

LONG ISLAND PROGRESSIVE COALITION

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May 24, 2022

To the NYS Climate Action Council:

The Long Island Progressive Coalition (LIPC) is a grassroots community-based organization founded in 1979. We fight for structural change at the local, state, and national levels to attain racial justice, build community wealth, and realize a just transition to a 100% renewable energy future. We have a long history of combating the expansion of dangerous and harmful environmental projects. Along with stopping the bad, we also have a long history of building a better future, as in 2011/2012 when we passed and implemented Green Jobs Green New York. We are also a leading member of NY Renews, the unprecedented statewide coalition responsible for passing New York State's landmark climate bill, the Climate Leadership and Community Protection Act (CLCPA), the subject of our comments today.

We are just one organization among many in NYS already leading the transition to a 100% renewable energy economy by shifting policies and building renewable energy solutions on the ground. From PUSH Buffalo's School 77 project to Uprose's management of the first cooperatively-owned solar garden in NYS to the Long Island Progressive Coalition's nonprofit solar program, community organizations are already building alternative models that will guide our future energy system.

Long Island is on the frontline of climate change. Our coastal communities are threatened by sea-level rise causing flooding and home damage; families are still recovering from the devastation of Superstorm Sandy; and our neighborhoods are overburdened with air pollution from fossil fuels, causing cancers, asthma, and heart disease. We need to meet the goals of CLCPA for the health and safety of our Island.

It is with this background, ideology, and vision for Long Island, the surrounding region, and New York State, that the Long Island Progressive Coalition, in solidarity with partners from labor, faith, immigrant, and environmental justice communities offer the following comments in unequivocal support of a rapid and equitable implementation of the Climate Leadership and Community Protection Act that must be reflected in the Final Scoping Plan.

Upholding Indigenous Sovereignty

We are allies to the Haudenosaunee Confederacy, the Shinnecock Nation, and the Setalcott Nation whose members were engaged in the drafting of this portion of our comments. These

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Nations are sovereign Nations with political, cultural, and religious agency over their ancestral homelands that is New York State.

It is imperative that Indigenous communities are properly consulted and given decision-making power around the processes taking place at the Climate Action Council (CAC) given the vast implications of policies, land practices, and funding mechanisms being considered. The Executive and the CAC must use appropriate State-to-Nation channels to ensure collaboration from Indigenous communities as to the Scoping Plan in a manner that respects the timeline for the unique decision-making processes within the Nations. Appropriate consultation must occur with both state and federally-recognized tribes as well as non-recognized tribes with populations in New York State.

Indigenous communities in New York State are on the frontline of direct impacts of climate change and have a unique historical relationship to the land and understand best practices for stewardship. They are well informed about how to meet the energy needs of their people. Their voices are critical to ensuring that New York State meets the ambitious climate goals set out in the Climate Leadership and Community Protection Act. There are presently many barriers Indigenous communities face in accessing and benefiting from the renewable energy transition that must be rectified in the Final Scoping Plan. These barriers and concerns can only be addressed when robust, genuine and dedicated State-to-Nation dialogue is conducted over time.

Yet, it is clear from the draft plan that there still has been little or no communication between the state and the Indigenous Nations that will be impacted by the law's implementation. The need for authentic consultation has been repeatedly raised both at meetings of the CAC and the Climate Justice Working Group (CJWG) without a consistently clear response from the state about how it plans to truly grapple with this vital aspect of our climate law.

The Scoping Plan fails to acknowledge the Indigenous Nations within the territory of New York State, but otherwise refers to them in a general acronym for people of color. It only mentions Indigenous Nations or Indigenous Peoples a handful of times and in those few times collapses them with other stakeholders, without recognizing the very particular distinction of their sovereignty. Indigenous Nations have governing power and ecological intelligence that reaches forward and back since time immemorial. There cannot be a policy or directive that meets the overwhelming response to climate change without these Nations at the table exercising their substantive rights and knowledge, including their collective rights of self-determination and land stewardship. NYS cannot merely recognize their participatory rights as people of color under marginalized communities. This illuminates the historical and current tactics NYS uses to try to delegitimize Indigenous Nations exceptional and unparalleled right to the conservation and



protection of land and our non-human relatives. The sovereign status of Indigenous Peoples must be upheld in the climate transition as distinct from other stakeholders.

