

April 22, 2021

Dear Climate Action Council Member:

Thank you for your service to the New York State Climate Action Council and to the people who eagerly await the draft scoping plan you are charged with creating. We write today to share with you our collective thoughts on how to ensure the Agriculture and Forestry section of the draft Climate Action Plan lives up to the promise of the law that *The New York Times* called “the world’s most ambitious climate plan.”

Last month, we gathered as farmers and leaders of environmental and agricultural organizations to discuss policy solutions and practices to drastically reduce greenhouse gas and co-pollutant emissions from agriculture and forestry in New York State. This roundtable was to be the beginning of a process to raise under-represented voices in the agriculture and forestry conversation. Our dedicated group continues to review and make recommendations for the CLCPA scoping plan with a more community-focused lens.

Today, we offer the following comments on the current draft recommendations of the Agriculture and Forestry Advisory Panel of the Climate Action Council established by the CLCPA. Overall, we are very supportive of the recommendations, and believe they can and should be strengthened in several ways.

1. Overall Goals and Cross-Cutting Strategies

- A. GHG Reduction Goal. The Panel has recommended that the agriculture and forestry sectors seek to achieve a 30% reduction in net GHG reductions by 2050. By contrast the CLCPA requires a reduction of 40% of all anthropogenic GHG emissions by 2030 and 100% of all anthropogenic emissions (outside of those industries that could participate in an alternative compliance program, or ACP, that the Department of Environmental Conservation is authorized to create) by 2050. The law only allows offset of emissions under an ACP. Since agriculture is one of the few sectors that can achieve not only climate-neutrality but actually become a carbon sink, we urge a much stronger goal for the sector; it should be at least consistent with overall CLCPA goals.
- B. AEM Climate Plans. The Panel is recommending two cross-cutting strategies. The first recommends building capacity for developing climate mitigation and resilience plans into the Agricultural Environmental Management (AEM) system. We support this but urge that the climate plans (absent financial data, if any) be

publicly available (unlike AEM plans which are largely confidential). Since understanding and confidence in the program is critical to its continued funding, sufficiently detailed information should be made available to agencies, other producers, neighbors, and the public to allow for assessment and to help continually improve the program.

- C. Watershed Plans. We also urge the CAC to consider watershed planning (as is already done in part under the agricultural nonpoint source control program) and the development of watershed-wide climate action plans. Using a watershed approach could help take advantage of the many co-benefits for water quality that climate-friendly practices and increase the likelihood and ease of farmer-to-farmer collaboration and information sharing.

- D. AgBMP. The second cross-cutting strategy recommends development of an Agriculture Benchmarking and Monitoring Program (AgBMP) to develop methodologies for measuring the carbon and GHG impact of various practices, conducting a baseline assessment of New York lands, and preparing annual measurements. Under this AgBMP, farm-level confidential data would be collected from farmers and aggregate data (with farmer agreement), with summaries made publicly available. Again, we support this strategy and urge greater transparency of site-specific practice and environmental impact data. Since many of these practices are expected to be funded by a significant public cost-share, the public must have access to sufficient project-specific cost information (excluding any personal financial information) to allow consideration of the cost-benefits of investments. This degree of transparency is the norm in other areas of public investment and should be adopted here.

- E. Workforce training and compensation. The Panel repeatedly noted that farmer-to-farmer education is the most effective. We suggest that workforce training programs be developed and expanded to allow increased farmer peer learning regarding best practices on climate-friendly farming and agroforestry. The state should recognize the time and effort this takes and compensate sustainable farms for practicing and providing lessons on enhancing ecosystem services and increasing carbon sequestration.

2. Alternative Manure Management

The Panel proposes several recommendations for alternative manure management, such as cover and flare systems or biodigesters for manure lagoons, including increased financial incentives, outreach, training, bulk purchasing, research and development, and infrastructure development. We support these recommendations, underlining the importance of transparency of any financial support for these systems,

and the critical need that their effectiveness be carefully modeled, monitored, measured, and verified. For example, in other sectors flaring systems often malfunction and do not achieve the intended GHG reductions; New York will need to ensure sufficient oversight and monitoring to be able to actually obtain the maximum possible reductions and verify them. There are several concerns, however, that these recommendations raise.

- A. Methane infrastructure. First, while we support assistance for necessary infrastructure for GHG reduction projects, we believe that the captured methane should be limited to on-site use. We must avoid the further build-out of new pipelines and distribution infrastructure that will also be used to transport fossil fuel natural gas – the very type of energy the state is committing to end its reliance on.

