

**TOWN OF RHINEBECK**

**RESOLUTION 2021077**

**REQUEST TO THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION REGARDING EVALUATION OF IMPACT OF NEW YORK CITY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION'S RELEASES TO THE  
LOWER ESOPUS CREEK**

WHEREAS, Rhinebeck relies on the Hudson River to supply safe and potable drinking water for its thousands of residents; and

WHEREAS, Rhinebeck has previously joined the Hudson 7, a coalition of regional municipalities whose purpose is to ensure the continued availability of safe and potable drinking water; and

WHEREAS, Riverkeeper has advised Rhinebeck and other municipalities regarding its series concern about New York City's discharge of turbid water from the Ashokan Reservoir into the lower Esopus Creek, which in turn flows into the Hudson River, and has provided the Town with a sample resolution, by which the Town could express to the New York State Department of Environmental Conservation ("DEC") the critical importance of DEC carefully reviewing New York City's request for a SPDES permit to allow discharges of turbid water, and to request environmental impacts from the proposed discharges will be avoided or minimized to the greatest extent practicable, including through the consideration and implementation of alternative processes; and

WHEREAS, that the Town of Rhinebeck adopts the below language urging the DEC to exercise its authority and responsibility for enforcing the state and federal laws that protect water quality in our rivers and streams, and as the lead agency overseeing the State Environmental Quality Review (SEQR) process responsible for evaluating the impacts of New York City

Department of Environmental Protection's (NYCDEP) releases to the Lower Esopus Creek; and

WHEREAS, the Esopus Creek is located in northern Ulster County where it travels sixty-eight miles (68) from the mountains of the Catskills to the Hudson River; and

WHEREAS, in 1915, the City of New York completed construction of the Ashokan Reservoir by damming the Esopus Creek in Olivebridge. The Lower Esopus – the Esopus Creek downstream of the dam – flows through the towns of Olive, Marbletown, Hurley, Ulster, Kingston, and Saugerties as well as the City of Kingston, and the Village of Saugerties. The Upper Esopus watershed includes the Town of Shandaken and Woodstock; and

WHEREAS, the Ashokan Reservoir is one of the largest sources of drinking water for the state of New York, providing up to 40% of the water for 9.5 million residents. In addition to New York City, many communities in the Hudson Valley are served by the Catskill Aqueduct, including the Village of New Paltz and the High Falls water district in Ulster County; and

WHEREAS, the DEP constructed a “waste channel” designed to release water from its Ashokan Reservoir to the Lower Esopus, which for nearly a century was not used except for a short period in 2006 because of an emergency; and

WHEREAS, DEP now calls the “waste channel” a “release channel,” though its function remains the same; and

WHEREAS, in 2010, DEP instituted new operating procedures that called for releasing exceptionally turbid water from the reservoir into the Lower Esopus through the previously unused release channel, as it alone deemed “necessary;” and

WHEREAS, elevated turbidity after storms is a long standing problem in the Ashokan Reservoir, and will only be magnified in the future due to increased storm events due to climate change; and

WHEREAS, the designers knew this and constructed the Reservoir with two basins to allow the turbidity to settle in the west basin before moving clearer water into the east basin to send down the Catskill Aqueduct for drinking water; and

WHEREAS, in the past, whenever turbidity levels in both basins exceeded state and federal drinking water standards, the DEP treated the water with a chemical (alum) in the Catskill Aqueduct above the Kensico Reservoir in Westchester County to reduce turbidity by removing the suspended solids; and

WHEREAS, since 2013, the DEP has been required by state and federal law to reduce the amount of alum discharged to the Kensico Reservoir from the Catskill Aqueduct; and

WHEREAS, with its 2010 procedures, the DEP made a major change to its operations, behind closed doors and without community input, environmental review, rules or permit modification regarding the waste channel's operating parameters to release turbid water from the west basin into the Lower Esopus to prevent it from spilling into the east basin, potentially impacting NYC's drinking water quality and requiring alum treatment; and

WHEREAS, when a waterbody is turbid, the levels of light and oxygen within the water are reduced; and

WHEREAS, this negatively affects everything living in the stream, from microscopic organisms and submerged plants to aquatic insects and fish; and

WHEREAS, in particular, it stresses fish and impacts their ability to feed and see their food; and

WHEREAS, fine sediment also physically impacts the stream channel by filling in the natural voids and spaces in the streambed; and

WHEREAS, this reduces habitat for aquatic insects and smothers fish eggs and larvae;  
and

WHEREAS, the Lower Esopus valley has extensive agricultural production that depends on the creek for clean irrigation water throughout the year, turbid water can clog irrigation equipment and potentially impair the quality of the irrigation water to the point where crops cannot be sold at market; and

WHEREAS, the DEP's actions have already impaired use and enjoyment of the creek for recreational activities, including kayaking and ice fishing. Continuing the pollution to the Lower Esopus throughout the summer could also affect bathing beaches along the creek, which must meet water clarity standards for safety; and