More specifically, the Final Scoping Plan must address the following:

1) The future of nuclear power in NYS must grapple with the content of “Nuclear Reactors Are Not Green”, a Red Paper by the Onondaga Nation, the Haudenosaunee Environmental Task Force, and the American Indian Law Alliance (available at hetf.org). The paper was written so that the voice of Indigenous Peoples can be heard, in order to document the vast harms from the nuclear power industry and so that the process of healing from these harms can begin. The list of past and ongoing treaty violations is long and troublesome and the deaths of, and devastating human health damage to, Indigenous Peoples are merely collateral damage to corporations and US governments. Prolonging the use of aging nuclear reactors, without a viable plan for the handling of spent fuel rods, at the expense of electric ratepayers is not an acceptable “solution”. The billions of dollars that have been designated for nuclear bailouts would be better spent on promoting truly green alternative energy generation, electric car promotion and infrastructure, and high-speed rail projects. The Red Paper brings light to the dangers of the three aging nuclear power reactors in Scriba, New York and the direct harm that would result to the Onondaga people, and Nation lands and waters, from the continued operations of these aging nuclear reactors and from any accidental release of radiation, or worse; how these three aging nuclear reactors in Scriba are interfering with the stewardship responsibilities of Nation leaders to protect the natural world for future generations; and the dangers to the Onondaga Nation, its waters and its people from the current transport of nuclear wastes down Interstate Route 81, directly through the Nation’s currently recognized territory. This legacy of impact must be the guide to discussions around the fate of nuclear power in NYS.

2) There is a dire need to overcome grid interconnection issues currently in place for numerous Indigenous Nations in order for them to become energy independent. The Onondaga Nation has ongoing issues with National Grid who previously wanted the Nation to sign away its sovereign immunity in order to interconnect a solar project, which the Nation of course refused to do, so now loses 80% of the benefits of the project by paying for an insurance policy on it. This is completely unacceptable. Akwesasne and Tuscarora have also faced issues with their local utility around interconnection and service line agreements. Members of the Shinnecock Nation, where homes are collectively managed, do not have mortgages and are not able to take advantage of solar tax credits, making upfront costs prohibitive. All this speaks to fundamental roadblocks put up by NYS and the utilities operating within NYS that need to be removed. The final Scoping Plan must address these in order to support Indigenous energy sovereignty.



3) More must be included in the Scoping Plan to support Indigenous-led climate solutions like the work of Shinnecock Kelp Farmers who are growing seaweed to improve water quality in Shinnecock Bay and process the harvest into fertilizer to be used on local golf courses, universities, and other properties. The fertilizer will not only address nutrient runoff from these institutions but also avoid additional carbon emissions generated by importing fertilizers. Seaweed in feed can also significantly reduce methane emissions from beef cattle - by as much as 82 percent - making it an important part of reducing emissions in the agriculture sector. Other forms of seaweed farming could be used in general carbon sequestration efforts as well.

4) We have a waste crisis on Long Island and across the state that directly impacts First Nations living in fenceline communities due to poor waste management practices that must be addressed in the Scoping Plan. In particular, tribal members of the Setalcott and other First Nations are living near the Brookhaven Landfill in a community with the lowest life expectancy on Long Island; a community with the 2nd highest Emergency Room hospital admissions for asthma. The draft Scoping Plan fails to mention zero waste strategies to reduce waste that include ending the practice of landfilling. The draft Scoping Plan fails to ensure that we end our dependence on toxic plastic. The draft Scoping Plan fails to call for the elimination of incineration, which impacts host communities as well as the communities where the ash is held. The Setalcott Nation supports anti-landfill community composting initiatives in North Bellport. More must be done in the Scoping Plan to empower such community-led solutions to waste management. The Setalcott Nation is in favor of initiatives for First Nations to steward the land in ways that supports a fossil free society, preserves natural landscapes of fostery, and provides opportunities for restorative agriculture and other restorative practices for land and water.

