

RESOLUTION 84 OF 2021

MEMORIALIZING RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, URGING THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO EXERCISE ITS AUTHORITY AND RESPONSIBILITY FOR ENFORCING STATE AND FEDERAL LAWS TO PROTECT WATER QUALITY, PARTICULARLY IN THE RELEASES TO THE LOWER ESOPUS CREEK, WHICH HAS A DIRECT IMPACT ON THE CITY OF KINGSTON AS PER ATTACHED

Sponsored By: Laws & rules Committee: Alderman Ventura Morell,
Scott-Childress, O'Reilly, Tallerman, Worthington

Draft Environmental Impact Statement (DEIS) for the Modification of the CATALUM SPDES Permit to incorporate turbidity control measures, including operation of Ashokan Reservoir in accordance with the Interim Ashokan Release Protocol.

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.

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 Marbletown, Hurley, Ulster, Kingston, and Saugerties, and the City of Kingston, and the Village of Saugerties.

WHEREAS: The Lower Esopus Creek forms the northwest municipal boundary of the City of Kingston. The Creek and its floodplain are biologically important aquatic and terrestrial habitat areas. The floodplain forests, riparian zones, marshes and adjacent grasslands along the Esopus Creek is the second most important high-value terrestrial biodiversity resource identified in the Natural Resources Inventory. The Creek provides significant recreational and tourism potential, with waterfront activities, kayaking, and docks which can be a draw for visitors. The Creek and its floodplain are included in goals of Kingston Open Space Plan with regards to trails and launches and preservation of farmland and open space. Large wood debris dams were removed in 2020 to open up blocked areas. Discussion has begun on an Esopus water trail that would connect to Hurley and Marbletown and Ulster. Turbid water and high discharge makes this recreation less viable.

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.

WHEREAS: The Ashokan dam and reservoir system includes a “to the Lower Esopus, which for nearly a century was not used, except during an emergency in 2006. DEP now refers to the “waste channel” as a “release channel,” though its function remains the same.

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 DEP alone deemed “necessary.”

WHEREAS: Elevated turbidity after storms is a long standing problem in the Ashokan Reservoir, 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. Elevated turbidity after storms and will be magnified in the future due to more frequent and intense storm events due to climate change.

WHEREAS: In the past, whenever turbidity levels in both basins exceeded state and federal drinking water standards, the DEP treated the water with aluminum sulfate, alum, which coagulates suspended solids. Alum is added in the Catskill Aqueduct above the Kensico Reservoir in Westchester County. 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.

WHEREAS: With its 2010 procedures, the DEP made a major change to its operations, 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 turbid water from spilling into the east basin, potentially impacting NYC’s drinking water quality and requiring alum treatment.

WHEREAS: When a waterbody is turbid, the levels of light and oxygen within the water are reduced. This negatively affects everything living in the stream, from microscopic organisms and submerged plants to aquatic insects and fish. In particular, it stresses fish and impacts their ability to feed and see their food. Fine sediment also physically impacts the stream channel by filling in the natural voids and spaces in the streambed. This reduces habitat for aquatic insects and smothers fish eggs and larvae.

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 are not marketable. These crops are part of Kingston’s local food supply.

WHEREAS: The release of turbid water have already impaired use and enjoyment of the creek for recreational activities, including paddling, angling and ice fishing. Is The DEC constructed a canoe/kayak launch and fishing ramp on Sandy Road just off Washington Avenue just over the municipal boundary in the Town of Ulster. Kingston residents use this ramp as the only safe public access to the Esopus Creek. The high turbidity, fluctuating water level and discharge are problems for recreationists as conditions change dramatically on the creek.

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 for those communities.

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.

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.

WHEREAS: Periodically since 2011, the DEP has released 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.

WHEREAS: The Interim Release Protocol 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.

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

WHEREAS: The specific impacts of the current releases to the Lower Esopus are unknown, because DEP did not conduct or provide stakeholders 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 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.

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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 Interim Release Protocol as the preferred alternative.

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. The Draft EIS concludes that the City's operation of the Ashokan Release channel pursuant to its Interim Release Protocol does not cause any significant adverse impacts to the lower Esopus Creek. This conclusion is in contrast to the experience of communities along the Lower Esopus Creek.

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.

WHEREAS: 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.

WHEREAS: The Hudson River is an essential drinking water supply for over 100,000 people in the Mid-Hudson Region. Protecting water quality in this drinking water source is a critical regional priority. The current state of Ashokan releases is unsustainable and unacceptable.

NOW THEREFORE BE IT RESOLVED, that we, as representatives of City of Kingston Common Council in Ulster County, NY, urge the New York State Department of Environmental Conservation (NYSDEC) 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 further;

BE IT FURTHER RESOLVED, that 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 City of Kingston 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, recreation and the aesthetics of the area. In addition, the City of Kingston calls for the incorporation of a detailed 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 reduce the discharge of high quantities of turbid water and specifically account for climate change impacts. A copy of this Resolution should be forwarded to the NYS DEC Public Comment Contact Person: Kristen Cady-Poulin, Environmental Analyst, 625 Broadway, Albany, NY 12233, Phone: 518-402-9167, E-mail: DEPPermitting@dec.ny.gov, Comments sent by regular mail must be postmarked no later than June 16, 2021. E-mail comments must be received by 5:00 p.m. June 16, 2021.

Submitted to the Mayor this 7th day of

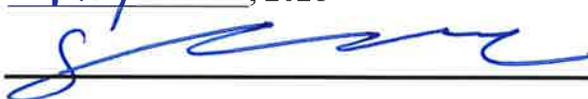
May, 2021



Elisa Tinti, City Clerk

Approved by the Mayor this 10th day of

May, 2021



Steven T. Noble, Mayor

Adopted by Council on May 4, 2021

THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES
COMMITTEE REPORT

DEPARTMENT: C.A.C. DATE: 4-21-21

Description: Memorializing resolution urging the NYS Department of Environmental Conservation to exercise its authority and responsibilities for enforcing state and federal laws to protect water quality as per attached.

Signature: _____

Motion by DT

Seconded by RSC

Action Required: _____

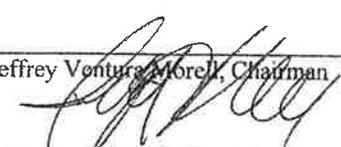
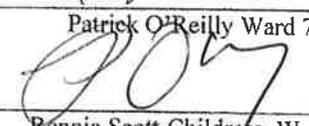
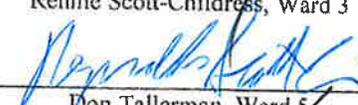
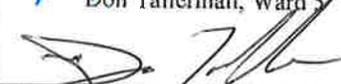
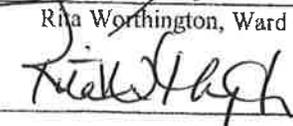
SEORA Decision:
Type I Action _____
Type II Action _____
Unlisted Action _____

Negative Declaration of Environmental Significance: _____

Conditioned Negative Declaration: _____

Seek Lead Agency Status: _____

Positive Declaration of Environmental Significance: _____

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Jeffrey Ventura-Morell, Chairman 	✓	
Patrick O'Reilly, Ward 7 	✓	
Rennie Scott-Childress, Ward 3 	✓	
Don Tallerman, Ward 5 	✓	
Rita Worthington, Ward 4 	✓	

