EARTHJUSTICE

TESTIMONY OF EARTHJUSTICE BEFORE THE JOINT HEARING OF THE SENATE FINANCE AND ASSEMBLY WAYS AND MEANS COMMITTEES REGARDING THE FISCAL YEAR 2025-26 AGRICULTURE BUDGET PROPOSALS

January 27, 2025

Thank you for the opportunity to submit testimony today on the Governor's SFY2025-26 agriculture budget proposals. Earthjustice, as the nation's premier nonprofit environmental law organization, brings far-reaching change by enforcing and strengthening environmental laws on behalf of hundreds of organizations and communities, whether that is in courtrooms, congress, or state houses. We are dedicated to defending the right of all people to a healthy environment, protecting our magnificent wild places and species, and fighting to curb climate change.

The contributions of the agriculture sector to greenhouse gas ("GHG") emissions are often overlooked in the discussion on climate change, yet there are numerous policies and tools New York could adopt to transform this sector to help mitigate catastrophic climate change. With a worsening climate crisis, and a new federal administration executing a vision to benefit wealthy corporate polluters that will harm the wallets and health of regular people, leadership from states like New York is urgent. Below, and detailed further in the subsequent sections of our testimony, Earthjustice has outlined ways the legislature can make the SFY2025-26 budget, and the legislative session, one that saves people money, puts food on people's plates instead of landfills, and enables agriculture to be a tool to reduce climate pollution:

- **Make bold climate and environmental investments**
  - **Include $500 Million for the Environmental Protection Fund (EPF)** – The Governor's proposed budget includes $400 million for EPF but many programs are oversubscribed. Increased funding would help ensure needs are met.
  - **$15.25 Million for Climate Resilient Farms Program** – We applaud the governor for maintaining funding within EPF to reduce the impact of agriculture on climate change and to increase the resiliency of New York farms.
- **Protecting People, Farmland, and the Environment from PFAS Biosolids** – Earthjustice urges the legislature to pursue policy that fills a regulatory void and prevents PFAS biosolids from being spread on land.
- **Prevent hunger and food waste**
  - **$340 Million for Universal Free School Meals** – Earthjustice is excited to see this commitment to provide free breakfast and lunch meals to all students regardless of their family's income, helping reduce food insecurity and costs for families.
  - **Uniform food date labeling** - New York should follow California's lead and take action to require companies to use uniform terms to communicate food quality dates and safety dates and to educate consumers about their meanings. This presents a great opportunity to help consumers save money while reducing the environmental impacts of food waste.
- **Re-pass Good Food New York (S.6955/A.7264 of 2024),** which would allow municipalities to prioritize values-based standards for food procurement.

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Food systems contribute approximately one third of global and U.S. greenhouse gas emissions,[1] and agriculture is the largest contributor of non-CO2 greenhouse gases.[2] Even if all other emissions sources immediately stopped, emissions from the global food system would still raise temperatures by more than 1.5°C above pre-industrial levels (the target limit for warming under the Paris Agreement) within 30 to 45 years, and might exceed a 2°C increase within 90 years.[3]

The State Department of Environmental Conservation ("DEC") indicates that agriculture is responsible for 6% of total state GHG emissions, and that 92% of those emissions come from livestock.[4] Unlike other sectors in New York where emissions have already decreased, livestock management emissions have increased 44% since 1990.[5] And unlike the energy sector, whose contributions to climate change are largely in the form of carbon dioxide, agricultural emissions also include methane and nitrous oxide. Over 20 years, methane has a global warming potential about 84 times greater than carbon dioxide, and nitrous oxide has a global warming potential about 264 times greater than carbon dioxide.[6]

Food systems emit greenhouse gases at all stages of food production:

- Fertilizers and pesticides are made from fossil fuels in an energy-intensive manufacturing process.[7]
- Deforestation, destruction of grasslands, and other land clearing releases tremendous amounts of carbon stored in soils and plants.
- Excess fertilizer applied to crops releases nitrous oxide. On average, producers apply about twice as much fertilizer as the crops can use.
- Cows–both beef cattle and dairy cows–release "enteric" methane with every breath. Manure from cows, swine, and poultry also releases methane and nitrous oxide.
- A small number of large facilities are responsible for the majority of methane emissions. Mitigating emissions from the most concentrated facilities would make a large impact on total emissions.
- Food processing is energy intensive and releases carbon dioxide. New York has over 2,600 food processing facilities.[8]
- About one third of the food produced is wasted. Most of that ends in landfills where it rots and releases methane. This is the largest source of methane emissions in New York

