

**Joint Legislative Committee on the FY 2021 State Budget
Environmental Conservation**

**Testimony of
Andy Bicking, Director of Public Policy
Scenic Hudson**

January 27, 2020

Introduction

Thank you for the opportunity to present Scenic Hudson's perspective on Governor Andrew Cuomo's Executive Budget Proposal for the 2020-2021 fiscal year.

Scenic Hudson partners with people, businesses and governments to create healthy, prosperous communities -- by protecting the Hudson River and other natural treasures from Manhattan to the foothills of the Adirondacks that are the engines of local economies and developing innovative strategies that make the Hudson Valley a model for responding to climate change. We advance thoughtful environmental policy at the local, state and federal level, and leverage privately raised capital with public funds to deliver tangible benefits for residents and visitors to the Hudson River Valley. These investments create clean drinking water, protect our communities, children and grandchildren against the effects of climate change, and provide recreational opportunities that help fuel the region's economy. To wit, in 2018 Oxford Economics found that the six county region of the Mid-Hudson Valley alone has a \$4.4 billion tourism industry that supports 62,262 jobs that generated \$1.4 billion in direct labor income and \$2.3 billion, including direct and induced impacts. A key strategy to sustain these regional and statewide benefits is for New York State to make strong investments in the environment.

Before I begin with formal testimony, I would like to congratulate the legislature, and the chairs of the Senate Finance, Environmental Conservation and Agriculture Committees, and the Assembly Ways and Means, Environmental Conservation and Agriculture Committees on a job well done last legislative session. Your collective work secured a \$300 million Environmental Protection Fund (EPF), renewed investment in the Clean Water Infrastructure Act, advance the innovative Carbon Farming Pilot Study, and passed of a remarkable set of environmental legislation, including the Climate Leadership and Community Protection Act, the Plastic Bag Ban and the Ulster County Community Preservation Act. The 2020 legislative session promises to be equally visionary and groundbreaking, with proposal from the Governor to maintain a \$300 million EPF, renew the Clean Water Infrastructure Act, and bring an environmental bond act before voters at the November 2020 election.

The Environmental Bond Act

Governor Cuomo's environmental bond act proposal has the potential to transform New York State and the Hudson Valley for the better. The \$3 billion investment proposes to safeguard water resources, protect new open space and parks, restore damaged habitats and natural lands, develop strategies to

protect communities from flooding and other effects of climate change, and complement the state's transition to clean, renewable energy.

Public support for bond

A recent public opinion poll conducted by the Siena College Research Institute found that over 70 percent of voters in the state support the concept of an environmental bond act. Historically, other research conducted by the state's environmental community has found the most compelling positive frames investment in the environment include protecting future generations, safeguarding drinking water, preventing pollution, creating parks, protecting natural habitats, and supporting nature's role in tackling climate change. Protecting farmland to secure sources of fresh, local food also polls high in the Hudson Valley region, as does revitalizing waterfronts for community and economic development. We are fortunate that most of these themes align well with the bond act proposal presented by the Governor, and the Legislature's history of passing progressive environmental policies.

More specificity is needed in categories of projects and lists of projects that would be funded through an environmental bond act

A new leadership level investment in New York State's environment is needed. The impacts of climate change, damaged habitats, loss of open space, contamination of our rivers, runoff from agricultural land, and compromised access and stewardship of parks and waterfronts are well documented. The Legislature and the Governor have a track record of supporting workable, real-world solutions to these problems, but, as the Governor has demonstrated, more investment is needed to ensure the benefits of these strategies and investments is secured for our communities and future generations.

The Governor has proposed a list of project categories in his budget proposal to include in the environmental bond act. Some of these categories make sense as worded and some categories require clarification.

