

**Energy & Environment Committee
Meeting Minutes**

DATE & TIME: April 5, 2021; 6:15 PM or immediately following the Public Health & Social Services Committee

LOCATION: Powered by Zoom Meeting by Dialing (646) 558-8656, Meeting ID: 973 2073 9410

PRESIDING OFFICER: Chairwoman Manna Jo Greene

LEGISLATIVE STAFF: Fawn A. Tantillo, Laurie Lichtenstein

PRESENT: Legislators Al Bruno (left 7:26), Peter Criswell (left 6:40) Laura Petit and Mary Wawro (left 6:55)

ABSENT: None

QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislators Tracey Bartels, Brian Cahill, and Herbert Litts, III; Christopher Ragucci, Legislative Counsel; Deputy Executive Evelyn Wright; David Haldeman, Ulster County Environmental Management Council (EMC); Amanda LaValle, Director of Department of Environment; Charles Landi and Tim DeGraff, Ulster County Resource Recovery Agency (UCRRA); Rebecca Martin and Victoria Leung, Riverkeeper; Kathy Nolan, Catskill Mountainkeeper

Chairwoman Greene called the meeting to order at approximately 6:28 PM and asked Legislator Bruno to lead the Pledge of Allegiance

Motion No. 1: **To approve the minutes of March 1, 2021**

Motion Made By: Legislator Bruno
Motion Seconded By: Legislator Criswell

Discussion: None

Voting in Favor: Legislators Greene, Bruno, Criswell, Petit and Wawro

Voting Against: None

No. of Votes in Favor: 5

No. of Votes Against: 0

Disposition: **Minutes approved.**

Resolution No. 154 - Appointing And Reappointing Members To The Soil And Water Conservation District Board

Resolution Summary: This resolution would reappoint William A Wilklow as Farm Bureau Representative, appoint Sarah VanNostrand as Grange Bureau Representative and appoint Robert K. Davenport as a Member-At-Large to the Ulster County Soil and Water Conservation District Board for a term from April 20, 2021 thru December 31 2023.

Motion No. 2: To approve Resolution No. 154

Motion Made By: Legislator Criswell

Motion Seconded By: Legislator Bruno

Discussion: None

Voting in Favor: Legislators Greene, Bruno, Criswell, Petit and Wawro

Voting Against: None

No. of Votes in Favor: 5

No. of Votes Against: 0

Disposition: **Resolution approved**

Resolution No. 155 - Appointing And Reappointing Legislative Members To The Soil And Water Conservation District Board

Resolution Summary: This resolution will reappoint Legislator James H. Delaune and appoint Legislator Herbert Litts, III to the Ulster County Soil and Water Conservation District Board for a term from April 20, 2021 thru December 31., 2021

Motion No. 3: **Motion to approve Resolution No. 155**

Motion Made By: Legislator Criswell

Motion Seconded By: Legislator Bruno

Discussion: None

Voting in Favor: Legislators Greene, Bruno, Criswell, Petit and Wawro

Voting Against: None

No. of Votes in Favor: 5

No. of Votes Against: 0

Disposition: **Resolution approved**

Resolution No. 156 - Appointing Members To The Recycling Oversight Committee

Resolution Summary: This resolution will appoint a representative of the Commercial or Institutional Sector and an At Large member, both to be determined, to the Recycling Oversight Committee

Disposition: **No Action**

UCRRA Report by Tim Degraff

4 Household Hazardous Waste (HHW) events planned for 2021. The first is April 24 followed by events in June, August and October.

Electronic Recycling Drop off will recommence on Saturday, April 10 from 10am to 2 pm and continue every Saturday.

New York State Department of Environmental Conservation (NYSDEC) gave final approval of the 10-year Local Solid Waste Management Plan.

2020 Agency Audit Completed; Agency received accommodations for

Ashokan Reservoir Turbid discharges into Lower Esopus Creek

Rebecca Martin and Victoria Leung of Riverkeeper shared a presentation on the ongoing environmental impacts of New York City Department of Environmental Protection (NYCDEP) turbid waste discharges from the Ashokan Reservoir into the Lower Esopus Creek. They detailed the issue and shared ways for the Legislature and the public to raise these concerns and take action while the New York State Department of Environmental Conservation is reviewing NYCDEP permits. They shared a sample resolution.

Legislator Bruno suggested using the sample resolution Riverkeeper provided as a basis for an Ulster County Resolution next month. Department of Environment Director LaValle will work with him to create a resolution for a May vote.

The deadline to make comments is June 16, 2021.

New Business

Legislator Bartels requested the committee hold a special meeting before the next regular meeting to discuss a sensitive issue in executive session. She did not elaborate on what the topic was.

Old Business

Deputy Executive Wright requested guidance from Chairman Greene on addressing issues around the implementation of the Food Waste Prevention and Recovery Act outlined in Director LaValle's March 1, 2021 Memo. (Attached)

Chairman Greene said she will seek input from stakeholders who helped develop the original legislation.

