

BIOLOGICAL SAMPLING ALONG SCAJAQUADA CREEK

September 21, 2010

Prepared for:

**NIAGARA RIVER GREENWAY COMMISSION
ECOLOGICAL STANDING COMMITTEE**



Prepared by:

FOREST LAWN HERITAGE FOUNDATION

In Cooperation With

THE BUFFALO OLMSTED PARKS CONSERVANCY

and

BUFFALO NIAGARA RIVERKEEPER



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HERITAGE FOUNDATION

the future is our past

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September 9, 2010

Mr. Edward Alkiewicz
New York Power Authority
123 Main Street
White Plains, NY 10601

Re: Niagara River Greenway Commission Ecological Standing Committee's Biological
Sampling along the Scajaquada Creek's Main Street Outfall to Black Rock Canal

Mr. Alkiewicz:

On behalf of the Forest Lawn Heritage Foundation, Buffalo Olmsted Parks Conservancy, and Buffalo Niagara Riverkeeper, I am submitting the attached application for Greenway Funding support for a comprehensive investigation into the presence of botulism C in the sediments and waters of Scajaquada Creek, Hoyt Lake and Mirror Lake. This application has been prepared in direct response to the guidance provided by the Ecological Standing Committee (ESC) members, following our initial consultations with the committee in May 2010, the submittal of an application for a consistency determination from the Greenway Commission on July 19, 2010, and in accordance with the directions found on the ESC's website. Forest Lawn and its co-applicants anticipate a positive consistency finding by the Niagara River Greenway Commission and wish to bring this request for support regarding this important project before the ESC at the earliest opportunity possible.

As stated in my letter dated July 19, 2010, Forest Lawn and its co-applicants feel that the investigation described within this application is only the beginning phase of a years-long restoration program for Scajaquada Creek's, Hoyt Lake's, and Mirror Lake's associated aquatic and riparian habitats, and the general ecology bordering the creek's meandering course through Forest Lawn, around Delaware Park, and through the mixed residential/commercial/industrial properties along its banks westward to the Black Rock Canal. Ultimately, the removal of botulism C from the creek's sediments, its adjacent riparian zones, and the wildlife that call the creek home will ultimately lead to an improved environment along the creek; and will play a significant part in restoring not only native ecological nature to the area, but will provide a major step forward in returning Scajaquada Creek to its proper place as a major gateway connecting the inter-city north Buffalo neighborhoods to the Niagara River Greenway. The ecological restoration of Scajaquada Creek will yield significant tangible benefits for city residents and visitors alike by providing a safer and more pleasant environment for the enjoyment of everyone.



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Information garnered during this investigation will be combined with additional studies on the chemical contamination of the creek and other adjoining water bodies so that an accurate, up-to-date picture of the existing conditions can be presented. Our team is seeking funding for the additional studies from other Federal, State, and local governmental and non-governmental sources. Once these investigations are completed, work can begin on planning for the removal of the identified contaminants and preparation of a comprehensive restoration design that ultimately returns Forest Lawn and Delaware Park to their rightful positions as prime destinations for the citizens of Buffalo and its visitors.

If you should have any questions, please call me at 716-885-1600.

Regards,

Joseph Dispenza

Cc; Thomas Herrera-Mishler, Buffalo Olmsted Parks Conservancy
Julie O'Neill, Buffalo Niagara Riverkeeper

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BUFFALO, NEW YORK 14209
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Biological Sampling Along Scajaquada Creek

Project Summary

This project proposed by Forest Lawn Heritage Foundation (Forest Lawn), in association with the Buffalo Olmsted Parks Conservancy (BOPC) and Buffalo Niagara Riverkeeper (BNR), involves the sampling of Scajaquada Creek sediments for biological contaminant (i.e., Clostridium botulism C, also known as Avian botulism), which is believed to be the cause of seasonal die-offs of birds, turtles, and other aquatic wildlife, as well as adversely affecting the use and enjoyment of Scajaquada Creek corridor by humans.

