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Letterhead of
SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION

[SEAL]

GEORGE B. GELMAN
JUDGE

COURT HOUSE
HACKENSACK, NEW JERSEY 07601

March 10, 1975

Robert Meyner, Esq.
Meyner, Landis & Verdon, Esqs.
Gateway I—Suite 2500
Newark, New Jersey 07102

Murray J. Laulicht, Esq.
Lowenstein, Sandler, Brochin,
Kohl & Fisher, Esqs.
744 Broad Street
Newark, New Jersey 07102

Re: United States Trust Company v.
State of New Jersey—Docket No.
L-26861-73

Gentlemen:

I have read all of the communications with respect to defendant's offer of the Armstrong deposition and exhibits, and plaintiff's counter offer of excerpts from the Armstrong deposition and exhibit, as well as the proposed orders that were submitted by each side. I have also read the cases which have been cited by both sides. Finally, I have also read all of the proffered excerpts from the Armstrong

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deposition and have reviewed the exhibits which both sides wish to offer.

I have come to the conclusion that the defendant should be permitted to withdraw its offer of excerpts from the Armstrong deposition and the exhibits associated therewith, and counsel for the defendant may submit an order to that effect.

Having read the materials I am satisfied that neither the offer made by the defendants or that of the plaintiff adds anything of significance to the record in this case. Further, much of the material which the plaintiff wishes to offer will be subject to objections based upon the rules of evidence.

I will ask Mr. Laulicht to submit an order under the five-day rule.

Yours very truly,

GEORGE B. GELMAN

George B. Gelman, J.S.C.

GBG:jm

cc: Dean Michael I. Sovern

Carter, Ledyard & Milburn, Esqs.

*Addition to Appendix by Stipulation***[The following was added to the Appendix by Stipulation
Among Counsel dated August 4, 1976]**

On July 8, 1976 the Port Authority issued and sold \$100 million principal amount Consolidated Bonds Forty-second Series, due 2011 (first installment). This was the Port Authority's first long-term financing since the 1974 repeal of the 1962 Covenant. The interest rate on the issue was 8.20%; the underwriting syndicate which purchased and resold the issue bid 98 (\$980 per \$1,000 principal amount), resulting in a net interest cost to the Port Authority of 8.27%. The issue was rated "A" by both Moody's and Standard & Poor's.

On Friday, July 9, 1976 *The Wall Street Journal* contained the following report with respect to the issue:

About \$166 million of new tax-exempt revenue bonds were marketed by two agencies, including \$100 million by the *Port Authority of New York and New Jersey* and about \$66 million by the *Rhode Island Housing and Mortgage Finance Corp.* The Port Authority's bonds were entirely sold and just \$4 million remained available from the Rhode Island unit's issue, which was priced to yield between 4.5% in 1977 and 6.6% in 1988.

An 8.2% tax-free return was provided by the Port Authority's new 35-year bonds, the same as a taxable gain of almost 15% for single persons earning about \$26,000 or families making about \$36,000. The single-A-rated securities were sold primarily to individuals and small institutions.

"Large buyers have refused to touch the authority's bonds ever since the New York and New Jersey legislatures several years ago repealed the 1962 covenant and thereby weakened the protection afforded to bondholders," a dealer remarked. "Also, of course, any issue from New York has been extremely difficult to sell because of the well-publicized fiscal problems here," he added.

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According to a tombstone announcement in the July 12, 1976 issue of *The New York Times*, the 42nd series was offered through a syndicate headed by Bache Halsey Stuart Inc. Among the investment firms listed as participating in the syndication and offering were: Dillon, Read Municipals; Kidder, Peabody & Co.; Hornblower & Weeks-Hemp-hill, Noyes; Loeb, Rhoades & Co.; Blyth Eastman Dillon & Co.; Shearson Hayden Stone Inc.; E. F. Hutton & Company Inc.; L. F. Rothschild & Co.; Salomon Brothers; Merrill, Lynch, Pierce, Fenner & Smith; The First Boston Corporation; White, Weld & Co.; and Weeden & Co. The announcement referred to the interest rate, the A rating by Moody's and Standard & Poor's and the offering price of par and accrued interest.

The New York Times reported as follows on July 13, 1976:

Prices also showed gains in the tax-exempt sector. At one point yesterday the new 8.2 percent revenue bonds marketed last week at par by the Port Authority of New York and New Jersey were being quoted at 101 $\frac{1}{8}$ bid and 101 $\frac{3}{8}$ asked.

Standard & Poor's "Fixed Income Investor" did not contain a full report with respect to the Forty-second Series. It continued the Port Authority's A rating and reported:

"Municipal Prices Improve

"The municipal market last week continued to follow the tone set in recent weeks, quiet and firm. The \$100 million Port Authority of New York and New Jersey bonds highlighted the week's new issue activity. Coming to the market for the first time since 1973, the issue attracted considerable investor interest. There was little follow-through activity in open accounts. Prices showed modest advances in the secondary market although trading was light."

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Moody's Investors Service, Inc. issued a municipal credit report dated July 2, 1976 regarding the Forty-second Series which said in part:

“Port Authority of New York and New Jersey, July 2, 1976 RC, Rating: Consolidated Bonds and Notes: A Offering: \$100,000,000 Consolidated Bonds, Forty-second Series, for sale on 7-8-76, Dated: 7-15-76, Due: 7-15-2001, Call: beginning 7-15-86, L.O.: Patrick J. Falvey, Authority General Counsel; Hawkins, Delafield & Wood, New York City. *Type enterprise*: bi-state agency of New York and New Jersey which operates air terminals, toll bridges and tunnels, marine facilities, World Trade Center, PATH rail transit system, other facilities including bus stations, truck terminals, heliports. *Pledged revenues*: direct and general obligations of the Authority secured equally and ratably with all other Consolidated Bonds and Notes by a pledge of the net revenues of the existing facilities of the Authority, the General Reserve Fund of the Authority, and the Consolidated Bond Reserve Fund of the Authority. *Purpose*: capital expenditures in connection with Authority bridges and tunnels; docks and wharves; airport terminal and service buildings, roadways, runways, taxiways and fuel and utility service and distribution systems; bus terminals, the Hudson Tubes portion of the PATH system; parking facilities; storage or training facilities directly related to any of these; and the World Trade Center; and for refunding all or any part of \$50,000,000 Consolidated Notes, Series BB, issued in 1975; provided, that no more than 10% of the amount of the proceeds not expended to refund any Series BB Consolidated Notes shall be used for the purpose of capital expenditures in connection with the World Trade Center and those integral portions of an extension to the Port Authority Bus Terminal related to any further construction above the extension. * * *

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The New Jersey Supreme Court in a February 1976 decision upheld the Superior Court in the May 1975 decision that upheld the New Jersey legislation that repealed the 1962 covenant restricting Authority involvement in deficit mass transit operations. This 1976 decision has been appealed to the United States Supreme Court which recently announced that it will hear this case at its next term. These court decisions are a matter of deep concern to bondholders generally. The effect on the Authority cannot be determined at this time in the absence of a definite plan for financing mass transit projects and facilities deemed to be non-selfsupporting. In the meantime, earnings of the present facilities are good, and reserves for debt service continue strong. * * *

Expansion Program: (1) in August 1975, the Authority authorized a major rehabilitation program of the upper level roadway of the George Washington Bridge and improvements to the New York and New Jersey approach highways at an estimated \$37,000,000 construction cost; (2) Bus Terminal is being extended in an area north of the present Terminal, Lincoln Tunnel approaches are being extended, and air rights above the extension would be used as an office building built and operated by private parties. Extension and Tunnel approaches including land costs, but not air rights development, are expected to involve a capital investment of \$160,000,000; (3) planned rehabilitation of PATH including modernization and development of Journal Square terminal area, is estimated to require further Authority investment of about \$59,000,000; (4) under construction and scheduled for completion by the end of 1976 is a multi-level parking area at La Guardia Airport at estimated \$41,751,000 expenditure (5) Authority capital expenditures for a new interchange and roadway system linking the New Jersey Turnpike directly with Newark International Air-

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port and Elizabeth-Newark Marine Terminal would be 50% of the estimated \$50,000,000 cost, with the State and Turnpike Authority funding the balance; (6) \$19,000,000 is estimated as cost to build distribution buildings and pave open areas on 95 acres of undeveloped land adjoining Port Newark; (7) \$12,000,000 budgeted for 1976 for continued development of Jersey Central property at Elizabeth Marine Terminal and construction of specialized container facilities; (8) present estimated are that an additional investment of \$120,000,000 will be needed to complete the World Trade Center. * * *

