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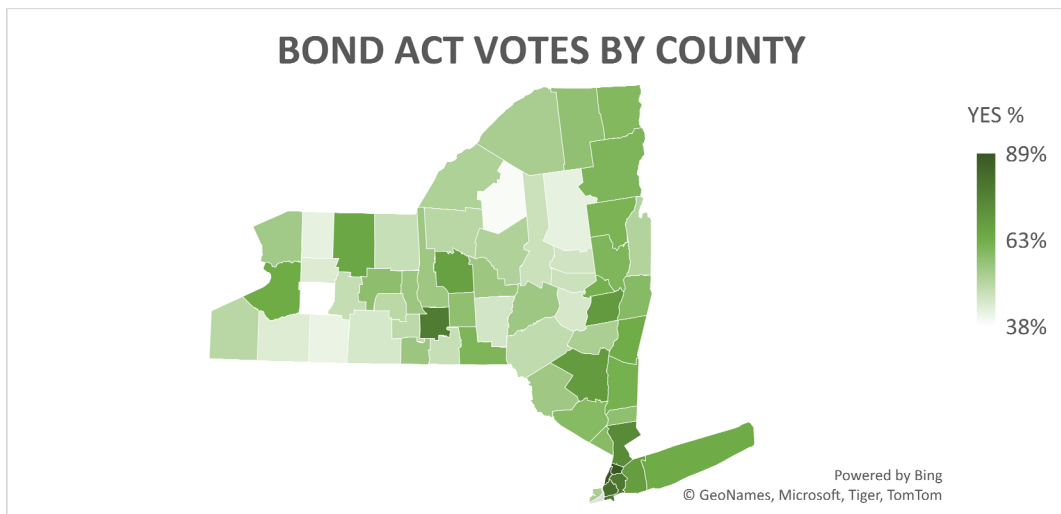
**Testimony of The Nature Conservancy in New York Before the Joint Legislative Hearing on the Environmental Conservation Portions of the Executive Proposed Budget for New York State Fiscal Year 2023-24**

**February 14, 2023**

My name is Jessica Ottney Mahar, and I am the New York Policy and Strategy Director for The Nature Conservancy. On behalf of our tens of thousands New York supporters from every region of the state, thank you Chairs Krueger, Weinstein, Harckham and Glick, as well as other members who have joined the hearing today, for the opportunity to testify regarding the Executive Budget Proposal for State Fiscal Year 2023-24 (FY 2023-24).

The Nature Conservancy in New York is a division 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 states as well as in 79 countries and territories to protect nature for the benefit of people today and future generations. We have a collaborative, science-driven approach to environmental problem-solving. We are engaged in scientific research and innovating new tools and approaches to address the most important environmental challenges: tackling climate change, protecting land and water, providing food and water sustainably and building healthy cities. We have our feet on the ground as land stewards for the 136 preserves – almost 200,000 acres -- we own in New York, and on a daily basis we work with all levels of governments, community groups, industry, and other stakeholders locally in New York and around the world to secure a more sustainable future.

This past fall, New Yorkers went to the ballot on Election Day to make important choices that will impact the future of our state. Congratulations to you all on your victorious elections. The Nature Conservancy was proud to help lead one of the most popular statewide campaigns on the ballot – the \$4.2 billion Clean Water, Clean Air, and Green Jobs Environmental Bond Act, the largest ballot measure ever proposed in state history. With our partners from environmental, labor, municipal and public health organizations, we delivered a win with 67% of the vote from counties across the state and voters of all political stripes. These New Yorkers, despite a politically divided climate, came together across those deep divisions to unite and vote yes for clean water, to vote yes for action on climate change, to vote yes for conserving our forests, family farms and wildlife habitat, and to vote yes to creating jobs and building sustainable communities that our kids and grandkids will be proud and prosperous in. We are thrilled with the passage of the Bond Act, and we look forward to working towards its implementation in partnership with the state. We are also inspired by the strength of support among voters of all geographic, demographic and political varieties for protecting our environment -- a strong message that New Yorkers support continued work to protect our land, air and water and tackle climate change. We look forward to partnering with you to build upon the victories of 2022.



