

ALBANY

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REPORT



Working to protect New York's community of people, land & wildlife for 35 years.

REDEMPTION TIME

A new poll says that New Yorkers support expanding the bottle bill

Jeff Jones

In spite of reports of economic recovery, New York still faces a revenue shortfall of more than \$4 billion. For the fourth year in a row, Gov. George Pataki's proposed executive budget keeps environmental spending flat, putting many important initiatives off for another day. During the recent years of recession, environmentalists have managed expectations and contributed to help offset the crisis: Since 2001, more than \$400 million has been swept from the Environmental Protection Fund (EPF) into general state spending, even though the fund is fueled by dedicated revenue and was conceived of by the Legislature as a locked box. Now, as budget negotiators enter the critical stage of their annual talks, an expanded bottle bill has emerged as a significant

source of money for new environmental spending. According to advocates who are pushing for reform of the state's 22-year old returnable container law, expansion of the program would not only help alleviate New York's litter and solid waste problems, but would also generate millions of dollars of additional revenue by capturing unredeemed beverage container deposits for the EPF. Not only is it increasingly apparent that expanding New York's most successful solid waste program makes sense but, for the first time, there is solid evidence of broad public support for this reform.



An expanded bottle bill would include many of the beverage containers routinely picked up by participants in Scenic Hudson's annual Great River Sweep anti-litter campaign.

That evidence came in a poll commissioned by Environmental Advocates of New York (EANY), along with the New York Public Interest Research Group, the Natural Resources Defense Council and the Container Recycling Institute (CRI). Conducted during the last two weeks of January, the poll questioned some 800 New

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PCB PROGRESS

Jeff Jones

Dredging to remove PCBs from the Upper Hudson River isn't scheduled to begin until 2006. But development of the plan of action for the cleanup continues on schedule. The project will ultimately remove more than 100,000 pounds of toxic PCB contamination from the nation's largest federal Superfund site, the 200 miles of Hudson River between Hudson Falls and the New York Harbor. The environmental movement is represented in the ongoing process by Friends of a Clean Hudson (FOCH). The 13-group environmental coalition, which includes Environmental Advocates, recently released its second annual Hudson River PCB Report Card.

Overall, the report card shows that progress is being made and the cleanup remains on track. Governor Pataki, who is graded for the work of his executive agencies, primarily the Departments of Environmental Conservation and Health, received a B. The strong showing reflected work that has been done by the state to stop PCBs that are still flowing into the river from the old General Electric plant in Fort Edward. Failure to make similar progress at the Hudson Falls plant resulted in a lowering of his grade from last year's A-

The Environmental Protection Agency saw its grade rise from a B to a B+. The agency was rewarded for keeping to its schedule and in recognition of its ongoing

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ENVIRONMENTAL ADVOCATES OF NEW YORK

Through direct advocacy, coalition building, citizen education and policy development, Environmental Advocates of New York works on a comprehensive agenda designed to oppose threats to the environment, to preserve natural resources and human health, and to fight for high drinking water and air quality standards. Its sister organization, EPL•Environmental Advocates, has worked for 35 years to convince state policy makers to support environmental protections.

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REGULATORY WATCH

Keeping an Eye on New York State Agencies

Refinancing of the state Superfund, coupled with the creation of a comprehensive brownfields program, was the environmental highpoint of last year's legislative session. Environmental Advocates of New York's (EANY) role in this great success has been widely recognized, including by the two lawmakers who engineered the victory, Senator Carl Marcellino and Assemblymember Thomas DiNapoli. At more than a hundred pages, the new law is a monument to the craft of bill-drafting and political compromise. Most amazing, however, is that at the end of this political process, what emerged was not only a fully funded Superfund but the strongest brownfields program in the nation. Money has been committed to make both programs work. The cleanup standards, no matter what the intended use of a redeveloped property, are high. And the breakthrough Brownfields Opportunity Area program empowers inner-city communities to define the future of their redeveloped neighborhoods.

With the passage of the legislation, responsibility for its implementation shifts to state agencies like the Departments of Environmental Conservation (DEC), Health and State. They are now engaged in drafting guidance and rules for the new effort. EANY's Regulatory Watch program, under the leadership of Project Director Tim Sweeney as of the end of March, will be closely monitoring the rule-making process. The organization's Regulatory Watch project has also been keeping track of the new state budget. Gov. George Pataki included funding for 70 new DEC positions in the hazardous waste division to implement the Superfund program. This is the largest addition of new staff in years, although some personnel are being moved from existing programs to the brownfields initiative. This is another indication that DEC is understaffed and unable to fulfill its core mission of protecting New York's environment and managing the state's natural resources.

