

CLP “Keep the Lake a Lake” Campaign Status Report

Update Sept 20, 2024

- 1) The public comment periods have now closed for input in the NYS DEC’s rule-making process.
 - The CLP engaged an environmental law firm from Albany to assist with submission of a formal letter on behalf of the organization.
 - **134 [Letters](#)** were submitted from the public for input on Part 664 revised and published in July 2024. The public comment period concluded at 5pm on Sept 19 2024.
 - The initial email campaign directed to DEC leadership prior to July closed with a final tally of **263 letters** from local residents objecting to wetlands regulation for the lake.

- 2) Letter writing and petition focus will continue to target the NYS Senate and Assembly to support bills to exclude freshwater lakes from wetlands regulation.
 - Support Letter for Bill S9799 / A10653 to exempt lake waters from wetlands regulation
 - Current count: **95 [Letters](#)**
 - [Change.Org Petition](#) “Keep the Lake a Lake”
 - Current count: **2,427 Signatures**

- 3) In a letter received on Sept 18, the DEC has initiated a process to gather inputs from 20 stakeholder groups to develop a “general permit” for Chautauqua Lake.
 - They again reiterated their intent in writing “...starting January 1, 2025, additional areas of Chautauqua Lake will be regulated under the Freshwater Wetlands Act (Article 24 of NY Environmental ConservationLaw).”
 - Their stated goal is to balance the interests of various lake users with the environmental stewardship goals mandated by the Freshwater Wetlands Act.
 - CLP will participate in this process while awaiting the finalization of Part 664 rule-making and activation of the regulation January 1.

Reference timeline of preceding events:

June 2023, Chautauqua Lake Conference at Chautauqua Institution

- Julie Barrett-O'Neill NYSDEC Region 9 Director made comments regarding the potential impacts from the 2022 wetlands law
- She noted that the DEC was evaluating the new wetlands amendment and noted that it may have applicability to the south basin of Chautauqua Lake as the South Basin has wetlands characteristics
- CLP solicited the public to write letters to the DEC following these comments
- Julie Barrett-O'Neill responded to PJ Wendell regarding these concerns in writing: "Regarding questions over Burtis Bay and other existing parts of Chautauqua Lake, these areas will still be considered a lake under New York State Environmental Conservation Law and associated regulations. DEC will continue to work with Chautauqua Lake municipalities and stakeholders to ensure you are informed of the implementation steps of the new Wetlands law and have an opportunity to provide your perspectives as this initiative advances. "

The DEC Public Comment Period opened in January and closed Feb 19, 2024

- Letters were solicited (unknown number sent to DEC)
- Several letters shared to CLP specifically questioned the broad classification criteria which would be inclusive of lake near-shore areas
- Questions asked relating to lakes during a public webinar were ignored
- No further response from the DEC came forth

News articles & public meetings regarding the NYS DEC declaring intent to regulate "much of the South basin" as Wetlands

- Concern raised by Lakewood Council in Feb 17 article <https://www.observertoday.com/news/local-region/2024/02/dec-proposal-may-have-economic-impact-on-lakewood/>
- Mar 2, 2024 DEC spokesman Pignatarro statements pertaining to the South Basin <https://www.observertoday.com/subscribe/?ref=articleMax>
- Mar 9 Keep the Lake a Lake article 2024 <https://www.post-journal.com/news/top-stories/2024/03/keep-the-lake-a-lake/>
- March 11, 2024 Julie Barrett O'Neill, Regional Director of NYS DEC Region 9, along with Chautauqua County Executive PJ Wendel, Town Supervisors, local Mayors, and stakeholders convene to discuss Chautauqua Lake's Wetland status <https://chqgov.com/county-executive/news/video-nys-dec-chautauqua-lake-wetland-presentation>
- Mar 16 CLP Public Meeting discussing Wetlands issue and risks to Chautauqua Lake <https://chqlake.org/2024/03/clp-meeting-summary-and-powerpoint-presentation/>
- Mar 22 Summary of video by WRFA <https://www.wrfalp.com/dec-officials-try-to-clear-confusion-over-how-wetland-act-will-impact-chautauqua-lake/>

- Mar 29 PJ Wendell frustrated that people are not satisfied with results of March 11 meeting with DEC officials
<https://www.wrfalp.com/listen-community-matters-pj-wendel-march-28-2024/>
- Mar 30 Kicked off “Keep the Lake a Lake” Campaign with letters enabled on CLP Website <https://chqlake.org/advocate-write-to-officials/>
- April 14 Yard Signs available to the public
- April 16, 2024 Opened Change.org Petition “Keep the Lake a Lake”
<https://www.change.org/p/keep-the-lake-a-lake>
- Flyers at NYSFOLA conference May 3 (Stolen by a conference attendee)
- Memorial Day CLP Rally/Public Meeting
- June 2 Chautauqua County Lake Symposium - DEC position is that with the elimination of the map requirement they are “obligated” to enforce the law (which covers submerged vegetation) , not legislate (although they must have submitted the original budget request for the 2022 law change that expands this)
<https://www.youtube.com/watch?v=NpqqmNhugYLg>
- Give Big Chautauqua fundraiser - \$15,660 to the CLP to support Wetlands Objection from 70 individual donors
- CLP table with Wetlands Flyer at the June 22 Chautauqua Institute lake Conference
- DEC confirmed their intent in writing on a new Chautauqua Lake Watershed web page:
<https://dec.ny.gov/nature/waterbodies/lakes-rivers/chautauqua-lake-watershed-program>
- July - DEC FAQ specific to Chautauqua Lake - confirming intent to regulate lake waters:
https://dec.ny.gov/sites/default/files/2024-05/FAQ%20Sheet%20Chautauqua%20Lake_Final.pdf
- June - Letter to DEC from George Borello and Andy Goodell to the DEC
- June- August: Local municipalities pass resolutions objecting to wetlands regulation being applied to Chautauqua Lake
- August: DEC Informational Sessions answer questions specific to lakes (video clips here: <https://chqlake.org/keep-the-lake-a-lake-not-a-wetland/>)
- Sept 3: DEC response to letter from Borello/Goodell confirms DEC moving forward to regulate lakes
<https://mynewsonthego.com/postjournal/Reader/Story.aspx?id=f8804435-d76d-4eda-bebf-32e887659f3e>
- Sept 10: 10-15 Orally presented objections in the DEC Virtual Comments Sessions
- Sept 12: About 4 people from the CLPOA (not affiliated with CLP) traveled to Albany to present objections in person
- Sept: Chautauqua County Executive PJ Wendel adds his formal objection
<https://chqgov.com/county-executive/news/chautauqua-county-executive-pj-wendel-oppo-ses-proposed-wetlands-rulemaking>
- Sept 19: Final Comment period closed, formal letters to be submitted by CLP and CLPOA before this date

