



9 Thurlow Terrace
Suite 100
Albany, NY 12203

Tel: (518) 869-9731
ny.audubon.org
@AudubonNY

**Testimony of Erin McGrath
Policy Director, National Audubon Society
Before the Joint Legislative Hearings on the New York State Budget
Environmental Conservation
January 28, 2025**

Chairwoman Krueger, Chairman Pretlow, Chair Harckham, Chair Glick, and distinguished members of the New York State Senate and Assembly, thank you for granting the National Audubon Society the opportunity to testify on Governor Kathy Hochul's Executive Budget proposal for SFY 2025-26. I am Erin McGrath, and I serve as the Policy Director 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 90,000 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 2025-26 Executive Budget proposal and Audubon's 2025 budget priorities, I would like to extend our thanks to you and your colleagues for the 2024 legislative session's environmental accomplishments. With your leadership, we committed \$400 million to the Environmental Protection Fund (EPF) with no offloads for staffing and restored \$500 million in investments in clean water infrastructure. 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 2025 legislative session. As you develop your SFY 2025-26 One House Budget proposals, we respectfully request that you consider the following Audubon priorities.

\$500 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,¹ 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 build on this commitment by providing \$500 million in funding in their One House Budgets.

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 increase this funding to at least \$25 million for SFY 2025-26.

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 exclosure 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 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 more applicants.

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 lead to additional investments from private and public funders, including the federal Great Lakes Restoration Initiative, which provides the State, local entities, and

¹ 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

nonprofits with capital funding to implement ecosystem-based management and restoration projects. We ask you to increase funding for this program to \$25 million for these reasons.

Increase Environmental Agency Budgets and Staff. We strongly encourage you to support adequate staffing at the DEC, Office of Renewable Energy Siting, Office of Parks, Recreation, and Historic Preservation (OPRHP), and the Department of State. With regulatory, management, and stewardship responsibilities for the state's natural resources, these agencies are on the front lines of efforts to protect, conserve, and restore New York State's environment. This support is critical following the passage of the Climate Leadership and Community Protection Act, the Accelerated Renewable Energy Growth and Community Benefit Act, the Clean Water, Clean Air, and Green Jobs Environmental Bond Act, the Renewable Action through Project Interconnection and Deployment Act, and the amendments to the Freshwater Wetlands Act, which have placed new obligations on each of these agencies.

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 and improvement of New York State's parks and lands held by the DEC and ask that you support \$200 million for OPRHP and increase the capital funding for the DEC to \$100 million – including for projects focused on habitat improvement and green infrastructure. This funding also supports the continued enhancement of the New York State Birding Trail, which is overseen by the DEC's Adventure NY program. The New York State Birding Trail highlights over 340 spots to bird across New York State, including world-class birding opportunities and local hotspots that can be enjoyed by all New Yorkers close to home.

Upper Delaware River. New York State's Upper Delaware River watershed provides critical habitat for birds and contributes \$3.5 billion annually to the State's economy 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 \$350,000 in funding for SFY 2025-26, which FUDR will distribute as regrants to environmental conservation organizations and other partners in the watershed. Partners who received grants 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.

Funding for Clean Water Infrastructure. New York State's investments in clean water infrastructure have provided significant and needed funding to improve wastewater management and drinking water quality. 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. However, at least \$80 billion is still needed to address current infrastructure needs,² and these costs will grow unless we continue to make significant investments. For these reasons, we ask you to provide \$600 million in funding for the Clean Water Infrastructure Act (CWIA) this year. We also greatly appreciate that New York State has invested in Community Assistance Teams to aid municipalities that lack the internal resources

² NYS Department of Health, Drinking Water Infrastructure Needs of New York State, 2008, health.ny.gov/environmental/water/drinking/infrastructure_needs.htm. NYS Department of Environmental Conservation, Wastewater Infrastructure Needs of New York State Report, 2008, dec.ny.gov/chemical/42383.html

to apply for CWIA funding. We hope you will continue to support initiatives to provide additional low-cost loans, zero-interest grants, and technical assistance or planning grants.

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 threatened by fragmentation, loss of forest acres, and other factors, and some woodland birds cannot 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 bird populations decrease in areas where deer densities are high (in excess of 7.9 deer/km²).³ 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 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.

³ 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., Fissc, C.J., Rosenberryd, 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).

For these reasons, Audubon supports the proposal contained in Part QQ of Art. VII TED, which would extend the youth deer hunting pilot authorized by the SFY 2021-22 Enacted Budget for another five years. The proposal in the SFY 2025-26 Executive Budget would maintain the current structure of the pilot, including the opt-in provisions for counties.

