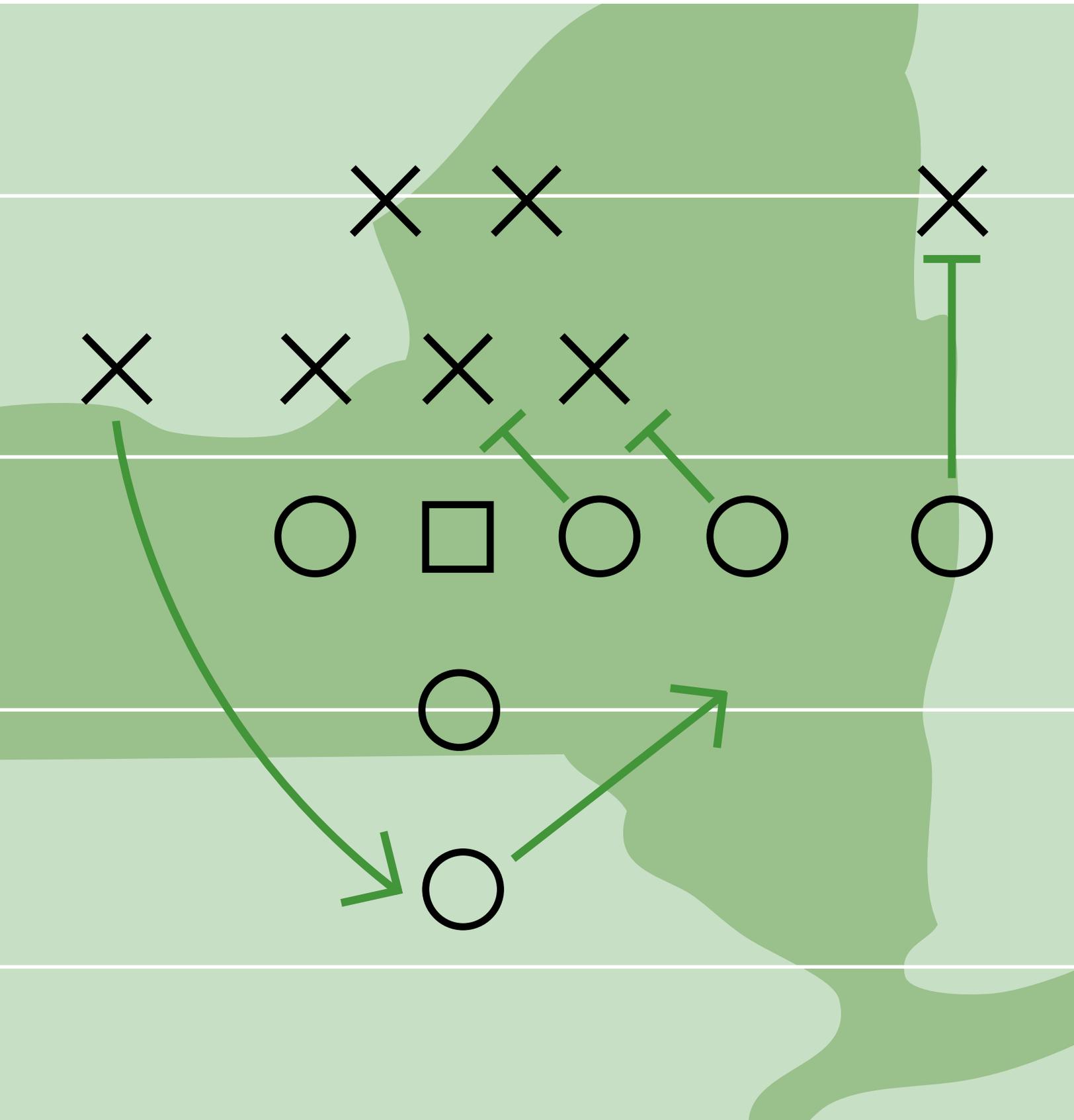


2012 GREEN PLAYBOOK

Advice from New York State's **Environmental** Organizations
For the Governor & State Legislature





