



**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE
JOINT HEARING OF THE
SENATE FINANCE & ASSEMBLY WAYS & MEANS COMMITTEES
REGARDING THE FISCAL YEAR 2022-23 EXECUTIVE BUDGET
ENVIRONMENTAL & ENERGY PROPOSALS
February 1, 2022
Albany, N.Y.**

Greetings. My name is Anne Rabe, and I am the Environmental Policy Director for the New York Public Interest Research Group (NYPIRG). NYPIRG is a non-partisan, not-for-profit research and advocacy organization. Consumer protection, environmental preservation, public health, healthcare quality, higher education affordability, and governmental reforms are our principal areas of concern. We appreciate the opportunity to submit testimony on the Governor's Executive Budget environmental and energy proposals.

Governor Hochul's SFY 2022-2023 Executive Budget proposals include several important environmentally beneficial initiatives to begin to address the growing climate crisis, and expand and improve environmental protection and remediation programs, including the following:

- Increasing the Clean Water, Clean Air and Green Jobs Environmental Bond Act to \$4 billion helps the State combat climate change, protect drinking water and respond to solid waste pollution.
- Increasing the Environmental Protection Fund's annual funds to \$400 million enables it to fund more initiatives critical for protecting water, combating climate change, and keeping public spaces clean. NYPIRG recommends that this expanded fund designate monies for programs designed to expand the use of refillable and reusable products and services.
- Establishing two million climate-friendly, electrified or electrification-ready homes by 2030 with a requirement that newly-constructed buildings be all-electric by 2027 is an important reform. However this plan should be effective sooner than that, as detailed in the Gas-Free NYS Electric Building Act, (A.8431, Gallagher and S.6843, Kavanagh).¹
- Investing \$500 million in offshore wind manufacturing and infrastructure will expand the State's renewable energy portfolio.

To the dismay of hundreds of organizations and businesses, some critically important environmental and energy proposals were not included in the proposed Executive Budget, such as eliminating the most egregious state subsidies of \$330 million to the polluting fossil fuel industry which undermines the Climate Leadership and Community Protection Act (CLCPA), and increasing recycling and reducing solid waste with a "Bigger, Better, Bottle Bill." In addition, there must be substantially improved measures to curb packaging pollution, specifically through stronger Extended Producer Responsibility (EPR) and Toxics in Packaging programs.

It is critically important for New York to take bold action on the climate crisis and pollution prevention. The state needs to get on the right track to both generate much-needed revenue to fully implement the CLCPA and ensure New Yorkers have stronger environmental and public health programs to prevent pollution and clean up contaminated water. The final budget should include the following policies and programs.

- Include the Fossil Fuel Subsidy Elimination Act, (A.8483, Cahill and S.7438, Krueger) to end the most egregious state subsidies of \$330 million to climate crisis contributors—the fossil fuel industry.
- Include in the Governor’s laudable gas ban proposal the responsible start dates of no new permits after 12/31/23, and no permits for conversion from electric to a mixed fuel building after 12/31/22, unless an all-electric building is physically or technically, not financially, infeasible² as stated in the Gas-Free NYS Electric Building Act, (A.8431, Gallagher and S.6843, Kavanagh).
- Expand the State’s highly successful “Bigger, Better Bottle Bill,” the first Extended Producer Responsibility (EPR) Law, by expanding its reach to all non-carbonated beverages, such as wine, liquor, and cider, as well as increasing the current nickel deposit to a dime (the nickel deposit has been on the books for forty years!)
- Revise and strengthen the Governor’s weak EPR proposal and Toxics in Packaging Act so the state phases out polluting packaging wherever possible.
- Enact a moratorium on the energy-guzzling Proof of Work (PoW) cryptocurrency mining facilities, (A.7389, Kelles and S.6486C, Parker), which undermine the intent of the CLCPA.
- Double the amount of funds for the Clean Water Infrastructure Act (CWIA) for a total of \$1 billion to meet the needs of communities needing to repair, replace and upgrade water infrastructure.
- Eliminate loopholes in the Freshwater Wetlands Regulatory Program to ensure all wetlands, nature’s water filters, are fully protected.
- Remove potentially unsafe and fiscally unsound amendments to the Brownfield Cleanup Program, and after 18 years, first require an audit by the State Comptroller to assess the financial, environmental and health impacts of this program.