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 have opted into the pilot program, resulting in over 9,400 12- and 13- year-old hunters being licensed each year in 2021, 2022, and 2023, who took over 1,400 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 three years of the pilot program.⁴ 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, February 1, 2024* – and all other states allow youths 12 years old or younger to hunt big game with a firearm.

Preliminary Results from the 2023-24 Deer Hunting Seasons

Participation by 12- and 13-year-old Deer Hunters in Each Big Game Hunting Season

Big game hunting season		2021-22	2022-23	2023-24
# Licensed 12- and 13-year-old hunters ¹		9,859	9,416	9,610
Estimated Participation:	Regular Firearms Season	85%	85%	79%
	Youth Big Game Hunt over Columbus Day Weekend	62%	70%	68%
	General Muzzleloader Season	21%	16%	18%
	Holiday Hunt portion of the Late Muzzleloader Season	26%	18%	18%
	Bowhunting Season	31%	25%	17%
	With a Crossbow During any Season	18%	22%	12%
Deer Harvest Reports submitted by 12- and 13-year-old hunters ²		1,564	1,824	1,487

¹ License holders who were 12- or 13-years-old at any time during the hunting season when 12- and 13-year-old hunters could use a firearm or crossbow.

² Values only include raw deer harvest reports. Without information on reporting rate these values operate as an index but may not accurately represent harvest trends through time. All deer harvest reports and reporting rate information for the 2023-24 hunting season were not available at the time of this report, as deer hunting seasons continued in portions of NYS until January 31. Final deer harvest estimates from the 2023-24 hunting season will be available on DEC's website over the coming months.

Deer Hunting by 12- and 13- Year-Old Hunters A Report to the New York State Senate and Assembly, February 1, 2024 <https://dec.ny.gov/sites/default/files/2024-02/youthhuntprogram.pdf>

⁴ *Deer Hunting by 12- and 13- Year-Old Hunters. A Report to the New York State Senate and Assembly. February 1, 2024* <https://dec.ny.gov/sites/default/files/2024-02/youthhuntprogram.pdf>

Protect Horseshoe Crabs. Horseshoe crabs have existed for over 350 million years and are a keystone species that supports many migratory shorebirds, fish, and other marine life that rely on horseshoe crab eggs for a food source. This includes vulnerable bird species such as the state and federally threatened Red Knot, Whimbrel, Ruddy Turnstone, and Semipalmated Sandpiper, which migrate thousands of miles to the Arctic Circle each spring. Along this perilous journey, these birds stopover on beaches along the Atlantic Coast to rest and feed, primarily on horseshoe crab eggs, to gain enough weight to reach their breeding grounds.

Unfortunately, the horseshoe crab population has been declining drastically, including in New York State. Horseshoe crabs are under many threats, including loss of habitat, warming coastal and marine waters, and overfishing. The Atlantic States Marine Fishery Commission (ASMFC) downgraded New York State's population from "Neutral" to "Poor" in the 2019 Horseshoe Crab Benchmark Stock Assessment and graded it as "Poor" again in the 2024 stock assessment, indicating that current management strategies have been insufficient to restore the horseshoe crab to its historical abundance.

The DEC also lists the horseshoe crab as a High Priority Species of Greatest Conservation Need in the State Wildlife Action Plan (SWAP), which means that they have been identified as having "threats that may put them in jeopardy, and they require timely management intervention to reverse or slow population declines and lead to recovery. Without the implementation of conservation actions over the next 10 years, they are likely to reach critically low population levels in New York."⁵ In the Species Assessment prepared for the SWAP by the DEC, they identify the threats as "commercial harvesting, sea-level rise, and shoreline hardening,"⁶ and note that "Declines in horseshoe crab abundance in New England, including the New York region, have been presumed to be a result of overharvesting (Smith et al., 2017). Despite reductions in quotas, NY horseshoe crab populations remain in poor condition."

Currently, the primary uses for Horseshoe Crabs are for bait for the whelk and eel fisheries and for use by the biomedical industry, which synthesizes a diagnostic compound called LAL from horseshoe crab blood. However, in New York State, Horseshoe Crabs are only harvested for bait, which is used by local fishermen or sold to out-of-state buyers – including fishermen in states with bans on taking Horseshoe Crabs. However, the DEC notes in the SWAP Species Assessment that, "While there currently are no biomedical licenses in NY to harvest horseshoe crabs, this should be considered as a potential threat in the future."⁷

Additionally, the American Eel has been listed by the DEC as a High Priority Species of Greatest Conservation Need, and in the draft 2025 State Wildlife Action Plan Species Assessment, the DEC also recommended that Eel be listed on the State Endangered, Threatened, and Special Concern Species List and designated as Special Concern "due to the declines in abundance and distribution seen within the inland populations across New York."⁸ The DEC has made good on this recommendation and has currently proposed that the American Eel be listed as "Special

