DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
NEW ENGLAND REGION

RECORD OF DECISION

New Bedford Regional Airport Improvements Project
New Bedford, Massachusetts

April 27, 2010

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1. Introduction

This Record of Decision (ROD) provides final agency determinations and environmental approvals for Federal actions of the Federal Aviation Administration (FAA) necessary to implement proposed safety improvements at the New Bedford Regional Airport (EWB).

The federal actions are considered in ROD Section 3. This ROD completes a thorough and careful environmental decision making process, including the FAA's public disclosure and review by the FAA decision maker of the analysis of alternatives and their potential impacts. This ROD is based on an Environmental Impact Statement (EIS) prepared and issued by the FAA on January 5, 2010 in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. Section 4321, et seq.), the implementing regulations (40 CFR Parts 1500-1508) and FAA directives (Order 1050.1E and 5050.4B). The ROD is also used to demonstrate and document FAA's compliance with the procedural and substantive requirements and environmental, programmatic, and related statutes and regulations that apply to FAA decisions and actions on proposed runway safety and airport improvement projects. The FAA arrived at these determinations and approvals by reviewing the environmental analysis in the FEIS and all other relevant documents that comprise the EIS Record. Based on this review, it is FAA's decision that implementation of the Proposed Project as described in the FEIS achieves the Purpose and Need and is the Environmentally Preferred Alternative.

2. Background

New Bedford Regional Airport (EWB) is the regional airport serving southeastern Massachusetts and is owned and operated by the City of New Bedford (the Sponsor). Scheduled commercial passenger service is provided by a regional carrier, Cape Air/Nantucket Airlines. The Airport also supports charter service, general aviation (GA), flight training, aircraft repairs, and corporate jet/turboprop services. EWB is classified as a " primary commercial service airport" and enplanes approximately 14,000 passengers annually. EWB also supports regional GA through the Bridgewater State College aviation training academy and two private flight schools located at the Airport.

The Airport does not have standard Runway Safety Areas (RSAs) for either RW 5-23 or 14-32. These deficiencies must be addressed before any future runway improvements can be undertaken at the Airport. This is needed to meet FAA's safety standards established for the protection of aircraft, pilots, and passengers operating at EWB, and to allow the long-term continued operation of the Airport. Improving the RSAs on Runway 5-23 would fulfill a public need to improve the safety and operational efficiency of EWB. There is also a need for EWB to implement wildlife control measures, such as deer exclusion fencing, to meet FAA safety standards.

The purpose of the project is **"To enhance the safety of aircraft and passengers using New Bedford Regional Airport by improving the Runway Safety Areas for RW 5-23 to meet FAA safety standards."** ROD Section 4 provides more details on the project's purpose and need. The original purpose of the New Bedford Regional

Airport Improvements Project was defined in the 1998 Purpose and Need Statement[1] as, "To develop the New Bedford Regional Airport to serve the air cargo demand in Southeastern Massachusetts." Since that time, the purpose of the Proposed Project has evolved because of environmental concerns on the State level, and because changing financial constraints and regional aviation context have emphasized **the need to improve, but not expand, airport facilities.**

3. Proposed Federal Actions

The FAA's actions include approval of the revised Airport Layout Plan (ALP) and potential federal funding for elements of the Proposed Project. The Federal actions required of the FAA are:

- Approval of the New Bedford Regioal Airport Layout Plan (ALP), depicting consruction of Runway 5-23 Safety Areas and associated Taxiway improvements, installation of a new Perimiter Safety/Security Fence, and associated improvements as shown on Figure 3-1, " Preferred Alternative", in the Final EIS.
- The Federal Environmental approval necessary to proceed with processing an application for federal funding of those development items qualifying under the former Airport and Airways Improvement Act of 1982, and as recodified at 49 U.S.C. 47101 et seq;
- Determination of effects upon safe and efficient utilization of air space
- The approval for relocation, installation and/or upgrade of various navigational aids; and
- The approval of associated safety actions (i.e. the air traffic procedures necessary to operate the relocated runway ends) including, but not limited to, revisions to established flight procedures.

In accordance with Federal law and agency guidance the FAA makes the determinations for this Project, as documented in Section 12 "Agency Findings", based on appropriate information and analysis contained in the Final EIS and other portion of the EIS Record.

Several federal permits and approvals will be required to implement the Proposed Project. The U.S. Environmental Protection Agency (USEPA) is responsible for permitting processes under 33 U.S.C. 1342, the federal statute that governs the National Pollutant Discharge Elimination System (NPDES) permit program for stormwater and wastewater discharges. The U.S. Army Corps of Engineers is responsible for permitting under Section 404 of the Clean Water Act. Other than the FAA's actions approved in this ROD, separate federal and state actions and associated determinations will be made by the appropriate agencies in accordance with established procedures. The Sponsor has complied with the requirements of the Massachusetts Environmental Policy Act (MEPA) through the jointly-prepared EIS and Environmental Impact Report.

1 *New Bedford Regional Airport Improvements Project; Purpose and Need Statement. 1998.* Submitted to the Army Corps of Engineers (USACE). Appendix C of the DEIS contains copies of correspondence with the USACE accepting the Project's purpose.

4. Purpose and Need

The purpose of the Proposed Project is to enhance the safety of aircraft and passengers using New Bedford Regional Airport by improving the Runway Safety Areas for RW 5-23 to meet FAA safety standards.

EWB has two runways, Runway 5-23 and Runway 14-32. Runway 5-23 is 4,997 feet long and is the Airport's primary runway. Runway 14-32 is the Airport's visual crosswind runway and is 5,000 feet long. These two runways function as four directional runways.

FAA determines dimensional standards based on the "critical" or "design" aircraft that either operates or is forecasted to operate at an airport. The application of object clearing and design standards and criteria is necessary in order to meet FAA safety standards. Based on the critical design aircraft that currently uses New Bedford Regional Airport (the Cessna Citation X), FAA requires 1,000-foot long RSAs and Object Free Areas on each end of RW 14-32 and RW 5-23. None of the runways at EWB have standard RSAs, which have been mandated for primary commercial service airports by 2015.

Runway safety areas are designed and engineered to accommodate undershoots, overshoots, and runway excursions and to minimize the likelihood of personal injury or death, as well as to minimize aircraft and property damage. The absence of a runway safety area to the primary runway poses an unnecessary safety risk to people and property.

The asphalt runway pavements have deteriorated over time and need to be replaced. EWB must meet FAA design standards for RSAs in order to be eligible for federal funding for the necessary runway reconstructions. Without federal financial assistance, the Airport would be unable to fund the approximate $6-8 million cost to reconstruct each runway. Despite recent pavement repair on each runway, the existing runway pavement will continue to deteriorate. Both runways are already 30 years old; within the next 5 to 10 years, the pavement could deteriorate to the point that it becomes unsafe for aircraft to use.

There are also numerous obstructions (trees, brush, reeds, etc.) located in various airspace surfaces including the approach and transitional surfaces of RW 5-23 and RW 14-32. During preparation of the FEIS, on-Airport vegetative obstructions were identified for RW 5-23 that would be removed under the Proposed Project.

The Airport does not have perimeter fencing protecting the aircraft movement areas on and adjacent to the southern part of Runway 5-23. This area, which includes Runway 5, Taxiway A, the Runway Safety Areas, and the MALSR system, is bordered by the extensive wetlands and uplands of the Apponagansett Swamp, which provides habitat for hazardous wildlife species (deer and coyotes). As a result of this deficiency, deer and coyotes have access to the aircraft movement areas and are frequently observed on or near the runway. Deer are a major safety concern at EWB.

In summary, there are several safety and operational deficiencies at EWB, including substandard RSAs on all runway ends, numerous airspace penetrations, and frequent incursions by local wildlife. These deficiencies also jeopardize future development at the Airport, as federal funding for improvements would require meeting FAA safety standards. As previous studies have shown, providing safety areas at runway ends is critical for the safe operation of aircraft and protection of the public. The construction of standard RSAs is needed to meet FAA's safety standards established for the protection of aircraft, pilots, and passengers operating at EWB, and to allow the long-term continued operation of the Airport.

5. Alternatives Analysis, Including the Range and Evolution of Alternatives

The Council on Environmental Quality (CEQ) regulations (40 C.F.R. Parts 1500-1508) that implement the National Environmental Policy Act (NEPA) state that the alternatives section is the heart of an EIS. Those regulations and accompanying guidance, entitled "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations" (CEQ's Forty Questions)[2] require a federal decision-maker, in this case the FAA, to:

- Develop and describe the range of alternatives capable of achieving the purpose and need (1505.1(e)), including alternatives not within the jurisdiction of the lead agency (Question 2 of CEQ's Forty Questions) and the No-Action Alternative (1502.14(d)); and
- Rigorously explore and objectively evaluate these alternatives, and provide reasons why the FAA eliminated certain alternatives from further study.

Several alternatives were evaluated and dismissed in earlier phases of the NEPA and MEPA (Massachusetts Environmental Policy Act) review of the Proposed Project. As discussed below, most of these alternatives were not feasible, reasonable, or practicable due to factors such as cost and environmental impacts. The following is a summary of the alternatives considered, including the No-Action Alternative, the alternatives considered and dismissed in earlier phases of the Proposed Project review, and selection of the final Preferred Alternative and its relationship to the Environmentally Preferred Alternative.

5.1 No-Action Alternative

CEQ regulations require the No-Action Alternative be considered in the environmental assessment of alternatives (40 CFR Part 1502.14(d)). The No-Action Alternative would leave the Airport in its existing configuration, and no runway or RSA improvements would occur. Because the Airport would not meet FAA's design criteria, this alternative assumes that the Airport would no longer receive FAA funding for future improvements. Only maintenance projects planned in the Airport's Capital Improvement Program would be completed. This includes crack sealing the runways and vegetation management. The No-Action Alternative

[2] 46 Fed. Reg. 18026 (March 23, 1981) as amended by 51 Fed. Reg. 15618 (April 25, 1986)

was not considered to be reasonable, practicable or prudent in accomplishing the identified purpose and need, to enhance the safety of aircraft and passengers at EWB, but, as required to serve as a baseline, was carried through detailed analysis of all impact categories contained in FAA Orders 1050.1E and 5050.4B to serve as a baseline for analysis and as required by NEPA regulations.

5.2 Draft EIS Action Alternatives

Three airport development alternatives were evaluated in the DEIS: the Airport Improvements Alternative (AIA), the Runway Safety Standards Alternative (RSSA), and the No-Action Alternative. The AIA proposed airport expansion while the RSSA alternative proposed only improvements to the RSAs. The DEIS analysis was based on a different project purpose: "To improve airport facilities in the Southeastern Massachusetts area in order to enhance the Southeastern Massachusetts region's aviation capacity, and to accommodate the long-term aviation demand in southeast Massachusetts for passenger traffic, corporate jet traffic, air cargo, and general aviation traffic over the next 20 years." Following the DEIS, the FAA re-evaluated the purpose of, and need for, the Proposed Project.

The Airport Improvements Alternative (AIA) would have extended the 5,000-foot Runway 5-23 to 6,700 feet, with standard 1,000-foot turf runway safety areas (RSAs). This alternative also included improving the safety areas of Runway 14-32, closing the Downey Street access road, constructing a new ARFF facility, and constructing new general aviation facilities. This alternative required relocating New Plainville Road and would have required acquiring property that is part of the Acushnet Cedar Swamp State Reservation (requiring MA Legislative approval). The AIA would have resulted in the loss of 35 acres of wetlands, losses of compensatory flood storage, and impacts to the habitat of several state-listed species. The AIA was identified as the preferred alternative in the DEIS because it best met the project purpose.

The Runway Safety Standards Alternative (RSSA) presented in the DEIS would have provided standard 1,000-foot turf RSAs at both ends of Runway 5-23. This alternative also included improving the safety areas of Runway 14-32, closing the Downey Street access road, constructing a new ARFF facility, and constructing new general aviation facilities. This alternative required relocating New Plainville Road to the north. Relocating New Plainville Road would have required land acquisition from the Acushnet Cedar Swamp State Reservation, an action that would have required approval from the Massachusetts Legislature under Article 97 of the State constitution. The roadway relocation would also have affected several acres of wetland north of New Plainville Road, on the perimeter of the State Reservation. The RSSA resulted in approximately 7.44 acres of wetland impacts, including approximately 5.36 acres of wetland impacts for safety area improvements to RW 5-23. The RSSA was not selected as the preferred alternative in the DEIS because it did not meet the project purpose.

Based on the comments received during the public review of the DEIS and the CWA Section 404 Permit, the City of New Bedford determined that the environmental impacts of the AIA, particularly of the Runway 5-23 extension, were significant and outweighed the benefit to aviation. The City therefore decided to move forward only with alternatives that address the safety deficiencies of the Airport. Following the review of the DEIS the FAA re-evaluated the Purpose and Need for the Proposed Project.

5.3 Notice of Project Change (NPC) Action Alternatives

Following the public review of the DEIS/DEIR, the proponent and the FAA identified the RSSA as the preferred alternative. However, because of the magnitude of the wetland impacts, and because the RSSA would impact the Acushnet Cedar Swamp State Reservation, three additional alternatives were developed that further reduced wetland impacts associated with improvements to the RSA for RW 5-23 and that would avoid the Acushnet swamp. The Notice of Project Change described these alternatives and evaluated their environmental impacts.

The three alternatives differed from the original RSSA proposal in the DEIS/DEIR by providing different design concepts for RW 5-23 safety areas. All of these alternatives would require that a section of New Plainville Road be placed in a tunnel because it is not practicable to relocate New Plainville Road around the end of RW 23 without impacting the Acushnet Cedar Swamp (Section 4(f) land) located just north of airport property. The Acushnet Cedar Swamp has been designated a National Natural Landmark by the Department of the Interior, and is protected under Article 97 of the Massachusetts State Constitution. While no portion of the Cedar Swamp itself would be affected, the southeastern corner of the reservation is designated as a Unique Resource Zone, which requires the highest level of protection and is under a conservation restriction that prohibits alteration of the Reservation.

Alternative 1 included implementing safety improvements to RW 5-23 and RW 14-32, and ARFF/GA facilities. RSAs that are 1,000 feet long and 500 feet wide would be used for RW 5-23. The 1,000-foot safety areas would be partially paved to allow increased takeoff distances. New Plainville Road would be placed in a 700-foot long tunnel under the RW 23 end. This was identified as the preferred alternative of the Proponent because it met the project purpose and had the lowest construction cost.