SHERIDAN

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TABLE OF CONTENTS

INTRODUCTION	2
MEMO #1 Protect New York from the Dangers of Fracking	3
MEMO #2 Invest in Solar Energy	4
MEMO #3 Cut Climate-Altering Pollution	5
MEMO #4 Strengthen the Regional Greenhouse Gas Initiative	6
MEMO #5 Invest in Public Transit	7
MEMO #6 Rebuild New York's Environmental Agencies	8
MEMO #7 Restore the Environmental Protection Fund	9
MEMO #8 Reduce Disposable Bag Use	10
MEMO #9 Fix the Brownfield Cleanup Program	11
MEMO #10 Require the Disclosure of Toxic Cleaning Product Ingredients	12
ACKNOWLEDGEMENTS	13



INTRODUCTION

Welcome back to another year of action-packed environmental policy making in the New York State Capitol. From the dangers posed by industrial gas drilling by means of high-volume, horizontal hydraulic fracturing, or “fracking,” to the ticking time bomb of climate change and the pressing need to preserve the Empire State’s peerless natural heritage, New York has a slew of challenges to overcome. As such, Governor Andrew Cuomo and state legislators will be faced with crucial choices in 2012.

If state leaders choose to use our *Green Playbook*, their actions could preserve New York’s natural treasures while helping the state become a cleaner, healthier, and more prosperous place to live. If elected officials fail to use the *Playbook*, their actions could result in more pollution, toxic contamination, and missed opportunities, thus leaving the costs of their shortsightedness to our children and grandchildren.

In many respects, this year’s headline-grabbing environmental debates have a common theme. While New York looks ahead, will our energy future rely on dirty fossil fuels, likely to bring environmental degradation? Or will our future instead rely on clean energy, and at the same time preserve the natural areas, parks, and bodies of water that make New York State our home?

From our perspective, this one’s easy: when the choice is dirty fossil fuels or clean energy, clean energy wins every time. And when the decision is between shortchanging New York’s environment or recognizing the benefits of conservation and preservation, conservation comes out ahead.

Each of the memos in the *2012 Green Playbook* ties back to New York’s future in one form or another. Highlights include:

- Protecting against the dangers of industrial gas drilling and determining whether fracking should be permitted. The state’s current fracking proposals envision a radically transformed landscape.
- Reducing greenhouse gas emissions and protecting future generations from the ravages of climate change. The storms New York experienced last summer were no fluke. The world’s climate is changing, and our state should reduce the pollution causing it.
- Establishing a new market to encourage the growth of solar power in New York. Our leaders shouldn’t turn the state’s back on solar power’s potential to energize long-term economic growth and create thousands of green jobs.
- Investing in the health of New York’s natural resources and ensuring the places we love most are protected for generations to come.

This year’s *Green Playbook* describes 10 winning plays for the 2012 Legislative Session. We encourage state leaders to use them as a winning plan for New York’s future.

MEMO #1: Protect New York from the Dangers of Fracking

Environmental Problem: New York State sits atop two major gas-bearing geologic layers: the Marcellus and Utica Shale formations. In order to access the gas trapped in these shales, industry employs techniques known as high-volume hydraulic fracturing and horizontal drilling (a.k.a. “fracking”). These techniques involve drilling nearly one mile down through aquifers and drinking water supplies and then drilling horizontally to access as much of the gas in a given area as possible. A slurry of millions of gallons of water, sand, and chemicals (many of which are known toxins and carcinogens) is then pumped into the well at high pressures to fracture the rock and release the gas.

Fracking poses serious environmental and human health risks. Many of the chemicals used in the process are dangerous for human, plant, and animal life, and a release of these chemicals could wreak havoc and devastation in local communities and ecosystems. According to the New York State Department of Environmental Conservation (DEC), if allowed to proceed as proposed over the next 30 years, industry will attempt to drill more than 60,000 wells in New York—more than 15 times the current annual level of activity. Ranging from surface spills, blowouts, and faulty well drilling practices to industrial accidents, fracking has a demonstrated record of contamination in other states and served as a major source of pollution.

Solution: To protect New York’s environment, particularly our drinking water, the State Legislature should:

- Close a loophole in DEC regulations that exempts fracking waste from treatment as hazardous waste, even though much of the waste meets the current definition of hazardous.
- Require an independent public health assessment of the dangers of fracking before permits are issued by the DEC.
- Clarify that if fracking is allowed, local governments have the ability to make informed choices about where it takes place using planning tools such as zoning and comprehensive plans.

Endorsed by: Adirondack Mountain Club, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, and Sierra Club-Atlantic Chapter.