We urge the State Legislature to support the inclusion of the following nine initiatives to the proposed SFY 2022-2023 Executive Budget to ensure that all New Yorkers enjoy improved environmental health protections and adequately funded and timely climate crisis prevention and protection actions.

Two new scientific reports exemplify why the State needs to act swiftly and forthrightly in including these nine environmental and energy initiatives in the budget.

The World Is Beyond the Toxic Tipping Point: Alarming New Report as Scientists Determine Chemical Pollution Has Passed the Safe Limit for Humanity

A new international report released in January, 2022 underscores the need for the bold and assertive actions that are described in our recommendations on EPR, Toxics in Packaging, Bigger, Better, Bottle Bill, and the Brownfields Cleanup Program. *The Guardian* reported on the scientific study published in the journal *Environmental Science & Technology*, stating: “Chemical pollution

has passed [the] safe limit for humanity ... Study calls for cap on production and release as pollution threatens global ecosystems upon which life depends. The cocktail of chemical pollution that pervades the planet now threatens the stability of global ecosystems upon which humanity depends ... Plastics are of particularly high concern ... along with 350,000 synthetic chemicals including pesticides, industrial compounds and antibiotics ... The study concludes that chemical pollution has crossed a “planetary boundary”, the point at which human-made changes to the Earth push it outside the stable environment of the last 10,000 years.”

“The researchers said stronger regulation was needed ... [including] a fixed cap on chemical production and release, in the same way carbon targets aim to end greenhouse gas emissions ... ‘There’s evidence that things are pointing in the wrong direction every step of the way,’ said Prof Bethanie Carney Almroth at the University of Gothenburg ... ‘For example, the total mass of plastics now exceeds the total mass of all living mammals. That to me is a pretty clear indication that we’ve crossed a boundary. We’re in trouble, but there are things we can do to reverse some of this.’ ‘There has been a fiftyfold increase in the production of chemicals since 1950 and this is projected to triple again by 2050,’ said Patricia Villarrubia-Gómez, a PhD candidate and research assistant at the Stockholm Resilience Centre ... ‘The pace that societies are producing and releasing new chemicals into the environment is not consistent with staying within a safe operating space for humanity ... Shifting to a circular economy is really important. That means changing materials and products so they can be reused, not wasted.’”³

New Federal Report Details the Staggering Cost of NYS’s Climate Disasters: \$50 to 100 Billion From 2000 to 2021; \$10 to 20 Billion in 2021 Alone

A new federal report underscores the need for the bold and assertive actions that are described in our recommendations on fossil fuel subsidies, gas free NYS, cryptomining and wetlands. Between 2000 and 2021, New York State experienced 27 severe storms, 11 tropical cyclones, 6 winter storms, 4 droughts, and 3 flooding billion-dollar disaster events due to the climate crisis, according to the National Oceanic and Atmosphere Administration (NOAA) National Centers for Environmental Information (NCEI) in their January 2022 report, *U.S. Billion-Dollar Weather and Climate Disasters*. The cost of these disasters for New York is between \$50 to \$100 billion dollars. (<https://www.ncdc.noaa.gov/billions/>.) In addition, the report includes county-based climate risk reports for every New York State county. For instance, Bronx county has a weather and climate combined risk of 67.22% compared to the state’s 14.20 % risk, and the nation’s 13.30 risk. (See <https://www.ncdc.noaa.gov/billions/mapping> link to NYS map with the other 61 county reports.)

