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**Testimony of Erin McGrath  
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Before the Joint Legislative Hearings on the New York State Budget  
Environmental Conservation  
February 14, 2023**

Chairwoman Krueger, Chairwoman Weinstein, Chairman Harckham, Chair Glick, and distinguished members of the New York State Senate and Assembly, thank you for granting Audubon New York the opportunity to testify on Governor Kathy Hochul's Executive Budget proposal for SFY 2023-24. I am Erin McGrath, and serve as the Senior Policy Manager for the National Audubon Society's New York State office.

The National Audubon Society protects birds and the places they need throughout the Americas using science, advocacy, education, and on-the-ground conservation. Audubon's state offices, nature centers, chapters, and partners have an unparalleled wingspan that reaches millions of people each year to inform, inspire and unite diverse communities in conservation action. In New York State, Audubon leads a network of over 96,000 members, 27 affiliated chapters, seven sanctuaries and nature centers, and thousands of annual visitors, volunteers, and partners throughout the state.

Before addressing the Governor's SFY 2023-24 Executive Budget proposal and Audubon's 2023 budget priorities, I would like to extend our thanks to you and your colleagues for the 2022 legislative session's environmental accomplishments. With your leadership, we updated the New York State Freshwater Wetlands act to provide protections for over one million acres of freshwater wetlands, authorized a \$4.2 billion Clean Water, Clean Air, and Green Jobs Environmental Bond Act, committed a historic level of funding to the Environmental Protection Fund (EPF), and approved a 30X30 goal for New York State. All of these accomplishments will provide critical resources to conserve open space, protect and improve water quality, upgrade aging water infrastructure, prevent pollution, and make New York State more resilient in the face of climate change.

Audubon is a proud partner and supporter of New York State's conservation efforts, and we look forward to working with the Legislature during the 2023 legislative session. As you develop your SFY 2023-24 One House Budget proposals, we respectfully request that you consider the following Audubon priorities.

**Maintain \$400 Million for the Environmental Protection Fund.** New York State has an ongoing obligation to provide reliable funding for environmental conservation. Recurring funding allows the State and its partners to establish long-term plans that are cost-effective and utilize public and private funding for overlapping priorities, such as land acquisition, improving habitat management, and increasing resiliency to climate change. In addition to funding this important work, the EPF generates

\$40 billion in economic activity each year, supports 350,000 jobs across the state,<sup>1</sup> and provides a critical match or supplemental funding for other state and federal programs, such as the Clean Water, Clean Air, and Green Jobs Environmental Bond Act, Great Lakes Restoration Initiative, Delaware River Basin Conservation Act, and the Long Island Sound Comprehensive Conservation Management Plan, among others. We are grateful that the Governor has maintained funding at \$400 million and ask the Legislature to join her in recommitting to this historic funding level.

However, the Legislature should stand firm against proposals that would use the EPF as a source of funding for personnel services at state agencies. The EPF provides capital funding for projects that support the State's stewardship of the environment, and we should be directing more funding toward such projects as the need for greater restoration and conservation becomes more apparent in the face of the biodiversity and climate crises. We agree that agencies should have adequate staffing, but it shouldn't be at the expense of existing environmental conservation efforts supported by the EPF. We look forward to working with the Governor and Legislature to find a solution that maintains full EPF funding while providing funding for adequate staffing.

Within the EPF, Audubon supports investments that advance bird conservation and mitigate impacts to critical habitat through the following categories:

**Zoos, Botanical Gardens, and Aquaria Program.** The Zoos, Botanical Gardens, and Aquaria Program is particularly important to Audubon as it provides funding for our nature centers and sanctuaries, which protect bird habitat and provide educational programming. If funding were cut, it would directly impact the operations and staffing at our centers; including the Montezuma Audubon Center in Savannah, Constitution Marsh Audubon Center in Garrison, Theodore Roosevelt Sanctuary and Audubon Center in Oyster Bay, and Rheinstrom Hill Audubon Sanctuary and Center in Hillsdale. We ask that you restore this funding to at least \$20 million, which was the amount included in last year's Enacted Budget. This will help to ensure continuity of operations at our centers and similar facilities, which are seeing increased traffic during the COVID-19 pandemic as well as additional operational costs.

