its compliance with Section 6(f) of the Land and Water Conservation Act. EPA recommends STB consult with the Department of Interior for guidance in making this determination.