Bond act categories proposed by the Governor that are supported by Scenic Hudson and may require clarification:

- Restore habitat and reduce flood risk including. Scenic Hudson strongly supports this category being included in final bond act language. Two habitat restoration plans exist for the Hudson River region that we recommend be named in the final bond act language passed by the Legislature. They are: (a) *The Hudson River Habitat Restoration Plan*, authored by NYS DEC (http://www.dec.ny.gov/docs/remediation_hudson_pdf/hrhrp.pdf), and (b) *The Hudson River Comprehensive Restoration Plan* (<http://thehudsonweshare.org/>), authored by the Nature Conservancy of New York in conjunction with a coalition of private organizations, including Scenic Hudson, and in consultation with the NYS DEC.
- Wetland, floodplain, and stream restoration. Scenic Hudson strongly supports this proposed use of bond act funds, consistent with the NYS DEC's *Hudson River Habitat Restoration Plan*, which we recommend be named in the final bond act language approved by the Legislature.
- Protection, acquisition of real property and open space. Scenic Hudson strongly supports this proposed use of bond act funds, consistent with the State Open Space Plan. State land acquisition is a critical function in the fight against climate change, as described in our *Hudson Valley Conservation Strategy* (<https://www.scenichudson.org/our-work/climate/hudson-valley-conservation-strategy/>). Protection and acquisition of real property and open space is also critical to protect and enhance public access to state, local and privately conserved land.

- Enhance shoreline protection. Scenic Hudson strongly supports this proposed use of bond act funds, consistent with the NYS DEC's *Hudson River Sustainable Shorelines initiative* (<https://www.hrner.org/hudson-river-sustainable-shorelines>) which provides science-based recommendations for shore zone management to enhance natural benefits while meeting protection needs. We request that the Legislature specify that funding in this category can be used to make lasting improvements and restoration to damaged shorelines along the Hudson River, and investments in land protection that provide pathways for wetland migration due to rising sea levels
- Forest preservation. Scenic Hudson strongly supports this proposed use of bond act funds, consistent with the state's Open Space Plan (<http://www.dec.ny.gov/lands/317.html>). We recommend that final bond act specify that funding for this purpose can be applied to state land acquisition, and to provide funding to land trusts to purchase permanent easements from willing landowners of forestland and open space.
- Removal, alteration, and rightsizing of dams, bridges, and culverts. Scenic Hudson supports this proposed use of bond act funds. Many dams, bridges and culverts were designed and constructed in a way that impedes the natural movement of water and migration of species. Specific strategies to reverse this situation are identified in the *Hudson River Comprehensive Restoration Plan*.
- Invest in associated recreational infrastructure including land acquisition. Scenic Hudson supports this proposed use of bond act funds. Bondable amenities on open space that facilitate public use, including kiosks, trail heads, parking facilities, trails, canoe and kayak storage facilities, bicycle trails and racks, pavilions and other infrastructure should be included.
- Upgrades including green infrastructure projects that reduce stormwater impacts. Scenic Hudson supports this proposed use of bond act funds. Our changing climate increases the frequency of severe storms that cause water management issues. The benefits of natural solutions in addressing these problems are well documented. The federal Clean Water Act provides examples of these technologies, including "green roofs, permeable pavements and substrates, stormwater harvest and reuse, and landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters."

Bond act categories proposed by the Governor that require clarification:

- Development and improvement of fish hatcheries. Scenic Hudson is not clear on the effectiveness of improving fish hatcheries as a tool to restore damaged habitats and address climate change, which is the primary focus of the proposed bond. We recommend that the Legislature consult relevant scientific studies to determine the effectiveness of this proposed use.
- Improve water quality through wastewater infrastructure. Scenic Hudson is not clear how the bond act will complement funding from the Clean Water Infrastructure Act. Specific and strategic use of bond act funds in this context should be articulated.
- Agricultural nutrient management and expansion of riparian buffers. Scenic Hudson agrees that this is an issue that requires the attention of the state, however we are not clear how this proposed use is a bondable capital expense. An area to consider focusing this proposed category to ensure it is relevant to the bond act is to provide funding for conservation easements on riparian areas on working farmland.
- Development and improvement of park, campground, nature center, and other state recreational facilities. Scenic Hudson agrees on the importance of this proposed use of bond act funds. We recommend that state facilities, municipal facilities, and privately owned parks and preserves owned by land trusts that are open to the public be named as eligible entities to

receive funding for this purpose. In addition, we recommend that recreational hiking and bicycling trails be added to the list of uses in this category.

