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**The Environmental Justice Issue**

## Annual Legislative Forum

# New York State Climate Leadership in a Time of International Tragedy, War and Energy Crisis

By John Parker

On May 18, 2022, the Environmental and Energy Law Section of the New York State Bar Association held its Annual Legislative Forum. It was open to the public without charge and was the third consecutive event held virtually due to the COVID-19 pandemic.

The billing for the event was:

New York has been at the forefront of many critical environmental law and climate change developments over the past several years.

The State's commitment to an economy based on a carbon free future includes: the Climate Leadership and Community Protection Act, moving the car market to electric vehicles by 2035, incentivizing the burgeoning offshore wind energy industry, advancing large scale solar energy, the convergence of renewable energy on brownfields redevelopment sites, and an environmental constitutional amendment addressing clean air, clean water and a healthful environment.

The Annual Legislative Forum brings together environmental leaders from many disciplines to discuss current developments in environmental and energy law in New York. The Forum's topics are reflective of issues importance and interest at the time the event is held each year. On Feb. 24, 2022, Russia began "special military operations" in Ukraine.<sup>1</sup> The invasion of Ukraine has brought substantial condemnation and a unified response from Western nations. The tragic consequences and human toll of this war has been profound and extend far beyond the civilians caught in the crossfire of conflict and the need to flee to find safety in other countries. The war has directly impacted markets around the world and has directly impacted the international community's response to the growing climate crisis. These are short-term impacts and the longer-term consequences are unknown as there is no end in sight to the hostilities. Many nations seek to replace Russia as their major source of energy, namely natural gas, and are working to identify timelines for the phaseout of its use. While the long-term economic impacts are uncertain, the political impacts of the increases in the price of gas for

cars in the United States, which has added significantly to inflationary pressures, has changed many discussions about energy use.

The international conflict also demonstrates the importance of individual state actions to address climate change. New York has taken a leadership role in this effort with ambitious goals to move away from carbon-intensive energy in an equitable and effective way. These efforts, and the laws that are enabling them, are already creating incentives for substantial future economic activity, and simultaneously paving the way forward to installing reliable non-carbon-based energy sources. The Legislative Forum focused on implementing these efforts despite the immediate and unsettling impacts of increased energy prices resulting from the war in Ukraine. The combination of war impacts and other significant inflationary pressures creates political incentives for efforts to immediately lower consumer gas and energy prices. These pressures are a major disincentive to climate-focused policy changes that rely upon longer time horizon to produce results. The Legislative Forum's panel of experts, business leaders and advocates discussed progress despite these current challenges. The legislative leaders who attended the Forum discussed their legislative efforts to address climate issues and to discuss upcoming legislative initiatives. A deputy commissioner from the Department of Environmental Conservation (DEC) discussed the implementation of the state's landmark Climate Leadership Act and the collective efforts underway by state agencies to meet the significant and lofty goals this law has put in place for communities and businesses around the state.

The Legislative Forum followed international community efforts to address climate change at the COP 26 summit in Glasgow in fall 2021. This article was submitted as the weather was heating up and the summer 2022 vacation season was about to begin in earnest. Important to note is the context of the coveted summer vacation—this year's festivities will be impacted by climate change as the planet reaches another climate milestone of the highest concentrations of carbon dioxide in the atmosphere in at least four million years. Further underscoring climate impacts is the recent study indicating that if carbon emissions are not reduced, as sought at the COP26 Summit, the impacts will reach the world's oceans resulting in a mass extinction event within 300 years.

## BACKGROUND

### International Impacts on Climate Change

In 2021, there were significant developments in efforts to address climate change. The COP26 climate summit in fall 2021 in Glasgow, Scotland sought to move forward with a comprehensive and ambitious agenda.<sup>2</sup> The commitments ultimately made by nations of the world at this United Nations event, while significant, fell short of the efforts regarded as necessary to stabilize the rise in global temperatures to acceptable levels.<sup>3</sup> Nonetheless, climate change remained a top area of concern on the world international economic stage where business leaders recognized the transition to net-zero economies is necessary for future prosperity.<sup>4</sup> Leaders at this year's Davos Economic Forum were urging businesses to incorporate newly developed climate technologies such as green hydrogen, direct air capture, and clean aviation fuel into their business models, which would enable these efforts to gain more widespread use and acceptance at a larger economic scale to allow them to be a more effective way to address the climate change challenge.<sup>5</sup>

