

Citizens Campaign for the Environment - Common Cause/NY  
Environmental Advocates of New York - Food and Water Watch  
Hudson River Fisherman's Association - Natural Resources Defense Council  
New York League of Conservation Voters - NYPIRG  
Reinvent Albany - Riverkeeper - Tri-State Transportation Campaign

July 9, 2014

Robert Megna, Chairman, Public Authorities Control Board  
State Capitol  
Albany, NY 12224

**Delivered via email to robert.megna@budget.state.ny.us**

Dear Chairman Megna,

We the undersigned oppose the diversion of \$511 million by the Environmental Facilities Corporation (EFC) from the state's Clean Water State Revolving Fund (CWSRF) to the New York State Thruway Authority (NYSTA) for projects that support the construction of the New NY Bridge. We request that the Public Authorities Control Board (the Board) reject any request by the EFC to approve these loans or to approve an amended 2014 CWSRF Intended Use Plan that includes these loans at the Board's upcoming July 16<sup>th</sup> meeting.

Based on the information that EFC has made available thus far, it appears that the majority of the projects to be covered by the proposed loans are not appropriate for CWSRF support. While we recognize the importance of securing the necessary funds for construction of the New NY Bridge we maintain that the CWSRF is an inappropriate source of financing and financial support for such a project. The CWSRF is intended to support the development of much needed water infrastructure for communities around New York State and to address pressing water quality problems. The vast majority of financial support relates to basic bridge construction and demolition activities that are not eligible for CWSRF support and have little or nothing to do with maintaining or protecting water quality or implementing the New York-New Jersey Harbor Estuary Comprehensive Conservation Management Plan.

In a June 25<sup>th</sup> letter, USEPA raised many valid questions about the projects the loans would support, those projects' consistency with the New York-New Jersey Harbor Estuary Comprehensive Conservation Management Plan, and the eligibility of some of these projects for CWSRF support. Until these questions are answered to USEPA's satisfaction, the Public Authorities Control Board should not approve the proposed \$511 million in CWSRF loans to the NYSTA.

It should be noted that the inclusion of the NYSTA loans for the bridge on the 2014 CWSRF Intended Use Plan was undertaken in a way that circumvented required public notice. The public was only notified of the EFC's plan to issue the loans when notice was given in the June 11<sup>th</sup> Environmental Notice

Bulletin, wherein the EFC characterized the loan as a minor modification to the 2014 Intended Use Plan.<sup>1</sup> Final approval of the loan by the EFC's board of directors was then hastily scheduled for June 26<sup>th</sup> and the CWSRF's 2014 Intended Use Plan was subsequently amended without public comment.<sup>2, 3</sup> The EFC rushed its decision-making and bypassed important aspects of what is supposed to be a public process.

EFC has also failed to provide documents related to the loan application, engineering analysis, and other public documents that are required for approval of a CWSRF loan. This conflicts with Sec. 4(B)(iv) of the EFC's Operating Agreement with USEPA, which states that, "EFC will provide the information requested by citizens, to the extent it is available for public access under the New York State Freedom of Information Law (Public Officers Law Art. 6), in a timely manner." Many of the undersigned organizations have requested documents related to NYSTA's loan application and supporting materials, but EFC has failed to provide them in a timely fashion. The Board should not approve a loan until the EFC and NYSTA disclose all pertinent information.

Moreover, the Board has a statutory obligation to only approve projects that have clear "commitments of funds sufficient to finance the acquisition and construction of such project."<sup>4</sup> In this case, that should include a comprehensive funding plan for the entirety of the New NY Bridge project, not just the portion to be supported by the proposed CWSRF loans. At a minimum, we request that the Board delay a vote on the loan in question until such time when this information is made available as well as all other information provided mentioned above, including answers to USEPA's questions.

Finally, diverting funds to projects that do not clearly fit the intended purposes of the CWSRF is ill-advised. New York has more than \$30 billion in unmet wastewater treatment infrastructure needs, which are the types of projects the CWSRF is intended address. This loan could set a dangerous precedent and lead other states into using these funds for projects with little or no connection to the protection of water quality and water resources.

For these reasons, we the undersigned urge the Board to reject the EFC's request and reject the \$511 million in proposed loans from the CWSRF to the NYSTA.

Sincerely,

/s/ Brian Smith, Associate Executive Director  
Citizens Campaign for the Environment

/s/ Susan Lerner, Executive Director  
Common Cause/NY

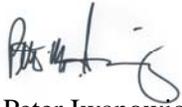
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<sup>1</sup> *ENB State Notices 6/11/2014* available at [http://www.dec.ny.gov/enb/20140611\\_not0.html](http://www.dec.ny.gov/enb/20140611_not0.html)

<sup>2</sup> *Materials for Upcoming Board Meeting* available at [www.efc.ny.gov/Default.aspx?TabID=76&fid=455](http://www.efc.ny.gov/Default.aspx?TabID=76&fid=455)

<sup>3</sup> 2014 CWSRF Intended Use Plan available at <http://www.efc.ny.gov/Default.aspx?tabid=112>

<sup>4</sup> New York Public Authorities Law, Sec. 51(3)



Peter Iwanowicz, Executive Director  
Environmental Advocates of New York

/s/Alex Beauchamp, Northeast Region Director  
Food & Water Watch



Gil Hawkins, President  
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Robert Moore, Senior Policy Analyst  
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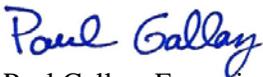


Marcia Bystryn, President  
New York League of Conservation Voters



Laura Haight, Senior Environmental Associate  
New York Public Interest Research Group

/s/ John Kaehny, Executive Director  
Reinvent Albany



Paul Gallay, Executive Director  
Riverkeeper



Veronica Vanterpool, Executive Director  
Tri-State Transportation Campaign

cc: Assemblyman Sheldon Silver  
Senator John DeFrancisco  
Assemblyman Joseph Giglio  
Senator Bill Perkins  
Comptroller Tom DiNapoli  
Environmental Facilities Corporation Board of Directors  
Joe Martens, Commissioner, NYSDEC  
Matthew Driscoll, President and CEO of EFC  
Basil Seggos, Deputy Secretary for the Environment  
Judith Enck, USEPA Region 2 Administrator