*Proposal 1, The Clean Water, Clean Air, and Green Jobs Environmental Bond Act, received overwhelming support, passing with 67% of the vote in the November 2022 General Election.*

### **Bond Act Implementation**

Governor Hochul’s budget proposal includes staffing allocations at environmental agencies for implementation of the Bond Act, including 131 of the 231 new positions proposed at the Department of Environmental Conservation (DEC). These staff and others on an inter-agency working group will begin work to implement the Bond Act, including creating detailed project criteria for the different Bond Act programs, educating communities about the measure and the implementation process, and distributing funds through a transparent process. Work has already begun with the creation of a [new state website](#) that provides more information. The state’s emphasis on transparency and community input into project criteria will help reduce barriers to accessing funding in different types of communities, which is something our team heard a lot of feedback about during the campaign for the measure. We are enthusiastic to see this work move forward and see projects get under way across New York.

### **30<sup>th</sup> Anniversary of the Environmental Protection Fund**

This year, New York’s environmental community is celebrating the 30<sup>th</sup> anniversary of the creation of the Environmental Protection Fund (EPF). Since 1993, the EPF has been supported by governors and legislators of both political parties and has proven to be a smart and valuable investment in communities throughout our state. The Fund has a broad reach – touching down in every county of the state including every borough of New York City – and delivering improved quality of life, economic benefits and, of course, environmental protection.

The EPF has been and remains the primary mechanism for protecting and conserving New York’s iconic landscapes and natural resources. It has been a long-term, steady and reliable source of funding to deal with threats such as invasive species and water pollution and provide support for community assets that enhance quality of life and drive economic activity, such as parks, zoos, and waterfronts. And it has provided the funding for initiatives such as open space conservation, farmland and forest protection, estuary programs, environmental justice, and oceans and Great Lakes restoration, ensuring that New York’s great places will be enjoyed by future generations. While additional funding infusions through periodic bond measures, including the 2022 Environmental Bond Act, are incredibly helpful and exciting, having this steady program funding is critical to the success of community-driven programs that conserve natural resources, enhance recreational opportunities and improve the lives and well-being of all New Yorkers.

For municipal governments it provides funding for waterfront planning, parks, waste management and water infrastructure – important services taxpayers expect and require. For farmers it provides funding to help prevent runoff pollution and protect farmland from development pressures, often allowing future generations of farmers to continue family businesses. For other resource-dependent sectors including forestry and fishing, it ensures the sustainability and quality of New York’s lands and waters to help

keep those industries in our state. It supports stewardship of state lands, funds zoos and botanical gardens, and conserves land and water for all types of recreation from mountain biking to birdwatching and fishing or just going for a walk in a beautiful place. In sum, EPF programs are a remarkable collective of initiatives that create jobs and generate revenue – a \$7 return for every \$1 invested.<sup>1</sup>

### **\$400 Million for the Environmental Protection Fund**

Governor Hochul has proposed to continue last year's historic appropriation for the Environmental Protection Fund (EPF) in her Executive Budget. The proposed \$400 million continues the largest-ever EPF proposal in the program's nearly three-decade history. This marks exciting and rapid progress towards the environmental community's long-term goal of a \$500 million EPF.

Unfortunately, the Governor's proposal also includes language in each of the EPF's four accounts that would allow the state to offload agency staff costs into the Fund, which will reduce the funds available for projects that touch down in communities throughout the state.<sup>2</sup> This 'sleight of hand' proposal has been repeatedly advanced by administrations in the past and defeated by the Legislature, as the EPF was never intended to pay for state agency staffing and opening that door undermines the purpose and impact of the fund. The Nature Conservancy urges the Senate and Assembly to once again reject this proposal and protect the integrity of the EPF.

