Response to Comments Received on the Draft Scoping Document

Regarding preparation of the
Draft Environmental Impact Statement
for the
Proposed Emergency Ventilation Plant
for the
Lexington Avenue Subway Line
between the
33rd Street/Park Avenue South Station
and the
Grand Central Terminal/42nd Street Station

February 2017

MTA New York City Transit
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INTRODUCTION
The New York State Department of Environmental Conservation (NYSDEC) Environmental Notice Bulletin (ENB) announced the Positive Declaration and availability of the Draft Scoping Document (DSD) related to the planned emergency ventilation plant (EVP) on May 18, 2016. Copies of the Positive Declaration, the DSD, and appendices to the DSD were delivered by MTA NYCT to various repositories and officials. The ENB cited the location and time of a related public scoping meeting to be held on June 16, 2016 and that written comments on the DSD would be accepted until July 1, 2016. The scoping meeting was held and a transcript of the meeting is available on the MTA Website. The public and officials also provided comments in letter and on-line formats.

The purpose of this document is to provide MTA NYCT responses to each comment in as direct and detailed a form as reasonably possible. Therefore, MTA NYCT initiated the response process by reviewing each individual communication and highlighting the individual comments therein. A direct response was then prepared for each individual comment in the sequence and context in which it appeared. Where a commenter provided comments in more than one format, (e.g., letter and on-line), MTA NYCT responded to comments received in each format. Although this methodology produces extensive documentation that may appear to some as redundant, the MTA NYCT intent is to acknowledge each comment and each commenter rather than attempting to provide “bulk” responses in which nuance may be lost.

Regarding the detail presented herein, MTA NYCT has observed that various overarching and reoccurring “themes” appear among the comments. MTA NYCT has listed what it believes are the “Themes” in the table below. For the reader searching for a representative response to a particular “theme”, the reader can choose to access the Representative Response Number given below.

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TRANSCRIPT
Comment 1, Transcript: Ms. Imbimbo

Thank you for the opportunity to speak to you here today. My name is Ellen Imbimbo, and I’m an honorary trustee of the Murray Hill Neighborhood Association on whose behalf I speak to you. Murray Hill must and New Yorkers must, at one time or another, suffer the consequences of being participants in that group. However, since this subject has been studies since 1994 we’re surprised at the sudden notification received from you regarding this meeting and the deadline of July 1 for comments on the scoping, particularly, when you’ve already come to the conclusion that the impacts are sufficient to warrant a draft environmental impact statement, and may further require an environment impact statement.

Response:

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process for this project, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to
engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Regarding the 1994 study referred to by the commenter, as stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction, and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built, and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines, which were established in the mid-1980s, were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program that utilizes NFPA 130 to enhance the life safety of the riding public.
Comment 2, Transcript: Ms. Imbimbo

We firmly believe that participation by local communities adds a dimension to planning that is irreplaceable.

Response:

MTA NYCT strongly concurs, and looks forward to continued public participation in the next stages of the SEQRA EIS process, including: public review of the Final Scoping Document (FSD); the public comment on the DEIS during the related comment period and the Public Hearing on the DEIS; and public review of the Final Environmental Impact Statement (FEIS). The Public Hearing on the DEIS will be held at the MTA offices at 2 Broadway. The Public Hearing will be announced: via the ENB; in newspapers; and on the MTA website.

Comment 3, Transcript: Ms. Imbimbo

Given the central location of Park Avenue in the 30s and its lead in to the Midtown Tunnel, a traffic study is essential to gauge the obstruction to traffic during the construction period. How will traffic be rerouted? It’s important that you provide the details of your traffic mitigation methods, and how they might vary during the years of construction.

Response:

MTA NYCT concurs. As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. The study plan and results will be presented in the DEIS/FEIS. During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The NYCDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.

Comment 4, Transcript: Ms. Imbimbo

What’s the nature of construction equipment? Cranes? Concrete? Deliver trucks? Material that is piled up on the sidewalk? We’ve long been witness to East Side access activity. Where will all of this be stored?

Response:

The nature and amount of construction equipment and staging to be used during the construction effort will be identified for the Candidate Alternatives in the DEIS. This will then be used to estimate any impacts to air quality, noise and vibration, and traffic, and other environmental impact areas. Various sections in Chapter 5 of the DSD and FSD state that the effects of construction activities will be analyzed within the DEIS. See as examples: Section 5.10 regarding air quality; Section 5.11 regarding noise and vibration; and Section 5.12 regarding infrastructure, energy, and solid waste.
Comment 5, Transcript: Ms. Imbimbo

Diversion of smoky air into the neighborhood from the ventilation place, were there to be an emergency, could cause harmful air quality problems for residents. Please define the level of those air quality issues. What is the alarm system to be used in warning street side pedestrians and traffic of an emergency?

Response:

Section 5.10 of the DSD and FSD indicates that the “Discussion/Evaluation of Air Quality” in the DEIS/FEIS will examine mobile and stationary emissions, including “…emissions from the future operation of the proposed EVP (stationary – during testing and emergencies only… As a result, a qualitative assessment of the potential effects of the Candidate Alternative ventilation exhaust on nearby receptors will be provided.”

It is not customary that public alarms are used to announce the operation of NYCT’s emergency systems. Importantly, when EVPs are activated during emergency conditions, the appropriate emergency services are immediately notified.

Comment 6, Transcript: Ms. Imbimbo

Have you any plans in the event of a terrorist attack?

Response:

Response plans for terrorist incidents are developed and maintained by MTA Security and are confidential.

Comment 7, Transcript: Ms. Imbimbo

You indicated you would be measuring the degree of vibrations with small monitors. Please indicate how those vibrations [data] will be collected and disseminated throughout the community. What mitigations will be provided for any damage to historic buildings of the historic district?

Response:

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern include: stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the City Environmental Quality Review (CEQR) Technical Manual.

NYCDOB has developed a set of technical policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the
threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

Comment 8, Transcript: Ms. Imbimbo

How long will this construction take? Do you plan to have meetings periodically to update the community of the status of construction?

Response:

As stated in the first paragraph of Section 5.0 of the FSD, the construction period is expected to last approximately 4.5 years. As is customary regarding MTA NYCT projects, MTA NYCT would be pleased to meet with the Community Board on a regular basis to characterize construction activities and plans. The arrangement would be made between MTA NYCT’s Government and Community Relations Department (Mr. Marcus Book: marcus.book@nyct.com or at 646 252-2675) and the Community Board.

Comment 9, Transcript: Ms. Imbimbo

We still await the completed [sic] of the East Midtown access construction site at 37th and Park, despite having given numerous deadlines.

Response:

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 10, Transcript: Ms. Imbimbo

Murray Hill will lose seven trees during construction. Will there be any remediation for the loss of these trees? What about damage to the walls [sic] on which Murray Hill spends considerable time and effort in maintaining?

Response:

Sections 5.6 and 5.8 of the FSD identify MTA NYCT’s plan to solicit comments from the New York City Department of Parks and Recreation (NYCDPR, the City agency with jurisdiction over street trees) regarding tree removal and replacement requirements. Trees on City streets and sidewalks are under the jurisdiction of the NYCDPR, who provide a methodology for mitigating the loss of street trees. MTA NYCT would abide by NYCDPR mitigation requirements to the extent practicable.

Any damage caused by construction of the proposed project would be remedied in-kind during the construction period. Construction of the EVP would not affect the NYCDOT “taxi tunnel” or the mall.
Comment 11, Transcript: Unidentified Male #1

This is a public hearing. You are using public time to argue the MTA’s position which I am proposing to you is not only irregular, but does not meet the letter of the law. Your own documentation that you flashed on the screen listed today as a scoping session.

Response:

The meeting held on June 16, 2016 was announced and conducted formally as a Public Scoping Meeting (see DSD and FSD, Chapter 7) and not a public hearing. SEQRA states (see 6 NYCRR 617.8 (e)), that:

“Scoping must include an opportunity for public participation. The lead agency may either provide a period of time for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material or other means.”

The New York State Department of State, Division of Local Government Services publishes a document entitled “Conducting Public Meetings and Public Hearings” (https://www.dos.ny.gov/lg/publications/Conducting_Public.Meetings_and_Public.Hearings.pdf); concerning the Open Meetings Law cited in that document, the following is stated:

‘The Open Meetings Law defines a “meeting” as “the official convening of a public body for the purpose of conducting public business.” A “public body” is “any entity, for which a quorum is required in order to conduct public business...’

The statute defines a “meeting” as,

‘...any time a public body gathers for the purpose of conducting public business (regardless of whether the body intends to take any action) the proceeding must be convened open to the public.’

‘...It does not require the public body to offer the public an opportunity to be heard. The right to participate (that is, to speak) at a meeting may be limited to the members of the public body itself. A public body may, however, permit public participation and may provide rules for speakers to follow at meetings.’

In addition to holding the meeting as announced in the NYSDEC ENB, MTA NYCT solicited and received comments from the public, as specified in the SEQRA regulations cited above.

Comment 12, Transcript: Unidentified Male #2

This is not a session to be used by the MTA for its purposes. This is for the public. So far, the overwhelming majority of time has been used by you, and the scoping session does not require, nor is it written, that every time someone from the public makes a comment someone from the MTA is then obligated to respond with a counter argument...

Simply let the public use it for what is was meant to be used for, and let the public say what it has to say, and you can respond to it in your written response after the comment period is closed...

Sir, would you be quoted that in court for this, because there will be a law suit. And what you’re saying is absolutely incorrect. And I hope you understand what you’re saying...
This is the recording session for the issues to be identified, legally, tonight, and then to be responded to in depth, according to law, in the articles in section of the state law and city law, I’m sorry, city law does apply here, that have to be addressed by your agency. Not by any comments you’re making.

**Response:**

Please see response to previous Comment 11 from Unidentified Male #1. Also, concerning the applicability of NYC law for the proposed project, although the regulatory process to approve MTA projects are not governed by NYC Law, once a project has been duly approved, MTA NYCT contractors must meet Federal, State and City laws as applicable, as stated in MTA NYCT Standard Specifications.

**Comment 13, Transcript: Mr. Podwal**

Number one, I think you’ve immediately shown up the process is flawed because your mind is made up. I heard a statement made that because this was written up in the capital plan, it must happen. There is a no build alternative, I believe, that should be addressed which means you do not have to build anything. I did not notice the no build alternative mentioned and its impacts addressed at all today or in any of the documents to any degree at all.

I think there is another alternative that you have not taken. That is to consider the city sub-, city traffic tunnel. .......why not eliminate that traffic tunnel completely and turn that into your ventilation system?

**Response:**

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. In previous Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provides funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Concerning the No Build alternative, SEQRA requirements at 6 NYCRR, Preparation and Content of Environmental Impact Statements, state:

> 6NYCRR 617.9 (b)(5)(v) – “a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative.”

MTA NYCT has stated in the last full paragraph of Section 1.1 of the DSD and FSD that: “....two Candidate Alternatives remain under consideration.... And will be evaluated further along with the No-Action Alternative during the ...[EIS] process.” Additionally, Chapter 5 of the DSD and FSD also cites MTA NYCT’s intent to address, as examples:

- Section 5.0, 2nd Paragraph: comparison to be made “...between the effects/Impacts for each of the technical areas....of the Proposed Project.... without the proposed EVP (No-Build Alternative).”
- Section 5, 3rd Paragraph, 3rd bullet – The DEIS will contain.....a description of the No-Build condition.”

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection
analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project underway to improve structural, electrical, mechanical, and fire protection elements of the tunnel; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration… Due to the infeasibility related to structural/civil/mechanical criteria…”

Comment 14, Transcript: Mr. Podwal

I support the idea that you have not given the public adequate time by giving them a July 1st cut-off date.

Response:

The timeline for the issue of, and comment period for, the DSD was as follows:

- **May 18, 2016:** MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- **June 6, 2016:** MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under SEQRA, scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 15, Transcript: Mr. Berliner

I believe I also have the right to ask for a 90 day extension, and if so, I would like to put that on the record anyway. Thank you.
Response

The timeline for the issue of, and comment period for, the DSD was as follows:

- **May 18, 2016:** MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
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Under SEQRA, scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

**Comment 16, Transcript: Unidentified Commenter**

I was talking about the wonderful Christy Whitman during 9/11. How she claimed how the air was good right after the buildings came down. There are more cops dying now, a true fact, than all the cops that died in 9/11. A huge majority of fire fighters, first responders have died as a result.

**Response**

Comment noted.

**Comment 17, Transcript: Unidentified Commenter**

You’re probably not aware of the fact that 90 Park Avenue is being totally renovated from top to bottom. We are living consistenly, constantly with grinding, banging noise from 3:00 p.m. to 10:00 p.m. on weekdays. On Saturdays sometimes trucks, once they clear a floor, trucks are making deliveries. At one time a quarter to 6:00 in the morning on a Saturday. So we have Long Island Railroad. We have 40 Park. I spoke to people, the management of my building, they have no idea. They’ve spoken to 90 Park, no idea when that’s going to end, and now we have this project. Okay? So I think that’s a little bit much for people in that concentrated area.
Response

Comment noted. In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “…the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project…”

Comment 18, Transcript: Ms. Ainsworth

I do want to mention and put my comments within a framework of what Mr. Dul had said. That is that this is not required work under what the NFPA has required us to do. This is a matter of, it sounds to me, like use it or lose it state funds, and create -- job creation, potentially.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 19, Transcript: Ms. Ainsworth

This neighborhood, Murray Hill, has been embattled by what has been going on as far as the construction from the tunnel, from the Long Island Railroad, from 90 Park, and we have buildings. We’re an historic neighborhood. We have landmark buildings. We have buildings over 100 years old that this type of impact is taking its toll on daily. I am on the sixth floor of 55 Park Avenue and my neighbors are here, and we can here [sic] in our bedrooms the subway that is below us, every train is going by.
Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “…the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project…”

Comment 20, Transcript: Ms. Ainsworth

I want to address the issue of when you say that this is proposed emergency ventilation system that would use -- would only be used to expel gasses and fumes in case of an emergency, as it is stated by you, in a case of fire. But, you know, there are going to be issues. We have a brand new world. You mentioned that we are not under the 1970 regulations, but there is saran gas. There is ricin gas that could be expelled directly into residential building, and two potential strategic soft targets on the block of 37th Street where you have a UN Mission and you have a Christian church.

Response

The EVP will be activated whenever the train operator detects a situation that he/she believes is an emergency. All appropriate authorities and emergency responders will be informed, including security. Response plans for terrorist incidents are developed and maintained by MTA Security and are confidential. As stated in Section 5.16 of the DSD and FSD, the EIS will identify, to the extent allowed by MTA NYCT policy, safety and security aspects related to the design, construction, and operation of the proposed EVP.

Comment 21, Transcript: Ms. Ainsworth

To have the two MTA people not speaking to each other or having two separate kind of entities. There seems to be no communication, and this security issues [sic] has not been addressed at all.

Response

Section 5.16 (Discussion/Evaluation of Safety and Security) of the DSD and FSD states that the “…EIS will identify, to the extent allowed by MTA NYCT policy, safety and security aspects related to the design, construction, and operation of the proposed EVP.” Safety and security for all MTA sister agencies is handled by MTA Department of Security.

The East Side Access (ESA) project is a project that is being built by MTA CC for the Long Island Railroad (LIRR), and is not related in any way to this project, which is proceeding under the auspices of MTA NYCT. However, MTA NYCT will consider the ESA project during the review of cumulative effects in the DEIS.

Comment 22, Transcript: Ms. Ainsworth

I think that, that this, the continued construction along with highway traffic, compounded by a finished product that would spew hazardous fumes that would make -- that would be even against OSHA regulations in a workplace, let alone in a residential setting would have deleterious environmental health impacts for those living in the area. You’re proposed underground safety gain would be negated by an above ground health and safety loss. That is just the health and safety issues.
Response

Section 5.10 of the DSD and FSD states that “Mobile and stationary emissions will be examined in the context of the proposed construction and operation of the Candidate Alternative EVPs. For the Proposed Project, the key issues related to air quality include:

- vehicular emissions from construction-related street traffic diversions (mobile)
- emissions from construction equipment and activities (mobile and stationary)
- emissions from the future operation of the proposed EVP (stationary - during testing and emergencies only)

Pollutants of concern include carbon monoxide (CO), particulate matter (PM2.5 and PM10), nitrogen dioxide (NO2), and greenhouse gases. Air quality analyses will be carried out in accordance with the most recent revisions of the CEQR Technical Manual and other relevant guidance and protocols provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA). Sulfur dioxide (SO2) analysis is not needed because mobile sources are not a significant source of SO2 emissions. Also, the CEQR Technical Manual does not recommend SO2 analysis for mobile sources or construction impacts; SO2 would only be analyzed for stationary sources such as boilers or power plants.”

Comment 23, Transcript: Ms. Ainsworth

There are numerous nuisance issues that this is going to create. This is going to create issues where you have one block of coming. ….There are constantly, every single weekend, there are traffic accidents, at least one a weekend, once a week. And this snarls up traffic, not to mention the horns, the alarms, the yelling. And there’s nowhere to go. You can’t go left and you’re going to not be able to go right. [Trucks are] not only loading and unloading in a residential area, you have a United States Post Office box there. You’re going to have people blocking the road for recyclables and sanitation. You have a church. You have funerals. You have weddings. We also have ICE [Department of Homeland Security] vans which [use the area].

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....”

Section 5.7 of the DSD and FSD state that while an in-street EVP alternative is unlikely to affect community facilities directly through changes to land use or surrounding development, there is the potential for indirect effects during construction. An inventory of community facilities will be conducted in concert with the noise, vibration, and air quality analyses. Potential indirect effects to community facilities that may
result during construction or operation, as supported by other technical analyses, will be reported in the EIS pursuant to methodologies found in the CEQR Technical Manual.

Comment 24, Transcript: Ms. Ainsworth

This is not a project for this area when it is not a required project.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Comment 25, Transcript: Mr. Arcaro

We recognize the compelling need to provide emergency ventilation to, to the tunnel section on Lexington Avenue [unintelligible] [1:08:05.3] under Park Avenue between 30th, 30th Street and 42nd Street, in compliance with NFPA 130 standard for emergency ventilation. But moreover, we also recognize the intent of the project is to save lives in the event of a smoke condition in the subway tunnel.

Response

Comment noted.

Comment 26, Transcript: Mr. Arcaro

After reviewing all 13 potential alternatives for the project ventilation thing. We considered alternative 10, 11, and 12 which are least impacted on our neighborhood. However, we eliminated alternative 11 -- I’m sorry, 10, of course, the construction time will be three years. Much too long. In addition, the alternative 10 would have only one -- about 136 feet long of exhaust radiant on the East Side of Park Avenue between 37th and 38th. Having only one grading would concentrate the smoke and fumes. Alternative 11 has been eliminated because it will take too much of construction air equipment. Therefore, we focused on alternative 12.

Response

Comment noted.

Comment 27, Transcript: Mr. Arcaro

On Page 12 of the Scope, Table B-1 you indicated for alternative 12 the width of the fan plan to be 32 feet, and the construction zone to be 37 feet. If this is true, the width of the construction zone would be less than indicated on Page 71, Figure B-48. If one looks at Page -- Figure D-23 on Page 150 the work zone will
take only one lane of traffic. By having two lanes of traffic instead of one it would greatly reduce traffic congestion in our neighborhood.

Response

The commenter correctly identifies an inconsistency in the Alternatives Analysis/Feasibility Evaluation. Specifically, Table B-1 (pages 11 and 12) identifies Alternative 12 as 32 feet wide with a construction zone of 37 feet wide. This is incorrect and inconsistent with the text describing Alternative 12; the text in Section B.2.12 (pg. 69) correctly identifies the width of Alternative 12 as 44 feet with a construction zone of 49 feet wide. Additionally, during construction, there will be two moving travel lanes maintained on northbound Park Avenue.

Comment 28, Transcript: Mr. Arcaro

The scope of documents should include the following. A study of the use of pre-cast concrete elements to reduce for the regulation - to reduce construction time.

Response

MTA NYCT EVP facilities are custom designed and built and their project-specific conditions, by and large, do not lend themselves to the use of pre-cast elements.

Comment 29, Transcript: Mr. Arcaro

A traffic study issued – should be made to help design the best mitigation measures possible to reduce traffic congestion, of course, by the construction project. The scope should indicate what mitigation measures that will be taken to reduce traffic congestion.

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....”

The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts.

During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan pursuant to the “Stipulations” for NYCDOT review and approval. The NYCDOT-approved MPT plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.
Comment 30, Transcript: Mr. Arcaro

The scope of work should include a study of the cumulative effect of the many construction projects near the proposed alternative 12 construction site.

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 31, Transcript: Mr. Arcaro

The documents should indicate coordination procedures to be taken to accommodate emergency vehicles at the construction site. In addition, to include procedures of operation of ladder fire trucks to reach buildings in the event of a fire near the site.

Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate the effects of the proposed project on traffic and transportation, including the effects to the circulation of police, fire and emergency vehicles. If significant adverse impacts are identified, the DEIS will provide measures to mitigate these impacts. During design, traffic “Stipulations” will be sought by MTA NYCT from NYCDOT. Upon construction contract award, a Maintenance and Protection of Traffic (MPT) plan will be prepared by the contractor for approval by NYCDOT. Implementation of the NYCDOT-approved MPT plan will be assured by the MTA NYCT Construction Manager.

Comment 32, Transcript: Mr. Arcaro

The study should include what potential health risks there are to neighborhood residents located near the ventilation plant -- if the ventilation plant is [activated].

Response

The proposed EVP would be operated during periodic testing and in the event of an emergency. The potential for health risk to the neighborhood would be limited to air emission and noise and vibration during EVP operation. As explained in Section 5.10 of the DSD and FSD, air quality-related analyses will be presented in the DEIS, including emissions from the future operation of the proposed EVP. Also, Section 5.11 of the DSD and FSD identifies noise- and vibration-related analyses to be presented in the DEIS, including noise and vibration generated during operation of the proposed EVP.

Comment 33, Transcript: Mr. Arcaro

MTA should consider installing an alarm sounding system to alert local residents that would be sounded before the ventilation plan starts. Studies should also include the cautionary measures to keep our residents safe when the ventilation plan is active.
Response

As stated in the last paragraph of Section 5.10 of the DSD and FSD, the “… EVP would only be operated during periodic testing and in emergencies. As a result, a qualitative assessment of the potential effects of the Candidate Alternatives’ ventilation exhaust on nearby receptors will be provided.”

It is not customary that public alarms are used to announce the operation of NYCT’s emergency systems. However, when EVPs are activated during emergency conditions, the appropriate emergency services are immediately notified.

Comment 34, Transcript: Mr. Toneatto

There should be a traffic study that’s taken place to consider this alternative.

Response

MTA NYCT concurs. As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections….”

The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts.

During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The NYCDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.

Comment 35, Transcript: Mr. Toneatto

You did mention about the ventilation plans: all the work is going to be done underground, but where is the access to the underground work? Are they going to use an existing entrance down there? Because currently the East Side access is right on the Park Avenue sidewalk by the Union League Club. Workers go down through that hole. Are you going to still use that same hole to work on the ventilation duct or ventilation system?

Response

As explained in the DSD and the FSD, excavation on a portion of the street bed would provide access to the EVP cavity. A complete description of the construction process will be included in the DEIS.
The proposed EVP project is not associated with any other construction projects in the vicinity of the site. However, in addition to the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 36, Transcript: Mr. Toneatto

One of the issues is when an East Side access work was beginning, it started in the summer of 2007. We were notified. The work was done in 2000-, it began, I believe in 2008 and the MTA talked about an eight month construction timeline. That was eight years ago. You know, so the MTA clearly does not live up to their bargain, their agreements, or what they have notified the public about things.

Response

Comment noted. Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Comment 37, Transcript: Mr. Toneatto

One of the other points I wanted to make is on your slide you [talk about preparing an] EIS if potential significant adverse impacts take place. Well, for us, you can clearly get rid of the “if” and the potential because there are significant adverse impacts. The financial impacts for the Club. There’s quality of life impacts. We used to have trees on Park Avenue. It was pretty beautiful. There are no trees there. It’s terrible.

Response

SEQRA, at 6 NYCRR 617.9 (b)(5)(iii), requires that “a statement and evaluation of the potential significant adverse environmental impacts at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence.”

The DSD and FSD identify each environmental domain (e.g., air quality, noise and vibration, Environmental Justice, etc.) that will be evaluated in the DEIS for potential significant environmental effects/impacts.

Comment 38, Transcript: Mr. Toneatto

You had change with contractors. The existing contractor who’s there now treats it awfully. We had an agreement, we had an agreement with the MTA where these was going to be some aesthetic improvements. That didn’t last very long. There’s no awning. We used to have an awning there. It’s not
there. We had flagpoles, the U.S. flag and Club flag. Those flag poles have been down for seven or eight years. So we -- the MTA clearly does not live up to their timeframe or their agreements.

Response

Comment noted. Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 39, Transcript: Mr. Toneatto

A couple other points I wanted to make. The Club is a landmark building. We've borne -- we've had the brunt of the impact for this East Side access project. It’s right there on the sidewalk. We see it every day outside the windows. We've had events that the crane is up and down. There's noise. It’s clearly had an impact on us, a negative impact all, all around.

There’s been some physical damage to the building. There’s noise. There’s [unintelligible] [1:15:33.1]. There’s traffic. There’s odor. The MTA talked about stopping the exhaust fans and using it mainly, almost exclusively for intake, and we were to be notified when they were. At times, there, there was exhaust issues with that, when it was going to take place. We’re not being notified anymore.

Response

Comment noted. Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

As is customary regarding MTA NYCT projects, MTA NYCT would be pleased to meet with the Community Board on a regular basis to characterize construction activities and locations. The arrangements would be made between MTA NYCT's Government and Community Relations Department (Mr. Marcus Book: marcus.book@nyct.com or at 646 252-2675) and the Community Board.

Comment 40, Transcript: Mr. Toneatto

We have an issue with our standpipe, with the water line. The fire department can’t complete an inspection because one of those water lines was shut off because of the work of the MTA.

Response

Comment noted. Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 41, Transcript: Mr. Toneatto

And now to then have a potential another project that’s going to take place is outrageous, and then to consider it in the same area, you know, it, it -- it’s really, really troubling.
Response
Comment noted. Regarding the location of the proposed EVP, Section 2.0 and Section 3.1.2 provide rationale for the placement of the facility.

Please see Section 5.0 of the DSD and FSD for the methodologies to be used by MTA NYCT for the preparation of the DEIS, and Section 5.18 of the DSD and FSD for information on the methodology for assessing cumulative impacts.

Comment 42, Transcript: Mr. Toneatto
There’s one other final point that I want to make is we’re going to have to explore legal options for this. We’re going to have to challenge you. We’re going to have to challenge your environmental documents. We think they’re insufficient.

Response
Comment noted.

Comment 43, Transcript: Ms. D’Arcy
I have no confidence that the MTA can keep to their schedule, so my question is, who’s going to enforce your deadline?

Response
The construction project and contract will be managed by an MTA NYCT Construction Manager, who is a New York State-licensed Professional Engineer.

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Construction scheduling in Manhattan is complex, especially if an action reveals unanticipated conditions or circumstances. As a result, the construction contract will provide for an assessment of liquidated damages should the Contractor delay and also an assessment of impact cost should the MTA NYCT delay.

Comment 44, Transcript: Ms. D’Arcy
Who’s going to enforce the environmental safety?

Response
The MTA NYCT Construction Manager will be supported by an MTA NYCT Principal Environmental Engineer, who is a registered Professional Engineer in New York State. MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made, and mitigation measures developed, by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for

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monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

The responsibility for work site safety is the responsibility of the MTA NYCT Construction Manager.

**Comment 45, Transcript: Ms. D’Arcy**

I lived across the street from the Morgan Library’s construction where they were drilling into bedrock, and let me tell you, the noise was excruciating,

**Response**

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.

Contractors would be required to adhere to the New York City Construction Noise Code.

**Comment 46, Transcript: Ms. D’Arcy**

I have great concerns about the fact that you’re not going to take care of the environment. That you’re going to do damage to the property. You’re going to ruin a beautiful, historical neighborhood of New York City...

**Response**

As stated in Section 5.19 of the DSD and FSD, if significant environmental impacts are identified, a chapter of the DEIS will be devoted to measures to mitigate those impacts. The mitigation chapter will provide a concise summary of the mitigation commitments and Construction Environmental Protection Plan (CEPP) measures developed for the various technical analyses in the EIS. Where significant adverse impacts are identified, measures that will mitigate these impacts, either partially or fully, will be identified. Mitigation measures will be designed to minimize or avoid to the fullest extent practicable, given costs and other factors, any significant adverse impact. Where the impacts cannot be mitigated, they will be described as unavoidable adverse impacts in the EIS.
Comment 47, Transcript: Ms. D’Arcy

The other thing is the traffic is terrible. The horns are constant. And I’m not even 36th or 37th anymore, and the traffic is already terrible. There are tons of pedestrian accidents. No one mentioned that. People on 38th and Park are constantly being hit. In the time that we’ve been living there, since October, two people have been terribly hurt by cars turning onto 38th -- onto Park, sorry, from 38th Street.

Response

The last paragraph of Section 5.3 of the DSD and FSD discusses the analyses of transit and pedestrian circulation to be conducted and documented in the DEIS. These analyses will establish a baseline from which potential impacts can be anticipated. To mitigate these impacts and ensure pedestrian safety, MTA NYCT, in coordination with NYCDOT, will develop formal “Stipulations” that define proposed lane and/or street closures, and maintains safe pedestrian circulation in the vicinity of the proposed EVP. Upon construction contract award, the contractor will be required to develop a Maintenance and Protection of Traffic (MPT) plan that will then be subject to review and approval by NYCDOT. Conformance to the NYCDOT-approved MPT plan by the contractor will be the responsibility of the MTA NYCT Construction Manager. The MTA NYCT Construction Manager will be a licensed New York State Professional Engineer.

Comment 48, Transcript: Ms. D’Arcy

I’m concerned about crossing the street.

Response

The last paragraph of Section 5.3 of the DSD and FSD discusses the analyses of transit and pedestrian circulation to be conducted and documented in the DEIS. These analyses will establish a baseline from which potential impacts can be anticipated. To mitigate these impacts and ensure pedestrian safety, MTA NYCT, in coordination with NYCDOT, will develop “Stipulations” that define proposed lane and/or street closures, and maintains safe pedestrian circulation in the vicinity of the proposed EVP.

Upon construction contract award, a Maintenance and Protection of Traffic (MPT) plan will be prepared by the contractor for approval by NYCDOT. Implementation of the NYCDOT-approved MPT plan will be assured by the MTA NYCT Construction Manager.

Comment 49, Transcript: Ms. D’Arcy

[What about] the environment, the noise, the pollution, the effect on the utilities. What’s going to happen to our water quality in our buildings? How it’s going to affect our electricity, our gas lines? What are you going to do to protect that?

Response

Construction of the EVP may require temporary or permanent relocation of some in-street utilities. Section 5.12 of the DSD and FSD provides information regarding utility transmission infrastructure relocation. Affected utilities will be documented in the DEIS. All utility work performed under the project contract will be based on prior review and approval of each utility provider.
Comment 50, Transcript: Ms. D’Arcy

I think this [the proposed project] is, we have [MTA NYCT has] the money so we [MTA NYCT] need to do this project.

Response

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. In previous Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the project purpose and need.

Comment 51, Transcript: Ms. D’Arcy

[Y]ou said, oh, we have this money. We can do this project, make sure our data fits where we want to do this project because that’s where we think we should do it. So I really have no confidence in the fact that your data’s going to actually be valid, and I would much rather have a third-party do this data analysis than anybody from the MTA with a vested interest in spending their capital program money.

Response

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. In previous Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

The preparers of the SEQRA documentation are New York State licensed Professional Engineers. The preparers of this EVP design will be New York State licensed Professional Engineers and Architects; the Construction Manager for the project will be a New York State licensed Professional Engineer.

Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project; Chapter 1 of the DEIS will provide a detailed description of the purpose and need. The DEIS will be prepared in accordance with 6 NYCRR 617.9 and will describe all methodology used in the evaluation of potential effects and impacts of the proposed project. The DEIS will be available for public and agency review and comment.

Comment 52, Transcript: Ms. D’Arcy

I think that that gentleman was absolutely right that you need to look at the no alternative alternative, and you need to really think this through because I think the neighborhood’s already being bombarded by construction and congestion...

Response

Concerning the No Build alternative, SEQRA requirements at 6 NYCRR, Preparation and Content of Environmental Impact Statements, states:
6 NYCRR 617.9 (b)(5)(v) – the Lead Agency shall provide “... a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative.”

MTA NYCT has stated in the last full paragraph of Section 1.1 of the DSD and FSD that: “....two Candidate Alternatives remain under consideration.... And will be evaluated further along with the No-Action Alternative during the ...(EIS) process.” Additionally, Chapter 5 of the DSD and FSD also cites MTA NYCT’s intent to address, as examples:

- Section 5.0, 2nd Paragraph: comparison to be made “... between the effects/Impacts for each of the technical areas....of the Proposed Project.... without the proposed EVP (No-Build Alternative).”
- Section 5, 3rd Paragraph, 3rd bullet – The DEIS will contain....a description of the No-Build condition.”

Concerning the efforts related to other projects in the vicinity, Section 5.18 of the DSD and FSD states that:

“Because few to no permanent impacts are anticipated as a result of the Proposed Project, the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project. For example, construction elements of the Long Island Railroad East Side Access project are currently active in the study area, and planning is underway for construction of the One Vanderbilt skyscraper. An inventory of reasonably foreseeable development project identified through review of planning documents and coordination with other agencies will form the basis for assessing cumulative effects.”

Comment 53, Transcript: Ms. Austin

I would like to also ask for a 90 day extension on the comment period. ..... We’ve had two weeks and we only found out, what, two days ago of a project that’s been in the works for how many years.

Response

The timeline for the issue of, and comment period for, the DSD was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44-day period, ending on July 1, 2016.

Under SEQRA, scoping is not required, rather it is an option. MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 54, Transcript: Ms. Austin

One of the alternative sites for your planned emergency ventilation project is between 37th and 38th Streets on the East Side of Park Avenue.........

While you may be building this emergency ventilation system for an unknown future catastrophe you will, without a doubt, create one in this densely residential area. We are already struggling with the East Side Access Project at the corner of 37th Street on the west side of Park Avenue where work goes on daily year after year, and as many as four cement trucks line up along the curb with their machines churning on many days.

Traffic is also severely hampered by this existing project so that gridlock and honking from vehicles exiting the FDR and Midtown Tunnel, as well as up and down Park Avenue is a common experience at that corner. The thought of one lane of traffic snaking along the curve northbound is chilling. As it comes with idling, honking, and road rage.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Section 5.3 of the DSD and FSD describes the transportation study that will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

The transportation study plan and results will be presented in the DEIS/FEIS. During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The NYCDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.
A previous commenter (see Comment 27) correctly identified an inconsistency in the Alternatives Analysis/Feasibility Evaluation: Table B-1. The correct width of Alternative 12 is 44 feet with a construction zone of 49 feet wide (see Section B.2.12, pg. 69 of the Alternatives Analysis/Feasibility Evaluation). There will be two (2) moving travel lanes maintained on northbound Park Avenue during construction.

Comment 55, Transcript: Ms. Austin

From 39th Street to Grand Central Station, Park Avenue become commercial and the buildings, set back from the sidewalk, no one lives there. That would not be as intrusive since you’ve already closed the street at 41st Street. It may be a more difficult engineering feat to do, but the cost in above ground Draconian upheaval for all the residents in that area would be far less. Human beings have to be included in this equation since that’s what you’re doing it for, isn’t it? To save people from a desperate situation underground? Well, above ground needs to be saved from a desperate situation too.

Response

As explained in Section 3.1.2 of the DSD and FSD, the fluid dynamics of air movement and mechanical ventilation generally indicate that, in a uniform tunnel segment, the ideal emergency ventilation location from a mechanical ventilation perspective is, nominally, the midpoint of the tunnel segment between stations. However, the subway tunnel segment in this section is not uniform; it splits into several branches (including one to the northwest serving the Shuttle) as it approaches Grand Central. This results in shifting the ventilation “centroid” farther north from the geographical midpoint to a position nominally at East 38th Street. The EVP could be located away from that “ideal,” but the fan capacity, structure size, and project cost would increase as the plant is moved away from the “ideal,” towards either station. An EVP located south of East 36th Street or north of East 40th Street would need a capacity substantially greater than 500,000 cubic feet per minute. To achieve greater capacity, the EVP would require additional fans, a larger “footprint” (to house the fans), increased cost and produce greater construction impacts. Therefore, alternatives located south of East 36th Street or north of East 40th Street were eliminated from further consideration.

Alternatives located at or north of East 39th Street – Alternative 7, Alternative 8 and Alternative 9 – were evaluated in the Alternatives Analysis/Feasibility Evaluation. These alternatives were less effective in terms of engineering considerations, economic considerations or environmental considerations, or a combination of these considerations. For example, Alternative 9 was found Not Feasible due to engineering considerations: and, as explained in Section B.2.8 under the heading “Structural Considerations” (pg. 52 of the Alternatives Analysis/Feasibility Evaluation), for Alternative 8, “The ventilation plant chamber would be lower in elevation than the base of rail of the subway tunnel, which is undesirable because the emergency ventilation plant would be vulnerable to flooding or require complex sump pump systems to remove the water. Consistent with current post-Sandy judgements by NYCT operations staff concerning resiliency, emergency ventilation plant alternatives resulting in an invert below base-of-rail should be avoided to minimize potential flooding of the emergency ventilation plant.” Thus, those alternatives at or north of East 39th Street were also eliminated from further consideration.

Comment 56, Transcript: Ms. Vanek

...all this reporting talks about is the construction of this, not the operation. And I think that is really something that has to be looked at seriously in the environmental impact studies. The East Side access
that everyone has talked about is clearly going to affect our neighborhood, and now you’re putting in the – and I’m talking about the operation of it. If you walk past the Union League Club, smell that air coming out of that vent, of that shaft that they use for entrance into it. It smells awful. It smells of all kinds of [chemical] fuels.

So I think that any environmental impact statement has to talk about the operation and what it’s going to be like when that vent -- if, if that ventilation system is turned on, and the ventilation system will be turned on for maintenance, if for nothing else.

Response

The proposed EVP would be operated during periodic testing and in the event of an emergency. The potential for health risk to the neighborhood would be limited to that related to air emission and noise and vibration during EVP operation. As explained in Section 5.10 of the DSD and FSD, air quality-related analyses will be presented in the DEIS, including emissions from the future operation of the proposed EVP.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 57, Transcript: Ms. Vanek

There is a vent at 38th and Park. I assume that’s the vent for the tunnel that goes underground. Every once and a while, how many of you know this, somebody forgets to turn it off. And so you have to live with a high pitched drone for, often, 48 hours. You cannot sleep with this drone, and you cannot hear the full impact of this drone from street level. In fact, it ricochets on buildings so that the higher you go the louder it gets.