This sediment characterization effort is a first step towards the ultimate ecological restoration and rehabilitation of Scajaquada Creek, Mirror Lake, and Hoyt Lake. The ultimate goal of the project is to restore the ecological nature of the creek and both lakes by correcting existing environmental impairments to the Scajaquada Creek Watershed that:

1. Leads to negative impacts on the water quality within Scajaquada Creek and ultimately the Niagara River;
2. Results in significant seasonal waterfowl and wildlife die offs;
3. Endangers the health and well-being of visitors of Forest Lawn and Delaware Park; and
4. Impedes the enjoyment of the outstanding natural beauty and wildlife along the creek.

This proposed project is consistent with the goals detailed in the Niagara River Greenway Commission's (NRGC's) Plans. The results of the project will lay the groundwork for additional restoration planning as it relates to the removal of sources of potential biological contamination within Scajaquada Creek's channel, Mirror and Hoyt Lakes, prior to its outfall into the Black Rock Canal and the Niagara River. The proposed project also is consistent with:

- The Scajaquada Creek Watershed Advisory Council's mission to: *"protect, restore and revitalize the Scajaquada Creek watershed, to encourage and support environmental stewardship efforts, and to provide for improved opportunities for public enjoyment of the watershed;"*
- The BPOC's plans for the 21st Century, which calls for the improvement of the water quality of both Hoyt Lake and Scajaquada Creek; and
- The City of Buffalo's comprehensive Master Plan (*The Queen City in the 21st Century*).

Planned activities for the proposed project will focus on the section of the Scajaquada Creek that stretches from the creek's Main Street culvert outfall, through Forest Lawn and the diversion tunnels around Hoyt Lake, downstream past the finger dam near Grant Street, and onto the creek's discharge into the Black Rock Canal – a total distance of approximately three miles.

These first steps will focus on investigating and gaining an understanding of the magnitude and extent of the botulism C within this section of the creek and the two lakes. Specifically, samples will be collected and analyzed to determine the areal extent and volume of sediments in the creek and the two lakes. This information will be combined with other data obtained through Legacy Act-funded investigations and ultimately lead to the development of a remedial design and comprehensive ecological restoration plan for the creek and two lakes.

Forest Lawn, BOPC, and BNR along with its subcontractor, Ecology and Environment, Inc. (E & E), are ready to begin the investigation within two weeks once the funding agreements between Forest Lawn and NRGC are completed.

Biological Sampling Along Scajaquada Creek

I. Project Information

A. Organization Name and Mailing Address

Name: Forest Lawn Cemetery in Cooperation with Buffalo Olmsted Parks Conservancy and the Buffalo Niagara Riverkeeper

Mailing Address: 1411 Delaware Avenue
Buffalo, New York 14209

B. Federal ID Number and Charities Registration Number

Federal ID Name: Forest Lawn Heritage Foundation

Federal ID Number: 16-1405484

C. Point of Contact

Name: Joseph P. Dispenza

Business Address: 1411 Delaware Avenue

State: New York

Zip Code: 14209

Telephone Number: 716-885-1600

Fax Number: 716-881-6482

E-mail Address: jdispenza@forest-lawn.net

II. Evidence of Consultation

A. Niagara River Greenway Commission

Forest Lawn, in association with the BPOC and BNR, prepared and submitted its second application before the NRGCC on July 19, 2010 and is awaiting the NRGCC's consistency decision. Based on the previous application, Forest Lawn anticipates receiving the NRGCC's concurrence that this proposed project is consistent with the goals and objectives of the NRGCC.

Biological Sampling Along Scajaquada Creek

On January 15, 2010, Forest Lawn submitted an application before NRGC entitled: “Restoration and Rehabilitation of Scajaquada Creek from Forest Lawn into Delaware Park,” that was determined to be consistent with the NRGC’s goals in March 2010. Forest Lawn met with NRGC’s Ecological Standing Committee (ESC) on May 25, 2010 and made an introductory presentation of its planned work. As a result of subsequent discussions with ESC members, Forest Lawn decided to step back and revise its plans for the ecological restoration of Scajaquada Creek. Forest Lawn has segregated the investigative work into a biological component and a chemical component. Both aspects of the work will join back together in the future as the feasibility and remedial design efforts proceed forward. This application focuses on understanding a major biological contaminant that exists within the creek’s ecosystem.