Include Gas Free NYS Electric Building Act to Combat Climate Change Beginning on December 31, 2023

While we wholeheartedly support Governor Hochul’s proposed statewide gas ban to power newly constructed buildings, the schedule for 2027 is too slow. Burning fossil fuels for energy use in buildings is the state’s top source of climate-heating pollution. The State does not have time to wait. NYPIRG and other groups in the #GasFreeNY campaign urge the inclusion of the timetable from S. 6843A (Kavanaugh) and A.8431 (Gallagher) in the state’s budget, enabling an immediate gas ban at the state level that would take effect as follows: no new permits after 12/31/23, and no permits for conversion from electric to a mixed fuel building after 12/31/22, unless an all-electric building is physically or technically, not financially, infeasible.⁴ Additionally, the state must not

preempt stronger local gas bans on new construction by any municipality, including New York City. New York State could become the first state to end gas use in new construction, which has been enacted at the municipal level by over 50 localities nationwide to date, including New York City, San Jose, Sacramento, Oakland, and Seattle. Instead of relying on fossil fuels, new buildings would rely on heat pumps for heating, cooling, and hot water and greater energy efficiency. Heat pumps do not combust fossil fuels; they are highly efficient and electric-powered.

By starting the ban at the end of 2023, the State can prevent millions of metric tons of climate pollution from heating the climate. The International Energy Agency urged worldwide adoption of laws to end all sales of new gas boilers and furnaces for buildings because such action in the next few years is necessary to stave off worldwide catastrophe. Everything from deeply affordable housing to skyscrapers are being built fossil free. A New York City study⁵ and NYSERDA⁶ data confirm clean buildings don't cost more.

End The Most Egregious State Subsidies of \$330 Million Going to Climate Crisis Contributors: The Fossil Fuel Industry

Ending state subsidies to the polluting fossil fuel industry is critical to help meet the CLCPA goals. Such subsidies undermine this important statute and prop up the polluters who have brought us to the precipice of a climate emergency and have resulted in costs to the State up to \$100 billion as noted earlier. The crucial CLCPA established a goal to achieve net-zero greenhouse gas emissions by 2050 and 100% decarbonized power by 2040. It undermines this important law to continue using taxpayer dollars to subsidize the very industry that created this crisis. To the detriment of its citizens, the State is “talking out of both sides of its mouth” by providing funds to the polluting industrial sector it has statutorily declared needs to be phased out to save communities and the environment from disaster.

It is time for this destructive practice to end. Tax exemptions should be reserved for businesses that provide clear public benefits, and should not be provided to the world's deadliest industry that has caused immeasurable harm. The State must stop the flow of public money to the fossil fuel industry that spurred the climate crisis. We urge the inclusion of the Fossil Fuel Subsidy Elimination Act, S.7438 (Krueger) and A.8483 (Cahill), in the state budget. It signals—both symbolically and literally—that New York State is seriously and consistently abiding by the goals of the CLCPA and taking the unflinching actions needed to transition to a climate-healthy future.

As a critical first step, this year's budget needs to eliminate the most egregious fossil fuel subsidies from the NYS Tax Code. For example, it should:

- End \$118 million in Sales and Use Tax exemptions for airline fuels;
- Terminate \$89 million in Sales and Use Tax exemptions for fossil fuels used in research and development, and the production of tangible personal property in the fossil fuel industry; and
- Abolish \$65 million in Petroleum Business Tax exemptions for liquid petroleum gases such as butane, ethane, and propane.

As importantly, this addition to the State Executive Budget would limit tax subsidies to fossil fuel-related businesses as part of economic development programs, including the Excelsior Jobs Program, START-UP NY, Investment Tax Credit, Brownfield Redevelopment Tax Credit,

Rehabilitation of Historic Properties Tax Credit, qualified emerging technology tax credits, and special tax benefits for qualified New York manufacturers.

