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ATLANTIC CHAPTER

Joint Legislative Public Hearing
2019-20 Executive Budget Proposal
Environmental Conservation
Legislative Office Building
181 State Street, Hearing Room B
Albany, NY 12247

Dear honorable Senators and Assembly members:

Thank you for your consideration of the Sierra Club Atlantic Chapter's budget testimony. We are a volunteer led environmental organization of 50,000 members statewide, dedicated to protecting New York's air, water and remaining wild places. The Legislature's commitment to protecting the environment through the New York State budget process is extremely important to our membership and we hope that the new 2019 Senate and Assembly will continue to see the strong connection between ecological health and economic prosperity.

The membership of the Sierra Club is elated with the progressive shift in the Senate, where there is great anticipation that environmental legislation once gridlocked for decades can now become law. We can appreciate that even with the historic opportunities before us, both Senate President Andrea Stewart-Cousins and Governor Andrew Cuomo have defined the new dynamic in the legislature as "a moment in time to change the state" with the realization of how fleeting such opportune political alignments can be. Those of us that fight to defend nature live by the old adage: "with the environment, every victory is temporary and every defeat is permanent" so we too know something about making the most out of these strategic moments in time.

Over the past two years, we have seen regressive federal policies tear at the fabric of our nation, while inflicting great economic uncertainty for New Yorkers. The Trump Administration's continued financial assault on New York's economy, with cuts to federal spending and harmful new tax reform, places a special burden on New York's environmental programs where there is a history of deeper cuts to funding than in other budget sectors. With an estimated \$3 billion deficit resulting from federal cutbacks in 2019, it is important to note that previous governors and legislatures have plugged such budget holes by raiding environmental funds first. We applaud Governor Cuomo for recognizing in continued executive budget proposals that investments in the environment are pillars of stability for our economy and short-changing clean air and water can have devastating long term impacts on New York's fiscal health. We know that the new Senate and Assembly share this vision. Holding the EPF, water infrastructure spending, and RGGI funds (unswept) at historic funding highs reflects values that deserve our praise. But after a year of unprecedented climate disruption and a dangerous shift in US policies on the global scale, there are

legitimate question as to whether we should be asking for even more out of the budget process when it comes to protecting the environment.

The Cuomo administration and the legislature must anticipate the urgency of a weakened EPA and greater pressure for NYS to lead on environmental protection where federal agencies and policies have come up short. If indeed the Trump administration casts a long shadow over the planet on environmental and social issues – New York should be that beacon of light that shows the way and leads the country back to the values that make our nation great. In light of this obligation, here are some ways the Legislature can support New York's environment through the 2019-20 state budget process:

Support Department of Environmental Conservation Funding and Staffing

With the pull back of EPA and the Army Corps of Engineers from some of their regulatory and enforcement work in New York, our State environmental agencies are being asked to do more with less in the void created by Trump's regressive policies. Over the past 9 years of New York's economic recovery, the Department of Environmental Conservation (DEC) has shouldered disproportionate cuts to staffing and funding when compared with other agencies that saw mere reductions to their rate of growth. We have lost nearly a quarter of the DEC's workforce since the 1990s which has meant fewer enforcement actions of polluters, increased spread of invasive species and less review of impending threats to our environment. Now that the Empire State has recovered economically and we anticipate losses in federal support, New Yorkers can no longer afford to keep our environmental agencies' spending at austerity levels. Governor Cuomo and the Legislature deserve credit for stemming the losses that began in 2008 but there is little left to cut from this bare-bones agency that is increasingly asked to do more. Over the past ten years of staff decline and funding shortfalls DEC has expanded its core mission to include:

The Brownfield Cleanup Program, The Regional Greenhouse Gas Initiative, Development of a State Climate Action Plan, The Waste Tire Recycling and Management Act, The Diesel Emissions Reduction Act, the Methane Action Plan, Water Withdrawal Permitting, The Electronic Equipment Recycling and Reuse Act of 2010, The Mercury Thermostat Collection Act of 2013, Regulating mercury emissions from power plants and cement kilns, updating State regulations to implement new federal clean air standards, regulations to phase out coal generation, invasive species control, The Sewage Right to Know Act and the transportation of crude oil through the State by rail and barge.

