



RIVERKEEPER'S
New York State
LEGISLATIVE AGENDA
2023

Priorities for clean water



AGENDA AT A GLANCE

Priorities for New York's 2023 Legislative Session

State budget priorities

- \$1 billion Clean Water Infrastructure Act
- \$400 million Environmental Protection Fund
- \$7.5 million Hudson River Estuary Program
- \$1 million Mohawk Basin Program
- \$22 million Water Quality Improvement Program
- \$16.5 million Waterfront Revitalization Program
- \$2 million Drinking Water Infrastructure Engineering Planning Grants

Legislative budget items

- All Electric Buildings Act
- Increase DEC & DOH Staffing
- Bigger Better Bottle Bill

Other legislation

- Enhanced Public Participation Plans for Environmental Reviews
- Birds and Bees Protection Act
- PFAS Discharge Act
- Protect Drinking Water, Protect Streams
- Water Bill Fairness Act
- Living Shorelines Act

2023-24 BUDGET PRIORITIES

1 \$1 Billion for Clean Water

Clean Water Infrastructure Act investments are the biggest New York State investment in this critical priority in a generation, yet only represent a drop in the bucket for the \$80 billion need over 20 years. As new federal funds are delivered to New York, it is more important than ever to continue the historic state investment in clean water. **We urge the continuation of a \$500 million investment per year to take advantage of historic federal support for clean water projects.**

2 Drinking Water Infrastructure Engineering Planning Grants

There is an urgent need to expand grant limitations to support engineering planning studies for drinking water infrastructure projects. This is already in place for wastewater projects, and is a resounding success, particularly for smaller, cash-strapped municipalities that lack the staff and capacity to conduct planning themselves. **We urge New York State to provide at least \$2 million for drinking water infrastructure engineering planning grants in SFY 2023-24.**

3 \$400 Million Environmental Protection Fund

Fish populations are in grave decline in the Hudson River. Commercial & recreational fisheries shut down, the nation's largest superfund site, and over 1,400 dams & countless culverts in the estuary block herring, American Eel, and shad from returning upstream to spawn to begin again the renewal of life. With support from the Hudson River Estuary Program, funded by the EPF, Riverkeeper, NYSDEC, and local partners are removing barriers across the Hudson Valley to restore our fish populations and ecosystem health. **We urge continued investment in these critical programs funded through the EPF.**

4 Bigger Better Bottle Bill

Year after year, plastic bottles are the most common type of litter found along the Hudson in Riverkeeper Sweep shoreline cleanups. We have to fight back now. Plastic pollution from products such as single-use plastic bottles harms the health of the Hudson, posing threats to wildlife. Studies are documenting pollution from microplastics in the Hudson and aquatic life. **We urge an expansion of eligible bottles and an increase the current 5-cent bottle deposit to 10 cents. These changes should be included in the state budget.**

5 Increase DEC & DOH Staffing

The Department of Environmental Conservation was hit hard by budget cuts in the wake of the 2008 housing bubble. **The cuts depleted state agency ranks and years of hiring freezes significantly impacted the agency.** Additionally, a large number of staffers are reaching retirement. In the last decade, DEC's responsibilities have grown, yet funding has not kept pace. The climate & biodiversity crises are making the agency more important than ever before. An influx of federal funds along with the now passed \$4.2 billion bond act crystallizes the importance of filling ranks at DEC and other important agencies such as the DOH. **We urge significant investments in staff for DEC and DOH.**

6 All Electric Buildings Act

Transitioning away from fossil fuels in our buildings is one of the largest decarbonization opportunities in New York. California and cities across the world are moving towards all-electric buildings. Last session, Governor Hochul and the Senate came close to a budget agreement, but the Assembly failed to agree to the policy in the budget or as a stand-alone policy item. Despite accusations to the contrary, electric heat pumps work exceedingly well in the cold temperatures of upstate New York. Washington, D.C., Denver, Seattle, San Francisco, and the New York City Council have already enacted legislation that bans natural gas in new construction. **We urge that this important policy be included in the state budget.**

2023

LEGISLATIVE PRIORITIES

1 **Enhanced Public Participation Plans for Environmental Reviews**

Riverkeeper strongly supports the passage of S3211A/A6530 **which would help protect environmental justice areas, low-income or minority communities**, by creating an enhanced public participation plan for the State Environmental Quality Review Act.

