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Testimony of The Nature Conservancy in New York Before the Senate Standing Committee on Health, Senate Standing Commission on Environmental Conservation, Assembly Standing Committee on Health and the Assembly Standing Committee on Environmental Conservation on Water Quality and Contamination

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My name is Amanda Lefton and I am the deputy policy director for The Nature Conservancy in New York. Thank you for the opportunity to testify today and for your continued focus on protecting New York's vital water resources and the communities that depend on them. Your leadership in securing the significant budget victories this fiscal year is to be commended. In particular, continuing and increasing appropriations for the Water Infrastructure Improvement Act represents an important step forward in addressing water quality degradation across New York. We are also deeply appreciative of the historic \$300 million investment in the Environmental Protection Fund, which conserves watersheds, supports water quality projects, and enhances our estuaries and Great Lakes.

The Nature Conservancy in New York

The Nature Conservancy in New York is the state program of the world's largest conservation organization. Our mission is to conserve the lands and waters on which all life depends. We work in all 50 United States as well as in over 30 countries to protect nature for the benefit of people today and future generations. We have a collaborative, science-based approach to environmental problem-solving. We are engaged in hands-on research, we are land stewards for the 160 preserves we own in New York, and we work with governments, community groups, industry, and other stakeholders to secure a more sustainable future.

The Nature Conservancy is experienced in managing and restoring marine and freshwater resources, working to protect water resources globally and locally here in New York. On Long Island, we are working closely with the state, local and federal governments and non-government partners on tackling water quality degradation caused by nitrogen pollution. In the Hudson Valley, we are working on developing a comprehensive restoration plan for the Hudson River with the Department of Environmental Conservation (DEC) Hudson River Estuary Program, other state agencies, federal agencies, municipalities, academia and other conservation organizations. In Central and Western New York, we are engaged in work with communities to restore the Great Lakes and in the Finger Lakes we are undertaking stream, wetland and floodplain restoration work and community planning to reduce nutrient pollution in Honeoye Lake. In the Adirondacks we are partnering with communities to upgrade culverts to reduce flooding and improve aquatic habitat connectivity, and we just worked with the State to complete one of the largest additions to the state's Forest Preserve in a century, which included more than 300 lakes and ponds, 16,000 acres of wetlands, and 415 miles of rivers and streams including a

section of the Upper Hudson River. Globally, we have developed an Urban Water Blueprint¹ to demonstrate how we can best utilize source water protection strategies to secure resources for cities into the future.

New York's Water Resources

As we've worked throughout New York to conserve land and water, we have engaged in science, research, and restoration and have gained an understanding about some of the challenges facing our water resources throughout the State. Of course, there are many challenges and not all issues touch down in our preserves, projects, and priorities. We have appreciated watching the previous hearings by your committees seeking information about various water contamination issues that exist around the State, and support the work that the Legislature and Governor Cuomo are doing to improve water quality for New Yorkers.

Because New York is such a diverse state, our water challenges vary by region. However, we have seen some common threats throughout the state, including nutrient pollution. Nutrients, such as nitrogen and phosphorus, come from sources including but not limited to the discharge of wastewater from on-site septic and municipal sewage systems, runoff from agricultural operations and residential lawns, and atmospheric deposition. When this pollution gets into our groundwater, streams, rivers, lakes and bays, it lowers the amount of oxygen available to plants and animals and causes algae to grow. These conditions lead to some of the massive fish kills and toxic algae blooms we have seen around the state, and can threaten not only the environment, but human health. From here on Long Island all the way up to the Finger Lakes and Lake Erie, we are seeing the impact of nutrients in our waterways, and realizing that we must improve water quality to preserve our economy, public health and quality of life.

Atmospheric deposition of sulfur, nitrogen and mercury impacted waterways in the Adirondacks to the point where lakes were declared "dead" from acid rain. The mercury pollution in that region and elsewhere around New York has caused health advisories to be issued for many waterways urging women under 50 and children under 15 not to eat any fish caught. Atmospheric deposition is also impacting our oceans, where ocean acidification is bleaching coral and killing fish and other aquatic life. When coupled with land-based pollution like the nitrogen pouring into Long Island's bays and harbors from wastewater, and the impacts of climate change, ocean acidification will be a "killer threat" to our coastal ecosystem, our marine recreational and commercial fishing industries and our way of life.

