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EPA Disqualifies \$481m of Tappan Zee Bridge Loan.

ALBANY Gov. Andrew Cuomo said the state will appeal the federal government's decision Tuesday to strike down 94 percent of a controversial \$511 million loan for the Tappan Zee Bridge replacement project.

The U.S. Environmental Protection Agency's regional office rejected using the loan for seven of 12 bridge-related projects, including \$110 million slated for Hudson River dredging and \$65 million to remove the current bridge between Rockland and Westchester counties.

In all, \$481.8 million of the planned loan for part of the \$3.9 billion bridge project was disallowed, according to a letter sent Tuesday to state officials by Joan Leary Matthews, director of EPA Region 2's Clean Water Division.

"If New York state spends either capitalization grant funds or recycled funds toward projects that EPA has determined to be ineligible, EPA will disallow those costs," she wrote.

The loan has been at the center of a months-long dispute between Cuomo's administration and environmental groups, who argued the loan was improper and not consistent with the fund it came from. And the loan could impact the final cost of the project — and how much tolls will need to increase to fund it.

The money was to come from the Clean Water State Revolving Fund, a pot of mostly federal funds that is reserved for financing sewer and clean-water projects, nearly always on the local level.

In June, the state Environmental Facilities Corp. — which administers the loan fund — unanimously approved the full \$511 million loan, half with no interest and half at a low rate. The Public Authorities Control Board later cut that amount in half, but the Thruway Authority pledged to seek the rest at a later date.

Ultimately, the EPA agreed with the environmentalists, ruling Tuesday that the seven disallowed projects didn't comply with the goals of the loan program under the Clean Water Act.

Speaking to reporters Tuesday in New Paltz, Ulster County, Cuomo vowed to appeal the ruling. He said the rejection of the bulk of the loan wouldn't have an impact on the progress of the \$3.9 billion construction project, which is scheduled to continue into 2018.

The state has 30 days to appeal to the EPA's disputes decision official.

"We'll go back and we'll appeal that," Cuomo said. "But remember again this was never part of the planning for the bridge financing in the first place. We'd like to get it done, but it's not like the bridge was dependent on it."

The Thruway Authority touted the loan as a way to help keep toll rates down on the Hudson River bridge, which connects Westchester and Rockland counties in the lower Hudson Valley. The state has already been approved for a separate federal Department of Transportation loan for up to \$1.6

billion.

The Thruway has not revealed how much tolls will increase to help finance the project, and a long-promised task force to examine the toll has not yet been named.

The state may have an alternative plan, though. The state is receiving \$4 billion in bank settlements over the next year, and Cuomo and state officials have indicated that a portion could go to transportation projects — perhaps to help fund the bridge.

The Environmental Facilities Corp. maintained that the latest loan was appropriate under the Clean Water Act because it would finance a project that would improve water quality in the Hudson, a national estuary. The bridge removal, for example, qualified because the span is covered in lead paint, the state authority argued.

The EPA ultimately disagreed.

Along with river dredging and removal of the old bridge, the federal regulator blocked loan funds for armoring the river bottom (\$29.9 million), underwater noise protection (\$48 million), a shared-use path (\$66.7 million), Oyster bed restoration (\$1.4 million) and the transfer of a falcon nest (\$100,000), along with \$160.7 million in engineering, design and legal fees.

Just \$29.1 million of the loan was approved, with \$14.4 million going toward stormwater-related projects.

Peter Iwanowicz, executive director of Environmental Advocates of New York, said the EPA decision “affirmed what we’ve said all along.”

“These projects aren’t eligible,” he said. “We should have never been in this position where we’re having this big kerfuffle about spending a half billion dollars on bridge construction when we have tens of billions of dollars of (clean water) projects that need to get done in the next decades.”

Matthew Driscoll, president of the Environmental Facilities Corp., said the state is on solid ground to appeal the EPA’s decision.

“The federal government has always given wide discretion to states in terms of these decisions,” Driscoll said. “So today is really a departure from that because this is the policy that EPA has followed for over 25 years.”

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