

52 YEARS OF ENVIRONMENTAL PUBLIC INTEREST LITIGATION - NEW YORK'S HUDSON RIVERKEEPER

PAUL GALLAY

PRESIDENT, RIVERKEEPER



RIVERKEEPER.

NY's clean water advocate

TOPICS TO COVER

- INTRODUCTION TO RIVERKEEPER
- THE BIRTH OF **EPIL** IN THE UNITED STATES
- USING **EPIL** TO REMEDY TOXIC SPILLS
- USING **EPIL** TO ENFORCE “USE ATTAINMENT” STANDARDS OF CLEAN WATER ACT
- USING **EPIL** TO ENFORCE STATUTORY REQUIREMENTS TO OBTAIN WATER PERMITS
- USING WATER QUALITY TESTING TO REDUCE THE NEED FOR **EPIL**



Riverkeeper: New York's Clean Water Advocate

Our vision:

- ***A Hudson River teeming with life***
- ***Clean, swimmable waters for all to enjoy***
- ***Climate-safe, sustainable energy supplies***
- ***Healthy, abundant drinking water supplies***

Based on our success reclaiming the Hudson, we are the model for 325 more “waterkeeper” organizations, including 15 in China – unified by Waterkeeper Alliance.



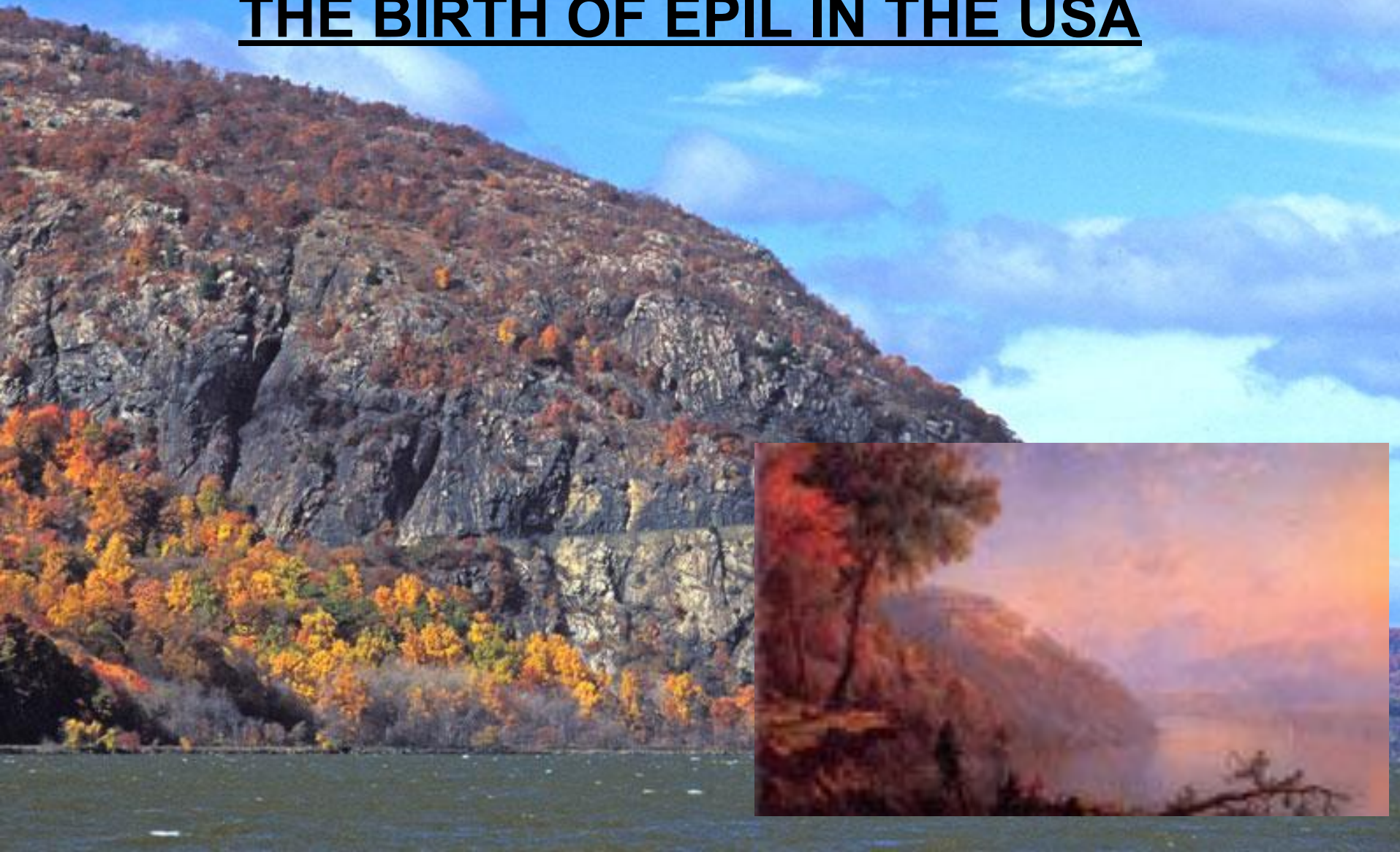
Riverkeeper Staff Resources

- **A two-vessel boat patrol program patrolling 5,000 nautical miles per year.**
- **A 6-person legal team enforcing clean water laws when government does not.**
- **A robust community science program that tests for pollution.**
- **An outreach team working with local partners to generate community support.**



Storm King Mountain, NY - 1965 Litigation

THE BIRTH OF EPIL IN THE USA



SCENIC HUDSON PRESERVATION CONFERENCE

v.

FEDERAL POWER COMMISSION

United States Court of Appeals, Dec. 29, 1965.

Under Federal Water Power Act of 1920, permit granted only if the project “*will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for ... water-power development, and for other beneficial public uses, including recreational purposes*”