[1] Crippa, M. et al. (2021). Food systems are responsible for a third of global anthropogenic GHG emissions. Nat Food 2, 198–209. https://doi.org/10.1038/s43016-021-00225-9
[2] United States Environmental Protection Agency, U.S. State-level Non-CO_2 Greenhouse Gas Mitigation Potential: 2025-2050: Agriculture Overview, Last visited January 18, 2023 https://cfpub.epa.gov/ghgdata/nonco2/usreports/#page6
[3] Clark, M. A. et al. (2020). Global food system emissions could preclude achieving the 1.5° and 2°C climate change targets. Science 370(6517), 705-708. https://doi.org/10.1126/science.aba7357
[4] N.Y. Dep't of Env't Conservation ("DEC"), Agriculture Forestry, and Other Land Use: 2022 NYS Greenhouse Gas Emissions Report, at 2, https://www.dec.ny.gov/docs/administration_pdf/ghgafolu22.pdf
[5] Id.
[6] Intergovernmental Panel on Climate Change Working Groups I, II and III, Climate Change 2014: Synthesis Report 87 box 3.2 tbl.1 (2014), https://www.ipcc.ch/site/assets/uploads/2018/02/SYR_AR5_FINAL_full.pdf
[7] EPA (2022). Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2020. U.S. Environmental Protection Agency, EPA 430-R-22-003. https://www.epa.gov/system/files/documents/2022-04/us-ghg-inventory-2022-chapter-5-agriculture.pdf; Center for International Environmental Law. (2022). Fossils, Fertilizers, and False Solutions. www.ciel.org/wp-content/uploads/2022/10/Fossils-Fertilizers-and-False-Solutions.pdf
[8] USDA. (2021). Food and beverage manufacturing. US Dept of Agriculture. www.ers.usda.gov/topics/food-markets-prices/processing-marketing/manufacturing/

State.[9] About 40% of this waste comes from the retail/restaurant stage and about 40% from our homes.

Unfortunately, New York's climate law roadmap, known as the Final Scoping Plan, does not go far enough to address emissions from the agricultural sector. The legislature should consider policies that fill the gaps left in the Final Scoping Plan, including but not limited to items identified in our testimony.

Include At Least $500 Million for the Environmental Protection Fund

The Governor's Executive budget proposal maintains funding level EPF at $400 million; however, with many EPF programs often oversubscribed, combined with an incoming federal administration likely to shortchange environmental protections, an increase in funding is needed. We urge the legislature to increase EPF by an additional $100 million.

The Environmental Protection Fund provides critical funding to support farmers' efforts to protect natural resources, reduce climate emissions, and increase their climate resiliency. These programs include (1) the Agricultural Environmental Management (AEM) Program, which provides funding for districts to provide conservation technical assistance and cost-sharing funding with farmers to implement conservation and best management practices; (2) the Agricultural Non-Point Source Pollution Abatement and Control Program (AgNPS), which provides funding to address and prevent water quality issues that stem from farming activities, including nutrient pollution; and (3) the Climate Resilient Farming (CRF), which funds projects to reduce the impact of agriculture on climate change and to increase the resiliency of New York State farms in the face of a changing climate. These programs are both widely popular and underfunded. In the last round of funding for the Climate Resilient Farming program, DAM received 107 applications requesting $48.6 million requested, and they were only able to fund 70 projects, totaling $33 million awarded. In addition, over half of this funding, $17 million, was from the federal government. To achieve the state's climate goals, protect its water resources, and support farmers in the face of a changing climate, it is imperative that the state continue and grow its investment in these critical programs.

The Environmental Protection Fund offers much needed funding to various sectors in New York's environment, and the benefits are apparent:

- According to a study by The Trust for Public Land, every $1 invested in land and water conservation through the EPF returns $7 to the state.

[9] Find the final scoping plan at: https://climate.ny.gov/resources/scoping-plan/

- The EPF supports 350,000 jobs across New York in a broad spectrum of industries including construction, agriculture, recreation, tourism, forestry, recycling, and recreational fishing.
- EPF-supported industries add $40 billion to the state's economy every year.

Prevent Hunger and Food Waste

Cut Grocery Bills by Standardizing Food Date Labels

Currently, food labeling causes a great deal of confusion and a staggering amount of food waste. On grocery shelves today, there are more than 60 differently phrased date labels on packaged food that confuse consumers about whether the food is safe to eat. According to USDA, "best if used by/before," "use-by," and "freeze-by" dates all indicate when a product should be used for peak quality and do not indicate product safety. Additionally, "sell-by" dates tell the store how long to display a product for sale for inventory management and do not reflect product quality or safety. However, many consumers misunderstand these phrases and believe they convey safety-related expiration dates, a point confirmed by USDA-funded research. According to estimates cited by USDA, this consumer confusion accounts for over 20 percent of all food waste in homes.