B. Municipal, County, and/or Indian Nation

Letters of support for the project from both the BOPC and BNR were submitted with the July 19, 2010 application before the NRGC. The City of Buffalo Department of Public Works and the Buffalo Sewer Authority are actively engaged in activities to reduce or eliminate pollution from combined sewer overflows that contaminate Scajaquada Creek.

C. State and Federal Agencies

As evidenced by the recent Scajaquada Creek Summit sponsored by Senator Antoine Thompson, the cleanup and restoration of the creek, adjacent water bodies and the environment bordering the creek has the support of a wide variety of Federal and State agencies. The U.S. Army Corps of Engineers (USACE), the U.S. Environmental Protection Agency (EPA) through the Great Lakes National Program Office (GLNPO) and the New York State Department of Conservation (NYSDEC) are prime examples of the level of interest in this creek. NYSDEC has performed several sampling efforts over the last two decades and the USACE has previously been involved in some dredging along the creek and in the adjacent water bodies. It is reasonable to expect that other Federal Agencies (e.g., U. S. Fish and Wildlife Service and U.S. Geological Service’s Wildlife Health Center) will take an active role in the development of future restoration plans.

This project is consistent with the goals of the Niagara River Area of Concern Remedial Action Plan. NYSDEC has been contacted referencing this proposed project and their staff is supportive of the project.

III. Operation and Maintenance Plan

The proposed project is a study and as such an Operation and Maintenance Plan is not required. However, the project will be subject to a Quality Assurance Project Plan and a Work Plan developed for this specific study.

IV. Description of Project Consistency with Niagara Greenway Plan

The NRG is mandated by the Niagara River Greenway legislation to aid in the planning and development of a greenway of interconnected parks, river access points and waterfront trails along the Niagara River from Lake Erie at Buffalo to Lake Ontario. This mandate requires NRG to develop and promote a comprehensive system linking upland and interior communities and resources to the Niagara River. There are a number of existing features and assets that intersect with the Niagara River Greenway system and serve as junction points for interconnections between the River and the upland and interior communities/resources. One such interconnection point is the Lower Reach of Scajaquada Creek that directly connects the River to Delaware Park and Forest Lawn. These connecting features represent opportunities for creating both physical and conceptual linkages between the Greenway and the rest of the Buffalo-Niagara region. They have the potential to draw both residents and visitors to the Niagara River corridor. The success of the Niagara River Greenway will depend on how well these interconnections function and are interwoven and/or integrated into the entire system. This project is an integral part of the process to bring about the Greenway's inter-connectivity with the interior of the Buffalo-Niagara Region.

This project targets the land/water interface associated with a tributary to the Niagara River that has been clearly identified as a major contributor of pollutants to the River. Point and non-point source discharges and the installation of manmade features and barriers have had a profound effect on the riparian habitats along the Scajaquada Creek and have resulted in significant impacts to the flora and fauna adjacent to and within the creek.

A better and more complete understanding of the current conditions within and adjacent to the creek will provide the information necessary to make the required improvements for the protection and ultimate restoration of the creek's natural environment and the health and well-being of the residents that inhabit/visit the area. The principles and vision with which this project is being brought before the ESC include:

Excellence. This project is designed, planned, and executed to be consistent with all projects undertaken by Forest Lawn, BOPC, and BNR. From the initial stages of project conception and design, through the selection of a knowledgeable, professional project team, and to the utilization of the best management practices (BMPs) and sampling materials, the efforts put forth will be second to none. Forest Lawn will contract with E & E of Lancaster, NY for this work. E & E has been conducting samplings and investigations for chemical and biological contamination for over 35 years.

Sustainability/Ecological Integrity. The execution of this project will utilize BMPs to insure that an accurate and complete picture of the botulism C contamination in Scajaquada Creek is produced. While sampling is being accomplished, the project team will record, photograph, and document ecologically disturbed areas (e.g., sediment islands, bank erosion problems, and disturbed or uncontrolled drainage controls, etc.) along the entire project area so that this information can be retained and used in future applications to outside/other funding sources. This will help ensure that the restoration of the creek will continue into the future.

