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**Testimony of Erin McGrath
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Before the Joint Legislative Hearings on the New York State Budget
Environmental Conservation
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Chairwoman Krueger, Chairman Pretlow, Chair Harckham, Chair Glick, and distinguished members of the New York State Senate and Assembly, thank you for granting the National Audubon Society the opportunity to submit testimony on Governor Kathy Hochul's Executive Budget proposal for SFY 2026-27.

The National Audubon Society protects birds and the places they need throughout the Americas using science, advocacy, education, and on-the-ground conservation. Audubon's state offices, nature centers, chapters, and partners have an unparalleled wingspan that reaches millions of people each year to inform, inspire, and unite diverse communities in conservation action. In New York State, Audubon leads a network of over 90,000 members, 26 affiliated chapters, six sanctuaries and nature centers, and thousands of annual visitors, volunteers, and partners throughout the state.

Before addressing the Governor's SFY 2026-27 Executive Budget proposal and Audubon's 2026 budget priorities, I would like to extend our thanks to you and your colleagues for the 2025 legislative session's environmental accomplishments. With your leadership, we committed \$425 million to the Environmental Protection Fund (EPF), provided \$500 million in investments in clean water infrastructure, and took bold action to protect Horseshoe Crabs and the vulnerable shorebirds that rely on them. These accomplishments will help protect our wildlife and their habitats, improve water quality and upgrade aging water infrastructure, and make New York State more resilient in the face of climate change.

Audubon is a proud partner and supporter of New York State's conservation efforts, and we look forward to working with the Legislature during the 2026 legislative session. As you develop your SFY 2026-27 One House Budget proposals, we respectfully request that you consider the following priorities.

Amending the State Environmental Quality Review Act. Many New Yorkers are in dire need of affordable housing, and Audubon supports efforts to increase the availability of affordable housing that is sited responsibly and minimizes impacts to the environment. We believe that the development of affordable housing and the protection of our natural resources are not mutually exclusive goals, and that we can achieve both by prioritizing strategies that focus on infill development in urban areas, incentivizing projects on previously disturbed land, creating or expanding local land banks, converting underutilized spaces into housing, such as excess office space and vacant commercial buildings, and pursuing policy reforms that allow for more multi-

family buildings to be zoned in order to limit sprawl and conserve our remaining natural landscapes.

The Executive Budget proposal (Art. VII TEDE - Part R) would attempt to address the current lack of affordable housing and other public infrastructure by creating exemptions from the New York State Environmental Quality Review Act (SEQR). These exemptions would cover actions that involve the construction of certain housing projects, public parks and recreational trails, childcare facilities, clean water infrastructure, and retrofits to existing structures to incorporate green infrastructure. We strongly support the Governor's goal of prioritizing development on properties that are considered previously disturbed sites and that are already substantially altered by development, and offer the following comments that we believe would better align the proposed Art VII legislation with the stated goals of the proposal:

Definition of Affordable Housing. The Governor's State of the State Address and comments made by other State Officials have indicated that the amendments to SEQR are meant to drive the production of affordable housing. However, the language contained in Part R does not make any reference to affordable housing or affordability, and appears to apply to all housing stock. We believe that the final budget proposal should clarify that the proposed exemptions from SEQR only apply to housing that is affordable, either by using existing definitions of affordable housing within state laws or guidance, or by developing regional or sub-regional parameters for what types of housing will be considered affordable.

Definition of Previously Disturbed Land. The Executive Budget proposal allows for actions to be exempted from SEQR if they are related to the construction of housing in cities, towns, or villages with a population of one million or less if the actions are (i) connected to existing water or sewer systems, (ii) located on a previously disturbed site, (iii) contain no more than fifty thousand square feet of nonresidential uses or twenty percent non-residential uses by gross floor area, whichever is less, and (iv) involve projects that shall not exceed one hundred dwelling units. Additionally, the proposal allows for the construction of public parks, recreation trails, and childcare facilities on previously disturbed sites. We strongly support incentives that drive development to previously disturbed sites to limit impacts on habitat for birds and other wildlife, but believe the definition of previously disturbed could be clarified and tightened in order to support the Governor's goal of increasing the availability of affordable housing and other public infrastructure while balancing environmental protections.

- **Partially Developed Parcels.** The definition of previously disturbed land does not address what can occur on parcels that are partially developed – for example, we are unclear what would occur on a parcel that has a 1,200 sq ft house built on it, but also contains thirty acres of undeveloped forested land surrounding it. We believe it should be clarified that an exemption from SEQR only applies to the portion of the land that is “substantially altered” and does not apply to the undeveloped portions of the parcel – unless the undeveloped remainder would constitute a de minimis portion of the parcel.
- **Agricultural Lands.** Grassland bird populations are in rapid decline, and in the northeast United States, grassland birds are declining faster than any other group of birds. This makes the protection of the places where they are currently found critical - particularly large, unbroken blocks of grassland habitat in landscapes

dominated by grasslands and other fields. In many instances, this habitat includes either active or inactive agricultural lands, and projects that affect these lands must be considered carefully because of their potential to fragment existing grassland habitat and impact listed species such as the Short-eared Owl, Northern Harrier, Upland Sandpiper, and Sedge Wren, among others. For these reasons, we ask the Legislature to exclude agricultural lands that are within the DEC's Grassland Bird Conservation Centers (GBCC) from the definition of previously disturbed sites. In 2021, New York State created the NYSDEC Strategy for Grassland Bird Habitat Management and Conservation 2022-27, which identifies key management practices and priority geographic areas for conservation known as GBCCs. The lands within the GBCCs provide grassland birds with the greatest chance of sustaining their populations and have been prioritized for conservation by New York State. Given the critical need to protect as much of this habitat as possible, we do not believe it is appropriate to incentivize development within the GBCCs.

