

Consulting Party Meeting # 3

Comments and Responses

Merchant Street Bridge Project

Prepared for:

Norfolk Southern Railway Company



Date: February 2021

**Norfolk Southern Railway Company
Merchant Street Bridge Project
CP Meeting #3, October 6, 2020
Responses to Comments**

Comments taken verbatim from correspondence received by Norfolk Southern and/or PennDOT

Comment #	Source	Commenter	Comments	Responses
1	10/17/2020 Email submitted during two-week comment period following CP Meeting #3	Glenn Olcerst (RP3)	<p>A. Stated simply, the way the historic impact analysis public outreach process is being handled is perplexing.</p> <p>What was decided at earlier meetings, or contained in a Historic Preservation Office letter, is either ignored or given short shrift by Norfolk Southern, and then accepted by the Preservation Office and PennDOT.</p>	<p>A. The purpose of Consulting Party (CP) Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code.</p> <p>To the extent the comment relates to the consulting party process, that process has been explained during the presentations for each of the three consulting party meetings (held on November 20, 2019; April 22, 2020; and October 6, 2020). The consulting party and public involvement processes for the Merchant Street Bridge Project have been and continue to be conducted in accordance with the Pennsylvania History Code. Under Pennsylvania Department of Transportation (PennDOT) guidance and a Memorandum of Understanding (MOU) between the Pennsylvania State Historic Preservation Office (PA SHPO) and PennDOT, PennDOT fulfills its obligations for considering the effects of state-funded transportation projects on historic properties under the Pennsylvania Historic Code using processes and procedures under Section 106 of the National Historic Preservation Act outlined in 36 C.F.R. 800. These processes are publicly available on PennDOT's website. In addition, information from each of the consulting parties meetings, including the presentations, meeting notes, and comment/response documents, among other things, are available at the Norfolk Southern project website at http://www.nscorp.com/content/nscorp/en/in-your-community/pittsburgh-bridge-projects/learn-more-about-the-consulting-parties-process-for-merchant-str.html. Officials from PA SHPO and PennDOT have been present at each of the three meetings.</p>
			<p>B. Big picture, with respect to Merchant St Bridge, all of us fully understand Norfolk Southern's need to expedite the bridge's replacement, but we are still being told it is not part of the PVCP. Saying that does not make it so. Every written document from the outset of the PVCP says otherwise.</p> <p>The process required a determination of both the Area of Potential Effect, and whether both the historic Commons and the historic rail corridor were adversely effected.</p>	<p>B. The purpose of CP Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code. The comment does not relate to resolution of adverse effects on historic properties presented by the Merchant Street Bridge Project.</p> <p>As has been stated numerous times and for the same reasons set forth in those prior responses, the Merchant Street Bridge Project is a separate project that is independent of the proposed Pittsburgh Vertical Clearance Projects and is being evaluated under independent compliance processes. PA SHPO concurred with the area of potential effects (APE) for the Merchant Street Bridge Project as appropriate in a June 5, 2018 letter. Further, the</p>

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			<p>C. At our early meetings it was agreed that the replacement of the Merchant St Bridge facilitated the PVCP, which impacted the Commons. That led to an April 30 Preservation Office letter directing Norfolk Southern to provide data on direct and indirect impact on the Commons (atmospheric, noise, vibration, visual.) That directive was ignored—even though neighbors know that monitors had been used to gather that very data. Instead, we were told that another undisclosed preliminary study indicated that there would be 4 fewer trains running/day on the proposed PVCP route in year 2045 justifying the both the replacement of the Merchant St Bridge and the approval of the PVCP.</p> <p>The Preservation Office accepted the claim at face value and opined, in its September 16 letter that there was therefore no atmospheric or noise pollution that would adversely impact the historic Commons.</p>	<p>effects of the undertaking have been determined and discussed in the Determination of Effects Report (Michael Baker International, Inc. 2020) and during CP Meetings #2 and #3. The Determination of Effects Report and information on the CP Meetings #2 and #3 are available on the Norfolk Southern project website at the link above.</p> <p>C. The purpose of CP Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code. The comment does not relate to resolution of adverse effects on historic properties presented by the Merchant Street Bridge Project.</p> <p>Norfolk Southern has not made an “agreement” that the Merchant Street Bridge Project facilitates the Pittsburgh Vertical Clearance Projects. As we have reiterated, the Merchant Street Bridge Project is a separate project with independent utility, logical termini, and a separate purpose and need based on the deteriorated condition of the bridge. The current Merchant Street Bridge is capable of carrying double-stack train traffic, has no vertical clearance obstructions, and is being replaced due to future safety concerns as the bridge is nearing the end of its useful life. As noted in the purpose and need statement for this project, current and future rail traffic depends upon the ability to use the Fort Wayne Line to maintain connectivity along the major east-west rail mainline between Chicago and the east coast.</p> <p>By way of clarification, the PA SHPO’s April 30 letter requested that Norfolk Southern provide “documentation of consideration of the potential increases of noise and emissions associated with the Pittsburgh Vertical Clearance Project[s] and the associated indirect effects on historic properties.” Although not pertinent to the Merchant Street Bridge Project, as a courtesy to PA SHPO and consulting parties, Norfolk Southern did provide information regarding potential effects of air, noise, and vibration relating to the Pittsburgh Vertical Clearance Projects in the comments and responses document for CP Meeting #2, dated July 2020. Norfolk Southern emailed a copy of this document to the consulting parties, including the commenter and PA SHPO, on July 7, 2020, and, after adding a clarification, again on July 24, 2020. The document has been and continues to be available on the Norfolk Southern project website. The PA SHPO’s September 16, 2020 letter cited that response to CP Meeting #2 document and observed that the Pittsburgh Vertical Clearance Project will have a decrease in atmospheric, noise, vibration, and visual effects as compared to those projects’ No Build Alternative.</p> <p>Subsequently, on October 20, 2020, the PA SHPO retracted its September 16, 2020 request for information in the Merchant Street Bridge context regarding direct and indirect effects of the Pittsburgh Vertical Clearance Projects on the</p>

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				<p>Allegheny Commons Historic District. The PA SHPO stated that it recognized the Merchant Street Bridge Project is a separate and independent project from the Pittsburgh Vertical Clearance Projects and agreed that the undertaking is limited to Merchant Street Bridge due to safety concerns related to the condition of the bridge. The PA SHPO's October 20, 2020 letter further clarified that the Merchant Street Bridge Project does not have the potential to indirectly affect the Allegheny Commons Historic District.</p> <p>Direct and indirect effects on historic properties have been addressed in the Determination of Effects Report, which was made available to the consulting parties, and these have also been discussed in CP Meetings #2 and #3. To the extent necessary and in accordance with PennDOT guidance, the Act 120 environmental documentation for the Merchant Street Bridge Project will address direct effects, indirect or secondary effects, and cumulative effects, including visual, audible, or atmospheric on historic properties, if any.</p>
			<p>D. How a 4 train difference between build/no build could be determined 25 years in advance along a route with four tracks each with a capacity of 70-80 trains/day was never explained. Idling lower priority trains in Manchester was never considered because the game plan throughout has been to isolate and segregate each segment of the Project to limit both its area of potential effect and to minimize mitigation.</p>	<p>D. As discussed herein and in many prior responses to comments, the Merchant Street Bridge Project has no effect on rail traffic including double-stack trains. This comment relates to the potential cumulative effect from the future and separate Pittsburgh Vertical Clearance Projects. Rail traffic projections for those separate projects are derived from rail information including the PennDOT Rail Plan, which projects future rail traffic including 25 years advance projections. See, e.g., http://www.planthekeystone.com/Pages/2015-PA-State-Rail-Plan.aspx.</p> <p>Again, by refusing to recognize the Merchant Street Bridge Project as a separate project, the commenter continues to conflate potential effects of the Pittsburgh Vertical Clearance Projects with the Merchant Street Bridge Project. As stated before, the Pittsburgh Vertical Clearance Projects is undergoing a separate Pennsylvania History Code compliance process, in which the commenter is a recognized consulting party and has participated as such. That process is progressing on a different timeline.</p>
			<p>E. Next we were told that a Memorandum of Agreement would be negotiated and signed between the Preservation Office and Norfolk Southern—and only then shared with Consulting Parties who would have no input into those negotiations or into the Agreement's terms. It is significant that only after our collective objections at Meeting #3 did the Preservation Office acknowledge that the routine practice was to provide a draft MOA to all parties for input before any party signed, and that their office would now re-examine the issue of adverse impact on the Commons. None of the foregoing provides any confidence at all in the Section 106 public outreach, or the historic review process that is occurring under PennDOT's auspices.</p>	<p>E. The role of consulting parties has been discussed as part of each of the three CP meeting presentations and is established by guidance and regulations. The process is consistent with longstanding PennDOT guidance that provides for distribution of a draft MOU to parties who have expressed an interest in the project. Consistent with PennDOT processes and procedures, consulting parties have had ample opportunity to consult on the effects of the Merchant Street Bridge Project as discussed during CP Meeting #2 and minimization and mitigation measures as discussed during both CP Meeting #2 and CP Meeting #3, as well as during a two-week open comment period following CP Meeting #3. In accordance with applicable regulations and guidance, a MOU is executed between the agency (PennDOT) and the State Historic Preservation Officer (PA SHPO), typically with the project sponsor (in this case, Norfolk Southern) added as an invited signatory. Consistent with standard PennDOT</p>

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				<p>practice and guidance, the consulting parties will be provided a copy of the MOU for review and comment prior to execution between the signatories, but concurrence is not required and does not affect the implementation of the MOU (36 C.F.R. 800.6).</p> <p>The PA SHPO did not state that a reexamination of the determination of effects for the Merchant Street Bridge Project on the Allegheny Commons Historic District would occur.</p>
			<p>F. Moreover, on parallel tracks (forgive the pun), community and individual voices are being suppressed. In the last 2 1/2 years PennDOT has held only one (placard) public meeting and cancelled the contract with a moderator to hold 27 community meetings. At the same time Norfolk Southern has spent well over \$200,000 to litigate excluding RP3, the NSLC and the Manchester community (MCC) from intervening in PUC bridge and highway crossings safety proceedings. That money should have gone to mitigation.</p>	<p>F. The purpose of CP Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code. Claims that community and individual voices are being suppressed are unfounded and untrue. Any party with a demonstrated interest in the undertaking may apply to become involved as a consulting party, and all parties that made such application for this project were granted that status. Public input on the project as a whole and its effects on historic properties was solicited in accordance with applicable guidance and regulations. Norfolk Southern had planned to host a traditional public meeting for the Merchant Street Bridge Project, but that was not possible due to COVID-19 safety concerns. In lieu of an in-person meeting, Norfolk Southern provided an online presentation and comment form to gather input on the project. The format followed PennDOT publications and guidance and was approved by PennDOT. Comments were received from July 27, 2020, to August 26, 2020.</p> <p>The comment does not relate to resolution of adverse effects on historic properties presented by the Merchant Street Bridge Project. However, as information, the referenced "community meetings" were related to the separate Pittsburgh Vertical Clearances Projects, which are being evaluated under separate compliance processes from the Merchant Street Bridge Project that is the topic of this proceeding. All public meetings relating to the Merchant Street Bridge have concluded, as noted above. Future public meetings relating to the Pittsburgh Vertical Clearance Projects will hopefully be in person, but in any event will follow guidelines of the Centers for Disease Control and Prevention (CDC), Pennsylvania Department of Health, and Allegheny County Health Department and will be in accordance with PennDOT's public involvement guidance for those types of projects. Final meeting formats will be determined by PennDOT in accordance with Act 120 requirements and PennDOT Publication 295 (Project Level Public Involvement Handbook).</p> <p>Further, there is no current litigation relating to the Pennsylvania History Code or Act 120 compliance processes for the Merchant Street Bridge Project. There was a separate Pennsylvania Public Utility Commission (PUC) proceeding relating to the Merchant Street Bridge Project, but that</p>

