

**ULSTER COUNTY
ENVIRONMENTAL MANAGEMENT COUNCIL**

Dave Haldeman, Chair
Emilie Hauser, Vice-Chair
Kenneth Panza, Secretary

Proposed Agenda
Regular Monthly Meeting of April 28, 2021
6:30 PM, via Zoom Video Conferencing

“The purpose of the Council shall be to review and advise the county and local governments on present and proposed methods of using, protecting and conserving the environment for the benefit of all the people.”

Until further notice, all EMC meetings will be by Zoom videoconference.

<https://ulstercountyny.zoom.us/j/97442549615?pwd=ZHB6NVJ2MFlvRTFiS3ZJeVFzdWNmUT09>

Meeting ID: 974 4254 9615 | Passcode: 278571

+1 646 558 8656 US (New York)

Call to Order

Approval of Minutes

Consider minutes of the **March 31, 2021** meeting of the EMC.

Announcements

Introduction of Speaker/Presentation

Report from Department of the Environment

Amanda LaValle, Director

Old Business

Ashokan Reservoir Water Releases into Lower Esopus Creek

Draft version of a resolution regarding releases to the Lower Esopus for review and discussion (attached).

Public comment submission: The state Department of Environmental Conservation extended by 90 days the comment period regarding New York City's request to permanently release up to 600 million gallons of muddy water per day from the Ashokan Reservoir into the Lower Esopus Creek. The deadline is now 5 p.m. June 16.

The City of Kingston and the towns of Saugerties, Marbletown, and Hurley are planning to submit comments concerning water releases from the Ashokan by the June 16 deadline.

Ashokan Pumped Storage Proposal

On April 12, 2021, Victor M. Rojas, Managing Director at Premium Energy Holdings, LLC, filed with FERC, “Request of Withdrawal for the Ashokan Pumped Storage Project, FERC Project No. P-15056-000.”

Dear Secretary Bose:

Premium Energy Holdings, LLC (“Premium Energy”) requests to withdraw the preliminary permit application for the Ashokan Pumped Storage Project (P-15056-000).

Our request is mainly due to the social impact the proposed project reservoirs would cause. Once a more suitable project location is identified, Premium Energy may file a new application for a PSH project.

Understanding the Difference between a Council and a Board

Mark Ellison, Town of Esopus, and Kristen Schara, Town of Hurley, have expressed interest in learning more about the differences between a Conservation Advisory Council and an Environmental Board. Emilie Houser will follow-up.

Town Laws Requiring Septic Tank Inspection

Emilie Houser offered to explore town laws that require septic tank inspection at time of property sale.

Danskammer Update

Transcripts of the public statement hearings held on March 31, 2021 are available on the DPS website under case 18-F-0325.

The procedural conference held on April 1, 2021 directed any party intending to file a written issue statement to do so by April 23, 2021. To the extent any party intends to file a motion requesting that the Siting Board dismiss the application, such motion must be filed by May 6, 2021, with replies due May 14. Given the 12-month statutory timeframe for a final Siting Board decision, we are not able to delay the litigation schedule to accommodate motions. [by Sierra Club/Orange RAPP, Riverkeeper]

Based on the discussion at the procedural conference and other practical and legal considerations, including the timeframes imposed by Public Service Law, the following litigation schedule is adopted.

DATE	MILESTONE
April 23, 2021	Parties' Issue Statements
June 25, 2021	Pre-filed Testimony and Exhibits
July 23, 2021	Rebuttal Testimony and Exhibits
August 6, 2021	1. Exhibit Lists (each party that sponsored pre-filed exhibits); 2. Consensus witness schedule, with estimated time for questioning by each party for each witness it intends to question.
August 16, 2021	Commencement of Evidentiary Hearing

New Business

Legislature Report – Energy & Environment Committee

Dave Haldeman

Council Member Roundabout

Adjournment

DRAFT



ULSTER COUNTY ENVIRONMENTAL MANAGEMENT COUNCIL

Dave Haldeman, Chair
PO Box 1800
Kingston, NY 12402
Phone: 845-338-7287

WHEREAS, the Ulster County Environmental Management Council (UC EMC) was formed by the Ulster County Charter and NYS Environmental Conservation Law and its powers and duties include advising on all matters affecting the preservation, conservation, and ecologically suitable use of natural resources of the County; and,

WHEREAS, We, as representatives of Ulster County Environmental Management Council 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.

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 and displacement of thousands of residents. The Lower Esopus – the Esopus Creek downstream of the dam – flows through the towns of Olive, Marletown, Hurley, Ulster, and Saugerties as well as the City of Kingston, and the Village of Saugerties. The Upper Esopus watershed includes the Town of Shandaken, Olive 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. 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. 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, 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; and,

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; 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.

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 through submission of written comments to DEC between now and 5:00pm on June 16, 2021; now, therefore be it

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

RESOLVED, 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; and, be it further

RESOLVED, The current state of Ashokan releases is unsustainable and unacceptable. DEC must require revision and/or supplementation of the current DEIS. The input of all Ulster County municipalities 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, the UC EMC 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.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

DATE: