

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

LOWER SUSQUEHANNA RIVERKEEPER)
ASSOCIATION,)
))
Plaintiff,)
))
v.)
))
FEDERAL HIGHWAY ADMINISTRATION,)
U.S. Department of Transportation, SHAILEN)
BHATT, Administrator, Federal Highway)
Administration, and COMMONWEALTH OF)
PENNSYLVANIA, DEPARTMENT OF)
TRANSPORTATION,)
))
Defendants.)

Civil Action No. 1:23-CV-00343
Judge Jennifer P. Wilson

PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT

Lower Susquehanna Riverkeeper Association (“LSRA” or “Plaintiff”), pursuant to Rule 56 of the Federal Rules of Civil Procedure, hereby moves for summary judgment on the claims in its complaint. In support thereof, LSRA states as follows:

1. On or about January 18, 2023, Defendants Federal Highway Administration and Shailen Bhatt (collectively, “FHWA”), in consultation with the Commonwealth of Pennsylvania’s Department of Transportation (“PennDOT”), issued a Finding of No Significant Impact (“FONSI”) (Administrative Record (“AR”) 12540-48) in connection with a highway project known as the Eisenhower Drive Extension Project (“EEP”). The FONSI was based upon a January 3, 2022 Environmental Assessment (“EA”) (AR 25027-25300) prepared by FHWA.

2. As set forth more fully in Plaintiff’s Memorandum of Law in Support filed with this Motion, there is no genuine issue of material fact that FHWA failed to comply with the requirements of the National Environmental Policy Act, 42 U.S.C. § 4301 *et seq.* (“NEPA”), and the Administrative Procedures Act, 5 U.S.C. § 706 (“APA”), in preparing the EA and the FONSI.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that he caused a copy of the foregoing PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, the accompanying MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, the accompanying STATEMENT OF UNCONTESTED MATERIAL FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, the APPENDIX TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (Volumes 1 and 2), and Proposed Order to all be served upon the following counsel via the electronic filing system and by email on this 27th day of February, 2024:

Richard D. Euliss, Esq.
U.S. Attorney's Office
Middle District of Pennsylvania
1501 N. 6th Street
Harrisburg, Pa. 17102
richard.d.euliss@usdoj.gov

*Attorney for Federal Highway Administration
and Administrator Shailen Bhatt*

Neal T. Brofee, Esq.
PennDOT – Office of Chief Counsel
400 North Street
9th Floor, Keystone Building
Harrisburg, PA 17105
nbrofee@pa.gov

Attorney for PennDOT

/s/ Kenneth T. Kristl

Kenneth T. Kristl, Esq. (Bar #207825)
Environmental & Natural Resources Law Clinic
Widener University Delaware Law School
4601 Concord Pike
Wilmington, DE 19803
(302) 477-2053
ktkristl@widener.edu

Counsel for Plaintiff