I have, I have a whole list of people I try to call at the Department of Transportation. Last year they were very supportive. This year they haven’t been as good. It took, it took over 24 hours to turn it off last time. So I think that, that what really has to look more than what it’s going to do to construct, but what the operation is going to be like, and the neighborhood already is suffering a lot.

Response

As described in the DSD and FSD, the effects and potential impacts of both operation and particularly construction of the proposed EVP will be fully evaluated in the DEIS. Chapter 5 outlines the various environmental domains to be evaluated and describes the methodology involved.

Comment 58, Transcript: Mr. Schriffen

First of all, I would like to take issue at, for the record, which would have already been stated by Mr. Dul that the federal government -- federal law, you mentioned NEPA specifically, has no -- is not qualification -- not qualified to be answered here. In fact, it does, and so I’m directing that in the answer to the scoping comments made this evening, the MTA specifically address why this project is not subject to the Federal Clean Air Act, and NEPA, and be very specific to the rules, and to why it’s his opinion that it does not do so.
Response

The proposed EVP project is not a federal action and would not receive federal funds: the proposed project is a New York State action and funded by a New York State authority (MTA). As such, environmental review for the project is being conducted consistent with the State Environmental Quality Review Act (SEQRA), and not the National Environmental Policy Act (NEPA).

Furthermore, MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

As stated in Section 5.10 of the DSD and FSD, air quality analyses will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”. Both of these guidance documents, while specific to New York State, are based on a required adherence to the Clean Air Act Amendments 1990 (CAA90). In addition, all states are required to submit a State Implementation Plan (SIP) that delineates control strategies to achieve compliance with the National Ambient Air Quality Standards (NAAQS), which also represents a mandate from the CAA. Other relevant guidance and protocols provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA) will be addressed in the DEIS/FEIS.

As a result, while the proposed action is not directly subject to a federal environmental review, both state and local air quality assessment and enforcement requirements, which are closely based on the federal CAA, will be addressed in the DEIS/FEIS.

Comment 59, Transcript: Mr. Schriffen

Secondly, this is a scoping session. Now, it was mentioned that it was an optional scoping session and that the MTA did this in deference to the community. I would submit that is very, very misleading. The fact of the matter is, ladies and gentlemen, my neighbors, if issues are not raised tonight at this scoping session they can never again be legally raised by any of us.

The draft environmental impact statement will address the issues raised tonight. If two months from now we come up with another issue that was not raised tonight we’re out of luck, and the community is out
of luck. Therefore, I’m objecting to this hearing, pardon me, this public hearing, because it is not a public hearing. It has not been conducted as a public hearing.

Response:

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

The meeting held on June 16, 2016 was announced and conducted formally as a Public Scoping Meeting (see DSD and FSD, Chapter 7.0). SEQRA states (see 6 NYCRR 617.8 (e)), that “Scoping must include an opportunity for public participation. The lead agency may either provide a period of time for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material or other means.” The New York State Department of State, Division of Local Government Services publishes a document entitled “Conducting Public Meetings and Public Hearings” (https://www.dos.ny.gov/lg/publications/Conducting_Public_Meetings_and_Public_Hearings.pdf); concerning the Open Meetings Law cited in that document, the following is stated:

‘The Open Meetings Law defines a “meeting” as “the official convening of a public body for the purpose of conducting public business.” A “public body” is “any entity, for which a quorum is required in order to conduct public business…”

The statute defines a “meeting” as,

‘….any time a public body gathers for the purpose of conducting public business (regardless of whether the body intends to take any action) the proceeding must be convened open to the public.’

‘…It does not require the public body to offer the public an opportunity to be heard. The right to participate (that is, to speak) at a meeting may be limited to the members of the public body itself. A public body may, however, permit public participation and may provide rules for speakers to follow at meetings.’

In addition to holding the meeting as announced in the NYSDEC ENB, MTA NYCT solicited and received comments from the public, as specified in the SEQRA regulations cited above.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least
potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

MTA NYCT strongly encourages continued public participation in the next stages of the SEQRA EIS process; these are: public review of the FSD; public comment on the DEIS during the related comment period and during the Public Hearing on the DEIS; and public review of the FEIS. The Public Hearing on the DEIS will be held at the MTA offices at 2 Broadway. The Public Hearing will be announced: via the ENB; in newspapers; and on the MTA website.

Comment 60, Transcript: Mr. Schriften

Approximately one hour of this meeting was used for the MTA to repeat information which it specifically stated to us at least six times we already have. It’s already in print. There was no need for it. Therefore, I am respectfully requesting that the public comment period for, the scoping be extended by 90 days, not be shut off by July 1st.

Response

The timeline for the issue of, and comment period for, the DSD was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the
MTA New York City Transit

Proposed Emergency Ventilation Plant

Lexington Avenue Subway Line

proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under SEQRA, scoping is not required, rather it is an option. MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 61, Transcript: Mr. Schriffen

[T]his project will impact Midtown Manhattan in the Murray Hill area, and yet the public hearing is held in the Lower East Side.

Response

As is customary when reporting information to public stakeholders and the community at large, MTA NYCT Government and Community Relations has historically utilized the resources of the affected Community Boards and local elected officials. In concurrence with this policy, Government and Community Relations reached out to Manhattan Community Board 6 (the proposed Ventilation Plant is in CB6) and requested their assistance and suggestions for an appropriate space to hold the Public Scoping Meeting for the Project.

Community Board 6 suggested Podell Hall, which has been used for other public meetings associated with CB6.

Comment 62, Transcript: Mr. Schriffen

I would suggest that an additional public scoping session be scheduled within the next 90 days, as requested, in a more appropriate area where it would be easier for the affected population to make its comments.

Response

MTA NYCT looks forward to continued public participation in the next stages of the SEQRA EIS process: public review of the Final Scoping Document (FSD); public comment on the DEIS during the related comment period and the Public Hearing on the DEIS; and public review of the FEIS. The Public Hearing on the DEIS will be held at the MTA offices at 2 Broadway. The Public Hearing will be announced: via the ENB; in newspapers; and on the MTA website.

Comment 63, Transcript: Mr. Schriffen

It was also stated here incorrectly this evening, I hope not misleading, but I’ll give you the benefit of the doubt, that New York City local law does not apply to this project, and that is totally incorrect. I would,
therefore, request that the MTA and its -- in a preliminary environmental impact statement be very specific as to why the idling engine laws and other relevant laws dealing with the air and diesel exhaust of New York City’s Department of Environmental Protection do not apply here.

Response

MTA NYCT is a New York State Authority, and as such, is not required to comply with New York City laws and regulations; nevertheless, MTA NYCT construction contractors are required to comply with the NYC Construction Noise Code and the New York State Environmental Conservation Law (ECL), which prohibits heavy duty vehicles, including diesel trucks and buses, from idling for more than five minutes at a time.

MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made and mitigation measures developed by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

Comment 64, Transcript: Mr. Schriffen

For the record, you know that the Union League Club has been, and continues to be, abused by the MTA. Deliberately and blatantly. There was a law suit brought by the Union League Club against the MTA in 2012. The MTA signed a consent decree order agreeing to stop the outrageous, illegal pollution from its diesel generators located some three, four stories below Park Avenue and 37th Street that endangered the safety, health, and welfare of the employees, the members, visitors of the Union League Club, and the people who live in the surrounding area.

It cost the MTA to pay for that decision. To date, the MTA continues to be in violation of that ruling. Continues to operate illegally their diesel exhaust generators spewing out what have been identified since the late 1980s as a major cause of particulate matter which has been identified as the major cause of upper respiratory diseases and heart disease, and diesel exhaust which has also been identified since the last 1980s as a major cause of cancer. That’s very well documented. The MTA, I suggest, knows this better than most.
Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 65, Transcript: Mr. Schriffen

Interestingly enough, the comment was made early on in the presentation by the MTA that the further away the exhaust vents are from the area affected the larger they’re going to have to be.

Response

As explained in Section 3.1.2 of the DSD and FSD, the fluid dynamics of air movement and mechanical ventilation generally indicate that, in a uniform tunnel segment, the ideal emergency ventilation location from a mechanical ventilation perspective is, nominally, the midpoint of the tunnel segment between stations. However, the subway tunnel segment in this section is not uniform; it splits into several branches (including one to the northwest serving the Shuttle) as it approaches Grand Central. This results in shifting the ventilation “centroid” farther north from the geographical midpoint to a position nominally at East 38th Street. The EVP could be located away from that “ideal,” but the fan capacity, structure size, and project cost would increase as the plant is moved away from the “ideal,” towards either station. An EVP located south of East 36th Street or north of East 40th Street would need a capacity substantially greater than 500,000 cubic feet per minute. To achieve greater capacity, the EVP would require additional fans, a larger “footprint” (to house the fans), increased cost and produce greater construction impacts. Therefore, alternatives located south of East 36th Street or north of East 40th Street were eliminated from further consideration.

Alternatives located at or north of East 39th Street – Alternative 7, Alternative 8 and Alternative 9 – were evaluated in the Alternatives Analysis/Feasibility Evaluation. These alternatives were less effective in terms of engineering considerations, economic considerations or environmental considerations, or a combination of these considerations. For example, Alternative 9 was found Not Feasible due to engineering considerations; and, as explained in Section B.2.8 under the heading “Structural Considerations” (pg. 52 of the Alternatives Analysis/Feasibility Evaluation), for Alternative 8, “The ventilation plant chamber would be lower in elevation than the base of rail of the subway tunnel, which is undesirable because the emergency ventilation plant would be vulnerable to flooding or require complex sump pump systems to remove the water. Consistent with current post-Sandy judgements by NYCT operations staff concerning resiliency, emergency ventilation plant alternatives resulting in an invert below base-of-rail should be avoided to minimize potential flooding of the emergency ventilation plant.” Thus, those alternatives at or north of East 39th Street were also eliminated from further consideration.

Comment 66, Transcript: Mr. Schriffen

The tracks underneath Park Avenue are for holding trains. They are storage yards. There will be no passengers underground at 34th, 35th, 36th, 37th, 38th, 39th, 40th Street. They’ve going to be in Grand Central terminal. So why aren’t the exhaust stacks there rather than at 37th, 38th, 39th or lower?

This should have been planned for a long time ago, not now. And I suggest that the MTA is misleading the public by stating that this is to protect just passengers when, in fact, there will be no passengers here.
These are storage yards. It makes more sense to have the exhaust stacks where the passengers will be in danger, and they would have to be much smaller than the ones which we are being told have to be built now.

Response

The commenter is mistaken – the tracks referred to in the DSD and FSD are not storage yards. The proposed EVP would provide ventilation for the express and local IRT Subway line which runs between 33rd Street and 42nd Street/Grand Central Terminal stations. These lines provide transportation for passengers 24 hours per day.

Comment 67, Transcript: Mr. Schriffen

I would say that the MTA has provided insufficient notice to the community to provide educated and detailed comment on this proposed project. And that the meeting that is -- has been identified as a public scope -- scoping session is insufficient to provide time for all of the people who wish to make comments. And therefore, respectfully request, again, a 90 day extension for the comment period.

Response

The timeline for the issue of, and comment period for, the DSD was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under SEQRA, scoping is not required, rather it is an option. MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.
Comment 68, Transcript: Mr. Schriffen

I would remind my neighbors that the MTA is an agency, and therefore, is only answerable to one person, the government of the State of New York. They don’t have to respond to the public ever, and they usually don’t. And therefore, it’s incumbent upon us, as the ones who will bear the brunt of all the negative situation created by this proposed project that we demand that Senator Krueger and Assembly Member Gottfried, which are the -- put the pressure on the governor to do the right thing as far as the voters are concerned. The governor is the only one that this agency is answerable to, no one else, not even to the State Legislature.

Response

Comment noted.

Comment 69, Transcript: Mr. Schriffen

There has been a lawsuit already. You can be certain there will be more.

Response

Comment noted.

Comment 70, Transcript: Mr. Schriffen

And again, for the third time, I’m respectfully requesting that the public’s comment period be extended 90 days.

Response

Please see the response to Comment 67 regarding extension of the comment period.

Comment 71, Transcript: Ms. Ball

I’d like to say that my neighbors and I, many of my neighbors and I felt absolutely ambushed by the MTA. First we learned that your scoping document, your plan, and this meeting was a few days ago through a newsletter from the Murray Hill Neighborhood Association. They only learned about your scoping document, your plan, and this meeting a few days ago.

Response

The timeline for the issue of, and comment period for, the DSD was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the
proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under SEQRA, scoping is not required, rather it is an option. MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

**Comment 72, Transcript: Ms. Ball**

We do not understand how you could possibly contemplate that your plan will have a reasonable and acceptable impact on our neighborhood. It’s a historic neighborhood with many historic buildings, two hotels. Who’s going to stay in those hotels if there’s a construction project going on for years to come? Two consulates, embassies, church, medical and dental offices, and, of course, many residential buildings.

**Response**

As discussed in Sections 5.7, 5.8 and 5.9 of the DSD and FSD, the DEIS will evaluate potential effects and impacts to community facilities and services, potential effects and impacts to community character, and potential effects and impacts to historic structures. All potential significant adverse effects and impacts will be identified and assessed, and mitigation measures will be developed and implemented where impacts are identified.

MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made and mitigation measures developed by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.
Comment 73, Transcript: Ms. Ball

We already know that there are foul, probably toxic fumes coming out of the construction that’s already going on in our neighborhood between 36th and 37th Street.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 74, Transcript: Ms. Ball

As been stated, we have absolutely no reason to believe that the schedule you present to us will be followed. What was proposed as an eight month plan has turned in to an eight year plan.

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP experience by MTA NYCT in NYC.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 75, Transcript: Ms. Ball

We’ve heard nothing from you about what maintenance would be required for any ventilation system in perpetuity. You’re not going to just build it and then leave it alone.

Response

Operation for the proposed EVP, and for other EVPs throughout the MTA NYCT system, includes maintenance activities, which involve such tasks as balancing, lubrication, testing, and noise silencing checks. An evaluation of potential impacts related to the operational phase of the proposed EVP will be conducted during preparation of the DEIS, with the results presented in the DEIS.

Comment 76, Transcript: Ms. Ball

I guess I just want to make my comments brief and state that we have spoken to lawyers already. We know that this -- what we feel is an ambush is typical M.O. for the MTA. Also, holding this kind of session in summer months when fewer people are in attendance, as you can see, and we will be fighting you.

Response

Comment noted.
LETTERS

Comment 77, Letters: Ms. Ball

We request an immediate 90-day extension of the Public Comment period. My neighbors and I feel blindsided, as we only learned about the proposal from a notice in the Murray Hill Neighborhood Assn newsletter, and the MHNA itself was only notified of the proposal a few days before the legally mandated public meeting, leaving no time for educated and detailed comment, and ensuring a low turnout.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.
Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 78, Letters: Ms. Ball

Furthermore, the meeting was held more than 20 blocks away from the neighborhood that would be affected by the proposed construction, rather than making it convenient for neighbors to attend.

Response

As is customary when reporting information to public stakeholders and the community at large, MTA NYCT Government and Community Relations has historically utilized the resources of the affected Community Boards and local elected officials. In concurrence with this policy, Government and Community Relations reached out to Manhattan Community Board 6 (the proposed Ventilation Plant is in CB6) and requested their assistance and suggestions for an appropriate space to hold the Public Scoping Meeting for the Project.

Community Board 6 suggested Podell Hall, which has been used for other public meetings associated with CB6.

Comment 79, Letters: Ms. Ball

The noise, pollution and disruption to the already congested vehicular and pedestrian traffic in this historic neighborhood, including many landmarked buildings, would be catastrophic. The construction would wreak havoc with the health, the quality of life and the property values of all residents, businesses and other organizations in the designated area, for years to come.

Response

The DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise (Section 5.11), air quality (Section 5.10) and traffic (Section 5.3). All analyses will be conducted in accordance with applicable regulatory requirements. Issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and
construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual. Contractors would be required to adhere to the New York City Construction Noise Code.

As stated in Section 5.10 of the DSD and FSD, air quality analyses will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”.

As stated in Section 5.3, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. The DEIS will also evaluate the effects of the Proposed EVP on historic structures (see Section 5.9 of the DSD and FSD) and the effects on the neighborhood in general (see Section 5.8 of the DSD and FSD).

Comment 80, Letters: Ms. Ball

MTA’s claims that the construction would have an "acceptable" and "reasonable" impact are wrong.

Response

Construction would be implemented in such a manner so as to be conforming with applicable regulatory requirements as related to all applicable environmental impact categories (e.g., air quality, noise and vibration, traffic). The DEIS will identify the currently planned construction methods, material and equipment needs, and sequencing, and quantitatively estimate the effects/impacts for the reasonable worst case scenario.

As discussed in Sections 5.7, 5.8 and 5.9 of the DSD and FSD, the DEIS will evaluate potential effects and impacts to community facilities and services, potential effects and impacts to community character, and potential effects and impacts to historic structures. All potential significant adverse effects and impacts will be identified and assessed. Mitigation measures will be developed and implemented where impacts are identified.

MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made and mitigation measures developed by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the
environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

Comment 81, Letters: Ms. Ball

It has stated that local laws about idling engines and diesel exhaust would not apply for this project, nor would the Federal Clean Air Act.

Response

As stated in Section 5.10 of the DSD and FSD, air quality analyses will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”. Both of these guidance documents, while specific to New York State, are based on a required adherence to the Clean Air Act Amendment 1990 (CAAA90). In addition, all states are required to submit a State Implementation Plan (SIP) that delineates control strategies to achieve compliance with the National Ambient Air Quality Standards (NAAQS), which also represents a mandate from the CAA. Other relevant guidance and protocols are provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA).

As a result, while the proposed action may not be directly subject to a federal environmental review, both state and local air quality assessment and enforcement requirements are closely based on the federal CAA.

MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made and mitigation measures developed by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

Comment 82, Letters: Ms. Ball

The environmental impact, the effect on air quality, water and gas lines, the noise and vibration, the limitations to both vehicular and pedestrian traffic, would be absolutely unacceptable.
Response

As stated in Section 5.12, Section 5.11 and Section 5.3 of the DSD and FSD, the effects of the proposed EVP on utilities, noise and vibration, and vehicular and pedestrian traffic will be evaluated in the DEIS. If significant adverse impacts are identified, measures to mitigate impacts will be provided. Work related to utilities would only proceed after the receipt of approval from the various utilities.

Comment 83, Letters: Ms. Ball

MTA has proposed that construction would take four to five years, but it has vastly underestimated the time frame of other projects in the city and has provided no information for what would be maintenance in perpetuity.

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

As stated in Chapter 5 of the DSD and FSD, the EVP would undergo monthly testing and routine maintenance. For the proposed EVP, maintenance activities involve such tasks as balancing, lubrication, testing, and noise silencing checks. EVP operational maintenance requirements will be described in the DEIS. These activities are consistent with maintenance tasks at EVP facilities elsewhere in the MTA NYCT system.

Comment 84, Letters: Ms. Ball

The East Side Access project on Park Avenue between 36th and 37th Streets that was supposed to take eight months has already taken eight years. The Union League successfully sued over the foul and toxic fumes from the construction site, which have created respiratory problems for many people, but the construction continues, even though it is now in violation.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 85, Letters: Ms. Ball

There is no reason why the East Side Access ventilation system could not be modified to handle any ventilation issues from an emergency situation in the subway system between Grand Central Terminal and 33rd Street, thus saving the public an estimated $85.5 million that was mentioned at the scoping meeting (although we assume this is a lowball number). The proposed additional ventilation system would be redundant.

Response

The design basis, construction, operation, and control features of the ESA, and those of the EVP proposed for the Lexington Avenue Subway line are different. A ventilation system designed for use in the ESA tunnel cannot be used for the Lexington Avenue subway tunnel. There is no connection in design,
construction and/or operation and maintenance between the proposed Lexington Avenue EVP project and the ESA project, or to any other system. MTA NYCT requires full control of any system it designs, constructs and/or operates to assure the availability, security and functionality of the system at all times.

Comment 86, Letters: Ms. Ball

Park Avenue, normally a wide boulevard, is a favored route for emergency vehicles such as ambulances and fire engines, but the proposed construction would allow only one lane of northbound traffic, creating major gridlock and jeopardizing these services.

Response

As stated in the FSD, the proposed EVP construction would require the closure of one northbound lane of Park Avenue during any one stage of construction, with two moving travel lanes remaining as currently exists. While the lanes would be narrowed slightly, moving traffic would not likely divert or shift to adjacent avenues.

Section 5.3 of the DSD and FSD describes the transportation study that will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction. The transportation study plan and results will be presented in the DEIS/FEIS. During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The NYCDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.

A previous commenter (see Comment 27) correctly identified an inconsistency in the Alternatives Analysis/Feasibility Evaluation: Table B-1. The correct width of Alternative 12 is 44 feet with a construction zone of 49 feet wide (see Section B.2.12, pg. 69 of the Alternatives Analysis/Feasibility Evaluation). Two moving travel lanes will be maintained on northbound Park Avenue during construction.

Comment 87, Letters: Ms. Ball

The two hotels in the affected area would suffer serious business losses (who would want to stay in the middle of a construction site?). Likewise, medical and dental offices would be made impassable; weddings and funerals at the Church of Our Saviour would be rendered near-impossible.

Response

As discussed in Sections 5.4, 5.7, and 5.8 of the DSD and FSD, the DEIS will evaluate potential effects and impacts to socioeconomic conditions, community facilities and services, and potential effects and impacts to community character. All potential significant adverse effects and impacts will be identified and assessed. Mitigation measures will be developed and implemented where impacts are identified. Also, please note that MTA NYCT: established the need for the EVP as explained in Section 2.0 of the DSD and FSD; and selected the Candidate Alternatives based on comparative engineering, economic and environmental analysis as presented in detail in Appendix A of the DSD and FSD.
MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made and mitigation measures developed by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

Comment 88, Letters: Ms. Ball

Our greatest concern is the possibility that access to the proposed ventilation system, which would be necessary for maintenance, could be used in a terrorist attack on Grand Central Terminal, a prime and vulnerable target.

Response

Response plans for terrorist incidents are developed and maintained by MTA Security and are confidential. As stated in Section 5.16 of the DSD and FSD, The EIS will identify, to the extent allowed by MTA NYCT policy, safety and security aspects related to the design, construction, and operation of the proposed EVP.

Comment 89, Letters: Ms. Ball

(a) Most importantly, MTA’s proposed ventilation project is NOT required work, not fulfilling any city, state or federal compliance. There is funding in the new capital plan, so MTA has decided that this work should proceed, but (b) there is a NO-BUILD alternative that it rejected.

Response

(a) As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two
EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

(b) Concerning the No Build alternative, SEQRA requirements at 6 NYCRR, Preparation and Content of Environmental Impact Statements, states:

6NYCRR 617.9 (b)(5)(v) – “a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative.”

MTA NYCT has stated in the last full paragraph of Section 1.1 of the DSD and FSD that: “….two Candidate Alternatives remain under consideration…. And will be evaluated further along with the No-Action Alternative during the ...(EIS) process.” Additionally, Chapter 5 of the DSD and FSD also cites MTA NYCT’s intent to address, as examples:

- Section 5.0, 2nd Paragraph: comparison to be made “... between the effects/Impacts for each of the technical areas....of the Proposed Project.... without the proposed EVP (No-Build Alternative).”

Reference to Section 5, 3rd Paragraph, 3rd bullet indicates that – The DEIS will contain “....a description of the No-Build condition.”

Comment 90, Letters: Ms. Cascio

We've been living with the MTA’s presence a few blocks down and across the street since we moved in. Not only is it noisy and noxious- with cement trucks frequently taking up the sidewalk, but the workers leave trash in the area and we’ve witnessed rats gleefully partying there on several occasions.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 91, Letters: Ms. Cascio

This building is almost 100 years old. It needs to be treated with respect and care. We fear that the MTA’s project here will undermine the structure- both inside and out (as the Union Club has suffered). If nothing else, it will certainly make it a far less pleasant and far dirtier place to live for years.
Response

All appropriate and necessary geotechnical engineering and structural analyses related to the construction and operation of the EVP and ancillary elements will be performed by MTA NYCT licensed professional engineers with relevant education and experience. That experience includes the design, construction and operation of numerous emergency ventilation facilities by MTA NYCT.

As discussed in Sections 5.7, 5.8 and 5.9 of the DSD and FSD, the DEIS will evaluate potential effects and impacts to all structures and buildings, including community facilities, potential effects and impacts to community character, and potential effects and impacts to historic structures. All potential significant adverse effects and impacts will be identified and assessed. Mitigation measures will be developed and implemented where impacts are identified.

NYCDOB has developed a set of policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

Comment 92, Letters: Ms. Cascio

Additionally, there is a landmarked church two doors from us.

Response

Comment noted.

Comment 93, Letters: Ms. Cascio

We understand that this is a discretionary upgrade, not a necessity.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index
ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Comment 94, Letters: Ms. Cascio

We also are aware that if the MTA chooses to go forward with this project, you have the option of moving it uptown a mere few blocks- to 39th Street- where there are no residences.

Response

As explained in Section 3.1.2 of the DSD and FSD, the fluid dynamics of air movement and mechanical ventilation generally indicate that, in a uniform tunnel segment, the ideal emergency ventilation location from a mechanical ventilation perspective is, nominally, the midpoint of the tunnel segment between stations. However, the subway tunnel segment in this section is not uniform; it splits into several branches (including one to the northwest serving the Shuttle) as it approaches Grand Central. This results in shifting the ventilation “centroid” farther north from the geographical midpoint to a position nominally at East 38th Street. The EVP could be located away from that “ideal,” but the fan capacity, structure size, and project cost would increase as the plant is moved away from the “ideal,” towards either station. An EVP located south of East 36th Street or north of East 40th Street would need a capacity substantially greater than 500,000 cubic feet per minute. To achieve greater capacity, the EVP would require additional fans, a larger “footprint” (to house the fans), increased cost and produce greater construction impacts. Therefore, alternatives located south of East 36th Street or north of East 40th Street were eliminated from further consideration.

Alternatives located at or north of East 39th Street – Alternative 7, Alternative 8 and Alternative 9 – were evaluated in the Alternatives Analysis/Feasibility Evaluation. These alternatives were less effective in terms of engineering considerations, economic considerations or environmental considerations, or a combination of these consideration. For example, Alternative 9 was found Not Feasible due to engineering consideration; and, as explained in Section B.2.8 under the heading “Structural Considerations” (pg. 52 of the Alternatives Analysis/Feasibility Evaluation), for Alternative 8, “The ventilation plant chamber would be lower in elevation than the base of rail of the subway tunnel, which is undesirable because the emergency ventilation plant would be vulnerable to flooding or require complex sump pump systems to remove the water. Consistent with current post-Sandy judgements by NYCT operations staff concerning resiliency, emergency ventilation plant alternatives resulting in an invert below base-of-rail should be avoided to minimize potential flooding of the emergency ventilation plant.” Thus, those alternatives at or north of East 39th Street were also eliminated from further consideration.

Comment 95, Letters: Ms. Cascio

We are asking you to reconsider this endeavor. At the very least, opt for an area where residents won’t be inconvenienced for years to come. And, of course, there is the issue of devaluing our property value for all the time you will be detracting from the beauty of our building and our block.
Response

As described in Section 5.4 of the DSD and FSD, the DEIS will evaluate the effects of the proposed project on socioeconomic conditions within the area. The proposed EVP would also be designed to avoid and minimize disruptions to private property.

Subsequent to the issue of the FSD, MTA NYCT will continue the SEQRA EIS process to select a Preferred Alternative from the Candidate Alternatives. That process will employ the methodologies defined in the FSD, and will include a Public Hearing, and input from the community through testimony at the Public Hearing, letters and on-line comments.

Comment 96, Letters: Mr. Arcaro

My name is Fred Arcaro, member of the Board of Trustees of The Murray Hill Neighbored Association. Thank you for the opportunity to comment on the scoping for your DEIS to the Proposed Emergency Ventilation Plant.

We recognize the compelling need to provide emergency ventilation to, to the tunnel section on Lexington Avenue Line under Park Avenue between 33th Street and 42nd Street, in compliance with NFPA 130 standard for emergency ventilation. But moreover, we also recognize the intent of the project is to save lives in the event of a smoke condition in the subway tunnel.

Response

Comment noted.

Comment 97, Letters: Mr. Arcaro

After reviewing all thirteen Potential Alternatives for the proposed ventilation plant, we considered Alternatives 10, 11 and 12 will have the least impact on our neighborhood. However, we have eliminated Alternative 10 because construction time for the project would last three years, much too long. In addition, Alternative 10 would have only one of about 136 feet long of exhaust grading on the east side of Park Avenue between 37th and 38th Streets. Alternative 11 is eliminated because it would take too much of a construction area foot print. Therefore, we focused on Proposed Alternative 12.

Response

Comment noted.

Comment 98, Letters: Mr. Arcaro

On Page 12 of the Scope, Table B-1 you indicated for alternative 12 the width of the fan plan to be 32 feet, and the construction zone to be 37 feet. If this is true, the width of the construction zone would be less than indicated on Page 71, Figure B-48. If one looks at Page -- Figure D-23 on Page 150 the work zone will take only one lane of traffic. By having two lanes of traffic instead of one it would greatly reduce traffic congestion in our neighborhood.

Response

The commenter correctly identifies an inconsistency in the Alternatives Analysis/Feasibility Evaluation: Table B-1 (pages 11 and 12) identifies Alternative 12 as 32 feet wide with a construction zone of 37 feet.
wide. This is incorrect and inconsistent with the text describing Alternative 12. The text in Section B.2.12 (pg. 69) correctly identifies the width of Alternative 12 as 44 feet with a construction zone of 49 feet wide. There will be two moving travel lanes maintained on northbound Park Avenue.

Comment 99, Letters: Mr. Arcaro

The scoping document should include the following. A study of the use of pre-cast concrete elements to reduce for the regulation - to reduce construction time.

Response

MTA NYCT EVP facilities are custom designed and built and their project-specific conditions, by and large, do not lend themselves to the use of pre-cast elements.

Comment 100, Letters: Mr. Arcaro

[The scoping document should include] Traffic studies that will help design the best mitigation of traffic congestion caused by the construction project. The scoping document should indicate what mitigation measures that would be taken to reduce traffic congestion.

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....”

The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts.

During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan pursuant to the “Stipulations” for NYCDOT review and approval. The NYCDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.

Comment 101, Letters: Mr. Arcaro

The scope of work should include a study of the cumulative effect of the many construction projects near the proposed alternative 12 construction site.

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD,
“...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 102, Letters: Mr. Arcaro

The document should indicate what coordination procedures to be taken to accommodate emergency vehicles at the construction site. In addition, to include procedures for operation of ladder fire trucks to reach buildings, in the event of a fire near the construction site.

Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate the effects of the proposed project on traffic and transportation, including the effects to the circulation of police, fire and emergency vehicles. If significant adverse impacts are identified, the DEIS will provide measures to mitigate these impacts. During design, traffic “Stipulations” will be sought by MTA NYCT from NYCDOT. Upon construction contract award, a Maintenance and Protection of Traffic (MPT) plan will be prepared by the contractor for approval by NYCDOT. Implementation of the NYCDOT-approved MPT plan will be assured by the MTA NYCT Construction Manager.

Comment 103, Letters: Mr. Arcaro

A study should be conducted of what potential health risks there are to neighborhood residents located near the ventilation plant when it is exhausting smoke or toxic fumes.

Response

The proposed EVP would be operated during periodic testing and in the event of an emergency. The potential for health risk to the neighborhood would be limited to air emissions and noise and vibration during EVP operation. As explained in Section 5.10 of the DSD and FSD, air quality-related analyses will be presented in the DEIS, including emissions from the future operation of the proposed EVP. Also, Section 5.11 of the DSD and FSD identifies noise- and vibration-related analyses to be presented in the DEIS, including noise and vibration generated during operation of the proposed EVP.

Comment 104, Letters: Mr. Arcaro

MTA should consider installing an alarm sounding system, to alert local residents, that would sound before the ventilation plant starts to exhaust smoke or toxic fumes. The study should include precautionary measures to keep local residents safe, when the ventilation plant is active.

Response

As stated in the last paragraph of Section 5.10 of the DSD and FSD, the “... EVP would only be operated during periodic testing and in emergencies. As a result, a qualitative assessment of the potential effects of the Candidate Alternatives’ ventilation exhaust on nearby receptors will be provided.”

It is not customary that public alarms are used to announce the operation of NYCT’s emergency systems. However, when EVPs are activated during emergency conditions, the appropriate emergency services are immediately notified.
Comment 105, Letters: Ms. Austin

We've just been told that a second major excavation and construction of another emergency ventilation plant is scheduled for a site across the street from the East Side Access project on Park Avenue. Even though plans have been in the works for years, we've been given just two weeks to voice our concerns about the environmental costs of this project. The community would like a 90 day extension to comment.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel's Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

With respect to the genesis of the project, the EVP program is the result of a 1994 study, commissioned by NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.
Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

**Comment 106, Letters: Ms. Austin**

I’ve lived in this area for many years. During that time, a lot of changes have taken place. 33rd Street, (a wonderfully efficient crosstown street for vehicles exiting the Midtown Tunnel), was closed at Broadway and Sixth Avenue years ago to accommodate the Herald Square traffic reconfiguration. Then, it was closed again, more recently, at Park Avenue. Both of these adjustments brought a noticeable increase in traffic congestion onto 35th Street, 37th Street and onto Park Avenue in Murray Hill. 34th Street, where traffic was designed to move efficiently crosstown, was also reduced in the number of lanes recently. We now struggle with traffic congestion daily in Murray Hill on Park Avenue.

**Response**

Comment noted.
Comment 107, Letters: Ms. Austin

The MTA Scoping Meeting I attended on June 16th explained that there were as many as 252 sites that were designated for subway ventilation upgrades, and that an engineering firm had calculated that the nine blocks of subway track underneath our neighborhood was designated as #5. Therefore, there are lots of other sites equally valid for doing this upgrade, and many of them would probably be better equipped to handle a 'big dig' of this sort.

Response

Please see the response to Comment 105 concerning the genesis of the EVP program.

Comment 108, Letters: Ms. Austin

Because of the traffic tunnel and Mall, our avenue is fairly narrow on both sides, compared to other avenues in Manhattan that are five and six lanes wide. We are exhausted from the East Side Access project. We need a rest from massive construction. We are angry and hostile to another project in the same area so soon. And the environmental impact would be devastating.

Response

The DEIS will identify/evaluate the engineering/economic/environmental effects/impacts of the construction and operation of the Candidate Alternatives and identify a Preferred Alternative. That identification/evaluation will also include, as stated in Section 5.18 of the DSD and FSD, an evaluation of cumulative effects.

Comment 109, Letters: Ms. Cronin

We would like the MTA first to extend the Public Comment period on the proposed work to the normally required 90 days...

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting.
Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44-day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 110, Letters: Ms. Cronin

...and second, to develop an alternate project elsewhere.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. This study is a comprehensive ventilation study that evaluated every operational
subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

The basis for identifying and evaluating the 13 Potential Alternatives addressed in the DSD and FSD for the tunnel segment of the Lexington Avenue line is summarized in Chapter 3 of the DSD and FSD, and is identified in detail in Appendix A to the DSD and FSD.

Comment 111, Letters: Ms. Cronin

The consequences to our community would be devastating: noise, pollution, and congestion of both vehicular and pedestrian traffic in an historic residential neighborhood that has already had to endure eight years of the MTA’s East Side Access Project at Park Avenue and 37th Street.

Response

The potential effects/impacts of construction and operation of the proposed EVP related to noise, air quality, traffic and transportation, community facilities, etc. have been evaluated for the 13 Potential Alternatives. Potential Alternatives 11 and 12 were selected as Candidate Alternatives because they exhibit the least potential for adverse engineering/economical/environmental effects. The Candidate Alternatives will be comparatively evaluated in the DEIS and FEIS, as described in the DSD and FSD. Throughout the SEQRA EIS process, input from the community will be sought, including through a Public Hearing on the DEIS.

Comment 112, Letters: Mr. Ginsberg

First, on the broadest level, we object to the construction of this plant. The subway has operated without mishap in the absence of such a plant for decades. It is inconceivable how the enormous impact of this multi-year, massive construction project on the day to day functions of this midtown area could survive a cost benefit analysis.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.
As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed the entire existing system. Whereas NFPA 130 guidelines that were established in the mid-1980s are required to be addressed in all new systems, MTA NYCT, which operates an older system, made the decision to utilize the NFPA 130 standard wherever possible to provide a higher level of protection for its passengers. Therefore, the EVP program was created and continues to be implemented wherever it is feasible. The proposed project is part of that continuing EVP Program to enhance the life safety of the riding public.

Comment 113, Letters: Mr. Ginsberg

Second, we strongly object to the placement of the plant anywhere in the immediate vicinity of East 37th Street between Lexington and Park Avenue and between Park Avenue and Madison Avenue.

Response

Comment noted. Also, please note that the results of the decision-analysis process presented in the “Alternatives Analysis/Feasibility Evaluation” (attached as Appendix A to the DSD and FSD), resulted in the selection of Candidate Alternatives 11 and 12 from among 13 Potential Alternatives. Candidate Alternative 11 extends from East 37th to East 39 Streets on Park Avenue northbound and Alternative 12 extends from East 36th to East 38th Streets on Park Avenue northbound.

Comment 114, Letters Mr. Ginsberg

The traffic problems at the Park Avenue and East 37th Street intersection are exacerbated by (i) repeated (nearly constant) blockage by ConEd in order to access lines and/or systems below street level on East 37th immediately west of Park Avenue and (i) the massive, still ongoing construction by the MTA of new underground systems related to the connection of Penn Station to Grand Central Station, with the key access and construction headquarters located at the southwest corner of Park Avenue at East 37th Street (the project’s completion date, which has been extended time after time, cannot be considered to have any reliable completion date and could extend for years).

Response

As described in Section 5.18 of the DSD and FDS, the DEIS will assess the cumulative effects of the proposed EVP and other concurrent construction projects in the area. An inventory of reasonably foreseeable development projects identified through review of planning documents and coordination with other agencies will form the basis for assessing cumulative effects.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 115, Letters: Mr. Ginsberg

If this plant must be constructed at all, we favor Alternative 9 on Park Avenue between 39th and 40th Streets in that it is a commercial area. South of 39th Street is the Murray Hill residential district, and construction there disrupts the enjoyment of people’s homes rather than just their offices.
Response

As explained in Section 3.1.2 of the DSD and FSD, the fluid dynamics of air movement and mechanical ventilation generally indicate that, in a uniform tunnel segment, the ideal emergency ventilation location from a mechanical ventilation perspective is, nominally, the midpoint of the tunnel segment between stations. However, the subway tunnel segment in this section is not uniform; it splits into several branches (including one to the northwest serving the Shuttle) as it approaches Grand Central. This results in shifting the ventilation “centroid” farther north from the geographical midpoint to a position nominally at East 38th Street. The EVP could be located away from that “ideal,” but the fan capacity, structure size, and project cost would increase as the plant is moved away from the “ideal,” towards either station. An EVP located south of East 36th Street or north of East 40th Street would need a capacity substantially greater than 500,000 cubic feet per minute. To achieve greater capacity, the EVP would require additional fans, a larger “footprint” (to house the fans), increased cost and produce greater construction impacts. Therefore, alternatives located south of East 36th Street or north of East 40th Street were eliminated from further consideration.

Alternatives located at or north of East 39th Street – Alternative 7, Alternative 8 and Alternative 9 – were evaluated in the Alternatives Analysis/Feasibility Evaluation. These alternatives were less effective in terms of engineering considerations, economic considerations or environmental considerations, or a combination of these considerations. For example, Alternative 9 was found Not Feasible due to engineering consideration; and, as explained in Section B.2.8 under the heading “Structural Considerations” (pg. 52 of the Alternatives Analysis/Feasibility Evaluation), for Alternative 8, “The ventilation plant chamber would be lower in elevation than the base of rail of the subway tunnel, which is undesirable because the emergency ventilation plant would be vulnerable to flooding or require complex sump pump systems to remove the water. Consistent with current post-Sandy judgements by NYCT operations staff concerning resiliency, emergency ventilation plant alternatives resulting in an invert below base-of-rail should be avoided to minimize potential flooding of the emergency ventilation plant.” Thus, those alternatives at or north of East 39th Street were also eliminated from further consideration.

Comment 116, Letters: Mr. Ginsberg

Though your May 1, 2016 Letter states that the locations for the plant currently under consideration are limited to just two of those included in the Draft Scoping Document, we nevertheless wish to register our strong objection to Alternative 3 (placing the plant in the street bed of E. 37th Street immediately west of Park Avenue). As stated above, that location is highly congested as it is the main artery carrying Midtown Tunnel traffic into Manhattan, and it is endlessly under construction as a result of Con Ed’s ongoing needs, and the current construction by the MTA related to the connection of the two railroad stations, as discussed above.

Response

Comment noted.

Comment 117, Letters: Mr. Ginsberg

We also object that the MTA NYC Transit failed to provide adequate notice to community residents such as ourselves, and that it located the recent public hearing outside of our neighborhood. This is not
conducive to transparency and community partnership. We believe it critical that the deadline for comments be extended by 90 days.

Response

As is customary when reporting information to public stakeholders and the community at large, MTA NYCT Government and Community Relations has historically utilized the resources of the affected Community Boards and local elected officials. In concurrence with this policy, Government and Community Relations reached out to Manhattan Community Board 6 (the proposed Ventilation Plant is in CB6) and requested their assistance and suggestions for an appropriate space to hold the Public Scoping Meeting for the Project. Community Board 6 suggested Podell Hall, which has been used for other public meeting associated with CB6.

Regarding the extension of the comment period another 90 days, the timeline for the issue of, and comment period for the Draft Scoping Document was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the
highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 118, Letters: Mr. Ginsberg

We ask that we be included on the MTA NYC Transit's distribution list for all communications concerning this proposed plant, including announcements of public meetings. Communication should be sent to the attention of our Board president, Bruce Ginsberg, as follows: bginsberg@dglaw.com.

Response

All announcements to the public regarding the EIS process proceed as follows:

1- To NYSDEC, ENB,
2- To Manhattan Community Boards 5 and 6, and
3- To area libraries and to elected officials.

The DEIS will be announced to those mentioned above and through newspapers and on the MTA NYCT website.

Comment 119, Letters: Ms. Cord

I have, as of today [date of letter June 29, 2016], been made aware of the proposed MTA emergency Park Avenue ventilation project. I am asking for a ninety day extension to be issued so we can all respond with knowledge and intelligence.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:
- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, c6: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44-day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of
Article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 120, Letters: Ms. Cord

We live in a landmark building and already have issues with the environment and health.

Response

As explained in the DSD and FSD in Section 5.9: Discussion/Evaluation for Historic and Cultural Resources, the effects of the proposed project on historical and cultural resources due to project construction and operation will be evaluated in the DEIS using accepted methodology. Also, the DEIS will evaluate the environmental effects of the proposed EVP and the potential effects to the environment and to health (e.g., noise, vibration and air quality) due to the proposed project.

Comment 121, Letters: Mr. Katzenstein

The proposed Emergency Ventilation Plant along the east side of Park Avenue between 36th and 39th Street is ill-considered and poorly conceived and will have significant adverse environmental consequences.

Response

Comment noted. Also, please note that the results of the decision-analysis process presented in the “Alternatives Analysis/Feasibility Evaluation” (attached as Appendix A to the DSD and FSD), resulted in the selection of Candidate Alternatives 11 and 12 from among 13 Potential Alternatives. Candidate Alternative 11 extends from East 37th to East 39 Streets on Park Avenue northbound and Alternative 12 extends from East 36th to East 38th Streets on Park Avenue northbound.

Comment 122, Letters: Mr. Katzenstein

I understand that the project will take about 5 years and will require closure of two of the 3 traffic lanes along that stress of Park Avenue which is already overly congested.

Response

As stated in the FSD, construction of the proposed EVP project is expected to take approximately 4.5 years. In the description of potential lane closures for the alternatives discussed in the DSD, including Candidate Alternatives 11 and 12, the DSD incorrectly stated that two travel lanes on northbound Park Avenue would be closed for a portion of the construction period. This was in error. As described correctly in Section 5.3 of the FSD, two moving traffic lanes on northbound Park Avenue will be maintained. A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and
37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

**Comment 123, Letters: Mr. Katzenstein**

Further, this project is a discretionary upgrade. There is no mandate or requirement to do this. It has been rushed through without adequate time for community comment.

**Response**

Section 1.1 of the DSD and FSD explain that the genesis of the EVP program is the result of a 1994 study, commissioned by MTA NYCT at MTA NYCT’s choice. In various Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provides funding for two EVPs; one of those is the EVP discussed in the DSD and FSD. Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need.

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- **May 18, 2016:** MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- **June 6, 2016:** MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify,
evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 124, Letters: Mr. Katzenstein

And it will unduly strain the area's residents, church and consulate offices.

Response

As discussed in the DSD and FSD, MTA NYCT will prepare a DEIS which will evaluate the effects to the area surrounding the proposed EVP due to construction and operation of the project. The DEIS will evaluate the potential for impacts to area residents, businesses and community services and facilities. If significant adverse impacts are identified, the DEIS will identify measures to mitigate such impacts (see Section 5.19 of the DSD and FSD). Please refer to the DSD and FSD for a description of the environmental resources to be evaluated (e.g., air quality, noise and vibration, traffic and transportation, etc.) in the DEIS and the methodology for assessing potential impacts to these resources.

Comment 125, Letters: Mr. Katzenstein

By copy of this letter I am asking our elected officials and community leaders to join with the residents and voters of the area in objecting to the planned project.

Response

Comment noted.
Comment 126, Letters: Mr. Katzenstein

How does the MTA plan to mitigate the added noise and air pollution that will result from trucks and cars backing up on East 37th Street during the prolonged construction period? The back-up of traffic on East 37 Street between Lexington and Madison Avenues is already a persistent problem that adds to air pollution. The closure of 2 of 3 lanes along Park Avenue north of 37th Street will exacerbate the congestion and add to pollution and noise.

Response

There will be two moving traffic lanes on northbound Park Avenue during construction of the EVP. As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD, the DEIS will evaluate the effects of the proposed project to traffic and transportation, including traffic-related effects to air quality and noise. If significant adverse impacts are identified, measures to mitigate these impacts will be developed. Mitigation measures (see Section 5.19 of the DSD and FSD) may include restrictions to the time of day, or the day of the week, when certain construction tasks are conducted. As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. The study plan and results will be presented in the DEIS/FEIS. During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The NCYDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.

In the description of potential lane closures for the alternatives discussed in the DSD, including Candidate Alternatives 11 and 12, the DSD incorrectly stated that two travel lanes on northbound Park Avenue would be closed for a portion of the construction period. This was in error. As stated correctly in the FSD, only one travel lane would be closed for a portion of the construction period: at least two travel lanes will be maintained open on northbound Park Avenue for the duration of the construction period.

Comment 127, Letters: Mr. Katzenstein

The traffic congestion referred to in [Comment 126] above will impair the ability of fire, ambulance and other emergency vehicles to reach residents and business along the affected stretch of Park Avenue. How will the MTA mitigate these serious threats to life and safety?

Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate the effects of the proposed project to traffic and transportation, including the effects to the circulation of police, fire and emergency vehicles. If significant adverse impacts are identified, the DEIS will provide measures to mitigate these impacts. Also, as stated in the response to Comment 126, construction activities will conform to the requirements of Maintenance and Protection of Traffic plans developed by the contractor and approved by NYCDOT.
Comment 128, Letters: Mr. Katzenstein

Why is it necessary to create environmental problems along the affected streets when there are less intrusive alternatives, such as having emergency venting along the Park Avenue Mall? or within the existing vehicular tunnel?

Response

Please see the Alternatives Analysis/Feasibility Evaluation, included as Appendix A to the DSD and FSD, for: descriptions of all alternative EVP locations evaluated for the proposed project; the reasons some alternatives were found infeasible to construct; and, the methodology for selecting the Candidate Alternatives identified in the Draft Scoping Document. The Alternatives Analysis/Feasibility Evaluation will be included in the DEIS.

The Park Avenue Mall is an asset of NYCDOT. As described in the DSD and FSD, 13 Potential Alternatives were evaluated for the proposed EVP. Two of the 13 Potential Alternatives – Alternative 9 and Alternative 10 – proposed using space below the Park Avenue Malls for the plant. As described under the heading “Alternative 9” in Section 3.3.1, “The EVP and its plenum would be ‘sandwiched’ between the NYCDOT Park Avenue traffic tunnel ramp and NYCT Lexington Avenue subway tunnels, which present severe space constraints and would not be feasible to construct; therefore, Alternative 9 was eliminated from further consideration from an engineering perspective.

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project recently started to improve structural, electrical, mechanical and fire protection elements; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration.... Due to the infeasibility related to structural/civil/mechanical criteria...”

Comment 129, Letters: Mr. Katzenstein

How will the MTA protect property owners against damages resulting from the proposed work? What funds will be available to indemnify property owners against damages? What compensation will the MTA provide for the temporary and permanent taking of private property that the project will entail? Will the MTA initiate appropriate condemnation proceedings for these takings?

Response

As discussed in Section 5.4 of the DSD and FSD, the proposed EVP would be designed to avoid and minimize disruptions to private property. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period. Although some temporary easements may be required
to construct the proposed project, no private property takings are anticipated. Compensation will be discussed in the DEIS and FEIS.

As explained in the DSD and FSD in Section 5.4: Discussion/Evaluation of Socioeconomic Conditions, Impacts to local commercial activity that may be caused by the construction will be discussed and temporary impacts on business access and pedestrian flows and temporary changes to the visual environment will be qualitatively considered. In Section 5.11: Discussion/Evaluation of Noise and Vibration, the effects of the proposed project on structures due to vibration will be evaluated. If significant adverse impacts are identified, the DEIS will provide mitigation measures (see Section 5.19 of the DSD and FSD), including measures to reduce vibration to levels below that which would cause damage to structures.

Comment 130, Letters: Mr. Katzenstein

NYPIRG Straphangers Campaign reported on February 11, 2015 that the MTA had $34 Billion in outstanding debt. And that the MTA has not adequately budgeted for its capital projects. All of which is more likely than not to result in increased fares and increased borrowings in the future. How can the MTA justify the expenditure for the ventilation project given the MTA’s poor financial health and the burdens this places on taxpayers and riders?

Response

As stated in Section 1.1 of the DSD and FSD, in October 2015, MTA proposed its MTA Capital Program 2015-2019 to the MTA Board; the proposed program included this statement:

“...line equipment investments including...two fan plants on the Lexington and 6th Avenue lines, one new to protect an area that currently has no plants and one to replace an existing undersized unit.”

The area that currently has “no plants” is the subject of this EIS process.

Comment 131, Letters: Mr. Katzenstein

What assurances can the MTA provide that the ventilation project will be an exception to the MTA’s past history of projects that are significantly late and over budget? What sources of funds will be available to complete the project? What mitigation measures will the MTA provide for environmental impacts resulting from work that will be needed beyond the scheduled completion date?

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience in NYC by MTA NYCT. Based on its EVP construction experience in NYC, MTA NYCT expects to meet the proposed construction schedule and budget.

MTAs 2015-2019 Capital Program is providing funding for two EVPs; one of those is the proposed EVP discussed in the DSD and FSD (see Section 1.1 of the DSD and FSD).

Section 5.19 of the DSD and FSD provides a discussion of mitigation measures. “Where significant adverse impacts are identified, measures that will mitigate these impacts, either partially or fully, will be identified.
Mitigation measures will be designed to minimize or avoid to the fullest extent practicable, given costs and other factors, any significant adverse impact. Where the impacts cannot be mitigated, they will be described as unavoidable adverse impacts in the EIS.”

MTA NYCT will require the contractor to develop and implement a Construction Environmental Protection Plan (CEPP) (see also Section 5.19), which documents those MTA NYCT commitments that would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented to avoid or minimize potential adverse effects of the proposed project on the environment. These mitigation measures would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects. The mitigation measures would be integrated into the construction of the proposed project in accordance with MTA NYCT’s construction contract specification, and local and state regulation. Additionally, MTA NYCT contractors must comply with the New York City Construction Noise Code and the New York State Environmental Conservation Law (ECL) which prohibit heavy duty vehicles, including diesel trucks and buses, from idling for more than five minutes at a time.

Comment 132, Letters: Mr. Katzenstein

Please explain the steps legally required before the MTA can proceed with this project? What steps have already been completed? What steps remain?

Response

MTA NYCT has: prepared and issued to the public the optional Draft Scoping Document; conducted an optional Public Scoping Meeting; and prepared and issued the FSD and Response to Public Comments on the DSD.

MTA NYCT will prepare a DEIS that comparatively evaluates the Candidate Alternatives and identifies a Preferred Alternative. There will be a public comment period for public input into the DEIS, during which MTA NYCT will conduct a Public Hearing. MTA NYCT will consider all substantive comments regarding the DEIS; revise the DEIS accordingly; and, re-issue the document with Response to Public Hearing Comments as an FEIS.

MTA NYCT will then issue a Findings statement. The Findings must certify that the requirements of SEQRA found in 6 NYCRR Part 617 have been met. A positive Findings statement would mean that the project or action is approvable after consideration of the FEIS, and demonstrates that the action chosen is the one that avoids or minimizes adverse environmental impacts presented in the FEIS and weighs and balances them with the social, economic and other essential considerations. If the action is not approvable, a negative Findings statement documenting the reasons for the denial must be prepared.

The Findings will be submitted as a Staff Summary to the MTA Board of Directors for its consideration and action.
Comment 133, Letters: Mr. Katzenstein

Will the MTA forward comments to its board members? If not, please provide the contact information so interested parties can address those comments directly to the relevant decision makers?

Response

At completion of the FEIS, a Staff Summary will be formally submitted to the MTA Board for its consideration and action. Comments on the Draft Scoping Document and DEIS received within the comment periods are public documents that will be maintained by MTA. All such comments will become part of the public record and will be attached as an appendix to the FEIS. The MTA Board will have the opportunity to review all comments and all documents regarding the proposed project prior to taking final action on the proposed project.

Comment 134, Letters: Mr. Katzenstein

Will the MTA forward comments to the NYS legislators that have jurisdiction over the MTA? If not, please provide contact information for those legislators.

Response

Copies of the FEIS will be issued to the same parties to whom the DSD, FSD and DEIS are issued. These include members of the U.S. House and Senate, New York State Senate and Assembly, NYC Council, as well as the Mayor’s office, and the Manhattan Borough President.

Comment 135, Letters: Mr. Gallagher

Both alternatives would have an adverse effect on the operation of our building and our Murray Hill neighbors along Park Avenue.

Response

Both Candidate Alternatives would be located under the streetbed of northbound Park Avenue. Candidate Alternative 11 would be located between East 37th and East 39th Streets whereas Candidate Alternative 12 would be located between East 36th and East 38th Streets. As described in Chapter 1 of the DSD and FSD, MTA NYCT intends to prepare a DEIS to assess the effects of construction and operation of the proposed EVP. The DEIS will disclose any significant adverse impacts due to construction and/or operation of the facility.

Comment 136, Letters: Mr. Gallagher

We ask that the MTA extend the deadline to respond to the scope of work document by at least 90 days. This would allow adequate time for a full analysis of the proposal.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and
Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel's Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”
Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 137, Letters: Mr. Gallagher

This would also be the second major construction project in this immediate area in less than ten years. In 2006 we were informed of a proposal plan to build a ventilation plenum and shaft with sidewalk grates from the tail track tunnel connected to the East Side Access Project. At that time we were informed that the project would have little impact and was expected to last eighteen months. The project is still ongoing eight years later. During the construction phase there was a storage shed directly in front of our building as well as an office shed just to the south of our building. These presented obstacles to access for our building and created a safety hazard. Some years into the project, further sheds were set up at 37th Street by Madison Avenue. None of that was mentioned when the project was first proposed.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 138, Letters: Mr. Gallagher

We feel that the MTA has not done enough to analyze the following impact on the buildings surrounding the proposal locations – Traffic: reducing the northbound traffic lanes on Park Avenue to only one lane will seriously congest an already very busy area in midtown Manhattan, compounding existing problems on the very narrow side streets.

Response

As described in Chapter 1 of the DSD and FSD, MTA NYCT intends to prepare a DEIS to assess the effects of construction and operation of the proposed EVP. Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....”

Two traffic lanes northbound will be maintained throughout the construction period. The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts. These measures would include Maintenance and Protection of Traffic (MPT) plans, which would be submitted to the New York
City Department of Transportation for review and approval. Implementation of these NYCDOT-approved MPT plans would mitigate traffic impacts.

Comment 139, Letters: Mr. Gallagher

We feel that the MTA has not done enough to analyze the following impact on the buildings surrounding the proposal locations – Environmental considerations: the impact of yet more construction in such close proximity to the ongoing East Side Access Project will be increased construction dust, trucks and equipment and vibrations to the building in the immediate area.

Response

As described in the DSD and FSD in Section 5.18, the DEIS will assess cumulative impacts of the proposed EVP project. The assessment of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project. For example, construction elements of the Long Island Railroad East Side Access project are currently active in the study area, as well as construction of the One Vanderbilt skyscraper. An inventory of reasonably foreseeable development projects identified through review of planning documents and coordination with other agencies will form the basis for assessing cumulative effects. Traffic, air quality, noise and vibration will be among the environmental matters analyzed.

Comment 140, Letters: Mr. Gallagher

We feel that the MTA has not done enough to analyze the following impact on the buildings surrounding the proposal locations – Noise Pollution: the continuing noise from construction, again in such close proximity to the East Side Access Project as well as the various other construction projects in the Murray Hill neighborhood.

Response

As discussed in Section 5.11 of the DSD and FSD, principal issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips, and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. As stated in the DSD and FSD, the DEIS will include noise and vibration assessments, which will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment as well as elements of the CEQR Technical Manual. The DEIS will also evaluate cumulative noise impacts due to the proposed EVP project and other concurrent construction projects.

Comment 141, Letters: Mr. Gallagher

The expansion of the project site which likely will occur could entail additional significant problems in the immediate vicinity and specifically for our building, a major educational institution for the neighborhood that serves more than 150,000 New Yorkers annually.
Response

The project site will be limited to the east side of the Park Avenue Malls in the streetbed of northbound Park Avenue. Nonetheless, the extent of potential effect across the Park Avenue Malls and across the southbound lanes of Park Avenue will also be evaluated.

Section 5.7 of the DSD and FSD states that while an in-street EVP alternative is unlikely to affect community facilities directly through changes to land use or surrounding development, there is the potential for indirect effects during construction. An inventory of community facilities will be conducted in concert with the noise, vibration, and air quality analyses. Potential indirect effects to community facilities that may result during construction or operation, as supported by other technical analyses, will be reported in the DEIS and FEIS pursuant to the CEQR Technical Manual.

Comment 142, Letters: Mr. Gallagher

While we appreciate the need to have a safe and well-functioning public transportation system, we ask that the project be given careful and thorough consideration before proceeding. Furthermore we would like a detailed description of the project, work site, time period of construction, and a direct, transparent, responsive, and accountable authority for the duration of the project as it is planned and in case of any and all extensions of schedule or worksite.

Response

A brief description of construction activities expected to complete the proposed EVP project is provided in Chapter 1 of the DSD and FSD, and in the appended Alternatives Analysis/Feasibility Evaluation. As stated in the FSD, the duration of construction activities for the project is expected to be 4.5 years. The DEIS will contain a chapter devoted to construction, including the area to be excavated and the area used to stage construction equipment and materials. This chapter will also provide information regarding the construction equipment needs for the different stages of construction (e.g., jack hammers, excavators, dump trucks, compressors, etc.), and the expected duration of each stage.

The accountable authority for the project will be a licensed MTA NYCT Construction Manager who is a New York State-registered Professional Engineer. Contact information concerning the Construction Manager will be posted at the construction site.

Comment 143, Letters: Ms. Farone

I am a resident of Murray Hill and very interested in seeing the transcript or at a minimum a list of who the speakers were at the June 16 meeting at which the proposed Park Avenue ventilation system was discussed. It does not seem to be available on your website but I would very much be interested in receiving a copy. Could you please let me know where I should go for that information, or if you prefer, please send me a link?

Response

A copy of the transcript of the June 16, 2016 Public Scoping Meeting is appended to the FSD. In addition, all substantive comments received during the comment period, including spoken comments received during the Public Scoping Meeting, written comments received via U.S. Postal Service, email and from the MTA website, are included in the FSD along with MTA NYCT’s responses to these comments.
Comment 144, Letters: Ms. Farone

If it is also possible to receive a copy of the report in which the need for a system was first discussed, that would also be helpful so that I have some perspective. I have already received the scope of work that was presented at the meeting and available on your website.

Response

The 1994 comprehensive ventilation study referenced in the DSD and FSD contains confidential material regarding MTA NYCT safety and security. The 1994 study is not available to the public.

Comment 145, Letters: Mr. Cohen

MTA's proposed emergency ventilation project for the Murray Hill neighborhood is inappropriate and unacceptable.

Response

Comment noted.

Comment 146, Letters: Mr. Cohen

We have already had to endure the 37th Street Access project, which has brought nothing but pollution, noise, and significant disruption to vehicular and pedestrian traffic flow. Moreover, this project continues to drag on well past its original completion date in spite of the MTA's repeated readjustments and promises.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 147, Letters: Mr. Cohen

As an old historic residential district, this community is hostile to the ventilation project and to MTA's attempt to portray it as a fait accompli when, in fact, we have not been given adequate notice of the project's intent. At the June 16 Scoping Hearing, a 90-day extension for Public Comment was requested so that other options can be considered. We look forward to an acceptance of that request.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
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- **June 6, 2016:** MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44-day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the
SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 148, Letters: Mr. Fullington

We are counsel to The Union League Club (“ULC”). We write to put you on notice of certain deficiencies in the Draft Scoping Document for the Environmental Impact Statement (“EIS”) for the NYCT Emergency Ventilation Plant (“Project”). In specific, we believe that if New York City Transit chooses to perform any work related to the Project on Park Avenue between 36th and 37th Streets, it must first perform a significant analysis of the cumulative impact of such work on other projects being undertaken by the Metropolitan Transit Authority (“MTA”).

Response

In the assessment of the effects of the proposed EVP, the DEIS and FEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project, including any projects advanced by MTA. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 149, Letters: Mr. Fullington

As I’m sure you know, construction began on the MTA’s plan to provide the Long Island Rail Road with East Side Access (“ESA”) over a decade ago. As part of the ESA project, the MTA is building tail tracks that extend south from Grand Central Terminal down Park Avenue. These tail tracks require a ventilation system (just like the Lexington Avenue Subway tunnel). In order to build these tail tracks and the ventilation system, the MTA has had an open construction site on Park Avenue between 36th and 37th Streets for eight years -- right next to ULC.

Response

Comment noted.

Comment 150, Letters: Mr. Fullington

ULC is a New York City Landmark Building located at 38 East 37th Street, New York, New York, and is located directly contiguous to the construction and ventilation shafts servicing the ESA tail tracks. These shafts have been used for eight years to provide worker access to the below grade cavern, install equipment, deliver cement, and to extract project related debris. Exhaust from the project, including blasting related debris, was regularly emitted from the shafts and into ULC.

As a result of this construction activity, a lane on Park Avenue has been closed for eight years, ULC has suffered from unrelenting noise and odor, ULC has been physically damaged, and ULC has suffered from constant visual blight on its doorstep. Many of ULC’s efforts to promote patriotism and national and local charitable works have also been impacted by the construction. For example, twice a year ULC hosts breakfast, lunch, dinner, and overnight accommodations for three nights for the Wounded Warrior Project and the Achilles Race Team -- including just last week. During these events, approximately thirty severely wounded veterans and their families find a home at ULC and away from Walter Reed Hospital.
The constant traffic interruption and construction noise always interferes with their quiet enjoyment of the event.

The MTA has long been aware of these impacts. On April 30, 2012, we put the MTA on notice that ongoing damage was being done to ULC by the ESA project. Following multiple meetings with the MTA and follow-up correspondence—dated May 14, 2012 and July 6, 2012—ULC settled its claims with the MTA by executing a settlement agreement, dated October 2, 2012 ("Agreement"). ULC entered into the Agreement in part to be good citizens and avoid litigation against a public entity that is laboring generally in the best interests of the community.

Unfortunately, the MTA has subsequently breached the Agreement by, among other things, removing the landscaping it was required to install and by allowing exhaust from below-ground caverns to be discharged in front of ULC. The MTA was put on notice of these issues in letters dated December 12, 2013, February 26, 2014, and May 20, 2016. We continue to be in contact with the MTA about ESA work near ULC and how the MTA’s breach is causing ULC the same damage that was to be resolved in the Agreement. All such correspondence and the settlement agreement are enclosed.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 151, Letters: Mr. Fullington

We understand that the MTA recently determined that it needs to install a ventilation plant to service the Lexington Avenue subway line -- somewhere in the vicinity of Park Avenue between 34th and 42nd Streets. We further understand that the MTA has settled on two potential alternative locations. The first option (identified as "Alternative 11" by the MTA) would have the construction performed on Park Avenue between 37th and 39th Streets. The second option (identified as "Alternative 12" by the MTA) would have construction performed on Park Avenue between 36th and 38th Streets.

As for the all the alternatives explored, we would be remiss if we did not express our strenuous objection to two alternatives explored (and seemingly rejected) by the MTA. Alternative 3 would have placed construction directly in front of ULC’s main entrance. Alternative 10 would have sited the work in the middle of Park Avenue just north of 37th Street. Alternative 13 would have seen the work performed on the east side of Park Avenue between 36th and 37th Streets. Those three alternatives would have a significant and detrimental impact on ULC.

Response

Comment noted.

Comment 152, Letters: Mr. Fullington

As for the two alternatives still under consideration, we write to express our objection to Alternative 12.

Response

Comment noted.
Comment 153, Letters: Mr. Fullington

Given the extensive impact from ESA construction on Park Avenue between 36th and 37th Streets, we believe that Alternative 12 cannot be undertaken without an extensive review of the cumulative impacts that both construction projects will have when looked at collectively.

Response

In the assessment of the effects of the proposed EVP, the DEIS and FEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project, including any projects advanced by MTA. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 154, Letters: Mr. Fullington

Prior to any work on the Project, the MTA is required to do an environmental review pursuant to the State Environmental Quality Review Act (“SEQRA”). As part of the SEQRA procedure, the New York State Department of Environmental Protection [sic] is required to *take into account the cumulative impact upon all of such resources in making any determination...* (emphasis added) N.Y. ENVTL. CONSERV. LAW§ 3-030(l)(b). Additionally, N.Y. COMP. CODES R. & REGS. tit. 6, § 617.2(v) states that, “the lead agency must consider reasonably related long-term, short-term and cumulative effects, including other simultaneous or subsequent actions.”

It is clear that a cumulative impact analysis is a critical component of an environmental analysis. Given that the MTA has been undertaking a long-term construction project on the same potential block face, we believe that prior to approving Alternative 12, the MTA would need to perform a more robust environmental analysis -- there is currently only a passing referral to any cumulative impact in relation to Alternative 12.

Response

Under the Public Authorities Law, MTA NYCT is exempt from the requirements SEQRA. However, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA NYCT intends to prepare a DEIS in accordance with all aspects of SEQRA, including 6 NYCRR Part 617.9 (b)(5)(iii) (a) requirements concerning: “reasonably related short-term and long-term impacts, cumulative impacts and other associated environmental impacts.”

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project, including any projects advanced by MTA. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 155, Letters: Mr. Fullington

Additionally, the Final Environmental Impact Statement for the ESA project, dated March 2001, the Record of Decision, dated May 21, 2001, and the Technical Memorandum Assessing Design Refinement, dated
February 2008 did a wholly inadequate job of assessing the impact that the ESA project would have on ULC (and neighboring properties). In fact, those environmental review documents stated that construction activities in front of ULC would last eight months. Eight years later, construction is ongoing. As such, we also go on record that any use of the shafts in front of ULC (or any site on Park Avenue between 36th and 37th Streets) for worker access or material delivery for the Project will be met with stiff resistance.

Response

The proposed EVP project would have no direct relationship with any other construction project. However, cumulative impacts will be assessed in the DEIS and FEIS.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 156, Letters: Mr. Fullington

ULC objects to any construction work on Park Avenue between 36th and 37th Streets and hereby puts the MTA on notice of the deficiency of its proposed review of Alternative 12 and of our intention to resist any efforts to site any work on that block.

Response

Comment noted.

Comment 157, Letters: Mr. Garodnick

I want to begin by recognizing the importance of ensuring the safety of subway riders across the City and for my many constituents who travel on the Lexington Avenue Line. I also look forward to continued dialogue between the MTA and my Murray Hill constituents — most of whom only recently learned about this significant project.

Response

Comment noted. MTA NYCT encourages dialogue with communities concerning important transportation projects. Early knowledge of community concerns greatly increases the possibility that MTA NYCT can find solutions that accommodate the needs and concerns of the community. MTA NYCT will continue to solicit community input throughout the SEQRA process for this project. MTA NYCT welcomes further comment and input during the comment period and Public Hearing for the DEIS.

Comment 158, Letters: Mr. Garodnick

My office only learned of this large undertaking in late May, and have not yet had a briefing on the subject. Accordingly, along with State Senator Liz Krueger, I requested additional time for community members to comment on this scoping document beyond today’s deadline, but we were denied.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:
May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of
article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 159, Letters: Mr. Garodnick

We will need more opportunities for the community to weigh in on this proposed project, and we hope and expect that our constituents take advantage of each of these opportunities.

Response

MTA NYCT looks forward to continued public participation in the next stages of the SEQRA EIS process: public review of the Final Scoping Document; the public comment on the DEIS during the related comment period; and the Public Hearing on the DEIS (comments will be received via US Postal Service, written and spoken comments at the Public Hearing, and via email and on-line submissions); and public review of the FEIS. The Public Hearing on the DEIS will be held at the MTA offices at 2 Broadway. The Public Hearing will be announced: via the ENB; in newspapers; and on the MTA website.

Comment 160, Letters: Mr. Garodnick

This project is large and extremely disruptive. It has environmental impacts not only for residents in the immediate vicinity, but also well beyond this area. The consequences of a multiyear, and potentially multi-block project are significant, and must be studied in great detail. The MTA has proposed thirteen potential sites for the location of this ventilation plant and all have impacts.

Response

The DSD and FSD identify engineering/economic/environmental impacts of the proposed project and the Alternatives Analysis/Feasibility Evaluation (Appendix A to the DSD and FSD) documents the decision-analysis process implemented by MTA NYCT. From among 13 Potential Alternatives, two were selected as Candidate Alternatives and will be evaluated to a further extent in the DEIS from engineering/economic/environmental standpoints. A Public Hearing will be held on the DEIS.

Comment 161, Letters: Mr. Garodnick

I encourage the MTA to include in their Final Scoping Document the following issues to be further evaluated in the Environmental Impact Statement:

As you are no doubt aware, the Park Avenue portion of Murray Hill is one of the city’s most beautiful neighborhoods and boasts a large historic district — the Murray Hill Historic District — which abuts a number of the MTA proposed sites under consideration. The district is also on the National Register of Historic Places. Sections 5.8 and 5.9 of the Draft Scope delineates how impacts on these historic districts will be evaluated. We need to carefully review how the EIS addresses avoiding damage to these historic resources.
Response

As discussed in Sections 5.8 and 5.9 of the DSD and FSD, the DEIS will evaluate community character, urban design and visual resources, and potential effects and impacts to historic structures. All potential significant adverse effects and impacts will be identified and assessed. Mitigation measures will be developed and implemented where impacts are identified.

The EIS will provide a description of the visual environment immediately surrounding the Candidate Alternative EVP construction sites, as well as the study area’s urban design character and visual resources. Impacts to visual resources and view-sheds will be discussed, including the duration of impacts, populations exposed to the change in views, and mitigation measures incorporated in the project to minimize impacts.

Historic resources that are listed in the S/NR or that have been found eligible for S/NR listings are given a measure of protection from the impacts of federally sponsored or federally assisted projects under Section 106 of the National Historic Preservation Act and are similarly protected against impacts resulting from state-sponsored or state-assisted projects under the State Historic Preservation Act. Although preservation is not mandated, federal and state agencies must attempt to avoid adverse impacts on such resources through a notice, review, and consultation process.

For the purposes of the new EVP, the Historic Resources Study Area for the DEIS evaluation would be defined as the footprint to be altered by the required EVP installation plus an approximate 400-foot radius, which is typically adequate for the assessment of historic resources, in terms of physical, visual, and historical relationships.

An initial Phase I evaluation would be completed in reference to the standard review process of the New York City LPC. The research effort for cultural resources is anticipated to include the following types of activities:

- Field visit to the project area to assess and photograph existing conditions.
- Examination of the archaeological site files of the New York State Museum, OPRHP, and LPC for reported archaeological sites.
- Examination of the OPRHP’s computerized database for inventoried structures on each of the Candidate Alternative sites and properties listed on or determined eligible for listing on the S/NR.
- Examination and presentation of copies of pertinent historic maps and Sanborn Fire Insurance Company maps that document the development of the area and help to establish subsurface conditions.
- Review of available soil boring logs to further establish subsurface conditions.
- Review of LPC Designation Report(s) as applicable to the area of potential effect.
- Review of previous cultural resource reports conducted within or adjacent to the Project Area, including the New York City Department of City Planning’s East Side Midtown Rezoning EIS.

Additional research may include review of historic photographs, maps, building department records, historical accounts, existing soil borings, and general environmental information.

A report detailing the results of the literature review and site visit will be prepared in accordance with The Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York
State and to meet OPRHP’s Phase I Archaeological Report Format Requirements. The Phase IA report will present the results of these site file searches and previous surveys in table format. The report will also include brief pre-contact and historic overviews for the area and archaeological sensitivity assessments.

The DEIS will summarize the findings of this research and identify and evaluate the potential effects/impacts of the Candidate Alternatives on historic and archaeological resources during construction and operation. Construction Environmental Protection Plan measures will be developed, depending on the potential impacts identified.

NYCDOB has developed a set of technical policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

MTA NYCT will require the contractor to develop and implement a Construction Environmental Protection Plan (CEPP) (see Section 5.19 of the DSD and FSD), which documents those MTA NYCT commitments made in the FEIS that would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented to avoid or minimize potential adverse effects of the proposed project and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

Comment 162, Letters: Mr. Garodnick

In each of the proposed alternatives for the ventilation plant, it is obvious that the MTA is going to considerably jam up traffic either on Park Avenue, or on the side streets—or both. The Draft Scoping Document suggests a traffic study from 35th Street to 40th Streets, from Lexington to Madison Avenues. This does not go far enough. You should certainly study Park Avenue all the way south to 23rd Street.
Response

The most concentrated and potentially affected intersections lie in the street network north of 35th Street and south of 40th Street (where all of the potential ventilation plant alternatives are situated) and will thus, be assessed. If any vehicles were to divert, motorists would likely do so via the aforementioned side streets to the next adjacent avenue, and traffic would likely divert to northbound Madison Avenue if an alternative were to be placed on northbound Park Avenue. There are several side streets north of 34th Street that could allow motorists to shift to each of these adjacent avenues. The potential that traffic would divert as far south as 23rd Street is not believed to be reasonable given that the effects of construction would not be realized at a distance of over one-half-mile away and, importantly, any diversion plans approved by NYCDOT would typically not allow posted sign diversions as far south 23rd Street. NYCDOT typically, calls for diversions as close to the affected streets to limit potential traffic impacts. Nevertheless, as explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. The study plan and results will be presented in the DEIS/FEIS. During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The NYCDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.

Comment 163, Letters: Mr. Garodnick

Additionally, the likely considerable impacts of a single lane of traffic on Park Avenue would prompt northbound cars to use Third Avenue, and possibly send southbound cards to use Fifth Avenue — both of which should be included in your study.

Response

Concerning the number of northbound traffic lanes to remain open during construction, a previous commenter (see response to Comment # 98) correctly identified an inconsistency in the Alternatives Analysis/Feasibility Evaluation; in fact, there will be two moving travel lanes maintained on northbound Park Avenue.

As stated in the FSD, the proposed EVP construction would require the closure of one northbound lane of Park Avenue during any one stage of construction, with two moving travel lanes remaining. While the lanes would be narrowed slightly similar to the East Side Access construction site on southbound Park Avenue between 37th and 36th Streets, moving traffic would not likely divert or shift to adjacent avenues.

Comment 164, Letters: Mr. Garodnick

On the east-west crossings, you should also study 34th Street all the way up to 42nd Street — two very important, and very crowded corridors.

Response

Because any shifting traffic would be expected along the minor side streets between 35th and 40th Streets rather than the major streets, there does not appear to be a need to study 34th and 42nd Streets. Moreover, all turns at 34th Street are restricted.
Comment 165, Letters: Mr. Garodnick

Also, I ask that you study adding an additional north-bound lane in the Park Avenue Tunnel if any lanes of traffic are lost on Park Avenue as a result of this construction project. This tunnel used to accommodate two lanes of traffic — albeit heading in different directions -- and could possibly handle two lanes in the same direction.

Response

No moving travel lanes are to be removed during construction; two northbound travel lanes currently exist and would continue to exist during construction (see also response to Comment 163). No traffic diversions are therefore expected.

Comment 166, Letters: Mr. Garodnick

The quality of life in Murray Hill will be significantly impacted by increased noise, vibration and particulate matter during and after construction. I expect that this would have an extremely deleterious impact on the residents in the immediate area. I ask that the Environmental Impact Statement evaluate changes to noise, vibration and air quality both during the construction project (including increases from traffic flow modifications) and after construction when the Emergency Ventilation Plant is in operation.

Response

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration's (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual. Also, Contractors would be required to adhere to the New York City Construction Noise Code.

Section 5.10 of the DSD and FSD states that “Mobile and stationary emissions will be examined in the context of the proposed construction and operation of the Candidate Alternative EVPs. For the Proposed Project, the key issues related to air quality include:

- vehicular emissions from construction-related street traffic diversions (mobile)
- emissions from construction equipment and activities (mobile and stationary)
- emissions from the future operation of the proposed EVP (stationary - during testing and emergencies only)

Pollutants of concern include carbon monoxide (CO), particulate matter (PM2.5 and PM10), nitrogen dioxide (NO2), and greenhouse gases. Air quality analyses will be carried out in accordance with the most recent revisions of the CEQR Technical Manual and other relevant guidance and protocols provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA). Sulfur dioxide (SO2) analysis is not needed because mobile sources are not a significant source of SO2 emissions. Also,
the CEQR Technical Manual does not recommend SO2 analysis for mobile sources or construction impacts; SO2 would only be analyzed for stationary sources such as boilers or power plants.

Comment 167, Letters: Mr. Garodnick

I want to stress the amount of MTA-Long Island Railroad East Side Access construction work that has occurred in Murray Hill over the past eight years. Any overlap between the two projects should be extensively studied to evaluate its cumulative impact on the neighborhood.

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 168, Letters: Mr. Garodnick

I sincerely hope the MTA will incorporate these concerns in the Final Environmental Impact Statement, and I thank you for your consideration of these views.

Response

These comments, and all other substantive comments received during the comment period for the Draft Scoping Document, will be included in the Final Scoping Document along with MTA NYCT responses to each. The DEIS and FEIS will be prepared consistent with the methodologies finalized in the FSD.

Comment 169, Letters: Ms. Storm

My husband and I have been Murray Hill residents at 55 Park for 45 years, the last 10 or so retired from great careers at The New York Times and CBS/Procter & Gamble Productions. We earned every penny to be able to live in this wonderful gem of a building, and to spend our retirement years in this lovely, historic neighborhood.

And you want to take all this away from people like us, who ask very little of this city, but who put our hard-earned savings into residing here? I don't imagine you know what this means. Have you ever lived in the city?

For those of us who have reached ages 80 and 74, we'd like to think we're a bit wiser about life, especially the quality of life. We're all for progress and can appreciate what it takes to make a big city run (we've lived here for over 50 years). But there's one lesson we have learned over the years: -Don't ask for trouble or added problems with a project that's not truly necessary and hasn't truly been thoroughly thought out.

Response

As stated in Section 1.1 of the Draft Scoping Document (DSD) and Final Scoping Document (FSD), the genesis of the Emergency Ventilation Plant (EVP) program is the result of a 1994 study, commissioned by MTA NYCT at MTA NYCT’s choice. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the National Fire Protection Association (NFPA) 130 Standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering,
construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

The decision-analysis process being used by MTA NYCT is based on the requirements of SEQRA, involving the: (a) preparation of a scope for the DEIS and participation in a Public Meeting; (b) incorporating input received at the Public Meeting, preparation of the FSD and DEIS, and participation in a Public Hearing; and (c), incorporating input received at the Public Hearing in the preparation of the FEIS.

The Alternatives Analysis/Feasibility Evaluation (Appendix A to the DSD and FSD) presents the decision-analysis process. From among 13 Potential Alternatives, two have been selected as Candidate Alternatives. These will be evaluated to a further extent in the DEIS from engineering/economic/environmental standpoints, and a Preferred Alternative will be identified in the DEIS. A Public Hearing will be held on the DEIS.

Comment 170, Letters: Ms. Storm

Yes, you might have all of the graphic designs planned beautifully on paper, descriptions laid out in an orderly manner, but when it gets right down to it - what about the people? What about people like us who just could not take all of this commotion in our quiet, lovely neighborhood - skirting all the equipment every day, falling over planks of wood erected as walkways, breathing in the underground odors and dealing with resulting medical disorders, or even stumbling over workers having their lunches on our doorstep? Has it come to this?

Response

As discussed in Section 5.8 of the DSD and FSD, the DEIS will evaluate potential effects and impacts to community character, urban design and visual resources. All potential significant adverse effects and impacts will be identified and assessed. Mitigation measures (see Section 5.19 of the DSD and FSD) will be developed and implemented where impacts are identified.

All material and equipment used for construction of the EVP would be contained in designated, fenced laydown areas, and at least five feet of width will be maintained on sidewalks. MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made and mitigation measures developed by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s
cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

Comment 171, Letters: Ms. Storm

You need to rethink the ventilations project and apply your money elsewhere.

Response

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study performed by MTA. In various Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provides funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need. The DEIS will be prepared in accordance with 6 NYCRR 617.9 and will describe all methodology used in the evaluation of potential effects and impacts of the proposed project. The DEIS will be available for public and agency review and comment.

Comment 172, Letters: Ms. Storm

If the MTA had shown us in the East Side Access project that you could actually complete an 8-month project in that time (even if you had stretched it to a year), we might be modifying our tune. But after 8 years and you’re not finished with it yet, no way are we ready for the MTA to take on this new project.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Comment 173, Letters: Ms. Vanek

This is to follow-up on my comments made on June 16 at the Scoping Meeting held at Beth Israel Hospital. As I indicated in my oral comments, I agree with all other presenters that the installation of the Proposed Emergency Ventilation Plant would ruin the quality of life and the economic value of properties in Murray Hill.

Response

Please note that Chapter 5 of the DSD and FSD identifies the environmental domains that will be addressed to evaluate the Candidate Alternatives, and the methodologies used in the evaluation. Among these domains are: transportation (i.e., traffic, transit, pedestrians); open space; community facilities and
services; historical and cultural resources; air quality; noise and vibration; safety and security; cumulative
effects; and land use, zoning and public policy. See also Appendix A of the DSD and FSD regarding the
integrated engineering/economic/environmental process used to evaluate the 13 Potential Alternatives
so as to identify the Candidate Alternatives that present the greatest potential to minimize adverse
effects/impacts.

Comment 174, Letters: Ms. Vanek

It [the proposed EVP] would perpetuate the disaster that we have been living with for the past 8 years
with the East Side Access Ventilation System. As you must recognize, the East Side Access Project is a
major project for the City of New York and the ground ventilation system for it is located at 37th and Park
Avenue-- the very same location determined as the priority areas for locating this new project.

It is a major omission that the Draft Scoping Document does not address this project. In fact it does not
even mention it. This should have been a main element in evaluating where this new project should be
placed. This community cannot be forced to put up with two such projects.

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that
are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD,
“...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the
incorporation of other construction projects that may occur concurrently with the Proposed Project.” For
example, construction elements of the Long Island Railroad East Side Access project are currently active
in the study area, and construction is underway for the development of the One Vanderbilt skyscraper.
An inventory of reasonably foreseeable development projects identified through review of planning
documents and coordination with other agencies will form the basis for assessing cumulative effects.

Comment 175, Letters: Ms. Vanek

More broadly, the Draft Scoping Document considers only issues in the construction of the project and
gives no consideration to what impact the operation and maintenance of the ventilation system will have
on Murray Hill. The toxic fumes already coming from the East Side Access Vents indicate that the impact
of this additional ventilation system on the neighborhood air quality would be very bad.

Response

As described in Section 5.10 of the DSD and FSD: “Mobile and stationary emissions will be examined in
the context of the proposed construction and operation of the Candidate Alternative EVPs. Operation for
the proposed EVP, and for other EVPs throughout the MTA NYCT system, includes maintenance activities,
which involve such tasks as balancing, lubrication, testing, and noise silencing checks.

For the Proposed Project, the key issues related to air quality include: vehicular emissions from
construction-related street traffic diversions (mobile); emissions from construction equipment and
activities (mobile and stationary); emissions from the future operation of the proposed EVP (stationary -
during testing and emergencies only).

Pollutants of concern include carbon monoxide (CO), particulate matter (PM2.5 and PM10), nitrogen
dioxide (NO2), and greenhouse gases. Air quality analyses will be carried out in accordance with the most
recent revisions of the CEQR Technical Manual and other relevant guidance and protocols provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA). Sulfur dioxide (SO2) analysis is not needed because mobile sources are not a significant source of SO2 emissions.

Comment 176, Letters: Ms. Vanek

Further there now is a ventilation system that I assume is for the Park Avenue underpass tunnel. Periodically, this is turned on and when it is on it creates an ear shattering high pitched drone which Increases in volume as it bounces off buildings on higher floors. Often it remains on for days, making it Impossible to sleep. After multiple phone calls and much effort, I found this system is the responsibility of the NYC Department of Transportation. I once had a direct phone number that would reach someone who could shut the system off but unfortunately this no longer works.

Response

Comment noted. Please not that MTA does not control any ventilation systems in the Park Avenue underpass tunnel; the tunnel is owned and operated by NYCDOT.

Comment 177, Letters: Ms. Vanek

The ventilation system that you are proposing is much larger and would create even greater disruption and noise.

Response

As stated in Section 2.0 of the DSD and FSD, MTA NYCT is proposing the EVP would contain multiple fans having a nominal capacity of 500,000 cubic feet per minute (cfm) in order to achieve the necessary air velocity in the tunnel to control the movement of smoke and provide tenable evacuation routes in the tunnel segment.

MTA NYCT is preparing a DEIS to determine to what extent the construction and operation of a ventilation system of this capacity would affect the Murray Hill neighborhood. The DEIS will disclose and discuss any significant adverse impacts due to construction and operation of the system across a wide range of environmental disciplines, including potential impacts to traffic and transportation (see Section 5.3) and potential impacts to the noise environment (see Section 5.11).

Comment 178, Letters: Ms. Vanek

I do not think the Scoping Document makes the case for why this project is necessary, especially since it is based on 22 year old study.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program is the result of a 1994 study undertaken by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the National Fire Protection Association (NFPA) 130 Standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in
order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

In the 22 years since the 1994 study was conducted, conditions that led to a priority ranking of 5 in this tunnel segment have not changed.

Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need.

Comment 179, Letters: Ms. Vanek

In addition as everyone at the meeting reported insufficient time was given for the community to evaluate this project.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP).
That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 180, Letters: Ms. Vanek

What you are proposing would ruin the historic Murray Hill neighborhood.

Response

Table 2, at the end of Section 3.3.2 of the DSD and FSD indicates how the Potential Alternatives compare in relation to the environmental criteria. Further detail on the decision-analysis process used to comparatively evaluate the Potential Alternatives is presented in Appendix A of the DSD and FSD.

As discussed in Sections 5.7, 5.8 and 5.9 of the DSD and FSD, the DEIS will evaluate potential effects and impacts to community facilities and services, potential effects and impacts to community character, and potential effects and impacts to historic structures. All potential significant adverse effects and impacts will be identified and assessed, and mitigation measures will be developed and implemented where impacts are identified (also see response to Comment 161).

In aggregate, the utilization, documentation and distribution of these analyses for public consideration is MTA NYCT’s effort to best assure minimizing the potential for significant adverse environmental impact of the proposed project in the study area community. Importantly, the DEIS will present a further level of detailed analysis and evaluation between Candidate Alternatives 11 and 12. After consideration of public
comments received throughout the DEIS comment period and the related Public Hearing, MTA NYCT will identify its Preferred Alternative – that alternative which, in aggregate, minimizes the potential for significant adverse effect.

The decision-analysis process utilized by MTA NYCT to select a preferred site for the proposed EVP addresses engineering, economic and environmental factors and is focused on minimizing, in aggregate, the potential for adverse environmental impact due to facility construction and operation. As an example, inspection of Section 3.3.1, Engineering Comparative Analysis, of the DSD and FSD, indicates that Institutional/Community factors are addressed in evaluating the 13 Potential Alternatives. The summary of analyses given in Table 1 (at the end of Section 3.3.1) indicates how the Potential Alternatives compare in relation to Institutional/Community criteria.

Additionally, inspection of Section 3.3.2, Environmental Comparative Analysis, of the DSD and FSD indicates that the following environmental criteria are addressed: Historical and Cultural Resources; Traffic; Parking; Pedestrians; Noise and Vibration; Air Quality; Socioeconomics; Open Space; Community Facilities; Community Character, Visual Resources, and Urban Design; and Cumulative Effects.

As discussed in Sections 5.8 and 5.9 of the DSD and FSD, the DEIS will evaluate community character, urban design and visual resources, and potential effects and impacts to historic structures. All potential significant adverse effects and impacts will be identified and assessed. Mitigation measures will be developed and implemented where impacts are identified.

The EIS will provide a description of the visual environment immediately surrounding the Candidate Alternative EVP construction sites, as well as the study area’s urban design character and visual resources. Impacts to visual resources and view-sheds will be discussed, including the duration of impacts, populations exposed to the change in views, and mitigation measures incorporated in the project to minimize impacts.

Historic resources that are listed in the S/NR or that have been found eligible for S/NR listings are given a measure of protection from the impacts of federally sponsored or federally assisted projects under Section 106 of the National Historic Preservation Act and are similarly protected against impacts resulting from state-sponsored or state-assisted projects under the State Historic Preservation Act. Although preservation is not mandated, federal and state agencies must attempt to avoid adverse impacts on such resources through a notice, review, and consultation process. (Also, please refer to Comment 161.)

Comment 181, Letters: Mr. Putnam

I am writing to request an extension of 90 days for comments re the MTA proposed ventilation project in historic Murray Hill. The community was given very short notice and needs more time to fully review and comment on the scoping document.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the
MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”
Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 182, Letters: Mr. Putnam

The proposed ventilation project will cause severe traffic congestion in the northbound lane of Park Avenue, which already is congested.

Response

Section 5.3 of the DSD and FSD describes the transportation study that will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

The transportation study plan and results will be presented in the DEIS/FEIS. During project design, “Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic management during construction. Upon construction contract award, the Contractor will prepare a Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The NYCDOT-approved plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor conformance with the NYCDOT-approved MPT plan.

Concerning the number of northbound traffic lanes to remain open during construction, a previous commenter (see response to Comment # 98) correctly identified an inconsistency in the Alternatives Analysis/Feasibility Evaluation; in fact, there will be two moving travel lanes maintained on northbound Park Avenue.

As stated in the FSD, the proposed EVP construction would require the closure of one northbound lane of Park Avenue during any one stage of construction, with two moving travel lanes remaining. While the lanes would be narrowed slightly similar to the East Side Access construction site on southbound Park Avenue between 37th and 36th Streets, moving traffic would not likely divert or shift to adjacent avenues.

Comment 183, Letters: Mr. Putnam

Moreover, I am concerned that the scope of the project will be similar to that of the East Side Access project which is now 8 years beyond its projected deadline. Murray Hill needs a rest from these eyesores.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info). Also note that the scope of the East Side Access project is significantly greater than that of the proposed EVP project.
Comment 184, Letters: Mr. Lutz

Founded in 1863 by a group of concerned citizens to help preserve the union of the United States, The Union League Club has built, over ensuing years, a record of distinguished service to our country. Members of The Union League Club were instrumental in establishing The Metropolitan Museum of Art in 1870 as well as the Sanitary Commission, a predecessor organization to the American Red Cross. It helped erect the Statue of Liberty in New York Harbor and the Lincoln Monument in Union Square. Its members were instrumental in bringing down the "Boss" Tweed ring and in raising funds to outfit American soldiers in several conflicts. Many prominent civic, state and national leaders have enjoyed the fellowship of the ULC, including Theodore Roosevelt who managed his early political career from the club's chambers. Other former-members include Presidents Chester A. Arthur, New York Governor and later U.S. Supreme Court Chief Justice Charles Evans Hughes and scores of other Presidents and other national and regional leaders.

The ULC building itself was built from 1929-31, and is an example of a neo-Classical style clubhouse, combining elements that recall the architecture of 18th century England and the American colonies. A continuous projecting cornice divides the nine-story structure into two distinct sections that reflect the interior program, which includes large spaces in the lower floors and upper floors contain more than sixty bedrooms. The NYC Landmarks Preservation Commission designated the ULC a local landmark on October 25, 2011.

The ULC is also home to a distinguished and important original American art collection, valued in the millions of dollars. Many of its paintings are of national significance, including several which have, from time to time, been loaned to the White House for display in the oval office. Additionally, the ULC has a long history of supporting our military, its leaders and wounded soldiers -- and this tradition continues to this day. In recognition of this, the ULC's art collection includes paintings on loan from the permanent collections of our military branches, presented in person by the respective service chiefs.

Response

Comment noted.

Comment 185, Letters: Mr. Lutz

Unfortunately, the ULC has been damaged by work conducted by the MTA on its East Side Access project. This includes damage to interior and exterior of the ULC and to its historic art collection. Additionally, the ULC has lost a significant amount of business because of the various disruptions caused by this ongoing project.

More specifically, the exterior of the building has been damaged resulting in a cracking of the building’s cornerstone and by a plume of filth covering our façade. Additionally, a standpipe has been damaged and flooding has occurred as a result of the work.

The interior of the building has been plagued with dust, dirt, particles, contaminants, and fumes that emanated from the MTA construction site. The blasting, excavation, and other related construction activity that have occurred at the site for almost eight years have at times contributed to visible construction dust and a putrid odor that has accosted employees, members and guests as they enter the...
Club. Over the many years, this pollution has deposited grime and filth on the façade, windows, flags and interior walls of the Club.

These impacts -- as well has the constant visual blight of an uncovered construction site – have collectively contributed to a situation at the ULC that has curtailed the enjoyment of the ULC by its members, its guests, notable speakers and dignitaries.

Of all the property in the area, the ULC has born [sic] the overwhelming brunt of the work on the East Side Access project. Now, after eight years of construction on that project, we understand that the MTA is about to take on another multi-year major development in our immediate area. This is intolerable.

Fairness and commonsense demand that Park Avenue between 36th and 37th Streets see an end to construction (and not an expansion). The original East Side Access work on this block was supposed to last for eight months. It has now been eight years.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 186, Letters: Mr. Lutz

The proposed work on the emergency ventilation shaft is supposed to last two years. No one knows how long it will actually last.

Response

As stated in Section 2.0 of the FSD, construction of the proposed project is expected to take approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC. The construction project and contract will be managed by an MTA NYCT Construction Manager who is a New York State-licensed Professional Engineer who will oversee the project schedule.

Comment 187, Letters: Mr. Lutz

Either way, the ULC membership is unanimous and adamant in its desire to prevent any further construction on either side of Park Avenue adjacent to the ULC (as contemplated in Alternative 12 in the MTA’s draft scope of review for the Ventilation Plant).

Response

Comment noted.

Comment 188, Letters: Mr. Lutz

Such work, given the significant impact that MTA construction has already had on the ULC, would be unjust and unlawful without substantial and additional environmental review.
Response

MTA NYCT intends to continue to conduct substantial and additional environmental review of the proposed EVP project beyond the issue of the FSD and consistent with the methodologies discussed in Chapter 5 of the FSD. MTA NYCT will fully comply with the SEQRA EIS process, to include: public review of the Final Scoping Document; preparation of a DEIS concerning the project; facilitating public comment on the DEIS during the related comment period and the Public Hearing on the DEIS; and preparation and public review of the FEIS.

Comment 189, Letters: Mr. Lutz

We have retained counsel to review the propriety of your environmental review and will be in touch if any project, including Alternative 12, moves forward that includes more construction on our block.

Response

Comment noted.

Comment 190, Letters: Mr. Mulkern

We are writing this letter to protest the MTA proposed plan to build an emergency ventilation system (EVS) for the 4, 5, 6 subway trains between the 33rd Street Station and Grand Central Terminal. There are so many factors that make this proposed work completely counterintuitive.

Response

Comment noted.

Comment 191, Letters: Mr. Mulkern

The proposed work for the EVS has been fast tracked to a category 5 urgency level by the MTA (with 1 as most urgent, to 242 least urgent) after a 1994 shelved ventilation system study on the project was oddly resurrected......

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.
As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 192, Letters: Mr. Mulkern

[MTA NYCT provided] only a 30-day [comment] period, in the height of summer, in which those affected by the work could give a public response.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify,
evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

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Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 193, Letters: Mr. Mulkern

Moreover, Mr. Dul, you publicly declared at the June 16 scoping meeting that this was "unnecessary work that was NOT to fulfill any city, state or federal compliance issue."

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.
As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 194, Letters: Mr. Mulkern

The proposed site of this work - the eastside of Park Avenue between 37th and 38th Streets, is kitty corner to another mishandled MTA construction effort, the Eastside Access Project (EAP). The EAP, originally an 8 month construction project now morphed into 8 years with no end in sight, on the southwest corner of Park and 37th Street, has taken out 2 lanes of Grand Central Terminal and Midtown Tunnel traffic running southbound on Park.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 195, Letters: Mr. Mulkern

The proposed EVS is given an initial 3-5 year time frame and would take out 2 northbound lanes of traffic, as well as the Midtown Tunnel outlet feeding into Grand Central. This would bring an already congested intersection to a virtual standstill, especially since the intersection averages at least one accident a week, bringing traffic to a grinding halt.

Response

Concerning the number of northbound traffic lanes to remain open during construction, a previous commenter (see response to Comment # 98) correctly identified an inconsistency in the Alternatives Analysis/Feasibility Evaluation; in fact, there will be two moving travel lanes maintained on northbound Park Avenue. MTA NYCT ventilation plant construction would close one lane of northbound Park Avenue, with two moving travel lanes remaining as currently exists. The one closed lane would alternate between the curb (parking) lane, the middle (moving) lane and the westernmost (moving) lane.

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....”
The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts (see the DSD and FSD, Section 5.19). These measures would include Maintenance and Protection of Traffic plans (see the DSD and FSD, Section 5.3, Subsection “Assessment of Project Impacts and Required Mitigation”), which would be submitted, for approval, to the New York City Department of Transportation. The MTA NYCT Construction Manager would assure that the construction contractor would implement these plans, which would mitigate traffic impacts.

Comment 196, Letters: Mr. Mulkern

Homeland Security risk: The MTA's EVP work on the eastside of Park Avenue between 37th and 38th, would take place on a block that already has 2 Homeland Security "soft" targets: a Christian church (Roman Catholic Church of Our Saviour at 38th) and the Permanent Mission of Guatemala to the United Nations next door at 57 Park.

Response
Comment noted.

Comment 197, Letters: Mr. Mulkern

The proposed work would not only block residential access, funeral and wedding access, and access to daily worship services, it would also take out designated diplomatic parking and impede entry to the mission.

Response
Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction.

Construction of the proposed EVP would not block residential access, nor access to community facilities such as the Church of Our Saviour or the Mission of Guatemala; MTA NYCT will maintain access to all buildings, businesses and facilities. Construction work would provide safe walkways for pedestrian flow and provide, per NYCDOT minimum standards, 5 feet of clear sidewalk space to traverse. Weekday peak hour pedestrian counts will be conducted to determine the overall volumes. With these data, the DEIS will assess if significant impacts would result from narrowed sidewalks during construction.

The transportation study to be prepared for the DEIS includes an evaluation of effects to parking due to the proposed project. If significant adverse impacts to parking are identified, the DEIS will identify measures to mitigate these impacts.

Comment 198, Letters: Mr. Mulkern

However, most disturbing are the hatches the MTA says they would need to go in and out of the ventilation system in order to service it. This access could be used in a terror attack toward the church, the mission or Grand Central, as a reminder of the 1995 Tokyo Subway Sarin incident. Or conversely, if any part of the Grand Central to 33rd Street segment was attacked, this emergency ventilation system could spew toxins into midtown Manhattan.
Response

Security and emergency response plans for terrorist incidents are developed and maintained by MTA Security and are confidential.

Comment 199, Letters: Mr. Mulkern

Decimation of a Beautiful Historic Neighborhood: Murray Hill is first and foremost an historic community with landmarked buildings. It is the beautiful calm before the midtown storm. Need we mention the ongoing noise, smell, dirt, traffic and environmental and safety impact this would have on an already stretched neighborhood?

Response

As discussed in Chapter 5 of the DSD and FSD, the proposed EVP could affect noise, air quality and traffic in the study area, and MTA NYCT will prepare a DEIS to assess these effects. As described in Section 5.3 of the DSD and FSD, the DEIS will evaluate traffic conditions during construction of the proposed EVP. Section 5.10 describes the evaluation of the construction and operational effects of the proposed EVP to air quality, and Section 5.11 of the DSD and FSD describes the evaluation of noise and vibration that will be included in the DEIS. The assessment of traffic, noise and air quality will identify any significant adverse impacts due to construction and operation of the proposed EVP. If significant adverse impacts are identified, the EIS will identify measures to mitigate these impacts.

Table 2, at the end of Section 3.3.2 of the DSD and FSD indicates how the Potential Alternatives compare in relation to the environmental criteria. All the foregoing is elaborated in Appendix A of the DSD and FSD.

In aggregate, the utilization, documentation and distribution of these analyses for public consideration is MTA NYCT’s effort to best assure minimizing the potential for significant adverse environmental impact of the proposed project in the study area community. Importantly, the DEIS will present a further level of detailed analysis and evaluation between Candidate Alternatives 11 and 12. After consideration of public comments received during the Public Hearing, and throughout the DEIS comment period, MTA NYCT will identify its Preferred Alternative – that alternative which, in aggregate, minimizes the potential for significant adverse effect.

The decision-analysis process utilized by MTA NYCT to select a preferred site for the proposed EVP addresses engineering, economic and environmental factors and is focused on minimizing, in aggregate, the potential for adverse environmental impact due to facility construction and operation. As an example, inspection of Section 3.3.1, Engineering Comparative Analysis, of the DSD and FSD, indicates that Institutional/Community factors are addressed in evaluating the 13 Potential Alternatives. The summary of analyses given in Table 1 (at the end of Section 3.3.1) indicates how the Potential Alternatives compare in relation to Institutional/Community criteria.

Additionally, inspection of Section 3.3.2, Environmental Comparative Analysis, of the DSD and FSD indicates that the following environmental criteria are addressed: Historical and Cultural Resources; Traffic; Parking; Pedestrians; Noise and Vibration; Air Quality; Socioeconomics; Open Space; Community Facilities; Community Character, Visual Resources, and Urban Design; and Cumulative Effects.
Comment 200, Letters: Mr. Mulkern

The proposed work would create more upheaval above ground than it would provide any safety benefit below ground. Please, Mr. Dul, stop this unnecessary project immediately and relocate these state transit funds to needed and deserving projects that create a greater benefit to the commuters of the City of New York.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 201, Letters: Mr. Storm

Your Ventilation Project for Murray Hill, which you characterize as an "emergency," would be laughable, something toward the top of the absurdity scale, if you were not serious. But you are serious, aren't you? You actually do believe that it is urgently necessary to protect the subway beneath Park Avenue from fire and smoke, even after more than a century in which there’s been no fire, not a flicker, and no smoke, not a puff.

Response

The need for the EVP is based on the analysis of data and information relevant to engineering, construction, risk, codes, and standards. The data acquisition and analysis was performed by licensed professionals with relevant education and experience in life safety requirements. Historical fire data are not used to determine the need for an EVP.

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operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

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Comment 202, Letters: Mr. Storm

Perhaps you don’t realize the destruction this project will cause. The buildings will still be standing, of course, though perhaps springing cracks in their walls...

Response

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern include stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract

NYCDOB has developed a set of technical policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is
consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

**Comment 203, Letters: Mr. Storm**

…but as an engineer you should know without our telling you that with the vastly increased noise, the traffic-choked intersections, the ugly air-vent grids that will replace our sidewalks, along with the chemicals and other odors that will rise from them, our way of life will be dead.

**Response**

As stated in Chapter 5 of the DSD and FSD, the nature and extent of construction equipment and staging to be used during the construction effort will be identified for the Candidate Alternatives in the DEIS. This will then be used to estimate any impacts to air quality, noise and vibration, and traffic, among others. Various sections in Chapter 5 of the DSD state that the effects of construction activities and EVP operation will be analyzed within the DEIS. See for example Section 5.10 regarding air quality, Section 5.11 regarding noise and vibration, and Section 5.12 regarding infrastructure, energy, and solid waste. No impacts to traffic are anticipated during EVP operation. Regarding the sidewalk grating, as stated in Section 5.8, Discussion/Evaluation of Community Character/Urban Design and Visual Resources/Visual and Aesthetics of the DSD and FSD, the DEIS will evaluate the impacts “to visual resources and view-sheds will be discussed, including the populations exposed to the change in views.”

**Comment 204, Letters: Mr. Leland**

We are environmental counsel to the Archdiocese of New York, which has as one of its parties the Church of Our Saviour located at 59 Park Avenue on the northeast corner of Park Avenue and east 38th Street in Manhattan. We write to comment on the seventy-page "Draft Scoping Document" and the accompanying one hundred and sixty page “Alternatives Analysis” and “Feasibility Evaluation,” and long form Environmental Assessment Form supporting the proposed project. Our comments, much like the comment period provided in the Scoping Document, are truncated and by no means express fully the Archdiocese’s myriad concerns about this most disruptive and ill-considered project.

**Response**

Comment noted.

**Comment 205, Letters: Mr. Leland**

Accordingly, we and our client reserve our rights to make further comments during the SEQRA process, including, without limitation, commenting on the Draft and Final Environmental Impact Statements and appearing before the MTA Board.
Response

MTA NYCT looks forward to continued public participation in the next stages of the SEQRA EIS process: public review of the Final Scoping Document; the public comment on the DEIS during the related comment period and the Public Hearing on the DEIS; and public review of the FEIS. The Public Hearing on the DEIS will be held at the MTA offices at 2 Broadway. The Public Hearing will be announced: via the ENB; in newspapers; and on the MTA website.

Comment 206, Letters: Mr. Leland

First and foremost, we urge MTA NYCT to expand the comment period on the voluminous and prolix technical documentation circulated in connection with the Project. The designated comment period - a mere two weeks and one day after the June 16, 2016 Scoping Meeting - may meet the minimum requirements of 6 NYCRR Part 617.8. [T]he limitation to that minimum is clearly contrary to the intent of the applicable regulation, i.e., that "Scoping must include an opportunity for public participation." (6 NYCRR Section 617.8(c) (emphasis supplied). Implicit in the cited language it a requirement that such public participation is meaningful.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the Draft Scoping Document (DSD) and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the Draft Scoping Document (DSD) was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. This public meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

The meeting held on June 16, 2016 was announced and conducted formally as a Public Scoping Meeting (see Final Scoping Document, Chapter 7.0). SEQRA states at 6 NYCCR 617.8 (a) that “The primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant. Scoping is not required. Scoping may be initiated by the lead agency or the project sponsor.” However, if scoping is provided, SEQRA states at 6 NYCCR 617.8 (e), that “Scoping must include an opportunity for public participation. The lead agency may either provide
a period of time for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material or other means.” MTA NYCT chose to implement the option to engender early public participation in the SEQRA process.

NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engage the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 207, Letters: Mr. Leland

The Project, which by MTA’s estimate, has been studied for several years and will subsume more than 4-1/2 years of construction underneath a major avenue. There is certainly no reason whatsoever why public review of the scope of an EIS should be so limited in time. Moreover, the timing of Scoping Meeting and the abbreviated comment period - at the end of the school year and, and week immediately preceding the Independence Day holiday weekend – evidence a disregard for the public’s involvement in this process.
Response

See Response to Comment 206. Also, please note that MTA NYCT strongly encourages continued public participation in the next stages of the SEQRA EIS process: public review of the Final Scoping Document; the public comment on the DEIS during the related comment period and during the Public Hearing on the DEIS; and public review of the FEIS. The Public Hearing on the DEIS will be held at the MTA offices at 2 Broadway. The Public Hearing will be announced: via the ENB; in newspapers; and on the MTA website.

Comment 208, Letters: Mr. Leland

Turning to the substance of the Scope of the EIS, there are several patently obvious deficiencies in the proposed analysis. These include (a) construction impacts to, traffic, historic resources and access to and operation of community facilities such as the church;

Response

As stated in the DSD and FSD, the construction condition will be analyzed in the DEIS for each environmental resource category.

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

Conditions will be observed at the most critical pedestrian locations potentially impeded by construction of the EVPs, such as sidewalks, crosswalks, and access routes to subway stations and bus stops.

Pedestrian conditions will be qualitatively assessed at two locations where the potential exists for significant impacts during construction. Qualitative observations of pedestrian flows will be conducted at other study area sidewalks, and spot counts will be conducted at affected locations that currently exceed capacity and at those that may be adversely affected during the construction period.

Pedestrian access through the area and to land uses adjacent to the potential construction sites will be described.”

Section 5.9 of the DSD and FSD states “An assessment of historic resources defined as buildings or structures is usually needed for projects that are located adjacent to listed or eligible historic or landmark structures or within historic districts. .... A report detailing the results of the literature review and site visit will be prepared in accordance with The Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State and to meet OPRHP’s Phase I Archaeological Report Format Requirements. The Phase IA report will present the results of these site file searches and previous surveys in table format. The report will also include brief pre-contact and historic overviews for the area and archaeological sensitivity assessments. The DEIS will summarize the findings of this research and identify and evaluate the potential effects/impacts of the Candidate Alternatives on historic and archaeological resources during construction and operation. Construction Environmental Protection Plan measures will be developed, depending on the potential impacts identified.”
As stated in Section 5.7 of the DSD and FSD “While an in-street EVP alternative is unlikely to affect community facilities directly through changes to land use or surrounding development, there is the potential for indirect effects. An inventory of community facilities will be conducted in concert with the noise, vibration, and air quality analyses. Potential indirect effects to community facilities that may result during construction or operation, as supported by other technical analyses, will be reported in the EIS pursuant to the CEQR Technical Manual. This effort will also inform the community character assessment of the EIS.”

**Comment 209, Letters: Mr. Leland**

Turning to the substance of the Scope of the EIS, there are several patently obvious deficiencies in the proposed analysis. These include .... (b) direct and indirect operational impacts to historic resources and community facilities;

**Response**

As stated in Section 5.8 Discussion/Evaluation of Community Character/Urban Design and Visual Resources/Visual and Aesthetics, “Murray Hill is a distinctive neighborhood with a variety of attributes that include its proximity to major New York City landmarks and its historic properties and attractive streetscapes. While an in-street EVP alternative would not be expected to alter community character, temporary construction activities could result in effects to community character and the visual environment.”

“The EIS will provide a description of the visual environment immediately surrounding the Candidate Alternative EVP construction sites, as well as the study area’s urban design character and visual resources. This will include a survey of building height, bulk, type, identified view corridors, streetscape elements, street hierarchy, and landscaping features (e.g., street trees). Impacts to visual resources and view-sheds will be discussed, including the duration of impacts, populations exposed to the change in views, and mitigation measures incorporated in the project to minimize impacts.”

As stated in the fifth paragraph of Section 5.9 of the DSD and FSD, the DEIS will evaluate the effects of the proposed EVP to historic resources, including indirect impacts. “For the purposes of the new EVP, the Historic Resources Study Area would be defined as the footprint to be altered by the required EVP installation plus an approximate 400-foot radius, which is typically adequate for the assessment of historic resources, in terms of physical, visual, and historical relationships. The archaeological area of potential effect (APE) is limited to those specific areas where project-related excavation or ground disturbance is likely and would result in new in-ground disturbance.”

Concerning operational effects to community facilities, Section 5.7 of the DSD and FSD notes:

“While an in-street EVP alternative is unlikely to affect community facilities directly through changes to land use or surrounding development, there is the potential for indirect effects. An inventory of community facilities will be conducted in concert with the noise, vibration, and air quality analyses. Potential indirect effects to community facilities that may result during construction or operation, as supported by other technical analyses, will be reported in the EIS pursuant to the CEQR Technical Manual. This effort will also inform the community character assessment of the DEIS and FEIS.”
Please note that operation of the proposed EVP, and for other EVPs throughout the MTA NYCT system, includes maintenance activities, which involve such tasks as balancing, lubrication, testing, and noise silencing checks.

**Comment 210, Letters: Mr. Leland**

Turning to the substance of the Scope of the EIS, there are several patently obvious deficiencies in the proposed analysis. These include ... and (c) operational traffic impacts.

**Response**

As stated in Section 5.3 of the DSD and FSD under the heading “Assessment of Project Impacts and Required Mitigation,” consistent with the CEQR Technical Manual evaluation criteria, “No traffic or parking analyses of the operational phase of the proposed EVP are required because there would be no permanent change to the street network or increase in trips generated by the project.”

Operation for the proposed EVP, and for other EVPs throughout the MTA NYCT system, includes maintenance activities, which involve such tasks as balancing, lubrication, testing, and noise silencing checks.

**Comment 211, Letters: Mr. Leland**

The principal defect in the construction analysis is the severely understated estimate of the duration of construction activities. The EAF and Scoping Document assume that the construction period for the Project will be four-and-a-half years. This is grossly understated.

**Response**

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience in NYC.

**Comment 212, Letters: Mr. Leland**

If prior MTA NYCT projects are an example of the actual timing for constructing a ventilation facility, one need look only to the experience of the East Side Access ventilation structure on East 50th Street. That facility has been under construction for eight years and is still not complete. Based on this experiential fact, the EIS scope should be expanded to analyze significantly more than four and-a-half years.

**Response**

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

**Comment 213, Letters: Mr. Leland**

Moreover, because of this reasonable worst case, there should be at least two analysis years studied, not just the second year or construction as state in Section 5.0 at page 60 of the Draft Scoping Document.
Response

Construction is anticipated to begin in 2019 and would last until 2023. The critical construction year—the period when construction activity has the greatest potential for environmental impacts—would be 2020 or 2021 (depending on resource category) for construction of either Candidate Alternative. For example, the greatest potential for noise and stationary source air quality impacts is expected to be in 2020 when excavation is conducted at or near the surface and when particulate emissions, potentially, would be highest, while the greatest potential for transportation and mobile source air quality impacts is expected to be in 2021, when the combination of excavate and construction materials trucking is at a peak. The operational analysis year would be 2023.

Comment 214, Letters: Mr. Leland

Moreover, the Draft Scoping Document makes scant reference to the manner in which direct construction impacts to historic resources, such as the Church or Our Savior, will be analyzed. Mere recitation of the New York City Department of Building standards and codes and reliance on those codes is no substitute for thorough analyses. The Church, which would be in almost direct proximity to the location of Alternatives II and 12, is of historic significance.