5) The impacts of large-scale renewable energy development on Indigenous cultural resources must be addressed in the Scoping Plan. As the state looks to increase the number of wind turbines, solar panels, battery storage units, and ancillary infrastructure statewide, it must recognize that doing so necessarily means increasing the number of acres of developed land. By permitting development on hitherto undeveloped, or barely developed land, the state will also be permitting land disturbances. And land disturbance, especially in sensitive areas, has the potential to impact or destroy Indigenous Nations' cultural resources including marked and unmarked graves and former village and hunting sites, among others. What has unfolded around the Horseshoe Solar Project in Caledonia and Rush in Western, NY with its impacts to the traditional lands of the Seneca Nation must be avoided at all costs. The best way to do this is to require consultation—with both Nations still living on their ancestral homelands and with those that have been displaced—early in pre-application processes and throughout permitting. The Office of Renewable Energy Siting should hire a Native Nations liaison to facilitate consultation, provide a single point of contact for Nations, developers, regulators, and others, and help guide conversation or mediate should applications or permitting plans become



controversial. Additionally, NYS should enact the Unmarked Burial Site Protection Act to regulate the discovery of burial grounds, human remains and funerary objects to help end the desecration of Indigenous ceremonial sites throughout NYS.

Addressing climate change necessitates the centering of Indigenous sovereignty, worldviews, and programs. New York's implementation of CLCPA will be a failure if it does not act in accordance with this truth. The current Scoping Plan is completely inadequate on this front and it cannot continue.

Electrification

The Climate Action Council put forth three scenarios for our climate future. Of the three, we advocate for scenario three: low-to-no bioenergy and hydrogen combustion and the simultaneous acceleration of electrification of both buildings and transportation to ensure clean air and a healthy environment. In order to reach a zero-emissions power sector by 2040, we need a rapid transition away from fossil fuels and combustion. Natural gas cooking appliances release methane and NOx while in use, damaging the climate and degrading indoor air quality which leads to respiratory illness.¹

The Long Island Power Authority recently affirmed both the feasibility and benefits of decarbonization of our homes and buildings through heat pumps, which are cost-effective to install and save ratepayers money. One of the benefits of electrification is that it'll add more usage during winter, which will spread the fixed cost of maintaining the electric grid, reducing per kilowatt-hour electricity costs.² In this transition though, we must ensure that disadvantaged communities are prioritized with substantial funding to overcome any upfront costs.

Hydrogen Combustion and Other False Solutions

New York's Final Scoping Plan must not contain false solutions to the climate crisis like biofuels, "renewable" natural gas, biomass, waste incineration, and so-called "green" hydrogen. It must focus on renewable zero-emission technologies that have been proven to work, like solar and wind.

Hydrogen for electricity generation is not a zero emissions technology regardless of how the hydrogen is produced. Hydrogen combustion produces NOx emissions, a tremendously problematic local public health issue and is against Section 7(3) of the CLCPA. Hydrogen is also

¹ <https://pubs.acs.org/doi/10.1021/acs.est.1c04707>

² [LIPA Building Decarbonization Fact Sheet](#)



an indirect GHG and leaks even more than methane. This is of grave importance on Long Island where the New York Power Authority has already begun a hydrogen demonstration project at the Brentwood Plant, located near several environmental justice communities.³ And where the Town of Hempstead announced a partnership with National Grid to begin blending hydrogen into the existing distribution system to heat homes and fuel municipal vehicles which poses a major safety and health risk given how untested hydrogen combustion is, and the wear and tear on pipes which are not equipped to handle hydrogen distribution.

Natural gas and electric utilities across the United States are increasingly pursuing pilot projects to blend hydrogen with natural gas for various end-uses, including as a heating fuel in buildings or for power generation. However research shows these projects would increase consumer costs, exacerbate air pollution, and cause safety risks while minimally reducing greenhouse gases. By comparison, electrification is a proven, low-cost alternative that poses no safety or health risks and can rapidly cut building emissions.⁴

Biomethane—methane captured from landfills and other waste streams or potentially gasified from waste materials or energy crops—is being proposed as a clean, “decarbonizing” substitute for burning fossil gas for electricity, heating, transportation, and industrial processes. This “renewable natural gas,” like fossil gas, is nearly pure methane; if produced and distributed into the existing gas network, it will add to methane leakage and related serious warming effects, as well as local environmental health harms. The promotion of renewable gas is also arguably—indeed self-identified as—a strategic bid to buffer the fossil gas industry from policy and market changes that threaten its very existence. Further, such an effort raises serious concerns about the expansion of carbon-intensive land-uses to grow feedstocks necessary to “green” the fossil gas system, as existing feedstock capacity is only sufficient to replace between 6 and 13 percent of current gas demand (according to the industry’s own analysis).