### **Program Appropriations for the Environmental Protection Fund**

#### *Open Space and Land Conservation*

The Executive Budget proposes reducing the State Open Space Conservation program from \$40 million to \$37 million. This program once received \$60 million annually and should not be reduced in this budget. There are important land conservation projects in every region of the state that need to move forward. These projects protect our most significant lands and waters, provide new recreational opportunities and conserve wildlife habitat. At a time when the planet is losing biodiversity at an alarming rate, and the state is setting out on implementing the new 30x30 conservation goal aimed at conserving 30% of New York's land and water by 2030, this program is a critical tool and ratcheting it back makes no sense.

We are hopeful that the initiation of the state's open space planning process in 2023 will reinvigorate land and water conservation efforts. As required by statute, the state historically completed an Open Space Plan, with input from stakeholders across the state organized through the nine DEC regions, every three years. These plans compile shared priorities for conservation from every region of the state, and incorporate information from local governments, non-governmental organizations and large landowners so that the state's conservation plans can leverage the work and priorities of others. The most recent Plan was completed in 2016, and despite the legal requirement, there has not been an update since.

This year's process is more important than ever. Our state's climate law includes ambitious and necessary objectives to increase carbon sequestration (storage) through our natural and working lands. Our forests, natural areas and farms can be managed in such a way that they are storing carbon, removing it from the atmosphere, and helping our state to reach our climate goals. This very real and very necessary climate mitigation strategy requires increased attention not only for conservation – through fee acquisition, conservation easements, or other agreements with private landowners – but restoration of natural resources with a focus on techniques that will increase carbon storage on properties. Other benefits of these practices include the protection of biodiversity and wildlife habitat and improved drinking water quality.

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<sup>1</sup> [https://cleanwaterandjobs.org/wp-content/uploads/2020/12/2012\\_TPL\\_report\\_ny\\_econ\\_benefits\\_epf.pdf](https://cleanwaterandjobs.org/wp-content/uploads/2020/12/2012_TPL_report_ny_econ_benefits_epf.pdf)

<sup>2</sup> "Notwithstanding any other provision of law to the contrary, of the amounts appropriated herein, a portion may be used for the payment of personal service expenses incurred on or after April 1, 2023." (Capital Projects Appropriations legislation p. 121, lines 13-18; p. 122, lines 43-48; p. 127, lines 44-49; p. 130, lines 22-27)

To realize our state's conservation and climate goals, the Open Space program must be reprioritized. In the last few years, DEC land acquisition has not been at a pace that will allow us to reach our goals, with just about 6,000 acres acquired in 2020 and only about 4,400 in 2022. DEC Real Property staff is at an all-time low, with just 38 FTEs. By contrast, in 1999, DEC Real Property had 60 FTEs and they conserved more than 183,000 acres of land and water. Throughout the next several years, the pace of land protection was, on average, more than 70,000 acres a year. As we face a changing climate and rapid loss of biodiversity, now is the time to pick the pace back up again. The Nature Conservancy and organizations in the conservation community are ready to play a role. In fact, many non-governmental organizations are holding tens of millions of dollars of land acquired in support of the state's conservation goals and are awaiting transactions to be finalized with the state to complete their protection. We urge the Legislature to make clear as part of the budget that this program remains a high priority, and the first step is to restore the appropriation in the EPF so that important projects can be advanced.

Within the EPF Open Space Conservation program is the Land Trust Alliance Conservation Partnership Grant Program, which has enabled land trusts across the state from New York City to Buffalo to conserve natural resources and local farmland. The Nature Conservancy urges the Legislature to support the \$3 million proposal for this program. Furthermore, there is \$1.5 million allocated to the Land Trust Alliance for the Forest Conservation Easement for Land Trusts Program. While this is a continuation of last year's appropriation, it is not enough funding to fulfill the need. It is estimated that \$70 million is needed for potential projects. As local forests struggle to regenerate, the state needs to do more work with landowners to keep forests as forests and increase carbon storage on our lands. We urge the Legislature to increase the appropriation for this program within the Open Space line to \$5 million.