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				<p>proceeding has concluded with a settlement and an order issued by the PUC on December 17, 2020 authorizing the bridge replacement project. The Pennsylvania Act 120 and Pennsylvania History Code processes are parallel and separate processes from the PUC process, and the PUC has limited jurisdiction over certain aspects of the project. The litigation to which the commenter appears to refer relates to a separate PUC proceeding for aspects of the separate Pittsburgh Vertical Clearance Projects. That litigation not only is irrelevant to the Merchant Street Bridge Project, but also is not part of the Pennsylvania History Code or Act 120 processes. The parties' posture in that separate litigation is irrelevant to the consulting party and public involvement processes pursuant to the Pennsylvania History Code compliance for the Merchant Street Bridge Project.</p>
			<p>F. Finally, the Preservation Office directed Norfolk Southern to respond in writing and at meeting # 3 to both RP3's and the Simm's corrosion data: "which questions the condition of other bridges along the line in comparison to Merchant Street. The response should provide an understanding of the condition of other structures along the line and why it is necessary to replace the Merchant Street bridge before and independent of others along the Pittsburgh Vertical Clearance Project Corridor."</p> <p>Norfolk Southern provided no written response. Instead, we were told at Consulting Party Meeting #3 to take comfort in the fact that we were all safe and that Norfolk Southern was inspecting properly.</p> <p>There is ample reason to doubt Norfolk Southern's reassurances.</p>	<p>G. The assertion that Norfolk Southern provided no written response to the request for information on the condition of other bridges is not true. A response to that request was provided in the PA SHPO and Consulting Party Comments and Responses document dated September 2020. The response was sent to the consulting parties, including the commenter, and has been and continues to be posted on the Norfolk Southern project website. In addition, that response was read verbatim at CP Meeting #3 on October 6, 2020.</p>
			<p>H. Further Background and a Chronology on the Issue 2006 Norfolk Southern has a history of serious rail bridge accidents in our region. For example, in October 2006, an 83-car Norfolk Southern train derailed while crossing the Beaver River railroad bridge in New Brighton, Pennsylvania. Twenty-three tank cars filled with flammable ethanol derailed, ignited, and burned for 48 hours. Some of the unburned ethanol liquid was released into the river and the surrounding soil. Homes and businesses in New Brighton were evacuated for two days. Damages reached \$5.8 million. The National Transportation Safety Board determined that the probable cause of the derailment was Norfolk Southern's "inadequate rail inspection and maintenance program that resulted in a rail fracture from an undetected internal defect. Contributing to the accident were the Federal Railroad Administration's inadequate oversight of the internal rail inspection process and its insufficient requirements for internal rail inspection." Notwithstanding the National Transportation Safety Board's recommendations, nothing appears to have changed in this regard. Read the accident report here.</p>	<p>H. The purpose of CP Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code. None of the assertions made in the commenter's purported timeline are relevant to the resolution of adverse effects of the Merchant Street Bridge Project on historic properties. Furthermore, many of the assertions misinterpret publicly available information or make unsupported assertions to generate conclusions that are not only incorrect but also reflect fundamental misunderstandings of corporate and railroad operations.</p> <p>Norfolk Southern has stated repeatedly that the purpose of the Merchant Street Bridge Project is to promote safety and continued connectivity of railroad operations. Norfolk Southern maintains its railroad infrastructure in accordance with applicable federal requirements and in a manner that is protective of safe railroad operations. Furthermore, railroad operations and maintenance are regulated at a federal level, and this project is in furtherance of the goals of those regulations—to protect the safety of railroad operations and the public. Attempts to delay the Pennsylvania History Code and Act 120</p>

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			<p><u>2015</u> With respect to the current corroded condition of the Ft. Wayne rail bridge it was designated a “Deadly Crossing” in the 2015 nationwide review of dangerous rail bridges in the Riverkeeper Report of that name. See page 23, https://waterkeeper.org/wp-content/uploads/2016/01/Deadly-Crossing-Web-Version.pdf.</p> <p><u>2018</u> The Federal Rail Administration again found “serious oversights” in Norfolk Southern’s operations, maintenance, and inspections in connection with the 2018 Southside derailment where an old, already worn plug rail was installed and failed: http://eepurl.com/gCTQMf.</p> <p><u>2019</u> A sinkhole grew through the Merchant Street Bridge in early January 2019 http://eepurl.com/ggM82X.</p> <p>Norfolk Southern slashed a record number of maintenance and inspection personnel in a year where they had record profits according to The Washington Post https://www.washingtonpost.com/business/economy/railroads-are-slashing-workers-cheered-on-by-wall-street-to-stay-profitable-amid-trumps-trade-war/2020/01/02/dc757ed4-1603-11ea-a659-7d69641c6ff7_story.html.</p> <p><u>2020</u> According to Norfolk Southern’s most recent Shareholder Report, it has now laid off 24% of its staff between the first quarter of 2019 and the second quarter of 2020 even though daily carloads have increased 4% because of longer trains—a factor which raises its own safety concerns. Special inspection oversight is warranted since Norfolk Southern projects that rail traffic will increase over 84% going forward.</p> <p>Notwithstanding the New Brighton and Southside derailments, railroads are allowed to continue to self-regulate how far down they can wear their rails. Meantime, allowable individual rail car weight has increased to 284,000 pounds. Heavier cars and the fact that train length is doubling make track wear and failure more likely—and this regularly compromises our safety, especially at rail bridges which are the most vulnerable point on a route.</p> <p>Also know that over the past ten years, instead of performing additional preventive maintenance, Norfolk Southern bought back \$13.7 <u>billion</u> worth of stock, enriching executives while its rail bridges have further deteriorated.</p> <p>As you have seen, we have amassed many hundreds of images of missing bolts, unconnected cross ties, corroded-through steel plates, cracked supports, crumbling concrete contained in our previous communications. It is clear that money is going to railroad executives and stockholders while their rail bridges</p>	<p>processes by inserting inflammatory and incorrect statements that either are completely unrelated to any current Norfolk Southern project, object to existing federal law that is not at issue in this proceeding, or relate to a separate and distinct set of projects only serves to delay an important safety-related project.</p> <p>Because none of the assertions in this comment relate to the effect of the Merchant Street Bridge Project on historic properties, there is no need to address the commenter’s many inaccurate statements and conclusions.</p>

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			<p>continue to deteriorate—thereby jeopardizing your safety, property, and drinking water.</p> <p>The Wall Street Journal determined that each train car of volatile crude carries the equivalent explosive force of two million sticks of dynamite. Rail cars are now approved to carry much more explosive Liquid Natural Gas under pressure on unit trains on these same rail lines over antiquated crumbling water and sewer lines made of hand-laid brick.</p> <p>We are asking that PennDOT and the Preservation Office write to the PUC and the Federal Rail Administration asking for special Inspection oversight of Norfolk Southern’s rail bridges and track lines.</p>	
2	10/20/2020 Letter attachment to email	Barbara Frederick (PA SHPO)	<p>A. Thank you for submitting information concerning the above referenced project. The Pennsylvania State Historic Preservation Office (PA SHPO) is reviewing the project in accordance with state laws including the Environmental Rights amendment, Article 1, Section 27 of the Pennsylvania Constitution, and the Pennsylvania History Code, 37 Pa. Cons. Stat. Section 500 <i>et seq.</i> (1988). In addition, the project is being reviewed under the Memorandum of Understanding between PA SHPO and PennDOT which commits PennDOT to fulfill its obligations under the History Code using the federal review process outlined under Section 106 of the National Historic Preservation Act.</p> <p>The intention of this letter is to clarify/respond to comments made at the October 6, 2020 consulting party meeting and the Comment and Response Document of September 2020.</p> <p><i>Assessment of Effects</i> Our initial comments on the Merchant Street Bridge project were based upon an understanding that this project was related to the purpose and need of the Pittsburgh Vertical Clearance Project. The sponsoring agency, PennDOT, who is responsible for compliance with the State History Code, has determined that the undertaking is limited to Merchant Street Bridge due to safety concerns related to the condition of the bridge.</p> <p>In response to a request made by our office in September of 2020, PennDOT has indicated it is not possible to provide information for a structural condition comparison to other bridges along the line due to security and safety considerations of the Fixing America’s Surface Transportation (FAST) Act.</p> <p>B. We recognize the statement in our September 2020 letter indicating the Pittsburgh Vertical Clearance Project does not have the potential to have audible or atmospheric effects on the Allegheny Commons Historic District has caused confusion. As indicated at the October meeting, this statement</p>	<p>A. Thank you for this clarification.</p> <p>B. On 11/20/2020, Timothy Zinn (Michael Baker International, Inc.) in emailed correspondence to PA SHPO and copied to all consulting parties, requested clarification on the fifth paragraph of the letter as follows:</p>

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			<p>was based on limited information and we rescind that opinion for the Merchant Street Bridge project.</p> <p>When consultation for the Pittsburgh Vertical Clearance project is initiated, we request a detailed assessment of the potential for indirect effects, audible, atmospheric, and visual, be provided. This assessment should address indirect effect considerations mentioned during the October Merchant Street Bridge meeting including train idling, frequency of traffic, and required number of locomotives. We may also, depending upon documentation provided when consultation is initiated, request additional information.</p> <p><i>Mitigation</i> Replacement of the Merchant Street Bridge will cause an adverse effect to the National Register of Historic Places-eligible <i>Pennsylvania Railroad: Main Line</i>. A Memorandum of Agreement (MOA) will be developed to resolve the adverse effect.</p> <p>We offer the following comments on mitigation measures to be outlined in the upcoming draft MOA.</p> <p>Interpretive signage should be consistent with the size and appearance of other signage in the vicinity. The signage should enhance, not replicate, the content and themes of signage in the area. If any local interests have a role to play in the design, construction, or maintenance of the interpretive signage, those organizations should be included as a signatory to the agreement. Ideally, the signage will be constructed in proximity to the existing bridge.</p>	<p>By rescinding your opinion regarding audible and atmospheric effects of the Pittsburgh Vertical Clearance Projects until those can be properly addressed as part of the consultation for those projects, are you also then concluding that the Merchant Street Bridge Project does not have the potential for indirect effects on the Allegheny Commons? If so, please respond with your concurrence that the Merchant Street Bridge Project will not result in audible and atmospheric effects to the Allegheny Commons Historic District.</p> <p>This question and your clarification will be included in the consulting party comment/response summary.</p>
			<p>C. As the PA SHPO suggested at the October consulting parties meeting, an inventory of all features that contribute to the historic Pennsylvania Railroad Mainline between Harrisburg and Pittsburgh (bridges, stations, tunnels, etc.) is appropriate mitigation for this project. This effort would include photographic documentation and completion of basic information for inclusion of each resource in the PA SHPO online database of previously recorded resources.</p> <p>Finally, minimization efforts, including the design of the new superstructure and rehabilitation of the decorative wrought-iron fencing and stone retaining walls, should be memorialized in the agreement. The agreement should also address a commitment to the treatment of the wall and fencing along South Commons Avenue, as it was stated at the meeting that this work may be delayed until the design of the vertical clearance project.</p> <p>As discussed at the October consulting parties meeting, a draft of the MOA will be provided to consulting parties and our office for review, comment, and revision before distribution for signature.</p>	<p>C. The project team considered the suggestion of an inventory of railroad bridges along the Pennsylvania Railroad Main Line between Harrisburg and Pittsburgh and PennDOT concurred that the scope of that suggested mitigation item is disproportionate with the effects of the replacement of the Merchant Street Bridge superstructure, which is a standalone project to address safety deficiencies.</p> <p>We appreciate the comments on the MOU and those issues will be resolved pursuant to the PennDOT process outlined in other responses herein.</p>