Chairwoman Greene asked if there was any other business, hearing none;

Motion to Adjourn

Motion Made By: Legislator Bruno
Motion Seconded By: Legislator Criswell
No. of Votes in Favor: 5
No. of Votes Against: 0
Time: 7:38 PM

Respectfully submitted by: Fawn Tantillo

Minutes Approved: April 5, 2021

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[Recording started late]

Amanda LaValle

Both on as part of we have a technical review committee. The county is the fiduciary just so folks understand for a technical review consultant to help the stakeholders review the DEIS [Draft Environmental Impact Statement], and right now we manage that contract through our department. And we're engaged with a broad group of stakeholders, of course, including Riverkeeper on, a, and, and Mountainkeeper on kind of getting into the details of the Draft Environmental Impact Statement. very technical comments around the alternatives, analysis, flow impacts, things like that. I think it's important to highlight in the 10 years since these releases were initiated, that what we're seeing this time around is some pretty compelling evidence that the turbidity impacts the seven communities who take their drinking water from the Hudson. That's a rather large change that wasn't, wasn't given any study in the impact statement. And that's, you know, certainly broadens the, the communities to whom this is directly impacting. And the other thing is just to say that, the County Executive at the first public meeting, Evelyn delivered his, his comments and remarks, and really very strong on the fact that we have of a world renowned organization who is practicing and demonstrating the very best ecosystem based management when it comes to protecting water quality on the other side of the reservoir. However, they're engaged in this practice, which has no consideration for the ecosystem or the the community impacts of their releases. And it's really important that we have this huge environmental impact statement that talks about the likely in the modeled probabilities that these releases would have to happen and the impacts they would have, yet we're, we're, we're having a major event right now. And it is really important that they be held to actually analyzing what's going on both the community impacts and the ecosystem impacts.

So, I think that's a really important thing. Since we have these two things that are happening simultaneously, to make to be really strong that they have to be called to look at the impacts of the current releases. So thank you.

Chairwoman Manna Jo Greene

Just in terms of, you know, fortunately, we have time till May. I don't know what I was thinking of sometimes. I cry when I feel pressure I crunch time.

Legislator Albert Bruno

We can do this in April, why do we have to wait till May?

Fawn Tantillo

You can't do it in in April without doing a late resolution.

Legislator Albert Bruno

Oh, okay.

Chairwoman Manna Jo Greene

Yeah, that that's what I was concerned about. And then I lost a month, but we got it back. So I'm just wondering how I see your hand, Legislator Petit, up, but I'm wondering how we can take the benefit of what the Department of Environment has learned by participating with the other community organizations and incorporate that into a memorializing resolution. I think the letter was great, but um. Legislator Petit.

Legislator Laura Petit

I mean, we do have a head start. I mean, I would have loved to have gotten a resolution in for April. But we do have the letter. The Town of Esopus has just approved a letter. So perhaps we could encourage each of our respective municipalities to submit letters and then we could move on to a May resolution, which I would really hope would include the electric cable that's going down the Hudson as well. All those are impacted our water sources, including the DEP. I know I see you wincing. But it's we need to protect our water sources because we're worried about taking care of New York City. All right, they're tapping into the Ashokan reservoir for water. They're disrupting our Hudson River activities, which would include, you know, tourism, fishing, and those towns have to draw their water from it. So I just think it's important for us to take a real strong stance on it

Rebecca Martin

I just..Manna, may I just step in for a moment to say that the, the CHPE [Champlain Hudson Power Express] proposal that you're referring to, Laura...It's, it's great that you'd want to work on that, too. We need we need the legislators help there as well. I would just recommend focusing in on the Esopus for now given the the critical time crunch that we're in and the CHPE proposal can certainly talk about that there's, there's a... there's a little more time for that project at this moment. And but it'd be great for the legislature to take a position there as well. And we'd be happy to speak to that the law, what you said is so helpful, which is it would be great for the impacted communities to also think about taking a position to and using this opportunity to submit communications to the DEC [New York State Department of Environmental Conservation] as well, that would be great to bring back to the impacted communities.

Chairwoman Manna Jo Greene

Legislator Cahill, I think I saw your hand and then legislative.

Legislator Brian Cahill

Yes, thank you. I'll be very quick. It just I don't know if you guys are aware, but apparently the DEP has agreed.... agreed today, through Legislator Quigley, I'm sorry, not Legislator Quigley... through Supervisor Quigley, to meet with all the affected town supervisors along the Lower Esopus and and have a discussion about this. I don't know if there's any, there hasn't been a date set, as far as I know. But I know that they did agree to meet with any supervisor who wants to meet with them. And that's a good opportunity to bring up any subject. That where we're being adversely affected by, you know, the DEP, which is in a lot of other places than Esopus, quite honestly. But there you go,

Chairwoman Manna Jo Greene

Legislator, thank you. Legislator Bruno,

Legislator Albert Bruno

I just want to make a comment. I appreciate Legislator Petite comments, and I think she's 100% right. However, I don't want to dilute one topic for another. I think they're two totally separate things. Overall, the big picture, you're right, our water supplies are being affected by New York City. However, we got to take it one bite at a time. And I think we got a dress the sofa says one thing. And the power cable is another thing. They're two separate different things. The DEP, which is doing the mud Esopus has nothing to do with the power cable. And I don't want to see those things get blurred because of that.

Overall, I think you're right, we need to take this very strong stance as a Hudson Valley Community and the river. I agree with that. But I think we need to attack these one piece at a time. We can attack them both, but I think they need to be separate. And that's that's all I want to make sure that we you know, we don't let the we don't want to blur the a soapless issue with the Hudson River issue. If he says, and I'm gonna have not to and I don't mean to big but I have to fly. I got to get through another meeting as well. And I appreciate everybody and but I have to go.

Chairwoman Manna Jo Greene

Okay, which means that we lose our quorum, but we'll get through.

Legislator Albert Bruno

Is there any other issues that needed to be voted on that I have to be here for?

