

APPENDIX



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October 9, 2015

Office of Flood Risk Reduction Measures
Attention: Dave Rosenblatt
501 East State Street
Mail Code 501-01A
P.O. Box 420
Trenton, NJ 08625-0420

Re: New Jersey's National Disaster Resilience Competition Phase 2 Draft Application

Dear Mr. Rosenblatt:

Hackensack Riverkeeper and NY/NJ Baykeeper respectfully submit these comments to the New Jersey Department of Environmental Protection (NJDEP) on New Jersey's National Disaster Resilience Competition (NDRC) Phase 2 Draft Application (Draft Application). The Draft Application contains three central components: (1) The Meadowlands Resilience Revitalization Project; (2) A NJ TRANSIT Satellite Bus Garage; and (3) A Regional Resiliency Planning Grant Program. Within Bergen County, the project service area for the berm and bus garage components are the communities of Little Ferry and Moonachie portions of Carlstadt, Hackensack City and Hasbrouck Heights, portions of East Rutherford, Rutherford and Wood Ridge, South Hackensack and Teterboro.

Our organizations have serious concerns about the Draft Application, as outlined in this comment letter. First, our organizations are concerned about the lack of advance notice given to the public about the Draft Application and the recent public hearing and the lack of stakeholder engagement. Second, there is a real potential for the Meadowlands Resilience Revitalization Project to exacerbate – rather than alleviate – existing problems by allowing further destruction of critically important wetlands and potentially redirecting floodwaters elsewhere to nearby communities. Finally, the lack of specifics in the Draft Application is concerning and must be corrected by clarifying the proposal and conducting a thorough review under the National Environmental Protection Act (NEPA) and by conducting a full Environmental Impact Statement (EIS).



Inadequate Public Notification and Stakeholder Engagement

New Jersey's National Disaster Resilience Competition (NDRC) Phase 2 Draft Application was made available to the public on Friday, September 25, 2015 and a public hearing was held on Tuesday, September 29, 2015. All public comments are due by 5 p.m. on October 9, 2015. This extremely short timeline greatly limits the opportunity for concerned citizens to review the Draft Application and to submit comments. Fifteen days to review and comment on a 206-page document is simply not sufficient to allow for meaningful public participation.

Additionally, NJDEP's public outreach to affected communities also appears to have been lacking. The low turnout at the public hearing on September 29 suggests that NJDEP did not give interested parties sufficient notice for the hearing and did not take appropriate actions to engage stakeholders in the public participation process. At the very least, NJDEP should have provided more advance notification of the public hearing, allowed a longer period of time for the public to review the Draft Application and submit comments, and conducted additional outreach to facilitate more stakeholder engagement.

The Draft Application states that there has been "broad, extensive outreach undertaken in connection in developing the NDR Phase 2 proposal."¹ Our organizations do not believe there has been broad, extension outreach. Moving forward, NJDEP must enhance its outreach and include more diverse groups of the public, not just the 14 Mayors of the affected municipalities. We request that the NDR Citizens Advisory Group mentioned in the Draft Application² include citizens and community leaders that represent a diverse set of interests.

Negative Impacts from Destruction of Critically Important Wetlands

Wetlands are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support vegetation adapted for life in saturated soil conditions."³ The benefits of wetlands are numerous and diverse – wetlands provide critical habitat to plants and animals; act to purify

¹ The State of New Jersey, National Disaster Resilience Competition, Phase 2

² Draft Application, page 35.

³ New Jersey Meadowlands Commission, NJMC Master Plan, adopted January 2004, page 3-1.

water, thereby improving water quality; provide recreational and educational opportunities; and alleviate the effects of flooding.⁴

Such environmental and ecosystem benefits are particularly important in the Meadowlands, where in spite of efforts to address environmental concerns, there remain “varying degrees of problems associated with air and water pollution, flooding, diminished wildlife habitat, unclosed landfills and wildlife.”⁵ Our organizations are very concerned that the Meadowlands Resilience Revitalization Project as outlined in the Draft Application will lead to additional destruction of critically important wetlands in the Meadowlands.

The Draft Application acknowledges that the Meadowlands Resilience Revitalization Project and the construction of the berm will lead to the drainage and paving of existing wetlands in the direct path of the project.⁶ However, the Benefit-Cost Analysis (BCA) does not estimate the cost of destroying existing wetlands and assumes that replacement wetlands will fully make up for the destroyed wetlands. To fully account for the costs of the Meadowlands Resilience Revitalization Project, the BCA should take into account the costs – both monetary and ecological – associated with having to fill existing wetlands with fill material in order to construct the berm and other project components. Even if replacement wetlands are constructed, there is likely some loss that will result from the existing wetlands being lost.

The Draft Application states that restoration of wetlands will be part of the Meadowlands Resilience Revitalization Project and that there will be 221 new acres and 496 improved acres inside of the berm.⁷ Our organizations support restoration of wetlands in the Meadowlands because of the clear benefits that healthy wetlands provide – including improved flood storage capacity and enhanced wildlife habitats, as the Draft Application recognizes.⁸ Because of the clear benefits that wetlands provide, the State should prioritize funding for wetlands enhancements

⁴ NJMC Master Plan, page 5-21.

⁵ NJMC Master Plan, page 5-2.

⁶ Draft Application, Attachment F, Phase 2 Benefit-Cost Analysis (BCA), page 52, 58. “During the construction phase, there will be intermittent wetland construction efforts, including the drainage and paving of wetlands in the direct path of the covered project, and the creation of new wetlands to mitigate the acres lost to construction of the project.”