This food waste has grave economic, resource use, and climate consequences. Food waste costs the average American family of four over $2000 per year. The production of uneaten food also entails millions of acres of agricultural land, billions of gallons of water, and large quantities of air and water pollution caused by pesticides and fertilizer use. It also further drives climate change: Most food waste is sent to landfills where it rots and releases methane, accounting for two percent of all US GHG emissions, or more than half of the emissions attributable to aviation.

New York should follow California's lead and take action to require companies to use uniform terms to communicate food quality dates and safety dates and to educate consumers about their meanings. This presents a great opportunity to help consumers save money while reducing the environmental impacts of food waste.

Reject False Climate Solutions

Biofuels

Continuing or expanding the production of food-based crops for use as renewable biomass is fundamentally not a climate-smart solution. There is strong evidence in peer-reviewed scientific research showing that crop-based biofuels increase rather than decrease GHG emissions, when the full emissions associated with growing these crops are properly taken into account. *First,* land conversion to grow biofuels leads to losses of stored soil carbon. EPA estimates that the RFS program accounts for roughly "20% of the estimated cropland expansion between 2008 and 2016." *Second,* using this land to grow biofuels incurs a carbon opportunity cost. Typically, rates of carbon sequestration on uncultivated grasslands or forests significantly exceed those on biofuel croplands. Thus, using land to grow biofuels in place of uncultivated land leads to lost carbon sequestration. *Third,* crop-based biofuel production results in direct emissions of nitrous oxide, a GHG with almost 300x the global warming potential of carbon dioxide. Increased biofuel emissions from nitrogen fertilization alone can completely negate any emissions savings from reduced fossil fuel usage. *Finally,* the production of crop-based biofuels contributes to air and water pollution and reduces habitat for endangered and threatened species.

The climate harm from continuing to incentivize crop-based biofuels can be starkly seen when compared with the cleaner option of electric vehicles. Instead of needing nearly 60 million acres for biofuels as we do now — equivalent to about all the land in Illinois and Indiana combined, we'd need only 200,000 acres of solar panels — roughly the size of New York City — to provide the same transportation energy. This would leave over 59 million acres to help us draw down carbon and stabilize the climate or to feed people.

California's LCFS experience offers a stark warning about relying on this false climate solution. The LCFS has resulted in a dramatic increase in the production and use of crop-based biofuels, with significant air quality impacts on communities near biofuel refining facilities, increased air pollution from biofuel use in vehicles, and indirect land use changes that exert upward pressure on food commodity prices, potentially leading to food shortages and increasing food price volatility.

Manure RNG

Anaerobic digesters, which capture some of the methane from animal manure storage to produce biogas, are increasingly touted as an effective method to reduce GHG emissions from industrial animal factories and as a source of clean energy. However, a significant and growing body of scientific evidence demonstrates that manure digesters' short-term benefits are uncertain at best, because digesters and associated infrastructure leak methane, and their byproduct digestate emits

methane and nitrous oxide, another powerful greenhouse gas. Studies suggesting that digesters reduce emissions frequently fail to compare digesters to other methods of manure management and, therefore, calculate emissions reductions from an inappropriate baseline. And, over the long term, producers who install digesters often counteract any climate benefits by increasing animal herds or shutting down digesters altogether. Funding digesters, which are extremely costly to construct, would divert money from proven climate-smart practices. Additionally, funding for biogas benefits larger, more-polluting animal factories over smaller operations, at a time when industrial animal production is already decimating small farms. For improved equity and efficacy, the NYCI should direct investments to support smaller farms adopt agricultural practices with actual climate benefits rather than simply channeling funding towards large industrial animal facilities. Finally, digesters, which worsen industry consolidation and cause additional air and water pollution, will disproportionately harm communities of color and low-income communities. The state should support practices that truly reduce GHG emissions and do not cause additional pollution and injustice. Anaerobic digesters at industrial animal factories are a false climate solution that do not fit the bill.