Chairwoman Manna Jo Greene

No. But I do want you I want to request that I see your hand, Legislator Bartels, I want to request that you be in communication with Amanda in terms of... we have a sample of a resolution, but I believe she's added a couple of conditions or concerns that we might want to incorporate in a draft. And I also want to say that I'm the one way we could mention the Champlain Hudson... Champlain Hudson Power Express is to indicate that there could be cumulative effects rather than getting into that, or bringing that whole other issue into this

memorializing resolution. But in fact, there could be cumulative effects from both so...and I saw Legislator Bartles had her hand up.

Legislator Tracey Bartels

Thank you. It's not exactly on the subject, but since Legislator Bruno is going to be leaving in a moment, moment, I wanted to ask, just put it out there, if there might be the possibility for this committee to schedule a special meeting, to have the Executive Session discussion. And we can go into Executive Session to discuss today. But I really feel like this whole committee. I know that other members who have left are interested in in the topic that needs to be discussed. I don't want to say too much. I see. counsel has his hands up. Well, but I, I just feel like this is urgent. So I'm sorry to take us off topic. But since since Legislator Bruno's leaving I just wanted to make sure that I put that out there for this. I don't want too much time to go by

Chairwoman Manna Jo Greene

Legislator, I mean, Legislative Council Ragucci.

Christopher Raucci

Thank you. It's more of just a procedural point to Legislator Bartels' comment. We would actually need a quorum to take the vote to enter into executive session. So if that is the case, or if we don't have a quorum, we would have to take that, you know, make that maneuver another meeting. And we do have a quorum.

Legislator Albert Bruno

But we have a quorum right now. Right?

Christopher Raucci

That's correct. But we wouldn't have a quorum to get out of it.

Legislator Albert Bruno

That's why. So to that point, if we can move that forward to executive session at another meeting, can we do that?

Christopher Raucci

Yes, sir.

Legislator Tracey Bartels

Is it possible Chair, Chair Greene to potentially schedule a special meeting for that purpose, not to wait a month on this? In terms of the executive session?

Chairwoman Manna Jo Greene

We can...we can do that. But it will involve... um checking with the members that are not present. I don't know whether we want to go into a brief executive session and then come back out and and set a date for a more in depth executive session. If we need one.

Legislator Albert Bruno

We can we can, I think we can let the other members who want to be involved in it know, via email or text messaging over the next few days. But I I'd like to make a motion that we can go into Executive Session at a later date.

Chairwoman Manna Jo Greene

At a later date. Okay. Then I if, if no one minds, I would ask that there's been a request for an executive session. There are two members absent. And if Fawn could do a doodle or whatever it takes to schedule an a session as soon as possible. Tracey,

Legislator Tracey Bartels

Yes, to schedule a meeting for the purpose of just having an executive session. But I just also want to say that, and again, I know this is all cryptic, but I have spoken to multiple members of the legislature on both sides of the aisle. And I believe that there are many members of legislature who might want to also attend. To have this discussion. I see that Legislator Bruno was nodding as well. So I think this is just critically important. And yeah, and so the sooner...the sooner, the better. Thank you.

Chairwoman Manna Jo Greene

And just to be clear, I'd like to ask Legislative Counsel to please just summarize the, the, the Executive Session would include could possibly include discussions of litigation or personnel. And I believe that if I understand the law correctly, that a committee needs to go into Executive Session for those considerations. And I just want clarification.

Christopher Raucci

Sure. Sure, to public officers law, it's article seven, section 105 D, any kind of discussion relating to pending or current litigation, which my understanding is we wouldn't be discussing should be done an executive session.

Chairwoman Manna Jo Greene

Okay, thank you. So at this point, I'd like to circle back and see if there's any other questions on the matter regarding the turbid discharges, or any other suggestions, but I I definitely think that ...um, Legislator Bruno and anyone else should be in touch with both the folks from Riverkeeper and and the Department of Environment. So that when we do have a memorializing resolution, you know, it's as refined as it can be. It still might be amended, but you know, to get that... there are various things that have been suggested in this discussion that probably should be incorporated into the sample memorializing resolution.

Rebecca Martin

Manna Jo, before we lose Legislator Bruno, does the committee have to vote to approve? To create a resolution, or no?

Chairwoman Manna Jo Greene

No, no, no. All right, but thanks for asking. But we do have a resolution generally would come out of the appropriate committee, and this is the appropriate committee. So we can use the time in April, to have a resolution ready for May well ahead of June.

Rebecca Martin

Great, thank you, and let us know how we can help

Legislator Albert Bruno

Fawn, I'll talk to you this week. I gotta go, guys. Thank you.

Chairwoman Manna Jo Greene

Thank you. And, um, in terms of, is there any new business? The old business, at some point, we really should have a discussion about the Champlain Hudson Power Express, because seven municipalities that take their drinking water, from the Hudson have expressed concern about resuspension of sediment from laying the cable. And that sediment not only includes PCBs, but other chemicals. And we have, I believe, Legislator Chriswell, that would like to have a presentation next... at our next meeting, on the proposed pump storage proposal in the Town of Olive. So we understand, you know, the pros and cons and what's gone on with that. So these are listed as old business. But my suggestion is that we actually hear from someone who has good information on the Premium Energy Pump Storage in May, at our May meeting, and perhaps by June, the Champlain Hudson Power Express.

In the meantime, you know, people are welcome to share information. But I think, as we did tonight, focusing on one relevant environmental issue at a time is very valuable.

