

RIVERKEEPER.

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New York City Council, Committee on Waterfronts
February 22, 2010 hearing on Intro No. 53 & Intro No. 54

Riverkeeper is an independent, member-supported environmental organization whose mission is to protect the ecological integrity of the Hudson River and its tributaries, and to safeguard the drinking water supply of New York City and the lower Hudson Valley.

For more than 40 years Riverkeeper has been New York's #1 clean water advocate. We have helped to establish globally recognized standards for waterway and watershed protection and serve as the model and mentor for the growing Waterkeeper movement that includes more than more than 180 Keeper programs across the country and around the globe.

For close to a decade Riverkeeper has had a strong citizen enforcement presence in the waterways surrounding New York City. From Newtown Creek, to the Gowanus Canal, to the East and Harlem Rivers, Riverkeeper continues to fight environmental law breakers. Riverkeeper's role is that of a citizen watchdog, investigating pollution reports from concerned citizens and patrolling New York City's waterways from our patrol boat. To enforce the law Riverkeeper uses a combination of citizen enforcement actions and coordinated efforts with Federal, State, and New York City Agencies.

Current Riverkeeper Efforts to Combat Pollution in New York Harbor

Riverkeeper maintains an active slate of pollution enforcement cases and investigations. During 2009 Riverkeeper investigated and filed enforcement actions stemming from 1) illegal discharges of liquid cement and aggregate from a cement plant, 2) illegal dumping from a tour bus operator's parking lot, 3) turbid discharges from an asphalt plant, and 4) illegal dumping of scrap metal, all on the Gowanus Canal. On Newtown Creek Riverkeeper has been investigating illegal discharges from several cement plants, oil discharges from a pipe, a barge spilling aggregate material, and dumping of garbage from a waterfront property. In addition Riverkeeper has been looking into the illegal dumping of tires on the Harlem River, possible illegal filling of the shoreline at a concrete plant on the Harlem River, and a shanty town full of dumped garbage.

While many of these investigations are done in coordination with state and local agencies more must be done to coordinate enforcement efforts within New York City. It is for this reason that the implementation of Intro No. 53 and Intro 54 are so important. Riverkeeper's investigations and enforcement actions fill the gap where staffing, budget, and coordination between Federal, State, and City Agencies come up short. The passage of these amendments will go a long way towards increasing the protection of New York City's waterways.

Intro No. 53, Intro No. 54

These bills come at a critical time for New York City's waters. Water quality has dramatically improved since the passage of the federal Clean Water Act in 1972. With the improvement in

water quality the public's attention has turned back to the waterfront as a place to live and recreate. Over the past decade New York Harbor has begun to undergo an undeniable renaissance. Extensive waterfront parks have been built or are planned and beach facilities have been upgraded for the City's 12 million annual beachgoers. Harbor-side land has been rezoned and new residential housing has been built. The Harbor is used in wider numbers by commuters, recreational boaters, swimmers, and anglers.

Despite efforts to revitalize the waterfront illegal dumping and other violations of local, state, and federal environmental laws persist. The tributaries and backwaters of New York Harbor such as Newtown Creek, the Gowanus Canal, Flushing Creek, and Mill Basin take the brunt of this illegal activity.

Riverkeeper strongly supports Intro No. 53, and Intro No. 54. Despite overlapping enforcement jurisdiction between federal, state, and city agencies law breakers on New York Harbor's waterways still slip through the cracks, eluding enforcement efforts. In this era of shrinking budgets, staff, and resources it is more important than ever to implement a comprehensive plan to coordinate enforcement amongst the agencies responsible for waterfront dumping, improve environmental guidelines for waterfront businesses, initiate a waterfront task force, create a centralized contact for reporting illegal dumping, create a monitoring program for problem locations, and a public education program to increase awareness of the problems of dumping.

In addition it is critical to increase the penalties for breaking the law. The current fines for waterfront pollution are outdated at only \$250 per violation. These penalties – levied only if a waterfront polluter is caught – do little to deter polluters. It is widely felt that fines can only act as a deterrent if they eliminate the economic advantage of polluting in the first place. Many polluters likely consider the current fines simply a minor cost of doing business. The new, higher fines would be far more likely to prevent waterfront pollution.

Riverkeeper believes that these bills are not about creating a climate hostile to business. Instead these bills will be used to create a level playing field for the full range of harbor uses, including waterfront businesses, boaters, anglers, swimmers, and nearby residents. By strengthening these laws and coordinating enforcement the vast majority of businesses that are complying with the law are rewarded. Environmental lawbreakers gain an unfair competitive advantage over their responsible counterparts if they are allowed to flaunt the law. They externalize their costs on society at the expense of dirty water.

Staffing and Funding Concerns

Although Riverkeeper strongly supports Intro 53 and Intro 54 we have serious concerns about the funding and implementation of the law. As written the NYC Department of Small Business Services is the lead agency for coordinating enforcement efforts with the Department of Environmental Protection and Department of Sanitation. Within SBS the Dockmaster Unit is responsible for enforcement of these provisions dealing with illegal dumping.

Riverkeeper has a long history of working with the SBS Dockmaster Unit. Riverkeeper has worked with the unit to combat illegal dumping, derelict piers and bulkheads, and

abandoned/derelict vessels on Newtown Creek, Gowanus Canal, and Jamaica Bay. Frank Carnesi and his team play a critical role in protecting New York City's waterfronts.

The SBS Dockmaster Unit currently has two staff members to cover all five City Boroughs. At one time the Unit had a Dockmaster for each Borough, the director of the unit, and administrative support. With 500+ miles of New York City Waterfront to cover the Dockmaster Unit's resources are already stretched thin. The passage of Intro 53 and Intro 54 are crucial to combating illegal dumping in New York City waterways, but are just the first step. Without a commitment to increase funding and staffing of the Dockmaster Unit the implementation of these bills will likely languish.

Conclusion

Thank you for your leadership in proposing Intro 53 and Intro 54. Riverkeeper believes that both are critically important for ongoing efforts to protect New York City's waterways. We look forward in providing any support we can to promote the passage and implementation of the bills.