#### *EPF Climate Change Adaptation Program*

The Climate Change Adaptation program is proposed to be increased from \$5.3 million to \$7.925 million. The Nature Conservancy urges the Legislature to support this increase. Further, within that program, the Executive Budget proposes \$25,000 to The Nature Conservancy for the "Staying Connected Initiative."<sup>3</sup> We appreciate the Executive including this appropriation in the budget and urge the Legislature to support it as well. This modest funding allows New York to be a Sustaining Partner in the Staying Connected Initiative, a public-private partnership that brings together over 65 governmental agencies, conservation organizations and academic partners to secure and restore landscape-scale wildlife habitat connectivity in the 80 million-acre Northern Appalachians-Acadian region. Coordinated by The Nature Conservancy, the Staying Connected Initiative applies a multi-scale conservation approach across five northeastern states (NY, VT, NH, ME, MA) and 3 Canadian provinces (Quebec, New Brunswick, Nova Scotia) to counter the effects of habitat loss and fragmentation in a changing climate for the benefit of nature and people.

In New York State, agency partners include DEC, OPRHP, DOT and the Tug Hill Commission, along with many local land trusts and other conservation organizations. The Staying Connected Initiative conceptually originated with work launched in the Black River Valley of New York (connecting the Tug Hill region with the Adirondacks) over a decade ago. That work in NYS has expanded to corridors linking the Adirondacks to Green Mountains, Catskills to Adirondacks (across the Mohawk Valley), Berkshires to Hudson Highlands and Adirondacks to Algonquin Park in Ontario.

The Staying Connected Initiative takes a science-based approach to wildlife habitat connectivity conservation. Partners use multiple strategies to secure and improve connectivity, including conservation science, land conservation, habitat restoration, natural resources stewardship, land use planning, transportation infrastructure modifications and improvements, public outreach and engagement, and policy initiatives. Achievements to date include conserving over 600,000 acres in priority habitat linkage areas, incorporating habitat connectivity provisions into 200 public land use

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<sup>3</sup> <http://stayingconnectedinitiative.org>

plans, enhancing connectivity at 25 road barriers, and advancing the New England Governors and Eastern Canadian Premiers Resolution 40-3 on Ecological Connectivity.

Work by the Staying Connected Initiative to improve wildlife habitat connectivity prioritizes projects and programs that deliver valuable co-benefits to nature and people. For example, in the Black River Valley we are leveraging the NYS Water Quality Improvement Program funding to protect lands important for both maintaining clean public drinking water supplies and also for wildlife movement. Work done to modify roads to increase habitat connectivity achieves multiple benefits, including connecting streams for fish passage, reducing flood risk to communities, and allowing wildlife to move over or under roads by retrofitting culverts and bridges, helping to keep both wildlife and motorists safe.

#### *Other EPF Program Appropriations*

- Zoos, botanical gardens and aquaria (ZBGA) is proposed to be reduced from \$20 million to \$18 million. The Nature Conservancy urges the Legislature to reject this reduction.
- Environmental Justice is proposed to be reduced from \$13 million to \$12 million. The Nature Conservancy urges the Legislature to reject this reduction.
- Navigation Law is proposed to be increased from \$2 million to \$2.3 million. This program was inserted in to the EPF several years ago and is an offload of administrative costs that were previously paid for by other funding. The Nature Conservancy urges the Legislature to reject this increase and consider moving this program to Aid to Localities or another section of the State Parks budget.
- Invasive species is proposed to be increased from \$17 million to \$19.5 million. The Nature Conservancy urges the Legislature to support this increase.
- The Ocean and Great Lakes Initiative is proposed to be increased from \$22.5 million to \$23.5 million. The Nature Conservancy urges the Legislature to support this increase.
- The Nature Conservancy also supports maintaining funding for the Albany Pine Bush Commission, Water Quality Improvement Program, State Land Stewardship, Farmland Conservation, and Hudson River Estuary Program.

