



**National Trust for
Historic Preservation**
Save the past. Enrich the future.

March 1, 2017

NEC FUTURE

U.S. DOT Federal Railroad Administration
One Bowling Green, Suite 429
New York, NY 10004
via Email: info@necfuture.com

Re: Northeast Corridor NEC Future Tier 1 Final Environmental Impact Statement

Dear Federal Railroad Administration and NEC Future Project Team:

On behalf of the National Trust for Historic Preservation,¹ this letter serves as a comment on the Tier 1 Final Environmental Impact Statement (FEIS) for the Northeast Corridor NEC Future project.

While some areas of the proposed project would have a minimal adverse effect on historic resources, the portion of the project along the coast of Connecticut and Rhode Island would be devastating to historic communities under the preferred alternative, which proposes 79 miles of rail corridor on new alignment just within Connecticut—29 miles in the New Rochelle to Greens Farms Bypass, and 50 miles in the Old Saybrook to Kenyon Bypass, much of which would be elevated on aerial structures. Historic communities such as Old Lyme in Connecticut, and Charlestown in Rhode Island, would be especially hard hit. In these historic communities, the opposition to the preferred alternative—by local governments, by elected officials at all levels, and by the public at large—has been quite extraordinary.

As you know, the Connecticut Trust for Historic Preservation has submitted detailed comments on these harmful impacts, including a thorough discussion of the legal and analytical flaws of the Tier 1 FEIS. The National Trust strongly endorses the comments of the Connecticut Trust for Historic Preservation.

¹ The National Trust for Historic Preservation is a privately funded nonprofit organization chartered by Congress in 1949 to facilitate public participation in the preservation of our nation's heritage, and to further the historic preservation policy of the United States. *See* 54 U.S.C. § 312102(a). With almost 800,000 members and supporters around the country, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government. In addition, the National Trust has been designated by Congress as a member of the Advisory Council on Historic Preservation, which is responsible for working with federal agencies to implement compliance with Section 106 of the National Historic Preservation Act. *Id.* §§ 304101(8), 304108(a). The National Trust also has a long-standing track record of advocacy to enforce compliance with Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 303(c).

In addition, we wish to emphasize that, in our view, the proposed project fails to comply with Section 4(f) of the Department of Transportation Act. Section 4(f) prohibits the use of historic properties and park land for transportation projects unless there is no feasible and prudent alternative to doing so, and the project incorporates “all possible planning to minimize harm.” 49 U.S.C. § 303(c). As the FEIS points out, a large number of Section 4(f) resources are located within and immediately adjacent to the corridor. However, the information in the FEIS regarding cultural resources and historic properties does not effectively convey the nature and magnitude of the potential adverse impacts to those resources.

The FEIS assumes that Section 4(f) compliance will occur much later in the process, during the Tier 2 review. However, the FEIS acknowledges that the agency must ensure that opportunities to avoid and minimize harm to historic resources, as required by Section 4(f), “have not been *precluded* by decisions made at the Tier 1 stage.” FEIS at 7.16-13 (emphasis added); *cf.* 23 C.F.R. § 774.7(e)(1). We believe that compliance with Section 4(f) will indeed be precluded, unless this portion of the project is removed from the Tier 1 Record of Decision. It is simply not possible for the agency to make any meaningful determination that there is no feasible and prudent alternative to the use of historic resources protected by Section 4(f). *See Corridor H Alternatives, Inc. v. Slater*, 166 F.3d 368 (D.C. Cir. 1999).

In sum, we urge the Federal Railroad Administration to remove from its Tier 1 Record of Decision the portions of the project in Connecticut and Rhode Island that involve bypasses on new alignment and other draconian impacts on historic resources. Instead, the agency should conduct more detailed reviews to develop feasible and prudent alternatives that would avoid and minimize harm to these resources.

Thank you for considering the comments of the National Trust for Historic Preservation.

Sincerely,



Elizabeth S. Merritt
Deputy General Counsel

cc: Laura Shick, Federal Preservation Officer, Federal Railroad Administration
Amishi Castelli, Environmental Protection Specialist,
Federal Railroad Administration
Chris Wilson, Charlene Vaughn, and Reid Nelson,
Advisory Council on Historic Preservation
Kristina Newman-Scott, Connecticut State Historic Preservation Officer
Daniel Mackay and Gregory Stroud,
Connecticut Trust for Historic Preservation