



TO: Dan Aschenbach  
Mayors Council Rahway River Watershed Flood Control

FROM: Mike Merola, Founding Partner  
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DATE: December 10, 2019

RE: Rahway River Mayors Council Flood Control Status Update and Next Steps

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Below please find an update on key activities as we continue to advance the federal/state efforts to provide protection from flooding on the Rahway River.

#### **October 2019 Meeting with USACE North Atlantic Division / NJDEP**

The Mayors Council and WSW have been actively engaged in efforts to counter USACE's proposal to end the current federal study on a project to control flooding related to the Rahway River. After receiving the September 2019 letter from USACE North Atlantic Division asserting that it was unable to find an alternative to provide protection from flooding from the Rahway River with a positive BCR (as evaluated by USACE New England) and as a result of the lack of such a plan, it would move to terminate the study, the Mayors Council and WSW held extensive discussions with federal, state, and local elected officials to counter claims made by USACE, areas where we believe USACE had failed to engage and study alternatives and work with the Mayors Council in a collaborative fashion, and ways that advocacy by Capitol Hill and the State of New Jersey could and should pause the process to enable the affected communities to come to a consensus on a plan with broad support.

With the active leadership by Senator Booker and Senator Menendez and Congressman Malinowski, this outreach was also focused at NJDEP to reject the USACE move, which also included a large scale conference call involving the Chief of Staff to NJDEP Commissioner McCabe to allow the full array of community stakeholders to register their concerns. The Mayors Council also facilitated a series of letters being submitted to NJDEP by several of the stakeholders in the effort, including by Union County and Essex County, to urge NJDEP to work with the affected communities to forestall the termination of the study and to find a solution to the problem.

In response to these efforts and at the request of the Mayors Council and the federal elected officials, NJDEP arranged an October 4, 2019 meeting in Trenton involving USACE North Atlantic Division Major General Milhorn, NJDEP Commissioner McCabe, and the leadership of USACE New York District and USACE New England District. The meeting was attended in person by staff from Sen. Menendez and Rep. Malinowski, several Mayors Council community stakeholders including Cranford, Rahway, Union County, and WSW. It was also attended by conference call with the staff for Sen. Booker, several state legislators, and other Mayors Council communities. At the meeting, General Milhorn asserted that USACE (via USACE New England) has come to a point where it has studied approaches to the problem of flooding on the Rahway River but has been unable to identify an alternative that has a positive BCR (greater than 1.0). General Milhorn also stated that USACE has no federal funding left to study the project, and that in the absence of a proposal that has community support and a positive BCR, USACE would be moving to end the study.

Several Mayors Council stakeholders and representatives of the federal elected officials challenged USACE assertions, including that USACE New England did not work in the collaborative, cooperative fashion that USACE New York had done when it was developing the TSP related to Alternative 4a and that USACE did live up to its commitment provided to the New Jersey Congressional Delegation when it pledged to use innovative approaches to providing protection from flooding or finding upstream storage. The Mayors Council also contested USACE's claims that it had exhausted all funding that had been allocated to the project, including the additional \$500,000 provided to the initiative in the USACE FY18 work plan, and vehemently made the case for additional study on a project that the Mayors Council communities continue to seek consensus upon.

Pursuant to the meeting, the Mayors Council has been continuing its efforts to counter USACE's plan to terminate the study and has been working to develop a plan that can enjoy consensus support by Mayors Council communities. As part of that work, WSW has worked closely with staff for Senators Menendez and Booker and Rep. Malinowski to update the committees of jurisdiction over USACE, the Senate Environment and Public Works (EPW) Committee and the House Transportation and Infrastructure (T&I) Committee, regarding USACE's actions and to enlist their assistance to answer questions about funding for the project and how to continue it.

In response to that outreach, Senator Booker's office has learned that USACE has approximately \$875,000 in un-obligated federal funding that could still be utilized to pay for activities related to the study. Further, as part of engagement of the Senate EPW committee, Senators Booker's staff have received positive preliminary feedback regarding inclusion of a provision in the 2020 Water Resources Development Act (WRDA) reauthorization that is scheduled to occur next year that would keep the study going and direct USACE to work with the affected communities to develop a plan that has consensus support. We are still awaiting feedback on other efforts that could support the project in the WRDA reauthorization process including any support for directing USACE to allow projects that involve forecast informed operations or to allow the benefits of state-sponsored projects to be included in a BCR on neighboring federal projects that could facilitate state work to create upstream storage by upgrades to the Orange Reservoir Dam to enable federal work in downstream communities.

WSW has also been working extensively to facilitate Mayors Council efforts to find a consensus plan among its communities, including scheduling a meeting between Essex County and Union County and their political and engineering leadership. As a product of this outreach, a meeting between Essex County and Union County's top leadership is now scheduled to take place on Monday, December 16.

### **Preliminary Plan of Action for 2020**

With the project at a critical juncture, WSW plans to work with the Mayors Council on several fronts to advance and build support for a federal project in conjunction with USACE in 2020. At the forefront of this work, WSW will support the Mayors Council to develop and build consensus for a plan amenable to the Mayors Council communities. As per our outreach to Capitol Hill, we understand that the federal elected officials are prepared to continue to advocate for the Mayors Council as they engage USACE, but they have emphasized to us that having a plan in hand is essential to putting the project back on track.

With a plan in hand, one track for our work in 2020 would be to facilitate Mayors Council outreach to federal elected officials to reverse USACE's plans to terminate the study. We would plan to deploy all tools at our disposal in this effort, including outreach via questions of USACE witnesses at the oversight and budget hearings that USACE testifies at before the Senate EPW Committee and House T&I Committee upon release of the Administration's FY21 budget request, to put USACE on record regarding its erroneous statement that no funding exists for the project and that there is no alternative they have been able to develop that could achieve a positive BCR.

With the WRDA reauthorization scheduled to occur in 2020, WSW would also be working with the Mayors Council to propose and secure appropriate provisions in the House and Senate versions of the legislation that make clear that Congress wishes for the study to continue and congressional interest in USACE working as a partner with the local stakeholders to develop an acceptable plan for protection from flooding related to the Rahway River. As noted above, the Senate EPW Committee has already responded positively to outreach from Senator Booker, a member of the Committee, and we believe this outreach can be leveraged to secure similar provisions in the House version of WRDA 2020 as well. Further, we will continue to explore with staff for Rep. Malinowski, a member of the House T&I Committee, additional provisions that could be included to support the project, including any change in USACE policy on forecast informed operations or ability to count benefits from a state project upstream toward a federal project downstream. WSW would work on behalf of the Mayors Council to submit all materials, forms, draft language and other paperwork necessary related to the WRDA 2020 reauthorization and sustain our advocacy throughout the process from hearings on the bill, to markups in Committee, to floor consideration in the House and Senate, and conference negotiations leading to a conference report.

Once again, WSW would work closely with the Mayors Council to plan a Day on the Hill in Q1 2020 to make a compelling case for our project on the merits before the New Jersey Congressional Delegation, preparing meeting requests, accompanying the Mayors Council to all meetings, and conducting all appropriate follow-up.

While advocacy before the federal government has always been our priority, it is important that the Mayors Council redouble its efforts in terms of outreach to state legislators, NJDEP, and Governor Murphy to ensure that as the non-federal sponsor of any project, that NJDEP acts as a robust advocate for the constituent communities in New Jersey at-risk from flooding from the Rahway River. WSW will continue to offer guidance and advise the Mayors Council on strategies for conducting this outreach and otherwise providing support as may be advisable.