Response

The MTA NYCT methodology to assess impacts to historic and cultural resources is given in Section 5.9 of the DSD and FSD. Historic resources will be evaluated in accordance with NEPA and Section 106 of the National Historic Preservation Act (NHPA) of 1966 (as amended) and associated implementing regulations in 36 CFR Part 800. Section 106 of the NHPA mandates that federal agencies consider the effect of their actions on historic properties, defined as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NR) [or the State Register of Historic Places (SR)]; such term includes artifacts, records, and remains that are related to such a district, site, building, structure, or object.” The NHPA also includes specific guidelines for the treatment of National Historic Landmarks (NHLs). NHLs are properties of national significance designated by the United States Department of the Interior because they possess exceptional historic value. The NHPA mandates additional protection of NHLs by requiring that federal agencies undertake planning and actions as necessary to minimize harm when considering undertakings that may directly and adversely affect NHLs.

Historic properties are also protected by Section 4(f) of the Department of Transportation Act of 1966. Section 4(f) prohibits actions by the Secretary of Transportation that require “use” of a historic property that is listed or eligible for inclusion in the NR, unless a determination is made that there is no feasible and prudent alternative to the use of such land, and all possible planning has been undertaken to minimize harm to the 4(f) property. If a use of a Section 4(f) park or recreation property is determined to occur, a Section 4(f) evaluation will be prepared and circulated as part of Tier 2 environmental documentation.

The New York State Historic Preservation Act of 1980 (SHPA) requires that state agencies consider the effect of their actions on properties listed or determined eligible for listing in the New York SR. Separate review under the SHPA is not required when the NHPA applies.
Comment 215, Letters: Mr. Leland

We also note that there is no reference in the Draft Scoping Document to MTA’s legal obligation to enter into consultation with the Office of Parks, Recreation and Historic Preservation (OPRHP) pursuant to Section 14.09 of the New York State Historic Preservation Act.

Response

Section 14.09 of the New York State Historic Preservation Act (SHPA) requires state agencies to consult with the SHPO if it appears that any projects being planned may or will cause any change, beneficial or adverse, in the quality of any historic, architectural, archeological or cultural property that is listed on the National Register of Historic Places or listed on the State Register or that is determined to be eligible for listing on the State Register. It requires state agencies, to the fullest extent practicable, consistent with other provisions of the law, to avoid or mitigate adverse impacts to such properties, to explore all feasible and prudent alternatives and to give due consideration to feasible and prudent plans that would avoid or mitigate adverse impacts to such property. The act also establishes agency preservation officers within state agencies for the purpose of implementing these provisions. MTA NYCT will comply with all applicable laws and regulations.

Comment 216, Letters: Mr. Leland

Section 5.3 of the Draft Scoping Document -Discussion/Evaluation of Transportation - states that the traffic study area will be limited to intersections along three avenue blocks. This is, we submit, an inadequate universe of affected intersections. Park Avenue in the area between East 42nd Street and East 35th Street is heavily trafficked most times of day. A prolonged lane closure as anticipated in connection with the project will most certainly cause spill-over of traffic beyond Lexington Avenue to the east and Madison Avenue to the west. This is particularly apt with respect to East 37th Street, which is a designated and popular through street from the Midtown Tunnel to the Lincoln Tunnel that often-time experiences back up beyond Lexington and Madison Avenues.

Response

The most concentrated and potentially affected intersections lie in the street network north of 35th Street and south of 40th Street where all of the ventilation plant alternatives were identified and would be situated and thus assessed. If any vehicles were to divert, motorists would likely do so via on the aforementioned side streets to the next adjacent avenue: traffic would divert to northbound Madison Avenue. There are several side streets north of East 34th Street that could allow motorists to shift to each of these adjacent avenues. Importantly, the results of the study would be submitted to NYCDOT for comment and acceptance.

Comment 217, Letters: Mr. Leland

With respect to pedestrian impacts, Section 5.3 recites that the analysis will be limited to “qualitatively” assessing but two locations. This too is inadequate. An appropriate analysis would look at all intersections where pedestrians would be diverted by closures, noise and fugitive dust from construction in the roadway. Moreover, there is no commitment to follow the requirements of Mayor de Blasio’s “Vision Zero” program for pedestrian protection.
Response

As stated in Section 5.3 of the DSD and FSD, the DEIS will evaluate the effects of the proposed project to transit and pedestrians. The evaluation will consist of the following:

- Conditions will be observed at the most critical pedestrian locations potentially impeded by construction of the EVPs, such as sidewalks, crosswalks, and access routes to subway stations and bus stops.
- Pedestrian conditions will be qualitatively assessed at two locations where the potential exists for significant impacts during construction. Qualitative observations of pedestrian flows will be conducted at other study area sidewalks, and spot counts will be conducted at affected locations that currently exceed capacity and at those that may be adversely affected during the construction period.
- Pedestrian access through the area and to land uses adjacent to the potential construction sites will be described.
- Potential impacts to bus stops and/or bus routes will not be affected because there are no routes along the proposed Candidate Alternatives.

Maintenance and Protection of Traffic (MPT) plans would be developed to ensure an acceptable level of pedestrian circulation. These “MPT plans” will be submitted for approval by NYCDOT, and implemented by the construction contractor.

The key intersection pedestrian elements where people could be diverted to and from will be analyzed. Construction work of this type would typically provide safe walkways for pedestrian flow and provide at least, per NYCDOT minimum standards, 5 feet of clear sidewalk space to traverse. MTA NYCT understands that the Mayor’s “Vision Zero” program provides measures to help prevent motorists for entering work zones. The MTA NYCT Construction Manager will assure that construction activities comply with NYCDOT-approved MPT plans and applicable Vision Zero regulations.

Comment 218, Letters: Mr. Leland

Finally, with respect to construction impacts, there is but fleeting reference to interference with access to our client’s church or to other community facilities and residences in proximity to the proposed project.

Response

All access to existing occupied buildings will be maintained throughout the construction period.

Comment 219, Letters: Mr. Leland

In a somewhat glib fashion devoid of any hard look, Section 5.0 of the Draft Scoping Document recites that the "analysis of operational impacts will largely be qualitative in nature .... " The public and the community should be provided a more fulsome description of the basis for that conclusion.

Response

The EVP would be situated under the streetbed and would only operate during periodic testing and during an emergency. The only visible aspects of the EVP would be one or two access hatches and sidewalk grating similar to that found in many locations throughout the City. The grating and access hatches would be flush with the sidewalk and unobtrusive. A small number of trees (approximately 7) would need to be
removed and replaced. The removal and replacement of sidewalk trees would be conducted as per agreement with the New York City Department of Parks and Recreation. There would be no permanent change to the street network, parking capacity or pedestrian capacity of the sidewalk, and no increase in vehicle or pedestrian trips generated by the project.

Operation for the proposed EVP, and for other EVPs throughout the MTA NYCT system, includes maintenance activities, which involve such tasks as balancing, lubrication, testing, and noise silencing checks. An evaluation of potential air quality impacts related to the operational phase of the proposed EVP will be conducted. However, because the plant would operate only during emergency conditions, and for limited periods for routine equipment maintenance and testing, no detailed operational phase analysis is believed warranted under CEQR.

Based on information from similar MTA NYCT ventilation plants in the City, the noise levels near the exhaust/intake openings at street level would be 66 dBA or less. This noise level would be lower than the current maximum neighborhood street noise levels. No noise impacts from operation of the facility are anticipated and a qualitative assessment of impacts is believed to be adequate.

The foregoing has been presented in the FSD.

Comment 220, Letters: Mr. Leland

In addition to the above, the proposed scope of analysis of operational impacts – traffic impact on historic resources – suffers from the same defects as those attendant to the more intensive construction impacts and need to be expanded to provide the public and our client with the type of full-fledged disclosure and analysis the SEQRA mandates.

Response

There would be no permanent change to the street network and no increase in vehicle trips generated by operation of the project. No operational impacts to traffic, and no traffic impact to historic resources, are anticipated.

Comment 221, Letters: Mr. Leland

As noted above, the truncated comment period has limited our client's ability to provide more detailed comments to the Draft Scoping Document and we reiterate our request for a reasonable extension of the comment period through the remainder or the summer months to enable us and the balance of the community affected by this proposed Project and that will be subjected to traffic, noise, vibration and air emissions and other impacts of the Project to participate in the scoping process in a more meaningful way. MTA NYCT has not demonstrated that there is any real need for this Project or more particularly, any need to rush through or fast track its environmental review.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the
MTA New York City Transit Proposed Emergency Ventilation Plant
Lexington Avenue Subway Line

MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the Draft Scoping Document (DSD) and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the Draft Scoping Document (DSD) was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. This public meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

The meeting held on June 16, 2016 was announced and conducted formally as a Public Scoping Meeting (see Final Scoping Document, Chapter 7.0). SEQRA states at 6 NYCRR 617.8 (a) that “The primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant. Scoping is not required. Scoping may be initiated by the lead agency or the project sponsor.” However, if scoping is provided, SEQRA states at 6 NYCRR 617.8 (e), that “Scoping must include an opportunity for public participation. The lead agency may either provide a period of time for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material or other means.” MTA NYCT chose to implement the option to engender early public participation in the SEQRA process.

NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.
Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 222, Letters: Ms. Olmstead

My name is Lisa Olmstead and I am writing you (and including our good names at the very bottom), to request a 90-day extension so that I, like many others in our neighborhood, can have time to follow your Emergency Park Avenue Ventilation Project for the Lexington Avenue Line, coherently.
The 90-day extension beginning July 1, 2016 on ... will allow those, like myself, who reside and work on Park Avenue, as well as those adjacent, to comprehend the scope of this development.

Response

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Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.
Comment 223, Letters: Ms. Olmstead

I have been living in my Co-op apartment purchased more than 30 years ago in Murray Hill (38th & Park); I have never witnessed such a time ... ever, when there has been the kind of level of confusion and spent nerves resulting from a proposal like the Emergency Park Avenue Ventilation Project.

Response

Comment noted. Also, please note that the FSD includes MTA NYCT responses to the public comments received: at the Public Meeting; through letters; and through email. After the issue of the FSD, the DEIS will be issued for public comment. That process will include a Public Hearing as well as the opportunity to submit comments to MTA NYCT on the proposed project by mail and by email.

Comment 224, Letters: Ms. Olmstead

Even with the meeting and notifications thus far been organized, there remain those of us who continue with varying travel schedules and would like to have first-hand Q&A and a reasonable time frame to respond. In light of a project potentially requiring mountains of energy, money and time, it seems to me that inserting a 90-day extension is a small adjustment of time and comfort.

Response

Please see the response to Comment 222.

Comment 225, Letters: Ms. Krueger

I write to submit comments on the Draft Scoping Document for the Draft Environmental Impact Statement (DEIS) for the proposed emergency ventilation plant for the Lexington Avenue Subway Line between the 33rd Street/Park Avenue South Station and the Grand Central-42nd Street Station. At the June 16th, 2016 scoping hearing for the proposed Murray Hill emergency ventilation plant, residents representing local community organizations provided testimony on a wide range of concerns about the proposal. In my comments, I will highlight those and other concerns that I believe must be addressed in the DEIS.

Response

Comment noted.

Comment 226, Letters: Ms. Krueger

I urge the Metropolitan Transit Authority (MTA) to seriously consider all of the issues discussed at the first public hearing, and significantly expand the scope of the impacts that will be studied in the DEIS.

Response

MTA NYCT has reviewed the comments presented by the public and community leaders in detail. These comments include those received: during the June 16, 2016 Public Scoping Meeting and related transcript; by letter; and, by e-mail. In fact, this Appendix to the Final Scoping Document includes our response to the received comments. Based on these responses, modification to the Draft Scoping Document were made, resulting in the Final Scoping Document. Please note that we have responded to each comment provided by the commenter in each medium (i.e., transcript, letter, on-line) they chose to use. Although
that results in significant volume of text, our interest was to best assure that nuance would not be lost, as
could occur if “bulk” type responses were made.

The public and community leaders will also have the opportunity to:

- Review and comment on the DEIS;
- Participate in the Public Hearing on the DEIS; and
- Review and comment on the FEIS.

Comment 227, Letters: Ms. Krueger

As noted by Murray Hill community members, the construction and operation of the ventilation plant will
likely cause air quality issues that range from dust and smoke, to toxic fumes. The DEIS should detail how
air quality will be measured during [construction]....

Response

The only potential for air emissions during construction will relate to: excavated materials handling; and
power equipment operation.

Concerning excavated materials (i.e., asphalt, soil, rock), the contractor will be required, per the MTA
NYCT Standard Specification, to use good engineering practices to minimize fugitive dust emissions. The
contractor will be required to prepare a Construction Environmental Protection Plan (CEPP) (see the DSD
and FSD, Section 5.19) that identifies the approach it plans to employ; the CEPP will be reviewed for
approval by a MTA NYCT Principal Environmental Engineer. Once construction is underway, the MTA NCYT
Construction Manager will monitor contractor conformance with the CEPP.

The contractor is limited in the nature of power equipment it can use. Power equipment must meet the
requirements of Local Law 77 regarding emissions, including the use of ultra-low sulfur diesel fuel.
Construction management, by MTA NYCT, will assure conformance with equipment idling and other
regulatory requirements.

Comment 228, Letters: Ms. Krueger

......and post construction,

Response

Post construction, the operation of the vent plant would occur only during periodic testing and under
emergency smoke conditions. Operation for the proposed EVP, and for other EVPs throughout the MTA
NYCT system, includes maintenance activities, which involve such tasks as balancing, lubrication, testing,
and noise silencing checks. No regulated emissions will be produced during routine maintenance and
equipment testing. When smoke conditions result from emergencies, the smoke will be released into
ambient air and will be naturally dispersed.

Comment 229, Letters: Ms. Krueger

...and what mechanisms will be put in place to alert residents of aerial toxins and fumes released in cases
of emergency.
Response

It is not customary that public alarms are used to announce the operation of NYCT’s emergency systems. However, when EVPs are activated during emergency conditions, the appropriate emergency response services are immediately notified of emergency conditions.

Comment 230, Letters: Ms. Krueger

The DEIS must comprehensively analyze any potential health risks the plant may cause to residents when it is operational and all the mitigation measures that will be put into effect.

Response

The proposed EVP would be operated during periodic testing and in the event of an emergency. The potential for health risk to the neighborhood would be limited to air emission and noise and vibration during EVP operation. As explained in Section 5.10 of the DSD and FSD, air quality-related analyses will be presented in the DEIS, including emissions from the future operation of the proposed EVP. Also, Section 5.11 of the DSD and FSD identifies noise- and vibration-related analyses to be presented in the DEIS, including noise and vibration generated during operation of the proposed EVP.

Comment 231, Letters: Ms. Krueger

All of the proposed sites are in close proximity to a major hospital and the Midtown Tunnel. As such, there is a need for an extensive traffic impact study of issues that could unfold pre-and post-project completion.

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....“

Regarding post construction traffic, as stated in Section 5.3 of the DSD and FSD under the heading “Assessment of Project Impacts and Required Mitigation,” consistent with the CEQR Technical Manual evaluation criteria, “No traffic or parking analyses of the operational phase of the proposed EVP are required because there would be no permanent change to the street network or increase in trips generated by the project.”

Comment 232, Letters: Ms. Krueger

The DEIS should thoroughly study the traffic mitigation measures that will be implemented during construction, and explore if and how traffic will need to be re-routed.
Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate the effects of the proposed project to traffic and transportation, and determine if re-routing of traffic is necessary. MTA NYCT, in coordination with NYC Department of Transportation (NYCDOT), will develop “Stipulations” to be employed during construction. Upon construction contract award, the selected contractor will prepare a Maintenance and Protection of Traffic (MPT) plan that defines proposed lane and/or street closures and, if necessary, plans for re-routing traffic. Once approved by NYCDOT, the MPT plan would be implemented by the MTA NYCT contractor. The MTA NYCT Construction Manager will assure the contractor conforms with the MPT plan.

Comment 233, Letters: Ms. Krueger

Additionally, the DEIS should analyze how emergency vehicles will be able to access the immediate area and surrounding streets during construction, and if emergency vehicles will likely need to be re-routed during emergencies once the plant is operational.

Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate the effects of the proposed project to traffic and transportation, including the effects to the circulation of police, fire and emergency vehicles. If significant adverse impacts are identified, the DEIS will provide measures to mitigate these impacts. MTA NYCT, in coordination with NYC Department of Transportation (NYCDOT), will develop “Stipulations” to be employed during construction. Upon construction contract award, the selected contractor will prepare a Maintenance and Protection of Traffic (MPT) plan that defines proposed lane and/or street closures, and maintains circulation of emergency vehicles in the vicinity of the proposed EVP during construction. Once approved by NYCDOT, the MPT plan would be implemented by the MTA NYCT contractor. The MTA NYCT Construction Manager will assure the contractor conforms with the MPT plan. Two lanes of traffic northbound will always be provided at the construction site, consistent with the NYCDOT-approved “Stipulations” and MPT plan.

There would be no permanent change to the street network and re-routing of vehicles during EVP operation is not expected.

Comment 234, Letters: Ms. Krueger

The DEIS should fully examine what construction equipment will be used during construction, and the noise impacts expected during morning, afternoon, and evening hours as well as on weekdays and weekends throughout the entire construction period.

Response

As noted in Section 5.11 of the DSD and FSD, “noise from the Candidate Alternative construction sites would include machinery, equipment vehicles and associated activities. The Federal Highway Administration’s Roadway Construction Noise Model Version 1.1 will be used to determine noise equipment source levels and to assess the potential for noise impact at sensitive receptors near the project construction site. Modeled results will be compared to existing noise levels and the FTA construction noise criteria as contained in the Transit Noise and Vibration Impact Assessment (May 2006). The extent and duration of potential noise impacts at each potentially affected noise receptor location
during each stage and phase of construction will be considered. Results will be reported for each of the
Candidate Alternative EVPs.

Comment 235, Letters: Ms. Krueger

A careful analysis must also be completed of any noise impacts the plant will pose to the community once
the plant is operational. The DEIS must explore locations of noise and vibration monitors both during
construction and after the plant is operational.

Response

During the DEIS and FEIS process, estimates will be made of noise levels related to both the construction
and operation of the EVP to sensitive receptors (see Section 5.11 of the DSD and FSD). Once the EVP is
operational, the Environmental Engineering Division of Capital Program Management in MTA NYCT will
have responsibility to respond to any complaints related to noise. Complaints should be directed to the
Office of Government and Community Relations, NYCT, attention of: marcus.book@nyct.com or at 646
252-2675.

Comment 236, Letters: Ms. Krueger

Both proposed locations for the ventilation plant are located in the Murray Hill Historic District. As such
the DEIS must meticulously review and describe the potential impacts of construction on the historic
buildings within the district and how these will be minimized. This should include a detailed analysis of
whether vibration monitors will be placed near landmarked properties pre- and- post project completion,
and what steps will be taken to mitigate the impact of dust and other pollutants from the construction
and operation of the plant on the facades of historic buildings. Finally the DEIS must detail the remediation
measures that will be used to restore any damaged landmarked properties.

Response

As stated in the fifth paragraph of Section 5.9 of the DSD and FSD, the DEIS will evaluate the effects of the
proposed EVP to historic resources, including indirect impacts. “For the purposes of the new EVP, the
Historic Resources Study Area would be defined as the footprint to be altered by the required EVP
installation plus an approximate 400-foot radius, which is typically adequate for the assessment of historic
resources, in terms of physical, visual, and historical relationships. The archaeological area of potential
effect (APE) is limited to those specific areas where project-related excavation or ground disturbance is
likely and would result in new in-ground disturbance.”

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS
concerning noise and vibration. The principal issues of concern include stationary noise and vibration from
on-site construction equipment and activities; and during operations (testing and emergencies only),
stationary noise and vibration from the operation of the EVP fan system. The noise and vibration
assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of
the CEQR Technical Manual.

NYCDOB has developed a set of policy and procedures (TPPN # 10/88) in order to avoid potential damage
to historical structures resulting from adjacent construction, and for any existing structure designated by
the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction

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damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that
construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold
of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines
for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories.
For the building category that includes reinforced concrete, steel, or timber, the threshold for minor
cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with
procedures promulgated by the New York City Department of Buildings. Contractors would be required
to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract
Specifications, which contain provisions to monitor vibration throughout the construction duration. The
provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these
thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any
damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

The nature and amount of construction equipment and staging to be used during the construction effort
will be identified for the Candidate Alternatives in the DEIS. This will then be used to estimate any impacts
to air quality, noise and vibration, and traffic, and other environmental domains. Various sections in
Chapter 5 of the DSD and FSD state that the effects of construction activities will be analyzed within the
DEIS.

Comment 237, Letters: Ms. Krueger

I strongly encourage the MTA to address these concerns in the Final Scope of Work and in the DEIS for the
ventilation plant.

I look forward to working with the MTA to accurately assess and minimize the impacts the proposed plant
will have on the Murray Hill neighborhood. Thank you for your consideration.

Response

Comment noted.

Comment 238, Letters: Ms. Gardini

Community Board 6 hosted the MTA’s July 16 Scoping meeting at Beth Israel Hospital. It was, for those of
us in Murray Hill, our introduction to their proposal to install subway vents along Park Avenue. The Murray
Hill Coalition is protesting the plan. There are so many factors that make this proposed work
counterintuitive:

Suspicious project fast-tracking. The proposed work for the emergency ventilation system between 33rd
Street and Grand Central Station has been fast-tracked to a category 5 urgency level by the MTA (with 1
being the most urgent to 242 being the least urgent) after a 1994 shelved ventilation system study was
oddly resurrected.

Response

As stated in Section 1.1 of the Draft Scoping Document (DSD) and Final Scoping Document (FSD), the
genesis of the Emergency Ventilation Plant (EVP) program is the result of a 1994 study, commissioned by
MTA NYCT. The 1994 study is a comprehensive ventilation survey that evaluated every operational
subway tunnel section to determine the magnitude of requirements to comply with the National Fire Protection Association (NFPA) 130 Standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Comment 239, Letters: Ms. Gardini

In the height of summer, our neighborhood was given only a 14-day Public Comment period to respond.

Response

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evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

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“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 240, Letters: Ms. Gardini

Moreover, Emil Dul, the MTA’s Principal Environmental Engineer, who led the meeting, publicly stated that this was "unnecessary work" that was NOT to fulfill any City, State, or Federal compliance requirements.

Response

See response to Comment 239.

Also, as stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two
EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 241, Letters: Ms. Gardini

Creation of insurmountable mid-town gridlock. The proposed site of this work- the east side of Park Avenue between 36th and 39th Streets- is directly across from another MTA construction site, the Eastside Access Project. Eastside Access was original supposed to be an eight-month construction project on the southwest corner of Park Avenue and 37th Street, taking out two lanes of southbound traffic from Grand Central Terminal as well as outlet access from the FDR and Midtown Tunnel. The eight-month time frame has now morphed into eight years, with no end in sight.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 242, Letters: Ms. Gardini

This proposed emergency ventilation system has been given an optimistic 3-5 year time frame and would close two northbound lanes of traffic, which also function as FDR and Midtown tunnel outlets, and the feed around Grand Central Terminal. This would bring an already congested intersection to a virtual standstill, especially as the intersection averages at least one accident a week, bringing all traffic to a grinding halt.

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience in NYC.

As stated in the FSD, the proposed EVP construction would require the closure of one northbound lane of Park Avenue during any one stage of construction, with two moving travel lanes remaining as currently exists. While the lanes would be narrowed slightly similar to the East Side Access construction site on southbound Park Avenue between 37th and 36th Streets, moving traffic would not likely divert or shift to adjacent avenues at all. As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. Maintenance and Protection of Traffic plans would be developed, submitted to and approved by NYCDOT, and implemented to ensure an acceptable level of service.
Comment 243, Letters: Ms. Gardini
Homeland security risk. The proposed MTA project would be placed on a block that already has two Homeland Security "soft" targets: the Roman Catholic Church of Our Saviour and the Guatemala Mission to the United Nations.

Response
Comment noted. Response plans for terror and other security incidents are developed and maintained by MTA Security and are confidential.

Comment 244, Letters: Ms. Gardini
The proposed work would block curb access to residents, as well as access for funerals, weddings, and daily worship services. It would also remove designated Diplomatic parking and impede access to the Guatemalan Mission.

Response
As discussed in the DSD and FSD, MTA NYCT will prepare a DEIS, which will evaluate the effects to the area surrounding the proposed EVP due to construction and operation of the project. The DEIS will evaluate the potential for impacts to area residents, businesses and community services and facilities. As stated in Section 5.3, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. If significant adverse impacts are identified, the DEIS will provide measures to mitigate such impacts. See the DSD and FSD for a description of the array of environmental resources to be evaluated (e.g., air quality, noise and vibration, traffic and transportation, etc.) in the DEIS and the methodology for assessing potential impacts to these resources.

Comment 245, Letters: Ms. Gardini
However, most disturbing are hatches the MTA says are needed to enter and exit the ventilation system in order to service it. This access could be used in a terror attack towards the Church, the Mission, or Grand Central Terminal, as in the 1995 Tokyo Subway Sarin Incident. Or conversely, if any part of the Grand Central to the 33rd Street IRT segment was attacked, this emergency ventilation system could spew toxins into midtown Manhattan.

Response
Response plans for terrorist incidents are developed and maintained by MTA Security and are confidential. As stated in Section 5.16 of the DSD and FSD, the DEIS will identify, to the extent allowed by MTA NYCT policy, safety and security aspects related to the design, construction, and operation of the proposed EVP.

Comment 246, Letters: Ms. Gardini
Decimation of a beautiful historic neighborhood. Murray Hill is first and foremost an historic community with landmarked buildings. It is the beautiful calm before the midtown storm.

Response
Comment noted.
Comment 247, Letters: Ms. Gardini

Need we mention the ongoing noise, smell, dirt, traffic and environmental and safety impact this would have on an already overstretched neighborhood.

Response

The DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise (Section 5.11), air quality (Section 5.10), traffic (Section 5.3) and safety (Section 5.16). All analyses will be conducted in accordance with applicable regulatory requirements. Issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual. Contractors would be required to adhere to the New York City Construction Noise Code.

As stated in Section 5.10 of the DSD and FSD, air quality analyses will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”.

As stated in Section 5.3, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. The DEIS will also evaluate the effects of the Proposed EVP on historic structures (see Section 5.9 of the DSD and FSD) and the effects on the neighborhood in general (see Section 5.8 of the DSD and FSD).

Comment 248, Letters: Ms. Gardini

The proposed work would create more upheaval above ground than it would provide any safety below ground.

Response

Comment noted.

Comment 249, Letters: Ms. Gardini

We hope that Community Board 6 will support the Murray Hill community to stop this unnecessary project immediately and reallocate these State transit funds to needed and deserving projects that create benefit to the commuters of New York City.

Response

Comment noted.

Comment 250, Letters: Mr. Badinelli

This letter appears identical to the letter responded to in Comment 184 through Comment 189. Please see the response to Comments 184 through 189.
Comment 251, Letters: Ms. Brophy

As a concerned resident of New York City, I would like to add my voice to that of my neighbors in Murray Hill. The construction of air vents on the east side of Park Avenue between 36th and 39th Street is an unnecessary and poorly planned project. This is a discretionary project and there is no immediate justification for it, yet the negative results are both real and immediate.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 252, Letters: Ms. Brophy

There would be an immediate impact on our air quality, traffic congestion, potential traffic accidents, noise pollution, pedestrian traffic, and quality of life for residents - residents still recovering from the negative impact of the MTA’s unfinished East Side Access project.

Response

The DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS regarding an array of environmental concerns, including: noise (Section 5.11); air quality (Section 5.10); traffic (Section 5.3); and community character (Section 5.8). All analyses will be conducted in accordance with applicable regulatory requirements.

As an example, issues related to noise and vibration during the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the...
operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual. Contractors would be required to adhere to the New York City Construction Noise Code.

As stated in Section 5.10 of the DSD and FSD, analyses related to air quality will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”.

As stated in Section 5.3, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. The DEIS will also evaluate the effects of the Proposed EVP on historic structures (see Section 5.9 of the DSD and FSD) and the effects on the neighborhood in general (see Section 5.8 of the DSD and FSD).

**Comment 253, Letters: Ms. Brophy**

To begin another project would: add to the toxic chemicals that already vent into our air on the corner of 37th and Park Avenue in front of the Union League Club, a direct result of the still unfinished MTA East Side Access Project....

**Response**

The proposed project construction and operation will conform to all applicable and relevant environmental and safety regulations. Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

**Comment 254, Letters: Ms. Brophy**

.... further reduce traffic flow in an already dangerously congested area - 36th Street is a major access route between the Midtown Tunnel and the Lincoln Tunnel, as is 37th Street. Both streets frequently create a gridlock condition that ties up Park Avenue traffic, causing further deterioration in air quality and unbearable noise pollution from frustrated drivers. The corners of 36th and 37th Streets had more traffic accidents - even fatalities - than any other area of NYC.

**Response**

As discussed in the DSD and FSD, MTA NYCT will prepare a DEIS, which will evaluate the effects to the area surrounding the proposed EVP due to construction and operation of the project. The DEIS will evaluate the potential for impacts to area residents, businesses and community services and facilities. As stated in Section 5.3, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. If significant adverse impacts are identified, the DEIS will provide measures to mitigate such impacts. Please see the DSD and FSD for a description of the array of environmental resources to be evaluated (e.g., air quality, noise and vibration, traffic and transportation, etc.) in the DEIS and the methodology for assessing potential impacts to these resources.
Comment 255, Letters: Ms. Brophy

To further reduce the ability of traffic to pass safely would be negligent, compound the suffering this neighborhood has endured from the long-delayed East Side Access project from cracks in foundations and walls due to blasting, noise, dirt, jack-hammering, construction vehicles, and partially closed streets.

Response

Analyses conducted for the DEIS to determine the effects/impacts due to the proposed EVP are discussed in Chapter 5 of the DSD and FSD. Please see Section 5.3 for a description of the analysis to be conducted for traffic and transportation, Section 5.10 for a description of the analysis to be conducted for air quality, and Section 5.11 for a description of the analysis to be conducted for noise and vibration. Also, please note that two lanes of traffic northbound on Park Avenue will be maintained for the duration of construction.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 256, Letters: Ms. Brophy

There are no city parks in our immediate area - children play on the side-walk. Where will they walk and play if vents are installed? Murray Hill is also home to many of New York's elderly- people who rarely leave the neighborhood and need to be able to move about on the sidewalks.

Response

MTA NYCT facilities (e.g., ventilation plants, sidewalk gratings, access hatches) will conform in design, construction and operation with all applicable NYCDOT regulations and with MTA NYCT standards.

Comment 257, Letters: Ms. Brophy

There are already vents located in the center of Park Avenue by the malls- why can't they be used for this project? Why install new ones?

Response

The Park Avenue Mall is an asset of NYCDOT. As described in the DSD and FSD, 13 potential alternatives were evaluated for the proposed EVP. Two of the 13 potential alternatives – Alternative 9 and Alternative 10 – proposed using space below the Park Avenue Malls for the plant. As described under the heading “Alternative 9” in Section 3.3.1, “The EVP and its plenum would be ‘sandwiched’ between the NYCDOT Park Avenue traffic tunnel ramp and NYCT Lexington Avenue subway tunnels, which present severe space constraints and would not be feasible to construct; therefore, Alternative 9 was eliminated from further consideration from an engineering perspective.

As described under the heading “Alternative 10” in Section 3.3.1, “Construction of this alternative would require structural support (underpinning) of the NYCDOT roadway tunnel/storm sewer and affect the adjacent subway tunnels, adding to the complexity and risk. Part of the fan chamber would be below the subway tunnels’ base of rails, a condition that is undesirable because of the risk of flooding the EVP. Intermittent closure of the NYCDOT roadway tunnel during construction would greatly impede traffic flow...
on Park Avenue. Eight buildings (residential, commercial, and institutional/community) could potentially be within the influence zone of the excavation and thus would require support-of-excavation.”

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project, that is underway, to improve structural, electrical, mechanical and fire protection elements; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration.... Due to the infeasibility related to structural/civil/mechanical criteria...”

These alternatives were less effective than other alternatives in terms of engineering, economic or environmental considerations, or a combination thereof.

**Comment 258, Letters: Ms. Brophy**

New York is fast becoming a city of soaring steel and glass structures where foreign nationals are able to buy apartments costing tens of millions of dollars – apartments that serve as bank accounts and not homes.

**Response**

Comment noted.

**Comment 259, Letters: Ms. Brophy**

Murray Hill is an historic neighborhood where New York citizens raise their children, live and work, and retire in their old age. We patronize our local shops and know our neighbors. People live here. We are proud of our city- home to the United Nations, a magnet for tourists, a world financial capital, but please do not forget that it is also a city where people need to live. Do not make this area unlivable.

**Response**

The design, construction, operation and maintenance of the proposed EVP will be consistent with all applicable laws and regulations.

**Comment 260, Letters: Mr. Sullivan**

This letter appears identical to the letter responded to in Comment 184 through Comment 189. Please see the responses for Comments 184 through 189.

**Comment 261, Letters: Ms. Morrison**

I am a resident at 55 Park Avenue and I must tell you that I find the project being considered for our community to be personally devastating and a real tragedy for the lovely community to which I became a member just four years ago.
Response
Comment noted.

Comment 262, Letters: Ms. Morrison

It is quite disheartening that this has been in a (non-public) planning phase since 1994, preventing any of us from making sound decisions about the neighborhood we've chosen to call home.

Response

The program was initiated with a study initiated by MTA, at MTAs choice, in 1994. Over the various 5-year Capital Plans since then, various EVPs have been constructed by MTA NYCT and are in operation. The proposed project is identified in the current 2015-2019 Capital Plan and is, thus, under active planning.

Comment 263, Letters: Ms. Morrison

I felt it would be okay to manage the inconvenience, noise, pollution, etc. from the project across the street at 37th Street as it wasn't supposed to last much longer. Here we are, four years since I purchased my home and I am awoken by jackhammers at 7am each morning this week. How much should this intersection of our community have to live with?

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Also, please see Section 5.0 of the DSD and FSD concerning the methods to be used by MTA NYCT to analyze the environmental, engineering and economic effects of the construction, operation and maintenance of the proposed EVP Candidate Alternatives.

Comment 264, Letters: Ms. Morrison

It was just a couple of years ago that I was diagnosed with an autoimmune disease that requires rest and impacts my lungs and breathing. As you may know, autoimmune issues are exacerbated by stress. The noise, pollution, and stress are unimaginable. The value of my home is surely going to be impacted. I'm just trying to maintain my job while managing this illness. If I were to suffer a financial loss on my home if I need to move for my health given this project, I don't know that I can afford to stay in New York.

Response

The nature and extent of the environmental, engineering and economic effects of the construction and operational of the proposed EVP Candidate Alternatives will, as stated in the DSD and FSD, be analyzed in the DEIS. Methodologies for assessing different environmental domains (e.g., noise and vibration, air quality, etc.) are presented in Chapter 5 of the DSD and FSD.
Comment 265, Letters: Ms. Morrison

It is troubling that the communication period is just happening and at a time when our elected representatives are adjourning for the holiday, yet the MTA has been contemplating this matter for 22 years.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- **May 18, 2016:** MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- **June 6, 2016:** MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.
Comment 266, Letters: Ms. Morrison

Have you taken into consideration the residential and historic nature of the block and how such construction will surely cause irreparable damage to our lovely buildings?

Response

Criteria used to evaluate the engineering, economic and environmental effects/impacts of the 13 Potential Alternatives are documented in detail in Appendix A of the DSD and FSD. Specifically, for reference, see the following tables that summarize the applied criteria and identify the results of the comparative analysis among the Potential Alternatives:

- Appendix A: pg. 93: Table C-1: Comparative Engineering Analysis
- Appendix A: pg. 157: Table D-1: Comparative Environmental Analysis
- Appendix A: pg. 160: Table E-1: Comparative Economic Analysis

Also, see the Table (identified below) that integrates the engineering/economic/environmental analyses and led to the selection of Alternatives 11 and 12 as Candidate Alternatives:

- Appendix A: pg. 161: Table F-1: Integrated Comparative Analysis Matrix

The regulatory and other requirements and issues related to the construction and operation of the Candidate Alternatives are discussed in Chapter 5 of the DSD and FSD; these will be documented in the DEIS once the scoping is completed. The DEIS will be available to the public for comment, including at a Public Hearing on the DEIS.

Comment 267, Letters: Ms. Morrison

Please reconsider the location to a non-residential block and one that has not already endured the impact of the project across the street.

Response

The DSD and FSD provides documentation of the nature and extent of the array of Potential Sites that were identified and evaluated from the integrated engineering/economic/environmental standpoints by MTA NYCT. Alternatives 11 and 12 were identified as those that, in aggregate, provide the potential to minimize engineering/economic/environmental impacts and were chosen as Candidate Alternatives. Further comparative analyses will be conducted by MTA NYCT during the DEIS preparation so as to select a Preferred Alternative. Mitigation plans, as appropriate, for the Preferred Alternative will also be identified in the DEIS. In all cases, all applicable regulations will be met by the proposed EVP during construction, operation and maintenance.

The Alternatives Analysis/Feasibility Evaluation appended (Appendix A) to the DSD and FSD presents the decision analysis process (integrating engineering, economic and environmental criteria) that led to the selection of Alternatives 11 and 12 as Candidate Alternatives from among 13 Potential Alternatives. Potential Alternatives 7 and 8 were located along East 39th Street and Alternative 9 was located along Park Avenue between East 39th and East 40th Streets. As demonstrated in the Alternatives Analysis/Feasibility Evaluation, Alternatives 7, 8 and 9 did not exhibit the potential to minimize integrated engineering/economic/environmental effects to the extent that other alternatives did. (Please also see response to Comment 54 and Comment 94.)
Comment 268, Letters: Mr. Meissner

This letter appears identical to the letter responded to in Comment 184 through Comment 189. Please see the responses to Comments 184 through 189.

Comment 269, Letters: Mr. Brickman

The MTA has proposed a ventilation project for the Lexington Avenue IRT line along Park Avenue, from 36th Street to 39th Street. The consequences to our community would be devastating: noise, pollution, and unacceptable congestion of both vehicular and pedestrian traffic in an historic residential neighborhood that has already had to endure eight years of the MTA’s East Side Access Project at Park Avenue and 37th Street.

Response

The DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise (Section 5.11), air quality (Section 5.10) and traffic (Section 5.3). All analyses will be conducted in accordance with applicable regulatory requirements.

As stated in Section 5.11 regarding noise and vibration, issues of concern with respect to the construction and operation of the proposed EVP include:

- during construction, noise from diverted traffic and construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and
- during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system.

The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual. Contractors would be required to adhere to the New York City Construction Noise Code.

Section 5.10 of the DSD and FSD states that “Mobile and stationary emissions will be examined in the context of the proposed construction and operation of the Candidate Alternative EVPs. For the Proposed Project, the key issues related to air quality include:

- vehicular emissions from construction-related street traffic diversions (mobile)
- emissions from construction equipment and activities (mobile and stationary)
- emissions from the future operation of the proposed EVP (stationary - during testing and emergencies only)

Pollutants of concern include carbon monoxide (CO), particulate matter (PM2.5 and PM10), nitrogen dioxide (NO2), and greenhouse gases. Air quality analyses will be carried out in accordance with the most recent revisions of the CEQR Technical Manual and other relevant guidance and protocols provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA).
As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. Maintenance and Protection of Traffic plans would be developed, submitted to NYCDOT for approval, and implemented to ensure an acceptable level of service.