- B. Efficient stewardship of public funds. Second, recognizing the limited funds the state will have available for GHG reductions in the agriculture and forestry sectors, we urge the State to reserve state incentive payments – and the limited funds available for them – to support small-to-mid sized dairy operations (and other CAFOs) in adopting climate-friendly practices, while DEC would issue regulations under its existing legal authority in the ECL, Title 19 (noted in the Panel’s recommendations) imposing methane pollution limits that would apply only to the relatively few largest, and most polluting, CAFOs. For example, there are only about 142 CAFOs in New York with over 1000 cows (according to USDA data) out of a total of 4,600 dairies. These few facilities emit on average over 200 tons of methane per year and are responsible for much of the sector’s total methane emissions. (By contrast, the average oil and gas well from which methane emissions are regulated by DEC emits about 150 tons per year.) Even without innovative controls, studies indicate that the costs to control these emissions would be very modest on a per cow basis. Especially in light of the COVID-19 crisis, we urge the CAC to consider carefully how to best marshal limited financial resources, and we believe it is fair to ask the largest producers to internalize the costs of their GHG emissions.¹

¹ Nothing in the Community Leadership and Climate Protection Act (CLCPA) limits this DEC authority. DEC is empowered to “[f]ormulate, adopt and promulgate, amend and repeal codes and rules and regulations for preventing, controlling or prohibiting air pollution in such areas of the state as shall or may be affected by air pollution.” ECL § 19-0301(1)(a). Separately, the CLCPA requires DEC to promulgate regulations that “include legally enforceable emissions limits, performance standards, or measures or other requirements to control emissions from greenhouse gas emission sources, with the exception of agricultural emissions from livestock.” CLCPA § 2, amending ECL § 75-0109(2)(b). While enteric methane emissions would be “from livestock,” emissions that emanate from manure and grazing lands are not “from” the animals, but rather are a result of how manure and grazing lands are managed by farmers and ranchers. (Similarly, emissions from municipal sewage treatment plants

- C. Pasture-based management. Third, we believe that support for a shift to pasture-based management, which has the potential of not only reducing the production of methane, but also reducing nitrous oxide emissions by use of manure in place of synthetic fertilizer and increasing soil carbon if the grazing is well managed, should be significantly supported and prioritized in this recommendation. (This has the potential, moreover, in production of dairy product that could obtain a market premium.) This recommendation currently does not mention such a shift of production system.

3. Precision Feed and Forage Management

The Panel recommends increasing financial support (for practices or performance), outreach, education, development and sharing of feed management systems, and research into food waste as a feed to reduce the enteric methane emissions, largely from the state's dairies. This is one of the most significant sources of agricultural GHG in New York. We support this recommendation. However, recognizing the difficulty of reducing enteric emissions for a given population of cows, we also urge consideration of product demand management, such as through state purchasing. We also suggest that this presents a particularly valuable opportunity for funded cooperative practice research, incentivizing producers to experiment broadly with mechanisms to buffer negative results and funding for oversight and analysis.

4. Soil Health and Nutrient Management

The Panel recommends increased funding for the Climate Resilient Farming and Agricultural Nonpoint Source programs, as well as other increased education and outreach (including to the state Soil and Water Conservation Districts and farmer-to-farmer programs), better measurement and monitoring tools, increased shift to perennial crops, and inclusion of climate mitigation planning into the AEM system. We support this recommendation and highlight a few concerns.

- A. Focus on climate-friendly perennials. First, it is not clear that a shift to a perennial hay or pasture crop, if then grazed on by ruminants (which release large amounts of methane) in a manner that does not offset the methane emissions by increased soil carbon sequestration would be a climate gain. The program should prioritize a shift to perennial crops that are not designed for ruminant grazing and should ensure, through a complete lifecycle assessment, the climate impact of any proposed shift.

are not considered to be "from humans".) Moreover, this exception occurs only in the paragraph imposing a mandate on DEC that it *must* regulate certain sources and does not apply to DEC's independent ECL authority.

- B. Transparency and funding effectiveness. Second, as above, we urge transparency in practices funded by public support. In addition, to get the most climate benefit from public funds, we urge that deployment of a basic set of health soil practices be a condition of other grants (such as for alternative manure management). And, finally, we suggest that the public support be exclusive of potential support through a voluntary offset market (and note that such practices not be eligible at all for offsetting mandated emission reductions), so that if a producer is able to shift from New York state funding to a private market system, that state funding is then freed up to assist other producers.