The legislatures in the 1971-74 period enacted laws providing for the regional development of mass transportation access to Kennedy International and Newark International. The legislation also authorizes the Authority to undertake as Hudson Tubes extensions passenger rail facilities extending from Penn Station in Newark over rail transit lines to Plainfield including a connection to provide improved access to Newark International. In October 1974 a joint task force of the New Jersey Department of Transportation and the Authority was established at the request of Urban Mass Transportation Administration (UMTA) of the U.S. Department of Transportation to study potential transit alternatives in the Newark-Plainfield corridor. The task force submitted its interim report on 1-15-75 to Governor Byrne, and the report assessed in detail recommendation 5 transit alternatives in the Union County corridor as well as transit access to Newark International. A final report was submitted to UMTA on 2-10-75.

The 1971-74 legislation also authorizes the Authority to undertake certain improvements to passenger rail line connecting with the Hudson Tubes to provide direct rail service into Penn Station in New York City by the Erie-Lackawanna and to upgrade

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existing Penn Central rail service into Penn Station in New York City. The legislation adopted in 1974 also provided for the repeal of the statutory covenant between the two states and affected bondholders limiting the Authority's ability to participate in deficit passenger rail projects.

The Authority in May 1975 filed an application with UMTA for \$277,600,000 to pay part of the cost of extending PATH to Plainfield. Local contribution totals \$69,400,000 to be funded by the Authority from proceeds of future bond issues. It is contemplated that PATH would enter into an agreement with New Jersey under which PATH would acquire the properties out of Authority bond issues and UMTA grants and lease the property to the State. The amount of rent to be paid by the State would depend mainly on the outcome of the litigation relating to repeal of the statutory covenant. On 12-19-75, UMTA rejected the application as filed for Federal aid, and this decision is currently being considered by UMTA.

After consultation with both Governors, the Authority Chairman has noted that the revision of Authority bridge and tunnel tolls effective 5-5-75 is expected to result in additional revenues to the Port Authority of more than \$40,000,000 per year and that these additional revenues could support \$400,000,000 in capital improvements in mass transportation projects authorized for Authority participation: \$160,000,000 allocated to the extension of the Bus Terminal now under construction, and the remaining \$240,000,000 for authorized mass transit projects in each state in accordance with priorities established by responsible State officials and the Authority commissioners acting pursuant to legislative authorization and commitments to holders of Authority obligations.

In recognition of the loss of manufacturing jobs and plants in the Port District over the last two decades, in February 1976 the Authority authorized

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the initiation of discussions with appropriate officials in both states and undertaking of a major study of industrial development needs in the Port District, including an investigation of energy availability and costs.

Toll Rates: Bridge and tunnel tolls were revised 5-5-75 including a 50% increase in auto tolls and 100% increase in the cost of a 30-day commutation ticket; it is estimated that the higher tolls will result in \$40,000,000 additional revenues annually, with the increased toll revenues expected to enhance the Authority's ability to undertake additional mass transit projects. On 4-25-75, after receiving complaints, the Federal Highway Administrator began an investigation which will include a public hearing to determine whether the toll increases are just and reasonable. On 5-6-75, the Administrator served on the Authority a copy of a motion filed with the Administrator by a complainant for an order requiring the Authority during the pendency of the toll proceedings to create an escrow account for receipt of the revenue from the toll increase. On 5-23-75, the Authority filed a memorandum opposing this motion, and the decision on this motion is still pending. The FHA issued a notice of proposed rule making on 7-18-75 to govern bridge toll receipt procedures which would require a 90-day advance notice of a proposed toll increase and would also require the escrow of all toll increase revenues on commencement of any proceeding to determine if the increase is just and reasonable.