Include a 3 Year Moratorium on Energy Guzzling Cryptomining Proof of Work (PoW) Facilities

Energy-hogging activities like PoW cryptomining threaten and undermine New York's ambitious climate mandates, as contained in the CLCPA. Digital currency earned by solving complex questions through the use of banks of computers, known as "Proof of Work," was developed from the concept of blockchain technology. Solving the puzzles in order to have a chance of being awarded small amounts of Bitcoin has been likened to a "lottery."⁷ This is the type of cryptomining that is used for Bitcoin, among other cryptocurrencies. The rush is driven by pure profit motive: It's potentially enormously lucrative in a marketplace where actors are placing huge bets on this questionable form of currency. Bitcoin was valued at \$37,960.68 on January 30, 2022.⁸

The computer power necessary to compete in this highly speculative form of cryptocurrency mining is enormous. *The New York Times* estimates that Bitcoin mining uses more electricity in a year than Finland, with 5.5 million residents, and more than the state of Washington.⁹ "Bitcoin alone consumes as much electricity as a medium-sized European country," says Professor Brian Lucey at Trinity College Dublin. "This is a stunning amount of electricity. It's a dirty business. It's a dirty currency."¹⁰

For instance, the Greenidge Generation is one of the largest cryptocurrency mines in America, and residents have documented how it poses a severe environmental threat to the Finger Lakes region. The abandoned power plant turned mining facility currently houses over 15,300 computers which run around the clock, requiring enormous amounts of energy. Greenidge predicts that it's on site and upstream emissions will exceed one million tons annually. The plant is also permitted to discharge up to 134 million gallons of water a day at temperatures up to 108 degrees Fahrenheit into Seneca Lake, damaging aquatic life and putting the booming tourism industry in the Finger Lakes at risk. The Greenidge facility serves as a test case for the roughly 30 other dormant power plants across New York that could be converted for PoW cryptocurrency mining. The Greenidge Power Station has led to wasteful energy consumption, negative impacts to local air quality, massive amounts of e-waste, and an air permit that allows it to emit more greenhouse gas emissions than during its time as a coal plant.

On January 30th, the DEC announced it would delay its decision on the plant by two months, noting that it had received approximately 4,000 public comments.¹¹ If allowed to operate, the Greenidge Power Station Bitcoin mining plant could drive a superhighway through the state's CLCPA. The responsible and precautionary approach is to require a three year moratorium so that the Department of Environmental Conservation (DEC) can complete, with full public participation, a comprehensive generic environmental impact study. We urge the inclusion of A.7389 (Kelles) and S.6486C (Parker) in the state budget.

Expand One of the State’s First EPR-Based Law & Most Successful Recycling Program: The Bottle Deposit Law

Expanding New York’s Bottle Deposit Law, commonly known as “the Bottle Bill,” is a key solution to address solid waste pollution, rising costs for municipalities, as well as extending the life of landfills around the state. In Governor Kathy Hochul’s State of the State address, she said that to combat the state’s waste crisis, it would move to an EPR approach to recycling. Crucially, the Governor supports the principle that the cost for waste disposal should be paid by the companies producing the waste, not the taxpayers. She also stressed the need for a circular economy to reduce, reuse, and recycle wherever possible.

Inexplicably, the Governor then failed to include a key EPR policy expansion in her proposed Executive Budget—the state’s highly successful Returnable Container law of 1982. It is essential that Governor Hochul include an expansion of the EPR-based “Bigger, Better, Bottle Bill” in the state budget. By including EPR legislation that expands and modernizes the Bottle Bill, New York can lead the way on reducing waste, litter, and greenhouse gas emissions. Over its 40-year history, the Bottle Bill has proven to be a highly effective program in reducing litter and increasing recycling rates. In 2020, New York’s redemption rate was at 64%.¹² The Bottle Bill reduces roadside container litter by 70%, and in 2020, 5.5 billion containers were recycled in the state.¹³

China, which had been accepting massive amounts of America’s plastic waste, stopped accepting plastic waste imports in January 2018.¹⁴ This caused severe strains on municipal recycling programs, which led to some municipalities charging consumers for recycling. Municipal recycling programs are also struggling with glass containers in their recycling streams as when glass breaks in curbside containers it can render other materials unrecyclable or contaminated. The expansion of the Bottle Bill to include wine, spirits, and hard cider would take a significant amount of the containers that municipalities are struggling with off their hands. Additionally, municipal recycling programs make the majority of their revenue from handling waste, not from recycled material.