Even as the new program is being constructed in Albany, planners, developers, community groups, labor unions and environmentalists have begun efforts to integrate it into their work. Some of these initiatives bring together diverse constituencies in exciting new ways. One recent example was a New York City gathering where EANY joined representatives of labor, government, environmental justice and city planners to discuss ways to create jobs through energy conservation – one participant referred to the goal of the meeting the creation of a new "green collar workforce" in New York City. Ed Ott, policy director of the New York City Central Labor Council, kicked off the day's discussion, which took place at the Carpenters' Union headquarters, with a vision of creating "a hundred years' worth of work" in the greening of New York's residential and business infrastructure. Developers reported on their success at incorporating green and high-performance standards into their buildings. Healthy schools advocates reminded those attending to include schools in the planning – New York invests more than a billion dollars annually in new school construction and renovation. And representatives of the New York City Environmental Justice Alliance spoke of the need to use green jobs to rejuvenate New York City's depleted manufacturing sector. Where could new industries created by this initiative be sited? One good answer, participants agreed, is the inner-city land that will be brought back into productive use by the success of the state's new brownfield cleanup program. ☘

THROUGH THE WOODS

Jeff Jones

More powerful ATVs and snowmobiles are off road and out of line

Hope you like trail mix,” says a recent Kawasaki print ad for a new high-powered four-wheeler Prairie 360, which boasts the all terrain vehicle (ATV) industry’s only “V-Twin engine.” Pictured in the ad is a breakfast cereal bowl filled with dirt and rocks. Another Kawasaki ad shows a powerful ATV and its rider driving through a beautiful forest stream. In its extensive report, *Rutted and Ruined: ATV Damage on the Adirondack Forest Preserve*, the Residents’ Committee to Protect the Adirondacks cites the ads to illustrate how the ATV industry promotes the abuse of natural resources to sell its product.

As the size and power of off-road ATVs and snowmobiles has grown, so has the damage they cause. Reports like *Rutted and Ruined* document this growing threat to New York’s wilderness areas (for links to the reports and action alerts referenced in this article, visit: www.eany.org). Citizen complaints have also grown as larger and more powerful off-road vehicles invade both the backcountry and rural villages. But state environmental officials, despite their stewardship responsibilities, have been delinquent in their duties to regulate such activities.

This has begun to change, but there is no guarantee that the outcome will provide the balance that is needed to protect New York’s natural resources. One current attempt is the Comprehensive Snowmobile Plan for the Adirondack Park, developed by the state Departments of Environmental Conservation (DEC) and Parks and Recreation. And the Governor has just launched a fresh attempt to set new rules, especially for ATV use, in his budget proposal. Under Pataki’s plan, the registration fees for snowmobile and ATV owners would increase and some of the new revenue would be dedicated to the development of backcountry trails. The initiative includes important reforms, but also sets precedents that could open more state land to off-road vehicles while accommodating larger machines.

The public comment period for the Adirondack snowmobile plan runs through the end of March. An opposition campaign is now underway. Wilderness advocates fear it will fundamentally change the character of the Adirondack Forest Preserve by altering the traditional balance between motorized uses and natural resource protection. And it excludes any meaningful assessment of air and water pollution impacts. Among its flaws, the plan fails to provide an inventory of existing snowmobile trails. These were capped in the 1972 Adirondack Park State Land Master Plan and, in 1980, DEC verified a figure of 848.8 miles. But a 2001 survey found just under 1,200 miles.

The original agreement recognized that the trails would be used for passive recreation three seasons of the year and that they should have “the character of a foot-path,” not to exceed 8 feet in width. State of the art grooming equipment today can, and does, easily track 12-foot-wide paths. Widening hundreds of miles of Adirondack trails would require the removal of thousands of trees.