- Expand the use of renewable energy to mitigate climate change. The Governor's proposal is not clear how bond act funds would be used to address this issue, or how any proposed use relates to future recommendations of the Climate Action Council, or mobilization of funding from the Regional Greenhouse Gas Initiative. Funding for this category should only be included in the final bond act proposal if a specific and strategic use of funds is identified.

Issue areas not included in the Governor's bond act proposal that Scenic Hudson recommends be included:

- Remediation of contamination in rivers, canals, and surface waters. Waterfronts across New York State are important places for the public to connect with nature, and also create attractions that are often the centerpiece of community driven economic development. Investing in remediation of contamination at these sites will make waterfronts and recreational waters more accessible and valuable to the public.
- Implementation of Local Waterfront Revitalization Plans. The Legislature has invested in advancing the public interest on waterfronts through the Waterfront Revitalization Program in the Environmental Protection Fund. Many municipalities have plans to deliver on this promise but lack the capital to invest in the public infrastructure required to realize their plans' goals. Scenic Hudson recommends that this category of projects be added to the proposed bond act.
- Address climate change in urban areas. Climate solutions and conservation in urban areas, particularly small to mid-sized cities, requires unique approaches. Climate impacts in these areas include heat islands, increased flooding, sea level rise, erosion, food security and public health, and have costly impacts on cities' basic services, that less populous urban areas struggle to address. State investment in small and mid-sized cities for urban greening and tree planting; relocation of wastewater infrastructure, public space and parks; creation of cooling/warming centers, and other strategies is recommended as a specific purpose of the proposed bond act.

We welcome the opportunity to explore the above list with you in greater detail in the weeks ahead. We would also like to discuss the merits of listing specific projects in the final language authorizing a bond act by the Legislature, and provide a list of projects to fund through the bond act if the Legislature decides to include this in the final legislation.

Bond referendum language

In addition to outlining the intended use of bond act funds, the Legislature must ensure that the proposed referendum language that voters will see in November 2020 is an accurate description of the bond act program and easily understood by the general public. It will be important that this language not rely on legal or technical jargon, be expressed in the vernacular, and be acceptable to bond counsel. Language proposed by the Governor,

"To address and combat the impact of climate change and damage to the environment, the Environmental Bond Act of 2020 "Restore Mother Nature" authorizes the sale of state bonds up to three billion dollars to fund environmental protection, natural restoration, resiliency, and clean energy projects. Shall the Environmental Bond Act of 2020 be approved?",

should be evaluated in this context. In proposing final referendum language we recommend the Legislature consult with non-profit organizations, including Scenic Hudson, who frequently communicate with the public about programmatic areas within the proposed bond act, and also consult public opinion surveys to understand how proposed language may be perceived by voters.

In Scenic Hudson's experience, some of the referendum language proposed may not be easily understood by the general public. For example, "natural restoration" and "resiliency" are terms with multiple meanings. Language that describes the intended impact of the bond, such as "clean water and healthy communities," "repairing the damage that has been done to our natural lands and waters" and "using nature to help protect our communities from the effects of climate change" are alternative word choices that should be considered.

The Environmental Protection Fund

Request for \$300 million appropriation, and a plan for future growth

The Legislature and the Governor have recognized the extensive value and benefits of the Environmental Protection Fund (EPF) by maintaining a \$300 million appropriation to the fund since 2016. The Fund's impact is well established. It is the state's foundational and baseline strategy to invest in projects that conserve critical resources for future generations while combating climate change, creating jobs and making our communities more resilient.