#### **Capital Funding for State Agencies**

Governor Hochul's proposed budget includes capital funding for environmental agencies, including \$200 million for State Parks and \$90 million for DEC. As a frequent partner with state environmental agencies, including facilitating significant additions to state lands, The Nature Conservancy is eager to see the state leverage the many different values of our natural resources. With an \$800 million outdoor recreation industry in our State that employs more than 13,000 people, these investments benefit our economy and our environment. The Nature Conservancy supports capital investments in our state's outdoor recreational facilities and public lands, which provide the public abundant, safe and exciting new ways to connect with nature, and draw tourists to New York to enjoy our natural resources. We urge the Legislature to build on the Governor's proposal by restoring the Parks Capital Appropriation to last year's level of \$250 million as budget negotiations continue.

#### **Clean Water Infrastructure**

For years The Nature Conservancy has worked with partners to support the creation and enhanced funding for the Clean Water Infrastructure Act. Thanks to strong leadership from the State Legislature, clean water funding has grown significantly in New York, and more than \$5 billion has been appropriated. To date, spending from the Water Infrastructure Improvement Act, a program of the Clean Water Infrastructure Act, has supported more than 600 grants to communities across the state, helping local governments reduce sewage overflows, repair water mains, and upgrade treatment plants, all while creating local jobs. Just last week, we saw this funding leveraged with new federal funding from the bipartisan infrastructure law to support water infrastructure upgrades for the City of Albany.<sup>4</sup>

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<sup>4</sup> <https://www.governor.ny.gov/news/governor-hochul-announces-over-40-million-investment-water-infrastructure-including-first>

The Executive budget proposal adds another \$500 million to this program, aimed at leveraging federal, local and private funds available to municipalities to upgrade or repair wastewater and drinking water infrastructure, upgrade failing septic systems, protect the sources of our drinking water and undertake other critical projects to improve water quality throughout the State. We support the continued growth of this program and urge the Legislature to increase funding beyond the proposed \$500 million to a \$1 billion in this year's budget, if possible, as the need across the state far exceeds that number. With significant federal resources now flowing to New York for infrastructure, now is a smart time to further increase these types of investments, creating new and enhanced leveraging opportunities.

### **Suffolk County Water Quality Restoration Act**

Long Island's waters have been plagued by nitrogen pollution which has caused harmful algal blooms, degradation of fisheries and wetlands and public health threats. This pollution also impacts Long Island's water-based economy and threatens the way of life in this vibrant region. Thanks to funding from the EPF, Suffolk County completed and adopted a "Subwatershed Wastewater Management Plan" that is part of the Long Island Nitrogen Action Plan. This plan is the result of a great deal of study and local engagement around how to solve a complicated water pollution issue. The County has worked tirelessly to identify, permit and encourage on-site residential wastewater treatment systems and modernize governance and information systems needed to improve water quality.

The Executive Budget proposes a Suffolk County Water Quality Restoration Act<sup>5</sup>, something that The Nature Conservancy has been working toward since 2016, alongside partners including the County and environmental, labor, construction trades, contractors and civic organizations. The Act will allow the County to address issues identified in the Long Island Nitrogen Action Plan by consolidating wastewater districts in Suffolk County and bringing septic system users into a wastewater district to more effectively manage for clean water and leverage state and federal funding to restore and protect New York's coastlines and coastal environment on Long Island. This measure will be a keystone enabling law, completing a decade of state and local work focused on improving water quality by reducing nitrogen pollution.

We appreciate the inclusion of this concept in the Executive Budget. To make the program feasible, however, amendments are needed to include a revenue source as requested by the County and stakeholders. We urge the following changes to the Executive Proposal to make the program a success:

- Creating a fund without a revenue stream won't work. To succeed, the program should include authorizing the county-requested 1/8 cent funding option, subject to a county-wide voter referendum this November, to capitalize this program.
- The legislation should also authorize the extension of the County drinking water protection program, which has existed since 1987 with strong public support.
- In order to ensure the program meets the scientifically targets for nitrogen pollution reduction, the cause of harmful algal blooms, and dead fish, turtles and shellfish, investments should be allocated with 75% of the funds dedicated to septic system replacement incentives and 25% for strategic sewer investments. A well-structured program can increase the pace and scale of water quality improvement in Suffolk County by leveraging state and federal water quality improvement funding, including from the Bond Act and WIIA.
- All three of these policies would be subject to a mandatory referendum, giving Suffolk County voters the opportunity and choice to accelerate water quality improvement.

