



Testimony of Jessica Roff and Paul Gallay, Riverkeeper
“Oversight - Resiliency in the Face of Sea Level Rise” and Resolution 509

October 22, 2018

Good morning Chairperson Constantinides and Councilmembers. We thank you for holding this hearing on the Army Corps of Engineers’ New York/New Jersey Harbor and Tributaries (NYNJHAT) Coastal Storm Risk Management Feasibility Study and the alternatives outlined within it. And thank you to Samara Swanston, Legislative Council, and all the work you put into this hearing and assuring a wide range of voices would be heard today.

My name is Jessica Roff; I am the Director of Advocacy and Engagement at Riverkeeper and I am here today with Paul Gallay, the President and Hudson Riverkeeper. Riverkeeper is a membership organization with nearly 55,000 members and constituents, which protects the environmental, recreational, and commercial integrity of the Hudson River, its watershed and tributaries, working with, and advocating for, communities throughout the region, and safeguards the drinking water of millions of New Yorkers.

Riverkeeper is here today, and has been active every day since the Army Corps of Engineers announced their study because this study and the process by which it is being rolled out are fatally flawed by their failure to properly address sea level rise and unreasonably restricted by the procedural straight-jacket imposed by the Corps’ so-called “3x3x3” rule. If the Army Corps, New York, and New Jersey are going to spend billions of dollars – the latest figures are in the \$140 billion range - on coastal storm protection, they need to be asking the right questions; doing the proper and comprehensive studies; proposing and implementing solutions that protect people, ecosystems, and our waterways, including the Hudson River; while being transparent and engaging communities throughout the affected geographical region. We strongly believe in a process that builds community-driven, resilient, and protective shorelines that also defend against smaller scale, more regularly occurring flooding events, and does not sacrifice the Hudson River, New York Harbor, the smaller waterways, and marine life at risk in most of the Corps’ potential plans.

The NY/NJ Harbor was selected as an area of high vulnerability to coastal storm risk in response to the devastation of Super Storm Sandy. Sandy marked the beginning of a new type of hurricane – one that is exacerbated by climate change and the rising sea levels and increased ocean temperatures that come with it. But the Corps was only



tasked with addressing coastal zone flooding and storm surge, not sea level rise, and certainly not climate change – so they are not tackling two of the most significant challenges we face.

The Corps is currently evaluating six alternative storm surge-related plans – to be winnowed down to two or three within the next year and a half. One is the no action alternative, and four of the remaining five involve massive, in-water barriers, of various sizes shutting off the mouths of different waterways along the shores of New York and New Jersey. The proposed in-water barriers pose numerous threats to each of those waterways and the marine life within them. But the most egregious is the five-mile barrier from Sandy Hook, New Jersey to Breezy Point on the Rockaway Peninsula, which would close off the mouth of the Hudson River, actually a tidal estuary, stopping the ebb and flow of the water and permanently damaging the Hudson and the marine life within it. And, even at that scale, the in-water barrier would not protect our communities against sea-level rise or deflection flooding.

In-water barriers that the Corps is considering would need to remain open most of the time to accommodate ships in one of the busiest shipping channels in the world. The Corps is saying that these barriers would only be closed to address major storms, so for most of the time, when the gates are open, shorelines are not protected against sea-level rise, or flooding from other non-catastrophic events. But, as sea level steadily rises, the ship gates will need to close more and more frequently because, with progressively higher average sea level, smaller and smaller events will lead to major flooding and we will reach Sandy-level flooding at regular high tides. As the closures increase, so will the negative impacts to the Hudson, the severity of flood events behind the barriers, and the levels of contamination from combined sewage overflow and storm water runoff as the Hudson's ability to flush them out to sea and to dilute pollution is impeded.

The Corps is also being unreasonably constrained by the 3x3x3 Rule, which is, in fact, a policy, not a rule and must be waived for this study. Under 3x3x3, the Corps must finish feasibility studies in 3 years, cannot spend more than \$3 million on the study, and must involve all three levels of Corps review – district, division, and headquarters. The Corps has stated that 3x3x3 was never intended for studies of this size, and it would be impossible to accurately study all the necessary information to determine the feasibility of a project with impacts to three states, that spans more than 2,100 miles, and could forever alter numerous ecosystems. The 3x3x3 "Rule" does have a waiver process that we understand that the Corps has begun to implement, but which it has not yet finalized.