Thankfully, recent laws and regulations passed in New York and by the federal government have lowered power plant emissions levels which will help reduce acid rain and mercury pollution and help our waterways begin to recover. Climate change laws and the state's new energy programs including the REV proceeding – which The Nature Conservancy is participating in – will mitigate climate change and increase the use of renewable energy and further drive down pollution that impacts our air and water. And, this year, the Legislature passed Ocean Acidification Task Force legislation sponsored by Assemblyman Englebright and Senator LaValle, which will mobilize New York to focus research and work on this serious threat to our marine waters, and provide New York a regional leadership opportunity. We are urging Governor Cuomo to sign that legislation.

¹ <http://water.nature.org/waterblueprint>

Long Island Water Quality

Nitrogen pollution from septic systems and cesspools has resulted in serious public health and environmental risks on Long Island. Harmful algae blooms plague our waters, resulting in fish kills, beach closures and restraints on consuming shellfish. The Nature Conservancy has partnered with the Long Island legislative delegation, the Governor's office, the DEC, Suffolk and Nassau Counties, the Environmental Protection Agency, and other stakeholders in documenting this problem and advancing solutions. Through funding secured by the Legislature, the DEC is in the process of developing a Long Island Nitrogen Action Plan (LINAP), which will set science based nitrogen load targets for ecosystem recovery. We commend this effort and the commitment from all levels of government to tackle this problem. **We urge all involved to continue their commitment to this issue by turning their focus to creating the appropriate funding solutions to implement the LINAP.** We know we need to address onsite septic systems and cesspools. We know we need to address large infrastructure like the Bay Park Sewage Treatment Facility. We know we need to sewer communities that are already experiencing sea level rise, where septic systems are actually sitting in ground water. Or alternatively, when we elevate or otherwise "flood proof" houses, we know we need to address their septic systems too. In 2016 in New York State, we should not have home owners that cannot flush their toilet during high tide. The solutions are clear and we look forward to continuing to partner with others to ensure there is funding to implement those solutions and address the biggest environmental threat to Long Island.

Water for Tomorrow

As The Nature Conservancy continues to work to conserve water resources throughout our State, it is clear that not only do we need to reduce pollution and protect our water at the source, but **we need to ensure that we have a sufficient supply of water in our streams, lakes and rivers to support all users.** The way we manage water quality and quantity together to make water resource decisions is vital to the growth and prosperity of society. The integration of water quality and water quantity management to serve human needs and protect natural resources is rarely accomplished and continues to be a major challenge confronting resource managers and state and local governments. Through the passage of the 2011 Water Resources Protection Act, New York has started to address both aspects of water management. Yet still, **New York does not holistically manage our water resources and fully integrate quality and quantity.** The Nature Conservancy is committed to working with the State to create the tools, resources and data needed to manage our water resources in a more integrated, holistic way, which will bring a greater level of protection to our water quality while also assuring adequate supplies of water for all needs – nature and people.

Increase Funding for Infrastructure

As we heard last week at the hearing in Albany, infrastructure funding, particularly for wastewater is critical to protect water quality. It's clear that in order to make the investments necessary, all levels of government need to do their fair share. As noted by the Commissioner of DEC and Chairman Englebright, funding from the federal government has declined over time and we are now almost solely dependent on loans opposed to the grants that were crucial for communities in years past. New York has stepped up by creating its own grant funding program through the Water Infrastructure Improvement Act, which has leveraged hundreds of millions of

dollars to address our critical needs, and through creative loan programs from the Environmental Facilities Corporation. This commitment needs to be continued in order to chip away at the daunting price tag for wastewater and water infrastructure. Unfortunately, **while significant, the State's investment is not enough to fully tackle this problem. New York should lead by working with neighboring states, who are seeing the same challenges, and advocate for a reinvestment from the federal government in the wastewater infrastructure.** A coalition of strong voices from New York including Governor Cuomo and our legislative champions, along with peers from other states across the nation, could make a difference in Washington, DC.

Repairing and upgrading large waste water treatment facilities is just one piece of the solution—we know we need to address inadequate or outdated onsite septic systems and cesspools. As stated previously, our problems on Long Island have been well documented and communicated for a number of years now. Septic systems and cesspools are the single greatest contributor to nitrogen loading on Long Island, and they are a key contributor to water pollution in other areas of the State. Advanced systems that remove nitrogen pollution from waste exist and as they become more widely utilized, the cost to install and operate them continues to fall.

Homeowners and business should be encouraged to install advanced systems through a tax rebate or some other incentive program from the state.

In addition to the state and federal governments making investments, **we need to provide communities with the tools necessary to protect their water.** The legislature should explore options to create the enabling authority for communities to levy local fees to invest in water quality projects and upgrade waste water infrastructure. On Long Island, public opinion research has shown us time and time again that voters see water quality degradation as a major threat and are willing to help fund a solution. Come November, the five east end towns of Long Island vote to ~~renew the Peconic Bay Community Preservation Fund for another 20 years and allocate a~~ portion of that program's funding to water quality improvement projects. We know that our water resources play a critical role in our local economies and in our environmental and public health. **It's time that the state give the same opportunity to other communities across New York State to invest in their resources to protect them for future generations. The Legislature should grant authority similar that of the Community Preservation Fund to localities Statewide.** Additionally, the authority to establish Watershed Improvement Districts should be extended to county governments. Last, and notably, the tax cap has been a significant restraint for local governments to take action. **The Nature Conservancy encourages exempting waste water infrastructure improvements – both capital spending and debt service – by municipalities from the State tax cap.**

Conserve and Restore Natural Resources that Protect Water Quality

Through the historic \$300 million Environmental Protection Fund, New York has recommitted to protecting the natural resources that we depend on. Our rivers, lakes, streams, wetlands, riparian areas and floodplains, and forests play a critical role in providing clean water for communities throughout New York. **In order to ensure our wetlands are well protected and playing the important role of cleaning our water, we need to know where they are.** It's hard to believe, but the State is still relying on out of date wetland maps to implement the state's wetlands regulations. Because new maps can be controversial their release is often delayed. As a result, important decisions continue to be based on dated and inaccurate information. **We need**

to update our wetland maps more frequently and ensure we are using the best available information. Not only do wetlands play an important role in protecting water, they also help reduce risk from flooding in our communities. These are vital natural assets that need greater level of protection. In addition to ensuring maps are updated and released in a timelier manner, the Legislature should address regulatory gaps that leaves them unprotected.

Buffers around surface water bodies allow wetlands to migrate and rivers and streams to flow naturally, protecting them from pollution and communities from flooding. New York does not currently have a program that allows for the protection of lands in riparian areas. **The State should establish a program that compensates landowners for the conservation of riparian buffers.**

Comprehensive Water Resource Management

New York should reinvest in a comprehensive statewide water resource management strategy that looks to conservation measures for source water protection on a watershed scale. **The Water Resources Planning Council, established in Title 29 of Article 15 of the ECL of the laws of 1984, has been dormant for many years, but if reconstituted, can play an important role in protecting our water for future generations.** Chaired by DEC, the Council was charged with analyzing present and future natural resource, economic development, water quality, and conservation requirements of public and private water systems and develop regional management strategies to meet the water resources requirements of residential, agricultural, industrial and commercial users as well as assure the highest possible quality and quantity of these resources. Given the emerging water quality and quantity threats all across New York, an effort that fully examines strategies to protect water at its source and fully considers the role nature resources can play would be instrumental at this time.

Agency Staffing

The DEC has worked diligently to address the many challenges posed by water quality and scarcity in New York. However, it is difficult to ignore that **DEC is an agency rich in authority and directives, yet starved for the appropriate staff and resources to fulfill them.** We urge increasing staff levels at our agencies charged with protecting our states finite natural resources to ensure that we can meet the needs of our communities and continue our legacy of leadership in environmental protection.

Thank you for the opportunity to comment today. The Nature Conservancy appreciates your attention to the water quality challenges emerging across New York and stands ready to partner with you to protect our vital water resources. Please let me know if I can provide any additional information.

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