Sample Comments from letters sent by local residents to the DEC

"I own lakefront property in the Southern Basin of Lake Chautauqua for the last 17 years. I own this property so that I and my family and friends can enjoy the recreational benefits of Lake Chautauqua. This includes power boating, fishing, kayaking and swimming. The proposed Wetlands Regulations threaten the ability to manage invasive weeds in the lake. If these weeds were to become out of control, it would destroy the recreational uses of the lake that we cherish.

The Wetlands Regulations are not necessary because other NYDEC programs already regulate the use of aquatic herbicides and other activities currently used to manage invasive weeds. These other programs already ensure that weed management activities are safe and appropriate given the conditions of the lake.

The proposed Wetlands Regulations are contrary to the U.S. and NY constitutions, NY and federal laws, and are arbitrary and capricious.

Regulating lakes as wetlands will not achieve the objectives claimed by NYDEC to justify the rules. In fact, to my knowledge, the benefits, if any, of regulating a lake as a wetland have not been well studied or documented such that they could provide a basis for this wetlands rule. Likewise, the burdens of turning a major lake with a long history of recreational uses into a wetland are not well studied or documented by NYDEC. Furthermore, the burdens for achieving any such benefits disproportionately fall on those with properties or businesses on or near the lake, and will negatively impact anyone who uses the lake for recreational purposes.

Lakes should be excluded from the proposed Wetlands Regulations."

"Please consider all the negative ramifications in adopting the above regulations in their current form. You have received hundreds, if not thousands, of concerns from local residents, property owners, and political leaders, opposing these regulations.

Their concerns are most valid.

One thing I have not read is the **scientific rationale** for implementation. It appears that it is a far-reaching interpretation of existing rule. I worked with DEC for many years regarding regulation interpretation (wastewater industry) and am gravely concerned that designation of freshwater lakes as wetlands will have a negative impact from which we will never recover. Please step back and listen to your constituents that will be adversely affected by the implementation of the proposed rule.

In addition, please consider the ramification -- and cost -- of litigation, which is sure to come. There are currently proposals in the House and Senate to exempt freshwater lake from these wetland regulations. It only make sense to see what the lawmakers decide BEFORE you do.
Comment: **The "C" in DEC is conservation, not control!**

"It is difficult to overstate my concerns about proposed wetland regulations pertaining to Chautauqua Lake. Chief among these concerns are the vagueness of what we, as lakefront property owners, can

expect from the DEC going forward, and the potential impact of what may be reclassified as a wetland to property values.

We retired here recently from another state, and are increasingly dismayed by government overreach negatively affecting our quality of life. Thanks to the DEC's lack of transparency regarding what will happen to our already challenged lake, we wonder if perhaps our own investment here was a mistake.

Please keep Chautauqua Lake free and clear of wetland reclassification!"

"I am strongly opposed to the proposed wetland regulations. It should not apply to existing lakes of our size which has over 150 years of development by local owners and business and is a major source of revenue for the area. This lake needs a consistent strategy of herbicides and harvesting in order to deal with the invasive weeds and additional regulations making this more difficult is in no one's best"

"While I recognize the importance of protecting the environment and the value of wetlands - I do not believe that any freshwater lake should be treated as such. Chautauqua Lake is a LAKE and the invasive weeds need to be treated and maintained. The regulations will result in decreased property values, inability to enjoy the lake, and an overall decrease in tourism / revenue for entire region. Chautauqua and all other lakes should be exempt from the blatant overreach of these new regulations."

"The proposed rules that will apply "wetlands" status to shallow areas of Chautauqua Lake are clearly misguided and inappropriate. The potential damage to local commerce, property values, and usability of our natural resource is obvious and widely stated, so I will not restate it here. However, it is important to consider and understand that the majority of the proposed "wetlands" footprint expansion is due to derelict management of the resource. I have enjoyed Chautauqua Lake for recreational activities since the age of 2. There are many areas that I used to dive into from shoreline break walls that are now dirt above the waterline. This represents a reduced water depth of 4-6 feet. Allowing run-off and organic invasive species to proliferate in Chautauqua Lake is clearly the cause bottom up fill-in and represent a dereliction of NYS DEC responsibility to maintain Chautauqua Lake. Re-mapping and imposing DEC oversight due to this dereliction represents "fruit of a poisoned vine". Instead of wasting resources on DEC regulation, oversight, and enforcement, those resources should be allocated to Chautauqua Lake restoration and maintenance as should have been done in the first place. Chautauqua Lake should have "excluded" status to the regulation until which time NY DEC and/or the Army Corp can rehabilitate the lake to its appropriate status."