This policy is one of The Nature Conservancy's highest priorities in New York State for 2023. It is the last piece of the Suffolk County water quality puzzle that will ensure that a decade of hard work and

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<sup>5</sup> TED Part TT

great progress by the state, local government, the business community, labor, and environmental stakeholders will be sustainable into the future. The Nature Conservancy and partners stand ready to support the passage of this measure on the November 2023 ballot. Based on our recent experience with the campaign in support of the Bond Act, we believe this measure, with amendments outlined above, holds great promise for accelerating clean water solutions in Suffolk County.

### **Cap and Invest**

The Nature Conservancy supports the recommendation to establish a cap-and-invest program included in the Final Scoping Plan prepared by the Climate Action Council (CAC) pursuant to the Climate Leadership and Community Protection Act. A cap-and-invest program is an important mechanism to ensure New York State achieves the Climate Act's emissions mandated reduction goals. The Executive Budget includes language to guide regulators as they develop a program, ensuring that affordability is a focus of a portion of program proceeds.<sup>6</sup>

The Nature Conservancy supports the establishment of a declining emissions cap aligned with those goals and other design elements to periodically review and update program design to ensure emissions reductions are on track and goals are met. We also support the design elements outlined by the CAC to ensure such a program results in greenhouse gas and co-pollutant reductions in disadvantaged communities (DACs), including potential limits on trading, source-specific caps, and/or additional air monitoring and air quality improvement investments.

As proposed by the CAC, revenues raised under such a program must also be invested in line with the Climate Act's community protection goals. As we witnessed when the Regional Greenhouse Gas Initiative was developed, meaningful and ongoing dialogue with a broad group of stakeholders is critical to ensure the program design and implementation disburses revenues adequately and equitably among relevant industry sectors and communities. We encourage and support inclusion and meaningful consultation of representatives from frontline communities and the Climate Justice Working Group in the development of a cap-and-invest operating plan. Consistent with the Climate Act's requirements, we support the investment of auction revenues in climate mitigation and adaptation programs as outlined in the Final Scoping Plan, including at least 35% of revenues with a goal of 40% invested in DACs.

We also support the proposed Climate Action Rebates to support an affordable transition to a clean energy economy for consumers, particularly low and moderate income households, and small businesses. Investments of revenue in clean energy and energy efficiency initiatives across the buildings, transportation, electricity, and industrial sectors are paramount to rapidly reduce emissions. Finally, program revenue should also be invested in natural and working lands to maximize the role of nature in meeting emissions reduction and sequestration goals and protecting communities from the impacts of climate change.

### **New Homes Targets and Fast Track Approval Act and Transit Oriented Development Act<sup>7</sup>**

The Governor's laudable goal to create more affordable housing in New York State presents an opportunity to create communities that can sustain New Yorkers long into the future. Unfortunately, as drafted, these proposals in the Executive Budget fall short of their potential. The legislation lacks sufficient protections for environmental resources and to ensure new housing units are not placed in areas that are at high risk for climate change impacts including flooding. Below are issues that we recommend be addressed in policies aimed at creating additional housing in New York State:

- Include a legislative finding in each bill that acknowledges that many existing residential units, including affordable and public housing units, are located in flood-prone areas. This risk further

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<sup>6</sup> TED Part AAA

<sup>7</sup> ELFA Parts F and G

constricts housing availability as there are areas where people are living at risk, particularly in a future with more water, and housing must be located in lower risk areas.

