

THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

RIVERKEEPER, INC.; GUARDIANS OF
FLUSHING BAY, INC.; and DITMARS
BOULEVARD BLOCK ASSN., INC.;

Petitioners,

v.

No. _____

THE U.S. FEDERAL AVIATION
ADMINISTRATION; STEPHEN
DICKSON, in his official capacity as FAA
ADMINISTRATOR; and PORT
AUTHORITY of NY & NJ;

Respondents.

Petition for Review

Riverkeeper, Inc., Guardians of Flushing Bay, Inc., and Ditmars Boulevard Block Association, Inc., hereby petitions the Court for review of the decision and order of the Federal Aviation Administration for the environmental review of the LaGuardia Airport (LGA) Access Improvement Project entered on July 20, 2021

Pursuant to Section 43706(a) of the National Environmental Policy Act (NEPA), 49 U.S.C. § 46110(a), the Administrative Procedure Act 5 U.S.C. §§ 701-706, the Department of Transportation Act of 1966 (DOTA), 28 U.S.C. §138(a), 49 U.S.C. § 303(c), Passenger Facility Charge Program Regulations, 49 U.S.C. § 40117, 14 C.F.R. § 158.15(b)(6), and Rule 15(a) of the Federal Rules of Appellate

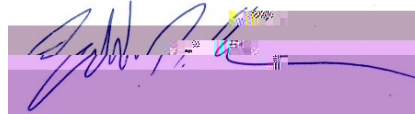
optimizing bus transit. The "AirTrain" was the only proposed action that survived this preliminary screening process.

The proposed AirTrain rail system would span approximately 2.3 miles in length, traversing above a roughly 2,100-foot stretch of Malcolm X Promenade at World's Fair Marina and continuing through East Elmhurst, Queens, an environmental justice community. Although FAA has incorporated a \$20 million parkland improvement fund and a \$7.5 million parkland maintenance fund in the Record of Decision, it has left planning for expenditures of those funds solely within the discretion of Port Authority in consultation with the New York City Parks Department. Moreover, due to the lack of advanced planning, the funding for parkland improvements falls woefully short of other similar parkland projects on Brooklyn and Queens waterfronts.

The flaws in FAA's methodology and conclusions render the EIS and Section 4(f) Evaluation deficient under the National Environmental Policy Act and the Department of Transportation Act of 1966. Specifically, FAA: 1) inappropriately constrained its Purpose and Need Statement, as to preclude meaningful consideration of non-rail transit alternatives; 2) applied arbitrary, cherry-picked exclusory screening criteria in an uneven manner to exclude all but Port Authority's preferred alternative; 3) failed to properly identify and consider the cumulative impacts of the proposed action when added to other past, present,

Therefore, Petitioners respectfully request this Court to set aside the FAA's

July 20

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