

Urging New York State Department Of Environmental Conservation (NYSDEC) To Protect Water Quality In Ulster County And Require The New York City Department of Environmental Protection (NYCDEP) To Offer Detailed Alternatives To The Release Of Turbid Water Into The Lower Esopus Creek

Referred to: The Energy and Environment Committee (Chairwoman Greene and Legislators Bruno, Criswell, Petit, and Wawro)

Legislator Albert Bruno, and Legislators Criswell, Greene, Petit, and Wawro offer the following:

WHEREAS, between 2006 and 2010, a change to New York City Department of Environmental Protection (NYCDEP) operational procedures resulted in the release of highly turbid water from Ashokan Reservoir into the Lower Esopus Creek for the first time since 1915, and

WHEREAS, as a result of these releases, the New York State Department of Environmental Protection (NYSDEC) commenced proceedings against the City of New York, known as DEC CASE NO: D007-0001-1, resulting in the NYCDEP and the NYSDEC negotiated a Draft Consent Order behind closed doors without the participation, input or inclusion of the County of Ulster or any of the municipalities that would be impacted; and

WHEREAS, on June 19, 2012, the Ulster County Legislature unanimously passed Resolution Number 171 of 2012, detailing concerns and opposition to this Draft Consent Order and offered Resolution No. 171 along with oral testimony during NYSDEC public hearings at the SUNY New Paltz campus; and

WHEREAS, the concerns of the Ulster County Legislature have proven to be legitimate as this massive release of turbid water into the Lower Esopus Creek since 2010 represent the single largest change to the Creek's hydrologic regime (flow) since the completion of the reservoir and caused environmental damage and negative impacts so extensive that the United States Environmental Protection Agency placed the Lower Esopus on the NYS Impaired Water Bodies List in 2013; and

WHEREAS, On March 18, 2021 a letter signed by 22 Ulster County Legislators detailing ongoing objections to the current NYCDEP procedures, was sent to Commissioner Vincent Sapienza, P.E., New York City Department of Environmental Protection; and

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WHEREAS, on April 12, 2021, Commissioner Sapienza responded to the March 18th letter in which he shared a history of NYCDEP's attempts to mitigate turbid water and offer local flood control vital to the health and safety of County residents, however he submitted no plans for mitigation or alternatives to the current practice of releasing turbid water into the Lower Esopus such as releasing clear water into the Lower Esopus to achieve important flood control measures; and

WHEREAS, New York State Environmental Quality Review (SEQR) regulation 6 NYCRR part 617.9(b)(5)(viii) states the DEIS must contain "a list of any underlying studies, reports, EISs and other information obtained and considered in preparing the DEIS statement including the final written scope."; and

WHEREAS, the current application to amend NYCDEP Catalog SPDES Permit No. 026 4652 includes a partial list of supporting documents that includes numerous Turbidity Control Studies (Figure 1-7) it fails to include these studies in an appendix to the DEIS or make them available to the county or the public for an independent evaluation of the data, outcomes and conclusions in the DEIS; and

WHEREAS, the damage to the Lower Esopus is unmistakable but the full extent of the impacts of the turbid water releases are unknown because NYCDEP neglected to conduct or provide the county with any baseline assessment prior to initiating releases in 2010 which would be necessary to accurately assess the full extent of the environmental devastation and other socioeconomic impacts; and

WHEREAS, the extensive environmental and socioeconomic damage being caused by the NYCDEP release of turbid water is visible as far away as the Hudson River and impacts local drinking water resources that cannot be sacrificed as a solution to protect New York City's drinking water; now therefor be it

RESOLVED, the Ulster County Legislature agrees with Commissioner Sapienza's desire to continue "our collaboration, building more understanding, and working toward the best solutions possible" with the NYCDEP and supports important NYCDEP flood control measures but hereby reaffirms opposition to the Consent Order and Interim Release Protocol in its present form and any amendments that would allow the continued release of highly turbid water into the Lower Esopus because this waterway is an important contributor to the social, economic and environmental quality of the Lower Esopus and Mid-Hudson region; and be it further

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RESOLVED, the Ulster County Legislature calls for the NYCDEP DEIS to include a detailed examination of a range of alternatives, including combinations of structural and operational alternatives that will result in a long-term plan to stop the mud in the Lower Esopus Creek, and be it further

RESOLVED, a copy of this resolution be sent to NYCDEP Commissioner Sapienza, NYSDEC Commissioner Basil Seggos and be submitted to the NYS Department of Environmental Conservation as public comment for the NYC DEP's current application to amend their Catalum SPDES Permit (Permit No. 026 4652);

and moves its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

Passed Committee: Energy and Environment on _____.

FINANCIAL IMPACT:

NONE