Accessibility/Connectivity. The proposed project is designed to identify and locate the source of avian botulism along Scajaquada Creek from Main Street to the Niagara River, so that

Biological Sampling Along Scajaquada Creek

remediation efforts can be designed and executed within the near future in order to address potential areas of concern along the entire creek system that is currently accessible to humans and avian wildlife. The removal of the botulism contamination will aid in promoting and improving accessibility along the entire length of the creek from Main Street to its outflow into the Black Rock Canal and its connectivity to the entire Niagara River Greenway system.

Public Well-Being. This project promotes the public's physical well-being by reducing the potential for botulism C poisoning of the wildlife inhabiting the creek and upland area along its banks. Diseased and moribund wildlife pose a public health threat for city residents and visitors to Buffalo that use the area along Scajaquada Creek for recreation and educational purposes. Improvements to the overall environment along Scajaquada Creek will encourage the thousands of yearly visitors to take advantage of the natural beauty of Forest Lawn and Delaware Park. The proposed project will also help to promote and encourage the public use of the many potential educational opportunities within Forest Lawn and Delaware Park. This could potentially lead to a better understanding of the region's history and importance to the nation through a better recognition of those residing in Forest Lawn and the historical significance of the Buffalo Olmsted Parks system.

Restoration. The restoration of the Scajaquada Creek Greenway is the embodiment of this principle. The area surrounding the Scajaquada Creek Greenway has played an integral part in the development of Buffalo, its current deteriorated ecological and physical state reflects poorly on the City. This project provides the first of many opportunities to restore Scajaquada Creek and the immediate surrounding land.

Partnerships/Community Based. This project provides opportunities for the creation of a sustainable partnership between the municipalities, private organizations, and non-profit entities to work together to further common goals. Forest Lawn will be the applicant, but will work very closely with its co-applicants, BOPC, and BNR. Forest Lawn also expects to work very closely with the City of Buffalo, Buffalo Sewer Authority, Erie County, NYSDEC, USEPA Great Lakes National Program Office (GLNPO), and other stakeholders to address the sources of contamination in and around Scajaquada Creek. This project supports that vision.

V. Description of Consistency with State and Federal Laws and Regulations

Scajaquada Creek has been the target of multiple investigations over the last two decades by Federal and State agencies, almost all of which have focused on determining the presence of chemical contamination within the creek, attempts to identify possible sources of the contaminants, and determine the potential risk to human health of those that seek to enjoy the use of waters and may wish to consume the aquatic resources.

Over the years, there have been several catastrophic die-offs of aquatic wildlife, presumed to be related to botulism C or avian botulism C. While botulism C is not uncommon in nature, it is generally accepted that pollutants entering the creek from the combined sewer overflows combined with extensive sediment deposition along the creek's channel and in adjacent water bodies have resulted in higher than normal levels of the bacteria in the accumulated sediments. Low flow and warmer temperatures exacerbate the problem by providing a fertile breeding ground for the bacteria that then are consumed by the various aquatic invertebrates and eventually by higher aquatic wildlife. The presence of the botulism toxin in diseased and dying organisms presents a direct

Biological Sampling Along Scajaquada Creek

threat to humans. The proposed study will lead to a better understanding of extent of the botulism contamination within Scajaquada creek and aid in developing a mitigation plan to reduce or eliminate the threat to both humans as well as the wildlife that inhabit the area in the future.

VI. Description of Efforts/Opportunities for Matching Funds

Other funding sources are currently being pursued. Forest Lawn, in cooperation with the BOPC and BNR is currently preparing a grant application for Great Lakes Legacy Act funding to conduct an extensive study to delineate the current extent of sediments along the lower reaches of Scajaquada Creek and adjacent water bodies, and to investigate and confirm suspected chemical contaminant levels in the sediments and water column. Future work, which will require matching funds, include the preparation of a feasibility study and remedial design aimed at the removal/disposal of contaminated sediments and the ecological restoration of Scajaquada Creek's natural functionality, including the aquatic, riparian, and adjacent terrestrial habitats. Potential sources of funding for the remaining work include several governmental and non-governmental agencies and organizations, the municipalities through which the creek flows, and responsible parties tied to identified past and current CERCLA- and RCRA-related sites that lie within the watershed and/or along the Scajaquada Creek that have or may have contributed to it contamination.

