



## **Joint Legislative Hearing: Environmental Conservation**

**Testimony by Adrienne Esposito, Executive Director,**

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My name is Adrienne Esposito, and I am the Executive Director at Citizens Campaign for the Environment (CCE). Founded in 1985, CCE is a 120,000 member, non-profit, non-partisan advocacy organization working to empower communities and advocate solutions that protect public health and our natural environment across New York State.

Thank you for the opportunity to provide testimony today. Below are CCE's recommendations for the SFY 2024-2025 budget. In addition to our comments, please note that CCE supports recommendations of coalitions we are engaged with, including New Yorkers for Clean Water and Jobs, the Just Green Partnership, and New York Clean Water Coalition.

### **INVEST IN THE CLEAN WATER INFRASTRUCTURE ACT (\$600 MILLION)**

New York State made history when the legislature worked with the previous administration to enact the Clean Water Infrastructure Act (CWIA) of 2017, which invested \$2.5 billion over 5 years in upgrading wastewater and drinking water infrastructure, protecting source water, implementing septic system replacement programs and other provisions to protect our treasured waters across the state. The last five years' budgets each included an additional \$500 million, as part of a commitment by the previous administration to provide an additional \$2.5 billion over five years. To date, this successful program has received \$5 billion to upgrade clean water infrastructure. *The latest five-year commitment has come to an end, however our clean water needs have not.*

Investments made through the CWIA are making a tremendous impact in advancing shovel-ready projects, protecting drinking water quality, eliminating sewage overflows, replacing antiquated septic and cesspool systems with new Innovative Alternative systems, and creating jobs throughout New York. Spending through the program has lacked adequate transparency

since 2017, however thanks to inquiries made by Senator Krueger, and a report compiled by Environmental Advocates NY, we now have a fuller accounting of how CWIA funds have been spent. The CWIA awarded \$3.4 billion in over 2,100 clean water projects in every region across the state, with over half of the spending going to environmental justice communities.

New York has stepped up as a national leader—investing more than any other state—in protecting clean water. The state’s investment in the CWIA has helped to protect our water, from its source to the tap, while creating jobs (every million dollars invested is estimated to create 17 jobs) and driving economic development. The good news is that we have seen success in every region across the state, however, the reality is we have much more work to do to make water safe and affordable for all New Yorkers. *New York State has estimated that the combined wastewater and drinking water infrastructure needs in the state exceed \$80 billion over the next 20 years.* This massive estimate is dated and is a very conservative estimate which does not include new significant clean water needs identified in New York. *Additional* costs include, but are not limited to:

- **The cost of implementing EPA’s proposed drinking water standards PFOA, PFOS, and other PFAS chemicals, expected to be finalized this year.** The New York State Department of Health estimates that the EPA standards, which are more stringent than New York’s current standards, *will impact 296 additional communities not covered by NY’s current standards.* Installing advanced treatment technology to remove these harmful contaminants is critical to protect public health, but it will also be very costly and will require additional state funding. If the average cost of a granulated activated carbon system is \$1.5 million each, that would result in New York water suppliers needing to spend an additional \$444 million just on treatment technology for PFAS chemicals.
- **The cost of replacing New York’s estimated 500,000 lead drinking water pipes.** The EPA has proposed regulations that will require 100% replacement of lead pipes by 2037. This will help to protect the health of millions of New Yorkers, especially our children, but will cost billions of dollars to communities across New York. New York communities cannot bear this burden alone—additional state funding, in the form of grants, will be needed to accomplish this important and ambitious goal.