- **Prior Development Lookback and Substantially Altered.** The definition of previously disturbed sites currently states that the sites must have “been developed prior to two years before the application for a permit or authorization for an action.” We believe that this short-term lookback could lead developers or landowners to “substantially alter” a parcel in an attempt to gain a SEQR exemption for a future project that would otherwise trigger review under SEQR. We would suggest expanding the minimum timeframe for prior development to five years in order to deter such strategies. For example, if a parcel contains grassland that would be considered undisturbed, a landowner could begin mowing the area to create a “maintained lawn”, which would then be considered substantially altered and eligible for an exemption from SEQR.
- **Endangered and Threatened Species.** While we are encouraged that actions would still be required to receive a Part 182 Incidental Take Permit from the New York State Department of Environmental Conservation (DEC) if threatened or endangered species are impacted, we are concerned that actions that are exempted from SEQR may not benefit from the consideration of alternatives to the proposed action, which could lessen or eliminate impacts on listed species. Avoiding or minimizing impacts to listed species is critical, especially since the DEC's current mitigation methodology for listed grassland birds is inadequate and does not provide a net conservation benefit to affected species, since they only require landowners or developers to mitigate a fraction of the occupied habitat that is taken by a project. For these reasons, we believe that any parcel that contains occupied habitat for threatened or endangered species should not be included in the proposed exemptions.

Minimizing Impacts from Flooding. We greatly appreciate that the proposed SEQR exemptions do not include areas that experience coastal flooding or areas within FEMA 100-year flood plains – this will help keep communities safe while also safeguarding important wildlife habitat. Unless they are already included under the current definition, we would also suggest excluding land contained within the New York State Coastal Hazard Erosion Areas and lands designated under the federal Coastal Barrier Resources Act.

\$425 Million for the Environmental Protection Fund. New York State has an ongoing obligation to provide reliable funding for environmental conservation. Recurring funding allows the State and its

partners to establish long-term plans that are cost-effective and utilize public and private funding for overlapping priorities, such as land acquisition, improving habitat management, and increasing resiliency to climate change. In addition to funding this important work, the EPF generates \$40 billion in economic activity each year, supports 350,000 jobs across the state,¹ and provides a critical match or supplemental funding for other state and federal programs, such as the Clean Water, Clean Air, and Green Jobs Environmental Bond Act, Great Lakes Restoration Initiative, Delaware River Basin Conservation Act, and the Long Island Sound Comprehensive Conservation Management Plan, among others. We are grateful that the Governor has maintained funding at \$425 million and ask the Legislature to build on this commitment by providing at least \$425 million in funding in your One House Budgets.

Within the EPF, Audubon supports investments that advance bird conservation and mitigate impacts to critical habitat through the following categories:

Zoos, Botanical Gardens, and Aquaria Program. The Zoos, Botanical Gardens, and Aquaria Program is particularly important to Audubon as it provides funding for our nature centers and sanctuaries, which protect bird habitat and provide educational programming. If funding were cut, it would directly impact the operations and staffing at our centers, including the Montezuma Audubon Center in Savannah, Constitution Marsh Audubon Center in Garrison, Theodore Roosevelt Sanctuary and Audubon Center in Oyster Bay, and Rheinstrom Hill Audubon Sanctuary and Center in Hillsdale. We ask that you provide at least \$25.1 million for the ZBGA Program for SFY 2026-27.

Regenerate NY. The Regenerate NY program encourages private landowners to improve forest health on their properties by providing a cost-share for beneficial management activities, including afforestation, reforestation, forest stand restoration, control of competing vegetation, creation of forest openings, construction of deer exclosure fencing, and other forest regeneration-focused practices approved by the Department of Environmental Conservation (DEC). These management strategies promote the successful regeneration of trees and shrubs, creating favorable habitat conditions for birds and making forests less susceptible to climate change and invasive species. Successful forest regeneration is also critical to maintaining and increasing the amount of carbon sequestered by our forests. Funding this program will build on Audubon's successful efforts to manage habitat for woodland birds by supporting the creation of additional quality habitat. We ask you to provide at least \$500,000 in funding for Regenerate NY in the EPF, which includes \$400,000 for the cost of qualifying practices and \$100,000 for education and outreach. If the program is fully subscribed, we would also recommend providing an increase that would serve more applicants.