Litigation: On 4-30-74, United States Trust Company of New York commenced an action in New Jersey Superior Court, Bergen County, on its own behalf, as Trustee for the 40th and 41st series of Consolidated Bonds and on behalf of holders of all Consolidated Bonds, against New Jersey and the Governor and Attorney General of New Jersey, seeking a declaratory judgment that the action taken in

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1974 to repeal the 1962 statutory covenant that restricted the Authority involvement in deficit mass transit operations violates both the United States and New Jersey Constitutions. The plaintiff alleged in its complaint that as a result of the covenant repeal, the secondary market for Consolidated Bonds has been and will continue to be adversely affected to the detriment of all holders. The defendants' answer denied this allegation. On 5-14-75, the validity of the 1974 action repealing the 1962 statutory covenant was upheld by the Superior Court, and this decision was affirmed on 2-25-76 by the New Jersey Supreme Court. On 5-14-76, the U.S. Trust appealed this decision to the United States Supreme Court, and on 6-28-76 the U.S. Supreme Court agreed to hear this matter during its next term.

On 5-20-76, another appeal to the U.S. Supreme Court was taken in a companion New Jersey case, instituted by a New Jersey resident who had sought unsuccessfully a judicial declaration that the 1962 statutory covenant was invalid.

On 6-17-74, U.S. Trust Company instituted an action in New York in the Supreme Court, New York County, against New York State and its Governor and Attorney General, which is still pending. This action is similar to the Trust Company's New Jersey action except that a declaration is sought that the statutory repeal violates the New York Constitution rather than New Jersey's Constitution."

On July 7, 1976, the day before the issue and sale of the Forty-second Series, outstanding Port Authority 6% Bonds were quoted at 81 bid and outstanding Port Authority 5½% Bonds were quoted at 73 bid.

The following bid prices were reported by *The New York Times* on July 9, July 13 and August 4, 1976:

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		<u>Due</u>	<u>July 9 Bid</u>	<u>July 13 Bid</u>	<u>August 4 Bid</u>
Indiana Toll Road	3½%	1/1/94	81½	82	83½
Kansas Turnpike	3¾%	10/1/94	82	82	84
Mass Port	3.80%	2004	62	63	63
Mass Port	6%	2011	85	85	85
Port of N. Y.	4¾%	2003	64	64½	64½
Port of N. Y.	5½%	2008	72	72	73
Port of N. Y.	6%	2008	80½	81	82½

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[Letterhead of]
DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
WASHINGTON, D.C. 20590

SEAL OF
THE ADMINISTRATOR

March 9, 1976

Mr. Alan Sagner
Commissioner
State of New Jersey
Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 08625

Dear Commissioner Sagner:

Since my December 19, 1975 decision on the PATH extension I have received numerous inquiries from members of the New Jersey Congressional delegation and from others regarding the status of that and other transit projects in the State. Press reports in early February stimulated several such questions. I am writing this letter to summarize the situation from UMTA's point of view, and am taking the liberty of sharing it with those who have sought information on these matters.

The December letter said that UMTA would be willing to consider a multi-year capital funding commitment to a package of transit improvement projects which the State might develop based upon a comprehensive transit plan and multi-source capital program. I indicated that \$300-350 million might be available through Fiscal Year 1980 to support such a program under certain conditions. I further indicated that as an alternative we would be prepared to go

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forward on the traditional basis of single project applications for the Erie Lackawanna and New York and Long Branch improvements if you preferred, but that we would entertain a resubmission of the PATH project only as part of a comprehensive package and only at a much reduced cost to UMTA's discretionary capital grant budget. We have since made a \$39 million grant for railcar purchases on the Erie Lackawanna line on this basis.

In meetings and conversations since December, you have indicated that the State would be interested in pursuing the comprehensive plan and package approach, and I know that you are working actively to develop such a submission. You have raised the question of whether the UMTA support for such a package might be raised to \$400 million, and we are reviewing that question. I have indicated to you that any Federal commitment in the \$300-plus million range would consume the full allocation of Section 3 capital grant funds which we could make to the State through Fiscal Year 1980 under current authorizations.