Alternative 2 included implementing safety improvements to RW 5-23 and RW 14-32, and ARFF/GA facilities. A standard RSA was proposed at the RW 23 end and an Engineered Materials Arresting System (EMAS) bed would be used at the RW 5 end. New Plainville Road would be placed in a 700-foot long tunnel under the RW 23 end. This alternative was dismissed because it provided the same safety benefits as Alternative 1, yet had a substantially higher cost.

Alternative 3 included implementing safety improvements to RW 5-23 and RW 14-32, and ARFF/GA facilities. EMAS would be used for both ends of RW 5-23. New Plainville Road would be placed in a 700-foot long tunnel under the RW 23 end. This alternative was dismissed because it provided the same safety benefits as Alternative 1, but had the highest cost of the three NPC alternatives.

The cost analysis presented in the NPC estimated that the New Plainville Road tunnel would cost approximately $10 million to construct. Following the public review of the NPC, the City of New Bedford and the FAA determined that none of the NPC alternatives were practicable to construct due to the cost of the tunnel. Funding available for the Runway 5-23 Safety Improvements has been estimated by the FAA at $15 million, which is not sufficient to construct any of the alternatives identified in the NPC.

Consideration of Use of Engineering Materials Arresting System (EMAS):

Over the course of the project the Airport has evaluated a substantial number of alternatives including alternatives using EMAS, all of which have been presented to the FAA and to the Interagency Working Group (Corps of Engineers, EPA, US Fish & Wildlife Service, DEP, NHESP and the New Bedford Conservation Commission). The FAA has carefully reviewed and considered alternatives at New Bedford involving the use of EMAS, relative to FAA Advisory Circular (AC) 150/5220-22A, *Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns*, and FAA/DOT Order 5200.9, *Financial Feasibility and Equivalency of Runway Safety Area Improvements and Engineered Materials Arresting Systems*, and has determined that EMAS is not a practical or feasible alternative for New Bedford Regional Airport. This determination was presented to the Interagency Working Group at a meeting held on February 21, 2008 at which time all of the agencies concurred with the selection of a preferred alternative (a standard 1,000-foot RSA) as presented in the FEIS/FEIR.

FAA will not support the use of EMAS at New Bedford Regional Airport for the following reasons:

- EMAS is normally limited to those installations where it is not otherwise possible to obtain standard safety areas. EMAS is intended for use only in those instances where fully compliant safety areas cannot be practicably achieved. This is not the case at New Bedford especially when practicable alternatives and sound mitigation strategies for unavoidable environmental impacts exist. There are no physical or geographic impediments to installing a 1,000-foot RSA at the Runway 5 end. Any wetland or rare species impacts can be minimized and mitigated on site, at a ratio of 2 to1.
- A 1,000-foot turf runway safety area design maximizes the grades, cross sections, and side slopes and reduces the amount of fill needed, which limits the wetlands and flood plain impacts.
- Even the use of EMAS would not eliminate wetland impacts. The use of EMAS would result in considerable cost, for very little environmental benefit.

5.4 Final EIS Action Alternatives

After determining that the NPC alternatives were not practicable to construct based on cost, the proponent developed a series of modifications to the DEIS/DEIR Runway Safety Standard Alternative (RSSA) that met these criteria:

- Fully complied with FAA safety standards;
- Were practicable to construct based on cost;
- Did not require relocating or tunneling New Plainville Road; and
- Maintained a paved runway length of 5,000 feet.

Two alternatives were the subject of detailed environmental evaluation in the FEIS, and were described in Section 3.3, *FEIS/FEIR Alternatives*, of the FEIS.

No improvements are proposed for RW 14/32 at this time. Future safety area improvements may be proposed, as funding and other considerations allow. See section 3.3.3 of the FEIS for a description. The environmental effects of these future actions are considered in the analysis of cumulative impacts presented in Chapter 4 of the Final EIS.

The No-Action Alternative would leave the Airport in its existing configuration and would only include maintenance projects already planned in the Airport's Capital Improvement Program. This alternative does not fulfill the Purpose and Need but is presented to establish a baseline to compare potential environmental impacts and mitigation measures of other alternatives.

The Preferred Alternative would shift Runway 5 to the south 200 feet and add 1000-foot long, 400-foot wide safety areas at both ends of Runway 5-23. The taxiways, drainage system, and navigational aids would be modified or relocated to accommodate the new RSAs and the runway ends. This alternative includes vegetation management to eliminate airspace intrusions and a new fence around the Runway 5 end to keep wildlife off the airfield. The RSA widths were reduced to minimize impacts to wetlands, and were determined to meet the safety standards for the design aircraft.

The Preferred Alternative includes the following elements:

- Constructing a new 1,000-foot long, 400-foot wide turf RSA at the RW 5 end;
- Shifting RW 5 south by 200 feet;
- Constructing a 1,000-foot RSA for the end of RW 23, including 400 feet of pavement and 600 feet of turf;
- Removing the existing VASI lights on RW 23;
- Installing Precision Approach Path Indicators (PAPIs) on RW 23;
- Relocating the MALSRs on RW 5 and RW 23;
- Moving the Glideslope on RW, if needed;
- Replace the localizer on the RW 23 end;
- Upgrading the drainage system at each runway end;
- Extending Taxiway A to match the new RW 5 end;
- Clearing vegetation (beyond the limits required for the No-Action Alternative) in accordance with a new Vegetation Management Plan to maintain approach surfaces and visibility; and
- Installing a new perimeter safety/security fence at the RW 5 end to minimize wildlife incursions onto the airfield.
- Acquistion of land or easements if necessary for mitigation.

This alternative would cost approximately $16.1 million. The Preferred Alternative is practicable to construct, and would fulfill the purpose and need of the Proposed Project by providing adequate safety areas for the runway ends. This alternative would not change the operations of the Airport, or its ability to support based aircraft. Because the Airport's capacity would not change, the operations would remain at the same levels as in the No-Action Alternative, documented in Chapter 2, *Purpose and Need*, of the FEIS.

6. The Selected Alternative

As required by the CEQ (40 CFR 1502.14(e)), a lead agency must identify its Preferred Alternative in the FEIS and must identify the environmentally preferable alternative (40 CFR 1505.2(b)) at the time of its decision. The environmentally preferable alternative is the alternative which best promotes the national environmental policies incorporated in Section 101 of NEPA. In general, this would be the alternative resulting in the least adverse impact to the human environment while still meeting the purpose and need, and which best protects natural and cultural resources.

FAA has completed the appropriate environmental review and the necessary steps in the NEPA process, including:

- Careful consideration of the alternatives and the ability of the alternatives to satisfy the identified purpose and need for the Proposed Project;
- Evaluation of the potential impacts of the alternatives carried forward, including the determination that the Preferred Alternative in the FEIS can be considered an environmentally preferable alternative; and
- Review and consideration of public testimony, comments submitted in response to the DEIS and FEIS, and coordination with Federal, state and local agencies.

The Preferred Alternative in the FEIS meets the project's purpose and need and would provide FAA standard 1,000-foot safety areas for both ends of RW 5-23, with the width of the safety areas reduced to 400 feet (as allowed in the airport design standards for an Airport Reference Code C II runway- FAA Airport Design, AC 150/ 5300 - 13, Table 3-3) to minimize environmental impacts. The No-Action Alternative does not meet the project's purpose and need because it would not involve any safety improvements. Based on the foregoing the FAA has selected the Preferred Alternative as the Selected Alternative, which is also the Environmentally Preferred Alternative. The Preferred Alternative is also the Sponsor's proposed action.

The FAA received numerous comments from elected officials and individuals concerned with wetlands, water quality, noise, safety, and the effects of the Proposed Project on their quality of life. FAA recognizes these concerns and has strived to mitigate and minimize the potential impacts. However, all studies indicate that there is a need for the Proposed Project, and the refinement of the Proposed Project from the DEIS to the FEIS has greatly reduced environmental impacts. With proposed mitigation in place, the Proposed Project will have no significant environmental effects.

Therefore, FAA finds the Preferred Alternative in the FEIS to be the environmentally preferable alternative and to be a feasible, reasonable, practicable, and prudent alternative to meet the purpose and need for improving safety at EWB. The selection of the Preferred Alternative incorporates mitigation measures described in Chapter 5, *Summary of Proposed Mitigation and Proposed Section 61 Findings*, of the FEIS and later sections of this ROD. Having thus considered the policies set forth in 49 U.S.C. Sections 40104 and 47101, the ability of the available alternatives to meet the purpose and need, and the environmental impact of the alternatives, the approval of the Preferred Alternative signifies that the Proposed Project meets FAA standards for approval of the agency actions discussed in Section 3 of this Record Of Decision.

7. Public and Agency Involvement

The FAA conducted public outreach to obtain information relevant to the changes proposed in the FEIS from interested parties and agencies. The FAA used the coordination conducted as part of the DEIS as their basis for this outreach. This involved coordination with local government, elected officials, and agencies, as well as non-governmental organizations (NGOs) and other interested parties.

When the DEIS was published, the FAA conducted a public hearing and public information meetings. Information related to the Proposed Project was available through public notifications and a project website. The public comment period yielded many comments regarding the alternatives analyzed in the DEIS. A summary of these comments and FAA's responses were included in the FEIS as Appendix C and Appendix D. The Final EIS, at Section 1.5, provides more detailed information on agency and public involvement throughout the NEPA process.

Continued public outreach is important in order to inform the public that the Proposed Project has changed since the DEIS. Outreach during the preparation of the FEIS has included discussions with the City of New Bedford's Mayor Scott Lang, the New Bedford City Council, the New Bedford Conservation Commission, the Town of Dartmouth and the Dartmouth Conservation Commission as well as other interested parties such as the New Bedford Chamber of Commerce and the New Bedford CEO Group. The proponent has also coordinated with the Humane Society of the United States, the Massachusetts Audubon Society, and the Coalition for Buzzards Bay.

The NPC was released for public review and circulated to all persons who had commented on the DEIS. The City of New Bedford held two public meetings on March 12, 2007, during the public comment period. The NPC was posted on the Airport's website (http://www.newbedfordairport.com). A total of 12 persons, including state and federal agencies, non-governmental organizations, and private citizens, commented on the NPC.

In order to answer all comments and the requests of permitting agencies, as well as inform all interested parties that the Proposed Project has changed, the FAA conducted additional consultation for the FEIS. Local, state, and federal agencies consulted include:

- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency (EPA)
- U.S. Fish and Wildlife Service (USFWS)
- U.S. Department of Agriculture Wildlife Services
- MA Department of Environmental Protection
- MA Department of Conservation and Recreation
- MA Executive Office of Energy and Environmental Affairs (EOEA)
- Massachusetts Environmental Policy Act (MEPA) Office
- MA Natural Heritage and Endangered Species Program (NHESP)
- New Bedford Conservation Commission
- Town of Dartmouth
- Massachusetts Audubon Society
- Massachusetts Association of Conservation Commissions
- Buzzards Bay Coalition
- Wampanoag Tribe of Gay Head and Aquinnah
- Mashpee Wampanoag Tribe
- MA State Historic Preservation Office

These parties have provided comments regarding the Proposed Project's revised purpose and need, range of alternatives, environmental impacts, and mitigation proposal.

The FEIS was made available for public review and comment as required by MEPA and NEPA. A notice of availability was published in the Federal Register on January 23, 2009, and in the Massachusetts Environmental Monitor on January 23, 2009. A public information meeting/workshop was held during the public review period (January 28, 2009) to provide information on the Proposed Project and enable the public to ask questions about potential impacts.

The FAA received 12 comments on the FEIS, including letters from elected officials, NGOs, and individuals. Most of these letters were supportive of the Proposed Project. No new information or substantive issues were raised in the comments on the FEIS (see Attachment A of this Record of Decision for comment letters and responses).

8. Summary of Comments on the Final EIS

The Notice of Availability of the FEIS was published in the Federal Register on January 30, 2009. Copies of the FEIS were made available at the New Bedford and Dartmouth Town Libraries and were distributed to persons and agencies who commented on the DEIS. A list of the agencies, organizations and individuals to whom copies of the FEIS were sent is provided in Chapter 6 of the FEIS. Comments on the FEIS were accepted until March 2, 2009.

Comments on the FEIS were received from the U.S. Environmental Protection Agency, the City of New Bedford Conservation Commission, the Southeast Regional Planning and Development District, the Sierra Club, the Massachusetts Audubon Society, the New Bedford Area Chamber of Commerce, Precix®, and Leatham & Associates. These comment letters, and responses to their comments, are appended to this ROD. A summary of the comments, and responses to them, follows.

Several of the commentors (the New Bedford Area Chamber of Commerce, Precix®, and Leatham & Associates) expressed support for the project and its importance to the local business community.

The majority of comments from the U.S. EPA, New Bedford Conservation Commission, and Mass Audubon were concerned with rare species protection and wetland mitigation.

The Perimeter Fence – several commentors suggested that the perimeter fence be designed with holes to allow eastern box turtles to move freely across the fence. The FEIS, in Chapter 3 and in Section 4.6.5, clearly indicated that the fence would be constructed with turtle passages.

Eastern Box Turtles – several letters urged that the Airport Sponsor continue to coordinate with the Natural Heritage and Endangered Species Program to ensure that the mitigation proposed met the requirements of the NHESP under the Massachusetts Endangered Species Act. Correspondence between the Airport Sponsor and the NHESP, including the NHESP's comment letter to the Massachusetts Environmental Policy Act Office, indicates that the NHESP is satisfied with the mitigation program being developed. A draft Conservation and Management Plan has been submitted to the NHESP for review, and NHESP has indicated that they anticipate issuing a Conservation and Management Permit for the proposed project.

Off-site Wetland Mitigation Areas – several letters urged the Airport to acquire adjacent privately-owned parcels for compensatory wetland mitigation, rather than construct a replacement wetland at the upland island known as Mitigation Site 10. This was proposed by the commentors as a means of reducing impacts to wildlife habitat. We are not requiring that the Airport Sponsor do this, for several reasons. Neither parcel is owned by the Airport, and both support active local businesses. One (Lot 27) is suspected to have contaminated soils or groundwater. Because of fiscal constraints, and because sufficient areas are available on the airport to construct compensatory wetlands, the Airport has not attempted to acquire these parcels. In addition, this site is within the Vegetation Management Area required to be cleared to meet FAA's airspace standards and Orders and would be converted from a forested upland to a shrub upland even if no wetland mitigation was proposed. This clearing would be required even if the runway safety areas were not improved to meet FAA standards.