And one other thing I just want to mention is that in the past week, there was a meeting with it was actually with the Marbletown, Marlboro Democrats, about what a municipality can do to help the environment and climate change and earn dollars and save money. And it was, it was a really wonderful presentation. The reason I bring it up is that Tom Conrad, who chairs the Environmental Commission in Marbletown gave, part of that presentation was 10 things municipalities can do. And the environmental commission in Marbletown has become a profit center for Marbletown. And I think that's so interesting, that they are actually actively saving and earning money through the actions that they've taken, which all qualify under the Climate Smart Committee point system.

But you know, this has gone from points, see, you know, Climate Smart Committee, a community rather points to actual dollars where their net activities are benefiting the town, not costing the town. And I thought that was pretty remarkable. So I wanted to just share that good news. And hopefully, we can repeat that program. It was not recorded in Marlborough, but we'd like to repeat that program in a way that can be shared with the town supervisors and all of the municipalities. So To be continued. Anything on tonight's agenda? Yes, Evelyn, please.

Dr. Evelyn Wright

Manna, I just wanted to check in on on next steps on the compost law. We have not prepared anything, obviously for this month. But if we want to work on that July 1 date, I think we need to take it up next month, you had mentioned wanting to reconvene the original committee. I wasn't sure if you wanted to, to kind of tackle everything all at once. Or if you'd like us just to work with the county attorney's office on on the date and then get that submitted for next month? Because I believe we need two months in order to hold a public hearing. And then

Chairwoman Manna Jo Greene

Yes, let's include that under... We've discussed it before. So technically, it's old business. But I would say that between now and and May or May meeting? No, yes, I've got my months all scrambled now. Between now and May. And May, I would like to see how many of the people that did participate in the development of...we may not get everyone but it was a wide representation of stakeholders from the agency from the legislature, from the department,

businesses and haulers who participated, and as you know, we held several stakeholder meetings to get more input.

The one issue, the main issue, from my perspective, is some weak language, some confusing language that needs to be clarified. But from your perspective, given COVID we you're requesting an extension of implementation requirements. And the other major issue in my mind, from Amanda's memo is an issues around how to do a valid waste audit when it's needed, Issues around what constitutes hardship and... and I think there were a couple other issues that are not coming to mind. But I definitely would like to, you know, I don't want to just trust my memory as to the intent behind the language of the law. But I think the most urgent thing is the the extension. So you know, maybe let's talk offline, because I don't think Fawn has the list of the people that participated in the development of the law, I can go back and look, but maybe I can coordinate with the department. Certainly Legislator Petite and Legislator Bartels participated. And I would like to have a meeting because I don't, I don't want it to just, I don't want to represent that...that whole stakeholder group. And there may be one person that has decided not to participate in the zero waste implementation plan. And may not be able to participate in this, but there were quite a few other people including the agency itself. Because they they are a composting business as well as the county Waste Management Agency. So, you know, let's work together to say, you know, maybe two weeks from now, and use the next two weeks to try and schedule a discussion of the memo, circulate the memo and then come together. And I don't think that's violating any, you know, scheduling issues.

Dr. Evelyn Wright

Okay, sounds good. Great.

Chairwoman Manna Jo Greene

Thank you for the reminder, as you can tell, there's a lot going on right now. All right. Is there any other please Kathy?

Kathy Nolan

Yes, thank you. I just wanted to offer, in regards to the Ashokan pump storage project, that, um, I think I could put you in touch with Ginger Strand, who is an author from Woodland Valley who's been given presentations on this and has a slideshow, very informative, very tightly researched, very helpful. I don't have her direct contact information, but she's been working with the group Save West Shokan, a coalition to protect Catskill Park. And so I would recommend her, I've also been working on this issue, and we could do something quite, quite a bit smaller if you wanted a really short presentation on the issue, or could suggest some other people. I'm so happy to be in touch with one of you about that, if you want some suggestions.

Chairwoman Manna Jo Greene

Well, it was a legislator Criswell that is, was going to take the lead on bringing someone in and I don't remember the name, but maybe we could have a call with Legislator Criswell. And I also know that Simon Straus from Town of Olive is very, very active.

So let's have it be the most condensed, clear and but informative, because that's another very important Ulster County issue. And one, you know, from the information I've been given, the people that are proposing this are more or less fishing. And, you know, not doing it very well, if they didn't contact the New York City DEP initially. Um,

Kathy Nolan
Are you looking for about a 15 minute presentation?

Fawn Tantillo
We have a presenter,

Kathy Nolan
you do. Oh, okay.

Fawn Tantillo
Criswell, Legislator Criswell gave us the name of someone he wanted to make your presentation.

Kathy Nolan
So, alright, let's touch base with Peter. But, um, thank you that that's helpful, Fawn,

Chairwoman Manna Jo Greene
I appreciate. But if you do want to have a discussion before then, to organize it with the person, that legislator Criswell recommended, then we could definitely do that for next month. Alright, so next month, by next month, we will have a little more information on the composting law and the pump storage proposal to share.

And we and Fawn is going to canvass the committee to see if we can have go into Executive Session between now and the next meeting. And that would be for any legislator that is interested in participating, not just the committee, but we would canvass the committee to set the date is is that everyone's understanding? Any questions or concerns? Um, I just want to give, I've gotten into the habit of asking people who haven't spoken, they have anything to say before closing a meeting. And so that would be legislator list. Do you have any comments?

Legislator Herbert Litts, III
No, I do not. Not at this time. Thank you very much.

Chairwoman Manna Jo Greene
You're very welcome.

Legislator Herbert Litts, III
I appreciate the invitation to attend.