I would recite here the specific elements which my December letter and our subsequent discussions indicated should be forthcoming if you wish to follow the package approach:

1. You should submit a comprehensive transit plan and all-source capital program for the State, covering the period through Fiscal Year 1980;
2. That plan should include any necessary updating of your commuter rail program to reflect the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, and should consider the establishment of an authority to operate commuter rail service within New Jersey or on a bi-State or tri-State basis. The plan should also include attention to bus service, given the importance of that form of transit in serving passengers in your State;

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3. The December letter said that the transit plan "should be consistent with a comprehensive land use plan for northern New Jersey." As you know, this is a requirement of the UMTA legislation; it is not meant to stimulate the development of any new land use plan, but only to observe the legal requirement that transit programs be consistent with comprehensive land use plans; and
4. The comprehensive transit plan and capital program are to be developed by the State "together with appropriate regional planning bodies," which in this case would mean the Tri-State Regional Planning Commission since your funding applications to UMTA will apparently be confined to northern New Jersey projects. This again has reference to UMTA's statutory requirements, but I think the regional planning process takes on special significance where multi-year proposals are being submitted which would preempt all UMTA funding for the State through Fiscal Year 1980 under our current authorizations. I am sure that both we and you want to be sure that there has been adequate public discussion of such important priority setting and resource allocation steps.

If you do decide to resubmit the PATH project in a way that is responsive to the above conditions, we would want to be sure that your submission clarifies two issues which have been raised throughout the history of our review of your earlier applications:

1. You should indicate what service you intend to provide west of Plainfield; and

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2. You should include in the comprehensive plan and capital program the necessary feeder bus and automobile parking facilities needed to support ridership on the rapid transit system. Some source of capital funding for these ancillary services should be specifically indicated and committed to, along with the funds needed to match the Federal contribution for the PATH extension itself.

Finally, we ask you to seek to conclude an agreement with building contractors and construction unions whereby any labor disputes which might occur during the course of PATH construction could be settled without costly work stoppages. This follows a national policy which Secretary Coleman is seeking to implement in connection with all major construction projects financed by the Department of Transportation.

I hope that this letter clarifies any questions which you or others may have regarding the status of these projects. We look forward to continuing to work with you in improving public transportation service in New Jersey.

Sincerely,

ROBERT E. PATRICELLI
Robert E. Patricelli

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[Letterhead of]
STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION

ALAN SAGNER
Commissioner

May 11, 1976

Dear Mr. Patricelli:

I am writing in response to your letter of March 9, 1976 in which you summarized, from UMTA's point of view, the status of the PATH Extension and other transit projects in our State.

In order to be as responsive as possible I shall respond to your letter question by question although some of the answers are clearly related.

I trust that your questions are resolved and that we shall receive prompt approval of this program. The people of our State have been waiting much too long for these critical projects.

Sincerely,
ALAN SAGNER
Alan Sagner
Commissioner of Transportation

MR. ROBERT E. PATRICELLI
Administrator
Urban Mass Transportation Administration
Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590

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Question 1

“You should submit a comprehensive transit plan and all-source capital program for the State, covering the period through Fiscal Year 1980;”

New Jersey was one of the first states in the country to recognize the need for a comprehensive approach to transportation when it created the Department of Transportation in 1966, to replace the Department of Highways. In doing so it recognized the need for coordination of all modes of transportation and importance of adequate public transportation to meet the needs of the changing social and economic environment. The State of New Jersey was the first state to take an active role in the preservation and improvement of public transportation with the payment of a rail passenger subsidy in 1960. This program of subsidy has grown over the years until there were four railroads and numerous motorbus carriers receiving payments to cover operating deficits. To date the state has paid out over \$200 million in operating expenses to continue essential services.

To give further structure and guidance for action the department has prepared, in 1968, and 1972, two master plans and is now in the process of preparing a third. These plans as well as various other documents, including the Transit Development Program, have consistently identified as state priorities the preservation and improvement of essential rail service in existing corridors and the supplementing and complementing of that service by bus service.

In addition a number of landmark studies have been performed during this period and the information gained from these studies has been invaluable in assisting the shaping of a coordinated public transportation system. A

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number of technical feasibility studies are now underway or are soon to be underway and each of these studies will provide the basis for informed decisions on matters of future capital improvements, and, just as important, operational changes intended to provide the highest level of public transportation service at the most economical cost. * * *

The most recent document describing our comprehensive state transit plan is the 1972 Master Plan as supplemented by the *New Jersey Transit Development Program, 1974-1979*. In the 1972 Master Plan three critical rail corridors were discussed as being of high priority: * * * the Union-Somerset Corridor, * * *

The Erie Lackawanna: Morris and Essex Division, * * * [and] the Coastal Section [, listing] the New York and Long Branch improvements. * * *

