

July 18, 2020

Honorable Andrew Cuomo
Governor
Executive Chamber
Capitol
Albany, NY 12234

Re: Signing S.7880-B/A.9952-B, a ban on AFFF incineration in Cohoes, into law

Dear Governor Andrew Cuomo:

We, the undersigned organizations, write to urge you to sign S.7880-B/A.9952-B into law, which would prohibit the incineration of aqueous film-forming foam (also known as AFFF) and associated perfluorocarbon (PFAS) chemicals in cities with a Department of Environmental Conservation (DEC) designated environmental justice area and with a population size between 16,000 to 17,000. It is imperative to sign this legislation to ensure environmental justice area designations do what they are intended to – protect communities from environmental harms.

Norlite, a hazardous waste incinerator operating in Cohoes, NY next to a public housing complex and within a DEC designated environmental justice area, signed a five-year contract with the United States Department of Defense to incinerate AFFF. In 2018 and 2019, Norlite burned 2 million pounds of AFFF in its Cohoes facility. According to the Wall Street Journal, the incinerated material came from 60 military facilities in 25 states.¹

There is no evidence to indicate that burning PFAS firefighting foam is an effective means of destroying these chemicals. In fact, emerging data has shown that incineration may not completely destroy the chemicals and may disperse them through the air.

There is significant concern that the burning of these chemicals at Norlite has contaminated the air and water in Cohoes and neighboring communities.

The U.S. Environmental Protection Agency (US EPA) itself has raised concerns. From its August 2019 Technical Brief: “PFAS compounds are difficult to break down due to fluorine’s electronegativity and the chemical stability of fluorinated compounds. Incomplete destruction of PFAS compounds can result in the formation of smaller PFAS products, or products of incomplete combustion, which may not have been researched and thus could be a potential chemical of concern.”² Recent test results released by researchers at Bennington College appear to confirm EPA’s concerns.

¹ Kris Maher, “New York Town Discovers a Possibly Toxic Problem,” Wall Street Journal, May 20, 2020, <https://www.wsj.com/articles/new-york-town-discovers-a-possibly-toxic-problem-11589987031>

² U.S. Environmental Protection Agency, “Technical Brief: Per- and Polyfluoroalkyl Substances (PFAS): Incineration to Manage PFAS Waste Streams,” August 2019

Preliminary soil sample data collected by Bennington College researchers found PFAS contamination patterns that strongly suggests the AFFF is not being destroyed by incineration.³ According to Bennington College researchers, the most prevalent PFAS compound found near the Norlite facility was PFBA, a PFAS chemical that is rarely detected in soil; however, it has been strongly associated with partially degraded AFFF. Bennington College's researchers also found that the pattern of contamination around Norlite strongly resembles patterns found at other sites of known contamination, like firefighting training centers and Air Force bases. Additionally, the levels of PFAS chemicals detected exceeded background levels.⁴

Thankfully, Cohoes adopted a one-year moratorium on burning AFFF in law; however, the U.S. Department of Defense attempted to send new shipments of AFFF to Norlite in May 2020. Norlite tried to find other incinerators to accept the waste and in a May 15, 2020 informed the Department of Defense that no other incinerator would accept it. From the letter: "Tradabe has reached out to every approved RCRA incinerators on the DLA qualified facility list only to receive rejection notices from all of them based on the volatility and uncertainty of the destruction of PFOS and PFOA's."

The Department of Defense and Norlite have cancelled their five-year contract after two years.⁵ However, this legislation is still needed because private businesses and other states could still send AFFF to this facility.

Unfortunately, this is a new threat on top of New York's existing history with PFAS chemicals and AFFF. According to the US EPA perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), and other PFAS chemicals, which are used in firefighting foam, have been linked to cancer, developmental effects on fetuses and infants, liver effects, thyroid effects and other adverse health impacts.⁶ These chemicals have been found in the drinking water supplies serving millions of New Yorkers, including those in Hoosick Falls, Petersburg, Newburgh, Cairo, numerous communities on Long Island and elsewhere in the state.

Signing S.7880-B/A.9952-B into law is the only way to ensure that the health of Cohoes residents and neighboring communities are not jeopardized by AFFF burning. New York should not permit incineration of PFAS. Neither Cohoes, nor any other community, should serve as the "experimental" zone to determine the safety of incinerating PFAS.

Approval of this legislation into law would signal that New York is acting as a national leader in addressing PFAS contamination and protecting public health. We urge you to sign S.7880-B/A.9952-B into law as soon as possible.