The Governor’s budget also proposes to generate new revenue that could be used to implement the trail expansion plan. Pataki would increase the snowmobile registration fee to \$45 for both state and non-state residents (Current fees are \$25 for state and \$35 for non-state). The proposal would increase the base fees to be deposited to the state Snowmobile Maintenance and Development Fund, which is used by the Parks Department to build trails, to \$35 and increase the amount to be deposited to the general fund to \$10. The budget projects \$3,700,000 in additional revenue from the fee increase. The plan also increases the registration fee for ATVs, from \$10 to \$45. Most of that would go to the general fund for deficit relief, but \$850,000 would be used to establish a new ATV trail development and maintenance program. It would also allow the DEC commissioner to authorize ATV use on state lands outside the Adirondack and Catskill parks. Under this plan, the state’s designated natural, unique, and forest and wildlife management areas could be opened to ATV and motorcycle use without any legislative or statutory oversight.

There is also concern that the increased revenue from the off-road vehicle fees will supplement reimbursement payments to municipalities for tax revenue lost under state timber incentives. These tax breaks help keep forest land in timber production, but local governments see them as unfunded mandates. Unfortunately, using increased ATV and snowmobile fees as relief has a serious downside: it creates a vested interest for local governments in the expansion of ATV and snowmobile use. In testimony on the Governor’s budget, EANY stated: “We view this program as a serious attempt to solve a difficult problem. But we fear that the size of the ATV and snowmobile trail programs will become driven not by carrying capacity and environmental concerns but by inflation in the timber tax municipal reimbursement program.”

WATER RESCUE

David Higby

Addressing threats to the Great Lakes watershed

Last year a study released by the United Nations sent shock waves around the world. *The World Water Development Report* outlined in disturbing detail why the earth's vanishing supply of freshwater is fast becoming the largest threat to global stability: the average per-person supply of water will decline by one third in the next 20 years, and billions of people worldwide will face severe water shortages by mid-century. A glance at a regional topographical map might leave the impression that New York is immune to this global threat. The Empire State boasts thousands of lakes and hundreds of miles of shoreline on two of the five Great Lakes and Lake Champlain. Nevertheless, New York faces some critical water-related issues that call for immediate public policy solutions.

Prominent among these is the fact that the state's wetlands are at risk. Nationally, wetland protection suffered a major blow in 2001 when the Supreme Court issued a stunning ruling, known as the SWANCC Decision (for the Solid Waste Agency of Northern Cook County, which brought the suit), a case that is widely interpreted as removing isolated wetlands from the jurisdiction of the Clean Water Act. This would leave an estimated 20 million acres of previously protected water bodies exposed to development and other degradation. This is an ominous judgment, since even before the ruling, the U.S. had been losing almost 100,000 acres of wetlands a year. In addition to providing crucial wildlife habitat, wetlands are important natural purifiers for groundwater, help control erosion and sedimentation, and are essential for flood prevention.


The Bush Administration aggravated the situation with a federal guidance that went beyond SWANCC, and by releasing a draft rule that would codify this relaxation of wetland protection. With leadership provided by the National Wildlife Federation, people and groups across the country responded to the threat. The Environmental Protection Agency (EPA) received over 10,000 objections to the proposed rule, and more than half the House of Representatives signed a letter of opposition. After a meeting with recreational user groups like Ducks Unlimited, the White House withdrew the proposed rulemaking; but the guidance remains in place.

New York's wetlands are particularly threatened as the state long ago ceded much of its wetland jurisdiction to the federal government – protection of any wetlands under 12.4 acres in New York has historically been the responsibility of the Army Corps of Engineers. Many other states have managed a SWANCC fix, usually by expanding their regulations to cover the newly exposed water bodies. New York has not, however, leaving more than a fifth of the state's wetlands vulnerable. As part of a New York wetlands coalition, Environmental Advocates will be working to amend state law to extend protections to all smaller water bodies. Such a measure will be critical for numerous coastal and isolated wetlands in the Great Lakes basin.

Environmental Advocates will be working to amend state law to extend protections to all smaller water bodies. Such a measure will be critical for numerous coastal and isolated wetlands in the Great Lakes basin.

The peril of the region's wetlands is not the only current threat to New York's Great Lakes watershed. Despite improvement during the 30-year history of the

Clean Water Act, the Great Lakes basin remains under siege by pollution and development. Contaminated areas basin-wide have steadily increased to include over 20 percent of the shoreline, resulting in a steady increase in beach closings – a record 897 in 2002 – and the issuance of over 1,500 fish advisories. Over 25 years ago, the Great Lakes Water Quality Agreement, an international pact signed by Canada and the U.S., identified 43 polluted Areas of Concern (AOCs) in the basin. Despite the fact that 28 million Americans rely on the lakes for their drinking water, none of the American AOCs have been cleaned up. Here, too, help is badly needed, and may be on the way. Inspired by the recent funding provided for repairing the Everglades, Congress is considering two bills that would appropriate from four to six billion dollars over the next few years for Great Lakes restoration. Each is strongly supported by key New York representatives: both U.S. Senators and Western New York Congressman Thomas Reynolds are co-sponsors.