Chairwoman Manna Jo Greene
Indeed, you're very welcome. And, and thank everybody, if there's no further business, I would entertain a motion to adjourn.

Fawn Tantillo
Note. You could just adjourn because you don't have a quorum.

Chairwoman Manna Jo Greene
Well, we adjourned when, when the last member left. Okay,

Unknown Speaker

Transcribed by <https://otter.ai>

Ashokan Reservoir: Stop the mud

Fact Sheet



NYC is dumping billions of gallons of muddy water into the Lower Esopus

The New York City Department of Environmental Protection is at it again, dumping millions of gallons each day of turbid water from the Ashokan Reservoir into the Lower Esopus Creek. High volume, turbid releases, such as those following the 2020 Christmas storm, have left the Lower Esopus Creek a muddy mess. These releases have such a negative impact that the Lower Esopus Creek has been placed on the New York State List of Impaired Waters for excessive silt and sediment.

Why is this happening?

The Esopus Creek is dammed to create the Ashokan Reservoir, one of the most important parts of New York City's unfiltered drinking water supply, which serves over 9.5 million people in New York City and the Hudson Valley. Erosion from severe storms – which will become more common as the climate changes – causes excessive turbidity in the reservoir.

One of the ways New York City manages this challenge is to dump high volumes of muddy water from the reservoir into the Lower Esopus Creek, which flows 32 miles to the Hudson River. These releases are the least expensive way for the DEP to preserve the quality of NYC drinking water. However, this “solution” only shifts the costs and consequences onto the farmers, businesses and residents along the Lower Esopus from these releases.



What is the impact?

The turbid water severely affects water quality, wildlife habitat, recreation, and quality of life throughout seven Ulster County communities along the Lower Esopus.

When a waterbody is turbid, the levels of light and oxygen within the water are reduced. This negatively affects everything living in the stream, from microscopic organisms and submerged plants to aquatic insects and fish. In particular, it stresses fish and impacts their ability to feed and see their food. Fine sediment also physically impacts the stream channel by filling in the natural voids and spaces in the streambed. This reduces habitat for aquatic insects and smothers fish eggs and larvae.

The turbidity also complicates drinking water treatment for the communities that draw drinking water from the Hudson River. These impacts are only expected to grow with climate change, making these releases an unsustainable and unacceptable “solution” for the Ashokan Reservoir’s turbidity in the long term.

What are the alternatives?

This is an essential question. It’s essential to study and explore alternative solutions that could better address the challenges of a changing climate and avoid harmful impacts. Potential alternatives might involve a bypass tunnel from Upper Esopus to Lower Esopus, improved flow controls between the reservoir’s east and west basins, or operational requirements that limit turbid reservoir releases to the Lower Esopus. The DEP has not taken a “hard look” at alternatives as required by NYS law.

What are communities doing about this?

Communities are continuing to raise their voices. In 2010, the release protocol was improperly adopted without any assessment of its impacts. Since then, Ulster County officials, community members, grassroots groups and Riverkeeper have insisted on a robust environmental review process to oppose the DEP’s releases and ensure that all environmental, social and economic impacts of the releases are identified and mitigated as mandated by law. As a result, DEP was required to assess the impacts as part of the Catalum SPDES Permit.

A decade later, in December 2020, the Draft Environmental Impact Statement was finally released for public comment. However, its cursory assessment of impacts failed to provide a real solution:

- The DEIS rejected consideration of all structural alternatives, such as those mentioned above, to avoid or minimize turbid releases without thorough analysis. Only minor modifications to its current release protocol were proposed as the ultimate solution. These minor modifications are not enough. They will not be protective of the Lower Esopus communities or the aquatic environment. They will not provide a sustainable management approach to the NYC drinking water supply.
- The current release protocol allows DEP its choice of releasing the most turbid water in the reservoir. DEP could reduce the turbidity of its releases by blending or releasing the cleaner water.

What can I do?

Tell the DEC to require NYC to #stopthemud. Visit our web page, [Riverkeeper.org/stopthemud](https://riverkeeper.org/stopthemud), and click “[TAKE ACTION](#)” to add your voice.

The public now has an opportunity to be heard and to influence the DEIS review. **Speak out now for the Lower Esopus Creek:**

- Submit your written comments to DEC by 5 p.m. on **June 16, 2021**. [Our web page makes it easy](#).
- Ask your municipality to pass this [memorializing resolution](#) and submit it to the DEC before the June 16 public comment deadline.

What should I ask for?

The current state of Ashokan releases is unsustainable and unacceptable. The DEIS must create a different long-term plan to stop the mud, specifically accounting for climate change impacts.

- Describe how muddy discharges on the Esopus Creek and/or Hudson River has impacted you and your community.
- Insist that the DEIS incorporate a hard look at alternative solutions to extended, high volume turbid releases to the Lower Esopus Creek.
- Demand that the potential and actual short-term, long-term and cumulative impacts on the downstream communities along the Esopus Creek and Hudson River be recognized and thoroughly studied within the DEIS, including impacts on other drinking water systems, the local economy, and the aesthetics of the area.
- Call for an immediate study of the impacts from the releases following the 2020 Christmas storm event, and incorporation of the results of that study into the DEIS
- Tell the DEC it has a duty to consider all the public comments, and to require revisions and/or supplementation of the current DEIS to capture the concerns raised.