It is essential that New York addresses its waste issues with a fully modernized Bottle Bill in the state budget—one that increases the deposit and includes additional containers. The Bigger, Better Bottle Bill needs to include the following provisions.

➤ Expand the program to include wine, spirits, hard cider, and most non-carbonated beverages. A deposit system dramatically reduces litter and solid waste that would otherwise be discarded. Many other states have already added these containers to their laws. For example, Maine’s law covers all beverages except dairy products and unprocessed cider.¹⁵

➤ Increase the deposit from a nickel to a dime, and use revenues to support recycling equity. States with higher deposit fees have higher redemption rates than states with a nickel fee. Vermont has a 15-cent deposit on liquor bottles and the redemption rate for liquor containers was 83% in 2020.¹⁶ Increasing the deposit can generate more revenues for the state, that can be used to address limits on redemption options in low-income communities and other litter and solid waste problems in such communities. The impact of the nickel deposit approved in 1982 has eroded over time. An inflation update would likely make it 15-cents. It’s past time for the State to raise its deposit to a dime.

***Revamp Deeply Flawed EPR and Toxics in Packaging Bills:
Unworkable & Filled with Loopholes***

As stated earlier, a new scientific study found that the total mass of plastics now exceeds the total mass of all living mammals in the world. The State needs to act swiftly and comprehensively to reduce packaging, especially plastics, with a strong and transparent EPR law. Adopting a weak or ineffectual law will be a huge setback, and a waste of time, energy and resources. A well-designed EPR program must REQUIRE packaging be either reduced, reused, or refilled over a ten-year period. The rest of the packaging should be made from recycled material or be easily recycled or compostable. More priority toxic chemicals, not just PFAS and phthalates, must be prohibited from packaging to ensure that toxic chemicals are not recycled into new products. New funding should flow to local governments for waste reduction and recycling programs. Equally important, we cannot have Producer Responsibility Organizations (PROs) in charge of solving this gargantuan problem, with oversight from a business-dominated Advisory Committee and an understaffed state agency. It is a recipe for failure. NYPIRG appreciates the time that lawmakers and Governor Hochul have put into drafting bills, and we appreciate their support of the concept of EPR. However, many organizations have identified serious problems and we cannot support the budget bill as drafted. Instead, we urge lawmakers and the Governor's office to review a model bill which the national organization *Beyond Plastics* has drafted with NYPIRG and other environmental organizations. Here is a summary of the serious problems with the Governor's proposed EPR and Toxics in Packaging bills.

► There are significant problems with the PRO structure as it relates to the flow of funding, cooperation to complete projects, overall improvement of recycling, enforceability, and program oversight. It would create an unworkable system of self-regulation, with minimal regulatory oversight that will take years to ramp up and will not be effective—wasting precious time. It is unclear how much funding each municipality will receive, how that will be calculated, and how that will be included in the PRO plans. In addition, key to fixing the state's broken recycling system is cooperation among the various recycling stakeholders to complete big projects. These projects should be identified in the Needs Assessment, but there is no mechanism to require the PROs to work together to complete these larger infrastructure projects that are necessary to fixing recycling. The proposal also makes recycling more confusing and less accessible for New Yorkers. It allows the possibility of producers sponsoring their own mail back programs, drop-off sites, and drop-off events. Accessibility requirements for drop-off sites are 15 miles—which in New York City and other areas, renders them inaccessible.