The *Master Plan '72* was followed by the development of the *New Jersey Transit Development Program, 1974-1979*. This document was submitted to Administrator Herring in September, 1973, and represents the first statewide public transportation capital improvement program prepared in the United States. This document was prepared according to the standards established by the *Urban Mass Transportation Planning Requirements Guide* to meet the requirements of the Urban Mass Transportation Act of 1964 and its later amendments. Within this document, the reelectrification of the Morris and Essex Division of Erie Lackawanna, the electrification of the New York and Long Branch, and the extension of PATH to Plainfield are all discussed. * * *

On the assumption that New Jersey would be entitled to only \$400 million through Fiscal Year 1980 from existing UMTA authorizations we would undertake the following high priority projects:

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- PATH extension to Plainfield including equipment.
- Reelectrification of the Morris and Essex Branch of the Erie Lackawanna including electrification from Dover to Netcong and purchase of MU equipment.
- Electrification of New York & Long Branch from South Amboy to the vicinity of Red Bank including purchase of MU equipment.

Table I contains the financial information for the above three projects and calls for additional UMTA funds of \$482 million. This exceeds the expected allocation of \$400 million, however, by \$121 million. (\$82 million plus \$39 million recently granted for the Erie Lackawanna project.)

The Department of Transportation will fund the balance of \$121 million as follows:

- increase local share for PATH project of \$50 million to be provided by the Port Authority of New York and New Jersey.
- transfer of highway funds, both Interstate and Federal Aid Urban Systems (FAUS) in an amount of \$71 million.

TABLE I

PUBLIC TRANSPORTATION PRIORITY
CAPITAL PROGRAM

	<u>Total</u>	<u>UMTA</u>	<u>Local</u>	<u>UMTA to Date</u>	<u>UMTA Balance</u>
PATH	347	278	69	0	278
EL	265	212	53	118	94
NY&LB	137	110	27	0	110
	<u>749</u>	<u>600</u>	<u>149</u>	<u>118</u>	<u>482</u>

* * *

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QUESTION #3

The December letter said that the transit plan "should be consistent with a comprehensive land use plan for northern New Jersey." As you know, this is a requirement of the UMTA legislation; it is *not meant to stimulate the development of any new land use plan, but only to observe the legal requirement that transit programs be consistent with comprehensive land use plans; and*

"The transit plan of the State of New Jersey is consistent with the comprehensive land use plan for Northern New Jersey. The transit plan for New Jersey has been developed in conjunction with the Tri-State Regional Planning Commission, the designated comprehensive planning organization for the region."

* * *

As you know all three of these priority projects have been endorsed by the official metropolitan Planning Organization, as well as by the unofficial but highly respected Regional Planning Association, as being consistent with the transportation needs of the region as they relate to the overall economic development and land use objectives. In the case of the NY & LB and the EL, this was recognized by UMTA prior to their granting of a "letter of no prejudice" in the case of the former and an actual grant in the case of the latter.

With regard to PATH allow us to restate the positive steps New Jersey has taken, will be taking, and is prepared to do, particularly as they relate to the relationship of the PATH extension and land use plan in the PATH service area.

The affected communities along the Path corridor have endorsed the project, and have committed themselves to

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utilize their authority to support the PATH project's non-transportation objectives. We call your attention to the April 1, 1974 submission, appendices B & C. As previously pointed out to you, Union County has already set in motion the organization for resolving various development issues arising from the PATH extension project. This is the Union County Transportation Advisory Committee, which will function in concern with a Station Areas Needs Study. Parking, traffic management, land development, and environmental improvement will be under review. The citizen input through the Advisory Committee will focus on local problems. This Department supports this activity and has representation at meetings and discussions.

The City of Newark, in anticipation of PATH, has proposed several major development projects. This includes a sports and entertainment coliseum in downtown Newark adjacent to Pennsylvania Station and a \$15 million hotel/commercial complex adjacent to the proposed McClellan Street PATH station, creating 500 new jobs. PATH would also further ongoing Newark revitalization projects and improve accessibility for Newark Airport. Inadequate ground access to the airport is repeatedly identified as an impediment to airport usage.

In addition, PATH will help in the redevelopment and revitalization for the urban areas along the corridor, and provide needed service for both the blue collar and white collar residents of both urban and suburban communities, consistent with local planning efforts as well as statewide plans.