³ David Bond, "Understanding PFOA: PFAS Levels in Soil and Water around Norlite Incinerator: Summary of Findings," Bennington College, April 27, 2020, <https://www.bennington.edu/center-advancement-of-public-action/environment-and-public-action/understanding-pfoa>

⁴ Letter from David Bond to DEC Commissioner Basil Seggos, May 1, 2020

⁵ Dave Lucas, "Cohoes Residents File Intent To Sue Norlite Over Burning Firefighting Foam," WAMC, June 25, 2020, <https://www.wamc.org/post/cohoes-residents-file-intent-sue-norlite-over-burning-firefighting-foam>

⁶ United States Environmental Protection Agency, "Ground Water and Drinking Water Drinking Water Health Advisories for PFOA and PFOS, Health Advisories," <https://www.epa.gov/ground-water-and-drinking-water/drinking-water-health-advisories-pfoa-and-pfos>

Thank you for your consideration of our comments.

Sincerely,

Susan Holland
Public Policy Chair
AAUW Kingston NY

Pamela Miller
Executive Director
Alaska Community Action on Toxics

Dr. David Carpenter
Albany School of Public Health

Jessica Azulay
Executive Director
Alliance for a Green Economy

Samuel H. Sage
President
Atlantic States Legal Foundation, Inc.

Justin Green
Executive Director
Big Reuse

Nelson Brooke
Riverkeeper
Black Warrior Riverkeeper

Nancy Buermeyer
Senior Policy Strategist
Breast Cancer Prevention Partners

Jennifer Scarlott
Coordinator
Bronx Climate Justice North

Charlotte Phillips
Chairperson
Brooklyn For Peace

Jill Jedlicka
Executive Director
Buffalo Niagara Waterkeeper

Debby Lee Cohen
Executive Director & Founder
Cafeteria Culture

David Butler
Staff Attorney/Riverkeeper
Cahaba Riverkeeper

Myra Crawford
Executive Director
Cahaba Riverkeeper

Jane Williams
Executive Director
California Communities Against Toxics

Janet Carmosky
Bookkeeper
Capital Bookkeeping Cooperative

Kathryn Alcantar
Senior Policy Advisor
Center for Environmental Health

Mary Smith
Communications Coordinator
Church Women United in New York State

Barbara Warren, RN, MS
Executive Director
Citizens' Environmental Coalition

Tracy Frisch
Chair
Clean Air Action Network of Glens Falls

Rebecca Newberry
Executive Director
Clean Air Coalition

Kathleen Curtis
Executive Director
Clean and Healthy NY

Anne Hulick
Connecticut Director
Clean Water Action

Mary Anne Kowalski
Member
Committee to Preserve the Finger Lakes

Shaina Kasper
Water Program Director
Community Action Works

Bob Connors
Co-Founder
Community Advocates for Sustainable Environment

Joan Koster
Secretary
Concerned Citizens of Rural Broome

Sandra Steingraber, PhD
Co-founder
Concerned Health Professionals of New York

Tracy Carluccio
Deputy Director
Delaware Riverkeeper Network

Jonathan Kalmuss-Katz
Staff Attorney
Earthjustice

Carol Chittenden
Director
Empire State Consumer Project

Maureen Cunningham
Senior Director for Clean Water
Environmental Advocates NY

Charley Bowman
Chair
Environmental Justice Taskforce of the WNY Peace Center

Scott Faber
Senior Vice President for Government Affairs
Environmental Working Group

Eric Weltman
Senior Organizer
Food & Water Action

Diana Wright
Owner
Foodscraps360.com, LLC

Judith Enck
Former EPA Regional Administrator

Mary Finneran
Co-founder
FrackBustersNY

John L. Wathen
Hurricane Creekkeeper
Friends of Hurricane Creek

Yvonne Taylor
Vice President
Gas Free Seneca

Denise Patel
US Program Director
Global Alliance for Incinerator Alternatives

Patricia Wood
Executive Director
Grassroots Environmental Education

Mark Dunlea
Chair
Green Education and Legal Fund

Daniella Liebling
Treasurer
Green Party of Brooklyn

Diane Brandli
President
GreeningUSA

Annie Leonard
Executive Director
Greenpeace

Nigel Savage
CEO
Hazon

Manna Jo Greene
Environmental Director
Hudson River Sloop Clearwater, Inc.

Barbara Kidney
Chair
Hudson Valley Green Party

Karen MacWatters
Founder
Indivisible 518: Justice for All

Earl L. Hatley
Grand Riverkeeper
LEAD Agency, Inc.

