

NEW YORK STATE LEGISLATURE

November 23, 2020

Honorable Andrew M. Cuomo, Governor
State of New York
Executive Chamber
New York State Capitol
Albany, New York 12224

Dear Governor Cuomo:

We appreciate this opportunity to join with many other impacted stakeholders in strongly urging you to veto legislation (S.5612/A.8349) that has been delivered for final action that, if enacted, would be devastating to soil and water conservation, at many levels, throughout New York State.

While we recognize that these far-reaching, negative consequences may not have been the sponsors' intention, it has been made clear to us by local soil and water conservation districts and other regional conservation leaders, county and town highway superintendents, public works associations, public and private landowners, and the New York Farm Bureau, among others, that **the practical consequences of this action would "inadvertently set conservation efforts back 50 years."**

We know that many of these stakeholders have also contacted you directly and while we won't repeat in any detail here their alarm and concerns over the possible enactment of this legislation, **we hope that you will give every consideration to all of this collective, practical, and reasonable opposition.**

Simply put, approving this legislation is not a risk that New York State can afford to take now, or ever. It is not an action that is even remotely necessary, in our opinion. According to the sponsors of S.5612/A.8349, this measure is needed to protect against the

“possibility” of future federal action to deregulate stream protection. **There is simply no evidence that any such deregulation is on the horizon or, more to the point, would have any impact on stream protection in New York State in any event.**

New York State Water and Soil Conservation Districts across the Southern Tier and Finger Lakes regions we represent, and statewide, enjoy a well-earned and well-deserved reputation for their leadership and long-standing success in conserving and protecting water quality, habitats, fisheries, and public and private infrastructure. These districts have long worked closely with the New York State Department of Environmental Conservation (DEC) and other state and local agencies, especially county and town highway departments, local farmers and landowners, foresters, and others who play key roles in stream protection statewide. **Together, they implement what we believe is already one of the nation’s strongest stream protection frameworks.**

This critical work is accomplished every year by local districts, covering communities statewide, undertaking thousands of stream habitat and stabilization, flood mitigation and remediation, and numerous other projects for which the state **already requires a strict permitting process that carefully and comprehensively oversees this invaluable work.**

We believe that New York State can and should trust and value its existing regulatory framework for stream protection. The overriding proof that it continues to work effectively and expertly is that New York State can boast that these projects save millions of tons of sediment, prevent billions of dollars in damage to public and private infrastructure, and deliver countless additional contributions to the long-term benefit of local communities, economies, environments, and property taxpayers.

In our view, the existing permitting process has worked successfully, is working successfully, and will continue to work as effectively and successfully as needed going forward.

If enacted as written, the amendment proposed by S.5612/A.8349 to require projects involving New York State’s tens of thousands of Class C and below streams to fall under the Article 15 permitting process would:

- increase applications for Article 15 permits by up to 50 times the current number. It has been brought to our attention that Article 15 permits already take the state DEC four to eight months, on average, to issue, with many taking over a year. **The proposed amendment would result in the permitting process taking upwards of 33 months to complete;**
- result in an alarming increase in the workload for an already understaffed DEC, as well as imposing **massive, exorbitant and likely unsustainable state and local cost increases;**
- impose excessive new burdens on New York’s vital agricultural and forestry industries that would have **debilitating consequences for farmers, foresters,**

- loggers, landowners, and others**, as well as risk devastating crop damage and losses and deal a severe blow to the future of sustainable farming statewide;
- put in place **nearly insurmountable obstacles and costs for local highway departments and departments of public works** in the undertaking and completion of projects involving culvert and bridge construction, local infrastructure maintenance, flood mitigation and other projects that annually save counties and local property taxpayers millions of dollars and, most importantly, protect the health, safety and well-being of community residents;
 - greatly **hinder the ability of utilities to perform important routine maintenance as well as emergency responses** to ensure the reliability and resiliency of infrastructure and protect ratepayers;
 - lead to **excessive cost increases, time delays and other burdensome obstacles** for the construction industry, thereby risking jobs and important economic growth; and
 - overall, unnecessarily delaying or, worse, **preventing the completion of stream, flooding, and infrastructure projects** to the great risk of protecting and serving our communities, economies, environments, and property taxpayers.

In short, the impact on local communities, local governments, local economies and environments, and local property taxpayers would be catastrophic – **and at a time when, as you very well know, these very same local communities, local governments, local economies, and local taxpayers have been hard hit by COVID-19 and already face uncertain futures, at best.**

Furthermore, we firmly believe that the DEC **is already authorized** under current state law and regulation to achieve the protections being sought by S.5612/A.8349. New York State, through the DEC, already requires a strict and thorough permitting process for projects involving local streams. Under this existing process, the DEC is clearly authorized to revise and upgrade stream classifications to implement any protections that the department’s professionals deem necessary in specific instances.

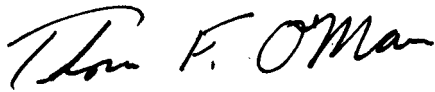
We hope that you will agree that S.5612/A.8349 is unnecessarily overreaching and redundant.

We strongly urge you to veto S.5612/A.8349 in the best interests of the local stakeholders we represent and work closely with, as well as to protect local governments, local environments, local economies, local communities, and local property taxpayers from this overregulation that would only serve to stagnate, not strengthen, the well-earned and well-monitored quality of our waterways.

If we can provide additional information, answer any questions or help facilitate further discussions of these concerns with all of the stakeholders which, again, we hope will be a key part of your assessment of this legislation, please contact us.

We stand ready to assist in any way we can.

Sincerely,



Thomas F. O'Mara
58th Senate District



Philip A. Palmesano
132nd Assembly District



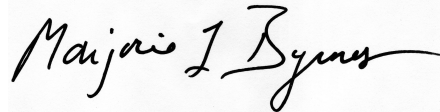
Frederick J. Akshar II
52nd Senate District



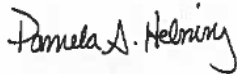
Christopher S. Friend
124th Assembly District



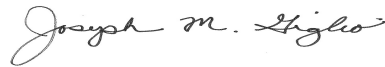
George M. Borrello
57th Senate District



Assemblywoman Marjorie Byrnes
133rd Assembly District



Pamela Helming
54th Senate District



Assemblyman Joseph M. Giglio
148th Assembly District



Assemblyman Andy Goodell
150th Assembly District



Assemblyman Brian M. Kolb
131st Assembly District

cc: Ali Zaidi, Secretary for Energy and Environment
Chris O'Brien, Deputy Secretary for Transportation
Jennifer Maglienti, Assistant Counsel