**Comment 270, Letters: Mr. Brickman**

The plan calls for only one lane of traffic—along the curb in front of our building! We would therefore essentially be ‘marooned’, because we wouldn’t have curb access for emergency vehicles, like an ambulance or fire truck, or deliveries or cab hailing. I am in my 80s, and would feel very vulnerable if I couldn’t count on curb access.

**Response**

As stated in the FSD, the proposed EVP construction would require the closure of one northbound lane of Park Avenue during any one stage of construction, with two moving travel lanes remaining as currently exists. While the lanes would be narrowed slightly similar to the East Side Access construction site on southbound Park Avenue between 37th and 36th Streets, moving traffic would not likely divert or shift to adjacent avenues at all. As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. Maintenance and Protection of Traffic plans would be developed and submitted to NYCDOT for approval, and implemented to ensure an acceptable level of service for traffic, and an acceptable level of service for pedestrians on the sidewalks and crosswalks.

**Comment 271, Letters: Mr. Brickman**

(a) While this proposal was planned, and then shelved years ago, we only learned about it at a June 16th Scoping Meeting convened by Community Board 6. We were told we had a mere two weeks to provide public comment, with a deadline of July 1st! That is not enough time to consider the actual environmental stress this area would suffer. (b) We need an extension of 90 days for an appropriate period of comment.

**Response**

(a) As stated in Section 1.1 of the Draft Scoping Document (DSD) and Final Scoping Document (FSD), the genesis of the Emergency Ventilation Plant (EVP) program is the result of a 1994 study commissioned by MTA, at MTAs choice. The 1994 study is a comprehensive ventilation survey that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the National Fire Protection Association (NFPA) 130 Standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.
(b) The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:
“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

Comment 272, Letters: Mr. Brickman

This is a discretionary project, and, as such, could be changed, if the wellbeing of the residents in the nearby area would be adversely affected over an extended period of time—i.e. five years ... There are many sites that could benefit from an upgrade--252 of them, I think ... not just the nine blocks of subway running under our building.

Response

As stated in Section 1.1 of the Draft Scoping Document (DSD) and Final Scoping Document (FSD), the genesis of the Emergency Ventilation Plant (EVP) program is the result of a 1994 study commissioned by MTA, at MTAs choice. The 1994 study is a comprehensive ventilation survey that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the National Fire Protection Association (NFPA) 130 Standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Comment 273, Letters: Mr. Brickman

Also, since we already have a brand new enormous East Side Access Emergency Ventilation Plant right across the street, common sense tells me creative engineers could modify it to help out in an emergency in the subway. Have you considered this?

Response

The design basis, construction, operation, and control features of the ESA, and those of the EVP proposed for the Lexington Avenue Subway line are different. A ventilation system designed for use in the ESA tunnel cannot be used for the Lexington Avenue subway tunnel. There is no connection in design, construction and/or operation and maintenance between the proposed project and the ESA project, or to
any other system. MTA NYCT requires full control of any system it designs, constructs and/or operates to assure system availability, security and functionality.

Comment 274, Letters: Mr. Brickman

What about the traffic tunnel underground. Since that's half way to the subway, with its ventilation and fans already in place, have you considered using that site for emergency ventilation? I have been in the construction industry all my life, and I know that projects can always be modified creatively in order to reduce environmental concerns.

Response

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project, that is underway, to improve structural, electrical, mechanical and fire protection elements; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration…. Due to the infeasibility related to structural/civil/mechanical criteria...”

These alternatives were less effective than other alternatives in terms of engineering considerations, economic considerations or environmental considerations, or a combination of the three.

Comment 275, Letters: Mr. Brickman

First of all, we need more time to evaluate the above ground consequences of your plan. Please extend the deadline of July 1st to a more reasonable timeframe. Everyone wants to win here, so it behooves you to cooperate with those of us who live here day in and day out, to find a successful solution to a troubling future plan.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the
the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.
Comment 276, Letters: Mr. Roman

Based on the expected work plan and duration, is it safe to continue using my windows during the construction? Or would it be recommended that they remained sealed during the duration of the construction? I understand that dirt and dust are inevitable as part of the process during the day, but has the environmental study determined that it would be safe to open the windows after work has ceased for the day?

Response

The design, construction and operation of the proposed EVP will meet all appropriate laws and regulations applicable in New York City. Construction would be performed in a manner consistent with maintaining ambient air quality standards. MTA NYCT will require the contractor to develop and implement a Construction Environmental Protection Plan (CEPP) (see Section 5.19 of the DSD and FSD), which documents those MTA NYCT commitments that would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction and would consist of measures that would be proactively implemented to avoid or minimize potential adverse effects of the proposed project on the environment. These mitigation measures would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects. The mitigation measures would be integrated into the construction of the proposed project in accordance with MTA NYCT’s construction contract specification, and local and state regulations. MTA NYCT contractors must comply with the New York City Construction Noise Code and the New York State Environmental Conservation Law (ECL), which prohibits heavy duty vehicles, including diesel trucks and buses, from idling for more than five minutes at a time.

MTA NYCT would also specify that its contractors comply with NYCDEP-promulgated best management practices to control the emission of dust from construction related activities. Section 24-146(c) of the New York City Administrative Code states, in summary, that no person shall cause or permit a building or road to be constructed without taking such cautions as may be ordered by the commissioner to prevent particulate matter from becoming airborne.

Comment 277, Letters: Mr. Roman

In conjunction with question 1, what would be the projected hours of operation for the project? Would it be from 9 to 5 from Monday to Friday with no work on Weekends? Would all equipment be shut down after official working hours? If work begins prior to or continues on after official hours, is there a person or 24 hour hotline that we could contact to address the violation?

Response

Work hours will be consistent with the limitations established by applicable laws and regulations (e.g., those of NYCDOT, NYCDEP, etc.). Those limitations will be identified in the Contract Specifications prepared by MTA NYCT for the proposed project. The limitations will be enforced by the MTA NYCT Construction Manager directly and through subordinates at the construction site.
Comment 278, Letters: Mr. Roman

There apparently is a similar project that was undertaken on the opposite corner of the street (South East corner of 37th and Park). Is there any data available on the Air Quality in and around that area of construction from when it started to date? If so, would it be possible to obtain those statistics?

Response

The East Side Access project is performed by MTA Capital Construction. Information on all aspects of the East Side Access Project, including air quality data at the site, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 279, Letters: Mr. Roman

For the purposes of personal monitoring, I was planning to purchase a meter to track the Air Quality within my apartment, taking measurements daily for the duration of the project. Will a similar mechanism be set up during the construction project to ensure air quality is maintained at safe levels? And if so, will these statistics be readily accessible to residents?

Response

MTA NYCT will include a construction contract requirement that the Contractor will prepare a Construction Environmental Protection Plan (CEPP) (see DSD and FSD, Section 5.19), for acceptance by MTA NYCT, before any construction is initiated. That plan will require that all mitigation commitments made and mitigation measures developed by MTA NYCT in the MTA Board-approved Final Environmental Impact Statement (FEIS) be addressed. Upon MTA NYCT acceptance, an associated checklist will also be prepared to be used by the Contractor and MTA NYCT to routinely monitor conformance. The process and schedule for monitoring will be established by MTA NYCT. Results of the monitoring will be documented, conveyed to the Contractor and reconciled so that project activities related to the environment meet FEIS-stated requirements.

The CEPP effort would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while also reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented and would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects.

MTA NYCT staff will be responsible to assure that all usual and customary site monitoring will be performed and documented. Concerning noise and vibration, instrument monitoring is usual and customary. For air quality, monitoring is customarily performed, for these size projects, by:

- Assuring all emission sources (e.g., diesel engines) are approved for use in NYC;
- Observation by the MTA NYCT construction staff regularly located on-site;
- By MTA NYCT environmental engineers and scientists responsible to assure the work conforms with applicable environmental regulations and permit requirements.
Comment 280, Letters: Mr. Roman

Additionally, if readings within my apartment suggest that air quality has reached or is approaching a level for concern, is there an individual or an office that I can contact directly to address the matter.

Response

The contact person for the proposed project will be the MTA NYCT Construction Manager. That person will be a NY State-licensed Professional Engineer, with relevant education and experience. The Construction Manager will be identified on postings at the project site and contact information will be posted.

During the course of construction startup and thereafter, MTA NYCT will inform the public through its Office of Government and Community Relations, Mr. Marcus Book, 646 252 2675 or email: Marcus.Book@nyct.com.

Comment 281, Letters: Mr. Roman

The plan points to "necessary mechanical ventilation to improve life safety during a fire/smoke condition to the tunnel section of the Lexington Avenue Subway Line between the two subway stations. I assume that the need was determined based on analysis of data.

Response

The need is not identified based on historical data. The need is based on engineering, risk, codes, and standards. For example, a public office building is built following the code requirements to install sprinklers based on the occupation hazard, even though there is no fire history, nor is a fire anticipated. However, the code requires that sprinklers are installed, because should an event happen in the future, protection must be available very quickly.

Comment 282, Letters: Mr. Roman

How many confirmed (i.e. true vs. false alarm) fire/smoke conditions have taken place in this tunnel section between the two lines in the past 10 years.

Response

These data are publicly available information. If you have questions or require other information, please contact Marcus Book, Assistant Director for Government and Community Relations. Mr. Book can be reached at 646-252-2675. Historical fire conditions are not germane to the purpose and need for the proposed EVP. Design requirements are based on National Fire Protection Guidelines. We follow methods as described in NFPA 130, which is utilized as a code requirement for the design. This standard is available from NFPA.org.

Comment 283, Letters: Mr. Roman

Have these instances all occurred in the middle area, as opposed to immediately around either station stop?
Response

The need for the EVP is based on the analysis of data and information relevant to engineering, construction, risk, codes, and standards. The data acquisition and analysis was performed by licensed professionals with relevant education and experience in life safety requirements. Historical fire data are not used to determine the need for an EVP. However, the operational data cited by the commenter, if determined to be public information, can be sought through a formal request directed to the office of the MTA NYCT Government and Community Relations, Attn: Marcus Book. Mr. Book can be reached at 646-252-2675 or marcus.book@nyct.com.

Comment 284, Letters: Mr. Roman

What were the fire/smoke conditions attributable to? (Issues with the train engine, Issues with other mechanisms of the train, Issues with the track, Garbage on the track) Are there statistics? If so could I request for them?

Response

The need for the EVP is based on the analysis of data and information relevant to engineering, construction, risk, codes, and standards. The data acquisition and analysis was performed by licensed professionals with relevant education and experience in life safety requirements. Historical fire data are not used to determine the need for an EVP. However, the operational data cited by the commenter, if determined to be public information, can be sought through a formal request directed to the office of the MTA NYCT Government and Community Relations, Attn: Marcus Book. Mr. Book can be reached at 646-252-2675 or marcus.book@nyct.com.

Comment 285, Letters: Mr. Roman

The Project Plan is to provide added safety in response to fire/smoke conditions, but were there any studies undertaken relating to expenditures for preventing fire/smoke conditions- such as increased track clean-up, more frequent train examinations and replacement of parts (or trains altogether). If so, could I request for the results of those studies?

Response

The need for the EVP is based on the analysis of data and information relevant to engineering, construction, risk, codes, and standards. The data acquisition and analysis was performed by licensed professionals with relevant education and experience in life safety requirements. Historical fire data are not used to determine the need for an EVP. However, the operational data cited by the commenter, if determined to be public information, can be sought through a formal request directed to the office of the MTA NYCT Government and Community Relations, Attn: Marcus Book. Mr. Book can be reached at 646-252-2675 or marcus.book@nyct.com.

Comment 286, Letters: Mr. Roman

Did the study determine the impact of fire/smoke conditions on the pedestrians and residents surrounding the area where the fire and smoke would be released or ventilated out? (in this regard, I may be misunderstanding the mechanics of the process, so I apologize if so).
Response

Fire smoke conditions, once discharged to ambient through the ventilation gratings, will disperse to the sky because the buoyancy forces of the smoke drives the smoke upwards. As smoke leaves the tunnel, smoke concentrations will be diluted, thus reducing the smoke concentration levels as smoke moves away from the discharge grating. This phenomenon can very easily be observed on any of the many media web publicized fires around the world. Pedestrians will not walk into the smoke as soon as the see the smoke; rather, without any notification, they will run away from the smoke. Our designs are organized such that people will have space to clear the smoke and run to safety without encountering any other danger.

Comment 287, Letters: Mr. Roman

I understand that Alternatives 11 and 12 were identified as having the greatest potential to minimize engineering, costs, and environmental effects among the Potential Alternatives. The summary grid [Table C-1] shows 8 alternatives with impact totals of 4 at various distributions of major impact (-) and moderate impact (o). The only reason 11 and 12 appear to come across as the most viable is because the Institutional/Community impact was given a Moderate Rating (o) - otherwise, it would shift from 2 major+ 2 moderate, to 3 major+ 1 moderate making it no less viable than alternatives 4 or 10. The construction is taking place directly in front of residential buildings (as opposed to construction that would occur adjacent to commercial real estate above 39th and below 34th. As such, I would ask that reconsideration be given in scoring the Institutional/Community impact as major rather than moderate.

Response

The commenter suggests that if the ranking applied to Alternatives 11 and 12 were adjusted, the outcome would change and different alternatives would appear more viable. However, the judgments reflected in Tables C-1: Comparative Engineering Analysis, Table D-1: Comparative Environmental Evaluation, and Table E-1: Comparative Economic Analysis are made by licensed engineers, architects, scientists, planners and consultants with education, experience and expertise in their respective fields. The rankings are based on current conditions and available information. It is the opinion of these professionals and MTA NYCT that, in the absence of new information, the ranking provided in Tables C-1, D-1, and E-1 are accurate.

Comment 288, Letters: Mr. Toneatto

Even though the ventilation plant is to be below ground, the ULC would like the MTA to clarify whether a new entrance for workers and material will be constructed or if the existing entrance on the eastern Park Avenue sidewalk is to be used (between East 36th and East 37th Streets directly adjacent to the ULC). We strongly object to using the existing access for the Emergency Ventilation Plant project.

Response

As explained in the DSD and the FSD, excavation on a portion of the street bed would provide access to the EVP cavity, which would be located on the east side of Park Avenue, not adjacent to the ULC. A complete description of the construction process will be included in the DEIS. The proposed EVP project is not associated with any other construction projects in the vicinity of the proposed Candidate Alternative sites.
Comment 289, Letters: Mr. Toneatto

If the Alternative #3 (on East 37th Street west of Park Avenue) is chosen, then traffic would be terrible. As a through street between the Queens Mid-Town Tunnel to the east and the Lincoln Tunnel to the west a traffic study is needed before choosing that Alternative.

Response

As described in the DSD and FSD, Alternatives 11 and 12, located on the east side of Park Avenue, were advanced as Candidate Alternatives for evaluation in the DEIS. As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction.

Comment 290, Letters: Mr. Toneatto

The Draft Scoping Document states ‘Prepare EIS if potential significant adverse impacts’. In the case of the Union League Club, you need to remove the ‘if’ and ‘potential’ and substitute ‘for’ because we definitely suffer from significant adverse impact from the East Side Access Project. The Union League Club is effected financially in a significantly negative way and our quality of life is also adversely affected. The east side of the Club on 37th Street used to have trees, an awning and flagpoles and was aesthetically pleasing but now it is an eyesore and looks terrible due to the MTA East Side Access construction.

Response

MTA NYCT will prepare a DEIS to assess potential impacts related to the construction, operation and maintenance of the EVP, and to assess the degree of their significance. The DSD and FSD identify the nature and extent of analyses to be conducted in the DEIS concerning, for example, noise (Section 5.11), air quality (Section 5.10), traffic (Section 5.3) and safety (Section 5.16). All analyses will address applicable regulatory requirements. The DEIS will disclose any significant adverse impact identified and will provide measures to mitigate any significant adverse impact.

Comment 291, Letters: Mr. Toneatto

In 2007 the initial MTA timeframe for the completion of East Side Access project was 8 months. Project work began in 2008 and it is still not finished 8 years later. The MTA is notorious for not living up to their estimated work timeframe and we are very concerned that this will also be the case for the Emergency Ventilation Plant project.

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Comment 292, Letters: Mr. Toneatto

The Union League Club is a landmarked building and has borne the brunt of the East Side Access Project in a harmful way.

The MTA is not living up to their current agreement with us concerning outtake venting from the East Side Access tunnels which was to be done very rarely with advance notification.
The MTA is not living up to their current agreement with us to maintain the East Side Access worksite improvements and landscaping.

The Union League Club has endured physical damage, noise, blight, traffic, odor, and a FDNY standpipe inspection issue that causes a serious problem.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 293, Letters: Mr. Toneatto

It is outrageous that the MTA is even considering another project near the current East Side Access Project when they haven’t even finished the existing one.

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts and, in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 294, Letters: Mr. Toneatto

The MTA should prepare thorough and comprehensive environmental impact studies that take into consideration (a) the duration of the project and not the MTA’s estimated project time, and (b) the adverse impact venting will have after the project is completed.

Response

(a) MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

(b) As stated in the DSD and FSD, Section 5.10, “The EVP would only be operated during periodic testing and emergencies. As a result, a qualitative assessment of the potential effects of the Candidate Alternative ventilation exhaust on nearby receptors will be provided.”

Comment 295, Letters: Mr. Toneatto

The Union League Club is considering and reserves the right to pursue legal options to challenge the MTA’s environmental documents as well as the current and future adverse impact on the Club.

Response

Comment noted.
Comment 296, Letters: Mr. Toneatto

The Union League Club objects to Alternative #10 (from East 37th & East 38th between the northbound and southbound lanes of Park Avenue), Alternative #12 (northbound lane of Park Avenue from East 36th to East 38th) and Alternative #13 (northbound lane of Park Avenue from East 36th to East 37th). These Alternatives are extremely close to the Club and will result in a significant adverse impact on the Club. It is disturbing and reprehensible for the MTA to even consider an additional project so close to the Club after we have had to endure the East Side Access Project for eight long years.

Response

Comment noted.

Comment 297, Letters: Mr. Lion

This letter is identical to the letter responded to in Comment 184 through Comment 189. Please see the response to Comments 184 through 189.
ONLINE

Comment 298, On-Line: Sheran

What is the proposed time frame (start date and completion date) for this project?

Response

As described in the third paragraph of Section 2.0 of the FSD, “Construction of the EVP is expected to begin in 2019, and the EVP is expected to be operational in 2023. The construction period would take approximately 4.5 years to complete, though above-ground disruptions (e.g., lane closures) are expected to be limited to less than 2 years.

Comment 299, On-Line: Sheran

We already have 3 projects ongoing on Park Avenue in the proposed area, how will this project fit in with them:

a. The East Side Access Project with an access site at 37th and Park Avenue (West side of street)
b. The Pershing Square reconstruction project
c. The Park Avenue Tunnel reconstruction project

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “…the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project…”

Comment 300, On-Line: Sheran

Will this project have an impact on the Park Avenue Malls, and if so, what is the expected impact and will there be remediation? The malls currently have some old growth flowering trees that are beloved to the neighborhood, and this is the only green space in Murray Hill.

Response

There will be no direct effect on the Park Avenue Malls due to construction of the proposed project.

Comment 301, On-Line: Sheran

The ventilation ducts originally set up for the East Side Access project on 37th Street at Park Avenue by the Union Club emitted bad smells. They had to close up those ducts. Will the proposed ventilation ducts emit smells?

Response

Similar to all sidewalk and other MTA NYCT subway ventilation systems, tunnel air would be exhausted to outside air.
Comment 302, On-Line: Sheran

After the construction of the emergency ventilation, what would happen if there were an emergency? Would harmful chemicals and gases be emitted onto the sidewalks and street through those ducts? Those blocks are heavily used by pedestrians during working hours.

Response

The EVP will be activated whenever the train operator detects a situation that he/she believes is an emergency. All appropriate authorities and emergency responders will be informed, including security. Response plans for terrorist incidents are developed and maintained by MTA Security and are confidential. As stated in Section 5.16 of the DSD and FSD, the EIS will identify, to the extent allowed by MTA NYCT policy, safety and security aspects related to the design, construction, and operation of the proposed EVP. Similar to all sidewalk and other MTA NYCT subway ventilation systems, tunnel air would be exhausted to outside air.

Comment 303, On-Line: Sheran

Have you considered connecting to existing ventilation systems along the Park Avenue Mall median, the East Side Access ventilation system, or the Park Avenue tunnel? And if so, would this involve less work and be less disruptive for the community?

Response

The design basis, construction, operation, and control features of the EVP proposed for the Lexington Avenue Subway line are unique to the tunnel segments it intends to ventilate. The ventilation system for the Long Island Railroad East Side Access project is designed for purposes specific and unique to the needs of the LIRR tunnel segment it will serve. A ventilation system designed for use in the ESA tunnel cannot be used for the Lexington Avenue subway tunnel. There is no connection in design, construction and/or operation and maintenance between the proposed project and the ESA project, or to any other system. MTA NYCT requires full control of any system it designs, constructs and/or operates to assure that system availability, security and functionality.

Comment 304, On-Line: Sheran

Will the trees along Park Avenue sidewalks be affected, including mature trees? If yes, what is the plan for remediation?

Response

Approximately seven (7) trees would need to be removed and replaced. Prior to construction start, any trees that may be affected would be inspected by representatives of the NYC Department of Parks and Recreation. Their requirements for mitigation measures (e.g., replacement), would be subject to a formal agreement which would be included in the construction contract. MTA NYCT will assure the agreement is implemented.

Comment 305, On-Line: Sheran

Utmost care must be made to avoid excessive vibrations and actions that might damage the landmarked buildings along Park Avenue and in the neighborhood.
Response

It is usual and customary that vibrations are monitored during MTA NYCT construction to best assure that unacceptable levels are avoided. Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern include stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.

NYCDOB has developed a set of policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

Comment 306, On-Line: Ms. Lebeaux

I'm a concerned member who wants to know if I can find out what happened at last night's CB6 meeting regarding the "emergency ventilation" proposed dig on Park Avenue, which I credit you with letting me know about. I was working & couldn't attend.

Response

On June 16, 2016, a formal public meeting on the Draft Scoping Document was conducted at Beth Israel's Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the DEIS analyses was given. Comments from the public were solicited and accepted at the meeting. All public comments, including the spoken and written comments submitted at the public meeting, and comments submitted via U.S. Postal Service, on-line and via email, are responded to herein and will appear in the Final Scoping Document. A DEIS will be issued in early March, 2017. A Public Hearing is currently planned to be held in late March, and the public comment period is planned to be closed in late April. Thereafter, the FEIS is currently planned to be issued in late May and the Findings Statement issued in June 2017.
Comment 307, On-Line: Ms. Lebeaux

I've lived on 35th St. just off Park Avenue for 24 years and work here in NYC, and this situation will most likely make me leave the city after 39 years here. Look what the subway dig on 2nd Avenue has done to those residents' quality of life----another MTA project way over time and budget and forever incomplete. And how long has the 37th St. Park Avenue construction been going on with the big vent, complete with its own permanent shed? More MTA madness.

Response

Information on all aspects of the Second Avenue Subway and the East Side Access Projects, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 308, On-Line: Ms. Lebeaux

And what of the already-impossibly loud and jammed daily traffic heading on 36th toward the midtown tunnel? Re-routed? More honking? And where will northbound cars on Park be re-routed to? My block, 35th, already full of honking traffic coming from the midtown tunnel?

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “Stipulations” that would be defined by NYCDOT before any construction starts. Also, once a contract award is made, the contractor will be required to prepare and submit to NYCDOT a Maintenance and Protection of Traffic (MPT) plan. Upon NYCDOT approval, the MPT will be implemented by the Contractor. The MTA NYCT Construction Manager will be responsible to assure that the MPT is implemented.

Comment 309, On-Line: Ms. Lebeaux

And would this go overnight? All the noise and dust? And what would happen to the lovely flowerbeds in the medians that MHNA painstakingly maintains? And to the historic buildings that could develop cracks from drilling?

Response

Construction work periods would be established by MTA NYCT in its construction contract. Those periods would be consistent with NYCDOT and NYCDEP regulations. Construction noise would be limited so as not to exceed NYCDEP regulatory requirements. Air quality during construction will be evaluated in the DEIS and managed by the Contractor, subject to oversight by the MTA NYCT Construction Manager.
No aspect of the Park Avenue median or tunnel will be affected by the planned EVP construction.

Vibration levels would be maintained below levels established by NYCDOB and MTA for “landmarked” structures and facilities. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

**Comment 310, On-Line: Ms. Lebeaux**

Last week you helped me when our building and others were being driven crazy by a loud 24-hour hum coming from the grating at the 35th St. Park Ave. median. Surprise surprise...the culprit was, as you told me, the MTA!

**Response**

Noise issues related to the median should be directed to NYCDOT, which owns, operates and maintains the tunnel. MTA NYCT does not have operations currently underway in or near the NYCDOT “taxi tunnel”.

**Comment 311, On-Line: Ms. Lebeaux**

Idea: possible solution: Tell the MTA to simply use the existing 32nd St.-to-40th St. traffic tunnel for ventilation. They could even close the tunnel and JUST use it for what they need.

**Response**

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project underway to improve structural, electrical, mechanical, and fire protection elements; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration.... Due to the infeasibility related to structural/civil/mechanical criteria...”

**Comment 312, On-Line: Ms. Lebeaux**

Tell me truthfully, is this a done deal, with the hearing a mere formality, or does the public hold any sway? Can any lawsuits be filed? I don't believe there's a true need for this construction...and their track-record for life-disruption and budget and overtime is so poor! Just on the basis of that hum last week that went all night and could be heard blocks away, for which they had to be called by several sources to fix, the MTA doesn't care about residents.

**Response**

Although MTA NYCT enjoys the privilege of the “exemption’ from SEQRA provided in NYS Consolidated Law, Title II, Section 1266-C (ii), MTA NYCT purposely chose to undertake the SEQRA process to inform and engage the public on this project. Issuance of the Draft Scoping Document and the related Public
Meeting held on June 16, 2016, initiated the Scoping Process which is the precursor to the Draft and FEIS efforts. Although, SEQRA does not require scoping, it allows scoping as an option. NYCT took the option to engage the public as early as reasonable. This Final Scoping Document was issued on February 8, 2017 and the DEIS is planned to be issued in early March. A Public Hearing is currently planned to be held in late March, and the public comment period is planned to be closed in late April. Thereafter, the FEIS is currently planned to be issued in late May and the Findings Statement issued in June 2017. The public may comment at discrete times (public comment periods) during the SEQRA process.

Concerning lawsuits, MTA NYCT is a public Authority, subject to all the laws applicable to any such entity.

In October 2015, MTA proposed its MTA Capital Program 2015-2019 to the MTA Board; the proposed program included this statement: “...line equipment investments including...two fan plants on the Lexington and 6th Avenue lines; one new to protect an area that currently has no plants, and one to replace an existing undersized unit.” In Section 1.1 of the DSD and FSD, reference to this MTA commitment is made.

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study initiated by MTA NYCT at MTA NYCT’s choice. In various Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD. Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need and the expected construction costs.

The construction project and contract will be managed by an MTA NYCT Construction Manager, who is a New York State-licensed Professional Engineer.

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Construction scheduling in Manhattan is complex, especially if an action reveals unanticipated conditions or circumstances. As a result, the construction contract will provide for an assessment of liquidated damages should the Contractor delay construction progress and also an assessment of impact cost should the MTA NYCT delay construction progress.

NYCDOT owns, operates and maintains the “taxi tunnel” and should be contacted regarding related issues; the tunnel is not an MTA asset.

Comment 313, On-Line: Mr. Ousley

Murray Hill already has some of the worst traffic in the city. Please don’t make us even more miserable.

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include: the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel; the potential impact of traffic diversions on congested intersections; and plans to maintain traffic flow and local access during construction.
Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment, are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “Stipulations” that would be defined by NYCDOT before any construction starts. The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will identify measures to mitigate the impacts. These measures would include Maintenance and Protection of Traffic (MPT) plans, which would be prepared by the MTA NYTCT Contractor and submitted to the NYCDOT for approval. Once NYCDOT approval is received, the Contractor will implement the MPT plans; the MTA NYCT Construction Manager will assure the MPT’s implementation.

Comment 314, On-Line: Ms. Givey

Is there any compelling reason why this ventilation project can’t be placed on the northbound side of Park Avenue between 39th and 41st Streets, where there are no residential buildings?

Response

The Alternatives Analysis/Feasibility Evaluation appended to the DSD and FSD presents the decision analysis process (integrating engineering, economic and environmental criteria) that led to the selection of Alternatives 11 and 12 as Candidate Alternatives from among 13 Potential Alternatives. Potential Alternatives 7 and 8 were located along East 39th Street and Alternative 9 was located along Park Avenue between East 39th and East 40th Streets. As demonstrated in the Alternatives Analysis/Feasibility Evaluation, Alternatives 7, 8 and 9 did not exhibit the potential to minimize integrated engineering/economic/environmental effects to the extent of the other alternatives.

Comment 315, On-Line: Mr. Cohen

This project is a disaster for the neighborhood and we will seek every possible avenue to make sure that it does not come to pass. The MTA has an abominable record for estimating the completion time of their projects. We need only look at the 37th Street Access project as a model, already four years behind schedule. This area of Park Avenue daily sustains the continuing 37th Street Access Project - with no clear end in sight - the exhaust fans from the Park Avenue underpass, the constant flow of traffic from both the FDR and the Midtown Tunnel, and the constant rumbling of the Lexington Avenue trains below ground. We, as a neighborhood, are hostile to this project and will fight it.

Response

Comment noted. MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Construction work periods would be established by MTA NYCT in its construction contract. Those periods would be consistent with NYCDOT and NYCDOT regulations. Traffic management related to the EVP construction will be consistent with a Management and Protection of Traffic (MPT) plan which would be: prepared by the Contractor; reviewed for approval by the NYCDOT; implemented by the Contractor and
subject to oversight by the MTA NYCT Construction Manager. Construction noise would be limited so as not to exceed NYCDEP regulatory requirements. Air quality during construction will be evaluated in the DEIS and managed by the Contractor, subject to oversight by the MTA NYCT Construction Manager.

No aspect of the Park Avenue median or tunnel, which are owned by NYCDOT, will be affected by the planned EVP construction.

Construction and operational vibration levels would be maintained below levels established by NYCDOB and MTA for “landmarked” structures and facilities.

Comment 316, On-Line: Ms. Sheran

There are currently several construction projects in the neighborhood that are taking out lanes of traffic, with very adverse effects on traffic congestion. In addition to NYC DDC projects on 34th Street (34th Street Transitway) and the Pershing Square Reconstruction, there are the MTA East Side Access Project on Park Avenue at 37th Street and the QMT plaza and tunnel restoration. In addition, there are other construction projects that I think are utility related. Currently on 35th street between Park Avenue and 3rd Avenue, with one lane taken out between Park and Lexington. I see similar work on Park Avenue and sometimes Lexington Avenue from time to time. Please also take the Con Ed and other utility projects into consideration when assessing the traffic impact.

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”

Comment 317, On-Line: Ms. Hill

The ventilation project is a complicated one requiring much study before implementation. The residents of the affected neighborhood have been blindsided with very little notice of the project (in fact most people who live in the 30s on Park Avenue still haven't heard about it) and given an unreasonable deadline of July 1st to lodge educated comments. I vote for the NO-BUILD option until a study of the proposed project's impact on traffic, air quality, and damage to landmarked buildings in the Murray Hill Historic District can be carried out.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint
Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44-day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

As stated in Section 5.10 of the DSD and FSD, air quality analyses will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”.

As stated in Section 5.3 of the DSD and FSD, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. The DEIS will also evaluate the effects of the Proposed EVP on historic structures (see Section 5.9 of the DSD and FSD) and the effects on the neighborhood in general (see Section 5.8 of the DSD and FSD).

Concerning the potential for damage to landmarked and other buildings, as explained in the DSD and FSD in Section 5.9: Discussion/Evaluation for Historic and Cultural Resources, the effects of the proposed project on historical and cultural resources due to project construction and operation will be evaluated in the DEIS using accepted methodology. Also, the DEIS will evaluate the environmental effects of the proposed EVP and the potential effects to the environment and to health (e.g., noise, vibration and air quality) due to the proposed project.

Concerning potential vibration impacts, Section 5.11: Discussion/Evaluation of Noise and Vibration, states that the effects of the proposed project on structures due to vibration will be evaluated. If significant adverse impacts are identified, the DEIS will provide mitigation measures (see Section 5.19 of the DSD and FSD), including measures to reduce vibration to levels below that which would cause damage to structures.

Concerning the No Build alternative, SEQRA requirements at 6 NYCRR, Preparation and Content of Environmental Impact Statements, state:

6NYCRR 617.9 (b)(5)(v) – “a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative.”
MTA NYCT has stated in the last full paragraph of Section 1.1 of the DSD and FSD that: “...two Candidate Alternatives remain under consideration.... And will be evaluated further along with the No-Action Alternative during the ...(EIS) process.” Additionally, Chapter 5 of the DSD and FSD also cites MTA NYCT’s intent to address, as examples:

- Section 5.0, 2nd Paragraph: comparison to be made “... between the effects/Impacts for each of the technical areas....of the Proposed Project.... without the proposed EVP (No-Build Alternative).”
- Section 5, 3rd Paragraph, 3rd bullet – The DEIS will contain....a description of the No-Build condition.”

Comment 318, On-Line: Ms. Walsh

We in Murray Hill and on Park Avenue have been living with your mess on 37th street for nearly 5 years. Now you want to destroy our neighborhood further. Why not select another neighborhood to destroy.

Response

Comment noted. Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Comment 319, On-Line: Ms. Winkler

Your proposed ventilation plant on Park Avenue will be a hardship for the residents living there. Besides noise of construction and obstruction of traffic, which is already at nightmare proportion, particularly on 39th Street, we have had to live with the east side access construction for years. Don't you think you could come up with [an] alternative?

Response

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern include stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.
As stated in Section 5.3, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. Maintenance and Protection of Traffic (MPT) plans would be developed, submitted to NYCDOT for approval, and implemented to ensure an acceptable level of service during project construction. MTA NYCT will be responsible to assure Contractor conformance with the MPT plans.

Appendix A of the DSD and FSD presents the decision-analysis process used by MTA NYCT in identifying and evaluating Potential and Candidate sites for the proposed EVP. From among 13 Potential Alternatives, two have been selected for further analysis in the DEIS; criteria reflected engineering, economic and environmental considerations.

Concerning the East Side Access project, information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 320 a, On-Line: Mr. Podwal

At the meeting, MTA speakers said they had to build something because the project was listed in the capital program. Further, because other projects were underway in other boroughs, they selected the Lexington Avenue line ventilation project to give Manhattan a project. I strongly object to their statements in the two preceding sentences because first of all no project should be constructed if the no-build alternative ranks higher than any build alternative.

Response

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT at NYCT’s choice. In previous Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provides funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Concerning the No Build alternative, SEQRA requirements at 6 NYCRR, Preparation and Content of Environmental Impact Statements, states:

6NYCRR 617.9 (b)(5)(v) – “a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative.”

MTA NYCT has stated in the last full paragraph of Section 1.1 of the DSD and FSD that: “....two Candidate Alternatives remain under consideration.... And will be evaluated further along with the No-Action Alternative during the ...(EIS) process.” Additionally, Chapter 5 of the DSD and FSD also cites MTA NYCT’s intent to address, as examples:

- Section 5.0, and Paragraph: comparison to be made “... between the effects/Impacts for each of the technical areas....of the Proposed Project.... without the proposed EVP (No-Build Alternative).”Section 5, 3rd Paragraph, 3rd bullet – The DEIS will contain....a description of the No-Build condition.”
Comment 320 b, On-Line: Mr. Podwal

Second, a political decision to spread projects around has no basis in the SEQRA process. Given the MTA individuals (including its consultants) who served as evaluators to date on this project are so biased that they do not evaluate a no-build alternative and bend to political will in their evaluations, I submit they must be removed from this process and all their findings to date discarded.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 320 c, On-Line: Mr. Podwal

A new team of individuals should be assigned the task to start the process over anew. Further, this new team should look at other alternatives that have not been considered before completing the draft scoping document and ending the comment period. Following are some additional alternatives to consider:

One new alternative would utilize the existing car traffic tunnel in the Park Avenue median to vent the subway in emergencies. That traffic tunnel used to carry two-way traffic but it was deemed OK to eliminate usage by the southbound traffic. I request a study be made to see if usage by the northbound traffic could be eliminated and the empty tunnel used to vent the subway tunnel. A sub-option would leave car traffic in the tunnel except during a subway emergency. A gate would rise during such an emergency so there is no car traffic in that tunnel before the ventilation system activates. Both that alternative and its sub-option will be more economical and quicker to construct with fewer adverse environmental impacts than the current build alternatives.
A second alternative would modify the East Side Access tunnel ventilation system at 37th St and Park Avenue so it could also serve as the emergency ventilation plant for the Lexington Avenue subway. That alternative will be more economical and quicker to construct with fewer adverse environmental impacts than the current build alternatives.

Response

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project underway to improve structural, electrical, mechanical, and fire protection elements; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration... Due to the infeasibility related to structural/civil/mechanical criteria...”

Concerning the use of the East Side Access (ESA) Tunnel, please note that the design basis, construction, operation, and control features of the ESA, and those of the EVP proposed for the Lexington Avenue Subway line are different. The ventilation system for the Long Island Railroad East Side Access project is designed for purposes specific and unique to the needs of the LIRR tunnel segment it will serve. A ventilation system designed for use in the ESA tunnel cannot be used for the Lexington Avenue subway tunnel. There is no connection in design, construction and/or operation and maintenance between the proposed Lexington Avenue EVP project and the ESA project, or to any other system. MTA NYCT requires full control of any system it designs, constructs and/or operates to assure the availability, security and functionality of the system at all times.

Comment 321 a, On-Line: Mr. James

As there was a very limited time available for individuals to comment on the draft scoping document, I request a 90-day extension in the period to make comments.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the
proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

**Comment 321 b, On-Line: Mr. James**

The EA and draft Scoping document make no mention of the 38th Street and Park Avenue Ventilation Facility for the East Side Access Project as constructed by Michels Corporation in the CM005 – Manhattan South Structures contract. As the new Lexington Avenue Subway Line Ventilation Plant in scope will be in close proximity to this existing plant, has the ability to expand and combine the East Side Access facility (in addition to the requisite connections to the Lexington Subway Tunnels for ventilation and fire line safety emergency ingress/egress as they do not exist in the East Side Access plant) been fully explored. If the use of the 38th Street and Park Avenue Ventilation Facility from the East Side Access Project is precluded by engineering/construction in-feasibility, has the impact of the unlikely event of a smoke condition in the East Side Access tunnels on the new Lexington Avenue Ventilation Plant been studied.