### United States Climate Policy Efforts

The costs of extreme weather were significant and exceeded anything witnessed in the last 40 years. In 2021, the carbon emission reductions from COVID-19 shutdowns reversed, replaced by an over 6% increase in the United States.<sup>6</sup> There were 20 weather/climate disasters each with losses exceeding \$1 billion and leaving 688 people dead.<sup>7</sup> In total, climate damage was approximately \$145 billion.<sup>8</sup> The disasters included a drought, two floods, 11 severe storm events, four tropical cyclones and one wildfire.<sup>9</sup> During the year, estimates put one in three Americans impacted by a severe weather disaster.<sup>10</sup> The extreme climate events are being caused by carbon dioxide levels in the atmosphere not witnessed for millions of years.<sup>11</sup> The current rate of carbon emissions, if not addressed as contemplated at Glasgow, could result in mass species extinctions in the world's oceans in the future.<sup>12</sup>

The Biden administration response to the climate challenge, in part, has been its continued effort to advance renewable energy sources in the United States. Key to these plans are leasing rights to build and operate offshore wind on the United States' coast. An initial and successful example of this effort involves the area known as the New York Bight, part of the federal government's efforts to have 30 GW of offshore wind by 2030.<sup>13</sup> An environmental review cleared the way for the auctions for wind development to proceed.<sup>14</sup> One offshore wind power application has received final approval authorizing construction to commence off the coast of Long Island, about 35 miles east of Montauk Point.<sup>15</sup> While the offshore wind industry accelerates, and despite the government's environmental review findings, litigation has com-

menced challenging the approval of some East Coast offshore wind areas.<sup>16</sup>

The administration has also continued efforts to bring new fossil fuel sources online.<sup>17</sup> The efforts, appear in part, to be a response to the war in Ukraine. The United States' effort now focuses on increasing off-shore drilling in some areas of the country but not advancing oil and gas drilling efforts in others.<sup>18</sup> These United States government efforts seem contradictory and counter-productive to many environmentalists, while simultaneously demonstrating the impact of economic and political pressure on domestic policy decision making.<sup>19</sup>

While the federal government's ability to advance a lower carbon energy sector is on clear display with successful off-shore wind leases, the Supreme Court recently curtailed powers of the United States Environmental Protection Agency (USEPA) from implementing similar strategies through the Clean Air Act. The decision is widely viewed as potentially reaching far beyond the EPA and extending to the federal administrative agencies and the regulatory programs that they implement. In *West Virginia v. USEPA*, the court reviewed the Clean Power Plan which was developed under existing Clean Air Act provisions.<sup>20</sup> The Clean Power Plan set a state-by-state target for carbon emissions as a way of addressing carbon released from the generation of energy, primarily from coal-fired power plants, but was not implemented due to court intervention and the change from the Obama administration to the Trump administration. Notably, market forces shifted the focus to sources of electricity other than coal in the United States, which actually met the emission reduction targets years before the deadlines set under the challenged Clean Power Program because the cost of new coal power plants exceeded other sources such as renewables. Nonetheless, the court's decision raises significant questions for regulatory programs in general, and for new programs addressing climate issues that are based upon current law. The Supreme Court essentially found that new regulatory programs, such as the Clean Power Plan developed under existing legal authority, such as from the Clean Air Act in this case, could be deemed 'presumptively invalid.' when major changes in a regulatory program are determined to be transformational to the economy—unless the Congress specifically addressed and authorized the new regulatory scheme in statutory language in its re-invigoration of what is called the "major questions doctrine." The dissent raised substantial questions regarding the majority's reasoning in this case, and it is fair to say that future court determinations of what types of transformational government programs could be subject to this major questions doctrine is far from clear.