The Port Authority of New York and New Jersey has played a major role in the over-all revitalization of the region. In addition to earmarking additional automobile tolls for public transportation uses, including PATH, the Port Authority is actively studying potential industrial

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development sites within the port district, most of which involve cities served by PATH, further adding to the value of a PATH extension as a critical transit spine for a growing economic development function.

The State of New Jersey recognizes the responsibility incumbent upon the state in providing for the efficient allocation of land resources. Governor Byrne, in his Annual Message delivered on January 13, of this year, declared:

I strongly support the concept of local control of zoning but the inevitable regional impact of large-scale projects must be taken into account. The Development Review Act I have proposed will provide such an overview in accordance with state guidelines. Such an approach is essential to rational, coordinated land use and planning.

Under this act, the State will identify areas suitable for major economic and residential development and also designate areas that require special protection from such development. Thus, major capital investment decisions can be coordinated with broad land-management policies. Both are vital if we are to arrest the urban sprawl that has disfigured much of New Jersey and so damaged our economy and environment.

Furthermore endorsing the PATH proposal, Commissioner Sheehan of the Department of Community Affairs, referred to this proposal, stating that "two things appear certain to be incorporated into the comprehensive development plan. First, there will be a commitment to the revitalization of our older urban areas; and secondly, there will be a commitment to preserve, as much as possible, New Jersey's currently undeveloped farmland and open space." (Letter attached plus letter from Commissioner Bardin of the Department of Environmental Protection).

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[Letterhead of]
STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DAVID J. BARDIN, COMMISSIONER

May 27, 1975

Honorable Alan Sagner
Commissioner
Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 08625

Dear Commissioner Sagner:

In response to your request, the Department of Environmental Protection has briefly reviewed the general proposal by the Port Authority of New York and New Jersey to extend PATH transit service from Newark to Plainfield, including the Environmental Report prepared on the project by the Port Authority of New York and New Jersey. On the strength of our initial review, the Department of Environmental Protection endorses the basic concept of this PATH extension and offers the observations noted below regarding air quality.

The Department of Environmental Protection endorses the concept of increasing the State's mass transit capacity in order to reduce the dependence on the private automobile, to reduce net air pollution emissions and to conserve energy. It appears to us that the PATH extension would help achieve these goals. The implementation of the PATH extension will reduce the total number of vehicular miles driven in the northeastern portion of New Jersey and thus

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be consistent with the State's "Transportation Control Plan" for achieving air quality as called for by the Clean Air Act.

Moreover, the Department's Bureau of Air Pollution Control has compared the PATH extension with various alternatives presented in the Environmental Report, including commuter service by the Central Railroad of New Jersey. Based on the review of the Environmental Report, the Bureau concurs that an electrically-operated PATH system to Plainfield would result in an overall improvement in air quality. It should be noted that the anticipated net improvement reflects: (a) reduced emissions (CO, NO_x, particulates and hydrocarbons) from many automotive sources operating in a relatively small area; (b) increased emissions (SO_x, NO_x, and particulates) from a few electric power generating stations widely dispersed over a large area; and (c) reduced emissions (NO_x, particulates and hydrocarbons) from the CNJ diesel-powered locomotives operating in a relatively small area. Reflecting all of the foregoing, the Report shows a net air quality improvement under the PATH extension.

FAITHFULLY,

DAVID J. BARDIN
David J. Bardin
Commissioner

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[Letterhead of]
STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS

PATRICIA Q. SHEEHAN
COMMISSIONER

May 14, 1975

The Honorable Alan Sagner, Commissioner
New Jersey Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 08625

Dear Commissioner Sagner:

At your request, we have reviewed the proposed extension of the PATH line from Newark to Plainfield, on the basis of the State's overall land use needs and the State's growth and development plan. We would offer the following comments.

While New Jersey, like most other states, has delegated planning and zoning responsibilities to local units of government, it does retain the right to provide overall planning and policy guidance. This guidance is particularly appropriate for investments made by the State for the benefit of more than one municipality, and which can have lasting developmental effects. Under the legislative mandate granted to it, the Department of Community Affairs has overall responsibility for providing a growth and development plan for New Jersey.