Protecting People, Farmland, and the Environment from PFAS in Biosolids

Numerous studies show that PFAS are frequently found in sewage sludge. Despite the presence of these toxic chemicals, wastewater treatment facilities commonly contract with landowners to dispose of sludge on agricultural lands. After sewage sludge is land applied, PFAS in the sludge enter the soil and are taken up by crops grown on the land. PFAS can also become airborne, leach into groundwater, and run off into surface water, contaminating drinking water supplies. Livestock, fish, and wildlife that come into contact with PFAS in soil, crops, air, and water can then become contaminated. Eating contaminated plants and animals and drinking contaminated water are the primary sources of human exposure to PFAS. One study estimated that eating a single radish grown in soil with elevated PFAS levels could mean surpassing EPA's daily exposure guidelines.

Across the country, land application of sewage sludge has resulted in PFAS contamination that has rendered land unsuitable for agriculture. For example, in Michigan, officials shut down a farm where tests found high concentrations of PFAS in the soil and cattle that grazed on the land. The state later permanently prohibited the property from being used for agriculture. In Texas, owners of a farm where a stillborn calf was found to have high levels of PFAS in its liver stopped sending all of their cattle to market. And in Maine, at least 68 farms were found to have PFAS contamination in their soil, wells, or livestock, which drove at least four farms out of business. The number of contaminated farms in Maine likely is an undercount, as the state has not completed testing. In response to the widespread PFAS contamination, Maine banned sewage sludge application on agricultural land.

Remediating soil and water contaminated with PFAS is difficult and costly. A recent study of methods for removing PFAS from soil explained that "[t]here are currently no proven

technologies that can degrade PFAS in soil and sediments in a cost-effective, environmentally-friendly, and energy-efficient manner." A similar study concluded that existing methods for removing PFAS from soil are "expensive, impractical for *in situ* treatment, [and] use high pressures and temperatures, with most resulting in toxic waste." Removing PFAS from drinking water is possible but comes with a significant price tag. For example, the city of Anaheim, California expects to spend $200 million to build a PFAS filtration plant to treat its drinking water. And an owner of a farm in Maine spent $40,000 to install a water filter to control PFAS levels. In 2021, Maine lawmakers created a $60 million fund to help PFAS-impacted farmers. As of June 2023, the state had paid about $2 million to 17 farms to reimburse for lost wages and livestock, testing and filtration, purchasing replacement feed, and changing crops.

EPA and the NY Department of Environmental Conservation recognize that PFAS in sewage sludge harm human health and natural resources. EPA is currently conducting a risk assessment for PFAS in sewage sludge, and this month issued a draft risk assessment that found that land application of sewage sludge with even 1 part per billion of PFAS is associated with environmental and health risks. While it waits for EPA to finalize this risk assessment, DEC has issued an interim policy limiting the application of biosolids that test higher than 50 parts per billion – 50 times higher than what EPA has found to threaten human health. Thus, current federal and state regulations governing land application do not protect the public from PFAS in sewage sludge. The legislature should pursue policy solutions to fill this void.

Agriculture and Climate

Re-Pass Good Food New York

Currently, New York State food procurement laws require that local governments and institutions choose the lowest responsible bidder without considering other criteria. These laws, which have not been updated for over fifty years, are among the most restrictive in the nation and do not take into account the many externalities associated with food production and distribution.

The Good Food New York bill would permit local governments to adopt values-based standards for food procurement based on the national Good Food Purchasing Program (GFPP). These standards include benefits to local economies, environmental sustainability, valued workforce, animal welfare, nutrition, and racial equity. The law would allow local governments to select bids that fulfill one or more of these values provided their cost is no more than 10% greater than the cost of the lowest bid for that project.

This new model will push large contractors to improve their practices and move toward more ethical, clean, and climate-friendly production and supply practices. It will also expand access to opportunities for small and historically marginalized farmers, producers, and suppliers, who may

not be able to achieve competitive pricing under the current procurement model. The bill allows New York municipalities to use their tremendous buying power to support safe, healthy, and sustainable food production and influence the market not just regionally, but nationwide.

Earthjustice supports this bill for both its climate benefits, as well as its consideration of the effects of food contracts on local economies, workers, public health, and animals. We envision a holistic food system, of which environmental sustainability is just one component. The Good Food New York bill will enable municipalities to invest in local business and promote practices that work for people, animals, and the planet. By implementing the Good Food New York bill, New York can help create a food system that nourishes our communities, celebrates our work force, treats animals with compassion, and protects the planet.

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Thank you for the opportunity to testify today. Earthjustice looks forward to working with the legislature to ensure New York's final SFY2025-26 budget rises to the challenges New Yorkers face from the climate crisis, costly energy bills and other environmental pollution.