*These new regulations are critical to protect public health. Now is not the time to reduce funding for clean water, but it is the time to increase funding for clean water. CCE strongly opposes the Governor’s proposal to slash CWIA funding by 50% in her 2024-25 executive budget proposal, from \$500 million to \$250 million. New York’s clean water needs are growing, not going away. Less state funding, with increased needs and impending federal mandates, will lead to increased costs to local ratepayers, which can make water unaffordable, particularly for those New Yorkers in low-income, disadvantaged communities. Clean water is a basic human right that should be affordable for everyone.*

*CCE, along with our partners in the New York Clean Water Coalition—comprised of environmental groups, wastewater treatment operators, drinking water suppliers, and other*

***clean water stakeholders, are strongly urging the Senate and Assembly to support a \$600 million investment in the Clean Water Infrastructure Act in the final 2024-25 NYS budget.***

We are grateful for the support that we've already garnered from members of the legislature. Assemblymember McDonald and Assemblymember Otis have circulated a dear colleague letter in the Assembly calling for \$600 million for the CWIA, while Senator Harckham is circulating a dear colleague letter in the Senate—also calling for \$600 million. We urge members in the Senate and Assembly to sign on in support.

Clean water is a necessity, not a luxury item that we can neglect during difficult economic times. I want to take this opportunity to address two misconceptions that have led some to believe a cut to the program is justified:

- ***Unspent funding does not justify a cut to the CWIA program, particularly when worthy, shovel-ready projects are being left unfunded year after year.*** Clean Water Infrastructure Act programs are successful and popular, with many programs being oversubscribed every year. In particular, the Water Infrastructure Improvement Act (WIIA) program, which provides grants to local governments for wastewater and drinking water infrastructure projects, and accounts for the majority of CWIA spending, is consistently oversubscribed. In 2023, 225 shovel-ready applications, requesting \$556 million, did not receive the funding they requested. The answer to this problem is to get money out the door to projects quicker and more efficiently, not to cut funding when needs are only increasing. In addition, delaying funding for water infrastructure increases the cost of repairs. Pipes that break cause property damage, necessitate road repairs and threaten public health.
- ***Supplemental funding, including NYS environmental bond act funding, does not justify a cut to the CWIA program.*** While New York's Environmental Bond Act is providing funding for clean water infrastructure, that money was always intended to supplement, not supplant, annual appropriations. When New Yorkers went to the polls, they voted overwhelmingly (67%) for positive change and a robust increase in funding for clean water, not the status quo. The status quo will not put a dent in the massive \$80 billion clean water need that we face in New York State.

Similarly, clean water infrastructure investments made through the federal Bipartisan Infrastructure Law should supplement state funding, not replace it. We will not fix our long-standing clean water problems without increased investment from *both* the state and federal governments. Furthermore, state funding for clean water can leverage federal resources, bringing additional federal resources to the state.

**Other asks related to Clean Water Infrastructure Act Funding:**

- **We urge the legislature to work with the Governor to line out CWIA categories with specific funding amounts in the SFY 2024-25 budget.** When the \$2.5 billion Clean Water Infrastructure Act was established in 2017, CWIA programs included specific

funding amounts lined out in the state budget. However, as the state moved forward with annual appropriations of \$500 million beginning in 2019, funding was provided in a lump sum. The result of this has been CWIA programs not receiving adequate funding amounts. For example, the Lead Line Replacement Program has been woefully underfunded at \$30 million, while other programs haven't received any CWIA funding in years—green infrastructure projects have not been funded through the CWIA since 2018.

Governor Hochul has once again proposed to provide the funding for the CWIA as a lump sum in her executive budget proposal for SFY 2024-25. We urge the legislature and the Governor to line out funding category allocations with a minimum associated sum in the final budget to provide transparency and to help ensure all our clean water needs are being adequately met, including, but not limited to, lead service line replacement, green infrastructure, and septic system replacement.

- **We support increasing water infrastructure grants for small rural communities, as proposed by Governor Hochul.** In the Governor's 2024 SOTS book, she directed the Environmental Facilities Corporation (EFC) to increase water infrastructure grants for small rural communities from 25% to 50% of net eligible project costs. This change will support smaller, low-income communities, which often struggle with accessing clean water grants and delivering affordable projects.