The work of the planning staff is going forward, and by the end of the next fiscal year, a draft of the comprehensive development plan will be published. After thorough discussions with municipalities and counties, with other

Addition to Appendix by Stipulation

State Departments, and with land use, energy, and other resource experts, two things appear certain to be incorporated in the comprehensive development plan. First, there will be a commitment to the revitalization of our older urban areas; and secondly, there will be a commitment to preserve, as much as possible, New Jersey's currently undeveloped farmland and open space.

In light of this consensus and other considerations related to the future development of the State, it is our judgment that the PATH extension is most consistent with the evolving overall growth and development strategy. First, it would provide a needed boost to the redevelopment of Plainfield, as well as assisting the rehabilitation of other urban areas along the route of the PATH extension. Secondly, it would make the whole corridor between Plainfield and Newark more attractive for development and redevelopment and attract growth into that area. This redevelopment would replace the pattern of dispersal which is so wasteful of land and energy resources. This, we think, will help preserve other areas of the State as productive farmland or as open space. Finally, there are other important positive benefits in providing linkages between residences and work places, and in providing additional employment opportunities at a time when they are so badly needed.

For these reasons, we are happy to join with you in endorsing the PATH extension and urging its prompt approval, funding and construction.

Very truly yours,

PAT Q. SHEEHAN
Patricia Q. Sheehan

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Question 4

“The comprehensive transit plan and capital program are to be developed by the State “together with appropriate regional planning bodies,” which in this case would mean the Tri-State Regional Planning Commission since your funding application to UMTA will apparently be confined to northern New Jersey projects. This again has reference to UMTA’s statutory requirements, but I think the regional planning process takes on special significance where multi-year proposals are being submitted which would preempt all UMTA funding for the State through Fiscal Year 1980 under our current authorizations. I am sure that both we and you want to be sure that there has been adequate public discussion of such important priority setting and resource allocation steps.”

The comprehensive public transportation plan we have been describing above, as well as the supporting capital program, have been developed in conjunction with both the Tri-State Regional Planning Commission and the Delaware Valley Regional Planning Commission. The most recently published public transportation Master Plan of the TSRPC, *Maintaining Mobility*, issued in September 1975, lists, as priority projects, the extension of PATH to Plainfield, the electrification of the New York and Long Branch from South Amboy to the vicinity of Red Bank and the acquisition of new passenger rolling stock for this service, the re-electrification and re-equipping of the Morris and Essex Division of Erie Lackawanna and the Regional Bus Program.

This plan has been subjected to considerable public discussion prior to adoption and such review and discussion is continuing during the process of updating.

Addition to Appendix by Stipulation

The MPO (Tri-State) agrees with the Department of Transportation that the priority capital program described in question one above should receive the highest funding priority under the limited amount of funds to be provided by UMTA (attached is a letter from the Executive Director of Tri-State which supports this position). Furthermore, we in the State are fully cognizant of the fact that no such major decision can ever satisfy everyone. We feel that this issue has been discussed in a full and spirited manner both publicly and privately and we are prepared to take the praise or criticism associated with the decision to do this program. These projects are ready to go and we must move forward as rapidly as possible.

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QUESTION #1

“You should indicate what service you intend to provide west of Plainfield”:

The Department has been deferring, with Tri-State and UMTA’s knowledge, the start of the technical feasibility study of *public transportation services to be offered west of Plainfield*, pending receipt of a decision from UMTA on the proposed PATH extension. The study design for this effort has been modified to take into accounting the changing circumstances of ConRail’s inception and this work program will soon be submitted for approval. Alternate public transportation services to the west of the proposed terminus of PATH will be considered, including:

- the further extension of PATH
- suburban railroad service
- light rail transit service

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Addition to Appendix by Stipulation

- feeder bus service to PATH at Plainfield
- closed door commuter rail service to Newark
- existing bus service to Newark and New York

The study will encompass the territory along the CNJ to the vicinity of Phillipsburg and also the territory along the former Reading Company lines from their connection with CNJ at Bound Brook westward to the last station in New Jersey at West Trenton. This study will be performed in conjunction with the planning staffs of the counties the lines traverse and will present, upon completion, a workable public transportation system to connect with PATH at Plainfield. This service, to the west of Plainfield, can be planned, equipped, and placed in service by the time PATH service is initiated at Plainfield.