

March 4, 2013

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**RE: Docket ID: USCG 2012-1091**  
Bayonne Bridge Navigation Clearance Project  
Comments on Draft Environmental Assessment (DEA)  
Via electronic upload

[www.cleanwateraction.org/njef](http://www.cleanwateraction.org/njef)

Dear Mr. Kassof,

I request that you accept these comments into the formal public records regarding the US Coast Guard's (USCG) review of the Port Authority of NY/NJ (PANYNJ) Bayonne Bridge Navigation Clearance Project (Docket ID # 2012- 1091) on behalf of the New Jersey Environmental Federation (NJEF), the State Chapter of national Clean Water Action. NJEF is a 40 year old organization with over 150,000 individual members, 75,000 email subscribers and 100 members groups located throughout the Garden State including port adjacent communities. We were created in 1972 by our founding president who helped draft and pass the original federal Clean Water Act.

NJEF believes that the DEA should be withheld until a fuller evaluation, as well as environmental, environmental justice and public health remedies are determined and adopted. Our concerns are supported by a number of federal agencies including the US Environmental Protection Agency (USEPA). While NJEF believes that the raising Bayonne Bridge is key element to the port's future ability to handle global goods, it can be done without bringing greater harm to people already overburdened by environmental hazards and health impairments.

The NJ Environmental Federation's comments to the Bayonne Bridge Navigation Project fall into five (5) areas of concern:

1. Adherence to the spirit and federal policy regarding environmental justice
2. Maximizing public engagement early and throughout the process
3. Assessment of port growth and related cargo handling and truck traffic volumes
4. Adequacy of testing for existing contamination and potential for exposure (air, water, soil, dust) during construction
5. Determination of "no mitigation" required

## **1. Adherence to the spirit and federal policy regarding environmental justice**

Executive Order 12898 (EO signed by then President Clinton) requires that all federal agencies consider environmental justice (EJ) and cumulative impacts, as well as maximize early and meaningful public input when EJ communities may be impacted by federally-approved projects and decisions. By the USCG's own admission, the Bayonne Bridge Clearance Project is located within an area of many "sensitive receptors" where residences and larger region will be impacted by direct and indirect impacts.

EJ communities (such as Howland Hook region, Staten Island NY, and Bayonne NJ) near the bridge will be directly affected by staging areas and construction noise, vehicle/equipment traffic and emissions, use as well as use and disturbance of hazardous substances. These same EJ communities along with Elizabeth, Newark (NJ) and others will be indirectly affected by resulting port expansion, goods movement at the terminals and truck trips within the neighborhoods. This is especially true if the new trend is to locate more warehouses in closer proximity to the port as is already occurring in the South and East Wards of Newark, NJ.

Yet the USCG has instead attempted to narrowly define the project as the Bayonne Bridge Structure in order to effectively minimize public participation and mitigation measures needed to protect these highly vulnerable communities – communities that have a 25+% asthma rate amongst its schools age children, as well as Newark with an asthma related hospitalization and death rate double that of suburban towns in the same county. Diesel related lung cancers, premature death, and heart attacks are hundreds and thousands of times higher than the USEPA federal allowable limits (1999).

Given the size and significance of this project, as well as long term impacts on a highly sensitive and already overburdened region, a more thorough environmental review, or Environmental Impact Statement (EIS) is warranted. A Draft Environmental Assessment is *not* sufficient.

## **2. Maximizing public engagement early and throughout the process**

Given that several agencies (e.g. PANYNJ and US Coast Guard as lead) have been working on design and construction plans for years, NJEF would have expected that documents would be readily available, and public informational meetings and dialogue held early in the process. In fact, EO 12898 clearly states that early input and meaningful participation is expected in environmental justice-affected communities for federally approved projects and decision-making. The USEPA indicated and NJEF concurs, that the USCG held the meetings and hearings too late in this process to garner and/or utilize meaningful community input.

The June 2012 meeting of the Interagency Workgroup on Environmental Justice (Washington DC) was the real first opportunity for port activists to interact with the USCG on this project. The USCG probably would never have had meetings (December 2012) with environmental justice groups in Staten Island, NY and Coalition for Healthy Ports (CHP) in Newark, NJ if there had not been the meeting in DC and pressure from the USEPA.

The Newark public hearing (February 13, 2013) would never have been added if it had not been for the Coalition for Healthy Ports (CHP) request, media coverage and mobilization of public officials. The comment period would not have been extended by 15 days. CHP had requested a 30 day extension to the comment period. Access to Freedom of Information Act (FOIA)-requested USCG documents was held up until 2 days before the Newark, NJ hearing.

Public agencies had full access to the documents and process while the public and those most affected did not. This process flies in the face of the EO and subsequent policy direction given with regards to effectively engaging EJ communities who have limited time and resources to have their voices heard and recommendations incorporated into the decision-making process.