⁵ New York State High Priority Species of Greatest Conservation Need Draft List 2025
<https://dec.ny.gov/sites/default/files/2024-11/draftpotentialhpsgcnlist.pdf>

⁶ Marine Invertebrates Species Status Assessments <https://dec.ny.gov/sites/default/files/2024-04/marineinvertsstatusassessments.pdf>

⁷ Marine Invertebrates Species Status Assessments <https://dec.ny.gov/sites/default/files/2024-04/marineinvertsstatusassessments.pdf>

⁸ Freshwater Fish Status Assessments <https://dec.ny.gov/sites/default/files/2024-04/freshwaterfishstatusassessments.pdf>

Concern."⁹ This status and proposed listing call into question whether the American Eel should be subject to additional management actions and whether using one High Priority Species of Greatest Conservation Need to fish for another is appropriate.

Over the years, the DEC has taken steps to restore the New York State population by voluntarily halving their Total Allowed Catch, implementing limited lunar closures during the breeding season, lowering trip limits, mandating the use of bait bags, and further regulating the Whelk fishery. While all of these actions are commendable and greatly appreciated, there is currently no evidence that these additional steps are allowing the population to recover, and it will take years until sufficient data is gathered and analyzed.

Neighboring states, including Connecticut, Massachusetts, and New Jersey, have closed their horseshoe crab fisheries to protect this important species. In light of these actions and the lack of verified growth in New York State's Horseshoe Crab population, we believe it is time for New York State to take additional actions to protect Horseshoe Crabs until there is evidence that the local population is recovering. For these reasons, as part of the discussions around Part UU of Art. VII TED, which would renew the DEC's authority to manage crabs, we ask the Legislature to include language in their One House Budgets that extends the DEC's authority and mandates that the DEC undertake additional management actions to protect horseshoe crabs, such as spawning closures, male-only harvest, closure of additional beaches that provide key habitat for horseshoe crabs and shorebirds, or lowering the current maximum take.

Improving Land Acquisition. We have lost three billion birds since 1970, or a net loss of 29% of the breeding bird population over the last half-century. Forests alone have lost one billion birds, and grassland bird populations collectively have declined by 53% or 720 million birds.¹⁰ Habitat loss is one of the biggest drivers of those declines – making habitat conservation and restoration extremely important to the survival of birds. These losses demonstrate that we need to take immediate action to protect critical habitat by conserving the lands that birds need to survive.

The current pace of land acquisition in New York State is insufficient to conserve at-risk lands and meet our goals under the Climate Leadership and Community Protection Act and the mandate to protect 30% of our lands and waters by 2030. There is a backlog of 96,000 acres of land – valued at \$154 million – waiting to go through the State's land acquisition process as part of the Open Space Conservation Program. We must reform the current land acquisition process in order to accelerate needed conservation.

We are pleased to see that the Executive Budget proposal includes policy proposals and funding to help address the pace of acquisitions. We strongly support the \$200,000 included in the Environmental Protection Fund's Open Space category for pre-acquisition costs incurred by land trusts that are contracted to transfer title to New York State. These funds would be used for "building removal and other site cleanup and preparation costs to prepare the parcel for sale to the State and for future public access, safety, and use."

The Executive Budget also includes a proposal allowing the DEC to acquire conservation easements independently by exempting them from the requirement that the Office of the Attorney General (OAG) review title on these transactions (Part TT Article VII TED). We strongly support this

⁹ Proposed Updates to the List of Endangered, Threatened, and Special Concern Fish and Wildlife Species of New York State - NYSDEC <https://dec.ny.gov/nature/animals-fish-plants/biodiversity-species-conservation/endangered-species/proposed-updates-to-the-list-of-endangered-threatened-and-special-concern-fish-and-wildlife-species-of-new-york-state>

¹⁰ Kenneth V. Rosenberg et al. ,Decline of the North American avifauna.Science366,120-124(2019).DOI:10.1126/science.aaw1313

proposal, but ask the Legislature to go further by reforming the entire title insurance process currently utilized for land acquisition. Under current law, the OAG must approve each title transfer to ensure that there are no title defects that could allow a prior owner to contest the State's acquisition. Typically, purchasers of real property will make a reasonable effort to ensure the title is free of defects and then purchase title insurance to protect against any unknown or improperly recorded property transfers. However, instead of using title insurance, the current practice at the OAG is to conduct a full title history search and verify each deed transfer to ensure that the title is free of defects. This long and onerous process has contributed to the land acquisition backlog. Allowing for the use of title insurance in place of a full title history search would significantly speed up the land acquisition process and allow New York State to meet its conservation goals without removing the OAG's important oversight role.

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 erin.mcgrath@audubon.org.