Photo courtesy of Laurence B. DeWitt,
www.photosbydewitt.com

MEMO #2: Invest in Solar Energy

Environmental Problem: Despite its potential for growth and related economic and environmental benefits, solar photovoltaic (PV) is a negligible portion of New York's energy mix, representing less than one percent of the state's electricity generation. New York lags behind neighboring states such as New Jersey in yearly solar PV installation.

Legislation encouraging the use of solar energy in New York State would increase energy independence, reduce climate-altering pollution, and improve electricity system reliability. Encouraging the deployment of zero-emissions power sources helps displace the use of polluting fossil fuel-based electricity and protects New Yorkers from the harmful effects of air pollution. These harmful effects include asthma attacks and premature deaths in seniors, increased mercury contamination, and destruction of forests by acid rain, as well as the wide-ranging effects associated with global climate change.

Solution: The Governor and State Legislature should create new incentives for the solar PV industry by requiring investor-owned utilities, the New York Power Authority (NYPA) and the Long Island Power Authority (LIPA), to acquire solar renewable energy credits (SRECs). Using this structure, the state should set a goal of installing 5,000 megawatts of solar capacity by the year 2025. Short- and medium-term goals should also be set.

A study completed by the Energy and Environmental Technology Center in 2007 concluded that a New York solar installation target of 2,000 megawatts by the year 2020 could produce as many as 3,000 permanent construction jobs and 10,000 manufacturing/integration jobs. In addition, the Renewable Energy Policy Project concluded that currently available manufacturing facilities in the state could be retooled to manufacture solar components and create 14,617 jobs. And it's important to note that many of the facilities that could be retooled are located upstate in communities eager for economic development and job creation.

Endorsed by: American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, and Sierra Club-Atlantic Chapter.



Photo source: David Reeves/Flickr

MEMO #3: Cut Climate-Altering Pollution

Environmental Problem: Identified as the greatest environmental challenge of our generation, global climate change poses many threats to New York including:

Increased Risk to Infrastructure & Coastal Property—Observations taken at stations around New York show sea levels have been steadily rising for more than a century. The Hudson Valley, New York City, and Long Island will be impacted by sea-level rise. Conservative estimates project a global rise in sea level of 10 inches to two feet by the end of the next century.

Increased Heat-Related Illness & Death—With more days above 90° and 100°, the most serious public health effect for New Yorkers as result of climate change may be increased heat-related illnesses and deaths.

Increased Ground-Level Ozone & Asthma—Another serious public health effect related to global warming involves health risks associated with increased urban smog, known as ground-level ozone.

More Intense Storms & Flooding—New York has already become more vulnerable to extreme weather events, which will occur more frequently and with greater intensity due to increased precipitation and a rise in average temperatures associated with global warming.

Economic Impacts—Climate change-related costs to the state are expected to approach or exceed 10 billion dollars per year by the middle of this century.

Idea Summary: The Governor and the State Legislature should set a target for cutting statewide greenhouse gas emissions and make reducing such pollution the top priority of the forthcoming State Energy Plan. In order to avert the worst effects of climate change, New York State must reduce climate-altering greenhouse gas emissions by 80 percent by mid-century as recommended by the scientific community, and develop a climate change adaptation plan to protect the state's infrastructure and natural resources. That goal should be established in the State Energy Plan, as well as aggressive interim greenhouse gas reduction targets calling for steep reductions by the year 2020.

The plan should also include:

- A greater emphasis on meeting energy needs through energy efficiency and renewable energy development; and
- Less emphasis on waste incineration, nuclear power, and the pursuit of unproven and costly technologies such as coal with carbon capture sequestration.

Endorsed by: The Adirondack Council, Adirondack Mountain Club, Audubon New York, Citizens Campaign for the Environment, Empire State Future, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York Public Interest Research Group, Sierra Club-Atlantic Chapter, The Nature Conservancy in New York, and Tri-State Transportation Campaign.

MEMO #4: Strengthen the Regional Greenhouse Gas Initiative

Environmental Problem: A key piece in New York's strategy to reduce the emissions responsible for global climate change is the Regional Greenhouse Gas Initiative (RGGI). Implemented in 2009, the 10 states participating in RGGI have established a regional cap on carbon dioxide (CO₂) emissions from the power sector and are requiring power plants to possess a tradable allowance for each ton of CO₂ they emit.