Minimizing Impacts to Wetlands – some commentors suggested that impacts to wetlands could be further minimized by (a) reducing tree clearing in wetlands, (b) obtaining funding to construct the New Plainville Road tunnel, or (c) modifying the safety area design. We have determined that, for NEPA purposes, the extensive efforts made by the Airport Sponsor over the course of this project have satisfactorily minimized unavoidable wetland impacts. Tree clearing in wetlands must be done to the extent required to comply with FAA Part 77 regulations and other Orders concerning airspace and navigation aids. We have approved a narrower runway safety area width (400 feet) to minimize wetland impacts in this sensitive area, as documented in Chapter 3 and in Section 4.4.8 of the FEIS. Reducing impacts by placing New Plainville Road in a tunnel is, as documented in the FEIS Chapter 3, not practicable because of the high cost of the tunnel. Funds, either through the ARRA stimulus funding or other FAA programs, are not available for the tunnel project. The tunnel is also not supported by the City of New Bedford.

Invasive Species Control - The New Bedford Conservation Commission and others noted that the current vegetation management area at the Runway 5 approach has become colonized by the invasive common reed (Phragmites australis) and urged the Airport to develop an invasive species control plan as part of the wetland mitigation approach. The FEIS, in Section 4.4.8, makes the commitment to developing and implementing a program to control Phragmites in the wetland mitigation areas. We anticipate that the permits issued by the DEP and the Corps of Engineers will incorporate requirements for invasive species control.

Stormwater Management - the New Bedford Conservation Commission indicated that, in their opinion, the new Runway Safety Areas would be defined as "land uses with higher potential pollutant loadings" under the Massachusetts Stormwater Standards, and would require significantly higher levels of treatment of stormwater runoff. We do not agree with this designation, as runways, taxiways, and safety areas do not contain any of the land uses which are likely to generate higher pollutant loadings (aircraft are not stored, fueled, cleaned, maintained, or de-iced in this area). The proposed stormwater management system at the two runway ends will be reviewed by the DEP under the Wetlands Protection Act and we anticipate that DEP will appropriately condition the design and maintenance of these areas.

9. Environmental Impacts and Mitigation Measures

Section 9 contains a brief summary of the principal findings relative to environmental impact categories that have been examined by the FAA in the FEIS. More detailed evaluations of these environmental categories can be found in Chapter 4, *Affected Environment and Environmental Consequences*, of the FEIS. Mitigation measures to which the Sponsor has committed are described in Section 10 and discussed in detail in Chapter 5, *Summary of Proposed Mitigation and Proposed Section 61 Findings*, of the FEIS.

As documented in the DEIS and NPC, the environmental impact categories listed below either do not exist in the vicinity of the Airport, or there would be no impacts associated with the proposed safety improvements. These resources include:

- Environmental justice
- Socioeconomics
- Traffic
- Hazardous materials and Solid Waste
- Coastal Resources
- Air quality
- Compatible Land Use (see Noise and Land Acquisition)
- Historic and archaeological resources
- Wild and scenic rivers
- Farm Lands
- Federal endangered and threatened species (Fish, Wildlife, Plants)
- Light Emissions/Visual Impacts
- Section 4(f) resources

- Natural Resources& Energy Supply
- Secondary Impacts

The environmental impact categories assessed include:

- Noise
- Water quality
- Wetlands and waterways
- Floodplains
- State threatened and endangered species (Fish, Wildlife, Plants)

For each category, the Preferred Alternative was compared to the No-Action Alternative to determine the effect (beneficial or adverse) of the alternative. The analysis in the FEIS also addressed state and federal regulatory (permit) requirements and thresholds for applicable categories of impacts.

9.1 Noise

Changes in noise were assessed by comparing the noise levels for the future No-Action Alternative with the noise levels predicted for the Preferred Alternative and calculating the change in noise associated with each alternative (see Section 4.2, *Noise*, of the FEIS). Noise related to the Proposed Project was assessed with the FAA's Integrated Noise Model (INM) (Version 6.1). The INM uses airport geometry, descriptions of aircraft operations, and an internal database of noise and performance characteristics to compute the noise of individual flights. The INM then adds noise of individual flights together and presents the accumulation as a set of contours and/or noise calculations at specific points. Historical data traceable to sources such as the New Bedford Airport's air traffic statistics are used to develop descriptions of past noise environments. Predicted aspects of an airport's operations are used to evaluate alternative assumptions regarding growth, future aircraft fleets, shifting of flight paths, new runway and taxiway configurations, delays, noise mitigation measures, and other critical planning efforts.

FAA Order 1050.1E states that a significant noise impact would occur if analysis shows that the proposed action would cause noise-sensitive areas to experience an increase in noise of 1.5 dB DNL or more, at or above 65 dB DNL noise exposure when compared to the future No-Action Alternative. The Federal Interagency Committee on Noise (FICON) recommended that less than significant noise level changes also be identified for noise sensitive locations exposed to Proposed Project-related increases. FICON recommended reporting any changes of 3 dB DNL or more between the 60 and 65 dB DNL contour and 5 dB DNL changes between the 45 and 60 dB DNL contour. While these recommendations only apply to cases where the significant threshold (1.5 dB DNL or more) is met or exceeded, they were included in the FEIS in response to comments raised by the public.

The resulting DNL contours and analysis show that no significant impact would occur with the Preferred Alternative. The slight shift in the runway thresholds for Runway 5-23 would not change the noise contours or noise levels, and there would be no increase in aircraft operations in comparison to the No-Action Alternative.

9.2 Water Quality

The Airport lies within the Paskamanset River watershed. Stormwater runoff from the Proposed Project would eventually discharge to the Paskamanset River and could also provide recharge to the local aquifer. Both construction of the Proposed Project and future Airport operations may potentially affect water quality.

The Preferred Alternative would result in a 1.4-acre increase in impervious surfaces at the Airport, approximately 0.7 acres at each end of Runway 5-23. This increase in pavement (approximately 0.2 percent of the total airport pavement) would not increase pollutant discharges, as the runway and taxiway surfaces are not sanded or salted, and are used only by aircraft and occasionally maintenance equipment. Section 4.3, *Water Quality*, of the FEIS assesses potential impacts on water quality. The improvements would be designed and implemented in accordance with the Massachusetts Stormwater Management Policy standards and would be designed to meet state water quality standards. These improvements include:

- Infiltration basins which provide sufficient storage to accommodate runoff from the 10-year design storm without increasing peak discharge rates;
- Infiltration basins and vegetated swales that will remove at least 80 percent of total suspended solids;
- Infiltration basins and vegetated swales that will approximate the annual recharge from pre-development conditions;
- The use of erosion and sedimentation control measures during construction; and
- A long-term operation and maintenance plan for the stormwater management system.

There are no public drinking water supply wells close to the Airport. The closest public drinking water supply wells are owned by the Town of Dartmouth and are nearly 3.3 miles south of the Airport. The Airport is not within the ground water recharge area for the wells and would not directly affect the drinking water supply. A long, indirect pathway from the Airport to the Dartmouth wells was identified as a remote possible pathway. However, it is highly unlikely that any potential future contaminants from the Airport would reach the wells because any contaminants would be chemically transformed along this long, remote pathway.

9.3 Wetlands and Waterways

As described in Section 4.4, *Wetlands and Waterways*, of the FEIS, the Airport property is surrounded by forested, scrub-shrub, and emergent wetlands to the west, north and south, with pockets of residential and commercial activities clustered along its eastern boundary. The Acushnet Cedar Swamp (approximately 1,000 acres) is north of the Airport and is owned and managed by the Massachusetts Department of Conservation and Recreation. The Apponagansett Swamp, west and south of the Airport, is an extensive wetland and riverine system that is drained by the Paskamanset River.

Twenty-two wetlands that met the federal wetland definition were identified and delineated on or adjacent to the Airport. These wetlands total more than 514 acres and range in size from less than one acre to over 400 acres.

The No-Action Alternative would not result in new wetland impacts but would require continued vegetation management in approximately 180 acres of wetlands, consistent with the Order of Conditions issued by the New Bedford Conservation Commission.

The Preferred Alternative would place fill in two wetlands for a total direct impact of 7.89 acres. The majority of this fill would be to construct the RSA at the Runway 5 end (6.97 acres; 88 percent of total impact). The remaining 0.92 acres are a temporary alteration for the relocation of the West Ditch. Vegetation management would include new areas that were not cleared during the initial implementation of the Vegetation Management Plan and that would not be cleared for the No-Action Alternative. Due to the shift in airspace caused by the runway shift, an additional 22 acres of wetlands would be cleared of any individual trees that are likely to exceed the height limits. The perimeter fence would require that 2.9 acres of wetlands be cleared and maintained.

The Preferred Alternative would affect biological communities through the placement of fill in wetlands, additional tree clearing in defined vegetation management areas, and grading in previously-disturbed upland areas (see Section 4.4, *Wetlands and Waterways*, of the FEIS). It would not affect uncommon or unique plant or wildlife communities, and would not require vegetation management or alteration of Atlantic white cedar swamp communities. The loss of wetland habitat would be minimal in relation to the large expanses of wetlands in the Apponogansett Swamp and the Acushnet Cedar Swamp, and would not affect the continued use of these areas by wildlife populations.

Avoidance of all direct wetland impacts would only be possible by implementing the No-Action Alternative. The extensive alternatives analysis conducted demonstrated that the Preferred Alternative is the only practicable alternative. Minimization of wetland impacts was accomplished by narrowing the RSA width to 400 feet (as allowed in the airport design standards), and by incorporating non-standard taxiway alignment at the RW 5 end.

Wetland mitigation has been proposed that conforms to the guidelines developed by the USACE[3] and MA DEP[4] and meets the performance standards contained in the Massachusetts Wetlands Protection Act Regulations to the maximum extent practicable. Replacement wetlands within the same watershed would provide a 2:1 replacement (on an area basis) for filled wetlands. The filled stream channel would be replaced with a new channel 1.3 times the length of the existing channel. Additional mitigation includes permanent preservation (by acquisition) of approximately 55 acres of wetlands and uplands bordering the Paskamanset River, and restoring riparian buffers and banks in New Bedford's Buttonwoods Park and Brooklawn Park.

3 *Regulatory Guidance Letter, Number 02-2, Guidance on Compensatory Mitigation projects for Aquatic Resource Impacts under the Corps Regulatory Program Pursuant to Section 401 of the Clean Water Act and Section 10 of the Rives and Harbors Act of 1899*, USACE, December 24, 2002.

4 *Massachusetts Inland Wetland Replication Guidelines*, Massachusetts Department of Environmental Protection, Bureau of Resource Protection, Wetlands and Waterways Program, March 2002.

9.4 Floodplains

The Paskamanset River and its associated floodplain (Apponagansett Swamp) and areas northwest of New Plainville Road (Acushnet Cedar Swamp) are mapped by the Federal Emergency Management Agency (FEMA) as areas subject to the 100-year flood, with the base flood elevations and flood hazard factors not determined by FEMA. The FEMA-mapped 100-year floodplain areas within Apponagansett Swamp surround the Airport to the west and south, but do not encroach on the terminal areas or the runways. The estimated existing 100-year floodplain elevation (base flood) in the immediate vicinity of the Runway 5 end is 59.53 feet (see Section 4.5, *Floodplains*, of the FEIS).

The Preferred Alternative would require construction of the Runway 5 RSA within the 100-year floodplain. This alternative would impact a surface area of approximately 11.7 acres of floodplain. The RSA would be grassed and would not result in an increase of impervious surfaces within the 100-year floodplain. The Preferred Alternative would not increase the flood elevations in the two-year, five-year, 25-year, 50-year, or 100-year flood events, and would not have significant impacts on flood flows and/or flood elevations.

The Preferred Alternative would result in only minor impacts to natural and beneficial floodplain values. This is no "significant encroachment" on the floodplain as defined by FAA Order 10.50.1e. There are no critical actions presently occurring or proposed in the floodplain; there would be no barriers to floodflow passage. Displaced flood storage volume will be replaced at the same elevations, elsewhere on airport property.

9.5 Threatened and Endangered Species

No federally-listed species were identified to occur in the Study Area. State-listed species identified on or in the vicinity of the Airport include the eastern box turtle (*Terrapene carolina*, State-listed Species of Special Concern), attenuated bluet (*Enallagma daeckii*, State-listed Species of Special Concern), Massachusetts clam shrimp (*Limnadia lenticularis*, State-listed Species of Special Concern), pale green pinion moth (*Lithophane viridipallens*, State-listed Species of Special Concern), swamp oats (*Sphenopholis pennsylvanica*, State-listed threatened), and coastal swamp amphipod (*Synurella chamberlaini*, State-listed species of Special Concern). Surveys for the Massachusetts clam shrimp, pale green pinion moth, attenuated bluet damselfly, and swamp oats did not reveal any evidence of these species on Airport property. The Massachusetts Natural Heritage and Endangered Species Program (NHESP) has indicated that the population of swamp oats *(Sphenopholis pennsylvanica)* in the Apponagansett Swamp would not be directly impacted by the Runway 5-23 runway safety areas.

The Preferred Alternative would result in unavoidable direct and indirect impacts to rare species habitats of the eastern box turtle. Some areas of upland habitat potentially used as turtle nesting habitat would be disturbed by the construction of some elements of the Preferred Alternative. The proposed vegetation management plan would enhance eastern box turtle habitat by converting forested areas to more-favorable open and shrub-dominated habitats.

Mitigation measures, including avoidance and minimization of impacts, have been evaluated. Additional mitigation measures to protect rare species during construction and to provide long-term habitat enhancement

and protection have been identified in consultation with the NHESP. Refer to Section 4.6, *Threatened and Endangered Species*, of the FEIS for a detailed discussion of impacts on rare species and their habitats.

9.6 Construction Impacts

Construction may begin as early as 2010, with 2011 being more likely. Construction would be completed in phases and take up to four years to complete. Resources that may be affected during construction include noise, air quality, water quality, biotic communities, threatened and endangered species, and wetlands.