While we can appreciate the more equitable, across the board cuts to all agency spending that has occurred over the past 7 years, we have deep concerns about the cumulative impacts that the disproportionately deep cuts, through multiple budget cycles, have had on NY's environmental agencies. The legislature must now fill those gaps through the budget process. The Executive Budget recommends augmenting staffing levels by 5 to 2951 FTEs which represents little change to the current DEC work force. In consideration of the projected \$3 billion budget gap this can be seen as a significant achievement. But in the not too distant future the Legislature should commit to rebuilding our environmental agencies as the responsibility and challenge to address climate change will only become more urgent.

Continue Funding the Environmental Protection Fund at \$300 million

For the fourth year in a row the Executive Budget proposal maintains historic \$300 million Environmental Protection Fund (EPF) funding levels. The EPF is NY's primary funding source for critical programs like land acquisition, farmland and habitat protection, drinking water infrastructure and waste reduction. The initiatives the EPF funds are proven economic generators and job creators. Increased funding to the EPF at a time of budget deficit can help revitalize tourism and make entire regions more attractive to businesses, secure clean water resources for wineries and breweries, and ensure that farm land is preserved and is affordable to new generations of farmers. The Sierra Club is grateful that the massive increase of \$123 million from 2015's \$177 million allocation will go to much needed environmental programs that have not

reached full potential due years of disproportionate cuts. Equally encouraging are promises to continue funding the EPF at the \$300 million mark in future budget cycles.

The primary and traditional source of revenue for the EPF is the state's Real Estate Transfer Tax (RETT), a tax that was designed in part to offset the environmental impacts that come with land development. In the recent economic downturn, RETT revenue dropped to less than \$400 million perhaps justifying some cuts to EFP spending. But now that New York's economy has rebounded, the annual RETT revenue is expected to grow back to historic levels of over \$1 billion annually. As the RETT has fully recovered, so should sustained investments in the EPF. The Sierra Club thanks the Governor for yet again proposing a fully funded EPF in 2019 and urges the legislature to approve the \$300 million allocation.

Continue Funding New York's Water Infrastructure Improvement Act

The Sierra Club thanks the Legislature for their leadership in passing New York State's Water Infrastructure Improvement Act (WIIA) in 2017 and we enthusiastically support the continuation of the \$2.5 billion spending program over 5 years of which we will see a third-year installment of \$500 million this year. In addition, Governor Cuomo has proposed another \$2.5 billion in 2019 doubling the impact that this essential program will have on repairing failing sewage and drinking water infrastructure, upgrading and replacing septic systems, remediating and replacing contaminated drinking water, funding source water protection through land acquisition projects, confronting harmful algal blooms in our waterways, addressing water pollution caused by agricultural run-off, replacing lead drinking water service lines, upgrading mapping technologies for water systems, and more.

Communities across NY will now be able to fix their most pressing water infrastructure needs and protect the quality of their drinking water. This significant investment will serve as a down-payment toward our state's massive wastewater and drinking water infrastructure needs, which are estimated at approximately \$80 billion over the next twenty years. New York State will need to identify additional resources to increase funding to meet these vast water infrastructure needs in the years to come. The Sierra Club looks forward to working with the Governor and the Legislature to meet those goals.

Address the Scourge of Single Use Plastic Bags in the 2019-20 Budget (TED Part H S.1508/A.2008)

One of the most discouraging events of the 2017 legislative session was the legislative override of NYC's fee based solution to plastic bag pollution, with no remedy offered by either the Senate or Assembly as an alternative. The New York State Plastic Bag Task Force, created in the Governor's approval of that override, did not make a specific recommendation but provided a menu of options which we believe is imperative for the legislature to resolve this year.