These two crucial water issues – protecting the state's wetlands and helping find restoration funding – have now joined a third, the ongoing process of amending international treaties to prevent large scale water diversions, in making this a critical time for protecting the Great Lakes and New York's water resources. 

The vanishing supply of freshwater is fast becoming the largest threat to global stability.

ENVIRONMENTAL ADVOCATES IN SHORT

Hot Stuff

Last year, Governor Pataki announced two initiatives that would clean up New York's electric power sector to help stop global warming. In his 2003 State of the State speech, he directed the Public Service Commission (PSC) to develop a renewable portfolio standard (RPS) that will increase to 25 percent the proportion of wind, solar and other clean fuel sources that are used to generate New York's electricity. And in May, he announced that New York and other north-east states would develop a cap on carbon dioxide emissions from power plants as part of a regional climate change initiative. The twin policies spring from Pataki's Greenhouse Gas Task Force (EANY was a member) which devoted more than a year to studying the best ways the state could tackle climate change.

The final report released by the task force showed that capping power plant carbon emissions is not only the most effective step the state can take to cut carbon pollution, but is virtually cost-free. New studies from the PSC and the New York State Energy Research and Development Authority show that the RPS goal of a 25 percent market share for renewable electricity is achievable. Yet the electric corporations and energy-intensive industries are trying to slow down and postpone the renewable energy standard. One concern of environmentalists is that the ongoing regional carbon cap discussions will become a tactic for delaying state action on the RPS. Any delay in these programs means more global warming, a problem the Governor pledged to act aggressively to solve. EANY and its 60 partner groups in the Cap Carbon in New York Campaign urge DEC to begin a carbon cap rulemaking in parallel with the regional discussions. Meanwhile, the PSC should complete the first stage of its RPS proceeding and release a final decision this year. ☞

Earth Day Lobby Day

Each year, events are organized throughout the state to celebrate Earth Day. The largest event in the Capitol is Earth Day Lobby Day, scheduled this year for April 19. A coalition of groups, including EANY, NYPIRG, Citizens' Environmental Coalition, Riverkeeper, Scenic Hudson, Federated Conservationists of Westchester County, the New York State Greens and Clearwater, have teamed up to bring citizens and students from around New York to Albany for a day of learning, lobbying and networking about the most important environmental issues facing the state. Make plans now to attend. For more information, visit: www.eany.org, or contact Laura DiBetta, EANY, at 518-462-5526 ext. 221 or edld@eany.org. ☞

Trust Us

Environmental Advocates was one of several New York groups honored last year by the National Trust for Historic Preservation. The National Preservation Award was presented at the Trust's annual meeting in Denver, Colorado. It recognized EANY's role in the "successful private and public partnerships that ensured the long term protection of Governors Island." As part of the Governors Island Alliance, EANY is supporting efforts to secure federal funding for open space and recreational areas on the 172-acre island in New York's Inner Harbor. Governors Island was recently transferred from the Federal Government to a New York City/State partnership. ☞

PCB PROGRESS

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ing attempts to inform and involve the local upriver community in the design phase. The EPA's Fort Edward field office has been open for more than a year and the agency continues to be accessible and available to the community that will be most affected by the cleanup. The agency faces a major test in the coming year as it will be announcing the location of two dewatering facilities, where the PCBs will be removed from the river sludge and prepared for shipment to a federal toxic waste landfill.

General Electric, the company responsible for the pollution, saw its grade rise from a D to a D+. The company has been cooperating with the EPA in the development of the cleanup plan and has paid some of the money it owes the federal Superfund program. But it has yet to say it will go through with the project and has continued a federal lawsuit that could delay the cleanup for years, or end it. Shortly after the report card was issued, a federal judge in Washington, D.C. reinstated the GE suit after it had been thrown out by a lower court.