**Regenerate NY.** The Regenerate NY program encourages private landowners to improve forest health by providing a cost-share for beneficial management activities, including afforestation, reforestation, forest stand restoration, control of competing vegetation, creation of forest openings, construction of deer enclosure fencing, and other forest regeneration-focused practices approved by the Department of Environmental Conservation (DEC). These management strategies promote the successful regeneration of trees and shrubs, creating favorable habitat conditions for birds and making forests less susceptible to climate change and invasive species. Successful forest regeneration is also critical to maintaining and increasing the amount of carbon sequestered by our forests. Funding this program will build on Audubon's successful efforts to manage habitat for woodland birds by supporting the creation of additional quality habitat. We ask you to continue to provide at least \$500,000 in funding for Regenerate NY in the EPF, which includes \$400,000 for the cost of qualifying practices and \$100,000 for education and outreach. If the program is fully subscribed, we would also recommend providing an increase that would serve a greater number of applicants.

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<sup>1</sup> The economic benefits of New York Environmental Protection Fund. New Yorkers for Clean Water and Jobs. (2012, January). Retrieved January 28, 2022, from [https://cleanwaterandjobs.org/wp-content/uploads/2020/12/2012\\_TPL\\_report\\_ny\\_econ\\_benefits\\_epf.pdf](https://cleanwaterandjobs.org/wp-content/uploads/2020/12/2012_TPL_report_ny_econ_benefits_epf.pdf)

**Ocean and Great Lakes Initiative.** The Ocean and Great Lakes line provides funding for research and planning projects that support improved ecosystem-based management of the Great Lakes and our coastal ecosystems. On and around Lakes Erie and Ontario, this funding provides the means for studying recurrent flooding and erosion, examining the control of nutrients and sediment, including through Nine-Element Plans, promoting ecosystem-based management to private and public entities, and providing small research grants through the Great Lakes Research Consortium. Once completed, this research and planning usually leads to additional investments from private and public funders, including the federal Great Lakes Restoration Initiative, which provides the state, local entities, and nonprofits with capital funding to implement ecosystem-based management and restoration projects. We ask you to increase funding for this program from the \$23.5 million proposed to \$25 million for these reasons.

**Increase Environmental Agency Budgets and Staff.** We are very pleased to see that the Executive Budget has proposed 231 new FTEs for the DEC and 237 new FTEs for the Office of Parks, Recreation, and Historic Preservation (OPRHP). With regulatory, management, and stewardship responsibilities for the state's open spaces and natural resources, the DEC is on the front lines of efforts to conserve and restore New York State's environment. Additionally, OPRHP, the Department of State, the Department of Agriculture and Markets, and the Office of Renewable Energy Siting all share in stewarding and protecting our environment. Adequate financial support for these agencies is critical following the passage of the Climate Leadership and Community Protection Act, the Accelerated Renewable Energy Growth and Community Benefit Act, and the Clean Air, Clean Water and Green Jobs Environmental Bond Act, which have placed new obligations on these offices and agencies. Past budget cuts and growth restrictions have impacted their ability to meet mandated activities, and with this investment, the agencies will finally be able to return to their pre-2008 fill levels.

Adequate staffing is also critical for the DEC's charge to manage New York State's wildlife and administer the laws and regulations governing threatened and endangered species, and we are grateful that the Governor has proposed to add 19 new FTEs to the Fish, Wildlife, and Marine Resources Program. The Division of Fish and Wildlife must have sufficient staff to ensure the quick and efficient review of proposed development, issue associated permits, and meet ongoing research and conservation needs.

**Continue to Fund Capital Improvements in State Parks and on DEC Lands.** Audubon and our affiliated chapters partner with the OPRHP to advance bird conservation in State Parks through the "Audubon in the Parks" initiative. This public-private partnership addresses conservation needs through outreach, interpretation, and on-the-ground conservation in Bird Conservation Areas and Important Bird Areas in our State Parks. We strongly support the ongoing restoration of New York State's parks and historical sites, which has revitalized our parks for people and wildlife, and ask that you support the Governor's proposal to provide \$200 million for OPRHP and \$90 million for the DEC for capital projects – including for projects focused on habitat improvement and natural or green infrastructure. Additionally, this funding supports the continued enhancement of the New York State Birding Trail, which is being overseen by the DEC's Adventure NY program.

**Upper Delaware River.** New York State's Upper Delaware River watershed provides critical habitat for birds and contributes \$3.5 billion to the State's economy annually through ecotourism and other ecosystem services. We ask that the State continue to partner with the Friends of the Upper Delaware River (FUDR) and provide at least \$300,000 in funding for SFY 2023-24, which FUDR will distribute as regrants to environmental conservation organizations and other partners in the watershed. Partners who received grants would pursue projects that restore habitat for native plants and animals, reduce

impacts of climate change, improve flood resiliency, upgrade old and failing infrastructure, and improve and expand access to the Upper Delaware River.