The Task force report provides valuable information of successful bag abatement programs in NY State, the US and other countries. One clear conclusion of the report is that fee based strategies work better to reduce plastic bag use than outright bans alone, and the higher the fee the more successful the program. Legislation will be essential to provide the necessary framework to make a statewide program successful. In the 2019-20 executive budget, Governor Cuomo has included a statewide ban on all thin film, one time use plastic bags in New York State. This is a welcome gesture, but the Sierra Club remains concerned that his proposal does not provide for a fee on paper and thicker plastic alternatives which could lead to an unintended increase of paper and thicker plastic bags in the waste stream.

Disposable plastic bags are an environmental menace – littering our parks, despoiling our communities and clogging our waterways; all with the potential to strangle and poison wildlife. As cited in the task force report, by 2050, in terms of sheer weight, there will be more plastic in our oceans than fish. With the popularity, availability, and affordability of reusable bags today, the state of New York and its municipalities

now have the tools to address this unnecessary blight through deposit programs, bag fees and prohibitions, which could eventually put an end to this unnecessary pollution.

Of all the options before the legislature, the Sierra Club advocates for legislation like S.95, which would establish a ban on plastic bags coupled with a fee on paper alternatives. This framework has succeeded in other countries, states and municipalities where outright bans have largely failed. A fee on alternative bags creates a record of sale that can help enforce the law and properly track revenue. The slight increase in consumer cost – over bringing one’s own reusable bag – has been demonstrated to change public behavior. We ask that the legislature come to a budget agreement that will:

- Ban thin film plastic bags
- Impose a 10-cent fee on all plastic bags and paper bags distributed to the consumer in NY
- Provide an exemption for those making purchases under state programs benefiting the economically disadvantaged such as exemptions for individuals and families in the SNAP program and/or on Medicaid.
- Direct 4/5th of the revenue to the Environmental Protection Fund and 1/5th of the revenue to retailers as an administrative fee to pay for tracking and reporting income from fees.
- Create a program by which the producers of thin film single use bags would have to be responsible for setting up collection and recycling programs for their market share of plastic bags sold in NY
- Create a public education bring-your-own-bag campaign accompanied by distribution of durable reusable shopping bags, especially to low income communities

Beyond the external threat of bags littering our environment – the oil and gas consumption required to make disposable plastic bags can be quite staggering. The petroleum in 14 plastic bags alone supplies enough fuel to drive the average car one mile. Americans can use and dispose of an estimated 100 billion plastic bags each year, and this many bags use at least 12 million barrels of oil in their manufacture. The needless waste these bags generate can cause flooding issues (when stuck in storm drains), are the fourth most commonly found type of litter on U.S. beaches, and in New York City alone, an estimated 91,000 tons of plastic and paper carry out bags in landfills cost the City an estimated \$12.5 million each year. In this context, the Sierra Club also supports expanding the bottle bill (**TED Part F S.1508/A.2008**) to get even more plastic out of our environment by including sports drinks, energy drinks, ice teas and fruit juices in the bottle redemption program. The Sierra Club urges the legislature to take action in the 2019-20 budget to finally put an end to this unnecessary source of pollution.

Prevent Rampant Food Waste in New York Through Innovative Redistribution and Composting Programs in the Budget

According to the Pollution Prevention Institute of New York (P2I), close to 40 percent of the food produced in the United States is never eaten - approximately 50 million tons annually - resulting in \$218 billion spent on wasted food. This wasted food is not only a lost resource opportunity for food banks, soup kitchens and shelters, but when this waste ends up in landfills, the methane generated by the decomposing organic waste becomes a powerful greenhouse gas and contributes significantly to climate change.