A note on this important change—increasing the grant percentage will obviously increase the amount of funding provided for grants. We don't want NYS to provide larger grants to far fewer recipients, due to decreased CWIA funding, especially as needs are growing. Larger grants require larger amounts of funding—further justifying an increase in funding to the CWIA program.

- **We support providing planning engineering grants for drinking water infrastructure projects, as proposed by Governor Hochul in her 2024 SOTS book.** There is an urgent need to expand grant limitations to support engineering planning studies for drinking water infrastructure projects. This is already in place for wastewater projects, and is a resounding success, particularly for smaller, cash-strapped municipalities that lack the staff and capacity to conduct planning themselves. We urge New York State to provide at least \$2 million for drinking water infrastructure engineering planning grants in SFY 2024-25. It is critical that DOH is provided with staffing resources to support this program and other important drinking water protection initiatives led by the agency.
- **Expand Capacity to Test Water for Emerging Contaminants:** Currently, municipal samples for emerging contaminants, such as PFAS, are sent to laboratories certified through DOH's Environmental Laboratory Approval Program (ELAP). As New York regulates more emerging contaminants to protect drinking water from new threats and to

comply with new federal drinking water regulations that are expected to be finalized by EPA this year, existing backlogs, and delays at ELAP labs are expected to worsen.

CCE has been in conversations with municipalities who have reduced testing for PFAS at toxic plumes and for plume characterization needs due to the cost of sampling and the long wait times for results. Additional resources are needed to ensure laboratories have sufficient capacity to handle increased testing. To ensure timely results for testing water for emerging contaminants and to protect public health statewide, we urge the legislature to ensure state funding to further expand capacity to test for emerging contaminants.

### **SUPPORT A FULLY FUNDED ENVIRONMENTAL PROTECTION FUND (\$400 MILLION), WHICH EXCLUDES RAIDS FOR AGENCY STAFFING**

Since 1993, the New York State Environmental Protection Fund (EPF) has invested in projects to protect and restore our land, air, and water resources in every community across the state. EPF programs help to create jobs, support tourism, protect clean water, conserve open space, save family farms, bolster recycling programs, revitalize waterfronts, build community parks, and so much more. The EPF supports 350,000 jobs across the state, and EPF-supported industries generate approximately \$40 billion in economic activity every year. CCE is grateful that the legislature and Governor worked to provide \$400 million for the EPF last year.

#### **We strongly oppose the Governor’s proposal to raid the EPF to pay for agency staffing.**

The Governor has presented her EPF proposal as a \$400 million investment, however in reality, it is cut to \$375 million due to a line that offloads \$25 million for agency staffing. We have this conflict almost every year. Funding needs for EPF projects already outpace the available resources, and this latest attempt to raid the EPF would further inhibit our ability to fund worthy projects. *We urge the legislature to maintain the integrity of the EPF and reject the proposal to raid \$25 million from the EPF for agency staffing.*

Within a \$400 million EPF and the ability to redisperse the \$25 million CCE supports increasing funding for critical programs, including:

- **Ocean and Great Lakes Program (\$25 million)**

The Ocean and Great Lakes Program is the state’s primary source of funding for scientific research, management planning, and restoration projects to improve the coastal health along both our Great Lakes and the Atlantic Ocean. It helps advance the ambitious agendas found in the state’s publicly-vetted New York Ocean Action Plan and Great Lakes Action Agenda 2023, and to plan for new uses. The influx of federal funding continuing to flow to NY from the historic federal infrastructure bill (e.g. provides \$1 billion for Great Lakes and \$106 million for Long Island Sound restoration) promises a once-in-a-generation opportunity to leverage investments and benefits for New York’s Great Lakes and Ocean coasts. Increased funding through this line would help leverage cleanup of Great Lakes’ toxic hot spots, known as Areas of Concern (AOCs), in addition to other important restoration actions identified in the federal Great Lakes Action Plan;

implement the Ocean Acidification Task Force actions identified in their final report, help advance responsibility sited offshore wind, and more.