Anticipated temporary/transient Proposed Project-related impacts during construction, and anticipated mitigation measures are summarized below and were described for each resource in Chapter 4 of the FEIS:

- A temporary increase in Proposed Project-related noise levels would occur during the construction of the proposed safety improvements. Minimization measures to reduce temporary impacts would include measures to reduce noise from construction vehicle operations, vehicle loading/unloading, and routing construction vehicles on non-residential streets.
- Temporary air quality impacts could result from direct emissions from construction equipment and trucks, and from fugitive dust emissions from earthwork. These impacts would affect only the immediate vicinity of the construction sites and access routes. Mitigation measures include specifying truck routes, establishing staging areas for equipment and materials, and utilizing construction equipment that comply with emission standards. Best Management Practices (BMPs) would be implemented to minimize the impacts from fugitive dust, including street sweeping and tire washes for trucks leaving the site.
- Water quality impacts (soil erosion, deposition of sediment in Airport waterways, discharge of iron-contaminated water) would be minimized by implementing sediment and erosion controls and appropriately designed dewatering measures during construction phases of the Proposed Project.
- Subsurface contamination or waste materials encountered during construction would be first identified and then mitigated by conducting preliminary investigations; contaminated soil and groundwater management; asphalt paving and demolition debris management techniques; erosion and sedimentation controls; construction worker health and safety planning; assessment and remediation of known releases; and other BMPs.
- Noise may temporarily impact wildlife; however, mitigation measures would be implemented if warranted, and the noise would not result in significant adverse effects to biotic communities.
- Construction may result in temporary, short-term impacts to the habitat of state-listed wildlife species due to temporary changes to water quality caused by increased erosion and sedimentation and operation of construction equipment. Mitigation measures could include employing BMPs, such as sediment traps and silt fences, to prevent water quality degradation; monitoring during construction; temporarily relocating turtles, if necessary; and erecting exclusion fencing to protect the turtles.

9.7 Cumulative Impacts

Under NEPA (40 CFR Part 1508.7), cumulative impacts are defined as "...the impact on the environment which results from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." The analysis of cumulative impacts for each affected resource examined whether the incremental effect of the Proposed Project would cause the cumulative effect to exceed any regulatory threshold or threshold of significant adverse effect, or affect the structure or function of the human community within the Study Area. The analysis shows that the Proposed Project, in the context of recent or anticipated projects, would not adversely affect the natural, built, or social environment. The combination of the action's impacts with other impacts would not result in a serious deterioration of environmental functions or exceed applicable significant thresholds.

10. Mitigation and Monitoring

The FEIS demonstrates the environmental impacts of the Proposed Project that are unavoidable, have been minimized to the greatest extent practicable, and can be mitigated. (See FEIS Table 5-2). The following sections describe, by resource category, the impacts anticipated and associated mitigation measures. The FAA will monitor the implementation of these measures as necessary to assure they are carried out as project commitments. The FAA finds that these measures constitute all reasonable steps to minimize harm and take all practicable means to avoid or minimize environmental harm from the selected alternative and proposed Federal Action. Specific mitigation commitments of the Proposed Project are listed below.

10.1 Noise

The proposed runway safety improvements would not result in a significant noise impact to any sensitive site, and would not warrant sound insulation or noise-related land acquisition. As indicated in the MEPA Certificate, the Sponsor has agreed to investigate additional voluntary mitigation measures as part of the requirements of a MA DOT Section 61 Finding, as follows:

- At the time when actual annual operations exceed 118,000, or a new and substantially different long-range forecast is developed, the Airport will apply for FAA funding to complete a Part 150 study to identify noise impacts and potential mitigation measures, which could include sound insulation, voluntary acquisitions, or operational noise abatement measures.
- The Airport will evaluate installing one or more permanent noise monitors in key locations, and developing a system to track noise complaints. The FAA has stated that permanent noise monitoring is not required for this project and the FAA would not fund noise monitoring at this airport because of its limited noise impact. Any noise monitoring would be funded by the City of New Bedford.
- The City of New Bedford will consider forming a Noise Working Group to study airport-related noise issues, including monitoring and reporting, in conjunction with the proposed safety improvements.

10.2 Air Quality

Eastern Massachusetts is in moderate non-attainment for ozone. The General Conformity Analysis conducted in the DEIS indicated the project emmissions fall below *de minimus* levels for Clean Air Act criteria pollutants. Besides the suppression of fugitive dust during construction, no mitigation measures specifically addressing air quality are planned for the proposed action. This is appropriate because the net emissions increases will be insignificant.

10.3 Water Quality

The proposed action would result in an increased amount of impervious surfaces associated with the RW 5-23 Safety Areas. These areas would not generate contaminants, as the runway and taxiway areas would not be salted or sanded and would not convey automobile traffic.

Mitigation of increases in peak discharge rates would be provided by constructing infiltration areas and water quality swales. Proposed locations for the infiltration basins were based on consideration of the anticipated drainage patterns, avoidance of disturbance to wetlands, and the availability of land.

The following water quality control measures would be put in place by the Airport:

- Proper implementation of all aspects of the Storm Water Pollution Prevention Plan (SWPPP) including the recommendations in annual updates based on new or improved procedures or changes to operations.
- Update the Operation and Maintenance (O&M) plan in the SWPPP to include a detailed outline of inspection and cleaning schedules for stormwater management practices.

Protecting water quality would require ongoing maintenance of these control systems. Operational procedures at the Airport would also be managed to reduce the impacts of operations on water quality.

The infiltration basins proposed for the Preferred Alternative would require specific maintenance procedures to ensure proper function. There will be seasonal inspections of the basins as well as inspections immediately following any large storms. These inspections will check for accumulated sediment and debris, invasive plants, erosion, standing water, and any other indication that the basin is not in proper condition. Replacement vegetation and soil may be required if these inspections find that the basins are clogged, eroded, or overrun with incompatible plant species. The maintenance requirements and inspection schedule will be stated in detail in the O&M plan to be included in the Airport's SWPPP.

Proper spill control procedures would be followed at the Airport to minimize operations-related contamination. The existing Spill Prevention, Control, and Countermeasures plan is currently being updated and will be followed to minimize the risk of accidental contamination. Deicing compounds will be contained and will not be discharged into the storm water system and no fertilizer will be used on grassy areas.

The Preferred Alternative would disturb greater than one acre of land and therefore would require a NPDES Stormwater General Permit for Construction Activities. This permit requires the development and implementation of a SWPPP that includes specific sedimentation and erosion control measures for the entire duration of the construction activities. Standard 8 of the Massachusetts Stormwater Management Policy also requires the use of erosion and sediment controls during construction. Proper implementation of the SWPPP would ensure no negative impacts would occur from construction-related stormwater management. The types of mitigation measures listed below would be included in the SWPPP to minimize sedimentation and erosion during construction:

- Apply water to dry soil to prevent dust production.
- Stabilize any highly erosive soils with erosion control blankets and other stabilization methods, as necessary.
- Reinforce slopes using a hydroseed mix with a resin base, native vegetation, or other approved methods.
- Use sediment control methods (such as silt fences, hay bales, and temporary sedimentation basins), during excavation to prevent silt and sediment entering the stormwater system and waterways.
- Use dewatering controls, if necessary.
- Install a gravel entrance to prevent sediment from being tracked onto roadways.
- Inspect and maintain construction equipment regularly, and repair any leaks promptly in order to minimize potential impacts.

10.4 Wetlands

The Preferred Alternative would result in unavoidable direct impact from filling of approximately 7.89 acres of wetlands under federal and state jurisdiction. These impacts would be minimized to the extent practicable, and lost wetland functions, vegetation cover, and habitat types would require compensatory mitigation at a minimum ratio of 2:1 replacement, and in accordance with federal and state regulations.

Mitigation goals were established following the DEP Wetlands Regulations and guidance and the Corps of Engineers wetland mitigation rules and guidance, and considering the FAA requirements for wildlife hazards. The following mitigation goals were established:

- 2:1 replacement of lost vegetated wetlands (bordering vegetated wetlands), within the Paskamanset River watershed and, to the extent feasible, on land owned by the City of New Bedford, for a total of 14.7 acres of wetland replacement.
- Mitigation areas would be in-kind replacement of palustrine shrub-swamp wetlands, designed to not attract wildlife that are hazardous to aircraft operations.

- 1:1 replacement of lost flood storage, within the same reach of the Paskamanset River as the lost flood storage, if required by MA DEP.
- Loss of the tree canopy within forested wetlands would be mitigated by restoring trees and shrubs in riparian buffer zones, to enhance wetland wildlife habitat functions, or by preservation.
- Loss of bank and stream open water would be mitigated by in-kind replacement, within the same reach of the stream.

The proponent will meet these mitigation goals by implementing the following measures :

- Constructing up to six compensatory mitigation areas within the airport property, collectively providing at least 14.7 acres of replacement vegetated wetland.
- Replacement wetland areas have been designed as shrub swamp habitat, to replace and enhance lost wildlife habitat consistent with FAA wildlife hazard guidance.
- Site 10 would provide compensatory flood storage (at least 7.652 CY) if required by DEP.
- The West Ditch would be relocated into a new channel, providing 1,000 linear feet of channel and open water.
- Loss of tree canopy would be mitigated by riparian forested habitat enhancement at Buttonwood and/or Brooklawn Park (approximately 2 acres).

As required by the DEP and Corps of Engineers permits, the proponent will monitor the compensatory wetland mitigation areas during and after construction and implement appropriate measures to maintain the wetland hydrology, vegetation, functions and values of these areas as stipulated by the permit conditions.

10.5 Floodplains

The Proposed Project would place fill in 3.45 acres of Bordering Land Subject to Flooding (BLSF) for grading at the end of RW 5. This would result in the loss of 7,652 cubic yards (4.74 acre-feet) of BLSF storage between the elevations of 54 feet and 59.5 feet. Compensatory flood storage would be provided on an incremental basis to replace the lost flood storage volume as required by the Massachusetts Wetland Protection Act (WPA). Mitigation Site 10 would create 11,027 cubic yards (6.83 acre-feet) of compensatory flood storage, more than the total volume, if required by DEP.

10.6 Threatened and Endangered Species

The proposed action would result in the loss of habitat for the eastern box turtle and would require vegetation management within habitat areas used by the coastal swamp amphipod. This direct loss of habitat for state-listed rare species would be compensated by providing replacement habitat (wetlands) as described in the wetland section below and using other mitigation measures as summarized in Chapter 5, *Summary of Proposed Mitigation and Proposed Section 61 Findings*, in the FEIS.

The proposed perimeter fence at the RW 5 end would be constructed with passages beneath the fence to allow eastern box turtles and other small wildlife species to move freely across the barrier. Vernal pools providing suitable habitat for the coastal swamp amphipod would be constructed in at least one of the wetland mitigation areas. The created pool would be monitored to determine if the amphipod population was successfully re-established.

The mitigation measures described below are designed to provide a net benefit for the eastern box turtle by maintaining and increasing the population size and stability of these species. An overall management plan with detailed discussion of assessment and proposed mitigation of potential environmental impacts to rare species habitat will be provided in a Conservation and Management Plan. Standard Operating Procedures for proper handling and care of rare turtles, radio-telemetry procedures, and data collection will also be provided as an appendix to the Plan.

Short- and long-term adverse impacts to the eastern box turtle population would be avoided or minimized by measures such as those listed below and as required by the MA NHESP:

- Installing silt fence barrier or similar turtle barrier over the entire limit-of-work and prior to the initiation of any work to ensure turtles do not have access into the construction zone.
- Surveying turtle populations using tracking animals, radio transmitters, and traps before installing the exclusion barriers.
- Removing turtles from work zones driven on by construction vehicles, and removing turtles without radio-transmitters that were inadvertently trapped within the limits of work.
- Conducting inspections of turtle barriers, and radio-telemetry tracking of Eastern box turtles during the construction period.
- Creating and maintaining turtle habitat management areas and new turtle habitat in Wetland Mitigation Sites 5 and 6.

11. Conditions of Project Approval

Conditions for the approval of the Proposed Project are as follows:

- Prior to initiating construction, obtain the following permits:
  - From the U.S. Environmental Protection Agency (Region I), a National Pollution Discharge Elimination System Construction General Permit.
  - From the MA DEP, a Variance to the Massachusetts Wetlands Protection Act.
  - From the MA DEP, a Water Quality Certificate (Section 401 Permit).

- From the U.S. Army Corps of Engineers, a Section 404 Permit.
- From the MA Natural Heritage and Endangered Species Program, a Conservation and Management Permit.

- Update existing water resource protection plans to reflect changed conditions at Runway 5-23, as described in Section 10.3 of this ROD, including the Storm Water Pollution Prevention Plan (SWPPP).
- Implement the Wetland Mitigation monitoring plan as described in Section 10.4 of this ROD.

12. Agency Findings

In accordance with applicable law, the FAA makes the following determinations for this Project, based on appropriate information and analyses contained in the FEIS and other portions of the EIS Record.

12.1 Federal Funding Findings and Determinations

The FAA understands that the Airport Sponsor may apply for Federal grant-in-aid funding approvals in conjunction with its decisions to proceed with the implementation of the Project components and mitigation measures covered by this ROD. There are numerous findings and determinations prescribed by statute and regulation that must be made by the FAA as preconditions to agency approvals of airport Project funding applications. Any grant-in-aid or approval would also reflect appropriate statutory and regulatory assurances and other terms and conditions for FAA's action. This ROD provides the basis to proceed with making those findings and determinations. In the absence of an application from the Sponsor, it would be premature to consider the basis for funding at this time. The agency will make any necessary funding determinations in conjunction with its consideration of appropriate applications (and availability of funding).

12.2 The Project is reasonably consistent with existing plans of public agencies for development of areas surrounding the airport (49 U.S.C. 47106(a) (1)), and Executive Order 12372.

The FAA finds that the proposed action is reasonably consistent with the existing plans of public agencies authorized by the state in the area in which the airport is located to plan for the development of the area surrounding the airport, and will contribute to the purposes of the 49 U.S.C. 47101 et seq. The proposed project is also reasonably consistent with comprehensive plans that have been adopted by municipalities in the vicinity of the airport as described in the FEIS. In making its determination under 49 U.S.C. 47106(a)(1), the FAA has considered the fact that local governments were represented and have participated in its decision to authorize the Project. The FAA has also recognized the fact that none of these jurisdictions have regulatory authority over airport operations, since long-established doctrines of Federal preemption preclude these communities from regulating aircraft operations conducted at EWB.

12.3 The interest of the communities in or near where the Project may be located was given fair consideration (49 U.S.C. 47106(b)(2)).

The determination prescribed by this statutory provision is a precondition to agency approval of airport development and funding applications. The process associated with the Proposed Project provided numerous opportunities for the expression of and response to issues put forward by communities near the Project location. Nearby communities and their residents have had numerous opportunities to express their views throughout the NEPA review process, at a public hearing, as well as during the review period following public issuance of the FEIS. The FAA's consideration of these comments is set forth in Chapter 1 and Appendices B, C, and D of the FEIS, and in Attachment A of this ROD. Thus, the FAA has determined that throughout the environmental process, consideration was given to the interest of communities in or near the Project location.

12.4 Appropriate action, including the adoption of zoning laws, has been or will be taken as reasonable to restrict the land use next to or near the airport to uses that are compatible with airport operations (49 U.S.C. Section 47107(a)(10)).