► There is no limit on the number of PROs that can be formed in the state and producers can choose to implement their own take-back programs without belonging to a PRO. With an estimated 2,000 plus producers this will likely become an unworkable, unmanageable, and unenforceable program. Each PRO or producer must create their own plan in consultation with the business-dominated DEC Advisory Committee and each plan must address its own members' waste collection needs. There are significant problems with both the makeup and the role of the Advisory Committee. It is too business-heavy when we know from past experience that independent members with expertise will represent the public's best interests. Not only does it undermine DEC's legal jurisdiction on solid waste regulation, and create a serious financial conflict of interest for producer members, but many of the assignments for the Advisory Committee will result in inappropriate self-regulation by the industry that created this waste crisis.

► The bill also has no packaging reduction requirements. In order to see real reductions in packaging, through either elimination or reuse and refill systems, it is critical to set requirements in the legislation, and not make them *voluntary*. There are also no packaging design requirements. It includes a process whereby a new Advisory Committee will develop recommended rates for recycling and post-consumer content, that the DEC can then put into regulation. The PROs are then directed to recommend changes to these rates in their annual report. This is the equivalent of asking the fossil fuel industry to recommend their rates of Greenhouse Gas emissions each year. It is critical for the State to set requirements for recycling rates and post-consumer recycled content for packaging in the legislation.

► Overall, the Advisory Committee proposal is unworkable, legally suspect, could result in the “foxes guarding the chicken coop,” and should be eliminated from the bill. Instead, the Governor should look to model advisory oversight committees, such as the State Superfund Management Board which was a balanced and diverse group, oversaw the implementation of Superfund by DEC and DOH, held public participation sessions at its quarterly meetings, and issued annual reports with recommendations to improve the program.

► Elimination of toxics from packaging should be contained within the same EPR legislation and should include all toxic chemicals found in packaging. These toxic substances leach out of packaging during use; expose workers producing or handling the packaging; are down-cycled into new products; and contaminate waterways and communities along the packaging lifecycle. The EPR bill should ban the sale or distribution of any packaging or reusables containing the following chemicals or chemical classes: ortho-phthalates; bisphenols; per and polyfluoroalkyl substances (PFAS); lead and lead compounds; cadmium; mercury; hexavalent chromium and compounds; perchlorate; benzophenone and its derivatives; formaldehyde; halogenated flame retardants; and toluene. The bill should also ban the sale and distribution of packaging or reusables made from the polyvinyl chloride (PVC); polystyrene (NY law only bans some expanded polystyrene); and polycarbonate. In addition, the bill should direct DEC to review and update the list of chemicals or classes of chemicals in packaging every three years, with full public participation, including a provision whereby the public can petition the DEC to include new chemicals or classes of chemicals to the list of prohibited substances.

► The definition of “recycling” is so inadequate that it leaves room for waste-to-fuel or waste-to-energy schemes to be considered recycling, which violates the intent of the Environmental Conservation Law’s solid waste management hierarchy policy (Section § 27-0106). It is critical that the funding go to real recycling projects that create more post-consumer materials to be used as inputs for future packaging manufacturing. The bill allows producers to divert packaging waste as long as another material is also created as part of the process, and call it recycling. *This is not recycling.* It is crucial that the State not create a system that is either purposely or unintentionally causing a proliferation of waste-to-fuel facilities and the latest “chemical recycling” false solution.

► The bill could also lead to the eventual dismantling of the Bottle Bill and prevent its expansion. Two specific provisions should be deleted. Section 2 (o), Page 192 lines 1-3 directs the producers/PROs in their annual report to include "an evaluation of the feasibility and recommendation for adding beverages in beverage containers ..." By directing producers to analyze each year whether containers covered under the Bottle Bill should instead be covered

under EPR, the bill puts producers in control of deciding how their packaging should be managed and gives them a path to re-litigate what we already know: Bottle Bills are the most effective way to manage beverage containers. In Section 27-3301, 5(a)(i) and 5(c)(iv), the definition of "packaging and paper products" on page 167 lines 16-23, and 168 lines 14-15 is designed to include beverage containers not currently covered under the Bottle Bill into the EPR system. Including in the EPR bill beverage containers that are not already covered under the bottle bill will likely close the door on future bottle bill expansion to these containers. It will also lead to substantial confusion for New York State residents.