Ocean and Great Lakes Initiative. The Ocean and Great Lakes line provides funding for research and planning projects that support improved ecosystem-based management of the Great Lakes and our coastal ecosystems. On and around Lakes Erie and Ontario, this funding provides the means for studying recurrent flooding and erosion, examining the control of nutrients and sediment, including through Nine-Element Plans, promoting ecosystem-based management to private and public entities, and providing small research grants through the Great Lakes Research Consortium. Once completed, this research and

¹ The economic benefits of New York Environmental Protection Fund. New Yorkers for Clean Water and Jobs. (2012, January). Retrieved January 28, 2022, from https://cleanwaterandjobs.org/wp-content/uploads/2020/12/2012_TPL_report_ny_econ_benefits_epf.pdf

planning usually lead to additional investments from private and public funders, including the federal Great Lakes Restoration Initiative, which provides the State, local entities, and nonprofits with capital funding to implement ecosystem-based management and restoration projects. We ask you to provide at least \$24.6 million for these reasons.

Acquisition of Grassland Bird Habitat. According to research published in *Science* in 2019, North America has lost one in four birds since 1970, with the most significant loss observed in grassland birds, which experienced a 53% decline in population or 720 million birds. In the northeast United States, grassland birds are declining faster than any other group of birds. The primary driver of these population declines is habitat loss, which means that we must prioritize the protection of their remaining habitat - particularly large, unbroken blocks of grassland. For these reasons, we ask the Legislature to restore \$500,000 within the EPF for the purchase of critical habitat for declining grassland birds.

Adequate Environmental Agency Budgets and Staff. We strongly encourage you to support adequate staffing at the DEC, Office of Renewable Energy Siting, Office of Parks, Recreation, and Historic Preservation (OPRHP), and the Department of State. With regulatory, management, and stewardship responsibilities for the state's natural resources, these agencies are on the front lines of efforts to protect, conserve, and restore New York State's environment. This support is critical following the passage of the Climate Leadership and Community Protection Act, the Accelerated Renewable Energy Growth and Community Benefit Act, the Clean Water, Clean Air, and Green Jobs Environmental Bond Act, the Renewable Action through Project Interconnection and Deployment Act, and the amendments to the Freshwater Wetlands Act, which have placed new obligations on each of these agencies.

Continue to Fund Capital Improvements in State Parks and on DEC Lands. Audubon and our affiliated chapters partner with the OPRHP to advance bird conservation in State Parks through the "Audubon in the Parks" initiative. This public-private partnership addresses conservation needs through outreach, interpretation, and on-the-ground conservation in Bird Conservation Areas and Important Bird Areas in our State Parks. We strongly support the ongoing restoration and improvement of New York State's parks and lands held by the DEC and ask that you support \$340 million for OPRHP and increase the capital funding for the DEC to \$100 million – including for projects focused on habitat improvement and green infrastructure. This funding also supports the continued enhancement of the New York State Birding Trail, which is overseen by the DEC's Adventure NY program. The New York State Birding Trail highlights over 400 spots to bird across New York State, including world-class birding opportunities and local hotspots that can be enjoyed by all New Yorkers close to home.

Funding for Clean Water Infrastructure. New York State's investments in clean water infrastructure have provided significant and needed funding to improve wastewater management and drinking water quality. The amount of funding that New York State has committed to new infrastructure has continued to outpace federal spending for the entire nation and provides a strong example that the federal government should follow. However, at least \$90 billion is still needed to address current infrastructure needs, and these costs will grow unless we continue to make significant investments. For these reasons, we ask you to support the Governor's proposal of \$500 million in funding for the Clean Water Infrastructure Act (CWIA) this year.

An additional \$250 million was included in this year's appropriation, with \$200 million earmarked "to support water infrastructure projects necessary to promote housing preservation and development in regions throughout state" and \$50 million "to support water infrastructure projects necessary to promote housing preservation in rural communities." Audubon supports the \$50

million for clean water infrastructure in rural communities, which typically face financial challenges when upgrading their drinking water or wastewater systems; however, we are unclear on whether the \$200 million broadly earmarked to support housing development matches the original intent of CWIA, which is meant to address existing clean water infrastructure needs. If the \$200 million in funding is directed to municipalities that need to take on additional costs related to the development of new housing, such as upgrading existing infrastructure or building new treatment facilities, we believe that could be within the scope of CWIA, but we do not believe that funding should be used to cover costs traditionally borne by developers if it is to be administered through CWIA. If such a subsidy is needed to support the development of affordable housing, we believe a different funding vehicle would be more appropriate.

Proposed Constitutional Amendment on Decommissioned Correctional Facilities. Audubon supports the proposed constitutional amendment that would allow New York State to decommission the correctional facilities at Camp Gabriels, Moriah Shock, and Mount McGregor in exchange for permanently protecting 1,500 acres of land in the Adirondack Park that the Legislature determines to be of equal or greater value. Adding additional acres to the forest preserve will help ensure that birds and other wildlife can continue to thrive.

Thank you again for accepting and considering our written testimony, and should you need any additional information, please contact me at erin.mcgrath@audubon.org.