Last year, the Governor’s 2018-19 budget proposal (**Part BB of the 2018 TED S.7508 /A.9508**) included a framework for all restaurants, supermarkets, universities, etc. that generate two tons per week or more of excess food and food scraps to track and reduce the amount of food waste sent directly to landfills or incinerators. We were disappointed that the 2019-20 executive budget did not include this language and hope that the Senate and Assembly include a food waste policy in their own budget bills. The Sierra Club Atlantic Chapter would support any program that would encourage, to the maximum extent, donation for human consumption (in accordance with applicable laws, rules and regulations for food donation), followed

by organics recycling and anaerobic digestion. Within this framework the Department of Environmental Conservation will be charged with developing and making available educational materials to assist food generators in complying with this proposed legislation. The DEC will also develop educational materials on food waste minimization and encourage municipalities to disseminate these materials to their municipal websites and in any future mailings to residents, as source reduction is the most preferred form of food recovery. The Governor's budget proposal provides \$8 million to implement the program, with \$4M to the largest generators, \$2.8 to food banks and \$1.2 to municipalities.

Additional benefits of reducing food waste include: a reduction in labor demands through efficient handling and storage; increased donations of fresh and non-perishable foods, providing essential meals to less fortunate families and individuals; reducing costs to businesses that may waste less and spend less by finding ways to prevent waste in purchasing, as well as reducing energy and labor costs associated with handling food that is prepared and thrown away. A number of states and several cities have recently adopted new laws restricting food and organic waste disposal in landfills – New York City (this legislation does exclude cities with populations of one million or more with local ordinances in place), Seattle, California, Connecticut, Massachusetts, Rhode Island, and Vermont. New York can join in this forward-thinking and cost-effective practice and we encourage the Senate and Assembly to support this smart and economical legislative initiative in the final budget.

Ban Offshore Drilling (Part I of the TED S.1508/A.2008)

The Trump Administration's draft proposed program for offshore oil and gas drilling and exploration would open 98% of U.S. federal waters to offshore leasing – even in states that have previously registered strong opposition. Virtually all federal waters off all coastal states are at risk, with nine lease sales proposed for the Atlantic Region, from the Florida Straits to Maine. Trump's proposal would exponentially increase the likelihood of oil spills and other environmental harm. In 2010, the *Deepwater Horizon* oil spill damaged more than 1,300 miles of coastline; an equivalent disaster in the Atlantic would coat beaches from Savannah to Boston, and devastate Long Island's coastal ecosystem and economy. New York's opposition to the Trump plan, and support for renewable energy development, including on-shore and offshore wind, solar and other forms of clean renewable energy, has to be solidified through legislative action.

Governor Cuomo has proposed legislation in the executive budget that will prevent New York State from supporting any oil and natural gas development in the North Atlantic Planning area, working to stop any potentially devastating and irreversible impacts to New York's coastal communities and economy. By prohibiting the leasing of state lands, disallowing condemnation of lands by corporations, and prohibiting the transport of oil or natural gas from the North Atlantic Planning Area, New York could essentially block all of the Trump administration's off shore drilling plans and protect the Empire State's environment and economy. And while we are at it, the Sierra Club urges the legislature to codify New York's historic fracking ban in the same legislative effort. Whether off shore, or along the Southern Tier – all oil and gas extraction undermines New York's climate goals and threatens the health and safety of our communities.

Protect New Yorkers from Unknown Exposure to Toxic Chemicals (Part K of the TED S.1508/A.2008)

With close to 84,000 individual chemicals on the market today and no requirement by chemical makers to thoroughly test for safety before they are used in consumer products, comprehensive chemical oversight is essential for consumer awareness and protection. On average, consumers use 9 personal care products a day, spend roughly \$40/month on cleaning products, and unknowingly exposing themselves and their children to an abundance of products that have tested positive for carcinogens, endocrine disruptors, and more. The new labeling requirement in the Governor's executive budget would provide information on the more than 1,000 carcinogens and other chemicals that will trigger labeling requirements on a vast array of consumer products, truly setting New York as a leader on this issue.