Within the 3x3x3 framework, the Corps will only do a very superficial cost benefit analysis, weighing the cost of the potential structures against the value of real estate and infrastructure that they are expected to protect in a storm. This analysis, however, does not value ecosystem services -- the environment and the river and harbor ecosystem -- before making major decisions like winnowing down to two or three alternatives, nor will the Corps perform any original environmental or other studies. And,

although the Corps just recently announced that it will hold off until Spring 2020 to winnow down, without a 3x3x3 waiver, the entire process is still confined to three years and any changes to the timeline do not affect the overall process. It is urgent that before more time, energy, and resources are put into this broken process, the Corps must grant itself a waiver of this rule.

The rest of Corps' process is also broken. From the very beginning the Corps has been providing the bare minimum notice for its public scoping meetings: the first meeting was announced during a summer holiday week 12 days before the meeting. The Corps posted the notice to their website and emailed roughly 700 people, which did not include anyone at the multiple organizations with which they meet regularly. For other meetings they've posted to their website with three or four day's notice and emailed random groups of people – again, not including organizations with which they had been meeting, or many people who had attended prior meetings and signed in for updates. The Corps has provided substantively different information at every public meeting they hold, has failed to inform the public about which studies they will be evaluating, randomly updates information on their website without notifying the public – though it is often inaccurate as well, and extended the comment period just a few days before it ended and without broadly notifying the public. Since the Corps first publicly announced the NY/NJ HAT study in July, they have actually gotten worse at informing the public of their actions as opposed to improving. Each time we somehow find out about an extension or a meeting we pull together all the available information and get it out to all of our members and supporters and our allies to help drive attendance and inform people about the comment periods – and people continue to come out in large numbers because they are very concerned about this issue and the process.

The Corps needs to develop a comprehensive plan to inform the public and to engage communities around their process. Here are just a few ways that the Corps can make this process productive and increase the chance to meet the actual needs of affected communities.

- They must share which studies they are planning to evaluate and which they will undertake and when;
- they need to have, and communicate with, a comprehensive mailing list of everyone who has attended a meeting, commented, or communicated with the Corps in the area of potential impact;
- they need to be publicizing their meetings, deadlines, updates, and information in places other than their website.
- The Corps must undertake outreach to community groups, local elected officials, and environmental groups; they especially need to do authentic outreach and engagement with environmental justice communities and groups – who as the most impacted by storm surge and sea-level rise often have many solutions, but may not have the resources to implement them. The Corps and New York state

must also consult with Federal and State recognized tribes who will be affected by this study – to date there has been no mention of tribal nations. These must be real conversations with intentional information exchange.

Substantively, the Corps must begin to properly frame the questions it is addressing. Acknowledging sea-level rise and building barriers or sea walls or levees with extra-large foundations to support later expansion is not a comprehensive plan to address sea-level rise. As we are all aware, just last week the Intergovernmental Panel on Climate Change (IPCC) warned that climate change and its impacts are worse and happening far quicker than many scientists had warned and for which world leaders were preparing.

According to the IPCC, humans have about 12 years to completely change the systems that put carbon dioxide into the atmosphere, which means our economic, transportation, and energy systems among the biggest. The report predicts dire consequences by as soon as 2040. And there are many scientists who say even this latest report is downplaying the gravity of our current situation and the impending impacts. Statements about adapting to sea-level rise and assessing risk and uncertainty does not make massive in-water barriers responsive to sea-level rise. Comprehensive onshore levees, dunes, and floodwalls, on the other hand, can be built first in the communities and areas at greatest risk, can be modified as needed over time, are a fraction of the cost of the large in-water barriers, will not require massive amounts of money to maintain and operate, will work in conjunction with ongoing measures to make our shorelines more adaptive, and developing them provides meaningful points of engagement with shoreline and other affected communities.

The latest IPCC report has certainly instilled a heightened sense of urgency in all of us working to address climate change, and likely in everyone affected by it. But, another key take-away from the report is the need to respond in ways that are effective and efficient, not just quick. You cannot address a problem of this magnitude – the storm and sea-level rise flooding New York City and other coastal communities face – without thorough, science and community-based solutions that incorporate the new data from the IPCC report and evaluate the totality of the circumstances. ***In order to do so the Army Corps must waive the 3x3x3 rule, reformulate their NY/NJ HAT study to squarely address sea-level rise, undertake comprehensive studies, and meaningfully and transparently engage the communities throughout the affected region.***