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3	<p>11/13/2020 Email response to 10/31/2020 email transmitting meeting minutes and requesting comments on minutes</p>	<p>Glenn Olcerst (RP3)</p>	<p>Catastrophic Consequences: WPXI Investigates the Stability of Norfolk Southern’s Rail Bridges</p> <p>On November 9th, WPXI aired an extra-long news special after Investigative Reporter Rick Earle reviewed the following:</p> <p>Multiple National Safety Transportation Board Norfolk Southern Derailment Reports finding that Norfolk Southern used old worn rails and wheels, and either was not inspecting properly, or was disregarding the results of those inspections; volumes of images of Norfolk Southern’s bridges that were so severely corroded that they were missing bolts and had totally unconnected cross ties.</p> <p>The news report includes interviews with Rail Pollution Protection Pittsburgh, and follow up interviews with the author of the 2015 Report that names the Ft. Wayne Bridge as a “Deadly Crossing” because of severe corrosion, and then Norfolk Southern’s Manager of Media Relations. Norfolk Southern’s Media spokesperson says all of its bridges are safe and all of the corrosion is “cosmetic.”</p> <p>However, in its own public outreach video (which Norfolk Southern has since removed from their website) concerning the need to entirely replace—at taxpayer expense, its Merchant St. rail bridge, they said the following:</p> <p>“After a routine inspection in 2018, the Merchant Street Bridge was determined to exhibit extensive steel corrosion within the cross girders and columns comprising the intermediate pier as well as throughout the riveted trough system...and potentially could cause injuries or property damage.... These conditions are considered safety concerns and may pose a safety hazard to the railroad and the traveling public...and a potential liability to other transportation entities (e.g. City of Pittsburgh, Allegheny County) if not addressed.”</p> <p>There were no indications that metal fatigue or any other failure modes were contributing problems causing the steel to deteriorate...just corrosion.</p> <p>You just can’t have it both ways, Norfolk Southern. What is clearly evident is that the corrosion on other rail bridges in our county look to be more severe than the deterioration on its Merchant Street Bridge.</p> <p>The many decades long corrosion evident on Norfolk Southern’s bridges is the result of a lack of maintenance—specifically the failure to remove rust and paint the steel—not age. (Compare the Ft. Wayne Bridge with the Sixteenth Street/McCullough Bridge of the same age which is maintained by the city.)</p> <p>WPXI also published the response of Association of American Railroads—which was</p>	<p>The purpose of CP Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code. This comment does not relate to resolution of adverse effects on historic properties presented by the Merchant Street Bridge Project. To the extent the comment relates to the Merchant Street Bridge Project purpose and need, this comment would appear to support maintenance of safe freight and passenger rail, which is the purpose of the Merchant Street Bridge Project.</p> <p>The Norfolk Southern public outreach video to which the commenter refers was prepared for the public involvement process in lieu of an in-person public meeting. As was presented in that video, safety restrictions in place for the current COVID-19 pandemic did not allow for an in-person public meeting and the recognized alternative was a virtual presentation, as has been done in many other contexts (including court proceedings) during these very difficult times. PennDOT deemed the use of an online meeting for public outreach for the Merchant Street Bridge Project acceptable and has implemented that mode of public communication in multiple transportation projects during the pandemic. The video remained posted on the Norfolk Southern project website during the full extent of the public comment period; it was removed once the comment period ended.</p> <p>The quoted excerpt from the Norfolk Southern video relating to the condition of the Merchant Street Bridge is completely consistent with the project’s purpose and need statement, which has been available since June 2019 and is posted on the Norfolk Southern project website. As we have stated and consistent with the quoted section, the purpose of the Merchant Street Bridge Project relates to safety. Assertions from observers without engineering qualifications or railroad bridge experience that attempt to contradict expert inspections are unfounded.</p> <p>With respect to the remaining unfounded assertions and accusations relating to railroad safety generally, see response above. Norfolk Southern maintains its railroad infrastructure, including bridges, in a manner that is protective of its assets and railroad operations and consistent with federal regulations and good engineering practices. Not only are the assertions relating to the condition of the other bridges along the railroad right of way factually incorrect and not based on engineering expert review, they have no relevance to the review of the Merchant Street Bridge Project under the Pennsylvania History Code.</p> <p>As stated above, attempts to delay the Pennsylvania History Code and Act 120 processes by inserting inflammatory and incorrect statements that either are completely unrelated to any current Norfolk Southern project, object to existing</p>

		<p>that there is no cause for concern because inspections are submitted to the Federal Rail Administration. However, the NSTB accident report of the 2006 Beaver River Bridge 83-car derailment at New Brighton determined:</p> <p>“Contributing to the accident were the Federal Railroad Administration’s inadequate oversight of the internal rail inspection process and its insufficient requirements for internal rail inspection.”</p> <p>What we were also not told is that the FRA is comprised of railroad and petroleum executives and lobbyists- and only has a budget to review and inspect 5% of the nation’s rail bridges.</p> <p>This issue has nothing to do with double stack trains. It has to do with projected increased train volume comprised of longer trains with extra locomotives.</p> <p>Without regard to whether a bridge passes a current inspection, our city, county, state and federal representatives need to take a longer-term view of the safety of rail crossings. The multitude of century-old rail bridges in Allegheny County will, in the near future, fall into the Merchant St. bridge category. This fate is ever more likely now given Norfolk Southern’s record terminations of maintenance and inspector personnel in 2019 (one of their most profitable years) and 2020. Those reductions in force, combined with the \$13.7 Billion stock buyback over the last 10 years (instead of using those funds for enhanced maintenance, new equipment and rails, and additional inspections), make having special inspection oversight prudent and necessary.</p> <p>Finally, WPXI reported that a number of City Council representatives were planning to request special inspection oversight from the PUC and the FRA—who have joint jurisdiction over rail bridge safety.</p> <p>Please encourage your representatives to do the same. You can find them here: https://live.cicerodata.com/</p> <p>If Norfolk Southern is so confident that its rail bridges are safe, they should welcome special inspection oversight—just as they should have welcomed RP3 and other neighborhood groups’ participation in PUC safety proceedings. Instead, Norfolk Southern has paid their lawyers to oppose our intervention in PUC and court hearings for over two years. In order to obtain taxpayer funding, Norfolk Southern PR spokespeople promised that the process would be “open and transparent.”</p> <p>Here is the WPXI link to the investigative report: https://www.wpxi.com/news/investigates/are-double-stack-trains-safe-enough-go-through-pittsburgh-11-investigates/ZHDMKGIKCVGVTB3M27DLWJX3YA/</p> <p>The foregoing constitutes RP3’s sincere opinions and beliefs.</p>	<p>federal law that is not at issue in this proceeding, or relate to a separate and distinct set of projects only serves to delay an important safety-related project.</p>
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4	<p>11/20/2020 Email in response to emailed correspondence from Timothy Zinn (Michael Baker International, Inc.) to Barbara Frederick requesting a clarification in a PA SHPO letter dated 10/20/2020</p>	<p>Glenn Olcerst (RP3)</p>	<p>Because of its severely corroded condition, the Merchant Street Bridge project is the first component being addressed in the Pittsburgh Vertical Clearance Project.</p> <p>The written PVCP Applications and grant funding the work on the Merchant Street Bridge are irrefutable on this point.</p> <p>Replacing that bridge—which is adjacent to historic Allegheny Commons, is the only way to facilitate the volume of rail traffic that is a component of the PVCP.</p> <p>Therefore, there is a concomitant direct and indirect impact on the historic landmark Commons.</p>	<p>The purpose of CP Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code. This comment does not relate to resolution of adverse effects on historic properties presented by the Merchant Street Bridge Project.</p> <p>Again, the Merchant Street Bridge Project is a standalone project distinct from the Pittsburgh Vertical Clearance Projects. The November 20, 2020 emailed correspondence to Barbara Frederick requested a clarification of the PA SHPO letter dated October 20, 2020, regarding a specific clause on indirect effects. Consulting parties were copied as a courtesy. It has been demonstrated through the consulting party process that the Merchant Street Bridge Project will not have an effect on the Allegheny Commons Historic District. Based on the Determination of Effect Report prepared by Michael Baker, PennDOT issued a finding of No Adverse Effect on the Allegheny Commons Historic District. The PA SHPO, in its September 16, 2020 letter, concurred that the Merchant Street Bridge Project will not have a direct (including visual) effect on the Allegheny Commons Historic District, but did request that information pertaining to indirect effects of the Pittsburgh Vertical Clearance Projects on the Allegheny Commons Historic District be provided. In its October 20, 2020 letter, the PA SHPO rescinded that request noting that such information can be provided during the Pennsylvania History Code review process for the Pittsburgh Vertical Clearance Projects. On November 20, 2020, Timothy Zinn (Michael Baker International, Inc.) emailed a request for clarification to PA SHPO regarding indirect effects of the Merchant Street Bridge Project on the Allegheny Commons Historic District. On November 30, 2020 the PA SHPO responded that the Merchant Street Bridge Project “as currently designed, does not have the potential to indirectly affect the Allegheny Commons Historic District” (See Comment 2, Response 2 B and Comment 6).</p> <p>It should be noted that the Allegheny Commons Historic District is listed on the National Register of Historic Places and is not on the list of National Historic Landmarks as indicated in the comment.</p>
5	<p>11/21/2020 Email in response to emailed correspondence From Timothy Zinn (Michael Baker International, Inc.) to Barbara Frederick requesting a clarification in a PA SHPO letter dated 10/20/2020</p>	<p>Glenn Olcerst (RP3)</p>	<p>A. The response below is a follow up to RP3’s previous submission entitled: Norfolk Southern/PennDOT’s Latest Check the Box Exercise.</p> <p>By way of background, Norfolk Southern and PennDOT have been holding closed meetings only for “consulting parties” to determine the potential effects of the Pittsburgh Vertical Clearance Project on historic properties, and whether an agreement can be reached on mitigation pursuant to the Pennsylvania History Code. These meetings are overseen by the Pennsylvania State Historic Preservation Office (PA SHPO.) Because of the lack of transparency, we are sharing an abbreviated version of the most recent “Comments” submitted by</p>	<p>A. As a point of clarification, the consulting party review process is for the purpose of addressing the effects of a project, here the Merchant Street Bridge Project, on historic properties. Because some of the consulting parties have not been involved with similar reviews pursuant to the Pennsylvania History Code, the consultation process was explained at every consulting party meeting, all of which the commenter has participated in. The role of consulting parties has been discussed as part of each of the three CP meeting presentations and is established by guidance and regulations. Again, those presentations and other information relating to the consulting parties meetings is posted and available on the Norfolk Southern project website.</p>