**Response**

Section 5.18 of the DSD and FSD (“Discussion/Evaluation of Coordinated Cumulative Effects”) recognizes that “...the construction elements of the Long Island Railroad East Side Access project...” will be considered in the cumulative impacts of construction analysis in the DEIS and FEIS, along with ‘... other construction projects that may occur concurrently with the Proposed Project.’

The design basis, construction, operation, and control features of the ESA, and those of the EVP proposed for the Lexington Avenue Subway line are different. The ventilation system for the Long Island Railroad East Side Access project is designed for purposes specific and unique to the needs of the LIRR tunnel segment it will serve. A ventilation system designed for use in the ESA tunnel cannot be used for the Lexington Avenue subway tunnel. There is no connection in design, construction and/or operation and maintenance between the proposed Lexington Avenue EVP project and the ESA project, or to any other system. MTA NYCT requires full control of any system it designs, constructs and/or operates to assure the availability, security and functionality of the system at all times. As such, it has no intention to attempt to interface its EVP with other ventilation systems.

MTA NYCT does not foresee that the operation of the ESA or other nearby infrastructure (e.g. Taxi Tunnel) could have a direct effect on the proposed EVP, given the completely independent features of the EVP structure in an underground location.
Comment 322 a, On-Line: Ms. D’Arcy

There is already terrible congestion in this area due to the Midtown Tunnel and through traffic on Park Avenue. Already have constant honking, noise, and fumes. Our quality of life will be severely affected if this project is put in place.

Response

As discussed in Chapter 5 of the DSD and FSD, construction of the proposed EVP could affect noise, air quality and traffic in the study area, and MTA NYCT will prepare a DEIS to assess these effects. As described in Section 5.3 of the DSD and FSD, the DEIS will evaluate traffic conditions during construction of the proposed EVP. Section 5.10 describes the evaluation of the construction and operational effects of the proposed EVP to air quality, and Section 5.11 of the DSD and FSD describe the evaluation of noise and vibration that will be included in the DEIS. The assessment of traffic, noise and air quality will identify any significant adverse impacts due to construction and operation of the proposed EVP. If significant adverse impacts are identified, the EIS will identify measures to mitigate these impacts.

Comment 322 b, On-Line: Ms. D’Arcy

Park Avenue provides a main route for emergency vehicles. Blocking off lanes of traffic will cause delays and threaten lives. It will also jeopardize the ability of the fire department and emergency personnel from reaching the buildings along the south side of Park Ave.

Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate the effects due to construction of the proposed project to traffic and transportation, including the effects to the circulation of police, fire and emergency vehicles. If significant adverse impacts are identified, the DEIS will provide measures to mitigate these impacts.

Also, once a construction contract award is made, the Contractor will be required to prepare, and submit to NYCDOT for approval, a Maintenance and Protection of Traffic (MPT) plan. Upon NYCDOT approval, the MPT will be implemented by the Contractor and the MTA NYCT Construction Manager will be responsible to assure the MPT is implemented.

There would be no permanent change to the street network and no re-routing of vehicles during EVP operation.

Comment 322 c, On-Line: Ms. D’Arcy

We already suffer from terrible pollution from traffic and the ongoing access project on the west side of Park and 37th St.

Response

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “...the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project...”
Comment 322 d, On-Line: Ms. D’Arcy

Confirmation bias in project scoping report/presentation. The data has been examined by those involved in the project creating confirmation bias. Means the data suits what the MTA wants to do and not what is necessarily correct or valid. Data is found to “justify” the project because those examining the data have a vested interest in the outcome. Any environmental/quality of life impact examination must be done by a third party mutually chosen by the MTA and residents most affected by this proposed project. And the project must comply with all environmental laws both city and state!

Response

Comment noted.

Comment 322 e, On-Line: Ms. D’Arcy

This project is clearly a "lose it or use it" project. Just because the MTA has a budget for something does not mean it should happen.

Response

As stated in Section 1.1 of the Draft Scoping Document (DSD) and Final Scoping Document (FSD), the genesis of the Emergency Ventilation Plant (EVP) program is the result of a 1994 study, commissioned by MTA NYCT, at MTA NYCT’s choice. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the National Fire Protection Association (NFPA) 130 Standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Comment 322 f, On-Line: Ms. D’Arcy

There must be an examination of what will happen if this project isn’t done. That was not included in this initial scoping report as one of the alternative choices. Proves confirmation bias by the MTA.

Response

Concerning the No Build alternative, SEQRA requirements at 6 NYCRR, Preparation and Content of Environmental Impact Statements, states:

6NYCRR 617.9 (b)(5)(v) – “a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative.”
MTA NYCT has stated in the last full paragraph of Section 1.1 of the DSD and FSD that: “...two Candidate Alternatives remain under consideration... And will be evaluated further along with the No-Action Alternative during the ...(EIS) process.” Additionally, Chapter 5 of the DSD and FSD also cites MTA NYCT’s intent to address, as examples:

- Section 5.0, and Paragraph: comparison to be made “... between the effects/Impacts for each of the technical areas....of the Proposed Project.... without the proposed EVP (No-Build Alternative).”
- Section 5, 3rd Paragraph, 3rd bullet – The DEIS will contain....a description of the No-Build condition.”

Comment 322 g, On-Line: Ms. D’Arcy

I have no confidence this project would be completed in the proposed timeframe. Examples of failed project timelines: East Side Access on Park and 37th St, was supposed to last 8 months and it’s been 8 years and Second Ave Subway.

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 322 h, On-Line: Ms. D’Arcy

Murray Hill is an historical district. Buildings on Park Avenue between 37th and 39th St, are 100 years old. Constant drilling will undermine the stability of these buildings threatening a residential neighborhood. Other neighborhoods mentioned at the first scoping meeting that have these ventilation areas are non-residential, i.e. 6th Ave and 30th St and 53rd St and Lexington. This type of project should not occur in a residential area!

Response

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern include: stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.

NYCDOB has developed a set of policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold
of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

The project study area is defined in Section 1.1 of the DSD and FSD. The alternatives that were identified and evaluated are discussed in Section 3.0 of the DSD and FSD; Sections 3.3.1 through 3.3.3 present the comparative engineering, environmental and economic analyses performed for the thirteen Potential Alternatives. The results of the analyses given in Section 3.3.4 resulted in the selection of Candidate Alternatives 11 and 12. Section 3.3.2 discusses land use conditions throughout the study area.

Comment 322 i, On-Line: Ms. D’Arcy

No information was given about ongoing operations and maintenance of the proposed project and how it will affect this residential neighborhood.

Response

As stated in Chapter 5 of the DSD and FSD, the EVP would undergo monthly testing and routine maintenance. Operation for the proposed EVP, and for other EVPs throughout the MTA NYCT system, includes maintenance activities, which involve such tasks as balancing, lubrication, testing, and noise silencing checks.

Comment 322 j, On-Line: Ms. D’Arcy

No notice was given of the first public hearing. I request at least a 90 day extension of this comment period to September 2016 and that any public meetings be held in our neighborhood (not downtown where none of us live). This was an obvious attempt to prevent the historic Murray Hill district from protecting this treasured area in the heart of Manhattan.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
• June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

• June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”

Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the
SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

As is customary when reporting information to public stakeholders and the community at large, MTA NYCT Government and Community Relations has historically utilized the affected Community Boards and local elected officials. In concurrence with this policy, Government and Community Relations reached out to Manhattan Community Board 6 (the proposed Ventilation Plant is in CB6) and requested their assistance and suggestions for an appropriate space to hold the Public Scoping Meeting for the Project. Community Board 6 suggested Podell Hall, which has been used for other public meeting associated with CB6.

The Public Hearing on the DEIS will be held at MTA headquarters at 2 Broadway, NY, NY.

**Comment 323, On-Line: Ms. Barr**

Our neighborhood has been severely compromised due to MTA projects. The extra noise and traffic will be twice as horrendous as it already is. The engineer indicated at the recent [public] meeting that the project isn't "required." Please reconsider going ahead with the work.

**Response**

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.
As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Comment 324 a, On-Line: Mr. David Alessio

Please let me know if additional options have been explored the residents along Park between 37th and 38th have already suffered through one MTA project disaster. The streets remain blocked and traffic is a constant problem, has using the existing vent project been explored? The Park Avenue Viaduct been explored? Or the commercial areas closer to 40th and 39th? If not can you please tell me what those cost were and why are they not considered?

Response

Regarding the use of the East Side Access ventilation facility, the proposed EVP will not be connected to any other system. MTA NYCT requires full control of any system it designs, constructs and/or operates to assure that system availability, security and functionality.

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project underway to improve structural, electrical, mechanical, and fire protection elements; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration.... Due to the infeasibility related to structural/civil/mechanical criteria...”

The Alternatives Analysis/Feasibility Evaluation appended to the DSD and FSD presents the decision analysis process (integrating engineering, economic and environmental criteria) that led to the selection of Alternatives 11 and 12 as candidates from among 13 possible alternatives. Potential Alternatives 7 and 8 were located along East 39th Street and Alternative 9 was located along Park Avenue between East 39th and East 40th Streets. As demonstrated in the Alternatives Analysis/Feasibility Evaluation, Alternatives 7, 8 and 9 did not minimize the potential for adverse impact of integrated engineering, economic and environmental analysis effects to the extent that other alternatives did, and thus, were not given further consideration.
Comment 324 b, On-Line: Mr. David Alessio

Has a traffic study been completed as well? Given the high rate of accidents on Park Ave south what will happen if this project proceeds? How will the sidewalks and cross walks be impacted and potential pedestrian traffic be impacted?

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment, are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “Stipulations” and Maintenance and Protection of Traffic Plans that would be approved by NYCDOT before any construction starts.

Comment 324 c, On-Line: Mr. David Alessio

Given the historic value of the neighborhood have all the appropriate steps been taken to preserve our facade?

Response

Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern include stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.

NYCDOB has developed a set of policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these
thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

**Comment 325 a, On-Line: Mr. Vinay Alessio**

I do not believe this is a necessary project.

**Response**

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

**Comment 325 b, On-Line: Mr. Vinay Alessio**

There are existing vents, are these being used? There are commercial areas in Park that would have lesser quality of life issues than in front of residential buildings.

**Response**

Regarding the use of the East Side Access ventilation facility and the NYCDOT “taxi tunnel” ventilation facilities, the proposed emergency ventilation plant will not be connected to any other system. MTA NYCT requires full and independent control of any system it designs, constructs and/or operates to assure its availability, security and functionality.

The Alternatives Analysis/Feasibility Evaluation appended to the DSD and FSD presents the decision analysis process (integrating engineering, economic and environmental criteria) that led to the selection of Alternatives 11 and 12 as candidates from among 13 possible alternatives. Potential Alternatives 7 and 8 were located along East 39th Street and Alternative 9 was located along Park Avenue between East 39th and East 40th Streets. As demonstrated in the Alternatives Analysis/Feasibility Evaluation, Alternatives 7,
8 and 9 did not minimize the potential for adverse impact of integrated engineering, economic and environmental effects to the extent that other alternatives did, and thus, were not given further consideration.

Comment 325 c, On-Line: Mr. Vinay Alessio

There is already a high incident of accidents on Park and 37th street, have studies been done on the additional closure effects? Safety is always an issue, what studies have been done to insure our safety. Will traffic and air studies be done? I ask that you kindly look into the effects on the people that live in this neighborhood.

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

As discussed in Section 5.16 of the DSD and FSD, the DEIS will identify, to the extent allowed by MTA NYCT policy, safety and security aspects related to the design, construction, and operation of the proposed EVP.

Concerning air quality studies, Section 5.10 of the DSD and FSD indicate that mobile and stationary emissions will be examined in the context of the proposed construction and operation of the Candidate Alternative EVPs. For the Proposed Project, the key issues related to air quality include:

- vehicular emissions from construction-related street traffic diversions (mobile)
- emissions from construction equipment and activities (mobile and stationary)
- emissions from the future operation of the proposed EVP (stationary - during testing and emergencies only)

Pollutants of concern include carbon monoxide (CO), particulate matter (PM2.5 and PM10), nitrogen dioxide (NO2), and greenhouse gases. Air quality analyses will be carried out in accordance with the most recent revisions of the CEQR Technical Manual and other relevant guidance and protocols provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA).

Mobile Source Analysis. For each Candidate Alternative, a screening level analysis based on procedures found in the CEQR Technical Manual and NYCDEP PM2.5 incremental impact guidance material will be conducted to identify those air quality intersections that will be studied in detail. For the selected worst-case intersections, micro scale mobile source analysis using CEQR Technical Manual procedures will be conducted to estimate potential impacts.

Stationary Source Analysis. During the construction of the proposed EVP, in addition to mobile source emissions from vehicle diversions, on-site construction equipment and activities could also contribute to increases in pollutant concentrations. As a result, a detailed construction emission analysis will be conducted for the worst case construction activity year. The analysis will consider types of equipment and activities, as well as their duration and location relative to nearby sensitive receptors.
Comment 326 a, On-Line: Mr. Powers

Having lived at 55 Park Avenue (between 37th and 38th) for the past 18 years, I have experienced the long and loud project that is still going on (years longer than projected) on Park Avenue between 36th and 37th street. This project has caused an incredible amount of noise and disruption to our community and it is still not finished.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

In the assessment of the effects of the proposed EVP, the DEIS will consider other projects in the area that are scheduled to occur at the same time as the EVP project. As stated in Section 5.18 of the DSD and FSD, “…the consideration of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project…”

Comment 326 b, On-Line: Mr. Powers

Moreover, as this new project is a discretionary upgrade, with no mandate or requirement, I strongly urge you to either change the location (preferably to a non-residential location north of 39th Street) or abandon it altogether.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.
The Alternatives Analysis/Feasibility Evaluation appended to the DSD and FSD presents the decision analysis process (integrating engineering, economic and environmental criteria) that led to the selection of Alternatives 11 and 12 as Candidate Alternatives from among 13 Potential Alternatives. Potential Alternatives 7 and 8 were located along East 39th Street and Alternative 9 was located along Park Avenue between East 39th and East 40th Streets. As demonstrated in the Alternatives Analysis/Feasibility Evaluation, Alternatives 7, 8 and 9 did not exhibit the potential to minimize integrated engineering/economic/environmental effects to the extent that other alternatives did, and thus, were not given further consideration.

Comment 326 c, On-Line: Mr. Powers

Our neighborhood has had enough of this to last a lifetime and we strongly oppose this project, which will not only further disrupt our community but make it very hard for any of us to sell our homes, should we desire to do so.

Response

As discussed in Section 5.4 of the DSD and FSD, the project construction period is estimated to be 4.5 years. Further, given that the majority of project elements are within public rights-of-way, the proposed EVP would be designed to avoid and minimize disruptions to private property. However, should the need for residential or business displacements become evident during the design development of the project, any impacts will be documented in the DEIS and FEIS.

Comment 327 a, On-Line: Ms. Lebeaux

I've lived in the block just off Park Ave. for 25 yrs and have been distressed at how long the noisy, dusty 37th St. Park Ave. Vent project has been taking. How much overbudget and overtime is it so far? What should make us longtime residents think a new project—now you want to start another years-long dusty noisy project across the street??—won't have the same thing happen?

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

As discussed in Section 5.19 of the DSD and FSD, the mitigation chapter of the DEIS and FEIS “...will provide a concise summary of the mitigation commitments and Construction Environmental Protection Plan (CEPP) measures developed for the various technical analyses in the EIS.”

“Where significant adverse impacts are identified, measures that will mitigate these impacts, either partially or fully, will be identified. Mitigation measures will be designed to minimize or avoid to the fullest extent practicable, given costs and other factors, any significant adverse impact. Where the impacts cannot be mitigated, they will be described as unavoidable adverse impacts in the EIS.”

The CEPP will be prepared by the construction contractor upon contract award for acceptance by MTA NYCT. Upon acceptance, the MTA NYCT Construction Manager (a licensed NYS Professional Engineer) will assure that the CEPP is implemented; the MTA NYCT Construction Manager will be supported in this effort by a MTA NYCT Principal Environmental Engineer (a licensed NYS Professional Engineer).
Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 327 b, On-Line: Ms. Lebeaux

And you'll already be closing the traffic tunnel under it for repairs, which has its own repercussions. You are destroying the neighborhood. Why not link the already-built vents and tunnel, closer to 41st St. where people don't live, rather than down by overburdened 36-37th St.? Move it north, if indeed you need to do it at all.

Response

NYCDOT is the owner and operator of the “taxi tunnel”. Please contact NYCDOT for information regarding the NYCDOT Traffic Tunnel below Park Avenue.

As discussed in Section 5.8 of the DSD and FSD, the DEIS will evaluate potential effects and impacts to community character, urban design and visual resources. All potential significant adverse effects and impacts will be identified and assessed. Mitigation measures will be developed and implemented where impacts are identified.

The Alternatives Analysis/Feasibility Evaluation appended to the DSD and FSD presents the decision analysis process (integrating engineering, economic and environmental criteria) that led to the selection of Alternatives 11 and 12 as candidates from among 13 possible alternatives. Potential Alternatives 7 and 8 were located along East 39th Street and Alternative 9 was located along Park Avenue between East 39th and East 40th Streets. As demonstrated in the Alternatives Analysis/Feasibility Evaluation, Alternatives 7, 8 and 9 did not achieve the potential to minimize integrated engineering, environmental, and economic effects to the extent that other alternatives did, and thus, were not given further consideration.

Comment 328 a, On-Line: Ms. Turi

My concern primarily is with the air ventilated into the city from an incident in the subway tunnel. I understand city and state laws require ventilation high into the air and not through sidewalk grates. Please advise why you aren't venting high and what are the environmental, safety, construction, and operational implications of your decision. Also, to avoid venting into nearby apartments and offices, why you aren't venting via a stack that is higher than any nearby building?

Response

There is no restriction by any code to use street gratings on the sidewalks. These ventilation gratings generally discharge tunnel air, pushed by the train piston action.

The design, and the construction and operation of the proposed EVP will be consistent with all applicable laws and regulations. As stated in Section 5.10 of the DSD and FSD, air quality analyses will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”. Both of these guidance documents, while specific to New York State, are based on a required adherence to the Clean Air Act Amendment 1990 (CAAA90). In addition, all states are required to submit a State Implementation Plan (SIP) that delineates control strategies to achieve compliance with the
National Ambient Air Quality Standards (NAAQS), which also represents a mandate from the CAA. Other relevant guidance and protocols are provided by the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection (NYCDEP), and U.S. Environmental Protection Agency (USEPA).

As a result, while the proposed action may not be directly subject to a federal environmental review, both state and local air quality assessment and enforcement requirements are closely based on the federal CAA.

**Comment 328 b, On-Line: Ms. Turi**

Please assess the various wind conditions and how they impact the ventilation results and the safety of nearby residents, workers, and tourists. Please advise the constituents in any air vented into the air from a fire emergency and from a terrorist's release of a poisonous gas into the subway tunnels and how any such emergency ventilation release impacts the health and safety of nearby drivers, pedestrians, office workers, and apartment residents. Include the impact on children and individuals with respiratory problems.

**Response**

The exhaust from sidewalk grates due to EVP operation will be diluted and dispersed into ambient air. When emergencies occur, emergency responders are immediately notified and will take control of the conditions at the site.

**Comment 328 c, On-Line: Ms. Turi**

I understand there are interagency issues between the subway system and the east side access project (refer to past issues at Roosevelt Island). The public should not suffer because two public agencies are in a contest over whose system is more important. I believe the MTA has a responsibility to solve those interagency issues such that the east side access ventilation system at Park Avenue and 37th Street will handle any ventilation issues from an emergency situation in the subway system between GCS and 34th Street. That approach will eliminate the cost and complexity of a redundant second ventilation system.

**Response**

The proposed EVP will not be connected to any other system. MTA NYCT requires full and independent control of any system it designs, constructs and/or operates to assure that system availability, security and functionality.

**Comment 329 a, On-Line: Ms. Morrison**

I am deeply concerned with the MTA plan for "emergency subway ventilation plant" for Murray Hill. It is unclear how something in development since 1994 and not announced until a few weeks ago can be considered an emergency.

**Response**

Section 1.1 of the DSD and FSD explain that the genesis of the EVP program is the result of a 1994 study, commissioned by MTA NYCT, at MTA NYCT’s choice. In various Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of
those is the EVP discussed in the DSD and FSD. Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need and the expected construction costs.

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- **May 18, 2016:** MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- **June 6, 2016:** MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

**Comment 329 b, On-Line: Ms. Morrison**

Every morning this week I have woken to jackhammers from the project across the street. A project that is already exceeding its timeline. The impact on this corner is profound.
Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 329 c, On-Line: Ms. Morrison

Had I been aware of this 1994 plan, it is unlikely I would have purchased an apartment. The notification is inadequate, the necessity is in question.....

Response

Please see the response to Comment 329 a, above.

Comment 329 d, On-Line: Ms. Morrison

....the impact is unacceptable. With an autoimmune issue that requires rest and involves my lungs, this kind of disruption and pollution, coupled with the current project and the terrible congestion that is being created for a block already surrounded by bridge traffic, I implore you the reconsider the location for this work. Our fragile little building cannot sustain this kind of damage, literally and figuratively.

Response

MTA NYCT will prepare a DEIS to assess potential impacts and to assess the degree of their significance. The DSD and FSD identify the nature and extent of analyses to be conducted in the DEIS concerning, for example, noise (Section 5.11), air quality (Section 5.10), and traffic (Section 5.3). All analyses will be conducted in accordance with applicable regulatory requirements. The DEIS will disclose any significant adverse impact identified and will provide measures to mitigate any significant adverse impact.

NYCDOB has developed a set of policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.
Comment 330 a, On-Line: Mr. Thompson

I have lived in Murray Hill for over 20 years and at 55 Park Avenue for the past 10 years... The traffic congestion has become so much worse than when I first moved here and the Lexington Avenue Subway Line emergency ventilation plan will make the traffic unbearable. 37th and 38th Streets are already critical access streets for traffic through the city and between the Lincoln and Midtown tunnels. In my observation cars frequently block the box and limit these streets under normal condition. Any project on the East Side would further contribute to worse congestion.

Response

As explained in the DSD and FSD, in Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project construction. Maintenance and Protection of Traffic plans would be developed, submitted to NYCDOT for approval, and once approved, implemented to ensure an acceptable level of service.

Comment 330 b, On-Line: Mr. Thompson

The fallout and environmental impact will be considerable.

Response

MTA NYCT will prepare a DEIS to assess potential impacts and to assess the degree of their significance. The DSD and FSD identify the nature and extent of analyses to be conducted in the DEIS concerning, for example, noise (Section 5.11), air quality (Section 5.10), and traffic (Section 5.3). All analyses will be conducted in accordance with applicable regulatory requirements. The DEIS will present data and analysis, and will disclose any significant adverse impact identified and provide measures to mitigate any significant adverse impact if at all possible. Maintenance and Protection of Traffic plans would be developed, submitted to NYCDOT for approval, and once approved, implemented by MTA NYCT and its contractor to ensure an acceptable level of service for pedestrian and vehicular traffic.

Comment 331, On-Line: Mr. Roman

The comments received from Mr. Roman on-line are identical to those received from the U.S. Postal Service. For response to these comments, please see Comments 276 to 287.

Comment 332 a, On-Line: Ms. Farone

Please extend the comment period for the lengthy and invasive construction project you are planning for the Murray Hill Historic District. It is very unfair that we were given less than one month to comment, and only two weeks to review the proposal.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the
MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel's Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”
Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

**Comment 332 b, On-Line: Ms. Farone**

We are very concerned about the impact that this work will have on the quality of life, traffic and nature of this community and we are unsure that it is necessary. We will be writing several other government officials pertaining to this project.

**Response**

MTA NYCT will prepare a DEIS to assess potential impacts and to assess the degree of their significance. The DSD and FSD identify the nature and extent of analyses to be conducted in the DEIS concerning, for example, community character, urban design and visual resources (Section 5.8), noise and vibration (Section 5.11), air quality (Section 5.10), and traffic (Section 5.3). All analyses will be conducted in accordance with applicable regulatory requirements. The DEIS will disclose any significant adverse impact identified and will provide measures to mitigate any significant adverse impact.

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study, which was commissioned by MTA NYCT, at MTA NYCT’s choice. In various Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD. Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need and the expected construction costs.

**Comment 333 a, On-Line: Mr. Putnam**

I am requesting a 90 day extension to submit comments for the proposed ventilation/exhaust system for Murray Hill.

**Response**

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- **May 18, 2016:** MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- **June 6, 2016:** MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
· June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

**Comment 333 b, On-Line: Mr. Putnam**

This project [will] create enormous traffic congestion.....

**Response**

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....”

The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts. These measures would include Maintenance and Protection of Traffic plans, which would be submitted to and approved by the New York City Department of Transportation. Implementation of these plans would mitigate traffic impacts.
Comment 333 c, On-Line: Mr. Putnam

...and I fear it will turn into an extended project that goes on for many years.

Response

As stated in Section 2.0 of the FSD, construction of the proposed project is expected to take approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC. The construction project and contract will be managed by an MTA NYCT Construction Manager who is a New York State-licensed Professional Engineer and experienced in managing similar projects.

Comment 334 a, On-Line: Mr. Leon

I write to request that the deadline for comments be extended on the project to install ventilation for the subway tunnel between 33d St and Grand Central Terminal, to the usual 90 days.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
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- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction
experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

**Comment 334 b, On-Line: Mr. Leon**

The need for this project, at this time, has not been properly explained.....

**Response**

In October 2015, MTA proposed its MTA Capital Program 2015-2019 to the MTA Board; the proposed program included this statement: “...line equipment investments including...two fan plants on the Lexington and 6th Avenue lines; one new to protect an area that currently has no plants, and one to replace an existing undersized unit.”

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study commissioned by MTA NYCT, at MTA NYCT’s choice. In various Capital Programs, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD. Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need and the expected construction costs.

**Comment 334 c, On-Line: Mr. Leon**

...the proposed design choices have not been presented with any criteria...

**Response**

The design criteria are the same for all alternatives presented in the DSD and FSD: As stated in Section 2.0 of the DSD and FSD, MTA NYCT is proposing the “...EVP would contain multiple fans having a nominal capacity of 500,000 cubic feet per minute (cfm) in order to achieve the necessary air velocity in the tunnel to control the movement of smoke and provide tenable evacuation routes in the tunnel segment.”

**Comment 334 d, On-Line: Mr. Leon**

...and the period given for comment has been a scarce two weeks.

**Response**

Please see response to Comment 334 a, above.

**Comment 334 e, On-Line: Mr. Leon**

The tunnel in question has existed for more than 110 years without the ventilation your department now seeks to install, and it would seem that a short further delay could only have a positive impact on its execution, along with New Yorkers’ comfort with a transparent and well-conveyed decision. Currently, and despite the recent presentation at the Community Board, many, among which I include myself, feel
ill-informed and fear a decision is being rushed to unknown ends. I beg you consider pausing this project until a more complete discussion can take place in the public sphere.

Response

A final decision regarding the proposed project will be made by the MTA Board after the conclusion of the SEQRA process. MTA NYCT strongly encourages continued public participation in the next stages of the SEQRA EIS process: public review of the Final Scoping Document; public comment on the DEIS during the related comment period and during the Public Hearing on the DEIS; and public review of the FEIS. The Public Hearing on the DEIS will be held at the MTA offices at 2 Broadway. The Public Hearing will be announced: via the ENB; in newspapers; and on the MTA website.

Comment 335, On-Line: Ms. Kozlakowski

The MTA did not disseminate information about the June 16th meeting and therefore the majority of the residents who are affected by the proposed project were not aware of this. Please extend the deadline by 90 days.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- **May 18, 2016:** MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- **June 6, 2016:** MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- **June 16, 2016:** A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration,
cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Comment 336, On-Line: Mr. Nied

I strongly urge that the July 1 deadline for public comment on this project be extended for 90 days in that the members of the affected community have not had enough time to evaluate and question its impact. We have had only a few days’ notice, far too little to begin to understand the environmental, traffic, pollution and other effects that this project will have on our historic neighborhood.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 337, On-Line: Mr. Teco

Please extend the deadline for comments on this project for a minimum of 90 days, ending September 1.
Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the delivery of documents to the various repositories.

Comment 338 a, On-Line: Ms. Carroll

The MTA has proposed a ventilation project for the Lexington Avenue IRT line along Park Avenue, from 36th Street to 39th Street. We learned that this proposal has been in planning stage for years, we learned about this project June 16.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the
proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 338 b, On-Line: Ms. Carroll

One block away an 8-month project (East side access) has been in progress several Scoping Meeting convened by Community Board 6 [sic].

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 338 c, On-Line: Ms. Carroll

We were told we had a mere two weeks to provide public comment, with a deadline of July 1st! We need an extension of 90 days for an appropriate period of comment.

Response

Please see the response to Comment 338 a, above.

Comment 338 d, On-Line: Ms. Carroll

At that meeting the MTA speakers said they had to build something because the project was listed in the capital program. Further, because other projects were underway in other boroughs, they selected the Lexington Avenue line to give Manhattan a project. It appears that the MTA is attempting to rush through a discretionary project as if it were a fait accompli.

Response

In October 2015, MTA proposed its MTA Capital Program 2015-2019 to the MTA Board; the proposed program included this statement: “...line equipment investments including...two fan plants on the Lexington and 6th Avenue lines; one new to protect an area that currently has no plants, and one to replace an existing undersized unit.”

Section 1.1 of the DSD and FSD explains that the genesis of the EVP program is the result of a 1994 study commissioned by MTA NYCT, at MTA NYCT’s choice. In various Capital Programs, various EVPs were
funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD. Please see Chapter 2 of the DSD and FSD for an abbreviated description of the purpose and need for the proposed project. Chapter 1 of the DEIS will provide a detailed description of the purpose and need and the expected construction costs.

Comment 339 a, On-Line: Ms. Cronin

Regarding the Emergency Ventilation Plant/Park Avenue, I would like to request that the MTA reconsider the project, which would seriously compromise traffic in the region as well as the surrounding neighborhood.

Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “stipulations” that would be defined by NYCDOT before any construction starts.

Comment 339 b, On-Line: Ms. Cronin

At the very least, I would suggest that the deadline for comments on this proposal be extended, at a minimum for 90 days, closing on September 1.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This
Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

**Comment 340, On-Line: Ms. Vann Smith**

I have emailed various other officials as well, but the project should be stopped and other alternatives investigated. If all groups join forces, The Union League Club will no doubt offer help as well since they have suffered the most. Please give this immediate attention.

**Response**

Consistent with SEQRA at 6 NYCRR 617.8(f)(5), MTA NYCT believes that “...reasonable alternatives...” have been considered as Potential and Candidate Alternatives. From among them, the DEIS, consistent with 6 NYCRR 617.9 (b)(1), will “...analyze the significant adverse impacts and evaluate all reasonable alternatives.” More specifically, the DEIS will: contain a summary of the results of the scoping process; present a comprehensive analysis of Alternatives 11 and 12, and the no-action alternative; and identify a Preferred Alternative.

**Comment 341, On-Line: Mr. Ginsberg**

The board of 50 Park Avenue are providing comments on the proposed Murray Hill subway ventilation project.

**Response**

Comment noted.

**Comment 342 a, On-Line: Ms. Lewis**

The proposed construction between 37th and 38th Streets will create gridlock.
Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “stipulations” that would be defined by NYCDOT before any construction starts.

Comment 342 b, On-Line: Ms. Lewis

Church at Park & 38th St holds weddings & funerals so many cars park on Park Ave for those events and school buses stop on Park at 37th St.

Response

As discussed in the 4th paragraph of Section 5.4 in the DSD and FSD, the DEIS will evaluate potential effects of the project on community disruption. “The community disruption section will address the overall impact of construction activities on the community by summarizing information from the construction impacts, transportation, and visual impact analyses.”

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the proposed project to traffic and transportation, including the effects to the circulation of

Comment 342 c, On-Line: Ms. Lewis

Many elderly residents live in our bldg. (55 Park) and need to get taxis or ambulances for medical reasons. Please consider the needs of the elderly when formulating your plans.

Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate the effects of the proposed project to traffic and transportation, including the effects to the circulation of
police, fire and emergency vehicles. If significant adverse impacts are identified, the DEIS will provide measures to mitigate these impacts. MTA NYCT, in coordination with NYC Department of Transportation (NYCDOT), will develop a conceptual Maintenance and Protection of Traffic (MPT) plan that will define proposed lane and/or street closures, and maintain circulation of emergency vehicles in the vicinity of the proposed EVP during construction. The MTA NYCT Construction Manager will be responsible to assure that the MPT plan is implemented by the construction Contractor.

The DEIS will identify, to the extent allowed by MTA NYCT policy, safety and security aspects related to the design, construction, and operation of the proposed EVP.

Comment 343, On-Line: Ms. Ball

The comments received from Ms. Ball on-line are identical to those received from the U.S. Postal Service. For response to these comments, please see Comments 77 through 89.

Comment 344 a, On-Line: Mr. Gallagher

We were recently informed of an MTA plan to construct an emergency ventilation plant for the Lexington Avenue subway line. According to the presentation made by the MTA, this is a project that has been listed as fifth in importance among a large number of MTA projects in a report that was issued in 1994. The alternatives presented at the meeting on June 16th seem to be focused on a location on the northbound lane of Park Avenue between 37th and 38th Streets or 38th and 39th Streets. The first would be across from our building at 56-58 Park Avenue; the second alternative would be across the adjacent block. Both alternatives would have an adverse effect on the operation of our building and our Murray Hill neighbors along Park Avenue.

Response

As discussed in the DSD and FSD, MTA NYCT considered 13 alternatives located on East 36th Street through East 39th Street both east and west of Park Avenue, and alternatives under the street bed of Park Avenue between East 36th and East 39th Streets. The Candidate Alternatives identified in the DSD and FSD are located under the street bed of the northbound lanes of Park Avenue between East 36th and East 38th Streets (Alternative 12) and between East 37th and East 39th Streets (Alternative 11).

Chapter 5 discusses the methodologies for preparing the DEIS:

- See Section 5.3: Regarding Transportation – “The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections…”
- See Section 5.3: Regarding Transit and Pedestrians – “Pedestrian conditions will be qualitatively assessed at two locations where the potential exists for significant impacts during construction. Qualitative observations of pedestrian flows will be conducted at other study area sidewalks, and spot counts will be conducted at affected locations that currently exceed capacity and at those that may be adversely affected during the construction period.”
- See Section 5.7: Regarding the methodologies to assess the effects of the proposed project on community facilities and services.
- See Section 5.8: Regarding the methodologies to assess the effects of the proposed project on community character.
See Section 5.9: Regarding the methodologies to assess the effects of the proposed project on historical and cultural resources.

See Section 5.10: Regarding the methodologies to assess the effects of the proposed project on air quality.

See Section 5.11: Regarding the methodologies to assess the effects of the proposed project on noise and vibration.

See Section 5.12: Regarding the methodologies to assess the effects of the proposed project on energy, infrastructure and solid waste.

See Section 5.13: Regarding the methodologies to assess the effects of the proposed project on natural resources.

See Section 5.14: Regarding the methodologies to assess the effects of the proposed project on contaminated and hazardous materials and waste management.

See Section 5.15: Regarding the methodologies to assess the effects of the proposed project on coastal zone consistency.

See Section 5.16: Regarding the methodologies to assess the effects of the proposed project on safety and security.

See Section 5.17: Regarding the methodologies to assess the effects of the proposed project on Environmental Justice.

See Section 5.18: Regarding the methodologies to assess the effects of the proposed project as relates to cumulative effects.

See Section 5.19: Regarding the mitigation commitments and the Construction Environmental Protection Plan measures developed for significant adverse impacts identified in the DEIS.

Comment 344 b, On-Line: Mr. Gallagher

We ask that the MTA extend the deadline to respond to the scope of work document by at least 90 days. This would allow adequate time for a full analysis of the proposal.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

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- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS)
analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

**Comment 344 c, On-Line: Mr. Gallagher**

This would also be the second major construction project in this immediate area in less than ten years. In 2006 we were informed of a proposal plan to build a ventilation plenum and shaft with sidewalk grates from the tail track tunnel connected to the East Side Access Project. At that time we were informed that the project would have little impact and was expected to last eighteen months. The project is still ongoing eight years later. During the construction phase there was a storage shed directly in front of our building as well as an office shed just to the south of our building. These presented obstacles to access for our building and created a safety hazard. Some years into the project, further sheds were set up at 37th Street by Madison Avenue. None of that was mentioned when the project was first proposed.

**Response**

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

**Comment 344 d, On-Line: Mr. Gallagher**

We feel that the MTA has not done enough to analyze the following impact on the buildings surrounding the proposal locations – Traffic: reducing the northbound traffic lanes on Park Avenue to only one lane will seriously congest an already very busy area in midtown Manhattan, compounding existing problems on the very narrow side streets.

**Response**

As described in Chapter 1 of the DSD and FSD, MTA NYCT intends to prepare a DEIS to assess the effects of construction and operation of the proposed EVP. Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction."
“Identification of the Traffic Study Area. The study area will include intersections bounded by 40th Street on the north, Lexington Avenue to the east, 35th Street to the south, and Madison Avenue to the west. Traffic analyses will be conducted for 18 intersections ....”

The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts. These measures would include Maintenance and Protection of Traffic plans, which would be submitted for approval by NYCDOT. Implementation of these plans, by MTA NYCT and its contractor, would mitigate traffic impacts.

Comment 344 e, On-Line: Mr. Gallagher

We feel that the MTA has not done enough to analyze the following impact on the buildings surrounding the proposal locations – Environmental considerations: the impact of yet more construction in such close proximity to the ongoing East Side Access Project will be increased construction dust, trucks and equipment and vibrations to the building in the immediate area.

Response

As described in the DSD and FSD in Section 5.18, the DEIS will assess cumulative impacts of the proposed EVP project. The assessment of cumulative impacts will be focused on construction impacts, and in particular, the incorporation of other construction projects that may occur concurrently with the Proposed Project. For example, construction elements of the Long Island Railroad East Side Access project are currently active in the study area, and construction is underway on the One Vanderbilt skyscraper. An inventory of reasonably foreseeable development projects identified through review of planning documents and coordination with other agencies will form the basis for assessing cumulative effects.

Comment 344 f, On-Line: Mr. Gallagher

We feel that the MTA has not done enough to analyze the following impact on the buildings surrounding the proposal locations – Noise Pollution: the continuing noise from construction, again in such close proximity to the East Side Access Project as well as the various other construction projects in the Murray Hill neighborhood.