### New York State Climate Policy Efforts

New York's efforts to comprehensively address climate issues began in earnest in 2019, with the Climate Leadership and Community Protection Act or the "Climate Leadership

Act.”<sup>21</sup> The law set climate change goals at a 100% reduction in greenhouse gas emissions by 2050, with an incremental target of 40% reduction by 2030. The Climate Leadership Act is implemented, in part, by the DEC. Notably, it also created and charged the Climate Action Council with significant responsibilities including the development of a Draft Scoping Plan to implement the Climate Leadership Act, which it unanimously developed and submitted to public comment in December 2021.<sup>22</sup> The public comment period was extended to July 1, 2022 and about 20,000 public comments were anticipated.<sup>23</sup> It is designed to

help guide the State in achieving its statutory obligations under the Climate Leadership Act to significantly reduce greenhouse gas emissions, increase renewable energy development, ensure climate justice, and advance the State’s commitment to carbon neutrality economy-wide by 2050.<sup>24</sup>

Among the goals of this effort are to develop an analysis process providing “a cost-benefit assessment of the strategies under consideration accounting for emissions reductions and health benefits.” The statewide effort is comprehensive and far reaching. These changes will alter the portfolio of energy sources in the state, further encouraging and incentivizing new approaches like large-scale battery storage and an increasing number of electric charging stations as transportation begins to be reimaged.

The state’s commitment to reducing carbon emissions is also evident in the recent decision, based in part on the Climate Leadership Act, which rejected the application to update and to re-power the Danskammer power plant on the Hudson River. Notably, the energy sector has seen a reduction in carbon emissions of 15% since 1990.<sup>25</sup> The applicant sought the approval arguing, in part, that its switch to natural gas resulted in a far more environmentally beneficial source of power compared to the facility it replaced. DEC rejected the application because the proposal “would be inconsistent with or would interfere with the statewide greenhouse gas emissions limits established” in the Climate Leadership Act.<sup>26</sup> The denial clarifies the state policy decision to move away from fossil fuel-based power.

In fall 2021, the DEC rejected the permit necessary to upgrade the existing Danskammer electric power plant on the Hudson River. The applicant argued to DEC that the \$500 million in upgrades were for a more efficient and more environmentally beneficial facility than the one it would replace. These arguments, however, were rejected by DEC, which concluded that issuance of the permit “would be inconsistent with or would interfere with the statewide greenhouse gas emissions limits established” in the Climate Leadership Act.

The applicant challenged the DEC permit denial in court. In its 77-page ruling, the court upheld DEC’s authority to deny the permit because absent such authority, the court reasoned, the immediacy and urgency of achieving greenhouse gas reductions set forth in the law would be rendered toothless. The decision in *Danskammer Energy, LLC v. New York State Department of Environmental Conservation, et al*, Index No. EF008396-2021 was filed on June 8, 2022.

The ultimate impact of this decision is not yet known. However, on June 30, 2022, the DEC denied the renewal of a Clean Air Act Title V permit for the primarily gas-fired 107 megawatt Greenidge Generation facility in Dresden, which is located on Seneca Lake.<sup>27</sup> The application was controversial, drawing almost 4,000 public comments, because it powers a bitcoin cryptocurrency mining facility.<sup>28</sup> During the initial permit application process in 2016, DEC issued a negative declaration under the State Environmental Quality Review Act (SEQRA) because

the operation of the plant itself will not create a new demand for energy. Rather, it will serve as another facility to help meet the current electricity needs of the region. As a result, the plant will have no significant adverse impacts in increasing the use of energy.<sup>29</sup>

However, by 2022, in its final determination to deny the Title V renewal permit application, DEC considered the Greenidge Generation submission as new, as required by its regulations, and as such, it was required to meet the requirements of the Climate Leadership Act. DEC concluded that under the court’s *Danskammer* decision and the Climate Leadership Act, it had sufficient legal authority to deny the permit. The DEC’s denial noted that the original grounds for its SEQRA negative declaration no longer applied, since the facility was no longer meant to meet the energy needs of the region, nor was it necessary to meet regional energy needs. Instead, because the facility would solely power the increasing energy demands of crypto-currency mining, DEC found that such purpose was inconsistent with the Climate Leadership Act provisions.<sup>30</sup> Finally, and significantly, DEC concluded that:

Instead of demonstrating a commitment to these kinds of potential alternatives and GHG mitigation measures, Greenidge put forth vague assurances that it would decrease GHG emissions over time and eventually become a zero-carbon emitting power generation facility by 2035.<sup>31</sup>

Thus, the applicant could not meet Climate Leadership Act requirements and warranted denial of the permit renewal application.