Because of the EPF's popularity and demand for programs, and because of the progress made in closing the gap between the annual appropriation and same year disbursements, available funds in the EPF cannot be stretched much further. This is why Scenic Hudson joins with the Keep Protecting New York coalition and We Love New York campaign in respectfully requesting that the Legislature create a plan to grow the EPF to \$500 million by 2025. A \$300 million investment in the fund in the final SFY 2021 budget is in keeping with the state's current 5-year capital plan and an important complement to the proposed environmental bond act.

Oppose use of EPF for agency personnel services

The Governor's proposal for the EPF contains a problem in that it includes a proposal to use the EPF appropriation to pay for agency staff. The language, "Notwithstanding any other provision of law to the contrary, of the amounts appropriated herein, a portion may be used for the payment of personal service expenses incurred on or after April 1, 11 2020" appears in all four EPF accounts.

New York State's record of protecting the environment is unparalleled, however staffing levels at the NYS DEC, OPRHP, DOS Coastal Program, and Hudson River Valley Greenway are not keeping pace with the increased demands being placed upon them. This situation threatens to undermine the progress the state has made, however, the use of capital funding that is in high demand throughout New York State for agency personal services is not an appropriate use of funds and threatens to undermine the integrity of the EPF.

We request that the Legislature address this issue in a constructive manner with the Governor in budget negotiations and work to establish a long-term plan to address staffing needs in environmental agencies that does not rely on the EPF appropriation.

We accept that limited use of funds from the proposed Environmental Bond Act are appropriate to apply to staffing and contract expenses associated with the bond act.

Requests for individual EPF line items and programs

Scenic Hudson requests that the funding for the following programs be restored or increased in the final budget:

- Open Space Land Acquisition - restore funding to \$33.087 million - The Governor’s budget proposes a \$3.087 million reduction in open space and land conservation, bringing the total proposed appropriation for this line item to \$30 million. We note that this line item has been reduced by half in the past decade or so. Open space protection provides significant benefits to communities, including drinking water protection, flood and storm mitigation, recreational opportunities, and promotion of tourism. “Adding Value: Open Space Conservation in the Mid-Hudson Valley,” a report by the Regional Plan Association and SUNY New Paltz, found that “the ecosystem benefits of open space... are worth approximately \$3.5 billion. Over two-thirds of those benefits are generated by unprotected open space.”

Governor Cuomo’s State of the State address noted that his Restore Mother Nature initiative would include two unique and spectacular new parks that have be pre-positioned by Scenic Hudson, including:

A new 508-acre state park in Kingston, Ulster County, that will protect over a mile of waterfront and create a series of trails that interweave with the Empire State Trail. Scenic Hudson would welcome the opportunity to provide a tour of this unique site within walking distance of a prominent Mid-Hudson city to members of the Legislature.

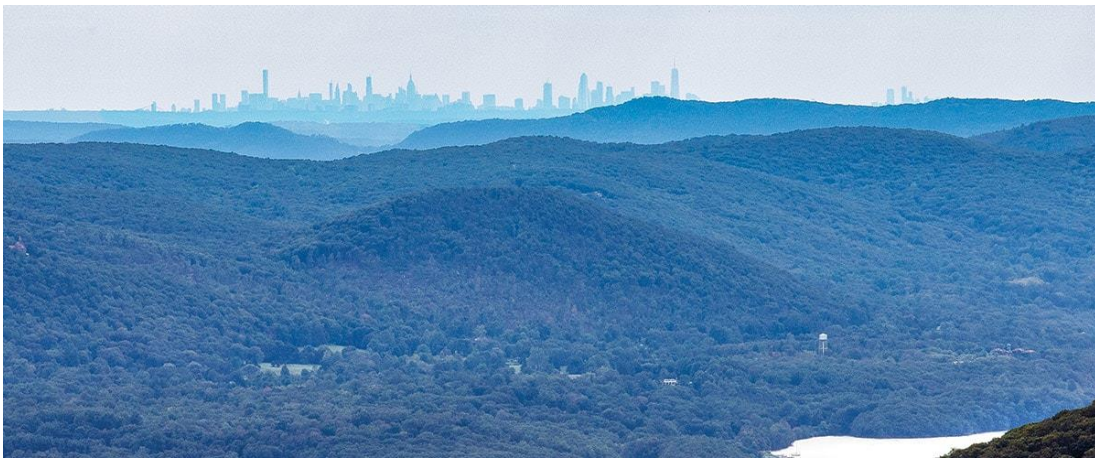


A new 508-acre park is within walking distance for many residents of Kingston

The Governor’s second proposal for a new park is the Hudson Eagles State Recreation Area. This majestic landscape between Cities of Rensselaer and Hudson will invest in ageing park and boat launch infrastructure, and new pocket parks, to improve the public’s access to the Hudson River. The area is a popular spot for boaters and anglers, and a frequent destination for tourists

interested in the aesthetic beauty of the landscape and the legacy of world-class landscape artists such as Thomas Cole and Fredrick Church. It is also home to many sensitive shallow water Hudson River habitats and home to many important species, such as the American Bald Eagle, whose name the park celebrates.

The Governor is also proposing a state park expansion and upgrade initiative that will add 4,000 acres of land to seven state parks through a \$20.6 million State investment, partially funded through the EPF. This includes the purchase of the approximate 945-acre Scofield Ridge property in Putnam and Dutchess Counties from Scenic Hudson, and adding it to the Hudson Highlands State Park. State funding for this project will match federal funding from the Highlands Conservation Act.



Scofield Ridge will add approximately 945 acres to the Hudson Highlands State Park

- Farmland Protection Program - restore funding to \$20 million - The Governor's budget proposal reduces the Farmland Protection Program appropriation to \$17 million. This program has been cut by nearly half in the last decade or so, yet interest and demand remain high. Since 1992, Scenic Hudson has conserved 18,000 acres of farmland on more than 125 family farms in six counties, yet farms and farmers remain under threat of conversion of farmland to non-agricultural uses. Benefits of Farmland Protection are extensive, including protecting the source of our fresh and local food (much of which supplies restaurants in New York City), safeguarding water quality, enhancing the state's rural economy, providing capital for farm businesses to expand and adapt to new markets, and helping to ensure opportunity for the next generation of farmers.
- Estuary Management - restore funding to \$8 million. The Hudson River Estuary Program is the state's only program dedicated exclusively to protecting the Hudson River and its watershed. Over its 30 year history, the program has provided science-based training to 7,000 public officials and conservation professionals, invested in watershed protection upon which 2.2 million people depend, awarded more than 500 grants to local communities, and financially supported similar work in the Mohawk River watershed. At its peak, the Estuary program was funded at \$10 million annually. Scenic Hudson estimates the annual demand for the programs grants and services to be \$13 million. Funding above and beyond the Governor's proposal is needed to provide coordination and technical support, and community grants to address water quality improvements, ensure that 100% of riverfront communities at high risk of sea level rise

have and implement adaptation plans, continue fish monitoring surveys including the Long River Study that has previously been funded by the Indian Point Power Plant, and to plan for and protect tidal wetlands and adjacent uplands to allow for the buffering of storm surge and flooding impacts on communities. An \$8 million investment in Hudson Estuary Management would be a step in the right direction for the program.