VII. Limitations on Use of Greenway Funds

The funds requested from the NRGCC will be used in a manner consistent with established NRGCC Guidelines. Funding by NRGCC will not be used to defray: (1) any obligations existing as of August 31, 2007 or (2) operation and maintenance costs associated with any project existing as of August 31, 2007.

VII. Description of Current and Proposed Project Area Land Ownership

Ownership of the land adjacent to Scajaquada Creek, between the Main Street outfall and the creek's confluence with the Black Rock Canal, is largely restricted due to the presence of Forest Lawn, Delaware Park and the Route 198 (Scajaquada Parkway) right-of-way. Forest Lawn is a non-profit organization owning the 269 acres comprising Forest Lawn Cemetery. Delaware Park, inclusive of the parcel upon which the Historical Society Building is located, is owned by the City of Buffalo, as is the right-of-way in which the Scajaquada Parkway is located. Private property ownership along Scajaquada Creek is focused along the western portion of the creek, west of Grant Street, where there is a matrix of mainly industrial and commercial properties.

VIII. Detailed Project Budget

The budget for this investigation is confined to one task and includes the following activities: pre-field investigation; in-field sampling of sediments; analysis required to determine the presence of

Biological Sampling Along Scajaquada Creek

botulism C; and preparation of a final report. An estimated breakdown of the cost to complete the proposed investigation is:

Pre-field Investigation:	\$ 45,000
Field Sampling:	\$ 48,000
Sample Analysis:	\$ 64,000
<u>Data Analysis/Report Preparation:</u>	<u>\$ 23,000</u>
Total Cost:	\$180,000

The estimated costs associated with this request include:

1. The pre-field investigation, which will include the acquisition of data concerning the previous wildlife die-offs and any information concerning previous studies of the presence or distribution of botulism C in Scajaquada Creek or the two lakes.
2. The field sampling effort, which may take up to one week to complete, depending on the exact protocol required to acquire, save, and ship anaerobic sediment samples to the laboratory for analysis. The field sampling effort includes estimated Other Direct Costs (ODCs) such as expected sampling equipment, sample bottles, shipping containers, and shipping costs. It is estimated at this time that at least 50 samples will be collected for analysis.
3. Sample analysis costs, which are estimated at this time. Available microbiological laboratories that are equipped to perform polymerase chain reaction (PCR) analysis to determine the presence of botulism C in the samples are few and highly specialized. Once botulism C is identified in a sample, a second analysis will be performed to estimate the amount present.
4. Following receipt of the analytical results, and completion of a data validation analysis, a final report on the investigation will be prepared and delivered to the three Project Applicants and various other interested parties, such as the City of Buffalo, NYSDEC, and the U. S. Geological Services Wildlife Health Center.

Appendix A – Letters of Support

□ 213 MAHONEY STATE OFFICE BUILDING
65 COURT STREET
BUFFALO, NEW YORK 14202
(716) 854-8705
FAX: (716) 854-3051

□ ROOM 902 LEGISLATIVE OFFICE BUILDING
ALBANY, NEW YORK 12247
(518) 455-3371
FAX: (518) 426-6969

□ 1902 MAIN STREET
NIAGARA FALLS, NEW YORK 14305
(716) 284-5789
FAX: (716) 284-5820



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VETERANS, HOMELAND SECURITY &
MILITARY AFFAIRS

September 10, 2010

Mr. Joseph Dispenza
President
Forest Lawn Cemetery
1411 Delaware Avenue
Buffalo, NY 14209

Re: Support for Niagara River Greenway Grant Application – Biological Testing of Scajaquada Creek and Mirror Lake Sediments for Botulism C

Dear Mr. Dispenza:

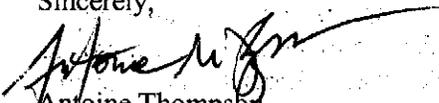
Thank You for participating in my recent Scajaquada Creek Summit. As you heard me say, the restoration and cleanup of Scajaquada Creek is a major priority of mine. I would like to fully endorse the Niagara River Greenway Application that you, the Olmsted Parks Conservancy, and the Buffalo Niagara River Keeper have submitted to the New York Power Authority (NYPA) and its Ecological Standing Committee.