You can send this message quickly and easily by visiting [Riverkeeper.org/stophemud](https://www.riverkeeper.org/stophemud) and clicking “[TAKE ACTION. Tell DEC: Require NYC to #stophemud in Lower Esopus Creek.](#)”

Check back for updates at [Riverkeeper.org/stophemud](https://www.riverkeeper.org/stophemud).



*SAMPLE MEMORIALIZING RESOLUTION LANGUAGE
Esopus Creek/DEIS*

URGING, We, as representatives of **[insert name of municipality]** in **[insert name of county]** County, NY, urge the New York State Department of Environmental Conservation (NYSDEC) to exercise its authority and responsibility for enforcing the state and federal laws that protect water quality in our rivers and streams, and as the lead agency overseeing the State Environmental Quality Review (SEQR) process responsible for evaluating the impacts of New York City Department of Environmental Protection's (NYCDEP) releases to the Lower Esopus Creek.

WHEREAS: The Esopus Creek is located in northern Ulster County where it travels sixty-eight miles (68) from the mountains of the Catskills to the Hudson River.

WHEREAS: In 1915, the City of New York completed construction of the Ashokan Reservoir by damming the Esopus Creek in Olivebridge. The Lower Esopus – the Esopus Creek downstream of the dam – flows through the towns of Olive, Marbletown, Hurley, Ulster, Kingston, and Saugerties as well as the City of Kingston, and the Village of Saugerties. The Upper Esopus watershed includes the Town of Shandaken and Woodstock.

WHEREAS: The Ashokan Reservoir is one of the largest sources of drinking water for the state of New York, providing up to 40% of the water for 9.5 million residents. In addition to New York City, many communities in the Hudson Valley are served by the Catskill Aqueduct, including the Village of New Paltz and the High Falls water district in Ulster County.

WHEREAS: The DEP constructed a “waste channel” designed to release water from its Ashokan Reservoir to the Lower Esopus, which for nearly a century was not used except for a short period in 2006 because of an emergency. DEP now calls the “waste channel” a “release channel,” though its function remains the same.

WHEREAS: In 2010, DEP instituted new operating procedures that called for releasing exceptionally turbid water from the reservoir into the Lower Esopus through the previously unused release channel, as it alone deemed “necessary.”

WHEREAS: Elevated turbidity after storms is a long standing problem in the Ashokan Reservoir, and will only be magnified in the future due to increased storm events due to climate change. The designers knew this and constructed the Reservoir with two basins to allow the turbidity to settle in the west basin before moving clearer water into the east basin to send down the Catskill Aqueduct for drinking water.

WHEREAS: In the past, whenever turbidity levels in both basins exceeded state and federal drinking water standards, the DEP treated the water with a chemical (alum) in the Catskill Aqueduct above the Kensico Reservoir in Westchester County to reduce turbidity by removing the suspended solids. Since 2013, the DEP has been required by state and federal law to reduce the amount of alum discharged to the Kensico Reservoir from the Catskill Aqueduct.

WHEREAS: With its 2010 procedures, the DEP made a major change to its operations, behind closed doors and without community input, environmental review, rules or permit modification regarding the waste channel’s operating parameters to release turbid water from the west basin into the Lower Esopus to prevent it from spilling into the east basin, potentially impacting NYC’s drinking water quality and requiring alum treatment.

WHEREAS: When a waterbody is turbid, the levels of light and oxygen within the water are reduced. This negatively affects everything living in the stream, from microscopic organisms and submerged plants to aquatic insects and fish. In particular, it stresses fish and impacts their ability to feed and see their food. Fine

sediment also physically impacts the stream channel by filling in the natural voids and spaces in the streambed. This reduces habitat for aquatic insects and smothers fish eggs and larvae.

WHEREAS: The Lower Esopus valley has extensive agricultural production that depends on the creek for clean irrigation water throughout the year. Turbid water can clog irrigation equipment and potentially impair the quality of the irrigation water to the point where crops cannot be sold at market.

WHEREAS: The DEP's actions have already impaired use and enjoyment of the creek for recreational activities, including kayaking and ice fishing. Continuing the pollution to the Lower Esopus throughout the summer could also affect bathing beaches along the creek, which must meet water clarity standards for safety.

WHEREAS: During extended turbid releases from the waste channel, the sediment plume from the Lower Esopus is clearly visible in the Hudson River, which is the drinking water supply for over 100,000 people. The Towns of Esopus, Lloyd, Poughkeepsie, Rhinebeck, Hyde Park, and the City of Poughkeepsie and Village of Rhinebeck draw municipal drinking water from the Hudson River downstream of where the Esopus empties into it. During major releases, the water treatment plants have recorded elevated turbidity, resulting in the need for increased chemical and electricity use for treatment, and increased production of sludge, all of which come at an increased cost.

WHEREAS: The increased volume of water sent by DEP into the Lower Esopus represents the single largest change to the Creek's hydrologic regime (flow) since the completion of the reservoir.

WHEREAS: The frequency and intensity of storms has increased in recent years, and is projected to increase significantly in the coming decades. Under current conditions and operating procedures, these storms will increase erosion, turbidity, and the resulting impacts.

WHEREAS: Periodically since 2011, the DEP has dumped millions of gallons a day of turbid, muddy water from the Ashokan Reservoir into the Lower Esopus

Creek. DEP argues it has the authority to do so because of its Interim Release Protocol (IRP), which was put in place temporarily pending a full environmental review of the City's releases pursuant to an October 2013 Consent Order. DEC issued the Consent Order to settle an enforcement action it brought against the City with respect to the City's turbid releases in February 2011.