The Sponsor assurance prescribed by this statutory provision is a precondition of the approval of airport development Project funding applications. The FAA requires satisfactory assurances that appropriate action, including the adoption of zoning laws be taken to restrict, to the extent reasonable, the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. As explained in the FEIS, development of the Project will not result in any significant impacts on non-compatible land uses. Based on the EIS Record for this ROD, the FAA has concluded that existing noise mitigation programs provide for appropriate action to ensure compatible land use in the airport vicinity.

12.5 The Proposed Project conforms to the Avoidance, Minimization and/or Compensation of Harm to Wetlands in Accordance with Executive Order 11990 and the Clean Water Act.

This Executive Order requires all Federal Agencies to avoid providing assistance for new construction located in wetlands, unless there is no practicable alternative to such construction, and all practicable measures to prevent harm to wetlands are included in the action. As described in the FEIS, constructing the RSAs would directly impact 7.89 acres of vegetated wetlands. Practicable means could not be found to avoid impacts to wetlands by the construction of the airport Project. Additional mitigation measures to minimize indirect impacts to waterways and water quality during construction have been developed and are described in Chapter 5, *Summary of Proposed Mitigation and Proposed Section 61 Findings*, in the FEIS. Compensatory mitigation has been proposed for direct impacts to vegetated wetlands.

The FAA finds that there is no practicable alternative to the Preferred Alternative's proposed 7.89 acres of fill in vegetated wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. This Project is in compliance with Executive Order 11990, as amended. The Project's mitigation plan includes all practicable measures to minimize harm to wetlands that may result from such use.

12.6 For any use of lands with publicly owned parks, recreation areas, national wildlife refuges, or significant historic sites, there is no prudent and feasible alternative to using the land; the Proposed Project includes all possible planning to minimize harm to structures from land use (49 U.S.C. Section 303 (c) and Section 106, National Historic Preservation Act)

As discussed in Chapter 4, *Affected Environment and Environmental Consequences*, of the FEIS, the Proposed Project would not result in direct or indirect impacts to publicly-owned parks, recreation areas, national wildlife refuges, or significant historic sites. The Proposed Project would not have significant adverse impacts on historic properties. The FAA has consulted with the Massachusetts Historical Commission, who has concurred with this finding. During the federal wetland permitting process, the Aquinnah Wampanoag Tribe identified certain features and formations on the airport property located outside the project area. These man-made features/formations will be fenced in to protect any access to them, and will be left untouched and preserved as is. Continued coordination with Tribal representatives during construction will be conducted as needed, to ensure protection of these sites.

Based on the analyses presented in the FEIS and information in the EIS Record, the FAA finds that there is no actual or constructive use of any resource protected by 49 U.S.C. Section 303 (c) or Section 106 and that no further mitigation measures are warranted.

12.7 There are no Disproportionate Adverse Environmental Effects of the Project on Minority and/or Low-Income Populations (Executive Order 12989) or Disproportionate Environmental Health and Safety Risks for Children (Executive Order 13045).

As discussed in Chapter 4, *Affected Environment and Environmental Consequences*, of the FEIS, children, minority or low-income groups would not be disproportionately affected by the impacts occurring as a result of the Proposed Project.

12.8 The FAA has given this proposal the independent and objective evaluation required by the Council on Environmental Quality (40 C.F.R. Section 1506.5).

As documented in the FEIS and this ROD, the FAA has engaged in a lengthy and extensive process related to the screening and selection of the viable alternatives that best fulfilled the identified purposes and needs for development of the Sponsor's airport. The process included FAA selecting a consultant/contractor through a competitive process to assist in conducting the environmental process, which included identifying the Project purpose, screening and selecting reasonable alternatives, and ultimately of the Preferred Alternative, fully discovering and disclosing potential environmental impacts, and selecting appropriate mitigation measures. The DEIS and FEIS document disclose and analyze the environmental impacts of the proposed Federal action and the reasonable alternatives. The FAA directed the technical analysis provided in the FEIS for this Project.

12.9 For this Project, which involves encroachment on a floodplain, there is no practicable alternative to development of the Preferred Alternative. The Proposed Action conforms to all applicable State and/or local Floodplain protection standards (Executive Order 11988).

This Executive Order establishes a policy to avoid construction within a 100-year floodplain where practicable, and where avoidance is not practicable, to ensure that the construction design minimizes potential harm to or

within the floodplain. As documented in Section 4.5, *Floodplains*, of the FEIS, avoidance of work within the 100-year floodplain is not practicable as floodplain is directly adjacent to the Runway 5 end. All practicable measures to minimize floodplain impacts have been employed. The Preferred Alternative will require that 19.6 acre-feet of fill be placed within 11.7 acres of the 100-year floodplain; however, this fill would not result in increased depth, duration, or lateral extent of flooding. Compensatory flood storage will also be provided for fill within Bordering Land Subject to Flooding (BLSF). FAA finds there is no significant encroachment on floodplains. Also, there are no practicable alternatives to the Preferred Alternative and the Project can be designed and constructed without increasing the risk to property and human health from flooding.

12.10 The Proposed Project will conform with the SIP in accordance with Section 176 of the Clean Air Act Amendments (42 U.S.C. Section 7506(c))

The air quality analysis in the DEIS showed that the Proposed Project would have no effect on air quality. While temporary, short-term increases in emission levels will occur due to construction activities for the Proposed Project, the Project itself is not expected to increase operations at the Airport, change traffic patterns or increase traffic congestion, or have any other long-term effects on air quality. Therefore, the Proposed Project would not require any further general conformity analysis under the Clean Air Act. Based on the air quality analysis, the FAA finds that the Proposed Project will not:

- Cause or contribute to any new violation of any standard in any area;
- Interfere with provisions in the applicable implementation plan for maintenance of any standard;
- Increase the frequency or severity of any existing violation of any standard in any area; and
- Delay timely attainment of any standard or any required interim emissions reductions or other milestones in any area including, where applicable, emission levels specified in the applicable implementation plan for purposes of a demonstration of reasonable further progress, a demonstration of attainment, and a maintenance plan.

12.11 The implementation of the Proposed Project will not harm species protected by the Endangered Species Act (Endangered Species Act of 1974, U.S.C. 1531, as amended).

To comply with Section 7(c) of the Endangered Species Act of 1974 (ESA) as amended, agencies overseeing Federally funded projects are required to obtain from USFWS information concerning any species, listed or proposed to be listed, as may be present in the area of concern. The review associated with the FEIS found no Federally-listed endangered species present near the airport and US Fish and Wildlife Service (USFWS) has concurred that the Proposed Project will not harm endangered species.

13. Decision and Order

The FAA decision is based on a comparative examination of environmental impacts, operational, and economic factors for each of the alternatives in the EIS. The FEIS provides a fair and full discussion of any significant impacts. The EIS process included appropriate planning and design for avoidance, minimization, and/or compensation of impacts, as required by NEPA, the CEQ regulations, other special purpose environmental laws, and FAA environmental Orders.

The FAA has determined that environmental and other relevant concerns presented by interested agencies and citizens have been addressed in the FEIS. The FAA believes that with respect to the Proposed Project, there are no outstanding environmental issues within FAA jurisdiction to be studied or NEPA requirements that have not been met. In making this determination, the FAA must decide whether to approve the Federal actions necessary for Project implementation. FAA approval would signify that applicable Federal requirements relating to airport development planning have been met and would permit the Sponsor to proceed with design and specifications for the proposed development and possibly receive funds for eligible items. Not approving these actions would prevent the Sponsor from proceeding with airport development.

For reasons summarized earlier in this ROD, supported by disclosures and analysis presented in detail in the FEIS, FAA has determined that the Sponsor's Proposed Project, described as the Preferred Alternative, and is reasonable, feasible, and prudent, in light of both Federal and Sponsor goals and objectives. An FAA decision to take the actions and approvals requested by the Sponsor is consistent with the FAA statutory mission and policies. This decision is supported by the environmental findings and conclusions presented in the FEIS and ROD. After reviewing the FEIS and all of its related materials, I have fully and carefully considered the FAA's goals and objectives as to aeronautical aspects of the proposed development and related activities at the New Bedford Regional Airport (EWB). These include purpose and need for this Project, alternative means of achieving these objectives, the environmental impacts of the alternatives, the mitigation necessary to preserve and enhance the environment, national transportation policies within which the FAA operates, and the costs and benefits of achieving the purpose and need in terms of efficiency and fiscally responsible expenditures of Federal funds.

While this decision neither grants Federal funding nor constitutes a funding commitment, it does fulfill the environmental analysis prerequisites for Federal funding determinations to be made. The FAA will review funding requests upon receipt from the Sponsor of a timely application for Federal grant-in-aid, and the FAA will make funding decisions in accordance with the established procedures and applicable requirements.

Accordingly, pursuant to the authority delegated to me by the Administrator of the FAA, I find that the actions summarized in this Record of Decision are reasonably supported and approved. For those actions, I hereby direct that action be taken together with the necessary related and collateral actions, to carry out the agency decisions discussed more fully in sections of this ROD, including:

- Approval of a revised Airport Layout Plan (ALP) under 49 U.S.C. Section 47107(a)(16) and determinations under 40 U.S.C. Section 47106 and 47107 pertaining to FAA funding of airport development;
- Approval under 49 U.S.C. Section 47107 of Project eligibility for Federal grant-in-aid funds under Section 47104 as well as approval, under 49 U.S.C. Section 40117, of an application to impose and use Passenger Facility Charges;
- Determination and actions under 49 U.S.C. Section 44718 (14 CFR Part 77) evaluating obstructions to navigable airspace;
- Determination and actions, under 49 U.S.C. Sections 40103(b) and 44701, designing, developing, approving, and implementing new air traffic control, airspace management, flight procedures, and other rules or terms and conditions for the safe and efficient use, as well as management, of the navigable airspace;
- Approval for relocation and/or upgrade of various navigational aids; and
- Based on the EIS Record of this Project, I certify, as prescribed by 49 U.S.C. 44502(b), that implementation of the Proposed Project is reasonably necessary for use in air commerce.

4/27/10
Date of Approval

Byron A. Rall
For Federal Aviation Administration

Right of Appeal

This ROD presents the Federal Aviation Administration's final decision and approvals for the actions identified, including those taken under the provisions of Title 49 of the United States Code, Subtitle VII, Parts A and B. This decision constitutes a final order of the Administrator subject to review by the Courts of Appeals of the United States in accordance with provisions of 49 U.S.C. Section 46110. Any party seeking to stay the implementation of this ROD must file an application with the FAA prior to seeking judicial relief, as provided in Rule 18(a), Federal Rules of Appellate Procedure.

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Acronyms

AIA - Airport Improvement Alternative
ALP - Airport Layout Plan
ARC - Airport Reference Code
ARFF/SRE - Aircraft Rescue and Fire Fighting/Snow Removal Equipment
BLSF - Bordering land subject to flooding
CEQ - Council on Environmental Quality
CFR - Code of Federal Regulations
CWA - Clean Water Act
dB - decibel
DEIR - Draft Environmental Impact Report
DEIS - Draft Environmental Impact Statement
DNL - Day - Night Sound Level
DOT - United States Department of Transportation
EIS - Environmental Impact Statement
EMAS - Engineered Materials Arresting System
EPA - United States Environmental Protection Agency
ESA - Federal Endangered Species Act
EWB - New Bedford Regional Airport
FAR - Federal Aviation Regulations
FEIR - Final Environmental Impact Report
FEIS - Final Environmental Impact Statement
FEMA - Federal Emergency Management Agency
GA - General Aviation
INM - Integrated Noise Model
MA DEP - Massachusetts Department of Environmental Protection
MALS - Medium Intensity Approach Light System
MALSR - Medium Intensity Approach Light System with Runway Alignment Indicator Lights
MEPA - Massachusetts Environmental Policy Act
NEPA - National Environmental Policy Act
NHESP - Natural Heritage and Endangered Species Program
NPC - Notice of Project Change
NPDES - National Pollutant Discharge Elimination System
O&M - Operations and Maintenance
PAPI - Precision Approach Path Indicators
ROD - Record of Decision
RSA - Runway Safety Area
RSSA - Runway Safety Standard Alternative
RW - Runway
SWPPP - Storm Water Pollution Prevention Plan
USACE - United States Army Corps of Engineers
USC - United States Code **USFWS** - United States Fish and Wildlife Service
VASI - Visual Approach Slope Indicator
WPA - Massachusetts Wetlands Protection Act MGL. c. 131 § 40

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Attachment A
Comments/Responses on the FEIS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

OFFICE OF THE
REGIONAL ADMINISTRATOR

February 26, 2009

Michelle Ricci
Federal Aviation Administration
New England Regional Office
12 New England Executive Park
Burlington, Massachusetts 01803

RE: Final Environmental Impact Statement/Final Environmental Impact Report for New Bedford Regional Airport Improvements Project, New Bedford, Massachusetts CEQ # 20090016, EOEA Number 10316

Dear Ms. Ricci:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Final Environmental Impact Statement (FEIS)/Final Environmental Impact Report (FEIR) for the proposed New Bedford Regional Airport Improvements Project, New Bedford, Massachusetts.

A-1 The FEIS describes modifications proposed at the New Bedford Regional Airport to address safety deficiencies for the primary runway at the airport, Runway 5-23, so that it meets FAA safety standards. The project no longer includes work previously described in the DEIS intended to increase the aviation capacity of the airport by extending Runway 5-23. The new proposal addresses our previous objections to the project based on the potential for severe and significant impacts to wetlands and other waters. We also note the ongoing work by the New Bedford Regional Airport Commission to develop appropriate mitigation for wetland impacts associated with the safety improvements and we request the opportunity to remain actively involved in that process with the Corps of Engineers, FAA and the Massachusetts Department of Environmental Protection (MADEP). We also recommend that the Record of Decision (ROD) provide specific information regarding project mitigation required by the Corps for their Clean Water Act Section

A-2

A-3

A-3 cont'd.

404 permit and the MADEP for the Wetlands Protection Act Variance they will need to issue for the project.

Please contact Timothy Timmermann of EPA's Office of Environmental Review at 617-918-1025 should you have any questions regarding this letter.