## Legislative Forum Participants

### THE PANELISTS

#### Kimberly Ong

Senior Attorney | New York Regional, Healthy People & Thriving Communities Program

Kimberly Ong is the head of the NRDC New York Regional Team, where she leads a team of attorneys and advocates focusing on some of New York's most pressing environmental challenges. Prior to joining NRDC, she worked as an assistant attorney general at the New York State Office of the Attorney General and as an assistant corporation counsel in the Environmental Law Division of the New York City Law Department. She also worked as a research fellow at New York University School of Law's Furman Center for Real Estate and Urban Policy and served as a law clerk for the Honorable John T. Nixon of the United States District Court for the Middle District of Tennessee. She earned a bachelor's degree from Columbia University and a law degree from New York University School of Law, where she was an executive editor for the *Review of Law and Social Change*.

#### Justin Gundlach

Senior Attorney | Institute for Policy Integrity | New York University Law School

Justin Gundlach has served as a senior attorney at the Institute for Policy Integrity at NYU Law School since April 2019. His work focuses on state-level energy and climate policy. Gundlach is the author of numerous articles, book chapters, white papers, regulatory comments, and amicus briefs on legal and policy issues related to the impacts of energy use on the climate and of climate change on infrastructure and public health. Before joining the Institute, he was a member of the policy development team at the New York State Energy Research and Development Authority (NYSERDA). He holds a J.D. from NYU, an M.Sc. from the London School of Economics, and a B.A. from Wesleyan University.

#### Paul Curran

Managing Director | BQ Energy LLC

Paul Curran is the founder and managing director of BQ Energy, which is a Wappingers Falls based renewable energy development firm that has been focusing exclusively on siting wind and solar projects on landfills and brownfield sites since 2003. He has developed several renewable energy projects including the Steel Winds facility on a former Superfund site in Lackawanna, and the Annapolis Solar farm, the largest solar project on a landfill in the United States. His award-winning projects have been recognized for sustainable redevelopment of brownfield sites and innovative development practices in the renewable energy industry. He is a registered professional engineer in the state and earned an MBA from Marist College and degrees in engineering from Columbia University.

#### Anastasia Gordon

Energy and Transportation Policy Manager | Federal Policy Officer | WE ACT for Environmental Justice

Anastasia Gordon is the energy and transportation policy manager within the Federal Policy Office at WE ACT for Environmental Justice. She leads federal advocacy, legislative, and regulatory work in the energy and transportation sectors. Gordon worked with the Alliance for Clean Energy New York, where she served as the clean energy policy fellow tracking the implementation of New York's climate law and led advocacy to advance transportation electrification throughout the state. She also brings more than five years of experience in conservation and environmental policy with the government of Trinidad and Tobago. She holds an MPA in environmental science and policy from Columbia University, a Masters in conservation leadership from University of Cambridge, and a Bachelors of Science in environmental management from the University of Birmingham, UK.

### LEGISLATIVE LEADERS

#### Steve Otis

Assemblymember, 91st District | New York State Assembly Environmental Conservation Committee

#### Todd Kaminsky

Senator, 9th District | Chair, New York State Senate Environmental Conservation Committee

### KEYNOTE SPEAKER

#### Jared Snyder

Deputy Commissioner for Climate, Air and Energy | New York State Department of Environmental Conservation

Jared Snyder, in his role as the deputy commissioner, oversees development and implementation of clean air programs and climate change strategies, including programs to build resilience to climate change and to reduce greenhouse gas emissions, and implementation of the Climate Leadership and Community Protection Act. He is currently treasurer of RGGI Inc. and he represents New York on the Ozone Transport Commission and The Climate Registry. Snyder has also served as co-chair of the International Carbon Action Partnership. Prior to joining DEC in 2007, he managed air and climate litigation in the New York Attorney General's office, and he worked for the U.S. Department of Justice handling environmental enforcement matters from 1990-95. He earned a B.A. in economics from Cornell University and a J.D. from Harvard Law School.