After a successful first run, RGGI needs a tune up. The initial RGGI cap was set at 188 million short tons, slightly higher than historical emissions by member states, with New York's allocation set at approximately 64 million tons. At the time the cap was negotiated, assumptions, since proven inaccurate, were made about increases in electricity demand and other factors. The New York State Energy Research & Development Authority (NYSERDA) estimates that in 2009 region-wide emissions from covered facilities at approximately 122 million tons, more than 60 million tons below the cap. This overabundance of RGGI allowances has put downward pressure on allowance prices. If nothing is done to correct the cap, RGGI may not reduce pollution levels by 10 percent by 2018.

Solution: The Governor and the State Legislature should direct the New York State Department of Environmental Conservation (DEC) to:

- Reduce the number of allowances made available by New York. This approach reduces the region-wide cap and uses market forces to determine the most economic means of reducing emissions.
- Expand RGGI to other large stationary sources of air pollution, additional climate pollutants and imported electricity. A large stationary facility emits more than 25,000 metric tons of CO₂ equivalent annually. Adding major stationary sources of pollution is a logical extension of RGGI. Under the Clean Air Act, such sources are already subject to strict air pollution regimes and are significant contributors of CO₂.
- Link to other market-based climate programs in other jurisdictions to enhance environmental outcomes and deliver greater benefits.

Endorsed by: The Adirondack Council, Adirondack Mountain Club, American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York Public Interest Research Group, and The Nature Conservancy in New York.



Photo source: Nick Humphries/Flickr

MEMO #5: Invest in Public Transit

Environmental Problem: The expansion of the interstate highway system in the 1950's encouraged low density, auto-dependent, and decentralized land-use patterns, leading to the consumption of open space, farmland, and water resources; inefficient street layouts; higher transportation costs; higher per capita infrastructure costs; higher per capita energy consumption; and more pervasive health issues, including obesity, diabetes, and heart conditions. In general, sprawling communities with decreasing populations have led to wasteful infrastructure spending.

However, given the Home Rule provision of the New York State Constitution, the state's ability to promote Smart Growth principles has been limited. Encouraging alternate transportation modes where possible is key to curbing the negative impacts of climate change and limiting the sprawl plaguing our communities. Creating more livable and sustainable communities that are people-oriented, interconnected, and less auto-dependent can only be achieved by linking land-use and transportation policy.

Solution: To advance the creation of smarter, less auto-dependent communities, the Governor and the State Legislature should:

- Increase support for transit operations and capital projects and be open to a New York City congestion pricing program as a possible funding stream. The state's economy and environment are dependent on reliable transit service, yet both Metropolitan Transportation Authority (MTA) and non-MTA systems face drastic funding challenges in coming years.
- Stop the diversion of transit dollars. New York State has redirected hundreds of millions of dollars in dedicated transit funding resulting in fare increases, cuts to dozens of bus routes, and the elimination of two New York City subway lines.

Endorsed by: The Adirondack Council, Adirondack Mountain Club, American Lung Association in New York, Citizens Campaign for the Environment, Empire State Future, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, Sierra Club-Atlantic Chapter, and Tri-State Transportation Campaign.



Photo source: Chris Goldberg/Flickr

MEMO #6: Rebuild New York's Environmental Agencies

Environmental Problem: The New York State Department of Environmental Conservation (DEC) is currently operating with 1,000 fewer staff than 20 years ago due to budget cuts, layoffs, the hiring freeze, and retirement incentives, as well as a 50 percent cut to non-personnel spending. The Office of Parks, Recreation & Historic Preservation (OPRHP) has lost more than 1,400 permanent and seasonal staff and has absorbed an 18 percent reduction in resources.

At the DEC, budget cuts have forced the agency to reduce oil spill cleanups by half, endangering water supplies. New York's water program relies on polluters to self-report the toxicity of effluent discharged into surface water. In 1990, DEC staff sampled effluent more than 1,000 times to verify polluters' reports. In 2008, the agency took approximately 100 samples from the thousands of sources releasing tens of billions of gallons of sewage and industrial waste every day, a 90 percent decrease. Without the staff or resources to effectively manage and prevent pollution, the environment and public health are threatened.

Due to budget cuts, New York State's parks system has seen service reductions and been threatened with parks closures until the Governor and State Legislature restored funding in the 2010–11 Fiscal Year. An analysis commissioned by the State Council of Parks identified \$461 million in health and basic safety needs at New York State parks.

