

OFFICE OF THE COMMISSIONER

New York State Department of Environmental Conservation
625 Broadway, 14th Floor, Albany, New York 12233-1010
P: (518) 402-8545 | F: (518) 402-8541
www.dec.ny.gov

May 8, 2015

Via E-Mail and Regular Mail

Ms. Judith A. Enck
Regional Administrator
United States Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

Re: Appeal of September 16, 2014 Clean Water State Revolving Fund (CWSRF)
Determination (Agency Decision)

Dear Ms. Enck:

This letter confirms the mutual agreements of the U.S. Environmental Protection Agency, Region 2 (EPA), the New York State Department of Environmental Conservation (DEC) and the New York State Environmental Facilities Corporation (EFC) to resolve the issues relating to the eligibility for CWSRF funding of certain projects associated with the replacement of the Tappan Zee Bridge with the New New York Bridge.

We have agreed that: (1) EPA will amend the Agency Decision such that the costs, including reasonable design, planning and construction, associated with the Oyster Bed Restoration and Falcon Nest Box, as those projects are defined in the Agency Decision and New York State's CWSRF Intended Use Plan (IUP), will be deemed eligible for CWSRF funding. These two projects will be in addition to the five projects (referred to in the Agency Decision as "Gay's Point Restoration," "Piermont Marsh Restoration," "Net Conservation Benefit Plan," "Stormwater Management Measures," and "Atlantic Sturgeon Outreach Program") that EPA already determined, in the Agency Decision, are eligible for CWSRF funding; and (2) DEC and EFC hereby withdraw their appeal of the Agency Decision and agree not to pursue further appeals or reviews, in either an administrative or judicial forum, of EPA's determination of ineligibility, under the



Department of
Environmental
Conservation

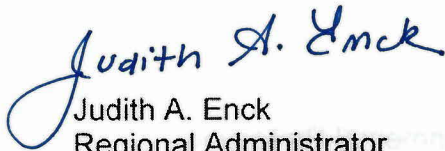
CWSRF, of the remaining projects subject to the Agency Decision. In addition, DEC and EFC will promptly take such additional actions, including without limitation amending the IUP, to reflect the agreements in this letter. Upon receipt of an amended IUP consistent with this letter, EPA will issue a revised CWSRF eligibility determination consistent with this letter.

Sincerely,



Chair, New York State Environmental Facilities Corporation
Commissioner, New York State Department of Environmental Conservation

AGREED:



Judith A. Enck
Regional Administrator
U.S. Environmental Protection Agency
Region 2

c: Allen A. Kacenjar, Esq. Squire Patton Boggs