These DEC permit denials for fossil fuel power plants underscore the legal requirements that climate change considerations be addressed in agency decision-making such as Clean Air Act permitting. The urgency to address climate issues is now enshrined in state law. It also demonstrates the importance of the wind turbine industry taking shape off the coast of Long Island, the solar energy sector on Long Island and around the state, and the significant support services these industries will require. Specifically, the law requires careful review and consideration of impacts of new fossil-fueled power sources for which there is no equivalent analysis expected for renewable non-carbon based power sources. The electrification of the economy from new renewable sources to meet increasing demand will be prioritized by the provisions of the Climate Leadership Act. The *Danskammer* decision, the Greenidge Generation permit renewal denial, and the Draft Scoping Plan all demonstrate the profound, significant, and in part, legally mandated changes to power generation that will meet future energy demands in New York.

The background of the changing international energy landscape, efforts at the national level, and Climate Leadership Act implementation in New York State provided the backdrop to the 2022 Annual Legislative Forum.

## **ANNUAL LEGISLATIVE FORUM—MAY 2022**

In the context of a changed world, the forum participants came together to discuss environmental and energy law issues directly impacting New York. The panelists who appeared at the Legislative Forum discussed their participation in ongoing efforts to implement the goals and the mandates of the Climate Leadership Act, among other provisions of New York environmental law. The panelists commented on a number of their sought-after long-term changes to the energy make-up of New York State, including the phasing out of natural gas to power new construction, ending fossil fuel subsidies of every form, and having the state, and particularly insurance companies, divest from investment in fossil fuel companies. The panelists also discussed the need for equity and inclusion in the process of developing the climate policies of the state, and in the implementation and construction of the infrastructure that will be needed to de-carbonize New York's electricity supply.

The panelists discussed the need to involve all impacted communities in the development of the Climate Leadership Act's policies and programs. As noted, the public comment period for the Draft Scoping Plan was extended to July 1, 2022 specifically for this purpose due to significant interest. The panelists discussed the challenges of the environmental justice community and the disproportionate impacts that have been imposed by the historic development of existing energy and other environmental infrastructure. The inclusion

of community concerns, including the need to accelerate the transition to a new and renewable power based energy system, will result in improvements in both indoor and outdoor air quality, and will afford more New Yorkers access to clean air, which is now a constitutionally protected right in the state. The existing fossil-fuel-based energy system currently in place was developed over a century, leaving significant challenges as it is changed, but significant opportunities now exist as never before to address communities overburdened by its structures, infrastructure footprint and the public health impacts caused by the existing fossil-fuel-based approach to our energy needs. The panelists noted that new and developing technologies will make this transition faster and more equitable and increased efficiency of these systems will have significant benefits across New York. The panelists also noted that despite optimism driven in part by the Climate Leadership Act, the transition should be moving faster to benefit the impacted environmental justice communities.

The panelists discussed the renewable energy sector as it moves into new areas, such as the intersection with brownfield redevelopment incentives. There are substantial amounts of land available for additional renewable energy sources, such as solar power, on the thousands of acres of landfills in the state. These properties are often located nearby by or adjacent to existing electricity infrastructure, but are overlooked as building locations because of the costs of development on contaminated land. The use of greenfields, or uncontaminated land, for renewable power siting and operation is simply cheaper, faster and less complicated. The panelists discussed the use of the state brownfields laws and regulations as a vehicle to balance the economics of these projects to enable the significant amount of available but unused land to provide much needed renewable power.

The legislative leaders from the State Assembly and State Senate that participated in the Legislative Forum discussed the many significant accomplishments addressing climate change. As is evident in the items addressed in this article, the recently enacted Climate Leadership Act by the Legislature is already shaping environmental decision making as it is simultaneously providing a framework for future policies and actions needed by the state to reach aggressive climate reduction targets. Notably, two major air permit applications have been denied that will effectively reduce future emissions. The Draft Scoping Plan has received significant public interest and with about 20,000 comments has provided the opportunity to the public to directly address future climate policies.