WHEREAS, during extended turbid releases from the waste channel, the sediment plume from the Lower Esopus is clearly visible in the Hudson River, which is the drinking water supply for over 100,000 people. The Towns of Esopus, Lloyd, Poughkeepsie, Rhinebeck, Hyde Park, and the City of Poughkeepsie and Village of Rhinebeck draw municipal drinking water from the Hudson River downstream of where the Esopus empties into it. During major releases, the water treatment plants have recorded elevated turbidity, resulting in the need for increased chemical and electricity use for treatment, and increased production of sludge, all of which come at an increased cost; and

WHEREAS, the increased volume of water sent by DEP into the Lower Esopus represents the single largest change to the Creek's hydrologic regime (flow) since the completion of the reservoir; and

WHEREAS, the frequency and intensity of storms has increased in recent years, and is projected to increase significantly in the coming decades. Under current conditions and operating procedures, these storms will increase erosion, turbidity, and the resulting impacts; and

WHEREAS, periodically since 2011, the DEP has dumped millions of gallons a day of turbid, muddy water from the Ashokan Reservoir into the Lower Esopus Creek. DEP argues it has the authority to do so because of its Interim Release Protocol (IRP), which was put in place temporarily pending a full environmental review of the City's releases pursuant to an October 2013 Consent Order. DEC issued the Consent Order to settle an enforcement action it brought against the City with respect to the City's turbid releases in February 2011; and

WHEREAS, the IRP is an inexpensive way for the DEP to preserve the quality of NYC drinking water, but the farmers, businesses and residents along the Lower Esopus have been forced to bear the consequences. The releases have had such negative impacts that in 2013 the U.S. Environmental Protection Agency placed the Lower Esopus on the NYS Impaired Water Bodies List for excessive turbidity; and

WHEREAS, DEP has most recently discharged turbid water to the Lower Esopus Creek following storms during Christmas 2020, and continuing until today; and

WHEREAS, the specific impacts of the current releases to the Lower Esopus are unknown, because DEP did not conduct or provide the county with a baseline assessment prior to initiating releases. A scientific study prior to the initiation of releases was necessary to set the baseline from which to accurately assess environmental impacts; and

WHEREAS, as part of the aforementioned Consent Order, DEP was required to study all social, economic and environmental impacts of the releases and alternative methods to reduce turbidity in the Ashokan Reservoir. Alternatives to be considered included both structural and

operational practices; however, DEP rejected all structural alternatives requiring construction expenditures and proposed instead only slight adjustments to the IRP as the preferred alternative; and

WHEREAS, the DEC has released the Draft EIS for the Modification of the Catalum SPDES Permit and made it available for public review and comment. That Draft EIS concludes that the City's operation of the Ashokan Release channel pursuant to its IRP does not cause any significant adverse impacts to the lower Esopus Creek (ES 29), in the face of the high turbidity releases that communities along the Lower Esopus Creek have witnessed since they began in December 2020; and

WHEREAS, the public currently has an opportunity to comment on DEP's Draft EIS, either through submission of written comments to DEC between now and 5:00pm on June 16, 2021; now, therefore, be it

RESOLVED: that the Lower Esopus is an important contributor to the social, economic and environmental quality along the creek's corridor. It cannot be the solution to NYC's turbid water problems; and, be it further

RESOLVED, that the Hudson River is a critical regional drinking water supply for over 100,000 people in the Mid-Hudson Region. Protecting water quality in this drinking water source is an important regional priority. The current state of Ashokan releases is unsustainable and unacceptable. DEC must consider all the public comments to capture the concerns raised before making a decision about whether to approve or deny approval; and require revision and/or supplementation of the current DEIS. The input of the Town of Rhinebeck on the adequacy of the current DEIS is very important to ensure the community's interests are protected. The potential and actual short-term, long-term and cumulative impacts on the downstream

communities along the Esopus Creek and Hudson River must be recognized and thoroughly studied within the DEIS, including impacts on other drinking water systems, the local economy, and the aesthetics of the area. In addition, Rhinebeck calls for the incorporation of a hard look at a range of alternatives in the DEIS, including examining combinations of structural and operational alternatives. The DEIS must present a long-term plan to stop the mud, specifically accounting for climate change impacts.

**Motion by:** Supervisor Spinzia  
**Second by:** Councilperson Walker

<b>Voice Vote:</b>	<b>Aye</b>	<b>No</b>
Supervisor Spinzia	<b>X</b>	
Deputy Supervisor Pulver	<b>X</b>	
Councilperson Roberts	<b>X</b>	
Councilperson Scherr	<b>X</b>	
Councilperson Walker	<b>X</b>	

This certifies that the foregoing is a true copy of a resolution offered and adopted at a meeting of the Rhinebeck Town Board on April 12, 2021.

  
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 JON GAUTIER, RHINEBECK TOWN CLERK