WHEREAS: The IRP is an inexpensive way for the DEP to preserve the quality of NYC drinking water, but the farmers, businesses and residents along the Lower Esopus have been forced to bear the consequences. The releases have had such negative impacts that in 2013 the U.S. Environmental Protection Agency placed the Lower Esopus on the NYS Impaired Water Bodies List for excessive turbidity.

WHEREAS: DEP has most recently discharged turbid water to the Lower Esopus Creek following storms during Christmas 2020, and continuing until today.

WHEREAS: The specific impacts of the current releases to the Lower Esopus are unknown, because DEP did not conduct or provide the county with a baseline assessment prior to initiating releases. A scientific study prior to the initiation of releases was necessary to set the baseline from which to accurately assess environmental impacts.

WHEREAS: As part of the aforementioned Consent Order, DEP was required to study all social, economic and environmental impacts of the releases and alternative methods to reduce turbidity in the Ashokan Reservoir. Alternatives to be considered included both structural and operational practices; however, DEP rejected all structural alternatives requiring construction expenditures and proposed instead only slight adjustments to the IRP as the preferred alternative.

WHEREAS: The DEC has released the Draft EIS for the Modification of the Catalum SPDES Permit and made it available for public review and comment. That Draft EIS concludes that the City's operation of the Ashokan Release channel pursuant to its IRP does not cause any significant adverse impacts to the lower Esopus Creek (ES 29), in the face of the high turbidity releases that communities along the Lower Esopus Creek have witnessed since they began in December 2020.

WHEREAS: The public currently has an opportunity to comment on DEP's Draft EIS, either through submission of written comments to DEC between now and 5:00pm on June 16, 2021.

NOW THEREFORE BE IT RESOLVED: The Lower Esopus is an important contributor to the social, economic and environmental quality along the creek's corridor. It cannot be the solution to NYC's turbid water problems.

BE IT FURTHER RESOLVED: The Hudson River is a critical regional drinking water supply for over 100,000 people in the Mid-Hudson Region. Protecting water quality in this drinking water source is an important regional priority.

The current state of Ashokan releases is unsustainable and unacceptable. DEC must consider all the public comments to capture the concerns raised before making a decision about whether to approve or deny approval; and require revision and/or supplementation of the current DEIS. The input of **[insert name of municipality]** on the adequacy of the current DEIS is very important to ensure the community's interests are protected. The potential and actual short-term, long-term and cumulative impacts on the downstream communities along the Esopus Creek and Hudson River must be recognized and thoroughly studied within the DEIS, including impacts on other drinking water systems, the local economy, and the aesthetics of the area. In addition, **[insert name of municipality]** calls for the incorporation of a hard look at a range of alternatives in the DEIS, including examining combinations of structural and operational alternatives. The DEIS must present a long-term plan to stop the mud, specifically accounting for climate change impacts.

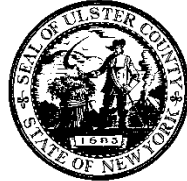
Dated:

COUNTY OF ULSTER

DEPARTMENT OF THE ENVIRONMENT

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KINGSTON, NEW YORK 12402
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PATRICK K. RYAN
COUNTY EXECUTIVE



AMANDA L. LAVALLE
DIRECTOR

NICHOLAS E. HVOZDA
DEPUTY DIRECTOR

Memorandum

TO: Members of the Ulster County Legislature Energy and Environment Committee

FROM: Amanda LaValle, Director, Department of the Environment

DATE: March 1, 2021

SUBJECT: Food Waste Prevention and Recovery Act Update

Background

In 2019, the Ulster County Legislature enacted the “Food Waste Prevention and Recovery Act.” This law requires large food scraps generators to separate food waste from the general waste stream and then either arrange for its reuse by the food insecure or for animal feed, compost it on site, or arrange for licensed services for the purpose of delivering it to a processing facility for composting or anaerobic digestion. Starting January 1, 2021, the law regulated generators producing greater than 2 tons of food waste per week. The law is scheduled to regulate generators producing less than 1 ton of food waste per week starting July 1st, 2021; generators producing greater than 0.75 tons in July of 2022; finally, generators producing more than 0.5 tons in July of 2023.

Update

Ulster County generators identified on the existing NYS list producing more than 2 tons per week of food waste were notified in October 2020 about the January 1st date. Forms requesting a waiver or disputing status are published on the Ulster County website. At this time no waivers or disputes of status have been requested.

However, in the ongoing technical discussion of the current law with the County Health Department, County Attorney's Office and Department of the Environment we have encountered some significant issues that we wanted to share with committee.

- 1- **Staffing-** A part time employee was hired specifically for this initiative, as per the amended 2020 budget, in February 2020. That person, due to COVID related family demands, resigned the position in July. Due to the hiring freeze, that position was not able to be re-filled and subsequently no positions were added in the 2021 budget. We currently have no staff to dedicate to this project. The Health Department has also been under severe staffing strain during 2020 into 2021.
- 2- **Generator identification methodology-** In 2020, Ulster County was using the available state databases to identify local generators covered under this law. In October of 2020 we sent notices to businesses, using the available state lists, that they would be regulated under the law. The state has since updated their methodology, and the updated lists are very different from the old ones we were working from. This presents complications going forward this year. We need to determine whether the old or new lists will be used, and provide updated guidance to the generators that were notified of their compliance obligations under the old lists.
- 3- **Definition of Financial Hardship-** Similar to other local laws, we think there needs to be definitive guidance in the law that defines financial hardship.
- 4- **Waiver language-** The present language concerning waivers in the law allow waivers to be granted for only post-consumer food scraps. It is our understanding that this was not the legislative intent. Similarly, we would request additional guidance creating a standard in the legislation for waste audits.
- 5- **Roles and responsibilities-** Additional discussion regarding implementation, enforcement and education roles as they relate to this legislation are needed. The Health Department does not regulate most of the generator sectors and we have not yet identified another responsible entity for enforcement and inspection. Due to the aforementioned staffing issues, the Environment Department has not been able to take on many of the technical and education responsibilities relative to implementation.