The legislative leaders also focused on pragmatically meeting the needs of climate change and the process of developing and implementing laws to address it. The discussion, for example, reflected on the legislative hearing process and the benefits of bringing together many constituencies and impacted

communities in the discussion of a new law that would mandate future construction to rely solely upon electric power for heating buildings. The recent series of building electrification hearings, they noted, were necessary and invaluable to crafting legislation that actually addresses the concerns and challenges of electrification in meaningful ways and will result in legislation that would impact future construction around the state. In addition, the discussion addressed providing necessary funding to move the state's school bus fleet from diesel engine powered vehicles to electric vehicles—reducing the climate impact and the direct public health impacts to children. Along these lines, the legislative leaders are also focused on the electrification of the transportation sector throughout the state by developing ways to provide more electric vehicle charger locations and to address issues raised with car dealership rules as they relate to the sale and service of the electric vehicles entering the market that may not choose to reach consumers through the traditional car dealership business model. Notably, the legislative leaders discussed the \$3.0 billion Environmental Bond Act that will be put on the ballot in November 2022 as a significant and necessary effort to fund the climate and other environmental priorities that are mandated in the state.<sup>32</sup>

The keynote address by Deputy Commissioner Snyder offered the benefit and perspective of DEC leadership. It is the state agency placed at the forefront of addressing climate change and implementing the Climate Leadership Act. Noteworthy and important in the discussion was the point that the state is taking an all agency approach to the climate challenge by bringing various agency leaders together to discuss the issues and develop solutions, as demonstrated by the work of the Climate Action Council. The state's efforts to imple-



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fields, climate change, clean water, hazardous substances regulation and remediation litigation, various compliance matters, petroleum contamination litigation and in real estate transactions. Parker has served as chair of the Legislation Committee since 2012, on the Section's Executive Committee since 2008, and serves as vice chair of the Environmental Law Committee of the Nassau County Bar Association. He can be reached at [jparker@sahnward.com](mailto:jparker@sahnward.com).

ment the Climate Leadership Act are necessary, significant, and far reaching, with the work of the Climate Justice Working Group and the need for a just transition being a focus of the effort to bring balance and inclusion of all constituencies to the development of the new policies. The Climate Leadership Act has set aggressive climate reduction targets that will alter the energy use of the future. Two key pillars of this effort are the electrification of the transportation sector and the electrification of heating systems in buildings in the state because these sectors consume significant amounts of energy and produce corresponding carbon emissions back into the atmosphere. Noteworthy in the keynote address was discussion of the transportation goal of 90 to 98% of vehicles sold in 2030 to be electric vehicles. As the keynote address discussed, the New York of the 2040s and beyond will be a very different place with far fewer climate changing impacts. Not only are the state agencies focused on this undertaking, but thousands of New Yorkers have submitted comments on the Draft Scope Plan demonstrating that they, too, recognize the significance of this historic moment.

The Environmental and Energy Section of NYSBA, and the Legislation Committee sincerely thank the Annual Legislative Forum 2022 participants for the time, thoughtfulness, and expertise they have brought to this open and balanced discussion of pressing issues facing New York.

## Endnotes

1. See Reuters, *Timeline: The events leading up to Russia's invasion of Ukraine*, <https://www.reuters.com/world/europe/events-leading-up-russias-invasion-ukraine-2022-02-28/> (last visited June 30, 2022).
2. See UKCop, *Delivering the Glasgow Climate Pact, UN Climate Change Conference UK 2021*, <https://ukcop26.org> (last visited July 7, 2022).
3. See Steven Mufson, Annabelle Timsit, *It is not enough: World leaders react to COP26 climate agreement*, Washington Post, <https://www.washingtonpost.com/climate-environment/2021/11/14/climate-deal-reaction-cop26-world/> (last visited Feb. 12, 2022).
4. See World Economic Forum, *Global Risks Report 2022*, <https://www.weforum.org/reports/global-risks-report-2022> (last visited Feb. 12, 2022).
5. See Karen Gilchrist, *Bill Gates, John Kerry stress 'urgent' need for businesses to join climate fight*, CNBC, <https://www.cnbc.com/2022/01/20/bill-gates-john-kerry-call-for-urgent-private-sector-climate-action.html> (last visited on Feb. 12, 2022); see generally, *DAVOS: Agenda Articles*, <https://www.weforum.org/agenda/climate-change> (last visited July 1, 2022).
6. See Jeff Brady, Joe Hernandez, *U.S. greenhouse gas emissions jumped in 2021, a threat to climate goals*, Houston Public Media, <https://www.houstonpublicmedia.org/npr/2022/01/11/1071835575/u-s-greenhouse-gas-emissions-jumped-in-2021-a-threat-to-climate-goals/> (last visited Feb. 12, 2022).
7. See NOAA National Centers for Environmental Information, *National Centers for Environmental Information: Billion-Dollar Weather and Climate Disasters*, <https://www.ncdc.noaa.gov/billions/> (last visited July 2, 2002).