- The definition of “land use requirement” includes “policies or procedures, or any planning, zoning or other regulatory tool that controls or establishes standards for the use and occupancy of land, the area and dimensional requirements for the development of land, or the intensity of such development.”<sup>8</sup> Based on this definition, and the limitations the legislation places on housing developments being subject to local land use requirements, this bill could impair the ability of localities to implement Community Preservation Funds, conservation subdivision regulations, other cluster development policies, and other open space conservation programs. This would mean, presumably inadvertently, that communities cannot conserve natural resources that residents depend on.
- The definition of “previously disturbed land” in ELFA Part F includes land that has a building on it, is otherwise “improved” or that is not in a 100-year floodplain or being used for agricultural purposes at the time the bill was passed. This definition could spur development in natural areas, depending on the definition of “improved” land. Part G of the bill defines “previously disturbed” land as land with a parking lot. This requires more precision – consider that most of our nature preserves have parking lots. There are also areas of the state where wetlands and other sensitive areas have various types of infrastructure running through them, but they are not suitable for development and should be conserved when possible. The term “improved” should be defined further. Finally relying on the 100 year floodplain may leave many areas open to risk. New York’s floodplain, freshwater and tidal wetland and coastal erosion hazard area maps are grossly and irresponsibly out of date and sorely in need of updates. These updated maps should be consulted along with sea level risk predictions and guidance regarding considerations for the impacts of extreme weather impacts such as sea level rise, storm surge and flooding as included in the Climate and Community Risk Reduction Act.
- ELFA Part F outlines preferred actions that a community can take to enter into “safe harbor” under the legislation’s development mandates. Several of these preferred actions, as drafted in the legislation, would preclude conservation of natural resources as housing is developed.
  - The proposed local law allowing accessory dwelling units allows local governments to ensure the units can be supported by septic capacity, flood resilience policies and protection of wetlands and watersheds. This should be included in all of the programs established by this legislation.
  - In several provisions of the legislation related to preferred actions, local governments may deny proposed housing developments due to septic or drinking water or infrastructure capacity. No where in the language do these measures allow for the consideration of water quality, rather than just quantity. Adding more polluting septic systems in areas with harmful algal blooms closing local waterways to swimming and contaminating drinking water would create an even bigger issue for a municipality in the future, and for the new residents moving into the housing units. Water quality should be a consideration and factor in planning.
  - Another preferred action is to remove “exclusionary” measures at the local level. This includes lot coverage restrictions. This provision, as drafted, may impact the implementation of conservation subdivision laws or regulations at the local level. These programs have been beneficial in encouraging “clustering” of developments on properties in conservation overlay districts, and the conservation of natural resources elsewhere on properties to provide benefits to not only the immediate development, but the surrounding community. Any

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<sup>8</sup> ELFA Part F, definitions (8) subsection f



legislation passed should not prevent the implementation or future adoption of conservation subdivision policies, Community Preservation Funds and other local open space and farmland conservation or park creation policies and programs.

- Doing “smart growth” rezoning is another preferred action local governments can take under the legislation. Smart growth has long been a policy advanced by community planners, economic developers and environmental organizations as it is aimed at increasing density while limiting the need for new infrastructure that will cost a great deal down the line. This condensed development conserves natural resources and allows for communities to reap the benefits of farms and forests as well. Unfortunately, the legislation in the Executive Budget Proposal only allows local smart growth rezoning policies enacted pursuant to the legislation to increase density and forbids the inclusion of open space requirements. This, like the provisions mentioned above, could prevent implementation or even spur the rollback of successful existing policies, and curtail efforts to conserve natural resources in areas with significant development pressure. Ironically, the proposal encourages the local policies to permit commercial uses on lots in residential areas so that residents have access to amenities, goods and services within walking distance, failing to recognize that residents would also benefit and may prefer parks, conserved forest and local farms near their homes.
- Both of these measures exempt a significant amount of development from environmental review through SEQRA and CEQR. To be sure, environmental regulations and laws have been used to prevent the development of housing, particularly multi-family or affordable housing, across the state. This should be addressed. The proposed legislation, however, seems to use a chainsaw rather than scalpel, and may in fact spur development in areas that are at risk for flooding, exposure to contamination, or cause the destruction of natural resources that communities rely on for clean drinking water, carbon storage or local food.
- Part G begins with a legislative finding focused on reducing greenhouse gas emissions through transit-oriented development. The Nature Conservancy agrees this is an important planning tool that will reduce transportation and other emissions and advance the state’s climate goals. However, like Part F before it, there are areas where the language should be amended to achieve those goals, ensure climate resilience in communities, and conserve natural resources.
  - The definition of parks in Part G includes parks that exist when the law is passed. How will new parks, created in the future, be protected? Our city residents across the state, particularly in disadvantaged communities, have a documented need for more nature. As communities address this need, how will those investments be protected if they fall within a Tier 1, 2, 3 or 4 area?
  - The definition of non-buildable land in Part G includes coastal erosion hazard areas, tidal and freshwater wetlands, marshlands, the 100-year floodplain and protected forests. Many of the state’s maps for these areas are out of date and must be updated for policies like this to function properly. Furthermore, this definition should be applied to the policies in Part F.
  - Finally, “disturbed land” is defined in such a way that if the land has had a parking lot on it, it is deemed disturbed. Most state and local parks, natural areas and nature preserves have parking lots. And yet these community assets should not be prioritized for development, and in fact would improve quality of life for those living in existing or future housing units. Furthermore, disturbed land in floodplains may be developed under the proposed legislation. New York State should not be incentivizing or mandating further development in floodplains, regardless of whether the land has been disturbed previously or not. We experience 100 year storms regularly nowadays, and more water will come as our climate continues to change. We must ensure we are fully acknowledging and planning for our future reality as