Response

As discussed in Section 5.11 of the DSD and FSD, principal issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips, and stationary noise and vibration from on-site construction equipment and activities. During operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. As stated in the DSD and FSD, the DEIS will include noise and vibration assessments, which will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment as well as elements of the CEQR Technical Manual. The DEIS will also evaluate cumulative noise impacts due to the proposed EVP project and other concurrent construction projects.

Comment 345 a, On-Line: Mr. Ginsberg

First, on the broadest level, I object to the construction of this plant. The subway has operated without mishap in the absence of such a plant for decades.
Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program is the result of a 1994 study, commissioned by NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation. The 1994 study was also conducted to prioritize the location that should be addressed first, considering engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 program provided funding for two EVPs; one of those is the EVP discussed in the DSD and FSD.

Comment 345 b, On-Line: Mr. Ginsberg

It is inconceivable how the enormous impact of this multi-year, massive construction project on the day to day functions of this midtown area could survive a cost benefit analysis.

Response

Please see the response to Comment 345 a, above.

Comment 345 c, On-Line: Mr. Ginsberg

Second, I strongly object to the placement of the plant anywhere in the immediate vicinity of East 37th Street between Lexington/Park and Park/Madison Avenues. The traffic problems at the Park Avenue and E.37th Street intersection are exacerbated by (i) repeated (nearly constant) blockage by ConEd in order to access lines and/or systems below street level on E.37th immediately west of Park Avenue...

Response

Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “stipulations” that would be defined by NYCDOT before any construction starts. The DEIS will evaluate conditions expected during construction of the proposed EVP. If significant adverse traffic impacts are identified, the EIS will provide measures to mitigate the impacts. These measures would include Maintenance and Protection of Traffic plans, which would be implemented after submittal to, and approval by, the NYCDOT.

MTA NYCT Construction Management will assure contractor conformance with contract stipulations, including NYCDOT Maintenance and Protection of Traffic plans and all other appropriate regulations.

Comment 345 d, On-Line: Mr. Ginsberg

...and (ii) the massive, still ongoing construction by the MTA of new underground systems related to the connection of Penn Station to Grand Central Station, with the key access and construction headquarters located at the southwest corner of Park Avenue and E.37th Street (the project’s completion date, which has been extended time after time, cannot be considered to have any reliable completion date and could extend for years).
Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 345 e, On-Line: Mr. Ginsberg

Though the MTA/NYC Transit’s May 17, 2016 Letter states that the locations for the plant currently under consideration are limited to just two of those included in the Draft Scoping Document, I nevertheless wish to register my strong objection to Alternative 3 (placing the plant in the street bed of E.37th Street immediately west of Park Avenue). As stated above, that location is highly congested as it is the main artery carrying Midtown Tunnel traffic into Manhattan, and it is endlessly under construction as a result of ConEd’s ongoing needs and the current construction by the MTA related to the connection of the two railroad stations, as discussed above.

Response

Comment noted.

Comment 346 a, On-Line: Mr. Newman

Understand that the MTA is proposing a ventilation project for the IRT Lex Line from 36th -39th Streets in Manhattan that would create significant pollution, noise, traffic.

Response

MTA NYCT is preparing a DEIS to determine to what extent a ventilation system of this capacity could affect the Murray Hill neighborhood. The DEIS will disclose and discuss any significant adverse impacts due to construction and operation of the system across a wide range of environmental disciplines, including potential impacts to traffic and transportation (see Section 5.3), potential impacts to air quality (see Section 5.10) and potential impacts to vibration and the noise environment (see Section 5.11).

Comment 346 b, On-Line: Mr. Newman

We already are dealing with 8 years of impact of East Side access across the street.

Response

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 346 c, On-Line: Mr. Newman

Heard about a hearing with little notice for review of documents. This is unfair. We implore you to extend the public comment period to the normally required 90 day period to explore alternate projects elsewhere in the MTA system (like wheelchair accessibility).

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:
• May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
• June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
• June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 346 d, On-Line: Mr. Newman

Thank you for respecting process and as a public agency providing your constituents the right to due and fair process.

Response

MTA NYCT thanks you and looks forward to the public’s continued participation in the SEQRA EIS process for the proposed EVP project.

Comment 347 a, On-Line: Mr. Katzenstein

How does the MTA plan to mitigate the added noise and air pollution that will result from trucks and cars backing up on East 37th Street during the prolonged construction period? The back-up of traffic on East 37 Street between Lexington and Madison Avenues is already a persistent problem that adds to air pollution.

Response

There will be two moving traffic lanes on northbound Park Avenue during construction of the EVP. As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD, the DEIS will evaluate the effects of the proposed project to traffic and transportation, including traffic-related effects to air quality and noise. If significant adverse impacts are identified, measures to mitigate these impacts will be developed. Mitigation measures (see Section 5.19 of the DSD and FSD) may include restrictions to the time of day, or
the day of the week, when certain construction tasks are conducted. As explained in the DSD and FSD, in
Section 5.3: Discussion/Evaluation of Traffic, a transportation study will be conducted to evaluate the
Candidate Alternatives’ effect on traffic, parking, transit and pedestrian circulation during project
construction. The study plan and results will be presented in the DEIS/FEIS. During project design,
“Stipulations” will be sought by MTA NYCT from NYCDOT to document conceptual plans for traffic
management during construction. Upon construction contract award, the Contractor will prepare a
Maintenance and Protection of Traffic (MPT) plan for NYCDOT review and approval. The approved MPT
plan will be implemented by the Contractor. MTA NYCT will be responsible to assure Contractor
conformance with the NYCDOT-approved MPT plan.

Comment 347 b, On-Line: Mr. Katzenstein

The closure of 2 of 3 lanes along Park Avenue north of 37th Street will exacerbate the congestion and add
to pollution and noise.

Response

In the description of potential lane closures for the alternatives discussed in the DSD, including Candidate
Alternatives 11 and 12, the DSD incorrectly stated that two travel lanes on northbound Park Avenue would
be closed for a portion of the construction period. This was in error. As stated correctly in the FSD, only
one travel lane would be closed for a portion of the construction period: at least two travel lanes will be
maintained open on northbound Park Avenue for the duration of the construction period.

Comment 347 c, On-Line: Mr. Katzenstein

The traffic congestion referred to in #1 above (Comment 347 b) will impair the ability of fire, ambulance
and other emergency vehicles to reach residents and business along the affected stretch of Park Avenue.
How will the MTA mitigate these serious threats to life and safety?

Response

As described in Section 5.3: Discussion/Evaluation of Traffic, of the DSD and FSD, the DEIS will evaluate
the effects of the proposed project to traffic and transportation, including the effects to the circulation of
circle, fire and emergency vehicles. If significant adverse impacts are identified, the DEIS will provide
measures to mitigate these impacts. Also, construction activities will conform to the requirements of
Maintenance and Protection of Traffic (MPT) plans developed by the contractor and approved by NYCDOT,
and managed for conformance by the MTA NYCT Construction Manager (a New York State licensed
Professional Engineer).

Comment 347 d, On-Line: Mr. Katzenstein

Why is it necessary to create environmental problems along the affected streets when there are less
intrusive alternatives, such as having emergency venting along the Park Avenue Mall? or within the
existing vehicular tunnel?

Response

Please see the Alternatives Analysis/Feasibility Evaluation, included as Appendix A to the DSD and FSD,
for descriptions of all alternative EVP locations evaluated for the proposed project, the reasons some
alternatives were found infeasible to construct, and the methodology for selecting the Candidate
Alternatives identified in the DSD and FSD. The Alternatives Analysis/Feasibility Evaluation will be included in the DEIS.

The Park Avenue Mall is an asset of NYCDOT. As described in the DSD and FSD, 13 Potential Alternatives were evaluated for the proposed EVP. Two of the 13 Potential Alternatives – Alternative 9 and Alternative 10 – proposed using space below the Park Avenue Malls for the plant. As described under the heading “Alternative 9” in Section 3.3.1, “The EVP and its plenum would be ‘sandwiched’ between the NYCDOT Park Avenue traffic tunnel ramp and NYCT Lexington Avenue subway tunnels, which present severe space constraints and would not be feasible to construct; therefore, Alternative 9 was eliminated from further consideration from an engineering perspective.

Concerning the potential use of the NYCDOT Taxi Tunnel on Park Avenue, MTA NYCT initially recognized that the tunnel could potentially provide an opportunity. However, MTA NYCT’s approach to site selection analysis is such that the ultimate objective is to minimize the potential for adverse effect/impact of its projects. As such, MTA NYCT recognized: the valuable transportation resource that the tunnel provides; the fact that there is a 3-year rehabilitation project underway to improve structural, electrical, mechanical, and fire protection elements; and that other opportunities exist in the street bed to locate an EVP. Thus, MTA NYCT initially avoided considering the tunnel and evaluated only alternatives located under the side streets and under Park Avenue. As that process continued however, MTA NYCT returned to considering the tunnel and conceived and evaluated Alternative 9. The results of that analysis are given in Paragraph 3.2.9 of the DSD and FSD and Paragraph B 2.9 and C.3.9 of Appendix A of the DSD and FSD. Paragraph C.3.9 identifies that “Alternative 9 is eliminated from further engineering consideration…. Due to the infeasibility related to structural/civil/mechanical criteria…”

Comment 347 e, On-Line: Mr. Katzenstein

How will the MTA protect property owners against damages resulting from the proposed work?

Response

Any damage will be the responsibility of the contractor selected by MTA NYCT for the construction contract.

It is usual and customary that vibrations are monitored during construction to best assure that unacceptable levels are avoided. Section 5.11 of the DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning noise and vibration. The principal issues of concern include stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system. The noise and vibration assessments will be conducted according to the guidance contained in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment (May 2006), as well as elements of the CEQR Technical Manual.

NYCDOB has developed a set of policy and procedures (TPPN # 10/88) in order to avoid potential damage to historical structures resulting from adjacent construction, and for any existing structure designated by the Commissioner. The procedures require a monitoring program to reduce the likelihood of construction damages to adjacent historical structures and to detect at an early stage the beginnings of damage so that construction procedures can be changed. TPPN # 10/88 includes a peak particle velocity (PPV) threshold of 0.5 inches per second for potential vibration damage. Federal Transit Administration (FTA) guidelines
for assessing vibration damage criteria are presented in FTA’s Manual for various structural categories. For the building category that includes reinforced concrete, steel, or timber, the threshold for minor cosmetic damage is a peak particle velocity (PPV) of 0.5 inches per second. This is consistent with procedures promulgated by the New York City Department of Buildings. Contractors would be required to comply with TPPN # 10/88 and with FTA guidelines.

Vibration monitoring during construction will be as specified in MTA NYCT Standard Contract Specifications, which contain provisions to monitor vibration throughout the construction duration. The provisions set vibration thresholds, and the contractor cannot conduct activities that exceed these thresholds. Monitoring data will be maintained by the MTA NYCT Resident Construction Manager. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period.

**Comment 347 f, On-Line: Mr. Katzenstein**

What funds will be available to indemnity property owners against damages?

**Response**

As discussed in Section 5.4 of the DSD and FSD, the proposed EVP would be designed to avoid and minimize disruptions to private property. Any damage caused by MTA NYCT and its contractors will be remedied in-kind during the construction period. Although some temporary easements may be required to construct the proposed project, no private property takings are anticipated. Compensation will be discussed in the DEIS and FEIS.

**Comment 347 g, On-Line: Mr. Katzenstein**

What compensation will the MTA provide for the temporary and permanent taking of private property that the project will entail?

**Response**

There will be no permanent taking of private property for the proposed project.

**Comment 347 h, On-Line: Mr. Katzenstein**

Will the MTA initiate appropriate condemnation proceedings for these takings?

**Response**

There will be no permanent taking of private property for the proposed project.

**Comment 347 i, On-Line: Mr. Katzenstein**

NYPIRG Straphangers Campaign reported on February 11, 2015 that the MTA had $34 Billion in outstanding debt. And that the MTA has not adequately budgeted for its capital projects. All of which is more likely than not to result in increased fares and increased borrowings in the future. How can the MTA justify the expenditure for the ventilation project given the MTA’s poor financial health and the burdens this places on taxpayers and riders?
Response

As stated in Section 1.1 of the DSD and FSD, in October 2015, MTA proposed its MTA Capital Program 2015-2019 to the MTA Board; the proposed program included this statement:

“...line equipment investments including...two fan plants on the Lexington and 6th Avenue lines, one new to protect an area that currently has no plants and one to replace an existing undersized unit.”

The area that currently has “no plants” is the subject of this EIS process.

Comment 347 j, On-Line: Mr. Katzenstein

What assurances can the MTA provide that the ventilation project will be an exception to the MTA’s past history of projects that are significantly late and over budget?

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Based on its EVP construction experience in NYC, MTA NYCT expects to meet the proposed construction schedule and budget.

Comment 347 k, On-Line: Mr. Katzenstein

What sources of funds will be available to complete the project?

Response

MTA’s 2015-2019 Capital Program is providing funding for two EVPs; one of those is the proposed EVP discussed in the DSD and FSD (see Section 1.1 of the DSD and FSD).

Comment 347 l, On-Line: Mr. Katzenstein

What mitigation measures will the MTA provide for environmental impacts resulting from work that will be needed beyond the scheduled completion date?

Response

Section 5.19 of the DSD and FSD provides a discussion of mitigation measures. “Where significant adverse impacts are identified, measures that will mitigate these impacts, either partially or fully, will be identified. Mitigation measures will be designed to minimize or avoid to the fullest extent practicable, given costs and other factors, any significant adverse impact. Where the impacts cannot be mitigated, they will be described as unavoidable adverse impacts in the EIS.

MTA NYCT will require the contractor to develop and implement a Construction Environmental Protection Plan (CEPP), which documents those MTA NYCT commitments that would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented to avoid or minimize potential adverse
effects of the proposed project on the environment. These mitigation measures would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects. The mitigation measures would be integrated into the construction of the proposed project in accordance with MTA NYCT’s construction contract specification, and local and state regulation. MTA NYCT contractors must comply with the New York City Construction Noise Code and the New York State Environmental Conservation Law (ECL), which prohibits heavy duty vehicles, including diesel trucks and buses, from idling for more than five minutes at a time.

Comment 347 m, On-Line: Mr. Katzenstein

Please explain the steps legally required before the MTA can proceed with this project? What steps have already been completed? What steps remain?

Response

MTA NYCT has: prepared and issued to the public the optional SEQRA Draft Scoping Document; conducted an optional Public Scoping Meeting; and prepared and issued the FSD and Response to Public Comments on the DSD.

MTA NYCT will prepare a DEIS that comparatively evaluates the Candidate Alternatives and identifies a Preferred Alternative. There will be a public comment period for public input into the DEIS, during which MTA NYCT will conduct a Public Hearing. The public comment period that will commence upon the issuance of the DEIS will remain open for at least ten days after the Public Hearing on the DEIS. MTA NYCT will consider all substantive comments regarding the DEIS and will revise the DEIS accordingly and re-issue the document with Response to Public Hearing Comments as an FEIS.

MTA NYCT will then issue a Findings statement. The Findings will certify that the requirements of SEQRA found in 6 NYCRR Part 617 have been met. A positive Findings statement would mean that the project or action is approvable after consideration of the FEIS, and demonstrates that the action chosen is the one that avoids or minimizes adverse environmental impacts presented in the EIS and weighs and balances them with the social, economic and other essential considerations. If the action is not approvable, a negative Findings statement documenting the reasons for the denial must be prepared.

The Findings will be issued as a “Staff Summary” to the MTA Board of Directors for consideration and action. If the Board does not approve the project, it will not go forward. If the Board approves the project, this is considered to be the final agency action pursuant to SEQRA, and the SEQRA process is then complete.

Comment 347 n, On-Line: Mr. Katzenstein

Will the MTA forward comments to its board members? If not, please provide the contact information so interested parties can address those comments directly to the relevant decision makers?

Response

At completion of the FEIS, a Staff Summary prepared by MTA NYCT will be formally made to the MTA Board for their consideration and action. Comments on the Draft Scoping Document and DEIS received
within the comment period are public documents that will be maintained by MTA. All such comments will become part of the public record and will be attached as an appendix to the FEIS. The MTA Board will have the opportunity to review all comments and all documents regarding the proposed project prior to taking final action on the proposed project.

Comment 347 o, On-Line: Mr. Katzenstein

Will the MTA forward comments to the NYS legislators that have jurisdiction over the MTA? If not, please provide contact information for those legislators.

Response

Copies of the FEIS will be issued to the same parties to whom the DSD, FSD and DEIS are issued. These include members of the U.S. House and Senate, New York State Senate and Assembly, NYC Council, as well as the Mayor’s office, and the Manhattan Borough President. Others to receive the comments and the response to comments include state and local agencies such as NYCDOT, NYC Department of Parks and Recreation, NYC Department of Environmental Protection, New York State Department of Environmental Conservation, the New York City Landmarks Preservation Commission, and New York State Office of Parks, Recreation, and Historic Preservation.

Comment 348, On-Line: Mr. Bishop

Keep comment period open for 180 days.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for
public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 349, On-Line: Ms. Kozlakowski

Could you provide me with the following information regarding the June 16th meeting: the date when the meeting was announced; how was it announced i.e. type of communication and frequency; and who in the Murray Hill community was informed of the meeting? when?

Response

On May 18, 2016, MTA NYCT, via the NYSDEC Environmental Notification Bulletin (ENB), issued a Notice of Intent to prepare an EIS and delivered a Draft Scoping Document to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6. On the same date MTA NYCT announced on the MTA website the availability of the Draft Scoping Document, and copies of the Draft Scoping Document were delivered to elected officials (U.S. House and Senate, New York State Senate and Assembly, NYC Council) and other stakeholders, and letters notifying state and local agencies were sent. State and local agencies included NYCDOT, NYC Department of Parks and Recreation, NYC Department of Environmental Protection, New York State Department of Environmental Conservation, and New York State Office of Parks, Recreation, and Historic Preservation. Elected officials and others who were notified by letter included the Mayor’s office, the Manhattan Borough President, and the New York City Landmarks Preservation Commission. Others notified by letter included: Stuyvesant Town-Peter Cooper Village Tenants Association, Gramercy Park Block Association, Murray Hill Neighborhood Association, Turtle Bay Association, 70 Park Avenue Hotel, Church of Our Saviour, the Mission of Guatemala to the United Nations, the Scandinavia House, The Union League Club, the Mission of El Salvador to the United Nations, and the Morgan Library & Museum.

Comment 350, On-Line: Mr. Edwards

The meeting of June 16 was held on very short notice and the issue is very complex. In my opinion, allowing another 90 days for study of the plan and for comment is essential.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 351 a, On-Line: Ms. Rollin

The MTA plan will cause considerable harm to the neighborhood of Murry Hill and to the thousands of people who live there.

Response

The potential effects/impacts of construction and operation of the proposed project will be analyzed and documented in the DEIS. The methodologies to be used are identified in Chapter 5 of the DSD and FSD. Section 5.19 of the DSD and FSD provides a discussion of mitigation measures. “Where significant adverse impacts are identified, measures that will mitigate these impacts, either partially or fully, will be identified. Mitigation measures will be designed to minimize or avoid to the fullest extent practicable, given costs and other factors, any significant adverse impact. Where the impacts cannot be mitigated, they will be described as unavoidable adverse impacts in the EIS.

MTA NYCT will require the contractor to develop and implement a Construction Environmental Protection Plan (CEPP), which documents those MTA NYCT commitments that would contribute to reducing the potential for the proposed project to create adverse environmental impacts during construction while reducing the potential for the proposed project’s cumulative adverse effects. The proposed mitigation would consist of measures that would be proactively implemented to avoid or minimize potential adverse effects of the proposed project on the environment. These mitigation measures would be particularly focused on the resource categories most sensitive to the environment, including: noise and vibration; air quality; traffic, parking, pedestrians, and transit; historical and cultural resources; business/economic interests; community facilities; urban design/visual resources/community character; open space; and cumulative effects. The mitigation measures would be integrated into the construction of the proposed project in accordance with MTA NYCT’s construction contract specification, and local and state regulation. MTA NYCT contractors must comply with the New York City Construction Noise Code and the New York State Environmental Conservation Law (ECL), which prohibits heavy duty vehicles, including diesel trucks and buses, from idling for more than five minutes at a time.

As discussed in Section 5.19 of the DSD and FSD, the mitigation chapter of the DEIS and FEIS “…will provide a concise summary of the mitigation commitments and Construction Environmental Protection Plan (CEPP) measures developed for the various technical analyses in the EIS.”
“Where significant adverse impacts are identified, measures that will mitigate these impacts, either partial or fully, will be identified. Mitigation measures will be designed to minimize or avoid to the fullest extent practicable, given costs and other factors, any significant adverse impact. Where the impacts cannot be mitigated, they will be described as unavoidable adverse impacts in the EIS.”

The CEPP will be prepared by the construction contractor upon contract award for acceptance by MTA NYCT. Upon acceptance, the MTA NYCT Construction Manager (a licensed NYS Professional Engineer) will assure that the CEPP is implemented; the MTA NYCT Construction Manager will be supported in this effort by a MTA NYCT Principal Environmental Engineer (a licensed NYS Professional Engineer).

**Comment 351 b, On-Line: Ms. Rollin**

The meeting was called at the last minute as if to deliberately avoid a large attendance.

**Response**

On May 18, 2016, MTA NYCT, via the NYSDEC Environmental Notification Bulletin (ENB), issued a Notice of Intent to prepare an EIS and delivered a Draft Scoping Document to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6. On the same date, MTA NYCT announced on the MTA website the availability of the Draft Scoping Document, and copies of the Draft Scoping Document were delivered to elected officials (U.S. House and Senate, New York State Senate and Assembly, NYC Council) and other stakeholders, and letters notifying state and local agencies were sent. The Public Meeting was held on June 16, 2016, twenty-nine days after the ENB notice and delivery of the document to the various repositories.

**Comment 351 c, On-Line: Ms. Rollin**

At the very least there should be a 90 day extension of the period in which comments can be made.

**Response**

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT, via the NYSDEC Environmental Notification Bulletin (ENB), issued a Notice of Intent to prepare an environmental impact statement (EIS); delivered a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announced on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.
- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.
- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on
the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Comment 352 a, On-Line: Mr. Ainsworth

This is unnecessary work following on from the crippling East Side Access project which the residents of Murray Hill have had to endure for the past 8 years.

Response

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 352 b, On-Line: Mr. Ainsworth

The traffic flow from the Midtown tunnel and the lane closures North and South on Park Ave have caused this intersection to become the most dangerous cross road in the city with accidents occurring weekly.
Response

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.

Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “Stipulations” that would be defined by NYCDOT before any construction starts. Also, once a contract award is made, the contractor will be required to prepare and submit to NYCDOT a Maintenance and Protection of Traffic (MPT) plan. Upon NYCDOT approval, the MPT will be implemented by the Contractor. The MTA NYCT Construction Manager will be responsible to assure that the MPT is implemented.

Comment 352 c, On-Line: Mr. Ainsworth

Noise and dirt are constant.

Response

As discussed in Chapter 5 of the DSD and FSD, the proposed EVP could affect noise, air quality and traffic in the study area, and MTA NYCT will prepare a DEIS to assess these effects. As described in Section 5.3 of the DSD and FSD, the DEIS will evaluate traffic conditions during construction of the proposed EVP. Section 5.10 describes the evaluation of the construction and operational effects of the proposed EVP to air quality, and Section 5.11 of the DSD and FSD describe the evaluation of noise and vibration that will be included in the DEIS. The assessment of environmental effects/impacts, including those potentially affecting traffic, noise and air quality, will identify any significant adverse impacts due to construction and operation of the proposed EVP. If significant adverse impacts are identified, the EIS will identify measures to mitigate these impacts.

Information on all aspects of the East Side Access Project, including that of the access construction site at East 37th Street and Park Avenue, should be solicited from MTA Capital Construction Company, Mr. Richard Mulieri, Senior Director Public Affairs, MTA CC (RMulieri@mtacc.info).

Comment 353, On-Line: Mr. Joslow

Please give us 90 days public notice period verses 2 weeks for a project of this significance. Since this project is not a crisis, there is no reason to expedite the time for public comment unless that is a formality to a project that MTA intends to push through regardless. The MTA has been working on this for a long time so there should be more of a reason to give us time to evaluate and understand.

Response

The timeline for the issue of, and comment period for, the Draft Scoping Document (DSD) was as follows:

- May 18, 2016: MTA NYCT: via the NYSDEC Environmental Notification Bulletin (ENB), issues Notice of Intent to prepare an environmental impact statement (EIS); delivers a DSD to area repositories, including libraries (Epiphany Library, Mid-Manhattan Library, Grand Central Branch Library, and
Kips Bay Library) and the offices of Manhattan Community Boards 5 and 6; and announces on the MTA website the availability of the DSD. Copies of the DSD were also delivered to elected officials and other stakeholders, and letters notifying state and local agencies were sent.

- June 6, 2016: MTA NYCT conducts a formal presentation of the proposed project at a meeting of the Transportation Committee of Community Board 6 in the auditorium at the Hospital for Joint Diseases, 201 E. 17th St., New York, NY. The presentation included a verbal description of the proposed project accompanied by Power Point slides as well as a question and answer session. Copies of the DSD and copies of the presentation were available at the meeting and upon request.

- June 16, 2016: A formal Public Meeting on the DSD was conducted at Beth Israel’s Podell Auditorium, located at 1 Nathan D. Perlman Place in Manhattan, during which a presentation on the proposed alternatives and the scope of the Draft Environmental Impact Statement (DEIS) analyses was given. Comments from the public were solicited and accepted at the meeting. This Public Meeting occurred 29 days after the ENB notice and the delivery of documents to the various repositories. The comment period covered a 44–day period, ending on July 1, 2016.

Under the State Environmental Quality Review Act (SEQRA), scoping is not required, rather it is an option (see 6 NYCRR 617.8 (a)). MTA NYCT chose to implement the option to engender early public participation in the SEQRA process. If public scoping is conducted, NYSDEC suggests that a minimum 20-day period for public review of the draft scope is reasonable under most circumstances. As noted earlier, 29 days elapsed between the ENB notice and the Public Meeting on the DSD.

Concerning its early decision to implement the EIS process, MTA NYCT recognized the potential for significant adverse effects related to various environmental impact areas (e.g., traffic, noise, vibration, cumulative effects) which might result from the construction of an emergency ventilation plant (EVP). That recognition of potential impacts results from MTA NYCT’s two decades of successful EVP construction experience in New York City (NYC). MTA NYCT judged that early interaction with the public to identify, evaluate and potentially mitigate significant adverse effects/impacts would be appropriate and important. Thus, the SEQRA EIS process was chosen, by MTA NYCT, for implementation in order to engender the highest level of transparency, documentation, and rigorous analyses and discussion. The EIS process also results in the selection of an alternative, from a reasonable array, that yields, in aggregate, the least potential for adverse construction and operational effect/impact considering the engineering, economic and environmental aspects of the project.

Whereas the foregoing remarks address the decision by MTA NYCT to implement the SEQRA EIS process and the scoping option in this particular project, MTA NYCT believes that it is important to further remark on an historical legal matter that remains relevant. Specifically, the MTA is a Public Authority within the State of New York, and as such, is subject to the Public Authorities Law (PAL). MTA NYCT is a part of MTA and is subject to it as well. PAL Section 1266-C, 11 states that:

“No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article.”
Article 8, referenced in the PAL section above, is the State Environmental Quality Review Act (SEQRA). Thus, notwithstanding the exemption from SEQRA that MTA NYCT enjoys, which would have enabled MTA to undertake this project without any public review, comment, or participation, MTA chose to use the SEQRA process in this instance in order to formally engage the public in its effort to improve life safety conditions in the Lexington Avenue line tunnel segment between the 33rd Street and 42nd Street Stations.

**Comment 354 a, On-Line: Mr. Yun**

I am writing to protest the proposed Lexington Avenue subway line ventilation construction project. As a resident of the Murray Hill block that has already endured several years of heavy construction (for a similar subway ventilation project just across the street, on east Park Ave at 37th Street), I can attest firsthand the burden the MTA has already placed on residents of the area. I would ask that the MTA reconsider its proposal based on the following:

Emil Dul, the MTA’s own lead environmental engineer, has publicly stated that the project under consideration is "unnecessary" and is outside of the scope of local, state, and federal safety compliance requirements.

**Response**

The need for the proposed project is presented in Section 2.0 of the DSD and FSD, as follows: “The original New York City subway system, built in the early 20th century, had no ventilation plants; all were added later. The original system relied on the trains’ piston action and fresh air from the open gratings (natural ventilation) to ventilate the tunnels. However, the need to further ventilate tunnels was an early concern for MTA NYCT. Although fan equipment was not installed at the outset, fan chambers were excavated and constructed with the intent of equipping them at a later date, if required. In fact, there are still empty fan chambers (having no mechanical equipment) within the system, although none of these unequipped fan chambers are located in the vicinity of the Proposed Project.”

“The purpose of the Proposed Project is to provide emergency mechanical ventilation to the Lexington Avenue Subway Line tunnels between the 33rd Street/Park Avenue South and Grand Central Terminal/42nd Street stations (see Figure 1). The Proposed Project will provide a tenable environment along the egress route for the emergency evacuation of subway passengers during a fire/smoke condition in the tunnel. The EVP would contain multiple fans having a nominal capacity of 500,000 cubic feet per minute (cfm) in order to achieve the necessary air velocity in the tunnel to control the movement of smoke and provide tenable evacuation routes in the tunnel segment.”

As stated in Section 1.1 of the DSD and FSD, the genesis of the EVP program was a 1994 study, commissioned by MTA NYCT. This study is a comprehensive ventilation study that evaluated every operational subway tunnel section to determine the magnitude of requirements to comply with the NFPA 130 standard for emergency ventilation.

The 1994 study was also conducted to prioritize locations that should be addressed first, considering current engineering, construction and economic factors. This priority index ranked each MTA NYCT subway tunnel section in order of priority, from 1 – as most critical for safety – to 252 – least critical. Since then, there has been an ongoing program of rehabilitation, expanding and constructing new ventilation plants throughout the system. In MTA Capital Programs since the 1994 study was conducted, various EVPs were funded, built and are now in operation. The 2015-2019 Capital Program provided funding for two
EVPs; one of those, the proposed project, is part of that continuing EVP Program to enhance the life safety of the riding public and is the EVP discussed in the DSD and FSD.

As an additional matter, please note that the 1994 study was commissioned by MTA NYCT, and addressed New York City Transit’s entire subway system. Whereas NFPA 130 guidelines which were established in the mid-1980s were designed for implementation in all new systems, MTA NYCT, which operates an older system, made the decision to provide a higher level of protection for its passengers, and therefore, MTA NYCT has applied NFPA 130 standards where applicable within its system. The EVP program evolved from the 1994 study, and continues to be implemented wherever it is feasible throughout New York City Transit’s subway system. The proposed project is part of that continuing EVP Program which utilizes NFPA 130 to enhance the life safety of the riding public.

In October 2015, MTA proposed its MTA Capital Program 2015-2019 to the MTA Board; the proposed program included this statement:

“...line equipment investments including...two fan plants on the Lexington and 6th Avenue lines, one new to protect an area that currently has no plants and one to replace an existing undersized unit.”

The referenced Lexington Avenue Line area that currently has no fan plants is, in fact, the tunnel segment under Park Avenue between 33rd Street and 42nd Street identified in the 1994 MTA NYCT comprehensive ventilation study, which gives this tunnel segment a priority index ranking of 5.

Please note that there is no Federal, State or local requirement for the planned EVP; it is the program plan developed by MTA pursuant to its 1994 study that is the basis for the proposed project and various other EVPs that have been constructed and others currently under construction, or planned for construction. As noted in the preceding paragraphs, MTA NYCT has applied the NFPA 130 standard for right-of-way installations.

To achieve the goal of providing emergency ventilation to the tunnel segment on the Lexington Avenue Subway Line, several site configurations (Alternatives) were considered, including:

- Constructing an EVP above-grade on property adjacent to Park Avenue between East 33rd and East 42nd Streets.
- Constructing an EVP below-grade (in the streetbed) east or west of Park Avenue and the Lexington Avenue Subway Line tunnels (Note: the Lexington Avenue Subway Line runs under Park Avenue in this area of Manhattan between the East 33rd and East 42nd Street stations).
- Constructing an EVP below the exit ramp of the New York City Department of Transportation (NYCDOT) roadway tunnel between East 39th and East 40th Streets.
- Constructing an EVP below-grade between the northbound and southbound subway tunnels below the NYCDOT roadway tunnel between East 37th and East 38th Streets.
- Constructing an EVP below-grade under the northbound lanes on Park Avenue (above the northbound subway tunnel) between East 37th and East 39th Streets or between East 36th Street and East 38th Street.

In the early planning of the Proposed Project, an Alternative Analysis and Feasibility Evaluation (AA/FE) (see Appendix A) was performed on a range of site configurations to (1) remove those sites from further consideration that have major constructability constraints and (2) identify those sites that have a
reasonable potential to meet the purpose and need of the Proposed Project. Thirteen (13) Potential Alternatives (see Figure 2, page 8) resulted, and MTA NYCT developed and refined them based on engineering design considerations (e.g., feasibility, constructability, schedule, etc.), cost factors, and environmental effects. The 13 Potential Alternatives are summarized in Chapter 3 of this document.

Based on the AA/FE, Candidate Alternatives 11 and 12 have been identified as having the greatest potential to minimize engineering, costs, and environmental effects from among the Potential Alternatives. Candidate Alternatives 11 and 12 are located in the streetbed of the northbound traffic lanes of Park Avenue. Alternative 11 would be located below the northbound lanes on Park Avenue between 37th Street and 39th Street, and Alternative 12 would be located below the northbound traffic lanes on Park Avenue between 36th Street and 38th Street. These two Candidate Alternatives remain under consideration by MTA NYCT and will be evaluated further along with the No-Action Alternative during the Environmental Impact Statement (EIS) process. A final decision on the Candidate Alternative(s) to advance to the DEIS will be provided in the final Scoping Document, after any other reasonable alternatives revealed and screened as a result of the scoping process are reviewed and/or considered.

Comment 354 b, On-Line: Mr. Yun

The construction project would take several years to complete (as evidenced both by the proposed scope and by our firsthand witness of the same project still in progress just across the street), during which time Park Avenue would be incredibly congested with auto traffic, creating an unsafe and even more polluted environment. As a reminder, 37th Street is a critical through street for Manhattan, being a primary outlet for the Midtown Tunnel.

Response

MTA NYCT expects the construction of the EVP to be complete in approximately 4.5 years. This construction schedule is based on over two decades of successful EVP construction experience by MTA NYCT in NYC.

Section 5.3 of the DSD and FSD states that for the DEIS: “A transportation study will be conducted to evaluate the effects of the Candidate Alternatives on traffic, parking, transit, and pedestrians during construction. Key issues will include the relatively high traffic volumes on 36th and 37th Streets leading to and from the Queens-Midtown Tunnel, the potential impact of traffic diversions on congested intersections, and plans to maintain traffic flow and local access during construction.”

Methodologies used to assess the effects to traffic and transportation, and the study area for the assessment are described in Section 5.3 of the DSD and FSD. Please also note that traffic would be managed by MTA NYCT consistent with formal “stipulations” that would be defined by NYCDOT and a NYCDOT-approved Maintenance and Protection of Traffic plan before any construction starts. The construction project and contract will be managed by an MTA NYCT Construction Manager who is a New York State-licensed Professional Engineer who will oversee the project schedule.

As stated in Section 5.10 of the DSD and FSD, air quality analyses will be carried out in accordance with the most recent revisions of the City Environmental Quality Review (CEQR) Technical Manual and the New York State Department of Transportation’s (NYSDOT) “Environmental Procedures Manual”.
In Section 5.11: Discussion/Evaluation of Noise and Vibration, the effects of the proposed project on structures due to vibration will be evaluated. If significant adverse impacts are identified, the DEIS will provide mitigation measures (see Section 5.19 of the DSD and FSD), including measures to reduce vibration to levels below that which would cause damage to structures.

Comment 354 c, On-Line: Mr. Yun

In addition to the noise and air pollution caused by auto traffic, the constant drilling and excavation (lasting for years) would significantly alter the character of a historic block, which includes both the Guatemalan Mission to the United Nations and the Roman Catholic Church of Our Saviour.

Response

As discussed in Chapter 5 of the DSD and FSD, the proposed EVP could affect noise, air quality and traffic in the study area, and MTA NYCT will prepare a DEIS to assess these effects. As described in Section 5.3 of the DSD and FSD, the DEIS will evaluate traffic conditions during construction of the proposed EVP. Section 5.10 describes the evaluation of the construction and operational effects of the proposed EVP to air quality, and Section 5.11 of the DSD and FSD describes the evaluation of noise and vibration that will be included in the DEIS. The assessment of traffic, noise and air quality will identify any significant adverse impacts due to construction and operation of the proposed EVP. If significant adverse impacts are identified, the EIS will identify measures to mitigate these impacts.

Comment 354 d, On-Line: Mr. Yun

I am a daily subway rider and an outspoken proponent of public transportation, and marvel every day at the product the MTA delivers to our great city. I ask that the MTA reconsider a proposal that will significantly reduce the quality of life for the residents it intends to serve...

Response

The DSD and FSD identifies the nature and extent of analyses to be conducted in the DEIS concerning those issues affecting quality of life, including but not limited to noise (Section 5.11), air quality (Section 5.10), traffic (Section 5.3), public open space (Section 5.6) community services and facilities (Section 5.7) community character (Section 5.8), and historic and cultural resources (Section 5.9). All analyses will be conducted in accordance with applicable regulatory requirements. Issues of concern with respect to the construction and operation of the proposed EVP include: during construction, noise from diverted traffic and construction-related vehicles trips (mobile sources), and stationary noise and vibration from on-site construction equipment and activities; and during operations (testing and emergencies only), stationary noise and vibration from the operation of the EVP fan system.

As discussed in Section 5.19 of the DSD and FSD, the mitigation chapter of the DEIS and FEIS “…will provide a concise summary of the mitigation commitments and Construction Environmental Protection Plan (CEPP) measures developed for the various technical analyses in the EIS.”

“Where significant adverse impacts are identified, measures that will mitigate these impacts, either partially or fully, will be identified. Mitigation measures will be designed to minimize or avoid to the fullest extent practicable, given costs and other factors, any significant adverse impact. Where the impacts cannot be mitigated, they will be described as unavoidable adverse impacts in the EIS.”
The CEPP will be prepared by the construction contractor upon contract award for acceptance by MTA NYCT. Upon acceptance, the MTA NYCT Construction Manager (a licensed NYS Professional Engineer) will assure that the CEPP is implemented; the MTA NYCT Construction Manager will be supported in this effort by a MTA NYCT Principal Environmental Engineer (a licensed NYS Professional Engineer).

Comment 354 e, On-Line: Mr. Yun

...a proposal which has been deemed unnecessary by its own engineering leadership. I would urge the MTA to consider redirecting its funding and efforts elsewhere.

Response

Please see response to Comment 354 a, above.