Court rejected Federal Power Commission license because permit hearing testimony “**too scanty to meet the requirement of a full consideration of alternatives**” and Commission’s “**refusal to receive [citizen] testimony** ... exhibited a disregard of the statute and of judicial mandates instructing the Commission to **probe all feasible alternatives.**”

SCENIC HUDSON CREATES PUBLIC “STANDING” TO BRING EPIL CASES

“In order to insure that the Federal Power Commission will adequately protect the public interest in the aesthetic, conservational, and recreational aspects of power development, those who by their activities and conduct have exhibited a special interest in such areas, must be ... included in the class of 'aggrieved' parties...

We hold that the Federal Power Act gives petitioners a legal right to protect their ... interests.”



The Waterkeeper Movement, Today



POTOMAC
RIVERKEEPER®
NETWORK



Lower Yangtze
River Waterkeeper



USING **EPIL** TO END NUISANCES AND REMEDY TOXIC SPILLS

Riverkeeper Instrumental in Resolving Newtown Creek Oil Spill Suit in Brooklyn

November 17, 2010 – Riverkeeper joined New York Attorney General Andrew Cuomo to announce a landmark settlement of federal litigation against ExxonMobil for oil contamination of a large section of Greenpoint, Brooklyn.

Over the last century, 17 to 30 million gallons of oil were spilled and leaked from ExxonMobil's refinery and storage facilities into soil and groundwater near Newtown Creek.



EXXON - NEWTOWN CREEK, CONTINUED

The agreement – or “Consent Decree” requires Exxon to investigate and clean up the contaminated groundwater and soil affected by the spill and to address releases of soil vapors into Greenpoint’s homes and businesses.

ExxonMobil will establish a \$19.5 million “Environmental Benefit Project” fund to finance environmental restoration and create open space in Greenpoint.

ExxonMobil is also required to pay natural resource damages to the State of New York.



