



March 3, 2021

Via the email to DEPPermitting@dec.ny.gov

Kristen Cady-Poulin
Environmental Analyst
New York Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Re: Riverkeeper Testimony for the March 3, 2021 Public Hearing on the Draft Environmental Impact Statement (DEIS) for the Modification of the Catalum SPDES Permit

Dear Ms. Cady-Poulin:

I respectfully submit the following statement prepared for the March 3, 2021 public hearing on the Draft Environmental Impact Statement (DEIS) for the Modification of the Catalum SPDES Permit.

My name is Paul Gallay, Hudson Riverkeeper. I offer this testimony as both a representative of Riverkeeper and a former member of the DEC staff, responsible for regulating DEP's wastewater treatment operations in NYC. This dual perspective leads me to the inescapable conclusion that, should DEP fail to give full and affirmative consideration to the structural alternatives referred to below, or should DEC fail to require them to do so, it will be a serious abdication of their respective responsibilities that will be to the great disadvantage of all the stakeholders here, whether within the NYC watershed or beyond its borders.

New York City has failed to respond respectfully to a decade of demands from affected communities, when it comes to the issues covered in this hearing.

- *It has failed to take the legally required "hard look" at alternatives to a problem with wide-reaching impacts downstream.*
- *It has failed to consider all impacts.*
- *And it has failed to consider the threats associated with climate change, which are growing more serious each year.*

New York City's management of the Ashokan Reservoir is critically important to the 9.5 million residents of New York City and many Hudson Valley communities that rely on its

drinking water. It's also critically important to the health of the Esopus Creek and the communities on its banks, and to the communities that draw drinking water from the Hudson River. That's why Riverkeeper has been actively working with partners in pursuit of a solution to this multifaceted problem for well over 10 years. This is such a consequential decision, and it's truly disappointing that NYC DEP has failed in such fundamental ways.

The city's protocols for Ashokan releases were implemented by DEP unilaterally, with no assessment of its impacts. For almost a decade, Riverkeeper and the affected communities have been demanding a full environmental study to address the very real impacts that are seen and felt by the communities. The 2013 consent order between DEC and DEP recognized the legal obligation under SEQRA and requires a full environmental review, a requirement that still has not been fulfilled 8 years later.

DEP failed to take the required hard look at the range of structural alternatives, as identified in the 2013 consent order, to minimize or avoid turbid discharges to the Lower Esopus.

DEP studied some of the Ashokan Reservoir and Catskill Aqueduct alternatives previously in 2014; and others more recently in preparing for the Catalum DEIS. In both cases, DEP rejected all structural alternatives with three-paragraph evaluations in the DEIS.

This is not a hard look. In fact, it's hardly any look at all.

Structural alternatives that have potential to mitigate turbid discharges to Lower Esopus, if given a hard look and adjusted where necessary or combined with other alternatives include:

- Ashokan Alternative 2 (adjustable dividing weir crest gates, which could be raised to increase West Basin storage volume during high inflow events),
- Ashokan Alternative 8 (bypass tunnel from Upper Esopus to Lower Esopus, which would divert clean water from Upper to Lower Esopus following high turbidity inflows when West Basin remains turbid) and
- Catskill Aqueduct Alternative 1 (Use of Hudson River Drainage Chamber) to bypass Lower Esopus and discharge from West Basin via Catskill Aqueduct to Hudson River.

Not only have these structural alternatives not been properly analyzed or considered, the impacts of turbid discharges have not been adequately studied in the DEIS.

Among them are the impacts to drinking water intakes on the Hudson River. More than 100,000 people rely on drinking water from the Hudson River, and the operators of treatment plants have reported higher costs from treating water with excess turbidity from Ashokan releases.

Finally, the threat of climate change is near and present.

The storms that prompted the current releases may have been considered rare in the past, but they will become all too frequent in the future. As storms intensify, so will erosion in the

Catskills, resulting in more turbidity. DEP's proposed status quo-oriented approach, which would be like placing a *band-aid on a serious wound*, is no solution to the dynamic and dangerous problem presented here. DEP has paid too little attention to this looming threat, and, indeed, relies on old weather data to predict future conditions, which is reminiscent of one observation during the hearing today: DEP is placing its head in the mud, rather than tackling this situation, head-on.

Quite simply, with this DEIS, New York City is trying to safeguard its drinking water supply on the backs of the downstream communities along the Lower Esopus Creek and the Hudson River. It's time for the DEP to take its responsibilities below the Ashokan Reservoir as seriously as it takes its responsibilities to its customers.

In conclusion, we strongly urge DEC to require a hard look at the structural alternatives and develop a long-term sustainable solution that balances interests of the watershed communities and water users, and accounts for climate change.

Thank you,

Paul Gallay
President and Hudson Riverkeeper
Riverkeeper, Inc.