8. See Nina Lakhani, *US hit by 20 separate billion-dollar climate disasters in 2021, NOAA report says*, The Guardian, <https://www.theguardian.com/environment/2022/jan/11/us-hit-by-20-separate-billion-dollar-climate-disasters-in-2021-noaa-report-says> (last visited Feb. 12, 2022).
9. See NOAA National Centers for Environmental Information, *National Centers for Environmental Information: Billion-Dollar Weather and Climate Disasters*, <https://www.ncdc.noaa.gov/billions/> (last visited July 1, 2022).
10. See Whitehouse, *FACT SHEET: The Bipartisan Infrastructure Deal Boosts Clean Energy Jobs, Strengthens Resilience, and Advances Environmental Justice*, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/08/fact-sheet-the-bipartisan-infrastructure-deal-boosts-clean-energy-jobs-strengthens-resilience-and-advances-environmental-justice/> (last visited April 14, 2022).
11. See Henry Fountain, *Carbon Dioxide Levels Are Highest in Human History*, N.Y. Times, <https://www.nytimes.com/2022/06/03/climate/carbon-dioxide-record.html?referringSource=articleShare> (last visited July 1, 2022); see, also Rebecca Lindsey, *Climate Change: Atmospheric Carbon Dioxide*, Climate.gov, <https://www.climate.gov/news-features/understanding-climate/climate-change-atmospheric-carbon-dioxide> (last visited July 1, 2022).
12. See Justin L. Penn, Curtis Deutsch, *Avoiding ocean mass extinction from climate warming*, Science.org, <https://www.science.org/doi/10.1126/science.abe9039> (last visited May 5, 2022); see, also Chelsea Harvey, *Scientists Warn of Looming Mass Ocean Extinction*, Scientific American, <https://www.scientificamerican.com/article/scientists-warn-of-looming-mass-ocean-extinction/> (last visited May 5, 2022).
13. See Jennifer A Dlouhy, *Biden Clean Power Push Hits New York With Offshore Wind Sale*, Bloomberg Law, <https://www.bloomberg.com/news/articles/2022-01-11/biden-clean-power-push-heads-to-new-york-with-offshore-wind-sale>, (last visited Feb. 12, 2022); see, also Emma Newburger, *Auction for the right to build wind farms off New York and New Jersey raises a record \$4.37 billion*, CNBC, <https://www.cnbc.com/2022/02/25/us-offshore-wind-auction-in-ny-nj-raises-a-record-4point37-billion.html> (last visited March 10, 2022).
14. See Michelle Morin, *FINDING OF NO SIGNIFICANT IMPACT Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight*, BOEM, [https://www.boem.gov/sites/default/files/documents/NYBightFinalEA\\_2021-073\\_FONSI.pdf](https://www.boem.gov/sites/default/files/documents/NYBightFinalEA_2021-073_FONSI.pdf) (last visited July 1, 2022).
15. See OEDigital, *Construction of New York's First Offshore Wind Farm Set to Start as Final Approval Granted*, <https://www.oedigital.com/news/493647-construction-of-new-york-s-first-offshore-wind-farm-set-to-start-as-final-approval-granted> (last visited Feb. 12, 2022).
16. See *Energy: 2021 NYS Greenhouse Gas Emissions Report, Sectoral Report # 1* at page 2, [https://www.dec.ny.gov/docs/administration\\_pdf/ghgenergy21.pdf](https://www.dec.ny.gov/docs/administration_pdf/ghgenergy21.pdf). The energy sector has seen a 15% reduction in emissions since 1990.
17. See U.S. Dep't of the Interior, *Interior Department Invites Public Comment on Proposed Five Year Program for Offshore Oil and Gas Leasing*, <https://doi.gov/pressreleases/interior-department-invites-public-comment-proposed-five-year-program-offshore-oil-0> (last visited July 1, 2022).