I understand first-hand how the degraded water quality, bird/fish kills, and bad odors adversely affect the use and enjoyment of Forest Lawn and Delaware Park. Testing for biological contaminants such as Botulism C will result in significant strides to control and eliminate this persistent problem for years to come.

I look forward to working with you, the City of Buffalo, Buffalo Niagara Riverkeeper and others to pursue available state and federal funding and assistance in order to continue and expand these efforts that you are beginning.

I applaud your coordination with the Buffalo Niagara Riverkeeper in pursuit of USEPA Great Lakes Legacy Act Funds to investigate the chemical contamination in Scajaquada Creek. I look forward to working with State agencies and the City of Buffalo to secure other sources of funding, like I did recently with funding to address CSO Issues in Hoyt Lake. If I can be of any help, please do not hesitate to contact my Buffalo District Office.

Sincerely,


Antoine Thompson
New York State Senator, 60th District

AT/mjb



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July 19, 2010

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John R. Oishei Foundation

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Niagara River Greenway Commission
Beaver Island State Park
2136 West Oakfield Road
Grand Island, New York 14072

Dear Greenway Commission,

On behalf of Buffalo Niagara RIVERKEEPER, I am writing to confirm our partnership and support of Forest Lawn Heritage Foundation's proposal to assess biological contaminants, particularly Type C Botulism, in Scajaquada Creek sediments.

Several proposals to improve habitat along Scajaquada Creek have been developed over the years including conversion of the finger dam to a riffle zone, the introduction of reconstructed wetlands along the Scajaquada's historic path in Delaware Park next to Hoyt Lake and channel narrowing and habitat restoration within Forest Lawn Cemetery. Unfortunately, historic Botulism Type C outbreaks associated with anaerobic conditions in the Creek sediments have discouraged these projects from progressing. There is a fear that new habitat will simply expose more animals to the pathogens.

This assessment will help determine how to strengthen the health of Scajaquada Creek, its fish and bird inhabitants, and the health of its tributaries and surrounding wildlife habitats.

This project will compliment RIVERKEEPER and its partners' efforts to characterize and address chemical contamination in Scajaquada Creek under the Great Lakes Legacy Act program. Combined, these projects will ensure that future Scajaquada restoration efforts rest on clean, strong footing.

We fully support Forest Lawn's application and are pleased to be a project co-sponsor.

Sincerely,

Julie Barrett O'Neill
Executive Director and RIVERKEEPER



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Porter
Red Jacket
Richmond

Circles

Agassiz
Colonial
Ferry
Gates
McClellan
McKinley
Soldiers
Symphony

July 12, 2010

Mr. Robert J. Kresse
Niagara River Greenway Commission
Hiscock and Barclay
1100 M & T Center, Suite 100
Buffalo, NY 14203

Dear Mr. Kresse,

I am writing to enthusiastically support the application for Scajaquada Creek Biological Sampling. These efforts to better understand the current sediment conditions in the Creek as it flows through Forest Lawn Cemetery, Delaware Park and then down to the mouth of the Creek where it enters the Niagara River is critical to improving water quality conditions. This creek is a vital recreational and ecological urban resource, flowing through two sites located on the National Register of Historic Places. Current water quality conditions present a significant challenge for park and cemetery users and pose a potential health risk as well.

The Buffalo Olmsted Parks Conservancy is a partner in this project and will work tirelessly to assure that the waters of the Scajaquada Creek are cleaner, more attractive and healthful for the park users and wildlife. We hope that the Commission will support this application and allow this vital work to go forward. We believe that once completed this study will form the foundation for more significant funding allocations from State and Federal levels for addressing the underlying causes of these unhealthy and environmentally distressed conditions.

With best regards,

Thomas Herrera-Mishler
CEO/President

cc: Joseph Dispenza
Dan Castle