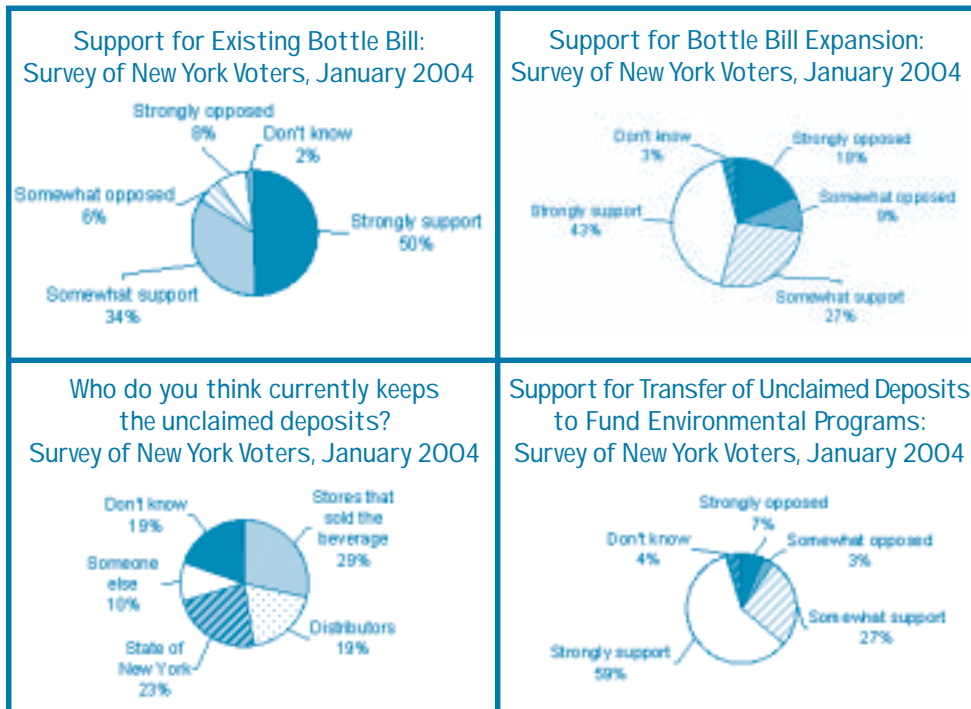
Upriver politicians were also graded. Congressman John Sweeney, who last year earned a D for obstructing the cleanup process, was marked absent this year. And a new category, local elected officials, received a failing grade. Without naming names, FOCH wanted to call attention to local political leaders who continue to impede the development of the cleanup strategy. They are failing their constituents, who are exposed to the PCBs, which have been declared a probable cause of cancer in humans. ☞

REDEMPTION TIME

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York voters about their views on expanding the state's beverage container deposit law. It found that 84 percent of those questioned support the current bottle deposit law, that 70 percent support expanding the law to include non-carbonated beverages, and that 86 percent support taking the unclaimed deposits to support environmental programs. An unexpected outcome of the poll was that only 19 percent of

EPF. Estimates of the current value of the unredeemed deposits range from \$80 million to \$140 million. Supporters of the DiNapoli/LaValle bill say that could grow to nearly \$179 million.



those questioned knew that bottle distributors get to keep the unclaimed nickels from the existing program. In fact, according to the poll, 23 percent believe the state already reclaims the deposits. And in another surprise, 63 percent of those polled said New York should spend more on the environment. The poll was released at a Feb. 12 legislative briefing and press conference in Albany.

“The strong public response to these reforms exceeded our expectations,” says EANY Solid Waste Project Director David Higby. “New Yorkers understand that the bottle bill benefits our environment and has made our state cleaner.” According to Higby, more than 75 billion containers bearing a 5-cent deposit have been redeemed since the law’s passage in 1982. That has diverted more than 5.2 million tons of waste containers from municipal landfills around the state. “By eliminating the costs of collecting and either recycling or disposing of beverage containers, the bottle bill has saved New Yorkers more than \$300 million in landfill fees,” Higby adds.

