



Hudson-Mohawk Group
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“This is the American Earth”,
photograph by Ansel Adams.
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Tree Clearing at Port Brings Law Suit

Yet another development project within the greater Capital District undertook clearcutting of trees and other landscape features without proper notification of nearby residents. In this case the location was the Port of Albany, on land referred to as Beacon Island which is a manmade parcel of land on the Hudson River and it is being used as the staging area for construction of equipment supporting wind turbines to be placed in the Atlantic Ocean off the coast of New York. As a result, a group of approximately 20 citizens led by attorney Chris Dempf have sued the Port of Albany and the Town of Bethlehem alleging that the Port did not provide adequate written notice of the impacts of the action. It calls for the previous approvals the wind turbine (including the NYSDEC) project to be reversed.

This clearing activity is a bit different because this one involves a federal action, directly related to the support of New York State’s goals under the Climate Leadership and Community Protection Act (CLCPA.) Specifically this facility is to support the offshore wind targets included in

the CLCPA of 9 GWs (that’s 9,000 MW) of capacity which is enough to power approximately 4.2 million households when assuming average consumption of about 700 kWhs per month. This goal is an extremely important component of the CLCPA and ensuring that it is done properly and expeditiously and cost effective as possible is absolutely critical. Any missteps such as are involved here are must be avoided in the first instance and dealt with as necessary.

At issue is the apparent lack of notice provided by the Port of Albany to the nearby residents of Glenmont prior to the tree and land clearing that took place earlier this spring. According to attorney Chris Dempf, a resident of nearby Glenmont, residents within a two-mile radius of the clearing activity should have been specifically notified of the action, and most importantly is this case, notified that the land being cleared contained coal ash (*see top of page 2*)

View of the cleared portion of Beacon Island near Glenmont which exposed large sections of coal ash which is being scattered in the wind and very likely ingested by nearby residents.



due to use as a previous landfill to dispose of the coal ash. More specifically, Dempf stated that residents were not provided adequate notice of the public meetings nor to provide comments. That is a very basic requirement of the State Environmental Quality Review Act (SEQRA) and Dempf and his group are suing the Port of Albany under the Article 78 Provision to force the Port of Albany as lead agency to restart the public approval process.

Lastly, in September of 2021 when DEC notified the Albany Port Commission that it's August, 2021 Joint Permit Application was incomplete, it did not refer at all to mitigation of fly ash disbursement due to it containing typically toxic substances including arsenic, lead and mercury in addition to other compounds. Instead it states that:

“Also, the Project would result in direct and indirect benefits, such as: Removal of coal ashes and associated impacted soils within the footprint of the Project (proposed excavation areas) during the construction phase.” <https://dos.ny.gov/system/files/documents/2022/03/appspreappagencycoord.pdf>

The Hudson Mohawk Group wholeheartedly supports renewable energy, but in a manner that respects the full SEQRA (and NEPA—National Environmental Policy Act) processes and notifications. The OSW and other renewable programs (i.e., Solar Roadmap) are critical in helping New York reaching its renewable energy and carbon reduction goals but must be done in prudent manner.

Town of Bethlehem Attempts to Ban New Gas Stations *By Steve Redler*

The Town of Bethlehem in Albany County, is looking to ban the construction of new gas stations or the expansion of existing ones as part of its new land-use plan. As part of the revised Comprehensive Plan the Town Board has approved, new gasoline stations would be prohibited unless a variance was provided. In the age of electric vehicles, new gasoline stations will become increasingly unprofitable. Out of business stations, with underground fuel tanks, will become an eyesore. There could be substantial costs to remove the storage tanks,

not to mention the remediation of the surrounding area if the tanks have leaked. These costs could discourage future businesses from locating at the site. To implement the ban the Town would have to change the Zoning Law and possibly succeed in a lawsuit brought by fossil fuel companies. Several convenience stores have expanded or plan to expand the number of gasoline or diesel pumps while at the same time the amount of gasoline sold is dropping.

Inflation Reduction Act—Energy/Climate (IRA) Highlights

After more than a year of discussion, debate and outright stalling by some U.S. Senators, the Hudson Mohawk Group is pleased to acknowledge that as this is being written, the IRA is poised to pass the Senate and House within the next week. The long term benefits to clean energy and reducing carbon in the atmosphere are very promising. Much more on this as it is rolled out and implemented.

Clean Hydrogen Production Tax Credit (45V)

Creates a new 10-year incentive for clean hydrogen production with four tiers and a maximum of 4 kilograms of CO2 equivalent (CO2e) per kilogram of hydrogen (H2).

Extends Production Tax Credit for Applicable Renewable Energy Sources: This tech-specific PTC ends in 2024 and is replaced by the new tech-neutral Clean Electricity PTC (45Y) which begins in 2025. Includes solar, geothermal, wind, closed- and open-loop biomass, landfill gas, municipal solid waste, hydropower, and marine and hydrokinetic facilities to 2024.

Extension of Energy Investment Tax Credit (Section 48): Extends the existing energy investment tax credit for applicable energy projects. This tech-specific ITC ends in 2024 for most technologies and is replaced by the new tech-neutral Clean Electricity ITC (48D), which begins in 2025.