Sincerely,

Ira W. Leighton
Acting Regional Administrator

Environmental Stewardship Department/
New Bedford Conservation Commission

City of New Bedford
Scott W. Lang, Mayor

February 19, 2009

Ms. Michele Ricci
Federal Aviation Administration
New England Region
12 New England Executive Park
Burlington, MA 01803

Executive Office of Environmental Affairs
MEPA Office
100 Cambridge St. Suite 900
Boston, MA 02114
Attn: Nicholas Zavolas

Re: Comments on the Final EIS for the N.B. Regional Airport Safety Improvements
Comments on the MA Final EIR for NBRA Safety Improvements
Ref: EOEA # 10316

The New Bedford Conservation Commission offers the following comments on the January, 2009 FEIS/FEIR:

1. The preferred alternative in the document shall result in the permanent loss of 7.33 acres of Bordering Vegetated Wetland due to filling, 0.92 acres of temporary alteration due to construction impacts and 90 acres permanently altered by tree clearing. The preferred alternative shall also result in the loss of 3.45 acres of Bordering Land Subject to Flooding, 770 linear feet of Bank and 0.97 acres of Riverfront Area. Greater than 1000' linear feet of the canopy over the Paskamanset River and its associated Riverfront shall also be cleared for the required vegetation Management. The FEIS/DEIS for the airport needs to satisfy the 2008 MA Massachusetts Stormwater Policy Standards. The Conservation Commission's following comments are with respect to the impacts to the State resources referenced above and the proposed mitigation. B-1

2. The permanent loss of 7.33 acres of Bordering Vegetated Wetland due to filling is to be mitigated by the construction of 14.7 acres of scrub-shrub wetland on airport property. The largest wetland impact (6.97 acres) consists of that area at the end of Runway 5, subject to previous Vegetation Management. This impact area is currently is dominated by *Phragmites australis* with a diversity of native herbaceous vegetation intermixed. The Conservation Commission feels the ratio of permanent loss to proposed replacement is satisfactory. The replacement of the Emergent *Phragmites australis* wetlands with scrub-shrub wetlands is not in-kind due to airport safety requirements. Replacement areas proposed in the FEIS/FEIR are located on airport B-2

property which is proximate to the wetland impact areas. Concerns are that Mitigation Area 10 (7.8 acres) shall be located within the Expanded Vegetation Management Area at the end of Runway 5 connecting it to the existing Vegetation Management Area, much of which is dominated by *Phragmites australis*. The Conservation Commission's overall concern is that Area 10 proposed as shrub swamp shall become a continuation of the invasive emergent (*Phragmites australis)* wetlands covering the south end of the Runway 5 clear zone. The airport currently manages the *Phragmites* only within the 400' wide MALS required clear zone and the many acres of remaining *Phragmites* is not managed and therefore could easily invade Area 10. B-2 cont'd.

B-3

3. The expansion of the existing Vegetation Management located within Bordering Vegetated Wetlands by cutting an additional 90 acres of primarily forested wetland is of significant concern. The Conservation Commission feels the impacts to the "wildlife habitat" interest of the Act from this expansion require additional evaluation. The forested wetland clearing required, crosses the Paskamanset River and includes the 25' Riverfront associated with the Paskamanset. Exposing over 1000' Linear Feet of the currently forested Paskamanset River and Riverfront shall cause permanent loss of significant wildlife habitat. The Conservation Commission requests that these impacts be more thoroughly evaluated to minimize tree clearing and to provide adequate mitigation for the loss of this valuable wetland-wildlife habitat. It is known that existing vegetation management in wetlands on the airport has resulted in expansion of the *Phragmites* emergent wetlands, some of which currently extend to the edge of the forested wetland to be cleared under this proposal. Mitigation for losses of the riparian habitat as proposed is a 2.0 acre riparian restoration along Buttonwood Brook & Pond. This will some provide valuable restoration but the Commission feels additional riparian restoration should be explored including at Brooklawn Park in New Bedford. B-4 B-5

4. The Vegetation Management techniques discussed in the FEIS/FEIR should be expanded to include a separate section on measures to be taken to protect wildlife during all aspects of the proposed Vegetation Management Plan. B-6

5. The project proponent explored floodplain mitigation to offset the 4.74 acre-feet of Bordering Land Subject to Flooding storage to be lost due to filling within the Paskamanset floodplain. The floodplain compensation area proposed at site 10 can compensate for the volume loss but it is proposed at an elevation that is above the existing floodplain of the Paskamanset so therefore it does not satisfy the Performance Standards for mitigation of Bordering Land Subject to Flooding. The Conservation Commission does acknowledge that the proposed floodplain compensation location is within close proximity of the floodplain being filled. B-7

6. With respect to water quality impacts, the FEIS/FEIR states the new impervious surfaces would not generate additional pollutants because they will be treated with sand. The document also states that a National Pollutant Discharge Elimination System (NPDES) Stormwater Multi-Sector Industrial Permit is required from EPA. Under 310 CMR 10.00 any facility that requires the NPDES permit referenced above, is also considered to be a site that generates higher pollutant loads. Therefore, the Conservation Commission believes the water quality mitigation proposed to satisfy the B-8

State Stormwater Standards has not addressed Standard 5. The airport safety expansion needs to clearly satisfy all applicable requirements of the Stormwater Management Standards for the entire airport facility. All stormwater runoff generated from the airport flows southerly into the wetlands contiguous to the Dartmouth Public Water Supply.

B-8 cont'd.

7. The Conservation Commission is concerned with the amount of alteration to MA Rare & Endangered species habitat from this proposal. The Commission shall defer to the MA Natural Heritage & Endangered Species Program in determining appropriate mitigation for these impacts at the habitat and species level.

B-9

The Conservation Commission understands this project shall require a Variance under the MA Wetlands Protection Act and Regulations which means final approval for this proposal lies with the State and Federal Regulatory Agencies. We therefore thank you for your consideration of these comments and hope they provide you with the local concerns of the Conservation Commission.

Sincerely,

John P. Gurney, SP

John P. Gurney, Chairman
New Bedford Conservation Commission

cc: Conservation Commissioners

SOUTHEASTERN REGIONAL PLANNING & ECONOMIC DEVELOPMENT DISTRICT
88 BROADWAY ✦ TAUNTON, MA 02780-2557

Acushnet
Attleboro
Berkley
Carver
Dartmouth
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Fairhaven
Fall River
Freetown
Lakeville
Mansfield
Marion
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Middleborough
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Plainville
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Somerset
Swansea
Taunton
Wareham
Westport

February 19, 2009

Ms. Michelle Ricci
Federal Aviation Administration
New England Region
12 New England Executive Park
Burlington, MA 01803

Secretary Ian A. Bowles
Executive Office of Environment and Energy
Massachusetts Environmental Policy Act Office
100 Cambridge St, Suite 900
Boston, MA 02114

Re: New Bedford Regional Airport Improvements Project FEIS/FEIR EOEA # 10316

Dear Secretary Bowles:

The Southeastern Regional Planning and Economic Development District (SRPEDD) is the Regional Planning Agency (RPA) for 27 municipalities in Southeastern Massachusetts, including the City of New Bedford. SRPEDD's Transportation and Environmental Planning staff has reviewed the above referenced document and have no adverse comments regarding it.

SRPEDD has long been a major supporter of improvements to the New Bedford Regional Airport and views this project as a priority for the region. SRPEDD's 2007 Regional Transportation Plan "strongly recommends" that the construction of adequate Runway Safety Areas at the New Bedford Airport be undertaken (Ch. 13, Page 20). According to the Massachusetts Aeronautics Commission, the New Bedford Regional Airport contributes approximately $36.6 million in economic impacts to the state annually. Enhancing the safety at the airport is the first step toward maintaining and possibly increasing this amount in the future.

We feel that despite the impacts to 7 acres of wetlands, the economic and safety impacts of this project far outweigh the environmental impacts that can and will be mitigated. The Preferred Alternative will have the least amount of environmental impacts, and will be much more practicable than any of the alternatives presented in the Notice of Project Change that at the time required the tunneling of New Plainville Road. C-1

The SRPEDD staff would, however, like to recommend that the Airport Commission hire a full time wetlands biologist to monitor and manage the replication sites to ensure they C-2

Voice: (508) 824-1367 ✦ Fax: (508) 823-1803 ✦ E-Mail: info@srpedd.org ✦ Website: www.srpedd.org

are established and functional. The biologist should also monitor and manage the environmental quality of all of the wetlands and woodlands within the airport property.

C-2 cont'd.

If you have any questions regarding this matter please contact at 508-824-1367.

Sincerely,

Roland J. Hebert
Transportation Planning Manager/Deputy Director

cc: Mayor Scott W. Lang

SIERRA CLUB
FOUNDED 1892

February 20, 2009

Ms. Michelle Ricci, FAA
12 New England Executive Park
Burlington MA 01803
Michelle.Ricci@faa.gov

Nicholas Zavolas, EOEEA
MEPA Office
100 Cambridge Street, Suite 900
Boston MA 02114
Nicholas.Zavolas@state.ma.us

Reference: EOEEA No. 10316 , New Bedford Regional Airport Improvements Project

On behalf of the Sierra Club we submit the following comments on the FEIS/FEIR proposed improvements at the New Bedford Regional Airport (EWB). We are encouraged that the project has been reduced from the original expansion into more than 50 acres of wetlands to less than 10 acres of impacts.

However, 7 acres of impacts including wetlands and rare species habitat for the Eastern Box Turtle, plus an additional 22 acres of wetlands area to be impacted by vegetative management, still represents a significant impact to the natural environment. This is in addition to the already current 180 acres of wetlands area that require management of one type or another under current airport configuration, as well as the 105 acres of forested areas which will be converted from forested to shrub habitat as described in the mitigation letter sent February 13, 2009.

It is the Club's view that if a least-damaging alternative exists, it should be rigorously pursued. We do not prescribe to the "cost-benefit" analysis when determining acceptable standards for impacts and mitigation. We are therefore disappointed that the alternative of depressing New Plainville Road has been abandoned due to costs. This is even more unsatisfactory given the timing of these approvals and the project review. The potential exists for money coming into Massachusetts as part of the federal stimulus package which may be available to use for a project of this type and would represent a solution the Sierra Club could more readily support. If there is any possibility of supporting this alternative with either partial or full funding from stimulus money, we formally request that the proponent pursue this option – an effort that could be endorsed and supported by the Club. D-1

10 Milk Street Suite 632 Boston MA 02108 ph:617.423.5775 fax:617.890.0338 www.sierraclubmass.org

Our primary concerns on the current plan remain significant negative impacts to wildlife habitat. Wetlands mitigation for the site includes excavation of an upland knoll within the Paskamansett Swamp, with has the potential to negatively impact the swamp itself depending on the success or failure of this mitigation effort. We feel that alternatives, including potential mitigation on former commercial and industrial sites adjoining the airport have been prematurely abandoned due to potential "soil contamination" issues. We request a supplemental review to include an actual analysis of the conditions at those sites and any cost estimates. D-2

We received a letter from the project proponents which provided "clarifications" of mitigation actions. This letter arrived one week before the comment deadline. We appreciate the efforts of the proponent to provide additional info, but a letter of this type outlining substantive project information not only demonstrates that info int eh FEIS/FEIR is incomplete, but raises some procedural questions whether it is an addendum to the FEIS/FEIR, or in fact constituted significantly new information that should have been included in the original documents, or filed separately with the MEPA office with its own comment period? NHESP had requested additional info on box turtle impacts and mitigation and the info in the FEIR is still incomplete. It is unclear whether the subsequent letter addresses their concerns, which suggests the need for issuance of a supplemental report. D-3

Finally, we are hopeful that any perimeter fencing at the airport as described in the FEIS/FEIR will be designed to be sensitive to migrating species. The proposed 6,300 foot long perimeter fence around the runway 5 end should be designed in a manner that does not block box turtles from migrating to breeding and other habitat on both sides of the fence. D-4

We request a supplemental FEIR to provide additional information regarding wetland and rare species mitigation, additional analysis and the possibility of use of federal stimulus funds for depression of New Plainville Road to reduce wetlands impacts, and an analysis of the conditions at potential mitigation sites on industrial and commercial land near the airport. D-5

Very Truly Yours,

James McCaffrey
Chapter Director

Mass Audubon
Protecting the Nature of Massachusetts

February 20, 2009

Ian A. Bowles, Secretary
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
EOEEA #10316, Attn: Nicholas Zavolas
100 Cambridge Street, Suite 900
Boston MA 02114

VIA Email: Nicholas.zavolas@state.ma.us

Michelle Ricci
Federal Aviation Administration
New England Region
12 New England Executive Park
Burlington, MA 01803

Michelle.ricci@faa.gov

Re: **EOEEA #10316, New Bedford Regional Airport Improvements Project**

Dear Secretary Bowles:

On behalf of Mass Audubon, I submit the following comments on the Final Environmental Impact Statement/Report (FEIS/R) for the New Bedford Airport Improvements Project. This project has a long history, and originally involved proposed expansion of the airport with much more extensive impacts. The project has been scaled back and now focuses solely on safety improvements required by the Federal Aviation Administration to support existing operations of the airport. Mass Audubon supports this approach overall, although it is disappointing that the Plainville Road tunnel option is deemed infeasible as an alternative because of the high cost associated with a tunnel ($10 million, on a project with a total budget of $15 million). Wetland impacts are doubled because of the elimination of the tunnel and shifting of work to the south into the Paskamansett Swamp.

The FEIS/R describes the project alternatives and direct wetlands impacts sufficiently. However, it does not contain the analysis of direct and indirect effects to habitat of the Eastern Box Turtle requested by the Natural Heritage and Endangered Species Program (NHESP) on the Notice of Project Change. The FEIS/R also does not adequately evaluate the impacts of proposed wetlands mitigation on rare species and other wetlands wildlife. Therefore, Mass Audubon requests that a Supplemental FEIS/R be required with a scope focused solely on further analysis of impacts and mitigation for rare species and wetlands. At a minimum, supplemental information should be filed with the Massachusetts Environmental Policy Act (MEPA) office for public review to address the issues identified below related to the Massachusetts Wetlands Protection Act and Massachusetts Endangered Species Act (MESA). Further opportunity for public review of the MESA related issues is particularly important since there is no public participation process for MESA permits. E-1

Wetlands

The amount of wetland impacts from the preferred alternative is quite significant and will require a Variance under the Wetlands Protection Act. Over 7 acres of wetland resources will be lost as a result of the project, and an additional 22 acres will be impacted by expansion of the area requiring vegetation management (already extensive at 180 acres without these improvements). While the FEIS/R appears to have sufficiently documented the overriding public interest need for the proposed safety improvements and has adequately evaluated alternatives to reduce impacts, it has not adequately documented the impacts of proposed mitigation or alternative approaches to mitigation that would reduce those impacts. E-2

In particular, the proposed excavation of an upland knoll within the Paskamansett Swamp is of concern. The direct and indirect impacts of this work on the swamp and its wetlands wildlife habitat functions have not E-3

been adequately evaluated. The knoll is presently forested. Although vegetation management would be required at this location in any case, the added effects of digging up the knoll have not been sufficiently evaluated. This knoll may provide habitat not only for Eastern Box Turtle but also many other species of wetlands wildlife. An isolated upland area within a wetland is a significant feature important to many species of wildlife. A detailed habitat evaluation should be required, not only for the impacts associated with moving equipment and material across the wetland to excavate the knoll, but in terms of the loss of habitat integrity for species that utilize upland areas within wetlands. E-3 cont'd.

