



MEMORANDUM OF SUPPORT

S.5612-A (Harckham) / A.8349 (Ryan)

AN ACT to amend the environmental conservation law, in relation to the protection of certain streams.

Audubon New York strongly supports S.5612-A (Harckham) / A.8349 (Ryan), which would prohibit changes, modifications, or disturbances in Class C streams; including those that cause unreasonable erosion of soil, increased turbidity of the waters, irregular variations in velocity, temperature and level of waters, loss of fish and aquatic wildlife, destruction of natural habitat, and danger of flooding or pollution.

Waters throughout New York State provide essential habitat for birds and other wildlife. Birds require clean water and thriving ecosystems that provide fish, insect and plant food sources, healthy breeding habitats, adequate protection from predators, and necessary resting points during migration. To provide this important resource for birds, surface waters must have adequate flow and be of the appropriate depth for feeding or resting behaviors of different species. Streams must also be allowed to flood or be inundated with water at appropriate intervals - whether regular, intermittent, or seasonal - in order to restore water levels, replenish useful nutrients in the soil, and support critical vegetation.

Currently, only Class AA, A, and B streams, as well as those streams that support trout or trout spawning, are subject to oversight by the Department of Environmental Conservation. But there are over 40,000 miles of Class C streams in New York State, including the following totals by watershed: Allegheny River (2,123), Atlantic Ocean / Long Island Sound (176), Black River (1,050), Chemung River (2,513), Delaware River (457), Genesee River watershed (4,059), Housatonic River (77.51), Lake Champlain (724), Lake Ontario (3,859), Lower Hudson River (2,803), Mohawk River (3,479), Niagara River / Lake Erie (2,157), Oswego River / Finger Lakes (5,582), Ramapo River (44), St. Lawrence River (4,894), Susquehanna River (3,586), and Upper Hudson River (3,039).ⁱ

When these streams are altered, degraded, filled, or even eliminated, the bird species depending on those waters face serious risks. Construction, industrial activity, and pollution of various forms can all drastically alter the delicate ecological balance of these ecosystems.

Many of these streams were previously afforded protections under the federal Clean Water Act (CWA). However, the Trump Administration's proposed rollback of the Waters of the United States Rule would severely weaken CWA protections for critical wetland areas and streams important to birds and their habitats. This would leave these important waterbodies without protection or oversight. Audubon believes that New York State must step up and ensure that these important waters continue to be protected.ⁱⁱ

For these reasons, Audubon New York supports S.5612-A (Harckham) / A.8349 (Ryan) and urges the legislature to pass this bill.

Audubon New York works with a network of 85,000 members, hundreds of volunteers, 27 local Audubon Chapters, and dozens of other partners to achieve its mission of protecting birds and their habitats through science, advocacy, education, and on-the-ground conservation programs. If you have any questions or would like more information, please contact Erin McGrath, Policy Manager at Audubon New York at 518-869-9731 or emcgrath@audubon.org.

NYS Birds Under Threat



Louisiana Waterthrush
Parkesia motacilla

Description: A thrush-like warbler that walks on the ground at the water's edge, bobbing the rear part of its body up and down. It is very similar to the Northern Waterthrush, but has a more restricted range in both summer and winter. The two species overlap in summer in parts of the northeast but tend to divide up by habitat there, the Louisiana living along flowing streams, the Northern favoring still waters and stagnant bogs.

Conservation Status: Undoubtedly has declined with loss of habitat in its range. Surveys suggest that current populations are stable.

Habitat: Brooks, ravines, wooded swamps. In northern part of range, favors rapid-flowing, gravel-bottomed streams flowing through hilly, deciduous forest.



Belted Kingfisher
Megasceryle alcyon

Description: The Belted Kingfisher is often first noticed by its wild rattling call as it flies over rivers or lakes. It may be seen perched on a high snag, or hovering on rapidly beating wings, then plunging headfirst into the water to grab a fish. Found almost throughout North America at one season or another, it is the only member of its family to be seen in most areas north of Mexico.

Conservation Status: Recent surveys indicate declines in population. May be vulnerable to loss of nesting sites and to disturbance during breeding season.

Habitat: Streams, lakes, bays, coasts; nests in banks. During winter and migration, may be found in almost any waterside habitat, including the edges of small streams and ponds, large rivers and lakes, marshes, estuaries, and rocky coastlines; seems to require only clear water for fishing. During breeding season, more restricted to areas with suitable dirt banks for nesting holes.



Northern Waterthrush
Parkesia noveboracensis

Description: The Northern Waterthrush is likely to be found around bogs and streams inside the forest. Often shy and hard to approach, it draws attention with its odd "teetering" behavior -- bobbing the rear half of its body up and down constantly as it walks -- and with its loud metallic callnote.

Conservation Status: Could be vulnerable to loss of habitat, especially on wintering grounds, but surveys suggest that numbers are currently stable.

Habitat: Swampy or wet woods, streamsides, lake shores; in migration, also thickets. Breeds mostly in coniferous forests with standing or sluggish water, as found in shrubby bogs and edges of northern lakes, less often along swift streams. In migration, may appear in any habitat; more frequent in thickets along edges of water.

ⁱ Waterbody Classifications. Division of Water, Bureau of Water Assessment and Management - NYS Department of Environmental Conservation. <https://data.ny.gov/Energy-Environment/Waterbody-Classifications/8xz8-5u5u>

ⁱⁱ New Trump Administration Water Rule Puts Bird Habitat in Jeopardy. National Audubon Society. <https://www.audubon.org/news/new-trump-administration-water-rule-puts-bird-habitat-jeopardy>