Recommendations

Based on the immediate technical issues with the law and the lack of staffing to devote to the implementation of the law, we recommend that the enforcement date for the 1 TPW and greater cohort be delayed to January 1, 2022. We also recommend subsequent coordination and review to further revise the law to clarify the technical points listed above.

ORL data (as of October 2020)	
> 2 tons per week (tpw)	
Name	tpw
Bimbo Bakeries USA	2.60
Eastern Ny Correctional Facility	3.50
Emmanuel's Marketplace	2.20
Gilded Otter	12.70
Hannaford Supermarket	23.90
Healthalliance Hospital Broadway Campus	4.20
Healthalliance Hospital Mary'S Avenue Campus	4.50
Mohonk Mountain House	14.40
Price Chopper	2.90
Rocking Horse Ranch	3.60
Royal Wine Corp	2.90
Shop Rite Supermarket	24.10
State University College At New Paltz	9.40
Stop & Shop Supermarket	5.80
Ulster Correctional Facility	3.10
Wallkill Correctional Facility	2.10
Yard Owl Craft Brewery	2.90
Grand Total	124.80

*N/A

ORL data (released late November 2020)	
> 2 tons per week (tpw)	
Name	tpw
Adams Fairacre Farms, Inc.	2.9
Bread Alone, Inc.	2.2
Caraway Tea Company, LLC	5.4
Davenport, Robert O & Sons LLC	12.9
Duso Food Distributors, Inc.	12.2
Eastern New York Correctional Facility	2.1
Emmanuel's Market Place Inc	2.2
Freskeeto Frozen Foods, Inc.	7.7
Frito-Lay North America, Inc.	9.7
Gadaletto's Seafood Market Inc	6.4
Hannaford Bros. Co., LLC	25.9
Hmshost Corporation	2.2
Hna Hudson Valley Resort and Training C	5.7
Lodge At Emerson Place	2.5
Marriott International, Inc.	3.2
Phyljohn Distributors, Inc.	13.3
Pinegrove Ranch Inc	2.9
Price Chopper Operating Co., Inc	3.7
Shop Rite Supermarkets, Inc.	11.3
Smiley Brothers, Inc.	15.2
Spotted Dog Ventures LLC	2.9
State University Of New York College At	10.4
Tee Bar Corp.	2.7
Texas Roadhouse Holdings, LLC	2.9
The Wood Company	5.8
Thomas O. Miller & Co., Inc.	15.0
Tops Markets, LLC	3.9
Wdkbb Enterprises	2.1
West End Dairy Inc	3.2
Grand Total	198.4

ORL data (as of October 2020)	
> 1 ton per week (tpw)	
Name	tpw
Benmarl Winery	1.20
Best Western Plus-Kingston	1.50
Boiceville Supermarket	1.40
Deisings Bakery	1.30
Golden Hill Health Care Center	1.80
Hudson Valley Dessert Co	1.20
Hudson Valley Rehabilitation & Extended Ca	1.30
LA Bella Pasta Mfr	1.70
Ninety Nine Restaurant	1.10
Northeast Center For Special Care	1.80
Olive Garden Italian Rstrnt	1.70
Peter's Market	1.60
Red Lobster	1.00
Sam's Club Bakery	1.00
Shawangunk Correctional Facility	1.90
Ten Broeck Commons	1.60
Texas Roadhouse	1.40
Ulster County Jail	1.10
Walmart Bakery	2.00
Grand Total	27.60

ORL data (released late November 2020)	
> 1 ton per week (tpw)	
Name	tpw
99 Boston, Inc.	1.2
Apple-Metro, Inc.	1.4
B L M N Enterprises Inc	1.4
Binnewater Ice Co Inc	1.5
Bread Alone, Inc.	1.2
Deising's Bakery & Pastry Shop, Inc	2.0
Ebb Corp.	1.4
Fleisher's Grass-Fed & Organic Meats	1.1
Fruition Chocolate, Inc.	1.5
Gardener Cheese Co Inc	1.1
Global Natural Foods, Inc.	1.1
HealthAlliance Hospital Broadway Camp	1.8
HealthAlliance Hospital Mary's Avenue C	1.8
Hmshost Corporation	1.1
Hudson Valley Dessert Co.	1.1
Hudson Valley Egg Co Inc	1.7
Kingston Motel Corp	1.4
Kingston Reaturant Corp	1.3
M.C. & E.D. Beck Inc.	1.4
Napanoch Food Co Inc	1.2
Outback Steakhouse of Florida, LLC	2.0
Plaza Diner	1.2
Red Lobster Hospitality LLC	1.2
Ruby Tuesday, Inc.	1.7
Sea To Table LLC	1.1
Shawangunk Correctional Facility	1.1
Sodexo, Inc.	2.6
Target Stores, Inc.	1.2
Ulster Correctional Facility	1.8
Ulster County Community College	1.3
Wallkill Correctional Facility	1.3
Walmart Inc.	1.2
White Glove Service, Ltd	1.5
Grand Total	46.9