E-4 The FEIS/R indicates small areas adjacent to the knoll that are labeled as habitat for Eastern Box Turtle. The knoll itself may also be habitat for the Box Turtle, and this should be considered both in terms of existing conditions and with the removal of woody vegetation which will be necessary for vegetation management. Furthermore, although the Spotted Turtle is no longer on the Massachusetts list of rare and endangered species, the Paskamansett Swamp is one of the most significant documented populations of this species. When the Spotted Turtle was taken off the rare species list, among the reasons cited were significant populations at New Bedford Airport, Weymouth Naval Air Station, and the Hockomock Swamp. With all three of these sites now proposed for significant impacts from pending projects, the NHESP should consider whether these populations are as secure as stated in the de-listing documents. In any case, the wildlife habitat impact evaluation for the project under the Wetlands Protection Act should include direct and indirect impacts to the Spotted Turtle, pursuant to the wetland wildlife habitat provisions of the Act. E-5

Mitigation Alternatives

The FEIS/R dismisses any potential wetland mitigation site that might have soil contamination issues. There are former commercial/industrial sites adjacent to the airport that should be considered as alternative sites for wetlands mitigation instead of the upland knoll. At a minimum, further analyses should be presented regarding the actual conditions at those sites and the estimated acquisition and clean-up costs. E-6

Perimeter Fence and Box Turtle

A 6,300 foot long perimeter fence is proposed around the runway 5 end to prevent deer from accessing the runway. This is a necessary safety improvement. However, it should be designed in a manner that does not block box turtles from migrating to breeding and other habitat on both sides of the fence. It should be possible to provide low openings under the fence in strategic locations, in a manner that allows access by turtles but not deer. E-7

Thank you for considering these comments.

Sincerely,

E. Heidi Ricci

E. Heidi Ricci
Senior Policy Analyst

cc: Lisa Standley, VHB
Brian Valiton, Army Corps of Engineers
Ed Reiner, EPA
Eve Shluter, NHESP
Michael Stroman, DEP
Sarah Porter, New Bedford Conservation Commission
Michael O'Reilly, Dartmouth Environmental Affairs Coordinator
MACC
Sierra Club

NZ

NEW BEDFORD AREA CHAMBER OF COMMERCE

794 Purchase Street · P. O Box 8827 · New Bedford, MA 02742
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February 17, 2009

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Secretary Ian A. Bowles
Executive Office of Energy and Environmental Affairs
Massachusetts Environmental Policy Act Office
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: New Bedford Regional Airport Improvements Project
EOEA #10316

Dear Secretary Bowles:

Please accept this letter as evidence of our support for the proposed safety improvements to the New Bedford Regional Airport.

The New Bedford Area Chamber of Commerce, a one thousand member-strong business organization, provides leadership on issues and activities important to our economy and quality of life. Our mission is to serve the interests of member businesses while advocating business advancement, economic growth and job creation for the benefit of New Bedford and the SouthCoast region of Massachusetts.

F-1

The enhanced runway safety areas and other proposed improvements will result in an infrastructure that is better equipped to serve the businesses and private aircraft that use the airport. The environmental issues have been carefully considered and the project is a good balance that will result in enhanced operations and safety that benefits businesses, residents, and visitors to the community.

The airport is important to the economic well being of New Bedford and the SouthCoast region. The airport, directly and indirectly, employs over 200 people and generates $36.6 million into the state economy. These safety improvements will help retain existing businesses and attract new economic development opportunities to our region.

We thank you for your consideration on this important economic development issue. Please do not hesitate to contact us if we can be of assistance.

Sincerely,

James R. Pratt, Jr.
Chairman of the Board

Maureen Armstrong
Vice Chair of Government Affairs

Roy Nascimento, IOM
President & CEO

cc: Michelle Ricci, Federal Aviation Adminstration

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David N. Slutz
President & Chief Executive Officer

February 16, 2009

Ms. Michelle Ricci
Federal Aviation Administration
New England Region
12 New England Executive Park
Burlington MA 01803
Michelle.ricci@faa.gov

RE: New Bedford Regional Airport Improvement Project (EOEA No. 10316)

Dear Ms. Ricci:

The New Bedford Regional Airport is an important player in the Southeastern MA economy and maintaining and growing the facility and infrastructure is vital to the future success of the South Coast. To this end Precix is in full support of the New Bedford Regional Airport Improvement Project.

Precix is an automotive and aerospace component manufacturer based in New Bedford, MA. Our 225 associates design and manufacture components for virtually every automobile and aircraft on the road or flying today. We procure raw materials and ship finished goods all over the globe – this is why we were steadfastly in support of the original airport expansion plan (i.e. get more goods traversing through our local airport) and we continue to support the current improvement project.

We urge the Federal Aviation Administration and Massachusetts Environmental Policy Act Office to support this project (EOEA NO. 10316). G-1

Sincerely,

David N. Slutz
President & Chief Executive Officer
Precix®
Dslutz@precixinc.com

cc: Executive Office of Environmental Affairs, Massachusetts Environmental Policy Act Office
100 Cambridge Street, Suite 900, Boston MA 02114
Nicholas.zavolas@state.ma.us; File

LEATHAM & ASSOCIATES, *Certified Public Accountants*

Douglas R. Leatham, *CPA*
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18 February 2009

Ms. Michelle Ricci
Federal Aviation Administration
New England Region
12 New England Executive Park
Burlington, MA 01803

Re: **New Bedford Regional Airport Improvements Project**
EOEA #10316

Dear Ms. Ricci:

As a member of the Board of Directors of the *New Bedford Area Chamber of Commerce,* I would like to voice my support for the referenced airport project. Not only are the capital improvements proposed necessary to ensure the **safety** of aircraft passengers and crews using the airport facility and runways, but are a vital part of the region's **economic growth** plans. H-1

This proposed project is timely in that the Federal Stimulus Package just signed by the President contemplates such efforts as a means of jump-starting the state and region's economic engine. As a business person who moved here from California over 30 years ago, I have witnessed similar proposed projects in the past wither on the vine due to local inaction and lack of sufficient funding.

Let's capture this moment of economic need and opportunity to do the right thing for the businesses and citizenry of this region who have waited for so long for the green light from the state and federal governments. Please consider this project carefully, and then vote with your heart and mind—because, in my view, the time is here and now for this vital project.

Thank you for your consideration and assistance in this matter.

Sincerely,

Doug Leatham

Cc: *The Massachusetts Environmental Policy Act Office*
The New Bedford Area Chamber of Commerce

Responses to Comments on the FEIS

Letter A – United States Environmental Protection Agency, Ira W. Leighton, Acting Regional Administrator, February 26, 2009.

A-1 *The FEIS describes modifications proposed at the New Bedford Regional Airport to address safety deficiencies for the primary runway at the airport, Runway 5-23, so that it meets FAA safety standards. The project no longer includes work previously described in the DEIS intended to increase the aviation capacity of the airport by extending Runway 5-23. The new proposal addresses our previous objections to the project based on the potential for severe and significant impacts to wetlands and other waters.*

Comment noted.

A-2 *We also note the ongoing work by the New Bedford Regional Airport Commission to develop appropriate mitigation or wetland impacts associated with the safety improvements and we request the opportunity to remain actively involved in that process with the Corps of Engineers, FAA, and the Massachusetts Department of Environmental Protection (MADEP).*

The on-going Section 404 Permit review process, directed by the Corps of Engineers, will ensure that the EPA continues to be involved in the review of wetland mitigation concepts and plans.

A-3 *We also recommend that the Record of Decision (ROD) provide specific information regarding project mitigation required by the Corps for their Clean Water Act Section 404 permit and the MADEP for the Wetlands Protection Act Variance they will need to issue for the project.*

The ROD identifies the wetland mitigation areas that the Airport Sponsor has committed to construct as required by the DEP Wetland Variance and Section 404 Permit and as shown in Section 4.4.8 of the FEIS.

Letter B – City of New Bedford, New Bedford Conservation Commission, John P. Gurney, Chairman, February 19, 2009.

B-1 *The preferred alternative in the document shall result in the permanent loss of 7.33 acres of Bordering Vegetated Wetland due to filling, 0.92 acres of temporary alteration due to construction impacts and 90 acres permanently altered by tree clearing. The preferred alternative shall also result in the loss of 3.45 acres of Bordering Land Subject to Flooding, 770 linear feet of Bank and 0.97 acres of Riverfront Area. Greater than 1,000 linear feet of the canopy over the Paskamanset River and its associated Riverfront shall also be cleared for the required vegetation management. The FEIS/DEIS for the airport needs to satisfy the 2008 Massachusetts Stormwater Policy Standards. The Conservation Commission's following comments are with respect to the impacts to the State resources referenced above and the proposed mitigation.*

Comment noted.

B-2 *The permanent loss of 7.33 acres of Bordering Vegetation Wetland due to filling is to be mitigated by the construction of 14.7 acres of scrub-shrub wetland on airport property. The*

largest wetland impact (6.97 acres) consists of that area at the end of Runway 5, subject to previous Vegetation Management. This impact area is currently is dominated by Phragmites australis *with a diversity of native herbaceous vegetation intermixed. The Conservation Commission feels the ratio of permanent loss to proposed replacement is satisfactory. The replacement of the emergent* Phramites austalis *wetlands with scrub-shrub wetlands is not in-kind due to airport safety requirements. Replacement areas proposed in the FEIS/FEIR are located on airport property which is proximate to the wetland impact areas. Concerns are that Mitigation Area 10 (7.8 acres) shall be located within the Expanded Vegetation Management Area at the end of Runway 5 connecting it to the existing Vegetation Management Area, much of which is dominated by* Phragmites australis. *The Conservation Commission's overall concern is that Area 10 proposed as shrub swamp shall become a continuation of the invasive emergent* (Phragmites australis) *wetlands covering the south end of the Runway 5 clear zone. The airport currently manages the* Phragmites *only within the 400' wide MALSR required clear zone and the many acres of remaining* Phragmites *is not managed and therefore could easily invade Area 10.*

FAA concurs that controlling the invasive common reed (*Phragmites australis*) is a concern with respect to the successful establishment of functional wetland mitigation areas, as well as with maintaining visibility of the approach lighting system. FAA has required that the Airport Sponsor develop and implement a program to control *Phragmites* growth within the wetland mitigation areas and the runway approach area as stated in Section 4.4.8 of the FEIS..

B-3 *The expansion of the existing Vegetation Management located within Bordering Vegetated Wetlands by cutting an additional 90 acres of primarily forested wetland is of significant concern. The Conservation Commission feels the impacts to the "wildlife habitat" interest of the Act from this expansion require additional evaluation. The forested wetland clearing required, crosses the Paskamanset River and includes the 25' Riverfront associated with the Paskamanset. Exposing over 1,000 linear feet of the currently forested Paskamanset River and Riverfront shall cause permanent loss of significant wildlife habitat. The Conservation Commission requests that these impacts be more thoroughly evaluated to minimize tree clearing and to provide adequate mitigation for the loss of this valuable wetland-wildlife habitat.*

Clearing the forested wetlands in the approach to Runway 5 is required to meet FAA standards and Orders concerning airspace safety. While this clearing may change the wildlife habitat characteristics of the forested wetlands, it is unavoidable and the impacts of clearing were documented in the Generic Environmental Impact Report (GEIR) for vegetation management. No further analysis is required by FAA. We also do not require that Airport Sponsors mitigate for the habitat effects of vegetation management, as this would place unnecessary financial burdens on airports and would delay or prohibit maintaining safe airspace. With regard to the bank of the Paskamanset River, we note that the Airport Sponsor has committed to revegetate the bank to provide cover for wildlife and fish.

B-4 *It is known that existing vegetation management in wetlands on the airport has resulted in expansion of the* Phragmites *emergent wetlands, some of which currently extend to the edge of the forested wetland to be cleared under this proposal.*

FAA has required that the Airport Sponsor develop and implement a program to control *Phragmites* growth within the wetland mitigation areas and the runway approach area.

B-5 *Mitigation for losses of riparian habitat as proposed is a 2.0 acre riparian restoration along Buttonwood Brook and Pond. This will provide some valuable restoration but the Commission feels additional riparian restoration should be explored including at Brooklawn Park in New Bedford.*

Although the Commission recommended riparian habitat restoration at Buttonwood Park and at Brooklawn Park in their comments on the FEIS, the Commission has subsequently (letter of December 4, 2009 to DEP) recommended that riparian habitat restoration should not be undertaken at either park as mitigation for this project.

B-6 *The Vegetation Management techniques discussed in the FEIS/FEIR should be expanded to include a separate section on measures to be taken to protect wildlife during all aspects of the proposed Vegetation Management Plan.*

The Vegetation Management Plan currently being prepared by the Airport will address wildlife protection during implementation of the Vegetation Management Plan. Tree removal in wetlands will be done during the winter months to avoid impacts to nesting or breeding wildlife.

B-7 *The project proponent explored floodplain mitigation to offset the 4.74 acre-feet of Bordering Land Subject to Flooding storage to be lost due to filling within the Paskamanset floodplain. The floodplain compensation area proposed at Site 10 can compensate for the volume loss but it is proposed at an elevation that is above the existing floodplain or the Paskamanset so therefore does not satisfy the Performance Standards for mitigation of Bordering Land Subject to Flooding. The Conservation Commission does acknowledge that the proposed floodplain compensation located is within close proximity of the floodplain being filled.*

The Airport has developed new grading plans for Mitigation Site 10 that demonstrate that this area can provide incremental compensatory flood storage in compliance with the performance standards of the Wetlands Protection Act.

B-8 *With respect to water quality impacts, the FEIS/FEIR states the new impervious surfaces would not generate additional pollutants because they will be treated with sand. The document also states that a National Pollutant Discharge Elimination System (NPDES) Stormwater Multi-Sector Industrial Permit is required from EPA. Under 310 CMR 10.00 any facility that requires the NPDES permit referenced above, is also considered to be a site that generates higher pollutant loads. Therefore, the Conservation Commission believes the water quality mitigation proposed to satisfy the State Stormwater Standards has not addressed Standard 5. The airport safety expansion needs to clearly satisfy all applicable requirements of the Stormwater Management Standards for the entire airport facility. All stormwater runoff generated from the airport flows southerly into the wetlands contiguous to the Dartmouth Public Water Supply.*

Standard 5 of the DEP Stormwater Management Standards refers to Land Uses with Higher Potential Pollutant Loadings, which are defined as:

> "Land uses with higher potential pollutant loads are defined in 310 CMR 10.04 and 314 CMR 9.02 to include the following: Land uses identified in 310 CMR 22.20B(2), 310 CMR 22.20C(2)(a)-(k) and (m), 310 CMR 22.21(2)(a)(1)-(8) and 310 CMR 22.21(2)(b)(1)-(6), areas within a site that are the location of activities that are subject to an individual National

Pollutant Discharge Elimination System (NPDES) permit or the NPDES Multi-Sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high-intensity-use; confined disposal facilities and disposal sites.