18. See Bloomberg Law, *Oil Industry Sees Ongoing Leasing Pause in New Biden Gulf Plan*, Bloomberg Law, <https://news.bloomberglaw.com/environment-and-energy/oil-industry-sees-ongoing-leasing-pause-in-new-biden-gulf-plan> (last visited Jul 6, 2022).
19. See NPR, *A Biden administration offshore drilling proposal would allow up to 11 sales*, <https://www.npr.org/2022/07/02/1109552068/a-biden-administration-offshore-drilling-proposal-would-allow-up-to-11-sales> (last visited July 2, 2022).
20. See *West Virginia et al v. USEPA, et al*, No. 20-1530 (June 30, 2022).
21. See Environmental Conservation Law (ECL) Article 75; ECL § 75-0101 *et seq.*
22. See “Climate Act,” <https://climate.ny.gov> (last visited April 14, 2022). The significant effort is a milestone mandated by the Climate Leadership Act to requires at least 70% of the state’s power generation from renewables by 2030 and to achieve a zero-emission electricity sector by 2040.
23. See New York State Energy Research and Development Authority, *Climate Action Council Extends Deadline for Public to Comment on Draft Scoping Plan to July 1*, <https://www.nyserdera.ny.gov/About/Newsroom/2022-Announcements/2022-06-01-CAC-Extends-Deadline-for-Public-to-Comment-on-Draft-Scoping-Plan-to-July-1> (last visited June 25, 2022).
24. See New York State Dep’t of Environmental Conservation, *Climate Action Council Releases Draft Scoping Plan for Public Comment, New Yorkers Encouraged to Review and Comment on Draft Scoping Plan Beginning Jan. 1 to Advance and Implement Nation-Leading Climate Law*, <https://www.dec.ny.gov/press/124494.html> (last visited June 21, 2022).
25. See New York State Dep’t of Environmental Conservation, *Energy: 2021 NYS Greenhouse Gas Emissions Report, Sectoral Report # 1*, at 2, [https://www.dec.ny.gov/docs/administration\\_pdf/ghgenergy21.pdf](https://www.dec.ny.gov/docs/administration_pdf/ghgenergy21.pdf) (last visited July 7, 2022).
26. See Chris McKenna, *DEC rejects key permit for proposed Danskammer power plant in Newburgh*, Record Online, <https://www.recordonline.com/story/news/local/2021/10/27/dec-rejects-crucial-permit-new-danskammer-power-plant-newburgh/8566737002/> (last visited Feb. 12, 2022). See also, New York State Dep’t of Environmental Conservation, *Statement from DEC Commissioner Basil Seggos on Denial of the Title V Permit for the Danskammer Energy Center*, <https://www.dec.ny.gov/press/124069.html> (last visited Feb. 12, 2022).
27. See New York State Dep’t of Environmental Conservation, *Statement from the New York State Department of Environmental Conservation on Denial of the Title V Permit Renewal for Greenidge Generation, LLC*, <https://www.dec.ny.gov/press/125678.html> (last visited July 1, 2022).
28. See Cheyenne Ligon, *New York Environmental Regulators Deny Greenidge’s Power Plant Permit*, <https://www.coindesk.com/business/2022/06/30/new-york-environmental-regulators-deny-greenidges-power-plant-permit/> (last visited July 1, 2022).
29. See New York State Dep’t of Environmental Conservation, *DEC’s Letter denying the Title V Permit Renewal for Greenidge Generation LLC*, [https://www.dec.ny.gov/docs/administration\\_pdf/greenidgefinal630.pdf](https://www.dec.ny.gov/docs/administration_pdf/greenidgefinal630.pdf) (last visited July 1, 2022).
30. See *id.* at 15–18.
31. See *id.* at 18–19.
32. See Bloomberg Law, *New York’s \$3 Billion Environmental Bond on November 2022 Ballot*, <https://news.bloomberglaw.com/daily-labor-report/new-yorks-3-billion-environmental-bond-on-november-2022-ballot> (last visited May 11, 2022).