**Delaware River Basin Commission.** The Aid to Localities proposal contains \$359,000 in funding that constitutes a portion of New York State's financial commitment to the Delaware River Commission. We encourage the State to provide adequate funding to support the Commission's efforts and cover the full cost of New York State's statutory share. Covering 13,500 square miles and four states—the Delaware River Watershed is a diverse landscape of more than 35 ecological systems and 185 natural communities. It provides essential year-round habitats and critical migratory stopovers for approximately 400 bird species. More than 13.3 million people obtain clean, abundant water from the Delaware River Watershed,<sup>2</sup> including 4.5 million New York City residents. The watershed is a significant economic driver, grossing more than \$22 billion annually in economic activity and \$21 billion in ecosystem goods and services each year and contributing 600,000 jobs and \$10 billion in annual wages to the economy.<sup>3</sup>

**Funding for Clean Water Infrastructure.** New York State's investments in clean water infrastructure have provided significant and needed funding that improves our wastewater and drinking water infrastructure. The amount of funding that New York State has committed to new infrastructure has continued to outpace federal spending for the entire nation and provides a strong example that the federal government should follow.

As you know, New York State has estimated that the combined wastewater and drinking water needs in the state will exceed \$80 billion over the next 20 years, and that estimate does not take into account the cost to replace lead service lines, remove emerging contaminants, or address increased flooding caused by climate change. These costs will continue to grow unless we continue to make significant investments in upgrading and restoring our infrastructure.

For these reasons, we ask you to provide \$1 billion in funding for the Clean Water Infrastructure Act. Additionally, New York State and the federal government must step up to provide additional low-cost loans, zero-interest grants, and technical assistance or planning grants to communities so that they can ensure that their residents have access to clean water.

**Funding for Climate Implementation.** Scientists have determined that climate change is one of the greatest threats to birds. Birds are vulnerable to subtle changes in their environment, such as availability of food, water, and habitat, which can cause them to shift or lose their ranges. Our peer-reviewed research shows that 314 species — roughly half of all North American bird species — are threatened with the loss of at least 50 percent of their current ranges by 2080.<sup>4</sup>

Audubon and other leaders in the science and conservation space agree that in order to help prevent species extinctions and other catastrophic effects of climate change, we must reduce carbon pollution as quickly as possible. This will require us to electrify our economy as quickly as possible, make significant reductions in our use of fossil fuels, and invest in natural climate solutions that sequester carbon emissions.

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<sup>2</sup> State of the Basin 2019 (2019). Delaware River Basin Commission. Retrieved January 28, 2022, from [https://www.nj.gov/drbc/library/documents/SOTBreport\\_july2019.pdf](https://www.nj.gov/drbc/library/documents/SOTBreport_july2019.pdf).

<sup>3</sup> Kauffman, G. J. (2016). Economic Value of Nature and Ecosystems in the Delaware River Basin. *Journal of Contemporary Water Research & Education*, 158(1), 98–119. <https://doi.org/10.1111/jcwr.2016.158.issue-1>

<sup>4</sup> Wilsey, C, B Bateman, L Taylor, JX Wu, G LeBaron, R Shepherd, C Koseff, S Friedman, R Stone. *Survival by Degrees: 389 Bird Species on the Brink*. National Audubon Society: New York.

We support the Governor's proposal to establish an economy-wide Cap and Invest Program as recommended by the New York State Climate Action Council. This program will help New York State to drive down emissions and reach our goal of achieving carbon neutrality by 2050. As this proposal proceeds through negotiations, it will be critical to maintain provisions that provide economic relief to financially distressed families and communities, and we strongly support provisions that require 35% or more of auction proceeds to benefit disadvantaged communities – particularly those who have experienced disproportionate harm from carbon emissions. We would also encourage the Governor to continue working with disadvantaged communities to shape the scope of the program and ensure that historic inequities are addressed and not exacerbated by the provisions of this proposal.

We also strongly support the program's aim to invest auction proceeds in climate mitigation, energy efficiency, clean transportation, and other climate-related projects. Additionally, we would support using a proportionate amount of these funds to implement natural climate solutions that sequester carbon, including restoring freshwater and tidal wetlands and improving the health of our forests – as guided by the work of the Cornell College of Agriculture and Life Sciences and SUNY College of Environmental Science and Forestry at the Climate & Applied Forest Research Institute.

Audubon and its membership are excited to back these proposals and know that New York State will be a strong ally in these efforts. Seventy-five percent of all Audubon members, including a majority of moderate and conservative members, rank climate change as one of their top three concerns among all issues facing America today—and 82 percent of Audubon members (including 61 percent of moderates and conservatives) are personally "very concerned" about growing impacts of climate change.