Clean Vehicle Credit (30D): Maintains the existing \$7,500 consumer credit for the purchase of a qualified new clean vehicle, including electric vehicles, plug-in hybrids, and hydrogen fuel cell vehicles.

Previously Owned Clean Vehicle Credit (25E)

Creates a consumer tax credit for the purchase of previously owned clean non-commercial vehicles, including electric vehicles and plug-in hybrids. Credit is equal to the lesser of \$4,000 or 30% of the vehicle cost.

Advanced Industrial Facilities Deployment Program: Creates a new \$5.8 *(see top of page 3)*

billion program under the Office of Clean Energy Demonstration (OCED) to invest in projects aimed at reducing emissions from energy intensive industries. Includes iron, steel, concrete, glass, pulp, paper, ceramics, and chemical production.

• There are a few provisions favoring the fossil fuel industry which we wholeheartedly oppose which became necessary to appease Senator Joe Mancin (West Virginia) which are:

Oil and Gas—Increases offshore oil & gas royalty rates to a minimum of 16.66% from 12.5% for the next 10 years after the enactment of this bill. Increases onshore oil & gas leasing minimum bid from \$2 to \$10 per acre for the next 10 years after the enactment of this bill.

Overall, by most accounts this is considered a victory for the environment and for reigning in global warming with the understanding there is a long way to go!

Adirondack Park State Land Master Plan -- Wild Forest Roads - The Sierra Club Position -

by Roger Gray

On June 2, the Adirondack Park Agency held a public meeting to solicit input on the Adirondack Park State Land Master Plan's Basic Guideline #4 for areas classified as 'Wild Forest,' which states:

Public use of motor vehicles will not be encouraged, and there will not be any material increase in the mileage of roads and snowmobile trails open to motorized use by the public in wild forest areas that conformed to the master plan at the time of its original adoption in 1972.

The APA was seeking public input concerning its interpretation of the Guideline, and posed the following questions:

1. *What was the existing road mileage on lands classified as Wild Forest in 1972? What is the existing road mileage on lands classified as Wild Forest today?*
2. *What constitutes a material increase in road mileage?*
3. *Does the Department of Environmental Conservation Commissioner's Policy-3 mileage meet the definition of a road in the SLMP and therefore require inclusion in the total Wild Forest road mileage calculation? (DEC's Commissioner Policy 3 (or "CP-3") allows DEC to issue permits to qualifying people with disabilities authorizing motor vehicle access on certain specified*

State lands.)

According to the APA, its final interpretation of Wild Forest Basic Guideline #4 will establish a baseline for road mileage in Wild Forest classified lands. Following are the Sierra Club comments Atlantic Chapter Comment: (The comment deadline was July 12.)

The US population is now more than 1.5 times what it was in 1972. Increasing population pressure is impacting practically every aspect of life. It is therefore all the more critical that the APA faithfully adhere to its core mandate, as stated in the Adirondack Park State Land Master Plan (APSLMP): "protection and preservation of the natural resources and state lands within the Park must be paramount."

In this time of increasing population pressure, development pressure, global warming, and wildlife habitat disruption due to climate change, it is critical that the Adirondack Park remains a refuge of undisturbed solitude for humans and wildlife.

In this context, the APA must strictly interpret the definition of roads in the State Land Master Plan, In Wild Forest areas, as meaning any route on which motorized vehicles can travel. This must include 'administrative roads', and CP-3 roads. These nominally different categories of roads must not be excluded from the total mileage count. Indeed, the definition in the APSLMP cannot be more clear: "Road – an improved way designed for travel by....motor vehicles...." No exceptions; the goal must be to avoid "impairing the wild forest atmosphere" (Guideline #1).

Regarding the Guideline #4 reference to "no material increase" in roads, the APA proposed definition of 15% is preposterous. By any measure, 15% is a "material increase." A "no material increase" figure would be in the range of 2% -3%.

Going forward in assessing questions of this type, the APA is obliged to now make these assessments in the context of New York's Climate Leadership and Community Protections Act, which requires New York to reduce greenhouse gas emissions 40 percent by 2030 and 85 percent by 2050 from 1990 levels. It would be highly irresponsible of the APA to consider expanding the Wild Forest road network, and the concomitant increase in motor vehicle use and CO2 emissions, in the face of this legislation and the dire consequences global warming.

Overuse and "carrying capacity" of the Forest Preserve are problematic issues facing the APA these days. Happily, the APSLMP provides the APA with clear guidance for addressing these concerns in Wild Forest areas: "no material increase in the mileage of roads..."

"Gabi's Garden of the Albany Free School—Needs Volunteers!

Gabi's Garden is currently looking for volunteers for morning and evening watering shifts, (*see back page*)

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weeding, and other general garden tasks. Gabi's Garden is located at 93 Grand Street on the corner of Wilbur and Grand Street and is otherwise known as "People's Park". Summer Garden Drop-In hours are every Wednesday evening from 6 - 8 pm and Sunday evenings from 5 - 8 pm with annual adjustments made in the fall and spring to reflect the changing daylight hours. If these hours do not work for you please email either Alexis Bhagat at nadalex.net or Erin Johanns at: erinnjohanns@gmail.com Thanks for your help!!

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