2 **Protect Clean Drinking Water, Protect Streams**

Riverkeeper strongly urges Governor Hochul and the legislature to develop new protections for streams statewide. The Protection of Waters Program needs increased resources and improvement. The legislature has recognized that freshwater is a crucial asset for New York to protect, regardless of the classification.

3 **Birds and Bees Protection Act**

Riverkeeper strongly supports the passage of the Birds and Bees Protection Act, S699D/A7429, which prohibits neonicotinoid (neonics) insecticide coated seeds of corn, wheat, and soy in New York.

4 **Water Bill Fairness Act**

Riverkeeper strongly supports amending the New York State Local Water Authority and Sewer Act, through the passage of S8857-A/A9445, to affirm local water authorities' option to restructure sewerage fees based on stormwater management costs to incentivize flooding reductions and adoption of green infrastructure.

5 **Living Shorelines Act**

Riverkeeper strongly supports the passage of the Living Shorelines Act, S8828/A10053-A. Living shorelines use nature-based features to stabilize the shoreline and protect upland areas. This bill strengthens NYSDEC's ability to prioritize living shorelines over hardened shorelines in project permits.

6 **PFAS Discharge Act**

Riverkeeper strongly supports the PFAS Discharge Act (May/Kelles). The public deserves to know the extent of PFAS-related chemicals entering surface waters from facilities that discharge effluent and wastewater.

AN URGENT NEED

\$2.2 BILLION TO FIX SEWERS

Hudson River Watershed communities need at least \$2.2 billion to repair and upgrade wastewater infrastructure, according to a Riverkeeper analysis of New York State's 2023 list of projects eligible for federal funding.

These costs include upgrades and repairs at wastewater treatment plants—the most visible components of our wastewater infrastructure—but also for projects necessary to maintain the vast network of underground pipes and pump stations that collect and transport sewage. All of this infrastructure is essential for preventing water pollution, but much of it is well past its lifespan. **The average Hudson Valley sewer line is over half a century old, according to data compiled by the Hudson River Estuary Program.**

The poor condition of our local infrastructure is not unique to New York, though New York has the greatest need of any state for wastewater infrastructure investments. In its 2022 report card, the American Society of Civil Engineers gave American wastewater infrastructure a D+, indicating that it is highly vulnerable to failure. Those failures mean raw or partially treated sewage leaking into our streams and rivers, a common occurrence during wet weather. For instance, during the week of September 19-26, 2022, communities issued one or more alerts due to sewage overflows: Fort Edward, Glens Falls and Hudson Falls in the Upper Hudson River; Amsterdam, Little Falls and Utica in the Mohawk River; Albany, Kingston, Green Island, Hudson, Newburgh, New York City, Poughkeepsie, Rensselaer, Troy and Watervliet.

Each of these communities, along with Village of Catskill, City of Cohoes and Westchester County, have combined sewers that discharge raw sewage mixed with stormwater when it rains, because their sewers were designed to carry both street runoff and sewage, leading to overflows when pipe capacity is exceeded by an influx of rain water. Each of these communities is, 50 years after the passage of the Clean Water Act, in the process of reducing sewage overflows under “Long Term Control Plans” requiring separation of sewers, increases in treatment capacity, installation of green infrastructure or other improvements.



Region	Total Documented Need
Upper Hudson River Watershed (Areas upstream of Troy Dam)	\$56 million
Mohawk River Watershed	\$349 million
Hudson River Estuary (Treatment plants that discharge to the river's main stem downstream of the Troy Dam)	\$399 million
Tributaries to Hudson River Estuary (All other treatment plants downstream of Troy Dam)	\$193 million
New York City (The 7 treatment plants located within the Hudson River Watershed boundary)	\$1.184 billion
Hudson Watershed Total*	\$2.180 billion
New York State Total	\$5.737 billion

*Watershed total is different than the sum of regional subtotals due to rounding estimates. Note that these are conservative estimates, since not all communities have documented all needs, or included all documented needs in funding applications that are used to generate this list.