Waste Justice

Brookhaven Landfill is a mountain and a monument to racial inequality and injustice. North Bellport has had to shoulder this burden disproportionately and as a result has the lowest life expectancy on Long Island of 73.2 years and the second highest ER visits for asthma. Instead of the draft Scoping Plan meeting this moment with efficacy and with community burden in mind, this plan allows for the continued use of dumping in landfills beyond the scope of the climate law with no mention of ending the practice of landfilling, despite it being responsible for the majority of emissions from the waste sector.

³ 2021.10.11 Letter to DEC NYPA re Brentwood H2 Combustion (1).pdf

⁴ [Energy Innovation Hydrogen Research](#)

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No landfills here, no landfills anywhere. We must implement zero waste strategies. Our failure to do so should not mean the transferring of waste to another community in states such as Virginia, Pennsylvania, or communities like Fostoria, OH.

No burning trash. Incineration is a false solution that we have been sold for decades to reduce waste and produce energy. Reducing trash in this manner only ensures that both incineration and landfills continue in our society. This is not a solution, it is a furtherance of the problem. The toxic relationship with incineration and landfilling harms the communities that host these despicable structures as well as the communities in its path anywhere along the wastestream.

Studies find that proximity to waste incineration may increase the risk of cancers, birth defects, and other adverse health impacts. Often, low-income and communities of color are sacrificed to withstand living near these toxic facilities; in the U.S. nearly 80% of municipal solid waste incinerators are situated in areas that are considered communities of color, low-income communities, or both.

There are still ten municipal waste incinerators operating in NYS, and five of the ten are concentrated downstate and overlapping with, already overburdened, disadvantaged communities. Communities consistently and powerfully resist these incinerators that pose high risks to their health and wellbeing.

Long Island alone has four incinerators owned by Covanta (Hempstead, Islip, Babylon, and Huntington). There's also the issue of toxic ash from incineration which then must be disposed of carefully (advocates are currently fighting an incinerator ash dump on Long Island). There is an active whistleblower case, in Covanta Hempstead, of improper management of this toxic ash.

The Final Scoping Plan should explicitly recommend decommissioning NYS incinerators and ending contracts with out-of-state incinerators by 2030, as well as removing subsidies and rejecting permits for any new incinerators, or incineration facilities by any other names.

The Final Scoping Plan should ban organics to landfills and incinerators, with a goal of ending the shipment of all waste to landfills and incinerators by 2050 and converting these facilities to sustainable uses.

As an alternative to landfills and incinerators, the Final Scoping Plan's waste section should expand local-scale composting and recycling in equitably geographically distributed, well-run sites and facilities. This should include the conversion of some local transfer stations into composting, sorting, and processing sites.



The Final Scoping Plan's waste section must include zero waste strategies to address the waste crisis in DACs, communities overburdened by waste transfer stations, incinerators, landfills, and other waste infrastructure. Zero-waste strategies include re-use, upcycling, recycling, composting (on-site, community, and commercial), and re-fill systems and collection infrastructure.

The Final Scoping Plan must explicitly state that the use of anaerobic digestion includes the pre-condition that, to the greatest degree possible, the energy generated from AD facilities be used on-site (for example, providing power to the wastewater treatment plant that is home to the digester). The use of anaerobic digestion must not lead to the construction of new pipelines that can become part of the fossil fuel distribution infrastructure.

Recycling throughout the final scoping should not include any form of combusting waste, including plastics. This means no "advanced recycling," "chemical recycling," or pyrolysis. The alternative to burning difficult-to-recycle plastics is to stop producing plastics that are difficult to recycle and reduce, and eventually eliminate, the production of these plastics (typically low-value, flexible, resin types 3-7).

Hold Polluters Accountables for Dedicated Funding

New York must establish a dedicated funding mechanism to ensure reductions of both greenhouse gas and co-pollutant emissions and to begin the state's large-scale transition to an equitable renewable energy economy. An equitable economy-wide pollution fee is likely the best approach to generate the necessary funds in a just manner.

We know from our experience on Long Island with the Grumman Plume, illegal dumping in our parks, and the dozens of superfund sites that polluters themselves should foot the bill for the damage they have done.