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			<p>Rail Pollution Protection Pittsburgh (RP3) to the 3rd Merchant Street Bridge Meeting:</p>	<p>As explained in the CP Meeting #1, #2, and #3 presentations, under PennDOT guidance and a MOU between PA SHPO and PennDOT, PennDOT fulfills its obligations for considering the effects of state-funded transportation projects on historic properties under the Pennsylvania Historic Code using processes and procedures under Section 106 of the National Historic Preservation Act outlined in 36 C.F.R. 800. The Section 106 regulations are specific regarding consulting parties and require that individuals and organizations must have a demonstrated interest in the project “due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking’s effects on historic properties” (36 C.F.R. 800.2(c)(5)). PennDOT determines that demonstrated interest through an application process. Consulting parties meet to consult on the identification and evaluation of historic properties, to consult on the assessment of effects and the resolution of adverse effects, and to consult on measures to avoid, minimize, and mitigate those effects in meetings that are limited to those parties with demonstrated interest. Although the consultation sessions are limited to the consulting parties, all of the reports, comments, responses, and additional information provided as part of that consultation is available to the public at large on the Norfolk Southern project website. Further, the PA SHPO does not oversee the consulting party meetings. SHPOs, as defined in the Section 106 regulations, are one of the consulting parties (36 C.F.R. 800.2(c)(1)) without needing to demonstrate their interest in the process as would organizations and members of the public. The commenter had applied for and received consulting party status and has been involved in each of the consulting parties meetings for both the Merchant Street Bridge Project and the separate Pittsburgh Vertical Clearance Projects.</p>
			<p>B. We must object to both the timing and substance of Norfolk Southern’s November 20 letter to PA SHPO. The objection is based on the ongoing mediation relating to the only other PVCP component which is adjacent to Allegheny Commons—the W North Ave Bridge.</p> <p>If issues relating to the W North Ave Bridge theoretically were to be resolved within the mediation process, it would also theoretically and logically remove and likely preclude stakeholders from weighing in on both the assessment of audible and atmospheric direct and indirect impacts that PVCP bridge project has on the historic Commons—and the appropriate mitigation that should result. Viewed in the context of the ongoing mediation, Norfolk Southern’s November 20 letter is an attempt at an “end run” around a significant issue, and an insult to the PA SHPO process and objectives.</p>	<p>B. The purpose of CP Meeting #3 and these comments was to provide consulting parties the opportunity to comment and participate in the resolution of adverse effects on historic properties as a result of the Merchant Street Bridge Project in accordance with the Pennsylvania History Code. The comment does not relate to resolution of adverse effects on historic properties presented by the Merchant Street Bridge Project.</p> <p>The commenter is referring to correspondence of November 20, 2020 from Michael Baker’s Department Manager for Historic Preservation and Secretary of Interior Professionally Qualified Senior Architectural Historian. As was clear in that letter, Mr. Zinn merely requested the PA SHPO to clarify a statement in its October 20, 2020 letter regarding indirect effects of the Merchant Street Bridge Project on the Allegheny Commons Historic District for the benefit of Norfolk Southern, PennDOT, and the consulting parties. Communications with the PA SHPO are specifically part of the Pennsylvania History Code consultation process.</p> <p>Again, the commenter is confusing the purpose and need of the separate Pittsburgh Vertical Clearance Projects with the safety-critical Merchant Street</p>

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				<p>Bridge Project. As the commenter is aware due to his participation in the consulting party process for the separate Pittsburgh Vertical Clearance Projects, there is and will continue to be a separate consultation process for those projects, in which the direct and indirect effects of the Pittsburgh Vertical Clearance Projects will be assessed for all historic properties within the projects' APEs.</p> <p>The mediation sessions referenced in the comment relate to the separate PUC proceeding for a different bridge that is part of the Pittsburgh Vertical Clearance Projects. That ongoing PUC mediation is unrelated to the Merchant Street Bridge Project, for which PUC has issued an order approving a settlement to proceed with construction. As a general clarification, mediation in the PUC context, as is mediation in all litigation, is closed to non-parties and subject to protective orders. The separate Pennsylvania History Code consultation process, in which interested consulting parties including the commenter participate, is the process through which potential effects on historic properties are evaluated and, if found to be adverse, measures to avoid, minimize, or mitigate those adverse effects will be explored.</p>
			<p>C. Keep in mind the history of this issue. At our earlier Merchant St Bridge meetings, it was agreed that the replacement of the Merchant St Bridge facilitated the PVCP, which impacted the Commons. That led to an April 30 Preservation Office letter directing Norfolk Southern to provide data on direct and indirect impact on the Commons (atmospheric, noise, vibration, visual) in connection with the Merchant St Bridge meetings. That directive was ignored—even though neighbors know that monitors had been used to gather that very data. Instead, we were told that another “undisclosed preliminary study” indicated that there would be 4 fewer trains running/day on the proposed PVCP route in year 2045 justifying both the replacement of the Merchant St Bridge and the approval of the PVCP. The Preservation Office accepted the claim at face value and opined, in its September 16 letter that there was therefore no atmospheric or noise pollution that would adversely impact the historic Commons related to the Merchant St Bridge. At the October 6 consulting party meeting, and in our Comments to that meeting, RP3 objected in detail to the merits of Norfolk Southern’s “undisclosed preliminary study.”</p> <p>Now in its October 20 correspondence PA SHPO agrees with RP3 and admits that:</p> <p>“We recognize the statement in our September 2020 letter indicating the Pittsburgh Vertical Clearance Project does not have the potential to have audible or atmospheric effects on the Allegheny Commons Historic District has caused confusion. As indicated at the October meeting, this statement was based on limited information and we rescind that opinion for the Merchant Street Bridge project.”</p>	<p>C. See Response 1.C.</p> <p>As stated above, Norfolk Southern has not made an “agreement” that the Merchant Street Bridge Project facilitates the Pittsburgh Vertical Clearance Projects. As we have reiterated, the Merchant Street Bridge is a separate project with independent utility, logical termini, and a separate purpose and need based on the deteriorated condition of the bridge.</p> <p>PA SHPO’s April 30, 2020 request for information regarding direct and indirect effect of the Pittsburgh Vertical Clearance Projects on the Allegheny Commons Historic District was retracted in its October 20, 2020 letter after clarification that the Merchant Street Bridge Project was a separate project from the Pittsburgh Vertical Clearance Projects. It should be noted, however, that Norfolk Southern did, in fact, provide this information for the Pittsburgh Vertical Clearance Projects in the Comments and Responses document for the Merchant Street Bridge Project CP Meeting #2, dated July 2020, on pages 2 and 3. Further, the direct and indirect effects of the Merchant Street Bridge Project on historic properties has been addressed in the Determination of Effects Report and made available to the consulting parties and these have been discussed in CP Meetings #2 and #3. This document is available on the Norfolk Southern project website and consulting parties, including the commenter, were provided with those responses by email on July 7, 2020 and, after adding a clarification, again on July 24, 2020. To the extent necessary and in accordance with PennDOT guidance, the Act 120 environmental documentation for the Merchant Street Bridge Project will address direct effects, indirect or secondary effects, and cumulative effects, including visual, audible, or atmospheric on historic properties, if any.</p>

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			<p>PA SHPO then directs Norfolk Southern to provide a long list of detailed information on the topics (related to idling, number of locomotives etc.) once the PVCP consultation begins (i.e. West North Ave. Bridge.)</p>	<p>The commenter appears to misunderstand PA SHPO’s quoted statement in the October 20, 2020 letter, which confirms that it had misunderstood that the Merchant Street Bridge Project indeed is a separate project from the Pittsburgh Vertical Clearance Projects. The PA SHPO October 20, 2020 letter explained that the undertaking is limited to Merchant Street Bridge due to safety concerns related to the condition of the bridge. The rest of that letter makes clear that PA SHPO will undertake review of the Pittsburgh Vertical Clearance Projects during the review process for those projects, and information relevant to the Pennsylvania History Code compliance process will be provided in that proceeding. As requested by PA SHPO, an assessment of the potential for direct and indirect effects, including auditory, visual, atmospheric, and cumulative effects on the Allegheny Commons Historic District will be addressed as part of the separate Pittsburgh Vertical Clearance Projects. Of course, that information will also be available as part of the Pittsburgh Vertical Clearance Projects’ Act 120 environmental review process separate from this Merchant Street Bridge Project.</p>
			<p>D. We submit that that the PVCP project and consultation began with the Merchant St Bridge. The written PVCP Applications and grant funding the work on the Merchant Street Bridge are irrefutable on this point. This is true on paper, as a matter of logic, and in reality. No replaced Merchant Street Bridge; no PVCP. Notwithstanding the above, Norfolk Southern now asks PA SHPO in its November 20 letter to “... please respond with your concurrence that the Merchant Street Bridge Project will not result in audible and atmospheric effects to the Allegheny Commons Historic District.”</p> <p>Under these circumstances PA SHPO must either reaffirm its original April 30 holding that Merchant Street Bridge—as a component of the PVCP, does have a direct and indirect impact on the Commons. Otherwise, any other response by PA SHPO must await the conclusion of the mediation to determine if the consulting parties can continue to advocate on the issue. The issue is simply too important to be handled in any other manner.</p> <p>If the true purpose of these historic impact meetings is to assess impact, determine appropriate mitigation and to get the consulting parties to enter into a memorandum of agreement, we predict that will not happen with respect to the Merchant St Bridge if the impact on the park is not addressed here. More litigation is the most likely result.</p>	<p>D. See responses 1.B, 1.C., 1.H., 4, 5.B. and 5.C. above. As has been demonstrated countless times, the Merchant Street Bridge Project is a separate project that is independent of the proposed Pittsburgh Vertical Clearance Projects and is being evaluated under independent compliance processes. While the PA SHPO Project Review Form and Determination of Area of Potential Effects Report (Michael Baker International, Inc. 2018) included nine projects, two of the projects were removed from PennDOT funding and therefore from the Pennsylvania History Code Act 120 compliance processes. The Merchant Street Bridge Project was separated from the remaining projects since it is a separate undertaking with a separate purpose and need, has independent utility and logical termini, has no vertical clearance obstructions, is currently capable of carrying double-stack train traffic, and is being replaced because of future safety concerns as the bridge is nearing the end of its useful life. Modifying the bridge has no effect on the railroad vertical clearance because the trains run over the bridge, not under it.</p> <p>The Pennsylvania History Code compliance process has followed processes and procedures of Section 106 of the National Historic Preservation Act outlined in 36 C.F.R. 800 to delineate an area of potential effects, to identify historic properties, to assess effects of the undertaking on historic properties, and to resolve adverse effects through consultation by seeking measures to avoid, minimize, and/or mitigate those effects. PA SHPO is not a permitting authority but is a consulting party. A draft MOU will be forthcoming.</p> <p>The commenter has not identified a direct or indirect effect of the Merchant Street Bridge Project, which involves an on-alignment superstructure replacement, on historic properties or justification for assertion of such an impact.</p>