we set forth with policies to expand housing, or we will be putting people in harms way and creating significant future liabilities for communities.

- In New York City, we have an important and necessary opportunity to lead cities across the country in establishing innovative and ambitious approaches to caring for our urban forest. Due to its ability to reduce the urban heat island effect and energy demand, retain stormwater, and absorb and store greenhouse gases while providing habitat for biodiversity, the urban forest can help the city and its residents address the challenges of climate change. Yet climate change is also a leading threat to the NYC urban forest, exposing trees to the stress of rising temperatures and increasingly frequent and intense extreme weather events. Disparate and at times insufficient funding, management, and protection also jeopardize the forest's future. The Nature Conservancy recently released the State of the Urban Forest in New York City, a report documenting the current condition of the city's forest, and challenges and opportunities that exist to manage it in such a way that it provides benefits to all New Yorkers and advances our state's goals around conservation, equity, public health and climate change.<sup>9</sup>
- The Nature Conservancy is a convener and member of Forest for All NYC, a broad and diverse coalition formed to demonstrate the vast support for the New York City urban forest.<sup>10</sup> This coalition is advocating for policies to equitably grow the urban forest in New York City, so that all residents can receive the benefits that trees bring to communities. In furtherance of the goal of expanding the urban forest canopy cover 30% by 2035, the coalition has released the New York City Urban Forest Agenda<sup>11</sup> that lays out actions necessary to achieve this goal, which has been supported by many in New York City government. This work is critical for ensuring our communities in New York City have cleaner air, cooler temperatures – especially during deadly heatwaves that will get more frequent with climate change, cleaner water and good quality of life. Several provisions of ELFA Parts F and G could impede the ability of the City to protect and expand the urban forest, implement the City's open space plan, address deadly heatwaves and other climate change impacts. The legislative language should be reviewed to prevent such conflicts from arising. As we further develop our communities and create new, necessary housing – in New York City and across the state – it would be a mistake not to prioritize ensuring the benefits of nature for the people that are and will be living there.

## Conclusion

Thank you again for the opportunity to testify before you today on the proposed SFY23-24 budget. The Nature Conservancy is proud to be working in New York, proud to be working directly with many of you, and proud of our partnerships across the State. As a global organization we have a broad perspective, and in New York we are acutely aware of our State's historic role as an environmental leader. The progress we make through the state budget will help sustain future generations with clean water, healthy air, and a good quality of life. We look forward to working with you throughout the remainder of the budget process and stand ready to bring the resources of our organization to the table as may be helpful.

## For More Information Contact:

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<sup>9</sup> <https://www.nature.org/content/dam/tnc/nature/en/photos/TheStateoftheNYCUrbanForest.pdf>

<sup>10</sup> <https://forestforall.nyc>

<sup>11</sup> <https://forestforall.nyc/nyc-urban-forest-agenda>