The poll, conducted by Public Policy Associates, Inc., of Lansing, Michigan, was commissioned by the groups as part of a campaign to support expansion of New York’s bottle bill to include non-carbonated beverages such as bottled water, juice, sports drinks and iced tea. The four organizations are part of a much larger coalition of more than 350 groups that support legislation introduced by Assemblymember Thomas DiNapoli and Senator Kenneth LaValle (A.3922-a/S.1696-a). The measure would expand the existing bottle bill to include non-carbonated drinks other than milk and liquor and would direct the unclaimed deposits to the

According to Pat Franklin of the Container Recycling Institute, one of the poll’s sponsors, three states – Maine, California and Hawaii – already have expanded their bottle bills to include water, juice and other non-carbonated drinks (the law does not take effect in Hawaii until 2005). And three states – Maine, Michigan and Massachusetts – have already amended their laws so they can reclaim the unredeemed deposits. All three states have already survived legal challenges to the reform, Franklin says.

Bottle bill expansion has its greatest chance of passage yet this year, but it requires a strong, last-minute grassroots effort to overcome the lobbying might and political muscle of Coke and Pepsi lobbyists in the Capitol. To help, EANY recently launched a statewide web-based EAdvocacy campaign through its website: www.eany.org. “We need everyone to weigh in with their state representatives today,” Higby says. “Go to our website to send a fax or email, make a call or write a letter. Call us and we’ll help with all the information you need. Now is the time to act.”

Additional information is available at www.nybottlebill.org.

Make your voice heard with the click of a mouse.

Members of EAdvocacy, our free web-based service, receive action alerts via email that allow you to send faxes and emails to key decision-makers on environmental issues. Sign up at: www.eany.org/join/index.html, or by sending an email with your full name and address to: info@eany.org.

INTERNS, VOLUNTEERS PLAY A BIG ROLE

Regulatory Watch Project Director Karen De Vito heads for NYC

Environmental Advocates bid farewell in January to Karen De Vito. Karen, who directed EANY's Regulatory Watch program, accepted a position with the New York City Department of Environmental Protection's Office of Environmental, Health and Safety Compliance within the Bureau of Water and Sewer Operations. Her work there will focus on environmental regulatory compliance.

Volunteer Nancy Tudor comes to EANY with a Masters degree in Environmental Engineering from Rensselaer Polytechnic Institute. She has previous industry and USDOE experience in environmental compliance and remediation. Nancy has taken on the task of reviewing the Department of Environmental Conservation's Environmental Notice Bulletin each week. She has also been involved in updating EANY's website with information on the new Superfund/brownfields law, lobbying for the bottle bill, assisting in monitoring the Legislature, and in the bill memo process. Nancy lives in Clifton Park with her husband and two daughters.



Nancy Tudor and Rachel Curtis

Richard Naumiec is a senior environmental studies major at Siena College in Loudonville. Aside from his impressive academic background, Rick brings experience from a previous

internship in an environmental law office. He has put this grounding to work studying the Draft Comprehensive Snowmobile Plan for the Adirondack Park (see *Through the Woods*, pg. 3). Rick will be making sure that the Plan's specifics conform with the state Constitution, various sections of state law, and with the Adirondack Park State Land Master Plan. His findings will be circulated so that as many people as possible become involved in the process of reviewing this important plan.

Rachel Curtis, a senior at Schalmont High School, comes to EANY as part of the BOCES New Visions Law and Government program. Rachel will be particularly busy with the many tasks that come during the spring legislative season. She will also be working on electronic waste (e-waste), the fastest growing sector of the state's waste stream. Among the most neglected aspects of the e-waste problem are the many health implications of computer emissions and discarded electronics. One class of chemicals commonly used in computer products, brominated flame retardants, are of particular concern. Rachel will be helping get the word out about these highly toxic, and avoidable, threats to New Yorkers' health. Before joining the team at EANY, Rachel interned with the Attorney General's Environmental Protection Bureau. 

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Our members hail from every part of the state, from all walks of life, and are the bedrock of our work. **By supporting us with a direct donation through the mail or via our website (www.eany.org),** you connect with New York's most effective and powerful statewide environmental advocacy organization.

Here are some other ways you can help:

Planned Giving: Pass on your passion for New York's environment with a bequest to Environmental Advocates of New York. Go to www.eany.org for further details.

Gifts of Stock: Gifts of stock can sometimes be more advantageous to you than gifts of cash. You can avoid paying capital gains taxes and you can deduct the full market value of the stock from the current year's taxable income if the stock has been owned longer than 12 months.

Earth Share of New York Workplace Giving: Earth Share of New York offers a workplace giving program that allows employees of participating companies the opportunity to give to their favorite environmental groups – like Environmental Advocates – through payroll deduction. You can learn more about Earth Share by visiting their website at www.earthshare.org.

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