Double the Funding to \$1 Billion for the Clean Water Infrastructure Act to Meet The Needs of Communities in Repairing and Upgrading Their Infrastructures

A \$1 billion investment in the Clean Water Infrastructure Act (CWIA) is needed in this year's budget. While we are pleased to see Governor Hochul propose \$500 million in new funding for the CWIA, it is inadequate. The demonstrated need across the state far exceeds that number. According to a recent report by Environmental Advocates NY, a CWIA program, the Water Infrastructure Improvement Act, alone can award \$500 million in grants each year to shovel-ready projects.

Only investing \$500 million will leave critical programs underfunded and force local governments to put projects to fix water pipes on hold. The need to repair, replace, and upgrade our water infrastructure is enormous. In 2008, the Departments of Health and Environmental Conservation (DOH and DEC) estimated that the investment needed to upgrade New York's drinking water and wastewater infrastructure was close to \$80 billion.¹⁷ This is a severe underestimate, since it did not take into account costs to replace lead service lines, remove emerging contaminants like PFAS, or deal with increased flooding caused by climate change.

The CWIA is a win-win for public health and the economy. In 2019 alone, New York's water infrastructure grants created over 20,000 jobs that pay the prevailing wage.¹⁸ These grants provide a critical boost to local economies as New York continues to recover from the COVID-19 crisis. Investing in water infrastructure will decrease pressure to raise water rates, helping to ensure every New Yorker can afford their water. A \$1 billion investment in the CWIA will keep long-term benefits flowing to local communities.

Protect All Wetlands: For Water Purification, Flood Control, and Wildlife Protection

The Governor's proposed amendments to the ECL includes statements that climate change related flooding has caused billions of dollars of property damage in the State, and protection of wetlands is of "vital importance." Subdivision 3 of Section 24-0105 of the ECL, states "Recurrent flooding aggravated by *the loss of freshwater wetlands has serious effects upon natural ecosystems...*" However, the proposed amendments substantially weaken their protection by arbitrarily narrowing the size of wetlands requiring such critical protections to only those that are larger than 12 and 4/10 acres, or are of "unusual importance." Eliminating protections for most smaller wetlands will exacerbate climate crisis impacts in communities across the state. We urge the elimination of the new size restriction from the bill.

The World Wildlife Fund states that “Marshes and ponds, the edge of a lake or ocean, the delta at the mouth of a river, low-lying areas that frequently flood—all of these are wetlands. The destruction of wetlands is a concern because they are some of the most productive habitats on the planet. They often support high concentrations of animals—including mammals, birds, fish and invertebrates—and serve as nurseries for many of these species ... And they provide a range of ecosystem services that benefit humanity, including water filtration, storm protection, flood control and recreation. Without wetlands, cities have to spend more money to treat water for their citizens, floods are more devastating to nearby communities, storm surges from hurricanes can penetrate farther inland, animals are displaced or die out, and food supplies are disrupted, along with livelihoods. They trap pollutants such as phosphorus and heavy metals in their soils, transform dissolved nitrogen into nitrogen gas, and break down suspended solids to neutralize harmful bacteria. New York City found that it could save \$3-8 billion in new wastewater treatment plants by purchasing and preserving \$1.5 billion in land around its upstate reservoirs ... Climate change brings a variety of alterations to patterns of water and climate. In some places, rising sea levels are swamping shallow wetlands ... or droughts are destroying estuaries, floodplains and marshes.”¹⁹ It is incumbent on the State to protect all wetlands as they are “safety valves” for climate-related increased flooding, and are nature’s water filters.

Halt Potentially Unsafe & Fiscally Unsound Amendments to the Brownfield Cleanup Program Law and Instead Require a Long Overdue State Comptroller Audit

The Governor’s amendments to the Brownfield Cleanup Program (BCP) statute are flawed and pose potential environmental risks and a fiscally unsound policy. We urge the elimination of the proposed amendment to the general municipal law which transfers the authority to approve testing and other site plans under the BCP’s Brownfield Opportunity Areas (BOA) from the DEC Commissioner to the Secretary of State. In addition, we urge the removal of the ten-year extension of BCP funds provided to developers, and instead request that a provision be added to require the NYS Comptroller to conduct a long overdue audit of the BCP.