Sierra Club is devoted to protecting public health and the environment by decreasing exposure to hazardous substances through reducing toxic chemicals in consumer products and in educating consumers about the potential risks of hazardous substances such as endocrine disruptors, formaldehyde, lead, mercury, and other persistent toxins. We urge the legislature to support The Consumer Chemical Awareness Act Part K of the TED (S.1508/A.2008).

Removing Financial Barriers to Releasing Backlogged Wetlands Maps (Part J of the TED S.1508/A.2008))

On February 28, 2017, President Trump signed an executive order rolling back Obama's Clean Water Rule under the Clean Water Act, endangering huge swaths of NY's wetlands while hobbling enforcement efforts with even greater cut backs to the Army Corps of Engineers and Environmental Protection Agency. Wetlands perform a variety of important functions that benefit both people and the natural world. For example, wetlands soak up water run-off from rain and snowmelt, preventing floods. Studies by the U.S Fish and Wildlife Service show that an acre of wetland can store more than 1.5 million gallons of floodwater. A study by the Illinois State Water Survey found that destroying just 1% of a watershed's wetlands increases total flood potential in the watershed volume by almost 7%. Clearly, filling wetlands increases the risk of flood. Protecting people from flooding is one compelling reason to protect wetlands.

In this context, the Sierra Club supports Part J of the TED in the Executive Budget for 2019-20 that would ease the state's financial burden in amending the maps that protect wetlands in New York. Currently, through the **Resilient NY** program State agencies are attempting to anticipate climate change induced sea level rise, flooding and storm surge in a way that re-envision NY's built environment and enhances our natural infrastructure to protect our communities from catastrophic weather events.

A key component of Resilient NY is for the state to update and improve its wetlands maps. In order for a wetland to be subject to regulation under the law, it has to be delineated on existing freshwater wetland maps prepared by DEC after lengthy public notice and comment period. Currently state law requires that 2 certified notices (at \$6.75 a mailing) must go to every landowner adjacent to a wetland subject to a DEC map amendment process. In consideration of the fact that there may be hundreds of thousands of acres of wetlands that still need to be placed on DEC jurisdictional maps, the cost of notifying every adjacent landowner to these wetlands could cost the state millions of dollars. The Legislature should negate the certified mailings with the requirement that one first class letter of notice to each adjacent landowner should be sufficient.

Most wetlands map regions of the state have not been updated in over twenty years making them significantly incomplete. This is why updating the maps is so important – each watershed survey yields thousands of new wetlands that qualify for protection and should be added through the amendment process. Recent map amendments conducted by the DEC in 2005 for Putnam and Dutchess Counties included an additional 5,450 acres not present in the original mapping. In 2009, the DEC's Freshwater Wetlands Program received a \$250,992 Federal Program Development Grant to survey three watersheds; the Genesee Valley, the Wallkill watershed, and the Oswego/Onondaga watershed. The DEC contributed an additional \$325,596 in in-kind staff time as a match to the federal funds. At the completion of the project, DEC scientists discovered 50,000 acres of new wetlands eligible for state protection. But political pressure from land developers and exorbitant administrative costs have prevented the DEC from releasing these maps to the public over these past 9 years– essentially blocking them from state recognition. The legislature must take action to ensure that this expenditure of public funds is not wasted and this critical information becomes part of the Resilient NY program by demanding that DEC finally release the maps!

Advancing Climate leadership (TED Part X)

With comprehensive reports from the Intergovernmental Panel on Climate Change and 13 United States federal agencies warning that there is a narrowing 12-year window to limit a complete climate catastrophe, the urgency to act has never been greater. In stark contrast to this call to action is the Trump administration's push to increase smokestack and tailpipe pollution as Midwest crops wither, Southern states flood and the West Coast burns.