**Extended Producer Responsibility.** Audubon supports establishing an extended producer responsibility program for product packaging. New York State is facing a statewide solid waste and recycling crisis that is impacting local governments, taxpayers, and our environment at an unprecedented scale. The cost of recycling has skyrocketed while the value of recyclables themselves has declined due to changes in the export market, which leaves local recycling programs in a situation where revenue is not covering the cost of their operations.

These circumstances mean that we need to act now to support local communities and ensure that recycling continues to take place. Otherwise, these recyclables will be bound for a landfill, an incinerator – or even worse – will wind up in the ecosystems that birds need to thrive. On average, an estimated 8 million metric tons of plastic enter the ocean each year due to littering, illegal dumping, and poor waste management on land and at sea. Decreasing our reliance on single-use plastic and ensuring that there are opportunities for them to be recycled appropriately will help reduce the amount of pollution in our oceans and waterways, helping to prevent accidental ingestion by coastal and marine birds.

Scientists estimate that by 2050, 99 percent of all pelagic birds will have consumed plastic at some point in their lives.<sup>5</sup> Some birds consume plastic because it looks like prey, and others fail to avoid microplastics when feeding since plastic has become so abundant. Plastic-packed birds often have little food in their stomachs, suggesting that they stop eating when the materials remain undigested. Additionally, chemical contaminants from plastics can be released in a bird's digestive tract when ingested and cause sub-lethal effects.

In order to resolve this crisis, the State should enact an extended producer responsibility program for product packaging. This would shift the responsibility for the recovery of product packaging from local

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<sup>5</sup> Chris Wilcox, Erik Van Sebille, and Britta Denise Hardesty. Threat of plastic pollution to seabirds is global, pervasive, and increasing. PNAS, August 31, 2015 DOI: [10.1073/pnas.1502108112](https://doi.org/10.1073/pnas.1502108112)

governments to the producers and brand owners of these materials – making them responsible for the end-of-life management of their product packaging. This will relieve local governments of the unpredictable costs associated with recycling, create an incentive for producers to create less packaging in the first place, and develop packaging that is less costly and toxic to recycle.

**New York State Housing Compact.** Many New Yorkers are in dire need of affordable housing, and the Executive Budget proposal would address this need by accelerating the development of 800,000 units of housing over the next decade. We strongly support strategies that convert underutilized spaces, such as excess office space and vacant residential or commercial buildings, into new housing, as well as proposals that allow for more multi-family buildings to be zoned in order to prevent housing sprawl and conserve our natural landscapes. The Governor's proposal also contains an expedited environmental review for some of these proposals, and we are looking forward to working with the Governor and Legislature to ensure that this process provides protections for our natural resources, so that birds and people both have a place to call home.

**Protecting the Health of our Forests.** Forests in New York State provide breeding habitat for over 100 bird species, including some of Audubon's highest priority birds like the Wood Thrush and Black-throated Blue, Cerulean, Canada, and Golden-winged Warblers, Ruffed Grouse, and American Woodcock – many of which have been identified by the DEC as Species of Greatest Conservation Need. Our forests' health can greatly impact these species' reproductive success, which means maintaining healthy forests is essential to supporting these populations. Additionally, healthy forests are resilient to undesirable stressors such as climate change and invasive species and provide critical ecosystem services, including carbon sequestration, watershed protection, flood control, forest products, and recreation.

Unfortunately, our forests' health is under threat from fragmentation, loss of forest acres, and other factors, and some woodland birds are unable to reproduce successfully or find suitable habitat. Many forest birds require structurally complex forest habitat, including an understory composed of young trees, shrubs, and herbaceous plants that provide food and nesting sites. If that understory is degraded or eliminated, these bird species can experience reproductive failure and population declines.

A significant factor that affects the understory, and therefore overall forest health, is overbrowsing caused by an overabundant White-tailed Deer population. Overbrowsing – or the excessive and unsustainable consumption of vegetation – is destroying critical habitat for declining woodland birds and contributing to poor forest health. Research has shown that in areas where deer densities are high (in excess of 7.9 deer/km<sup>2</sup>), bird populations decrease.<sup>6</sup> This is largely attributed to a loss of understory vegetation due to high deer densities and unsustainable browsing. Tree diversity and regeneration, wildflower diversity, and forest bird habitat quality are all negatively impacted when deer become too abundant.