Scenic Hudson requests that funding for the following new sub-allocations under existing programs in the EPF be maintained in the final budget::

- Land Trust Alliance Conservation Easement Program - maintain funding at \$3 million. The Governor's budget proposal contains a new program within the Open Space / Land Conservation line item called the Land Trust Alliance Land Easement Program. This proposal is designed to provide grants to land trusts to help cover the capital and associated expenses of purchasing conservation easements from willing landowners. The program would work in a similar fashion as the existing Farmland Protection Program, also within the EPF. The land trust, as an owner of the property's development rights, would be responsible for ensuring the conservation values of the property are forever protected. The landowner retains the right to own and use the land, sell and pass it on to their heirs. This transaction model has been well established by Scenic Hudson and the state's land trust community over many decades, and we believe the time has come for the state to invest in this strategy, in addition to its traditional role of acquiring the land directly for state ownership. Scenic Hudson notes this program is particularly important as average parcel size of much of the high quality and unprotected open space in the state is too small to fall under the criteria for state acquisition. This program is thus an effective and tailored approach to ensuring the benefits of protected open space for our children and grandchildren.
- State Land Stewardship/NY Natural Heritage Program Protected Areas Database - maintain funding at \$55,000. The State Land Stewardship account of the EPF allocates funding to New York National Heritage to update the New York Protected Areas Database, a spatial database and interactive map of lands that have been protected, designated or functioning as open space, natural areas, conservation lands or recreational areas. The database accounts for approximately 20% of the landmass in the state and is an essential resource to conservation professionals in both the public and private sector. This funding will allow for continuation of this important resource that helps facilitate smart conservation decisions throughout New York.

Scenic Hudson recommends that funding for the following established programs in the EPF be maintained in the final budget. We have experience working with partners to mobilize these funds and can provide examples of success upon request.

- Conservation Partnership Program - \$3 million
- Water Quality Improvement Program/Source Water Protection - \$5 million
- State Land Stewardship/Parks and Trails New York NY Grants Program - \$1 million
- Waterfront Revitalization Program - \$14,500 million
- Municipal Parks/Hudson River Valley Trail Grants - \$500,000
- Natural Resource Damage Assessment - \$2.025 million
- Environmental Justice/Community Impact Grants - \$3 million
- Climate Resilient Farms - \$4.5 million
- Climate Smart Communities - \$10.65 million

Clean Water Infrastructure Act

Scenic Hudson supports the Governor's proposal for \$500 million to continue investment in projects as authorized by the New York State Water Infrastructure Improvement Act of 2017. The benefits of this program in the Hudson Valley and throughout New York State are well established.

Article 7 Legislation

The Governor's budget includes the following policy proposals of interest to Scenic Hudson. We ask that the Legislature prioritize finalizing bill language with the Governor on the following proposals:

- Authorize the \$3 Billion Environmental Bond Act of 2020 "Restore Mother Nature" to be Submitted for Voter Approval in November of 2020
- Implement the Environmental Bond Act of 2020 "Restore Mother Nature"
- Improvements to the Freshwater Wetlands Regulatory Program
- Amending the Environmental Conservation Law Relating to Ban Fracking, making the fracking ban permanent

Conclusion

In summary, Scenic Hudson requests that the Legislature:

1. Approve the Environmental Bond Act in the final state budget, ensure that enabling language address the substantive points of this testimony, and that the referendum language be easily understood by the public;
2. Support a \$300 million appropriation to the Environmental Protection Fund in the FY 2021 budget, with a plan for a \$500 million appropriation by 2025.
 - a. Specifically, include in this year's budget restorations to prior year appropriations for the Open Space/Land Acquisition, Farmland Protection and Hudson Estuary Management line items.
 - b. Support other appropriations in the Governor's proposal, including new sub-allocations for a Land Trust Conservation Easement Program and the NY Natural Heritage Program Protected Areas Database;
3. Remove language from the budget that would allow use of the EPF for agency personnel services;
4. Support the Governor's proposal for the Clean Water Infrastructure Act; and,
5. Pass legislation relating to Freshwater Wetlands Regulation, and a Ban Single-Use and Loose-fill Polystyrene Products.

Thank you for this opportunity to comment. As always, if you have questions about Scenic Hudson's position or work, please contact me at (845) 473-4440, x. 232 or abicking@scenichudson.org