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6	<p align="center">11/30/2020 Email in response to emailed correspondence from Timothy Zinn (Michael Baker International, Inc) dated 11/20/2020</p>	<p align="center">Barbara Frederick (PA SHPO)</p>	<p>Below is a response to the question presented in your November 20, 2020 letter.</p> <p>The PA SHPO will assess the potential for visual, audible and atmospheric effects of the Pittsburgh Vertical Clearance Project on the Allegheny Commons Historic District when more information becomes available as outlined in our letter of October 20, 2020. We remain in agreement that the Merchant Street Bridge Project, being advanced by PennDOT as independent from the vertical clearance project, as currently designed, does not have the potential to indirectly affect the Allegheny Commons Historic District.</p> <p>We look forward to continued consultation on both projects.</p>	<p>Thank you for your clarification.</p>
7	<p align="center">12/02/2020 Email in response to PA SHPO email dated 11/30/2020</p>	<p align="center">Glenn Olcerst (RP3)</p>	<p>A. By way of background, Norfolk Southern and PennDOT have been holding closed meetings only for “consulting parties” to determine the potential effects of the Pittsburgh Vertical Clearance Project on historic properties, and whether an agreement can be reached on mitigation pursuant to the Pennsylvania History Code. These meetings are overseen by the Pennsylvania State Historic Preservation Office (PA SHPO.) Because of the lack of transparency, we are sharing an abbreviated version of the most recent “Comments” submitted by Rail Pollution Protection Pittsburgh (RP3) to the 3rd Merchant Street Bridge Meeting:</p> <p>B. In connection with the “Merchant Street Bridge, Determination of Effects Report and Consulting Party Meeting #3 Notes,” the Pennsylvania State Historic Preservation Office (PA SHPO) issued a letter on April 30 determining that Norfolk Southern must provide an analysis of direct and indirect visual, emissions, and noise impacts on Allegheny Commons in connection with the replacement of the Merchant St Bridge, “and if necessary, revise the APE.” (Area of Potential Effect)</p> <p>On October 20 they completely reversed their earlier determination and again reaffirmed that ruling of no direct or indirect impact by email on November 30. No facts or analysis for this 180-degree change in direction and outcome were provided. Even though neighbors have reported that Norfolk Southern finished testing all of these types of impacts spring of 2019 after placing monitors in their yards, PA SHPO determined that a review needs to wait until this environmental information is made available after the Pittsburgh Vertical Clearance Project commences. This would be a review that would then not include the Merchant Street Bridge.</p> <p>First, it is incumbent on our elected representatives to thoroughly investigate the pressure exerted by PennDOT and Norfolk Southern that caused PA SHPO to do a 180-degree about-face from their April 30 ruling.</p>	<p>A. This comment is verbatim from RP3’s 11/21/2020 email reproduced in comment 5. See response to comment 5.</p> <p>B. The commenter’s summary of the chain of events and correspondence leading up to those SHPO opinions is both lacking and misleading. Most of the correspondence excerpts have been removed from the context and justification for reversals of prior opinions by omitting the explanations provided in that correspondence. For example, the October 20, 2020 letter provides the justification for that reversal as follows:</p> <p><i>Our initial comments on the Merchant Street Bridge project were based upon an understanding that this project was related to the purpose and need of the Pittsburgh Vertical Clearance Project. The sponsoring agency, PennDOT, who is responsible for compliance with the State History Code, has determined that the undertaking is limited to Merchant Street Bridge due to safety concerns related to the condition of the bridge.</i></p> <p><i>When consultation for the Pittsburgh Vertical Clearance project is initiated, we request a detailed assessment of the potential for indirect effects, audible, atmospheric, and visual, be provided. This assessment should address indirect effect considerations mentioned during the October Merchant Street Bridge meeting including train idling, frequency of traffic, and required number of locomotives. We</i></p>

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			<p>Additionally, PA SHPO now explicitly agrees with PennDOT and Norfolk Southern’s assertion that the Merchant St Bridge is not part of the Pittsburgh Vertical Clearance Project (PVCP). Again, no analysis or explanation is provided. That the PA SHPO openly and effortlessly accepts these claims at face value without accountability is stunning.</p>	<p><i>may also, depending upon documentation provided when consultation is initiated, request additional information.</i></p> <p>As explained in the October 20, 2020 letter, PA SHPO recognizes that the effects of the Pittsburgh Vertical Clearance Projects will be assessed as part of the consultation process for those projects. The monitoring referenced in the comments was done specifically for those projects and will be part of those Pennsylvania History Code and Act 120 processes. As has been demonstrated in the Merchant Street Bridge Project consultation process and the documentation specifically contained in the Determination of Effect Report, on-alignment bridge replacement projects do not warrant these environmental studies.</p>
			<p>C. The current purposely confused status of these pending issues all stem from PennDOT/Norfolk Southern’s initial alternate reality claim that the Merchant St Bridge is not part of the PVCP. That declaration was first made last December at the first Consulting Party meeting. The assertion was a purposeful strategy intended to isolate, segregate and minimize impacts on areas of potential effect relating to Allegheny Commons. Everything that has occurred since then has just been perpetuating that error.</p> <p>There are, however, the following real-world facts which amply demonstrate that Merchant St Bridge is a part of the Pittsburgh Vertical Clearance Project and that its replacement has a significant impact on the historic Commons and the Environment—all of which are well known to both PennDOT and Norfolk Southern, and which have never yet been considered by PA SHPO:</p> <ol style="list-style-type: none"> 1. The 3/19/2018 "Norfolk Southern Railroad Pittsburgh Vertical Clearance NEPA Scoping Meeting Notes" includes Merchant Street Bridge as part of the PVCP-see page 4; 2. The May 29, 2018 "Norfolk Southern Vertical Clearance Project Public Open House Invitation" lists the Merchant Street Bridge as part of the PVCP; 3. The "Information Gathering and Project Overview Open House Pittsburgh Vertical Clearance Projects Comment Form" for the June 26, 2018 “Open House” placard meeting specifically lists the Merchant Street Bridge as one of “the nine project locations...” on page 2; 4. The "Norfolk Southern Railway Company Pittsburgh Vertical Clearance Projects - Project Purpose and Need Statements" dated August, 2018 lists the Merchant Street Bridge as part of the Project on page 12; 5. In response to Senator Wayne Fontana’s inquiry about PVCP financing, PennDOT provided "Project Description and Cost Share" showing a 	<p>C. See multiple responses above regarding the separate purpose and need for the Merchant Street Bridge Project and reasons for its separate consideration in the Act 120 and Pennsylvania History Code processes. Regardless of the Pittsburgh Vertical Clearance Projects, the Merchant Street Bridge would still need to be replaced. In addition to the separation of the Merchant Street Bridge Project because of its separate purpose and need and logical termini, among other things, two other infrastructure projects originally included in the public scoping and funding have been removed from that original project. It is not uncommon for the scope of a complex project to change over time, as has occurred with this project.</p> <p>The assessment of effects of the separate Pittsburgh Vertical Clearance Projects on historic properties, including the Allegheny Commons Historic District, is underway in a separate process.</p> <p>The JMT report was not undertaken as part of this project team; it was a separate report commissioned by PennDOT to have JMT take an independent look at various alternatives. JMT’s alternatives analysis was based on a cursory review of the projects and was not based on expert surveys, engineering inspections, engineering design, or geotechnical information. Similarly, work completed by JSA is related to the separate Pittsburgh Vertical Clearance Projects, which are being evaluated under independent compliance processes as stated in the response to 1F. As noted above, the scopes of the projects have changed based on project needs throughout the corridor and some information in older reports may no longer apply or be relevant. The alternatives that the project team prepared for the Merchant Street Bridge Project (as well as the preliminary engineering for the alternatives for the separate Pittsburgh Vertical Clearance Projects) have all been based on actual survey, geotechnical analysis, structural engineering, and geometric design. All of the project team’s calculations have been conducted by experts retained for this project, with pertinent input relating specifically to the design of the Merchant Street Bridge Project.</p>

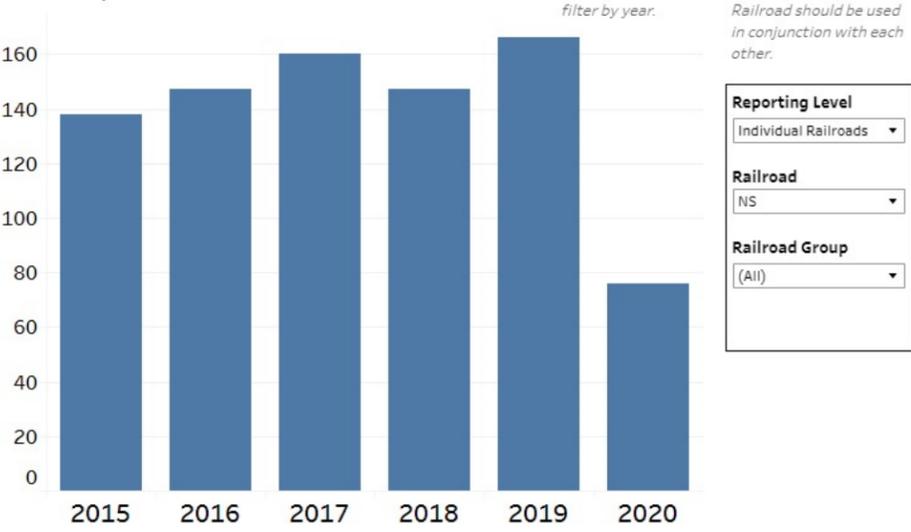
Comment #	Source	Commenter	Comments	Responses
			<p>Merchant Street Bridge replacement cost of \$7,800,000—using the same funding source as the other PVCP bridges. See page 2;</p> <p>6. The JMT Consultant’s Report (hired by PennDOT) entitled "Norfolk Southern Vertical Clearance Project Clearance Improvement Alternatives Evaluation" includes the Merchant Street Bridge. The “Effects Analysis Issues Score” grid for that bridge—under the design currently under consideration, shows that the Merchant St Bridge replacement resulted in a 3 red (or a high) for its impact in twelve categories. It also received scores of 2 yellow (medium) impact on the Historic District, Air Quality, Noise Pollution and Socioeconomic Environmental categories.</p> <p>7. The Justice & Sustainability Associates (JSA) Consultant (hired by PennDOT) slide entitled the "Pittsburgh Vertical Clearance Project Fact Sheet" includes the Merchant Street Bridge and lists as “Four Main Areas of Concern: Noise Pollution, Vibration, and Running Double Stack Trains Next to Oil Trains.”</p>	
			<p>D. The applicable statute that both PennDOT and PA SHPO are required to follow states as follows:</p> <p>“c) Full consideration of historic properties includes consideration of all kinds of effects on those properties: direct effects, indirect or secondary effects, and cumulative effects. Effects may be visual, audible, or atmospheric. Beyond the effects from physical alteration of the resource, itself, effects on historic properties may result from changes in such things as local or regional traffic patterns, land use, and living patterns.”</p> <p>It is inexplicable that PA SHPO can come to the conclusion that the Merchant Street Bridge replacement has absolutely no direct or indirect impact on the Commons when they have not yet seen any of the environmental data in Norfolk Southern’s possession.</p> <p>The machinations that are occurring in the instant case demonstrate why taxpayer/voters have little faith in our agencies or their processes. Please share your thoughts with your elected representatives.</p>	<p>D. The commenter cites Section 110 of the NHPA, which is not applicable to the Merchant Street Bridge Project. Rather, by reason of state funding for the project, the Pennsylvania History Code and PennDOT’s Act 120 are applicable for historic and environmental reviews, respectively. As noted in Response 1A, PennDOT fulfills its obligations for considering the effects of state-funded transportation projects on historic properties under the Pennsylvania Historic Code using processes and procedures under Section 106 of the National Historic Preservation Act outlined in 36 C.F.R. 800. While Sections 110 and 106 of the NRHP contain similar language, Section 106 is the section applicable here.</p> <p>In accordance with Section 106, the direct and indirect effects of the Merchant Street Bridge Project on historic properties have been assessed in the Determination of Effect Report by applying the definition of effect (36 C.F.R. 800.16(i)), the criteria of adverse effect (36 C.F.R. 800.5(a)(1)), and the examples of adverse effect (36 C.F.R. 800.5(a)(2)) for each of the historic properties in the APE. The report was submitted for consulting party review and discussed in depth at CP Meeting #2 and reviewed at CP Meeting #3. PennDOT made a finding of “No Historic Properties Adversely Affected,” with which PA SHPO concurred. The referenced report and supporting correspondence are available on the Norfolk Southern project website.</p> <p>The environmental data mentioned in the comment is being prepared for the separate Pittsburgh Vertical Clearance Projects and will be available for consulting party and public review and input during the Pennsylvania History Code and Act 120 compliance processes.</p> <p>Attempts to delay the Pennsylvania History Code and Act 120 processes for the Merchant Street Bridge Project by inserting inflammatory and incorrect</p>

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				<p>statements that either are completely unrelated to any current Norfolk Southern project, object to existing federal law that is not at issue in this proceeding, or relate to a separate and distinct set of projects only serves to delay an important safety-related project.</p> <p>The remainder of this comment repeats other incorrect conclusions or comments from this same commenter and to which responses appear above.</p>
8	<p>12/07/2020 Email in response to emailed correspondence from Timothy Zinn (Michael Baker International, Inc.) to Barbara Frederick (PA SHPO) regarding proposed minimization and mitigation commitments dated 12/04/2020</p>	<p>Glenn Olcerst (RP3)</p>	<p>A. The Mitigation Commitments included in this draft are a nonstarter since the JMT Consultant’s Report, paid for by PennDOT, demonstrate that the current Merchant Street Bridge design results in significant direct Environmental and Historic impacts on Allegheny Commons.</p> <p>Our full response is linked below:</p> <p>https://us19.campaign-archive.com/?u=b25f02b9dabedbaa760931a14&id=7789a9b1ec</p> <p>B. Re: Options for elected officials to mitigate the harmful effects of Norfolk Southern Railway’s Expansion Project</p> <p>To: The following Federal, State and Local elected officials and appropriate agencies:</p>	<p>A. See responses to 7C and 7D above.</p> <p>B. As a reminder, the consulting party process under the Pennsylvania History Code pertains to the identification of historic properties, the assessment of potential effects of the undertaking on historic properties, and the resolution of any adverse effects on historic properties through agreed-upon avoidance, minimization, or mitigation measures developed through the consultation process. As stated above, attempts to delay the Pennsylvania History Code and Act 120 processes by inserting inflammatory and incorrect statements that either are completely unrelated to any current Norfolk Southern project, object to existing federal law that is not at issue in this proceeding, or relate to a separate and distinct set of projects only serves to delay an important safety-related project.</p>

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			<table border="1"> <tr> <td>Governor Tom Wolf Office of the Governor 508 Main Capitol Building Harrisburg, PA 17120</td> <td>Lieutenant Governor John Fetterman LGOoffice@pa.gov</td> </tr> <tr> <td>Senator Robert Casey United States Senate 393 Russell Senate Office Building Washington, DC20510</td> <td>Senator Pat Toomey United States Senate 248 Russell Senate Office Building Washington, DC20510</td> </tr> <tr> <td>Congressman Mike Doyle rep.doyle@mail.house.gov</td> <td>Congressman Conor Lamb 1224 Longworth House Office Building Washington, DC 20515</td> </tr> <tr> <td>State Senator Wayne Fontana fontana@pasenate.com</td> <td>State Senator Jay Costa costa@pasenate.com</td> </tr> <tr> <td>State Senator Jim Brewster brewster@pasenate.com</td> <td></td> </tr> <tr> <td>State Representative Adam Ravenstahl repravenstahl@pahouse.net</td> <td>State Representative Jake Wheatley jwheatley@pahouse.net</td> </tr> <tr> <td>State Representative Ed Gainey repgainey@pahouse.net</td> <td>State Representative Summer Lee slee@pahouse.net</td> </tr> <tr> <td>State Representative Sara Innamorato Replnnamorato@pahouse.net</td> <td>State Representative Dan Frankel repfrankel@pahouse.net</td> </tr> <tr> <td>County Executive Rich Fitzgerald executive@allegghenycounty.us</td> <td>County Council Representative Liv Bennet OBennett@allegghenycounty.us</td> </tr> <tr> <td>County Council Representative Sam DeMarco Samuel.DeMarco@allegghenycounty.us</td> <td>County Council Representative Bethany Hallam BHallam@allegghenycounty.us</td> </tr> <tr> <td>Mayor Bill Peduto bill.peduto@pittsburghpa.gov</td> <td>Chief of Staff Dan Gillman Daniel.gilman@pittsburghpa.gov</td> </tr> <tr> <td>City Councilman Bobby Wilson bobby.wilson@pittsburghpa.gov</td> <td>City Councilman Daniel Lavelle daniel.lavelle@pittsburghpa.gov</td> </tr> <tr> <td>City Councilman Corey O'Connor corey.oconnor@pittsburghpa.gov</td> <td>City Councilman Bruce Kraus bruce.kraus@pittsburghpa.gov</td> </tr> <tr> <td>City Councilwoman Erika Strassburger erika.strassburger@pittsburghpa.gov</td> <td>City Councilwoman Deb Gross district7@pittsburghpa.gov</td> </tr> <tr> <td>City Councilwoman Theresa Kail-Smith theresa.kail-smith@pittsburghpa.gov</td> <td>City Councilman Anthony Coghill anthony.coghill@pittsburghpa.gov</td> </tr> <tr> <td>City Councilman Ricky Burgess reverend.burgess@pittsburghpa.gov</td> <td>Director, DOMI, Karina Ricks karina.ricks@pittsburghpa.gov</td> </tr> <tr> <td>Jeff Skalican, Deputy Director, DOMI jeff.skalican@pittsburghpa.gov</td> <td>Local Government and Community Relations Coordinator Hersh Merenstein hersh.merenstein@pittsburghpa.gov</td> </tr> <tr> <td>Rep. Doyle Legislative Assistant Dylan Leazes dylan.leazes@mail.house.gov</td> <td>Rep. 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			<p>Dear Elected Officials:</p> <p>The 20 undersigned organizations believe that there is a need to address rail proliferation where it conflicts with urban health, sustainability, and personal well-being.</p> <p>As you know, the State Transportation Commission approved \$20 million in taxpayer funding for Norfolk Southern to increase its rail traffic through a twenty-mile segment of Pittsburgh's most densely populated neighborhoods.</p>																																											

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			<p>Along the proposed modified route, there are 176,000 residents living within the black carbon diesel high risk fallout and derailment blast zones—74% of whom live in Environmental Justice Areas. These areas are to receive extra consideration in policy decisions to ensure that they do not disproportionately shoulder the burden of environmental hazards. Those primarily black and brown residents are already breathing some of the worst air in the country. University of Pittsburgh, School of Public Health, Center for Environments and Communities analysts <u>have conservatively determined</u> that the increased train traffic is the equivalent of over 5,500 diesel busses passing those residents’ doorstep every day. Carnegie Mellon University analysts <u>have determined</u> that every ten trains results in six pollution related deaths/year. They have further determined that for every hour of train idling, there will be one pollution related death per year. We have evidence that Norfolk Southern has idled trains for four days and four nights in Allegheny Commons. Instances of idling of lower priority rail traffic will only increase after rail traffic increases.</p> <p>These facts are particularly concerning given the <u>findings of a recent Harvard School of Public Health study</u>, which appears to be the best available evidence regarding an association between air pollution and mortality from COVID-19.</p> <p>The very latest study, published in <u>Environment International</u>, found that fine particles (emitted by locomotives) may also alter the size of a child’s developing brain, which may ultimately increase the risk for cognitive and emotional problems later in adolescence.</p> <p>The quality of our air, water and our health are impacted by the Group 1 carcinogenic black carbon diesel 2.5 pm particulates emitted by Norfolk Southern’s locomotives.</p> <p>In addition, the integrity of Norfolk Southern’s rail and bridge infrastructure through the city and Allegheny County is crucial to our safety and well-being. Our elected representatives have asked for more information about what other cities and states have accomplished and what options might be considered in Pennsylvania and in Pittsburgh.</p> <p>First, California, New York, New Jersey, Minnesota, Washington, and Oregon all have laws expressly permitted by the Federal Oil Pollution Control Act of 1990 (OPA) that:</p> <ul style="list-style-type: none"> • Impose strict liability—in the event of a derailment involving an oil spill or explosion, for all property damage, health costs, lives lost, require the restoration of natural resources, and permit punitive damages. • OPA also allows states to impose fees on oil landed or transferred into the state once it comes off a rail car. (This was never even challenged by the railroads in California.) 	