Audubon is highly interested in deer management in New York State and believes that further management steps need to be taken to improve overall forest ecosystem health. Furthermore, as a science-based organization, we support activities that contribute to evidence-based wildlife

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<sup>6</sup> DeCalesta, D.S. 1994. Effect of White-tailed Deer on Songbirds within Managed Forests in Pennsylvania. *Journal of Wildlife Management* 58(4):711-718.

McShea, W.J., Rappole, J.H. 2000. Managing the Abundance and Diversity of Breeding Bird Populations through Manipulation of Deer Populations. *Conservation Biology* 14 (4): 1161-1170.

Rushing, C.S., Rohrbaugh, R.W., Fissic, C.J., Rosenberry, C.S., Rodewald, A.D., Larkin, J.L. 2020. Long-term variation in white-tailed deer abundance shapes landscape-scale population dynamics of forest-breeding birds. *Forest Ecology and Management* (456).

management and recognize that recreational deer hunting is an important wildlife management tool that can significantly influence forest habitat in some areas.

Audubon supports management strategies that would result in greater deer harvests in regions of New York State experiencing forest regeneration failure as a result of overabundant deer, such as opening and increasing hunter access to areas where hunting is restricted (e.g., on State Parks and also through partnerships with private landowners), expanding and extending hunting seasons, providing for more flexibility in the use of Deer Management Assistance Permits, and other activities that encourage and provide more hunting opportunities.

For these reasons, Audubon supports the proposal contained in Part RR of Art. VII TED, which would make the youth deer hunting pilot authorized by the SFY 2021-22 Enacted Budget permanent. The proposal in the SFY 2023-24 Executive Budget would maintain the current structure of the pilot, including the opt-in provisions for counties, and remove the sunset from the statutory authorization.

The pilot program allowed 12- and 13- year-old hunters to hunt big game with a firearm, shotgun, muzzleloader, or crossbow when accompanied by an adult with a valid hunting license – if the county they reside in has opted into the pilot program. Fifty-two counties opted into the pilot program, resulting in over 9,000 12- and 13- year-old hunters being licensed each year in 2021 and 2022, who took over 1,500 deer each season. Additionally, the DEC's review of hunting-related shooting incidents found that youth hunters are the safest group of hunters. No hunting-related shooting incidents, violations, or license revocations involving 12- and 13-year-old hunters occurred during the first two years of the pilot program.<sup>7</sup> Allowing youth deer hunting is also recommended by the DEC's *Management Plan for White-tailed Deer in New York State, 2021-2030* and the DEC's report, *Deer Hunting by 12- and 13- Year-Old Hunters A Report to the New York State Senate and Assembly* – and all other states allow youths 12 years old or younger to hunt big game with a firearm.

### Preliminary Results from the 2022-23 Deer Hunting Seasons

Deer hunting season		2021-22	2022-23
# Licensed 12- and 13-year-old hunters <sup>1</sup>		9,859	9,416
Estimated Participation <sup>2</sup>	Regular Firearms Deer Season	85%	85%
	Youth Big Game Hunt over Columbus Day Weekend	62%	70%
	General Muzzleloader Deer Season	21%	16%
	Holiday Hunt portion of the Late Muzzleloader Season	26%	18%
	Bowhunting Season	31%	25%
	With a Crossbow During any Season	18%	22%
Deer Harvest Reports submitted by 12- and 13-year-old hunters <sup>3</sup>		1,564	1,824

<sup>1</sup> License holders who were 12- or 13-years-old at any time during the deer hunting season.

<sup>2</sup> Data for 2022-23 are preliminary results from an ongoing post-season survey.

<sup>3</sup> Raw harvest reports. All reports for 2022-23 were not available as seasons continue in parts of NYS until Jan. 31.

<sup>7</sup> Deer Hunting by 12- and 13- Year-Old Hunters. A Report to the New York State Senate and Assembly. February 1, 2023 [https://www.dec.ny.gov/docs/wildlife\\_pdf/jrhunterlegislative report22.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/jrhunterlegislative report22.pdf)

*Deer Hunting by 12- and 13- Year-Old Hunters A Report to the New York State Senate and Assembly February 1, 2023* [https://www.dec.ny.gov/docs/wildlife\\_pdf/jrhunterlegislativereport22.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/jrhunterlegislativereport22.pdf)

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Meeting the demand for improvements to our environment and protecting bird species from further decline will take creativity and commitment from all levels of government. Audubon once again urges the Legislature to support historic funding levels for environmental conservation, policy initiatives that help protect our environment, and pragmatic solutions to address the threat of climate change.

Thank you again for allowing me to testify today, and should you need any additional information, please contact me at 518-860-4296 or [erin.mcgrath@audubon.org](mailto:erin.mcgrath@audubon.org).