Land uses with higher potential pollutant loads include the industrial sectors regulated by the NPDES Multi-Sector General Permit Program. These sectors include manufacturing: mineral, metal, oil and gas; hazardous waste treatment or disposal facilities; solid waste facilities; wastewater residual landfills; recycling facilities; steam electric plants; transportation facilities; treatment works; and light industrial activity. Land uses with higher potential pollutant loads also include any land uses that are regulated by an individual NPDES permit or that are subject to individual effluent limits established by EPA. Land uses with higher potential loads include land uses that the Department has determined are not suitable for Zone IIs and Zone As of public water supplies, including, without limitation, the following: automobile junk yards; the removal of sand and gravel within four feet of the historical high water mark; the storage of hazardous materials, liquid petroleum, liquid propane, chemical fertilizers, pesticides, manures, septage, sludge, road-deicing materials or sanding materials; snow or ice that has been removed from roads and is contaminated with de-icing chemicals; cemeteries, mausoleums; bulk oil terminals; commercial washing of vehicles and car washes. In addition, land uses with higher potential pollutant loads include: exterior fleet storage areas; exterior vehicle service maintenance and cleaning areas; marinas and boatyards; and parking lots with high-intensity-uses (1000 vehicle trips per day or more). Shopping centers, malls, and large office parks typically have high-intensity-use parking lots. Finally, land uses with higher potential pollutant load include confined disposal facilities as defined in 314 CMR 9.02 and disposal sites as defined in M.G.L. c. 21E and 310 CMR 40.000."

FAA has determined that New Bedford's runways, taxiways, and runway safety areas are not Land Uses with Higher Potential Pollutant Loadings. These areas are not specifically listed in the DEP or EPA standards, and do not contain any of the land uses which are likely to generate higher pollutant loadings. These are areas where there is no fueling of aircraft, no fleet storage, no servicing or cleaning, no storage of hazardous materials, no storage of contaminated snow or ice, and no use of deicing materials. It is our opinion that the stormwater management systems proposed for the two runway safety areas would comply with DEP's Standard 5.

B-9 *The Conservation Commission is concerned with the amount of alteration to MA Rare and Endangered species habitat from this proposal. The Commission shall defer to the MA Natural Heritage and Endangered Species Program in determining appropriate mitigation for these impacts at the habitat and species level.*

The Airport Sponsor is coordinating with the NHESP to develop appropriate mitigation measures to protect the habitat of the Coastal Swamp Amphipod and Eastern Box Turtle in compliance with the requirements of the Massachusetts Endangered Species Act and as stated in Section 4.6 of the FEIS. The Sponsor has applied for a Conservation and Management Permit, which is currently under review by the NHESP.

Letter C -- Southeastern Regional Planning and Economic Development District, Roland J. Hebert, Transportation Planning Manager, February 19, 2009.

C-1 *We feel that despite the impacts to 7 acres of wetlands, the economic and safety impacts of this project far outweigh the environmental impacts that can and will be mitigated. The Preferred Alternative will have the least amount of environmental impacts, and will be much more practicable than any of the alternatives presented in the Notice of Project Change that at the time required the tunneling of New Plainville Road.*

Comment noted.

C-2 *The SRPEDD staff would, however, like to recommend that the Airport Commission hire a full time wetlands biologist to monitor and manage the replication sites to ensure they are established and functional. The biologist should also monitor and manage the environmental quality of all of the wetlands and woodlands within the airport property.*

We anticipate that the Airport will be required, as a condition of the DEP Variance or the Corps Section 404 Permit, to retain a wetland specialist to monitor the wetland mitigation site construction and for post-construction monitoring as stated in Section 4.4.8 of the FEIS.

Letter D –Sierra Club, James McCaffrey, Chapter Director, February 20, 2009

D-1 *It is the Club's view that if a least-damaging alternative exists, it should be rigorously pursued. We do not prescribe to the "cost-benefit" analysis when determining acceptable standards for impacts and mitigation. We are therefore disappointed that the alternative of depressing New Plainville Road has been abandoned due to costs. This is even more unsatisfactory given the timing of these approvals and the project review. The potential exists for money coming into Massachusetts as part of the federal stimulus package which may be available to use for a project of this type and would represent a solution the Sierra Club could more readily support. If there is any possibility of supporting this alternative with either partial or full funding from stimulus money, we formally request that the proponent pursue this option – an effort that could be endorsed and supported by the Club.*

The Airport Safety improvements project has not been determined eligible for stimulus funding that would allow New Plainville Road to be tunneled. This option remains not practicable because of cost.

D-2 *Our primary concerns on the current plan remain significant negative impacts to wildlife habitat. Wetlands mitigation for the site includes excavation of an upland knoll within the Paskamansett Swamp, which has the potential to negatively impact the swamp itself depending on the success or failure of this mitigation effort. We feel that alternatives, including potential mitigation on former commercial and industrial sites adjoining the airport have been prematurely abandoned due to potential "soil contamination" issues. We request a supplemental review to include an actual analysis of the conditions at those sites and any cost estimates.*

Two off-site parcels were evaluated by the Airport. Neither parcel is owned by the Airport, and both support active local businesses. One (Lot 27) is suspected to have contaminated soils or groundwater. Because of fiscal constraints, and because sufficient areas are available on the airport to construct compensatory wetlands, the Airport has not attempted to acquire these parcels.

D-3 *We received a letter from the project proponents which provided "clarifications" of mitigation actions. This letter arrived one week before the comment deadline. We appreciate the efforts of the proponent to provide additional info, but a letter of this type outlining substantive project information not only demonstrates that info in the FEIS/FEIR is incomplete, but raises some procedural questions whether it is an addendum to the FEIS/FEIR, or in fact constituted significantly new information that should have been included in the original documents, or filed separately with the MEPA Office with its own comment period? NHPES has requested additional info on box turtle impacts and mitigation and the info in the FEIR is still incomplete. It is unclear whether the subsequent letter addresses their concerns, which suggests the need for issuance of a supplemental report.*

The Airport Sponsor is continuing to coordinate with the NHESP to develop appropriate mitigation measures to protect the habitat of the Coastal Swamp Amphipod and Eastern Box Turtle in compliance with the requirements of the Massachusetts Endangered Species Act and as stated in Section 4.6 of the FEIS. Mitigation commitments described in the FEIS were clarified in the Sponsor's letter to NHESP dated February 13, 2009 (which was circulated to the FEIR distribution list at the request of the MEPA Office).

D-4 *Finally, we are hopeful that any perimeter fencing at the airport as described in the FEIS/FEIR will be designed to be sensitive to migrating species. The proposed 6,300 foot long perimeter fence around the runway 5 end should be designed in a manner that does not block box turtles from migrating to breeding and other habitat on both sides of the fence.*

As described in the FEIS at Section 3.3.2 and Section 4.6.5, the perimeter fence would be constructed with turtle passages beneath the fence.

D-5 *We request a supplemental FEIR to provide additional information regarding wetland and rare species mitigation, additional analysis and the possibility of use of federal stimulus funds for depression of New Plainville Road to reduce wetland impacts, and an analysis of the conditions at potential mitigation sites on industrial and commercial land near the airport.*

It is FAA's understanding that the Secretary of EOEA reviewed the Sierra Club's request for a Supplemental FEIR and determined that the FEIR as submitted adequately met the requirements under MEPA.

Letter E– Mass Audubon, E. Heidi Ricci, Senior Policy Analyst, February 20, 2009.

E-1 *The FEIS/R describes the project alternatives and direct wetlands impacts sufficiently. However, it does not contain the analysis of direct and indirect effects to habitat of the Eastern Box Turtle requested by the Natural Heritage and Endangered Species Program (NHESP) on the Notice of Project Change. The FEIS/R also does not adequately evaluate the impacts of proposed wetlands mitigation on rare species and other wetlands wildlife. Therefore, Mass Audubon requests that a Supplemental FEIS/R be required with a scope focused solely on further analysis of impacts and mitigation for rare species and wetlands. At a minimum, supplemental information should be filed with the Massachusetts Environmental Policy Act (MEPA) office for public review to address the issues identified below related to the Massachusetts Wetlands Protection Act and Massachusetts Endangered Species Act (MESA). Further opportunity for*

public review of the MESA related issues is particularly important since there is no public participated process for MESA permits.

It is FAA's understanding that the Secretary of EOEEA reviewed Mass Audubon's request for a Supplemental FEIR and determined that the FEIR as submitted adequately met the requirements under MEPA.

E-2 *The amount of wetland impacts from the preferred alternative is quite significant and will require a Variance under the Wetlands Protection Act. Over 7 acres of wetland resources will be lost as a result of the project, and an additional 22 acres will be impacted by expansion of the area requiring vegetation management (already extensive at 180 acres without these improvements). While the FEIS/R appears to have sufficiently documented the overriding public interest need for the proposed safety improvements and has adequately evaluated alternatives to reduce impacts, it has not adequately documented the impacts of proposed mitigation or alternative approaches to mitigation that would have reduced those impacts.*

The FEIS, in Chapter 3 and at Section 4.4.8, documented the Sponsor's efforts to avoid and minimize impacts to wetlands. Section 4.4.8 also presented conceptual mitigation designs and an implementation plan in accordance with the DEP and Corps of Engineers mitigation guidance.

E-3 *In particular, the proposed excavation of an upland knoll within the Paskamansett Swamp is of concern. The direct and indirect impacts of this work on the swamp and its wetlands wildlife habitat functions have not been adequately evaluated. The knoll is primarily forested. Although vegetation management would be required at this location in any case, the added effects of digging up the knoll have not been sufficiently evaluated. This knoll may provide habitat not only for Eastern Box Turtle but also many other species of wetlands wildlife. An isolated upland area within a wetland is significant feature important to many species of wildlife. A detailed habitat evaluation should be required, not only for the impacts associated with moving equipment and material across the wetland to excavate the knoll, but in terms of the loss of habitat integrity for species that utilize upland areas within wetlands.*

FAA recognizes that the conversion of the upland (Mitigation Site 10) to a wetland area will change its wildlife habitat characteristics. However, this site is within the Vegetation Management Area required to be cleared to meet FAA's airspace standards and Orders and would be converted from a forested upland to a shrub upland even if no wetland mitigation was proposed. This clearing would be required even if the runway safety areas were not improved to meet FAA standards.

E-4 *The FEIS/R indicates small areas adjacent to the knoll that are labeled as habitat for Eastern Box Turtle. The knoll itself may also be habitat for the Box Turtle, and this should be considered both in terms of existing conditions and with the removal of woody vegetation which will be necessary for vegetation management.*

The NHESP is reviewing the Airport's wetland mitigation plan as part of the application for a Conservation and Management Permit for the Eastern Box Turtle. No work can be done in this area until the CMP has been issued.

E-5 *Furthermore, although the Spotted Turtle is no longer on the Massachusetts list of rare and endangered species, the Paskamansett Swamp is one of the most significant documented*

populations of this species. When the Spotted Turtle was taken off the rare species list, among the reasons cited were significant populations at New Bedford Airport, Weymouth Naval Air Station, and the Hockomock Swamp. With all three of these sites now proposed for significant impacts from pending projects, the NHESP should consider whether these populations area s secure as stated in the de-listing documents. In any case, the wildlife habitat impact evaluated for the project under the Wetlands Protection Act should include direct and indirect impacts to the Spotted Turtle, pursuant to the wetland wildlife habitat provisions of the Act.

As Mass Audubon notes, the spotted turtle is no longer state-listed and is not subject to special protection under the Wetlands Protection Act or MESA. The wildlife habitat analysis provided to the DEP considers this species, among other wetland wildlife found in the vicinity of the Runway 5 RSA.

E-6 *The FEIS/R dismisses any potential wetland mitigation site that might have soil contamination issues. There are former commercial/industrial sites adjacent to the airport that should be considered as alternative sites for wetlands mitigation instead of the upland knoll. At a minimum, further analysis should be presented regarding the actual conditions at those sites and the estimate acquisition and clean-up costs.*

Two off-site parcels were evaluated by the Airport. Neither parcel is owned by the Airport, and both support active local businesses. One (Lot 27) is suspected to have contaminated soils or groundwater. Because of fiscal constraints, and because sufficient areas are available on the airport to construct compensatory wetlands, the Airport has not attempted to acquire these parcels.

E-7 *A 6,300 foot long perimeter fence is proposed around the runway 5 end to prevent deer from accessing the runway. This is necessary safety improvement. However, it should be designed in a manner that does not block box turtles from migrating to breeding and other habitat on both sides of the fence. It should be possible to provide low openings under the fence in strategic locations, in a manner that allows access by turtles but not deer.*

As described in the FEIS at Section 3.3.2 and Section 4.6.5, the perimeter fence would be constructed with turtle passages beneath the fence.

Letter F – New Bedford Area Chamber of Commerce, James R. Pratt Jr., Chairman, February 17, 2009.

F-1 *The enhanced runway safety areas and other proposed improvements will result in an infrastructure that is better equipped to serve the businesses and private aircraft that use the airport. The environmental issues have been carefully considered and the project is a good balance that will result in enhanced operations and safety that benefits businesses, residents, and visitors to the community. The airport is important to the economic well being of New Bedford and the SouthCoast region. The airport, directly and indirectly, employs over 200 people and generates $36.6 million into the state economy. These safety improvements will help retain existing businesses and attract new economic development opportunities to our region.*

Comment noted.

Letter G – Precix, David N. Slutz, President, February 16, 2009.

G-1 *We urge the Federal Aviation Administration and Massachusetts Environmental Policy Act Office to support this project (EOEA No. 10316).*

Comment noted

Letter H – Leatham & Associates, Doug Leatham, February 18, 2009.

H-1 *As a member of the Board of Directors of the New Bedford Area Chamber of Commerce, I would like to voice my support for the referenced airport project. Not only are the capital improvements proposed necessary to ensure safety of aircraft passengers and crews using the airport facility and runways, but are a vital part of the region's economic growth plans.*

Comment noted.