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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

APR 21 2006

Honorable John R. Kuhl, Jr.
United States Representative
1505 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Kuhl:

Thank you for your letter of March 29, 2006 addressed to Stephen L. Johnson, Administrator of the U.S. Environmental Protection Agency (EPA) which has been forwarded to me for reply.

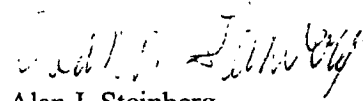
The proposed U.S. Route 219 freeway is a new 28-mile, four-lane highway from Springville, Erie County to Salamanca, Cattaraugus County. The freeway alignment is adjacent to the existing two-lane Route 219. Construction of the new road would require the loss of about 30 acres of wetlands under the jurisdiction of Section 404 of the Clean Water Act. In 2003, EPA sent a comment letter regarding the Final Environmental Impact Statement to the Federal Highway Administration (FHWA). Our letter included significant concerns about wetland impacts associated with the freeway and recommended that the "upgrade" alternative be selected unless our concerns could be satisfactorily addressed. An upgrade of the existing Route 219, consisting of widening to four lanes, bypasses, and safety improvements, would cause fewer than 12 acres of wetland fill. This upgrade alternative would also accomplish the overall project purpose, which is "improve Route 219 to make travel along the route more efficient". FHWA proceeded to a Record of Decision with the intention of further addressing EPA's wetland issues during the federal wetland permit process.

The current wetland permit application, submitted to the U.S. Army Corps of Engineers (USACE) by the New York State Department of Transportation (NYSDOT), addresses only the first three-mile northern segment of the freeway project. This segment would eliminate about 12 acres of wetlands, while an upgrade of the northern section of the two-lane Route 219 would affect less than one acre of wetland. Therefore, based upon available information, it appears that the upgrade alternative could accomplish the project purpose with much fewer wetland impacts. EPA's Section 404(b)(1) guidelines require that the least environmentally damaging alternative be chosen, if it is practicable. As a result, EPA sent a letter to USACE on February 28, 2006 in which we objected to issuance of a Section 404 permit for the first segment of the freeway. The U.S. Fish and Wildlife Service also objected to the freeway proposal.

EPA will continue to discuss the Route 219 project with NYSDOT, FHWA, and USACE and will attempt to arrive at a timely resolution which both improves transportation in the Springfield-Salamanca corridor and protects federally regulated wetland resources. Our objection to the freeway project will be withdrawn if NYSDOT adequately demonstrates that the upgrade alternative is impracticable and that a significant effort has been made to minimize the wetland fill associated with construction of the new freeway.

If you have any further questions, please let me know or your staff may contact Peter Brandt, Chief for Intergovernmental and Community Affairs at 212-637-3657.

Sincerely,



Alan J. Steinberg
Regional Administrator

cc: USACE, Buffalo, NY
USFWS, Cortland, NY