



September 10, 2021

Kathy Hochul  
Governor of New York State  
State Capitol Building  
Albany, NY 12224

Basil Seggos  
Commissioner  
NYSDEC  
625 Broadway  
Albany, New York 12233-0001

Dear Governor Hochul and Commissioner Seggos:

In 2019 the Legislature passed nation-leading climate legislation, codifying in law the goal of eliminating New York's adverse climate impacts by 2050 and achieving this transition in a manner that is equitable and prioritizes benefits for disadvantaged communities. The Climate Leadership and Community Protection Act (CLCPA) explicitly put New York on a path to a 100 percent zero emission electric sector by 2040, while aggressively promoting clean energy solutions including rooftop solar, energy storage, and offshore wind.

We are deeply troubled to see the Department of Environmental Conservation (DEC) considering approving air permits for fossil fuel power plants that represent exactly the type of dangerously outdated approach our State was trying to move beyond in enacting the CLCPA.

Under the CLCPA, DEC can only approve a permit for a new fossil fuel project if that project is consistent with the CLCPA or if that project is justified and its impacts adequately mitigated. (CLCPA 7(2)). Additionally, the CLCPA requires that state agencies prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities, and not disproportionately burden those communities.

The proposed gas power plants currently being considered by DEC fail on all fronts. Indeed, as DEC's comment notices appropriately observe, "[b]ased on the information currently available, it appears that the proposed [projects] would be inconsistent with or would interfere with the attainment of the Statewide GHG emission limits established in the Climate Act." Construction of new fossil fuel generation resources is inconsistent with the CLCPA because it prolongs our grid's reliance on climate-altering and greenhouse-gas emitting generation at a time when we need to be taking steps to reduce that reliance. The generating capacity on New York's grid remains nearly 70 percent fossil fuel powered. We're past the point when we can afford to add even more fossil fuel plants that have no role to contribute in a post-2040 emissions-free grid.

Current gas power plant applicants have not provided adequate statements of justification given this inconsistency with state law, have not adequately identified alternatives or GHG mitigation measures, and are located in or near environmental justice communities.

We also have serious concerns about the CLCPA consistency of the proposed air permit language. DEC's draft air permits purport to authorize facilities to demonstrate CLCPA compliance by submitting greenhouse gas mitigation plans within 120 days *after* permit issuance. This approach suffers from multiple critical defects. First, DEC cannot issue an air permit without first determining that a facility will be consistent with the CLCPA or that any inconsistencies are adequately mitigated or justified. Consequently, allowing a greenhouse gas mitigation plan to be submitted *after* permit issuance plainly violates Section 7 of the CLCPA. Moreover, such an approach contravenes basic principles of fairness and public process, as the public is being asked to comment on CLCPA consistency without any knowledge of the applicant's greenhouse gas mitigation plan. Finally, the permit provision itself is fatally flawed because the mitigation strategy options identified by DEC in the permit would do little to actually reduce the harmful climate impacts of the projects. Any greenhouse gas mitigation plan should be required to be filed prior to issuance of a draft Title V air permit. Because current proposed projects are inconsistent with the CLCPA and lack any compelling justification, it would be entirely inappropriate for DEC to issue approvals on the mere condition that a mitigation plan will be filed in the future.

We urge the DEC in the strongest possible terms to deny Title V air permits for any proposed facility that fails to meet these minimum standards of compliance with the CLCPA. With only 19 years to transition our electric sector completely off of fossil fuels, New York must stop permitting fracked gas power plants and commit to climate solutions like renewable energy, battery storage, energy efficiency, and transmission upgrades.

Actions to ensure that we have a reliable, resilient, equitable, and 100% zero-emission grid in 2040 must begin today, and should be geared towards rapidly transitioning off of all fossil fuels. Permitting such projects is not in the public interest, would lock in fossil fuel pollution in

contravention of the Climate Act, and would harm disadvantaged and environmental justice communities with local air pollution.

Sincerely,



Liz Krueger  
State Senator



Zohran Mamdani  
Assembly Member



Alessandra Biaggi  
State Senator



Jabari Brisport  
State Senator



Samra G. Brouk  
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Michael Gianaris  
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Andrew Gounardes  
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Michelle Hinchey  
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Brad Hoylman  
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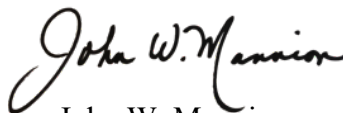
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Brian Kavanagh  
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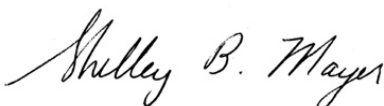
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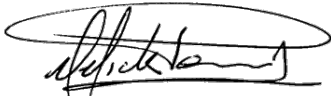
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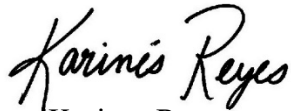
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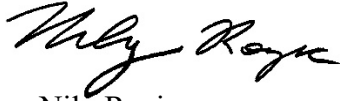
Nick Perry  
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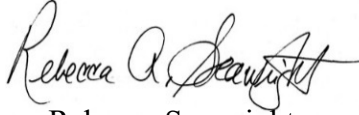
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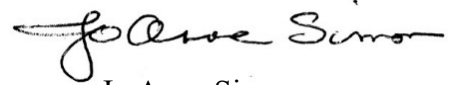
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