Solution: The Governor and the State Legislature should increase resources in the budget available to the DEC and OPRHP to allow these agencies to carry out their statutorily required duties and manage state resources.

Strong regulators help protect New York from the environmental degradation that makes the state a less attractive place to live and work. Rebuilding state agencies is a key component to ensuring long-lasting economic development. And a strong parks system helps provide New Yorkers with access to nature, recreation, and jobs.

Endorsed by: The Adirondack Council, Adirondack Mountain Club, Alliance for New York State Parks, American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, Open Space Institute, Sierra Club-Atlantic Chapter, and The Nature Conservancy in New York.



Buttermilk Falls State Park
Photo source: Brandon Doran/Flickr

MEMO #7: Restore the Environmental Protection Fund

Environmental Problem: Since 2008, the Environmental Protection Fund (EPF) appropriation has been reduced from \$255 million to \$134 million, a 47 percent cut. In addition, enacted state budgets from prior years diverted nearly \$500 million in cash from the fund for general deficit relief, leaving New York State unable to honor its existing obligations. The EPF is currently long on commitments and short on cash. Because of these significant cuts and periodic redirections of resources, the fund is operating on a month-to-month cash management plan and can no longer disburse sufficient funding to meet demand in a timely way. Such delays put many EPF programs, as well as matching funds leveraged from local and federal governments and private sources, at risk.

Initiatives funded by the EPF not only enhance and protect New York's land, air, and water, but also create badly needed jobs and generate revenue. According to recent polls, more than two-thirds of New Yorkers believe the state can and should promote both a strong economy and clean environment. Environmental grant-making is not only good for protecting public health and boosting the economy—it's also popular with New Yorkers.

Solution: The Governor and State Legislature should restore EPF appropriations and increase disbursements from the fund to address the backlog of existing projects and move forward with new projects to benefit communities statewide. Specifically, the Governor and the Legislature should:

- Phase-in unclaimed deposits collected by the state through the Returnable Beverage Container Law (known as the “Bottle Bill”) from the General Fund to the EPF over four years. The measure also specifies this new revenue would not replace the EPF's traditional source of funding, the Real Estate Transfer Tax, but supplement it.
- Consider new ways to leverage monies for environmental projects such as creative use of bonds issued by the Environmental Facilities Corporation or authorizing new conservation funding mechanisms by local governments to maximize return on state investments.
- End the practice of redirecting environmental funds for general budget relief and consider new ways to leverage monies for environmental projects.

Endorsed by: The Adirondack Council, Adirondack Mountain Club, Alliance for New York State Parks, American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York League of Conservation Voters, New York Public Interest Research Group, Open Space Institute, Sierra Club-Atlantic Chapter, and The Nature Conservancy in New York.



Photo © Mark Godfrey/The Nature Conservancy

MEMO #8: Reduce Disposable Bag Use

Environmental Problem: Most people do not recycle plastic bags, which often end up in landfills or cause environmental problems. The U.S. Environmental Protection Agency (EPA) estimates that in 2008 U.S. consumers used 550 tons of plastic shopping bags, 90 percent of which went directly to landfills. Improper disposal of plastic bags results in litter that often blows about in streets, is caught in trees, clogs storm drains and waterways, and harms wildlife.

The U.S. uses approximately 100 billion new plastic bags per year, which are made from petroleum products and natural gas—nonrenewable resources. It takes 12 million barrels of oil to produce the amount of plastic bags Americans use annually. New York's share is about 792,000 barrels, or about one month's worth of oil spilled in the Gulf Coast.

Solution: The Governor and the State Legislature should approve a one- to five-cent fee on disposable paper and plastic shopping bags used in grocery stores and other retail outlets. Charged at the point of sale, the fee would discourage the use of disposable bags and environmentally harmful plastic bags, and discourage the use of replacement paper bags.

Environmental Advocates of New York estimates that a five-cent fee on disposable bags could generate up to \$330 million for the state in the first year. Experience from other jurisdictions is that revenue would decline quickly. Consumers could avoid the cost by using reusable bags or plastic bags from earlier shopping trips, rather than paying the fee.

This revenue could provide resources for state parks improvements and grants to local governments for solid waste management and recycling activities, and support solid waste management activities at the state level.

Endorsed by: American Lung Association in New York, Audubon New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York Public Interest Research Group, Sierra Club-Atlantic Chapter, and The Nature Conservancy in New York.