Regrettably, Governor Hochul has proposed to cut this important line item by \$1.5 million, from \$22.5 million last year to \$21 million in this year's executive budget proposal. *Given the massive needs associated with protecting and restoring our Great Lakes and Ocean resources, we respectfully urge the legislature to support an increase to the Ocean and Great Lakes line, up to \$25 million in SFY 2024-25.*

- **South Shore Estuary Reserve (SSER) Program (\$5 million)**

The SSER program was created by state legislation in 1993. Since that time, the SSER program had been woefully underfunded by the EPF to support implementation of the SSER Comprehensive Management Plan (CMP). In 2021, the program updated its CMP and additional funding is needed to accomplish new priorities and goals aimed at protecting and restoring this critical natural resource.

The water quality in the Long Island Sound is improving, however, the water quality in the South Shore Estuary is degrading. LI Sound waters have improved because the federal government provided funds to implement a restoration plan. We can do the same for the south shore estuary. This estuary has extensive Brown Tide, Rust Tide, Mahogany Tide and now a new one – Pink Tide outbreaks. These toxic tides kill shellfish, finfish and other sea life. The SSER is particularly vulnerable to the impacts of climate change, sea level rise, excessive nitrogen loading, and harmful algal blooms. It is critical that funds are available to support projects that advance resiliency and adaptability of the estuary and address the growing impairments from nitrogen pollution.

Despite these growing challenges and needs, funding for the SSER remained flat at \$900,000 for many years. In the 2022-23 and 2023-24 budgets, the SSER program increased to \$1 million and \$2 million, respectively. New York is taking steps in the right direction; however, funding falls far short of what is needed to protect and restore this estuary which contains 173 square miles of bays and is home to 1.5 million people. The SSER has 20 state and county parks and contains the highest concentration of wetlands on Long Island. This estuary spurs our economy with the largest concentration of commercial and recreational vessels, marinas, and other water dependent businesses in our state. We cannot continue to have an estuary restoration program in name only. Restoring this estuary can be done, but not without funding. I have included a letter signed by every single Town Supervisor on the south shore of Long Island also calling for \$5 million in the EPF. The Governor has proposed to maintain the SSER line at \$2 million in the 2024-25 executive budget, we urgently need this line item to reflect the \$5 million dollar request.

**CCE supports increasing funding for the program to \$5 million, which will allow this program to better leverage new federal funding allocations and to help advance the identified restoration goals.** Specific projects could include, but are not limited to:

- Increased monitoring within the tributaries of the Reserve
- Implementation of green infrastructure projects to curb harmful stormwater run-off
- Creation of new fish passage projects to increase habitats for migrating species
- Rebuilding vital shellfish populations for improved habitat and water quality
- Comprehensive public educational campaigns to reduce plastic pollution and marine debris

## **SUPPORT THE AFFORDABLE GAS TRANSITION ACT**

CCE supports the Affordable Gas Transition Act, which was proposed in the Governor's executive budget, and closely resembles the New York HEAT Act.

Fossil fuels burned in New York's building stock for heating, hot water, and cooking account for nearly 1/3 of all greenhouse gas emissions in NYS. Burning these fossil fuels adversely impacts public health, which includes impacts on indoor air quality and contributes to adverse health impacts, such as asthma and heart disease. Currently the Public Service Law promotes gas system expansion by establishing a gas utility obligation to serve any customer upon request while requiring existing customers to subsidize new service connections. This is in contrast to the CLCPA and the goals set under the final scoping plan.

In order for New York to fight the climate crisis, meet mandated CLCPA targets, save utility customers money, and protect public health, we must reduce our reliance on gas, transition to more sustainable utilities, and update regulations. This policy would help to achieve this by eliminating the 100-foot rule, which obligates utilities to serve customers with gas hook ups, at a cost of approximately \$200 a year to ratepayers; and sets a up a process for PSC to update regulations and guidelines to move away from gas and meet the goals of the CLCPA. CCE urges the legislature adopt this policy in the final budget and continue to work with the Governor to achieve the state goal to protect low-to-moderate income customers from bearing energy burdens greater than 6% of their income, including those burdens imposed by the cost to purchase and operate electric equipment.