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			<ul style="list-style-type: none"> • In terms of oil spill response planning, it covers more than just the plan, it allows requiring training equipment, communication systems, and qualified officials to coordinate with the first responders. It also requires cleanup. <p>States are also allowed to ensure that a railroad is financially responsible either through insurance or the posting of bonds. Federal laws relating to oil spills are just the floor and the state can require more.</p> <p>Moreover, states can regulate where the government has not done so. It is beyond question that with respect to non-rail offloading facilities and refineries, municipalities maintain police powers, land-use authority, public health and emergency regulation powers.</p> <p>Finally, both Chicago and Atlanta have worked out voluntary global settlements with Norfolk Southern and the options listed below are based on those models.</p> <p>In light of the foregoing, the undersigned individuals and organizations write to ask that our city, county, state and federal representatives consider doing the following:</p> <ul style="list-style-type: none"> • request that additional rail safety inspection oversight be performed by both the Pennsylvania Utility Commission and the Federal Rail Administration for the reasons and examples <u>previously cited here</u>. [RP3 provided safety alerts in September and October 2020 entitled, respectively, “Deadly Crossings” and “How Norfolk Southern’s Greed and Regulatory Failure Puts the Public at Risk”. Between October 20, 2020 and December 2, 2020, Norfolk Southern has had eight significant derailments within its system, two of which resulted from collapsed corroded bridges—in Clymer, Pennsylvania <u>Clymer, Pennsylvania</u> and <u>Roanoke, Virginia</u>]. They are: <ul style="list-style-type: none"> ○ October 20: Midville, Georgia ○ October 23: Huntsberg, Indiana ○ October 30: Roanoke, Virginia ○ November 15 Atlanta, Georgia ○ November 24: Cincinnati, Ohio ○ November 25: Clymer, Pennsylvania ○ December 1: West of Cleveland, Ohio ○ December 2: North of Hattiesburg, Mississippi <p>According to the Federal Rail Administration, between 2015 and through September 2020, Norfolk Southern has reported a total of 834 accidents within Pennsylvania.</p>	

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			<p data-bbox="1019 237 1339 264">Accident/Incident Overview</p>  <p data-bbox="1019 856 1951 1643"> <ul style="list-style-type: none"> • request copies of all detailed rail bridge inspection reports (subject to a confidentiality agreement) within the County over the past 2 years, as well as ongoing inspection reports; • request Norfolk Southern post a bond in the event of a derailment where damages exceed the limits of its current insurance policy (something RP3 has been suggesting for over two years); • request that Norfolk Southern sign an agreement to complete Positive Train Control (with a backup system when the main control is off line for maintenance) throughout the county simultaneous with the completion of the PVCP with financial penalties for non-compliance (something RP3 has been suggesting for over two years); • request enhanced oil spill protections—including the creation of emergency response plans as outlined above; • request a quarterly report of idling duration and location subject to a confidentiality agreement; • request that our state agencies perform a <u>Health Impact Assessment</u> of the PVCP as previously requested by 95 physicians and medical professionals after reviewing the rail related scientific literature; • communicate an offer to help Norfolk Southern obtain diesel emissions reduction funding sources which include, on the federal level, the Congestion Mitigation Air Quality Fund and the Diesel Emissions Reduction Act and our state portion of the Volkswagen Environmental Mitigation Trust Fund. </p> <p data-bbox="1019 1675 1908 1776"> We are proposing that Norfolk Southern use these funds to equip its older locomotives with available particulate matter scrubbers, build cleaner switching engines and to manufacture much cleaner Tier 4 locomotives. </p>	

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			<p>Since the switch yard engines and Tier 4 locomotives and scrubbers can be manufactured in Norfolk Southern’s Altoona, PA facility (which experienced significant layoffs in both 2019--one of its most profitable years, and 2020), our solution is a proverbial “win/win” since it creates manufacturing jobs in Pennsylvania and results in cleaner air for the rest of us. It is also a key to getting Norfolk Southern to agree to other types of mitigation as outlined above for residents, parks and neighborhoods adversely impacted by its PVCP.</p> <p>More in-depth consideration of options outlined above are especially important since highly explosive liquid natural gas (LNG) under pressure will soon be carried on our rail lines. That fact—combined with rail carrier refusal to utilize more effective electronically-controlled pneumatic brakes and to accept limits on rail wear—make educating our representatives in advance necessary and prudent. We want our representatives to take action to protects lives and property.</p>	
			<p>C. Finally, pursuant to the Pennsylvania History Code, PennDOT is overseeing Consulting Party meetings related to the Merchant Street Bridge. These meetings are being managed by the Pennsylvania State Historic Preservation Office (PASHPO). In their April 30, 2020 report, PASHPO required Norfolk Southern to provide noise and emissions data to determine the impact of the Merchant Street Bridge project on historic Allegheny Commons, the appropriate mitigation, and the magnitude of the Area of Potential Effect. On October 20th, PASHPO reversed their decision and without receiving any of the required data determined that there was no direct or indirect impact on Allegheny Commons and thus no mitigation was required. However, the JMT Consultant’s Report (hired by PennDOT) entitled "<u>Norfolk Southern Vertical Clearance Project Clearance Improvement Alternatives Evaluation</u>" includes the Merchant Street Bridge. The “Effects Analysis Issues Score” grid for that bridge—under the design currently under consideration, shows that the Merchant St Bridge replacement resulted in a 3 red (or a high) for its direct impact in twelve categories. It also received scores of 2 yellow (medium) direct impact on the Historic District, Air Quality, Noise Pollution and Socioeconomic Environmental categories. It is incumbent on our elected representatives to hold a hearing to investigate the Section 106 process that is occurring here, and which is paid for with taxpayer dollars. For additional information, see <u>our recent email</u>.</p> <p>Ultimately, the solution to volatile oil/gas trains is switching our infrastructure to clean energy.</p> <p>We deserve power without pollution and energy without injustice.</p> <p>We appreciate your efforts to keep us all safe and healthy.</p> <p>Very Truly Yours,</p>	<p>C. See comment 9 from PA SHPO, which specifically responds to RP3’s comments regarding the Pennsylvania History Code compliance process and the roles of the parties involved.</p> <p>For added clarification, PA SHPO is a consulting party and is not managing the CP meetings.</p> <p>With respect to comments on the PA SHPO’s request for “documentation of consideration of the potential increases of noise and emissions associated with the Pittsburgh Vertical Clearance Project[s] and the associated indirect effects on historic properties,” see response to 1C above.</p> <p>With respect to comments on the JMT report, see response to 7C above.</p>

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			<p>Glenn Olcerst Barbara Talerico Co-founders Rail Pollution Protection Pittsburgh 1200 Resaca Place Pittsburgh PA 15212 info@railpollutionprotectionpittsburgh.org</p> <p>Matthew Mehalik, Ph.D. Executive Director Breathe Project Energy Innovation Center 1435 Bedford Ave. Suite 140 Pittsburgh, PA 15219 412-514-5008 mmehalik@breatheproject.org breatheproject.org</p> <p>Rachel Filippini Executive Director Group Against Smog and Pollution 1133 S. Braddock Ave. Pittsburgh, PA 15218 412-924-0604 ext. 201 rachel@gasp-pgh.org</p> <p>James Fabisiak, Ph.D. Associate Professor Director, Center for Healthy Environments and Communities University of Pittsburgh Graduate School of Public Health, PUBHL-4132 Department of Environmental and Occupational Health 130 DeSoto Street Pittsburgh, PA 15261 Phone: 412-624-7335 Fax: 412-624-9361 E-mail: fabs@pitt.edu</p> <p>Thomas Schuster Pennsylvania Chapter Sierra Club 225 Market St STE 501 Harrisburg, PA 17101</p> <p>Jacquelyn Bonomo President and CEO, PennFuture 200 First Avenue</p>	

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			<p>Pittsburgh, PA 15222</p> <p>Ned Ketyer, M.D. F.A.A.P. 102 Meadowvue Ct. Venetia, PA 15367 ned@psrpa.org Physicians for Social Responsibility - Pennsylvania 1501 Cherry Street Philadelphia, PA 19102 info@psrpa.org</p> <p>Angelo Taranto Allegheny County Clean Air Now c/o Community Presyterian Church of Ben Avon 7501 Church Avenue Pittsburgh, PA 15202 ataranto39@gmail.com</p> <p>Brook Lenker Executive Director FracTracker Alliance 112 E Sherman St. Pittsburgh, PA 15209</p> <p>Christine Graziano Plant Five for Life 5918 Elwood St. Pittsburgh PA 15232 christine@plantfiveforlife.org</p> <p>Katie Modic Communitopia 223 Carnegie Place Pittsburgh PA 15208</p> <p>Barb Pace Allegheny County Clean Air Now c/o Community Presyterian Church of Ben Avon 7501 Church Avenue Pittsburgh, PA 15202</p> <p>Howard M Rieger East End Neighbors Against Air Pollution 6315 Forbes Ave, #902</p>	

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			<p>Pittsburgh PA 15217</p> <p>Ana Hoffman CREATE Lab 4720 Forbes Ave Pittsburgh, PA 15213</p> <p>Marcia Lehman Beaver County Marcellus Awareness Community (BCMAC) PO Box 31 Ambridge PA 15003 bcmac.awareness@gmail.com</p> <p>Michelle Naccarati-Chapkis Women for a Healthy Environment 5877 Commerce Street, Suite 114 Pittsburgh, PA 15206 412.404.2872</p> <p>Gillian Graber Executive Director Protect PT 3344 Route 130, Suite D Harrison City, Pa 15636 gillian@protectpt.org</p> <p>Gail Murray, Communications Director Communities First Sewickley Valley 1435 Bedford Avenue Pittsburgh PA 15219 communities1sewickley@gmail.com</p> <p>Deborah Gentile, MD Community Partners in Asthma Care 127 Lampliter Lane McMurray PA 15317</p> <p>Steve Hvozdovich Pennsylvania Campaigns Director Clean Water Action 100 5th Ave, Ste 1108 Pittsburgh, PA 15222 412-765-3053 x 410 shvozdovich@cleanwater.org</p>	

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			<p>Karen Grzywinski ACCAN Allegheny County Clean Air Now c/o Community Presbyterian Church of Ben Avon 7501 Church Avenue Ben Avon, PA 15202 www.ACCAN.org</p>	
9	12/14/2020 Email and attached letter	Barbara Frederick (PA SHPO)	<p>All,</p> <p>Please see attached SHPO response to PennDOT’s letter of December 4th and RP3’s email from December 2nd.</p> <p>Thank you,</p> <p>Thank you for submitting information concerning the above referenced project. The Pennsylvania State Historic Preservation Office (PA SHPO) reviews projects in accordance with state and federal laws. The Environmental Rights amendment, Article 1, Section 27 of the Pennsylvania Constitution, and the Pennsylvania History Code, 37 Pa. Cons. Stat. Section 500 <u>et seq.</u> (1988) are the primary state legislation. These laws include consideration of the project’s potential effects on both historic and archaeological resources.</p> <p>Continued Consultation</p> <p>In response to the concerns of RP3 expressed in their email of December 2, 2020, we would like to clarify the roles of PennDOT and the SHPO in the review process. This project is not being reviewed under Section 106 of the National Historic Preservation Act as there is no federal involvement. The project is being reviewed pursuant to the Pennsylvania History Code in accordance with the Memorandum of Understanding (MOU) between PennDOT and SHPO for State-Funded Transportation Projects, which generally mirrors the Section 106 process. PennDOT has sole responsibility for compliance with the Pennsylvania History Code, and per the MOU, PennDOT is required to define the undertaking, identify the project Area of Potential Effect (APE), identify historic properties within the APE, and consider alternatives that avoid or minimize adverse effects.</p> <p>We understand PennDOT has determined the Merchant Street Bridge undertaking is a stand-alone project meant to address safety concerns specific to the Merchant Street Bridge and is not related to the Pittsburgh Vertical Clearance Project. SHPO requested additional documentation regarding the condition of the bridge and other structures along the double-stack corridor on September 16, 2020. In response, PennDOT indicated at the October 6, 2020 consulting party meeting that information on the condition of structures along the Vertical Clearance corridor beyond that provided in the Historic Bridge Rehabilitation Analysis for Merchant Street (January 2020) cannot be made publicly available.</p>	Thank you for this clarification.

