

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

STATE OF NEW JERSEY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION, SHAILEN BHATT, in his official
capacity as Administrator of the Federal Highway
Administration, and RICHARD J. MARQUIS, in his official
capacity as Division Administrator of the New York Division
of the Federal Highway Administration,

Defendants,

and

METROPOLITAN TRANSPORTATION AUTHORITY and
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY,

Defendant-Intervenors.

Civil Case No. 2:23-cv-03885

**[PROPOSED] ORDER TO SHOW CAUSE FOR A
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Upon the application of Plaintiff the State of New Jersey (“Plaintiff”), by its counsel, King & Spalding LLP, the Declaration of Camilla Akbari, dated December 31, 2024, the Amended Complaint in this action, ECF No. 139, the Memorandum of Law submitted herewith, and all the prior papers filed in this action, it is hereby:

- I. **ORDERED** that the above-captioned defendants United States Department of Transportation, Federal Highway Administration, Shailen Bhatt, in his official capacity as Administrator of the Federal Highway Administration, and Richard J. Marquis, in his

official capacity as Division Administrator of the New York Division of the Federal Highway Administration (collectively, “Defendants”), and the above-captioned intervenor-defendants Metropolitan Transportation Authority and Triborough Bridge and Tunnel Authority (collectively, “Intervenor-Defendants”) show cause before a motion term of this Court, in Room _____, United States Courthouse, 50 Walnut Street, Newark, NJ 07102 on _____, 2025, at _____ a.m/p.m., or as soon as thereafter as counsel may be heard, why orders should not be issued: (i) pursuant to Rules 59 and 60 of the Federal Rules of Civil Procedure, granting clarification/reconsideration and ruling that, in accordance with this Court’s December 30, 2024 summary judgment decision, the Final Environmental Assessment (“EA”) and Finding of No Significant Impact (“FONSI”) are vacated pending the parties’ compliance with the remand proceedings ordered by the Court, *see* ECF No. 191 at 71–72; and (ii) pursuant to Rule 65 of the Federal Rules of Civil Procedure (A) temporarily restraining and preliminarily enjoining the Defendants and Intervenor-Defendants during the pendency of the remand proceedings ordered by this Court, and during the resolution of this litigation in this Court, including this application by order to show cause for clarification/reconsideration, from taking any further action to implement the Central Business District Tolling Program pursuant to the Final EA and FONSI pertaining to that Program; and (B) granting such other relief against Defendants and Intervenor-Defendants as this Court deems just and proper.

II. **ORDERED**, that sufficient cause having been shown, pending the hearing on both Plaintiff’s application for clarification/reconsideration, pursuant to Rules 59 and 60, and Plaintiff’s application for emergency injunctive relief, pursuant to Rule 65 of the Federal Rules of Civil Procedure, Defendants and Intervenor-Defendants are temporarily and

immediately restrained and enjoined from taking any further action to implement the Central Business District Tolling Program pursuant to the Final EA and FONSI pertaining to that Program.

III. **ORDERED**, that Plaintiff is not required to provide an undertaking in support of the restraining order.

IV. **ORDERED**, that opposition papers, if any, must be submitted by _____, 2025.

V. **ORDERED**, that Plaintiff may submit a reply in support of its Application by Order to Show Cause for Clarification and/or Reconsideration and for a Temporary Restraining Order and Preliminary Injunction by _____, 2025.

VI. **ORDERED**, that (1) personal service, or (2) service by (a) e-mail or (b) overnight delivery, of a copy of this Order and the above-referenced Declaration, Memorandum of Law and Complaint, with exhibits annexed thereto, upon the Defendants and Intervenor-Defendants or their respective counsel on or before _____, 2025, at 8:00 p.m. shall be deemed good and sufficient service thereof.

DATED: _____
Newark, New Jersey

SO ORDERED:

HON. LEO M. GORDON
U.S. Court of International Trade
(sitting by designation in the District of New Jersey)