### **3. Assessment of port growth and related cargo handling and truck traffic volumes**

By the Port Authority of NY/NJ and terminal operators' own projections, the port complex will double its cargo capacity in the coming years. Currently, 7,000 drayage (container) trucks come in and out of the NY/NJ ports every day. Most of these trucks are moving goods at the Ports of Newark and Elizabeth, NJ. The raising of the Bayonne Bridge is essential to bringing in the Panamax supersized container ships into these NJ ports. Even if rail service is increased on/off the port, drayage trucks will still move 75% of the goods off the piers to railcars or other destinations (e.g. warehouse).

Since goods largely remain in the 50-100 mile radius of the port, more trucks will be emitting diesel pollution into the air within a region that has long been out of attainment under the federal Clean Air Act. Unlike power plant emissions, diesel particles are heavy and stay local. As a result, diesel related health impacts are also very local. If the port complex and auxiliary operations (e.g. warehouses) continue to move closer to the port as they have in the East and South Wards of Newark, the exposures will be even greater as trucks move on local streets, idle throughout the neighborhoods, in queues and at loading docks. One remedy would be to establish auxiliary power (i.e. electrified hookups) at newly created truck "rest stops" close to the port and warehouse loading docks so that truck engines and refrigerator units could be turned off instead of idling.

Diesel emissions levels for particulate matter (PM<sub>5</sub>) in the region currently far exceed federal standards for life time cancer risk by 651-1394 times (Essex, Union and Essex Counties, NJ, 1999). Without an effective mitigation measure in place - i.e. replacing and properly maintaining all 2006 and older port trucks with 2007 state of the art diesel engines, we will not be able to achieve a net reduction in diesel pollution while growing the port. A 2007 or new diesel engine will achieve a 90% reduction in diesel emissions if the trucks are properly maintained.

### **4. Adequacy of testing for existing contamination and potential for exposure (air, water, soil, dust) during construction**

The USCG acknowledges contamination of land and water by hazardous substances will occur during construction, but does not say what, where and degree of the contamination created as a result of construction. It is also anticipated that existing contaminated soils will be disturbed. The movement and/or dust from these soils have the potential to expose and cause harm to sensitive populations, including children, in nearby schools, residences and parks. But the USCG lacks a full array of field testing and results of soil and water where bridge construction impacts are anticipated. The PANYNJ and USCG seem to be taking the approach of "no testing = no problem = no action needed". This is a highly irresponsible position to be taking and has the potential to put vulnerable populations in harms way when it could have been prevented. Full environmental testing of geographic areas of hazardous concern should be taken, mitigation steps delineated and approved by the affected population before DEA is made final and construction permits are issued.

In addition, NJEF questions the use of the AERMOD dispersion model for projecting air emissions related to construction. The model tends to under report what actually occurs. As a result, the project is likely to exceed pollution limits for diesel with no recourse in place. Given the existing impacts of pollution in the surrounding environmental justice communities, the model used for estimating air emissions should be more conservative in its approach – i.e. take a more precautionary approach and suggest mitigation measures that should be installed during construction to minimize potential for exposure to these health harming air toxics.

## **5. Determination of “no mitigation” required**

It is unconscionable that the US Coast Guard would issue a DEA that states that “no mitigation” is required during construction or considered in relation to future impact of port expansion as a result of the raising of the Bayonne Bridge. In fact, the USCG made tremendous effort to limit the scope of review to just the confines of the actual bridge structure so that footprint of the project would limit the scope of mitigation measures considered. Soil and other sampling tests were limited or eliminated so the findings would not be included in the deliberations.

This is especially alarming given the close proximity of the project to environmental justice communities and indirect impacts that NJEF foresees with increased volumes of truck traffic and related pollution harms if no mitigating measures are taken. These are communities that already overburdened port related pollution and health impacts, yet are given no federal-assigned remedies for environmental and health protections in the future.

*For all of these reasons and more, the New Jersey Environmental Federation calls upon the US Coast Guard to withhold the Draft Environmental Assessment and move swiftly towards the preparation of a full Environmental Impact Statement. The process must fully engage people who are most affected by the project and have constructive suggestions to offer. In this way, we can identify ways to best grow the port complex and its infrastructure without causing harm to the environmental justice communities located in close proximity to the port.*

Thank you in advance for your consideration of the NJ Environmental Federation’s comments regarding the Bayonne Bridge Clearance Project (Docket ID: USCG-2012-1091). If you have any questions, please do not hesitate to contact me via email at [agoldsmith@cleanwater.org](mailto:agoldsmith@cleanwater.org) or phone at 732-963-9714.

Sincerely,



Amy Goldsmith  
State Director,  
NJ Environmental Federation (NJEF)