Patricia Sibilila
President
League of Women Voters Albany County

Laura Ladd Bierman
Executive Director
League of Women Voters of New York State

Kathryn Cappella
Executive Committee
Learning Disabilities Association of New York State

Tawn Feeney
Contact
Little Lakes Sustainability Network

Chad Radock
NY Chapter Manager
Local Progress

Amy Ziff
Founder, Executive Director
MADE SAFE. Nontoxic Certified

Alexis Goldsmith
Program Coordinator
Media Alliance

Cheryl Nenn
Riverkeeper
Milwaukee Riverkeeper

Mike Schade
Mind the Store Campaign Director
Mind the Store Campaign

Avinash Kar
Senior Attorney & Director, State Health Policy
Natural Resources Defense Council

Elizabeth Moran
Environmental Policy Director
New York Public Interest Research Group

Ophra Wolf
Steering Committee
Newburgh Clean Water Project

Paul Tick
Editor
News from the Neighborhood

Jerry Rivers
Environmental Scientist
North American Climate, Conservation and Environment (NACCE)

Jennifer Scarlott
Coordinator
North Bronx Racial Justice

Louise Washer
President
Norwalk River Watershed Association

Jennifer Plouffe
Social Worker and Member of NY Water Project (NYWP)
NY Water Project

Garry Brown
Founder & President
Orange County Coastkeeper, Inland Empire Waterkeeper

Laura Haight
U.S. Policy Director
Partnership for Policy Integrity

Diana Wright
PAUSE - People of Albany United for Safe Energy

Larry A. Deyss
Reverend
**Peacemaking Task Force of the Albany
Presbytery**

Peter Topping
Baykeeper
Peconic Baykeeper

Doug Couchon
Co-Founder
People for a Healthy Environment

Tina Lieberman
Chair
People's Climate Movement - Capital Region

Dianna Cohen
CEO
Plastic Pollution Coalition

Larry A. Deyss
Clergy
Presbyterian Church USA

Peter Bauer
Executive Director
Protect the Adirondacks!

Gary A. Greenberg
CEO
ProtectNYKids Inc.

Rahwa Ghirmatzion
Executive Director
PUSH Buffalo

B. R. Lemonik
Facilitator
Putnam Progressives

Suzanne Carreker-Voigt
Chair
Regional Farm and Food Project

Joanne Kathleen Farrell
Founder
Rensselaer Community Action

David Ellis
Chair
Rensselaer Environmental Coalition

Paul Gallay
President
Riverkeeper

Liz Hitchcock
Director
Safer Chemicals Healthy Families

Joe Ritchie
President
Saratoga Sites Against Norlite Emissions

Bill Lucey
Long Island Soundkeeper
Save the Sound

Joseph Campbell
President
Seneca Lake Guardian

Roger Downs
Conservation Director
Sierra Club Atlantic Chapter

Teresa Kotturan
Main NGO Representative
Sisters of Charity Federation

Sister Joan Agro, O.P.
Congregational Secretary
Sisters of St. Dominic of Blauvelt, N.Y.

Doug Bullock
Board member
Solidarity Committee of the Capital District

Mazeda Uddin
CEO
**South Asian Fund For Education, Scholarship
and Training (SAFEST)**

Robert Connors
Co-Founder
Stop NY Fracked Gas Pipeline

Susan Van Dolsem
Cofounder
Stop the Algonquin Pipeline Expansion

David Whiteside
Executive Director
Tennessee Riverkeeper

Marina Ivlev
Director of Communications
The 5 Gyres Institute

Jackie Nuñez
Founder
The Last Plastic Straw

Jennie Romer
Legal Associate
The Surfrider Foundation

Lauren Hierl
Executive Director
Vermont Conservation Voters

Malaika Elias
North Atlantic, Chesapeake & Great Lakes
Regional Organizer
Waterkeeper Alliance

Cecil Corbin-Mark
Deputy Director
WE ACT for Environmental Justice

Nada Khader
Executive Director
WESPAC Foundation, Inc.

Catherine Cavanaugh
Steering Committee Member
Women Against War

Heather Trim
Executive Director
Zero Waste Washington

CC: Honorable Steven Englebright, Chair, Assembly Environmental Conservation Committee
Honorable Todd Kaminsky, Chair, Senate Environmental Conservation Committee
Honorable John McDonald, Assemblyman
Honorable Neil Breslin, Senator
Ali Zaidi, Deputy Secretary for Energy and Environment, Governor Andrew Cuomo
Amanda Lefton, First Assistant Secretary for Energy and Environment, Governor Andrew Cuomo