There is no denying that climate change is hurting New York as well. In the past few years, the state has been pounded by superstorms, deluged with floods and scorched with record heat due to the advancing effects of a warming planet. Beyond the growing frequency and intensity of severe weather events, New Yorkers will be facing the economic and social costs of dying oceans, agricultural blight, rapid changes to ecosystems and rising sea levels if we do not work together to significantly reduce carbon emissions. And the Legislature is in a prime position to address these issues through the budget process.

In his 2019 Justice Agenda, Governor Cuomo announced that the state would become carbon neutral by 2040, with a new Clean Energy Standard target of 70% by 2030.

Through this new CES goal NY:

- Doubles energy storage target to 3 GW (currently 1.5 GW)
- Doubles NY Sun (distributed solar) to 6 GW (currently 3 GW)
- Doubles Land based wind and solar (currently around 7 GW)
- Quadruple offshore wind target 9 GW by 2035 (currently 2.4 GW)

While New York has led the nation on various climate and renewable energy initiatives, what has always been missing is an overarching framework set by the legislature to ensure that all our climate solutions are synchronized and that there are mechanisms in place to pay for the transition from our fossil fuel past to our renewable energy future. Without such a construct of codified goals and clear funding streams for this massive transformation in our energy economy, the state's current trajectory is piecemeal and prone to inconsistency.

As an example of what is possible, Sierra Club supports the Climate and Community Protection Act (A.8270 2018) which has passed the Assembly for the past 3 years. This groundbreaking legislation would put New York State on the path to 100% renewable energy sector wide by 2050 and set benchmarks and reporting requirements to ensure we are meeting our goals along the way. In addition to systematically reducing greenhouse gas emissions across all sectors, the bill promotes healthy communities and will guarantee good jobs and environmental protections for those hardest hit by climate change. With companion legislation coming out this year to put a price on carbon pollution the Legislature can achieve these goals by:

- committing New York State to a binding goal of 100% emissions reductions by 2050 and sets a path toward 100% clean renewable energy, with an interim goal of a 40% cut in climate pollution by 2030 and 70% renewable energy by 2030 (the bill will be amended to reflect the Governor's new CES). This mandate will be implemented across all aspects of state government with an environmental/climate equity screen to identify impacted and disadvantaged communities that ensures the development of community benefits and good jobs.

- creating a legal requirement to equitably disburse 40% of funds collected pursuant to an order of the PSC or from NYSERDA into environmental justice and low-income communities. Such environmental justice “filters” will facilitate the transition to a new clean energy economy that is supportive of localized economies, healthy environments, community well-being and local control of resources.
- creating local jobs in clean energy and protecting workers impacted by the current transition from fossil fuels – through public investment, renewable energy retraining programs, mandated job standards and targeted local hiring commitments. Schools and communities are compensated for short-term local tax revenue losses where the energy industry is in transition.
- allocating substantial funding beyond what’s currently projected to create a worker and community-centered transition to a 100% clean, non-extractive economy through projects in energy efficiency, renewable energy, energy transmission, transportation (including public transit and zero-emission vehicles), telecommunications, agriculture, and other infrastructure.

This proposal is ambitious, but certainly not as daunting as the challenges climate change has placed before every New Yorker. We are pleased that Governor Cuomo included his own climate framework in the budget in the form of the Climate Leadership Act. While it does not contain some of the equity and labor aspects of CCPA, we see it as a platform for the Senate and Assembly to negotiate a robust and effective climate policy to lead the country and the world out of the climate crisis. The direction of the global economy favors those that embrace the financial benefits of renewable energy and efficiency technologies. Those that ignore climate science and adhere to fossil fuel dependency will suffer the adverse economic consequences. Ultimately, if we don’t act resolutely together, irreversible cycles will perpetuate temperature rises and cause out-of-control warming.

Again, we appreciate the contributions that Governor Cuomo and the Legislature are making in navigating the federal assault on New York’s economy. With greater resources on the horizon, we look forward to working with Governor Cuomo and the Legislature in rebuilding New York’s environmental agencies and strengthening our long-term environmental legacy.

Thank you,



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