## **SUPPORT THE RENEWABLE ACTION THROUGH PROJECT INTERCONNECTION AND DEPLOYMENT (RAPID) ACT**

CCE supports this policy, which is intended to accelerate the responsible siting of transmission infrastructure and renewable energy projects. In order to meet CLCPA targets and to meet the urgency needed to address the climate crisis, we must deploy energy transmission and renewable energy projects more quickly—this will only happen if we adopt a more efficient process.

The RAPID Act will create a one stop-shop for the environmental review and permitting of major renewable energy and transmission facilities within the Office of Renewable Energy Siting (ORES) at the Department of Public Service (DPS). This will build on the success of both ORES and the existing transmission permitting process at DPS. While this creates a quicker, more efficient process, it will allow for substantive public input and a process to ensure that projects are sited in a responsible, environmentally friendly manner. CCE looks forward to the adoption and roll out of this policy, and are committed to working with the Department of Public Service and Office of Renewable Energy Siting to minimize the risks of project construction and operation to biodiversity, and to speed the deployment of needed transmission infrastructure and renewable energy projects.

### **SUPPORT THE STREAMLINING OF THE STATE LAND ACQUISITION PROCESS**

CCE respectfully urges the Legislature to provide assistance in streamlining the state land acquisition process in their one-house budgets. To realize our state's conservation and climate goals and fulfill the wishes of voters who strongly supported the Bond Act as well as the EPF, the state's land acquisition program must be improved and streamlined. Regrettably, land protection in NY has slowed in recent years. In 2022, DEC & NYS Parks acquired just 5,056 acres combined. Contrast that number to the historic average of 70,000 acres each year over the history of the EPF.

One immediate step that can be taken to increase the pace of land protection is to include language in your Senate and Assembly Budget Proposals expressly authorizing the Real Property Bureau of the Office of Attorney General to use private title insurance as a means of achieving marketable title. Such an allowance would be consistent with common real estate practice, as well as allowable practices in virtually all other state and federal land acquisition programs. In contrast, New York State undertakes its own review of land titles, sometimes going back one hundred years or more in an attempt to prove perfect title. This materially slows down transactions and open space conservation program implementation, depriving communities across the state of the benefits of these projects. In addition, these lengthy periods impact the public purse due to the accrual of additional holding costs while properties are being held by land trusts or other entities. Currently there are more than 100,000 acres valued at in excess of \$150 million pending transfer to the state.

### **ADDRESS NEW YORK'S SOLID WASTE CRISIS AND SAVE LOCAL GOVERNMENTS HUNDREDS OF MILLIONS OF DOLLARS ANNUALLY BY ADOPTING EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING AND PRINTED PAPER (OUTSIDE OF THE BUDGET PROCESS)**

We fully recognize this issue will be dealt with as stand-alone legislation, outside of the budget process, yet it is important to address this issue in a budget context, as it will save local governments an estimated \$420 million annually.



Extended Producer Responsibility (EPR) for Packaging and Printed Paper (PPP) would require brand owners to take responsibility for their products throughout their entire product life cycle, by reducing waste and bearing the cost of proper recycling of packaging and printed paper. PPP EPR will reduce waste, protect our environment and public health, improve recycling, and save taxpayers and local governments money. PPP EPR was recommended in both the final NYS climate action scoping plan and the final NYS solid waste plan. After years of discussion on this policy, New York's environment and local governments cannot afford to wait any longer to adopt this critical policy. CCE looks forward to working with the legislature to pass a strong Packaging Reduction and Recycling Infrastructure Act this session.

Thank you for your consideration of our testimony.