RESTORING NEWTOWN CREEK, ONCE OIL IS GONE



USING EPIL TO ENFORCE CLEAN WATER ACT “USE ATTAINMENT” STANDARDS

**Riverkeeper and Waterkeeper Alliance v. Scott
Pruitt and EPA [February 20, 2018]**

DECISION OF US DISTRICT COURT JUDGE BRODERICK:
*Plaintiffs’ right [is] to have me decide expeditiously ...
whether Defendants’ actions have complied with the
procedures set forth in the Clean Water Act to achieve the
appropriate water quality standard [and] to “restore and
maintain the chemical, physical, and biological integrity of
[New York City’s] waters.”*



USING EPIL TO ENFORCE CLEAN WATER ACT PERMIT REQUIREMENTS

Fordham Scrap Metal Inc.
2371 Exterior Street
Bronx, NY 10468

Re: Notice of Violation and Intent to File Suit under the Clean Water Act and Resource Conservation and Recovery Act

We are writing to notify you of Riverkeeper's intent to file suit against Fordham Scrap Metal Inc., and Leo Tang. pursuant to Section 505(a) of the Clean Water Act ("CWA") and Section 7002(a)(1) of the Resource Conservation Recovery Act (RCRA) for violations of the CWA and RCRA.



Part 2: USING EPIL TO ENFORCE CLEAN WATER ACT PERMIT REQUIREMENTS

RIVERKEEPER JOINS NEW YORK, ENTERGY, IN AGREEMENT TO CLOSE NUCLEAR PLANT

NEW YORK TIMES

January 9, 2017

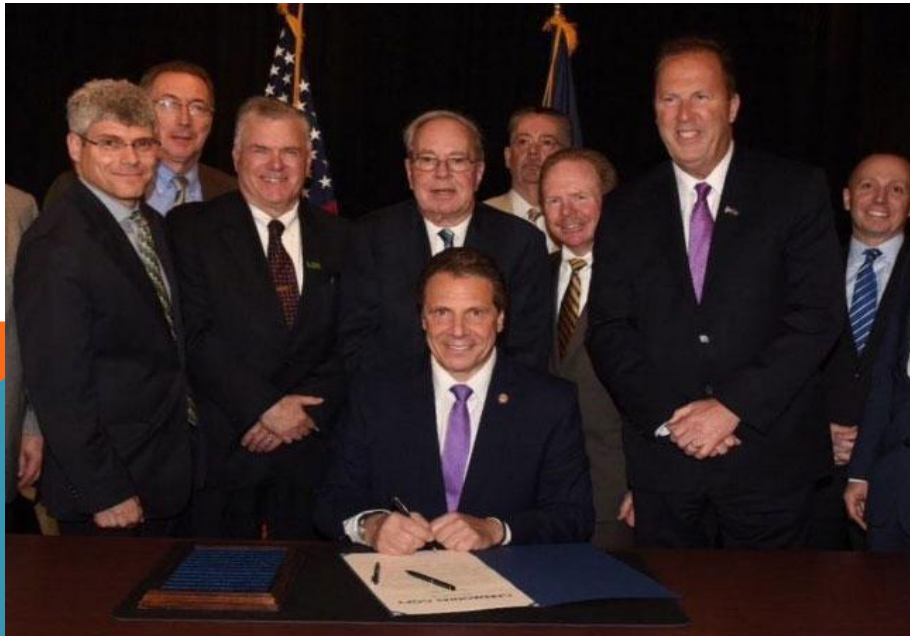


Cuomo Confirms Deal to Close Indian Point



WATER QUALITY TESTING DRIVES BETTER TREATMENT AND REDUCES NEED FOR EPIL

- Riverkeeper tests water quality with 8 university partners and 200 volunteers [5,000 samples per year].
- Our testing revealed pollution leading to \$3 Billion [18 billion Yuan] in new spending for water treatment infrastructure [New York population is 20 million people]



SUMMARY OF PRESENTATION

- **EPIL GIVES CITIZENS A VOICE**
- **EPIL CAN REMEDY TOXIC SPILLS**
- **EPIL CAN IMPROVE WATER QUALITY**
- **EPIL CAN LEAD TO MORE EFFECTIVE PERMITTING**
- **INVESTMENT IN INFRASTRUCTURE CAN REDUCE THE NEED FOR EPIL**



*Thank You
and best
of luck!*



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