

CITIZENS ADVISORY COMMITTEE

of the New York – New Jersey
Harbor & Estuary Program

To: Members of the Board of Directors
c/o Commissioner Joe Martens, Chair
New York State Environmental Facilities Corporation
625 Broadway
Albany, New York 12207-2997

Cc: Management Committee and Policy Committee of the NY-NJ Harbor & Estuary Program.

From: Co-Chairs of the Citizens Advisory Committee of the New York-New Jersey Harbor & Estuary Program

Re: Proposal for New York State Environmental Facilities Corporation to Loan \$511 Million from the Clean Water State Revolving Fund to the New York State Thruway

Date: June 25, 2014

Dear Members of the Board of Directors:

The Citizens Advisory Committee (CAC) of the New York New Jersey Harbor & Estuary Program (HEP) is an advisory committee established to support and advocate for the HEP, a national estuary program. The CAC is an official committee of the Management Committee first convened by the US Environmental Protection Agency, Region II; NY State Department of Environmental Conservation; and NJ Department of Environmental Protection for the HEP and Bight Restoration Programs.

The purpose of the CAC is to: 1) provide guidance and advice to the Management Committee on Program decision-making on behalf of the diverse stakeholders in the NY-NJ Harbor Estuary and NY Bight; 2) promote public awareness and understanding of the Program's issues, goals, and recommendations; 3) assist the Management Committee in developing and implementing the Comprehensive Conservation and Management Plan (CCMP) as required by Section 320 of the Water Quality Act of 1987.

The CAC is concerned that using Clean Water Act State Revolving Fund (SRF) to pay for part of the new Tappan Zee Bridge project, including the removal of the existing bridge, dredging of the river bottom, and building a navigation channel for construction vessels, is inappropriate and sets a dangerous precedent that could place future SRF grants by the federal government in jeopardy. SRF is intended to be used for Clean Water Act projects for "improving water quality, protecting aquatic wildlife, protecting and restoring drinking water sources, and preserving our nation's waters for recreational use."¹ A less known potential use of SRFs is to fund actions approved in a Comprehensive Conservation and Management Plan (CCMP). Other National Estuary Programs have used SRFs to fund land acquisition and environmental restoration. New York State's rationale for using SRFs to

¹ Clean Water State Revolving Fund web site http://water.epa.gov/grants_funding/cwsrf/cwsrf_index.cfm

Citizens Advisory Committee Co-Chairs

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finance the Tappan Zee Bridge Construction Project is that the project will advance HEP's CCMP (<http://www.harborestuary.org/about-planningdocs.htm>).

It is our understanding that New York State Thruway Authority (NYSTA) intends to rely upon CWA § 603(c)(3), claiming that the Tappan Zee Bridge project components for which it seeks financing qualify as being “for development and implementation of a conservation and management plan” under CWA § 320. This is untrue for nearly all of the funds proposed to be loaned to NYSTA.

For NYSTA to suggest construction activities such as new bridge construction, dredging and demolition of the current Tappan Zee Bridge are projects that advance the CCMP is the exact opposite of the intent of the SRL program, which was meant to be used for improvements to wastewater treatment infrastructure and habitat protection.

In fact, as stated in the project EIS (Environmental Impact Statement), several of the most prominent activities Environmental Facilities Corporation (EFC) proposes to pay for with federal funds designed to improve water quality and conditions in the estuary have the potential to do damage to the river. Furthermore, if the Tappan Zee construction activities now at issue are paid for with federal estuary and clean water funds as proposed, it will create a precedent that would allow other transportation infrastructure construction projects to receive loans that could take up any and all remaining funds in the state clean water revolving loan fund. According to the American Society of Civil Engineers, the funding need for drinking and waste water infrastructure exceeds \$50 billion in New York State. Clearly every penny in the SRF is needed for the intended purposes.

The Citizens Advisory Committee urges the Members of the Board to vote against the proposed financing or, at a minimum, to delay a vote and allow sufficient opportunity for EPA and all public stakeholders to carefully consider the proposal and be heard.

Sincerely,

The Citizens Advisory Committee, New York-New Jersey Harbor & Estuary Program.

This letter has been adopted by the HEP CAC following procedures established in its bylaws (<http://www.harboestuary.org/pdf/CAC%20Bylaws-Revision-Jun-03-11-F.pdf>). CAC members who have voted in support of this letter include:

Robert Alpern

Meredith Comi, NY/NJ Baykeeper, NJ co-chair, Citizens Advisory Committee of the NY-NJ Harbor & Estuary Program

Rob Buchanan, Village Community Boathouse, NY co-chair, Citizens Advisory Committee of the NY-NJ Harbor & Estuary Program

Willis Elkins, Newtown Creek Alliance

Margaret Flanagan, Marine Educator

Joe Reynolds, co-chair, Bayshore Regional Watershed Council

Manuel L. Russ, Concerned Citizens of Bensonhurst

Shino Tanikawa, New York City Soil and Water Conservation District, NY alternate co-chair, Citizens Advisory Committee of the NY-NJ Harbor & Estuary Program

Nellie Tsipoura, New Jersey Audubon, NJ alternate co-chair, Citizens Advisory Committee of the NY-NJ Harbor & Estuary Program

In addition, this letter has been endorsed by several non-voting CAC members and non members, including:

Nancy Brous, New York City Water Trail Association and Hudson River Watertrail Association

Scott Croft, President, Hudson River Boat & Yacht Club Association

Edgar Freud

Gowanus Canal Conservancy

Robert Laumbach M.D., M.P.H.

Dr. Mary Leou, Director, Wallerstein Collaborative for Urban Environmental Education, Steinhardt School of Education, Culture and Human Development, New York University

Morton Orentlicher

NOTE: The New York-New Jersey Harbor & Estuary Program is a partner program and its members occasionally have conflicting positions on regulatory and management issues. One of the Program's roles is to facilitate the exchange of ideas and to work towards resolution of these issues. The opinions of individual agencies or committees do not necessarily reflect the opinion of the Program as a whole.

The Citizens Advisory Committee provides guidance and advice to the New York-New Jersey Harbor & Estuary Program Management Committee on Program decision making on behalf of the diverse stakeholders in the region. Its membership and meetings are open to all interested parties in the region that use, or have concerns about, the New York-New Jersey Harbor Estuary and New York Bight. The Citizens Advisory Committee is the only body in the New York-New Jersey Harbor & Estuary Program that can adopt official positions on issues and topics. These official Citizens Advisory Committee positions are adopted by a majority vote of Citizens Advisory Committee members. Citizens Advisory Committee positions do not necessarily reflect the opinion of the New York-New Jersey Harbor & Estuary Program or its members and partners.