⁷ Draft Application, page 98-99.

⁸ Draft Application, page 20.

above additional funding to complete and expand the berm and the water control structure.⁹

While wetlands enhancement should play a primary role in any project design and should be prioritized above expansion of the proposed berm, our organizations have concerns with the method of wetlands enhancement that the NJDEP proposes. The Draft Application states that NJDEP's primary concept for wetlands enhancement is temporarily impounding water to kill invasive *Phragmites Australis*, which would then allow the establishment of *Spartina alterniflora*.¹⁰ This form of *Phragmites* management would likely cause oversaturation and subsidence of the soils in the Meadowlands, which would lead to further deterioration of the wetlands that are the target of enhancement.¹¹ Our organizations recommend that NJDEP explore other methods of wetlands enhancement (such as mowing and the use of herbicide) that will not have such negative impacts.

Finally, the Draft Application claims that the New Jersey Meadowlands Commission Master Plan's general policies regarding land use and future development in the Meadowlands District will be attained through implementation of the proposed project.¹² Our organizations question whether the proposed project - with its necessary construction and filling of wetlands - will actually comply with the Master Plan's policies regarding the preservation of open space of environmentally sensitive areas, including wetlands and waterways.

Need for Environmental Impacts to be Explored Through the Completion of a Full Environmental Impact Statement

The Draft Application lacks detail on specific aspects of the project and the expected environmental impacts. In order for the public to understand the true impacts of this proposal, additional details must be provided and a thorough review and full Environmental Impact Statement (EIS) of the project must be conducted as required by the

⁹ Draft Application, page 87. The Draft Application prioritizes additional funding for expansion of the berm and the water control structure over funding for wetlands enhancements.

¹⁰ Draft Application, page 65.

¹¹ See Matthew L. Kirwan & Patrick Megonigal, Tidal wetlands stability in the face of human impacts and sea-level rise, *Nature*, 2013 (explaining how in certain regions, increases in tidal inundation reduce organic matter contributions from plants and accelerates erosion, causing a feedback that accelerates the deterioration of coastal wetlands).

¹² Draft Application, page 89-90.

National Environmental Policy Act (NEPA). The project concept identified in the Draft Application clearly constitutes a major Federal action significantly affecting the quality of the human environment and therefore must undergo a full Environmental Impact Statement.¹³

Conclusion

We appreciate the opportunity to provide comments on New Jersey's National Disaster Resilience Competition (NDRRC) Phase 2 Draft Application. As explained above, Hackensack Riverkeeper and NY/NJ Baykeeper have concerns with both the process followed to date and the substance of the Draft Application. While our organizations support the goals of conservation and restoration of wetlands and smart solutions to increasingly common flooding and storm surges, we have concerns that the project concepts outlined in the Draft Application will not advance either of these goals.

Sincerely,

Capt. Bill Sheehan
Hackensack Riverkeeper

Deborah A. Mans
NY/NJ Baykeeper

Andrea Leshak
Hackensack Riverkeeper
NY/NJ Baykeeper

¹³ See 42 U.S.C. § 4332; 40 CFR § 1502.3.

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COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HEALTH

COMMITTEE ON THE BUDGET

Congress of the United States
House of Representatives

February 9, 2016

Hon. Robert M. Gordon
Chairman
New Jersey Senate Legislative Oversight Committee

Mr. Chairman:

Thank you for the invitation to testify at today's hearing today. I regret that I am unable to attend due to voting session in the U.S. House of Representatives. I would ask that my statement be included in the hearing record.

I was proud to fight alongside the New Jersey Congressional delegation to ensure that \$181 million was set aside for New Jersey and New York from the pool of funding available as part of the National Disaster Resilience Competition, and I was grateful for the United States Department of Housing and Urban Development (HUD) for exceeding that set-aside for the region.

That said, I was disappointed to learn that New Jersey missed out on potentially \$300 million for two major projects in New Jersey's 9th Congressional District because there were problems with New Jersey's final application. Those funds would have gone towards water pumping stations, berms, wetland restoration and other resiliency efforts in the Meadowlands as well as to construct a New Jersey Transit bus garage in Secaucus. Our state was awarded a mere \$15 million of the nearly \$1 billion designated for the program. I know that it is too late to change the application, but it is important the people of New Jersey understand how this happened, and ensure that it not happen in the future.

According to HUD Secretary Julian Castro, New Jersey submitted "a weaker application," specifically in two areas: identifying non-federal funds to assist with bearing the cost of the project and creating projects that can be broken down into sub-projects. Additionally, Secretary Castro noted that feedback was provided on each application, and applicants were able to resubmit their applications to incorporate that feedback. Given that the state seemingly had the opportunity to address deficiencies in its application before awards were issued, it troubles me that New Jersey still received such a small share of the funding.

As a result, I believe it is critical that all correspondence related to the technical assistance or recommendations provided to improve New Jersey's application be released so we can have a full accounting of exactly how New Jersey received this unacceptable result. That is why Representative Pallone and I led a letter to the Governor asking the State to request a technical briefing on the application from HUD and allow Members and staff of New Jersey's Congressional Delegation to join. Additionally, our letter also requests any correspondence related to any technical assistance provided by HUD or the Rockefeller Foundation be released.

It's imperative that the State provide answers to why this application for desperately-needed flood mitigation funds fell so short, and I thank the Senate Legislative Oversight Committee for taking up this question.

Sincerely,

A handwritten signature in black ink that reads "Bill Pascrell, Jr." in a cursive style.

Bill Pascrell, Jr.
Member of Congress