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			<p>The SHPO is not a regulatory agency but an advisory agency and a by-right consulting party to the process. The SHPO’s role is to review and provide recommendations and comments to PennDOT on their decisions that affect historic properties. The SHPO does not have the authority to halt, stop or cancel a project, nor is that the intent of the Pennsylvania History Code.</p> <p>Additional consulting parties to the project include representatives of local government, applicants for state approval or funding, individuals and organizations with a demonstrated interest in the project, and the public. PennDOT is required to seek and consider comments of the PA SHPO and consulting parties. PennDOT, not the SHPO, convenes meetings of consulting parties with the intent of seeking their comments. PennDOT is also responsible for resolving any consulting party objections or disagreements.</p> <p>To date, the SHPO has been invited to and has attended three consulting party meetings. To our knowledge, all other consulting parties were also invited to attend these meetings.</p> <p>While historically significant as contributing to the National Register of Historic Places (NRHP) eligible Pennsylvania Railroad Main Line Historic District, the Merchant Street Bridge is not related to the significance of the NRHP listed Allegheny Commons Historic District. As part of the bridge replacement project, the portion of the bridge that carries the roadway is to be replaced by a structure of similar appearance, and the stone abutments are to be retained and repaired. The Merchant Street Bridge replacement project, which is being advanced separately from the double-stack project, does not have the potential to affect the significance of the Allegheny Commons Historic District. The SHPO has asked PennDOT to assess the potential effects of the double-stack project on the Allegheny Commons Historic District as part of that separate undertaking. That should include an assessment of effects associated with noise and emissions.</p> <p>Minimization and Mitigation We are in receipt of your letter of December 4, 2020 requesting SHPO comment on the proposed minimization and mitigation for the adverse effect of the Merchant Street Bridge project. We offer the following comments.</p> <p>The purpose of minimization is to lessen the adverse effects of a project on historic properties. We are in agreement with the proposed minimization measures including the rehabilitation of the historic masonry abutments; design of a new bridge superstructure of similar size and scale as the existing; painting of the new bridge girders the same color as the West Ohio Street Bridge for the purposes of visual continuity; and preparation of landscaping and lighting plans. The mitigation stipulations for the rehabilitation of the masonry abutments, the landscaping plan, and the lighting plan should indicate they will be prepared in accordance with the <i>Secretary of the Interior’s Standards for the Treatment of Historic Properties</i> and will be sensitive to both historic districts. Please include opportunities for review and</p>	

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			<p>comment on drafts of the minimization commitments by the PA SHPO and consulting parties.</p> <p>The replacement of the Merchant Street Bridge will have an adverse effect on the Pennsylvania Railroad Main Line Historic District as the current bridge was built in 1902 and is a contributing structure within the railroad district. The proposed mitigation includes the cleaning and repointing of the sandstone retaining walls on both sides of Merchant Street Bridge extending from Martindale Street to approximately 250 feet north of the Merchant Street Bridge; the repair and painting of the historic wrought iron fencing atop this section of the wall; and the development of interpretive signing on the history of the railroad. The mitigation agreement should specifically commit to rehabilitation of the walls and fence in accordance with the <i>Secretary of the Interior's Standards for the Treatment of Historic Properties</i>.</p> <p>The railroad interpretive signage should be consistent with other sign standards already in place along the line or in the vicinity and should enhance the content and themes of interpretive signage in the area. The interpretive signage should be placed in a publicly accessible location, ideally within view of the bridge. The agreement should commit to seeking consulting parties' ideas for themes before any content is drafted. Additional comments should be requested regarding the size, placement, narrative, and illustrations of the interpretive signage. Any organizations with a role to play in the design, construction, or maintenance of the interpretive signage should be included as a signatory to the agreement.</p> <p>For questions concerning this review and/or for future consultation, please contact Barbara Frederick at (717) 772-0921 or bafrederic@pa.gov.</p> <p>cc: Governor Tom Wolf Lieutenant Governor John Fetterman State Senator Wayne Fontana State Senator Jay Costa State Senator Jim Brewster State Rep. Adam Ravenstahl State Rep. Jake Wheatley State Rep. Ed Gainey State Rep. Summer Lee State Rep. Sara Innamorato State Rep. Dan Frankel County Executive Rich Fitzgerald Patrick Katena, County Council Theresa Kail-Smith, City Council Mark Young, PennDOT District 11-0</p>	

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10	12/14/2020-A Email response to PA SHPO's email of 12/14/2020	Glenn Olcerst (RP3)	We are respectfully requesting that all of the consulting parties be able to read a copy of the referenced December 4, 2020 letter.	On 12/14/2020, Timothy Zinn (Michael Baker International, Inc.) provided the following response: All consulting parties were copied on the December 4, 2020 letter to the PA SHPO. I have attached another copy to this email.
11	12/14/2020-B Email response to Timothy Zinn (Michael Baker International, Inc.) email of 12/14/2020	Glenn Olcerst (RP3)	Just clarifying that there was actually no 12/4 letter from PennDOT as a close reading of Barbara's 11:01 email below might lead one to believe: "Please see attached SHPO response to PennDOT's letter of December 4 th and RP3's email from December 2 nd ."	Correction: The reference to "PennDOT's letter of December 4 th " should be to "Michael Baker International, Inc.'s letter of December 4 th ." We understand PA SHPO's assumption that consultant correspondence has been properly vetted and approved by Norfolk Southern, the project sponsor, and PennDOT, the reviewing agency.
12	12/14/2020-C Email in response to RP3's email of 12/14/2020	Bill Callahan (PA SHPO)	Hi Glen-- Barbara is tied up in a meeting all day and asked me to respond. The letter she referred to in her letter this morning was attached to a December 4 email from Tim Zinn to Barbara Frederick with, I believe, all consulting parties copied (see below and attached). Tim is with Baker International, PennDot's consultant on this project. I hope that helps clarify things.	Correction: Michael Baker International, Inc. is a consultant to Norfolk Southern, not PennDOT.
13	12/14/2020-D Email in response to Bill Callahan's (PA SHPO) response of 12/14/2020	Glenn Olcerst (RP3)	Thank you for the clarification Bill. Isn't Baker International also a paid consultant for Norfolk Southern on this project. That raises a concern of a conflict of interest.	See response #12. On 12/14/2020, Timothy Zinn (Michael Baker International, Inc.) provided the following response: To clarify, Michael Baker International, Inc. (Michael Baker) is a consultant for Norfolk Southern Railway Company, which is using a grant from the Pennsylvania Department of Transportation (PennDOT) for partial funding for the Merchant Street Bridge Project. Michael Baker is not under contract with PennDOT for this project.
14	12/14/2020-E Email in response to RP3's earlier email of 12/14/2020-D	Glenn Olcerst (RP3)	There is an additional concern since Mr. Zinn has been participating in the Mediation and PennDOT has not signed either the Confidentiality or Mediation agreements.	The referenced mediation sessions are being held for the W. North Avenue Bridge Project, which is a component of the Pittsburgh Vertical Clearance Projects, a separate undertaking from the Merchant Street Bridge Project. The mediation also relates to a separate PUC process that is independent from the Act 120 and Pennsylvania History Code processes. PennDOT is not a party to the mediation sessions for the W. North Avenue Bridge Project and Michael Baker International, Inc. is a consultant to Norfolk Southern, not PennDOT.
15	12/15/2020 Email in response to Timothy Zinn's (Michael Baker International, Inc.) email response of 12/14/2020	Glenn Olcerst (RP3)	Hi All Tim indicates that Michael Baker is not under contract with PennDOT. We will take him at his word.	In all correspondence, reports, comments, and meetings, which are posted on the Norfolk Southern project website, the project team has tried to be very clear as to who the players are in the Pennsylvania History Code consultation process and the roles of each. To again clarify: <ul style="list-style-type: none"> • Norfolk Southern Railway Company (Norfolk Southern): Project sponsor of the Merchant Street Bridge Project

Comment #	Source	Commenter	Comments	Responses
			<p>The issue is whether there is an agency relationship (performing a function for PennDOT)—and why, when PA SHPO receives a Michael Baker International letter, they believe that they are getting a letter from PennDOT.</p> <p>Even if it is a mistaken belief, it calls into question all of the decisions, determinations and rulings that PA SHPO has made thus far. For the past year, PA SHPO has been responding to correspondence that they thought was coming from another Pennsylvania Government agency, instead of a private corporation. This is most untenable. What that means is that the entire process has been tainted.</p>	<ul style="list-style-type: none"> • PennDOT Multimodal Office: Funding agency • PennDOT District 11-0: Reviewing agency for Act 120 and Pennsylvania History Code compliance • Pennsylvania State Historic Preservation Office (PA SHPO)/Pennsylvania Historical and Museum Commission (PHMC): Consulting Party under Pennsylvania History Code • Consulting Parties: organizations or individuals determined to have an interest in historic properties who provide input throughout the consultation process on findings, determinations of National Register of Historic Places eligibility, the project’s effects on historic properties, and measures to avoid, minimize, or mitigate any adverse effects of the project on historic properties. Consulting parties include: <ul style="list-style-type: none"> ○ The State Historic Preservation Office; ○ Representatives of local government with jurisdiction over the area where the undertaking will take place; ○ Applicants for assistance, permits, licenses, and other approvals—for this project Norfolk Southern; and ○ Additional consulting parties—certain individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking’s effects on historic properties. These individuals must follow an application process for approval by PennDOT. Only one (1) person per organization is typically involved in the process—the organization’s representative or its designated alternate. • Michael Baker International, Inc. (Michael Baker): Consultant to Norfolk Southern. Because it is the responsibility of the project sponsor (Norfolk Southern) to implement the provisions of Act 120 and the Pennsylvania History Code, Norfolk Southern retained Michael Baker to complete all documents and manage the consulting party and public involvement processes required for compliance with both of these state laws. <p>The PA SHPO letter of December 14, 2020 correctly states PennDOT’s role throughout the consultation process. While PennDOT is ultimately responsible for compliance with the Pennsylvania History Code and Act 120, it typically delegates the development of project documentation to the project sponsor and its consultant(s). To ensure that compliance is achieved, PennDOT reviews and approves all deliverables, correspondence, and materials prepared for consulting party and public meetings and ultimately makes all project findings and determinations. A letter submitted by Michael Baker on behalf of the project sponsor and the reviewing agency should be understood to have been reviewed and approved by Norfolk Southern and PennDOT, respectively.</p>