In a time of rapid climate change, when extreme storms are more common, overflows will come more frequently if infrastructure is not right-sized for current and future storms. As Riverkeeper has documented, data show that rain causes degradation of water quality in many communities, and after extreme storms, the impacts are more severe.

Fortunately, the ASCE highlighted some positive national trends that are evident in New York. First, asset management planning is increasingly prevalent, in part due to Riverkeeper's advocacy to establish a program to support community-level planning for replacing and upgrading systems before they fail. These plans help municipalities manage infrastructure proactively, rather than jumping from crisis to crisis, which reduces costs and promotes sustainability.

Another trend is resilience-based planning. **About one in four wastewater treatment plants are at risk from flooding even at current sea level, according to a Wastewater and Stormwater analysis completed as part of the Comprehensive Hudson River Restoration Plan.** For wastewater infrastructure, improving resilience in the face of climate extremes means ensuring that pipes, pump stations and treatment plants can handle increased flows from large storms, and infrastructure is protected from sea-level rise and flooding.

Taken to another level, resilience should also include moving away from wasteful practices towards the reuse of valuable byproducts. Wastewater treatment plants can reduce costs and energy consumption by incentivizing conservation; harvesting heat, methane and nutrients from their treatment processes; and reusing water. These practices can be good for the climate, and also for watersheds, though the presence of PFAS and other trace chemicals in sewage sludge complicates some beneficial uses.

The Hudson River Watershed contains about one-third of the state's wastewater treatment facilities, yet it accounts for about 40% of the documented needs. Sustained state, federal and local investment is needed to address the region's infrastructure needs.

A NEW AND GROWING INITIATIVE

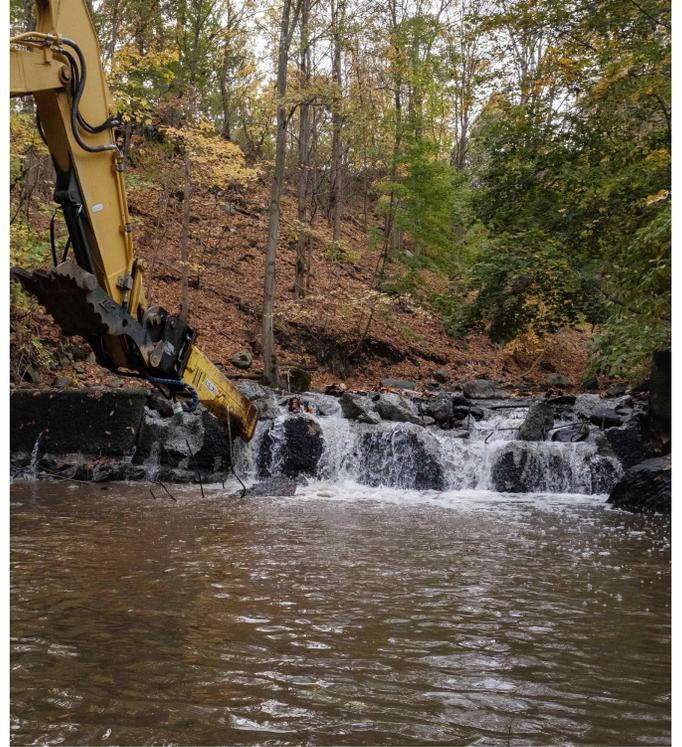
REMOVING DAMS, RESTORING LIFE

NYS Environmental Protection Fund supports efforts to restore Hudson Valley streams

In the fall of 2020, Riverkeeper and the state Department of Environmental Conservation teamed up to remove two dams, on Quassaick Creek in Newburgh and Furnace Brook in Westchester County. A year later, we returned to replant the banks.

Our campaign to remove centuries-old, long-forgotten dams in the Hudson Valley is still in the beginning stages. **Following up on our 2016 dam removal on Wynants Kill in Troy, these were the second and third dams removed expressly for fish passage in the history of the Hudson Valley.** At least 1,700 dams fragment the rivers and streams of the Hudson Valley. Most are obsolete, and many are hidden from view, **yet they continue to cause profound damage by stifling life in the streams and blocking fish from reaching their ancestral spawning grounds and habitat.**

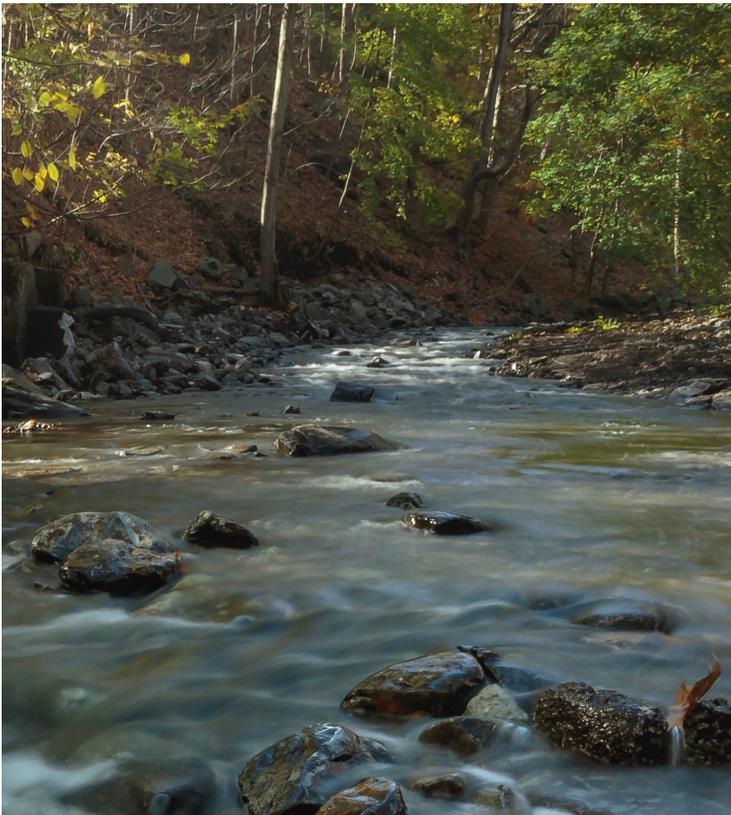
Removing these dams helps restore habitat in the Hudson Valley at a time when freshwater life is imperiled worldwide. Migratory species like river herring, severely depleted in number, rely on tributaries like these to renew their populations. American eel, also decimated by overfishing and habitat loss, seek out these streams to live out their lives before returning to sea to spawn and die. Removal of these dams, one by one, will help inspire the next.



On Furnace Brook, we found mussel shells scattered on the banks, left by racoons feeding on them. Creek chubs, white suckers, brown trout and other fish were finding their way through, where they were once blocked. **Blue crabs were a lovely surprise, Riverkeeper's George Jackman says. "We may have forgotten that crabs use our freshwater creeks, but these are a migratory species, as much as a river herring or an eel."**

The stream itself is moving too, forming a sediment bank where the dam used to be and making a peninsula around a sapling that had stood by itself on an island below the dam. "The stream has a choice, where it never had a choice before," Jackman says. **The trees and shrubs, provided by DEC's EPF funded Trees for Tribs program, will help stabilize the new bank, prevent erosion and create shade that helps cool the water so that fish can thrive.**

Furnace Brook was known to Native Americans who lived in the area as the Jamawissa Creek, meaning "Place of Small Beaver" – which it is. The stream, in Westchester County's Oscawana Park, has begun to recover its natural state, with the removal of debris, an old bridge, and the dam. **Further upstream, a much larger dam – 25 feet high and 160 feet across – is slated for removal next.**



A NEW OPPORTUNITY

REWILDING THE RIVER

Islands and shallows were destroyed long ago to improve navigation. More than 85 percent of islands in the Hudson were lost. Opportunities abound to restore these natural areas and the life they once supported.

In the northern reaches of the Hudson Estuary, the natural landscape might seem virtually untouched. Long stretches of forested banks line the foreground, and the Catskills rise to the west, the Taconics to the east. Fresh water flows down while tidal energy reaches up, 150 miles from the ocean, lifting the water twice a day like an eternal heartbeat. Sediment moves in with the tide, sustaining tidal freshwater marsh – a rarity around the globe.