Good Green Jobs & Community Transition

To achieve the goals set out in the CLCPA, at least 211,000 new jobs are expected to be added by 2030 in the transportation, buildings, fuels, and electricity sectors. This represents a net increase of 189,000 jobs by 2030. By 2050, this number (net) will jump to 268,000. Long Island is projected to see around 33,600 of these net jobs.⁵ All these jobs must include strong labor

⁵ [JTWG-Jobs-Report \(2\).pdf](#)



standards including prevailing wage, benefits, and local hiring provisions, funding for workforce development, and more.

We should establish a Worker and Community Assurance Fund to provide direct age replacement and pension support to fossil fuel-dependent workers as well as support to communities who rely on fossil-fuel dependent industries. We need to ensure communities that host major power plants like Yaphank, Port Jeff, Oceanside, Brentwood, Glenwood, Hempstead, Babylon, and Northport are made whole.

Compliance & Accountability

The mandates put forth by the Climate Action Council must be legally enforceable against industries and include timelines for the reduction of emissions by sector. Provisions for environmental justice and emission reduction mean nothing if they cannot be enforced or if there aren't rules in place for what happens when our climate justice laws are broken.

The Final Scoping Plan must specify the level of mandated reductions in greenhouse gas emissions and co-pollutants that each industry sector must achieve by 2050 and the other dates set forth in the CLCPA, as well as a timeline for achieving such reductions. The final plan should also specify the state agency or agencies responsible for enforcing the CLCPA targets for each sector. In total, the industry sector reductions should achieve the CLCPA targets. The draft scoping plan does not clearly specify GHG emissions targets for certain sectors, indicate current targets that are inadequate to the overall CLCPA targets (i.e. 85% reductions in GHG emissions by 2050), or include legally enforceable goals for industry action.

The Final Scoping Plan must have detailed recommendations for regulations for each sector of the economy to ensure that CLCPA targets are achieved. "Negative emissions" technologies should not be relied on to meet CLCPA targets. The plan must also provide interim annual benchmarks that specify the reductions required for each period and by industry sector. The principles embodied in the Gas Transition and Affordable Energy Act can be looked to as a model for these policies.

There must be legally enforceable mandates for each sector applicable to both businesses and individuals, as well as specific business targets when feasible. The Final Scoping Plan must specify in detail the regulatory mechanism by sector once targets are set per industry. This is to ensure that each can achieve its goals, and the regulatory steps, including legislation, necessary to achieve these goals. While the current scoping plan has instances where regulatory measures are set forth, such as in the buildings sector, this is not true for every sector.

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To further these incentives, the CAC must review the state's regulatory structure by industry sector to determine what legislative and regulatory changes are necessary to ensure that structures are put in place to mandate that all businesses in New York comply with the clear GHG and co-pollutant reduction targets by a schedule that conforms with the CLCPA and put recommendations for such changes in the Final Scoping Plan.

Additionally, there should be more clarity on each agency's obligations in regard to CLCPA climate and equity mandates: Sections 7(1), 7(2), and 7(3) in Article 75 of the Environmental Conservation Law. The provisions that are set forth in section 7(1) require all state agencies to "assess and implement strategies to reduce their greenhouse gas emissions," section 7(2) the "climate screen" that requires all state agencies and other entities to consider whether the permitting actions, contracts and other decisions in regard to GHG emission goals and identify alternative mitigation measures; and section 7(3), the "equity screen" that provides that permits, contracts, and other decisions cannot "disproportionately burden" disadvantaged communities. These provisions have a significant number of ambiguous or unresolved legal issues. But this will also require broad expertise in climate policies, including how to implement internal operations in collaboration with state agencies to make well-informed changes with internal practices and evenly implement the CLCPA.

Lastly, the Final Scoping Plan should establish a process to ensure the achievement of the CLCPA investment mandate. Under the CLCPA, 40% of the benefits of energy and related programs must benefit "disadvantaged communities" to allow economic development through clean energy. This "investment mandate" is intended to ensure that communities of color and low-income communities will get their fair share of the benefits of our state's transition to a renewable energy economy and that we can begin to address the historic harms suffered by so many of these communities. The Climate Justice Working Group (CJWG) or another state entity should provide formal guidance to state agencies that are subject to the investment mandate as to how to modify budgeting, contracting, grant-making, and other procedures so as to implement this critical provision. Without this guidance and strong leadership, the investment mandate provision is unlikely to be implemented in accordance with the statutory intent.

Sincerely,

Lisa Tyson

Director