- C. Soil Health Incentives. We are encouraged by the range of programs the Panel considers incentivizing adoption of practices that build healthy soils. Consistent with the CLCPA overall goals, we urge that forty percent of program benefits go to disadvantaged farmers. Such as preference could help increase the current very low number of BIPOC and socially disadvantaged farmers in the state. We would also urge that these incentives include efforts to increase adoption of integrated pest management and otherwise reduce overall pesticide use, given the impact that pesticides can have on soil health and thus soil carbon.

5. Agroforestry

The Panel recommends that the department set goals for reasonable agroforestry expansion, identifying the opportunities of several sorts – riparian and field buffers, silvopasture, alley cropping, and more – and increase support for these practices through existing programs such as the CRF, Ag NPS, and Source Water Protection programs. Agroforestry programs have some of the highest climate change mitigation potential and have numerous advantages of clear additionality, ease of monitoring, and duration. We strongly support this recommendation and, as above, believe this area is particularly well-suited to increased collaborative in-field research with producers.

6. Bioeconomy

- A. Long-lived wood products. The Panel makes a number of recommendations to expand uses of low carbon biomass products that can replace high GHG products. The Panel urges expanding the market for sustainably harvested long-lived wood products and increasing financial and technical support for their development as well as support for investigation into carbon dioxide removal technologies. We generally support these. However, we urge that every specific application be very carefully examined with a detailed lifecycle analysis to ensure that the substitution is a net positive for the climate in the short-term (less than ten years) and considering all land use impacts. We also urge exploration of a program for the state to use its own purchasing power and to encourage municipalities to use their purchasing power to preference the purchase of NY farm and forest products; this could be both positive for the climate and support

local and regenerative economies.

- B. Bioenergy. The Panel supports the use of biomass for energy and liquid fuels. While we applaud the Panel's recognition that any program must maintain or increase current forest carbon stocks, we do not believe this is a pathway the state should develop further. We generally oppose the expansion of woody biomass for off-site energy or electricity given the strong science that indicates that such uses and increased timber harvests are harmful to the climate when all factors are taken into account. New York will be better served by maximizing its forest carbon.

7. Avoided Conversions and Forest Management

The Panel makes several recommendations to help prevent the conversion of forest or agriculture land to development or higher GHG uses, including increased state and local land acquisition, landowner education, amendments to the Real Property Tax Law to incentivize non-timbering forest conservation, and support for farmland preservation. We strongly support these recommendations, with the caveat that we urge support only for those specific forestry projects that a full life-cycle analysis demonstrates maintains or increases carbon storage in the short- and well as long-term. We believe that maintenance and expansion of the state's forest and grassland areas and their carbon storage is critical to achievement of the CLCPA's 2050 goal, so that this recommendation should be a high priority.

8. Additional recommendation: Financing the Transition

The Panel declined to address ways to ensure funds for the many incentive and other programs recommended. We urge the CAC not to leave this issue unaddressed. While we can be hopeful for appropriate allocation of state general funds or grants from the federal government (which is newly expressing interest in supporting climate-friendly agriculture), there is no assurance that such funds will appear or be adequate. We therefore urge the CAC to consider specific funding mechanisms to provide support for these programs.

We believe that a polluter pays model will generate revenues and create financial incentives for climate-friendly practices. We believe that an increased fertilizer fee could be an important part of this funding. The current NYS fertilizer fee should be increased to reflect the climate change impact of the fertilizer use and all income from the increased fertilizer fee should be entirely devoted to funding programs to help incentive farmer and ranchers to adopt climate-friendly practices. This would encourage greater stewardship of fertilizer as well as raise funds. The new fee could better be applied at the stage when the fertilizer is manufactured or brought into the State rather than the retail level. Applying the fee only to synthetic fertilizer would also encourage better use of manure fertilizer, with additional GHG and other environmental benefits. For example,

if New York imposed a carbon fee of about \$50/ton (the most common currently used figure for the social cost of carbon), the equivalent N fee, based on climate impact would be \$70/ton of N fertilizer. (Fertilizer is currently exempt from the 4% NYS sales tax; this fee would be about 12% of average price.) This would raise about \$5 million/year for to help farmers transition to low GHG practices.

As noted above, we also believe the State should use its own significant purchasing power (almost \$1 billion/year) to give preference to local climate-friendly practices. Doing so could provide producers a premium that can help offset the initial cost of transition to more sustainable practices. The State should also consider agricultural product procurement agreements that can guarantee a buyer or a price for climate-friendly New York farm products, and other methods to support local farmers.

We thank you for taking our perspective into consideration and look forward to working with you to build a stronger, greener and more equitable state.

Sincerely,

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