What escapes the eye is a history of wholesale destruction, dating back to the early 1800s, to benefit navigation and commerce. **The upper third of the estuary was once a region of braided river channel, full of shallows and wetlands**, or as the U.S. Army Corps of Engineers described it in 1893: “obstructed by bars and shoals due to the existence of numerous islands and sloughs, and the consequent diversion of the river water through too many channels.”

Those numerous, dynamic channels – where slow-moving waters, an abundance of food and plentiful cover support a range of life – are now essentially gone.

The Army Corps began re-engineering the river after the completion of the Erie Canal, linking the Hudson River to the Midwest, in 1825. Dikes, made with rows of timber pilings, formed a new, artificial shoreline that constricted the tidal flow and deepened the river. A single ship channel was dredged, and the dredged material was used to fill secondary channels and shallows. **Nearly 4,000 acres of shallows, wetlands and intertidal habitats were lost because of scouring or filling. More than 85 percent of islands and 70 miles of shoreline were eliminated.**

The construction of railroad tracks during the 19th century cut off tidal marshes and coves. And throughout the Hudson River Valley, more than 1,600 dams were built, stifling the flow of nutrients and fish. There is no going back, but there is much we can do. Rising sea levels threaten to increase the damage, submerging marshland before sediment has time to build up. Invasive species also threaten habitat for aquatic life.



"The newly flowing channel is being monitored for improved water quality, plant life and wildlife habitat – a nursery for new life – that is expected to result."



A wetlands restoration effort completed in 2018 marks a shift toward healing the river and making it more resilient. **Across from Coxsackie at Gay's Point, engineers carved a 1,200-foot-long, 65-foot-wide channel through an area where dredged material had been placed, creating a peninsula with an artificial embayment.** With the channel, a connection with the river was restored. The newly flowing channel is being monitored for improved water quality, plant life and wildlife habitat – a nursery for new life – that is expected to result. The project, managed by DEC in partnership with the Thruway Authority, used funds that were allocated as compensation for damage caused to the river by the Tappan Zee Bridge replacement project. It is located in Stockport and is part of the Hudson River National Estuarine Research Reserve.

In a 2019 study, the Army Corps joined New York State, Riverkeeper and many other partners in recommending a series of additional restoration projects, noting “dramatic losses of regional ecosystems.” The Gay's Point side channel restoration is the first the first project of its kind in the Hudson River, and it signals the potential for more.

Meanwhile, along Hudson River tributaries, Riverkeeper and the state DEC are teaming up with communities to remove obsolete dams and open ancestral spawning grounds for migratory fish. In 2020, we removed two obsolete mill dams, one on Quassaick Creek in Newburgh and the other on Furnace Brook in the Town of Cortlandt, Westchester County. Following up on the successful removal of a dam on Wynants Kill in Troy in 2016, these were the first three dams removed along the Hudson expressly for fish passage.

All of this happened in five years. Looking forward, additional side-channel projects are under consideration and will need public support. The three successful dam removals, we hope, will inspire dam owners and communities throughout the valley to remove obsolete dams for the benefit of fish passage.

The restoration of the Hudson will require a sustained effort, from us and from many generations to come. In response to alarming declines, we need stronger action to save the Hudson's fish. The Hudson River is one of the planet's greatest migratory corridors. Shad, river herring, Atlantic sturgeon, striped bass and other species return from the ocean every spring to their ancestral spawning grounds.

Even while the water becomes cleaner, centuries of habitat loss, toxic dumping and overfishing continue to take their toll. We've virtually annihilated many species by harvesting them at their most vulnerable time – when they were about to spawn. To give the fish a fighting chance, we need to do more. Removing dams and restoring side channels is a great start.

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Riverkeeper contributors:

Jeremy Cherson, Senior Manager of
Government Affairs

Johnathan Kolb, Government Affairs
Fellow

George Jackman, Senior Habitat
Restoration Manager

Jennifer Epstein, Science Consultant

Luke Dougherty, Director,
Communications & Marketing

Leah Rae, Associate Director,
Communications & Marketing

Dan Shapley, Co-Director of Science
and Patrol



RIVERKEEPER

NY's clean water advocate

CONTACT:

Riverkeeper
20 Secor Rd.
Ossining
New York, 10562
914-478-4501
www.riverkeeper.org/legislation
jcherson@riverkeeper.org

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