Photo source: Kevin/Flickr

MEMO #9: Fix the Brownfield Cleanup Program

Environmental Problem: Economic development throughout New York is hampered by the toxic contamination of our state's industrial legacy. Brownfields make neighborhoods unattractive to business development and, in some cases, keep properties off the tax rolls, placing the burden on other property taxpayers. The state's program has been plagued by uncertainty, legal challenges, and a failure to live up to its promise. A 2005 study by the U.S. Environmental Protection Agency (EPA) found that other state brownfield cleanup programs have been far more successful than New York's program. While estimates vary about the number of brownfield sites in New York, it is widely believed there are tens of thousands of such properties across the state.

According to the New York State Department of Environmental Conservation (DEC), so far only 97 sites have been cleaned up and received a certificate of completion making them eligible to claim tax credits. In an effort to close the general budget deficit, the 2010 Enacted Budget defers the payments on certain tax credits (including brownfield tax credits) in excess of \$2 million until after January 1, 2013. As such, within the next fiscal year, a more than \$550 million bill could come due.

Solution: The Governor and the State Legislature should pass legislation to:

- Separate eligibility for the brownfield tax credits from eligibility for the Brownfield Cleanup Program. Allow eligible sites to enter the program in order to receive the associated technical and legal benefits, including assistance and oversight and release from liability.
- Ensure sites contaminated from off-site sources, including historic fill sites, are eligible for participation. All sites with contamination in excess of applicable health-based or environmental cleanup standards or where contamination is likely to be present based on past industrial or commercial use should be eligible for entry into the Brownfield Cleanup Program.
- Link tax credit eligibility to the extent to which certain criteria are satisfied. Such criteria could include whether the site is cleaned up to highest standard, whether a site is being developed to conform to a Brownfield Opportunity Area program, or whether the site is located in an environmental zone.

Endorsed by: Adirondack Mountain Club, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York Public Interest Research Group, and Sierra Club-Atlantic Chapter.



Photo source: Neighborhood Notes

MEMO #10: Require the Disclosure of Cleaning Product Ingredients

Environmental Problem: Household and commercial cleaning products typically contain an array of chemicals that can be harmful to public health and to the environment. A growing body of evidence associates exposure to such chemicals with long-term effects such as cancer and hormone disruption. And because many cleaning chemicals survive the sewage system intact and are released into streams and other bodies of water, there is growing concern such chemicals pose a threat to fish and other aquatic wildlife.

Unfortunately, there is no state or federal requirement compelling cleaning product manufacturers to identify chemical ingredients on product labels. Consumers find it difficult if not impossible to determine whether a particular cleaning product contains dangerous chemicals. For maximum benefit to consumers and their families, disclosures by industry should be made using a centralized database, allowing consumers to make more informed decisions for themselves and their families.

Solution: The Governor should require the New York State Department of Environmental Conservation (DEC) to enforce a 35-year-old law that requires cleaning product manufacturers to disclose the potentially dangerous ingredients in their products.

Article 35 of the Environmental Conservation Law requires companies that manufacture household and commercial cleaners and sell such products in New York State to file semi-annual reports listing the chemicals contained in the products, as well as to describe any company research on such chemicals' effects on public and environmental health. Since state regulations were adopted in 1976, companies have failed to file a single report.

The DEC has committed to begin requiring household cleaning companies to reveal the chemical ingredients in their products and any health risks they pose. At a stakeholder's meeting in October 2010, DEC officials met with public health and environmental groups and cleaning product companies to begin a process for specifying a mutually acceptable timetable and method for making the information public.

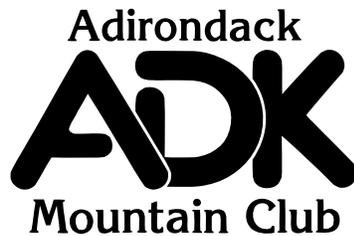
Endorsed by: American Lung Association in New York, Citizens Campaign for the Environment, Environmental Advocates of New York, Long Island Pine Barrens Society, Natural Resources Defense Council, New York Public Interest Research Group, and Sierra Club-Atlantic Chapter.



Photo source: Brittney Bush Bollay/Flickr

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**ENVIRONMENTAL
ADVOCATES OF NEW YORK**

YOUR GOVERNMENT WATCHDOG

353 Hamilton Street
Albany, NY 12210
www.eany.org



2012 GREEN PLAYBOOK
**Who will be MVP for
New York's environment?**