While amendments to expand the scope of BOA funding to “support job growth, reduce greenhouse gas emissions, increase climate resilience ... achieve environmental justice” and prioritize the development of “renewable energy” facilities, are welcome improvements, transferring the oversight and approval authority to a political entity with absolutely no expertise in environmental remediation poses unnecessary potential health and environmental risks, and violates the legislative intent of the 2003 BCP statute. In addition, the amendments extend the sunset date of the program by ten years, until 2032. Millions of dollars have been provided to brownfield site developers since the statute was enacted in 2003. Before any extension of these generous allocations, it is critically important that the New York State Comptroller conduct an audit and investigate the benefits, or lack thereof, to the communities saddled with these environmental threats, the cost to the State; and assess whether funds are inappropriately going to well-endowed businesses. In addition, the audit should investigate the quality of BCP site cleanups. For instance, how many have only been cleaned up to industrial use levels thereby limiting a communities’ growth, and how many have been cleaned up to health protective unrestricted use levels? After 18 years, the time for such an audit is long overdue.

Thank you for the opportunity to testify today. NYPIRG looks forward to working with the Legislature so that New York’s SFY 2022-2023 budget ensures that all New Yorkers enjoy

improved environmental health protections and adequately funded and timely climate crisis prevention and protection actions.

Endnotes

¹ A.8431, Gallagher and S.6843, Kavanagh,

https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A08431&term=2021&Summary=Y&Memo=Y&Text=Y

² Ibid.

³ See: https://www.theguardian.com/environment/2022/jan/18/chemical-pollution-has-passed-safe-limit-for-humanity-say-scientists?_hsmi=201172662&_hsenc=p2ANqtzOzz8pOMQXSUWwt69G2n3CsSYp6NDA_IO3tI3GIPIAs4OgZRsLjAxFvDMnS0_zsa_BcRxi7X6QJqwXHZlwQm2-orRaXg

⁴ A.8431, Gallagher and S.6843, Kavanagh,

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⁵ *Pathways to Carbon-Neutral NYC: Modernize, Reimagine, Reach*, NYC Mayor's Office of Sustainability, Con Edison, National Grid, April, 2021. Accessed at

<https://www1.nyc.gov/assets/sustainability/downloads/pdf/publications/Carbon-Neutral-NYC.pdf>.

⁶ *Low-Carbon Buildings of Excellence Coming to a Neighborhood Near You*, Urban Green Council, July, 2021.

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⁷ *Bitcoin Consumes 'More Electricity than Argentina,'* Cristina Criddle, *BBC News*, February 10, 2021. Accessed at <https://www.bbc.com/news/technology-56012952>

⁸ *Yahoo Finance*, January 30, 2022. Accessed at <https://finance.yahoo.com/quote/BTC-USD/>

⁹ *Bitcoin Uses More Electricity than Many Companies. How is that Possible?* *New York Times Interactive*, Jon Huang, Claire O'Neill and Hiroko Tabuchi, September 3, 2021. Accessed at

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¹⁰ *Bitcoin's Growing Energy Problem: 'It's a Dirty Currency,'* Katie Martin and Billy Nauman, *Financial Times*, May 20, 2021. Accessed at <https://www.ft.com/content/1aebc2db-8f61-427c-a413-3b929291c8ac>

¹¹ <https://www.bloomberg.com/news/articles/2022-01-28/n-y-delays-decision-on-permits-for-bitcoin-miner-s-power-plant>

¹² Container Recycling Institute, *Bottle Bills in the USA: New York*, <https://www.bottlebill.org/index.php/current-and-proposed-laws/usa/new-york>.

¹³ New York State Department of Environmental Conservation, "New York's Bottle Bill,"

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