April 27, 2020

City of Cohoes Common Council
City Hall
97 Mohawk Street
Common Council Chambers
Cohoes, NY 12047

RE: Comments on Cohoes Common Council Proposed Moratorium on Burning PFAS Firefighting Foam

Dear Councilmembers,

The Sierra Club Atlantic Chapter and Sierra Club Hudson Mohawk Group appreciate the opportunity to submit comments on the proposed moratorium on burning PFAS firefighting foam in the City of Cohoes. As a volunteer led organization of 50,000 members statewide dedicated to protecting New York’s air, water, and remaining wild places, we strongly support the proposed moratorium.

In response to the overwhelming body of scientific research highlighting the toxicity of PFAS chemicals and their associated adverse health impacts, states have begun banning their use in firefighting foams. While this is a major environmental and public health victory, it also brings a new predicament to light — what to do with the already existing large quantities of these toxic chemicals. One suggested disposal method for PFAS waste is through high temperature chemical breakdown, or incineration. Only a handful of hazardous waste incinerators in the country burn aqueous film-forming foam, also known as AFFF, and there is no proof that incinerators completely destroy all the foam’s harmful chemical components.

The Department of Defense, the nation’s largest user of firefighting foam containing PFAS, facilitated contracts to burn millions of gallons of the unused chemicals in incinerators across the country. One of the facilities DOD contracted to incinerate firefighting foam containing PFAS is the Norlite lightweight aggregate facility in Cohoes. The activity commenced at Norlite in 2019 without clear guidance regarding safety from the EPA. Norlite, which is not considered a hazardous waste facility, has a poor history of complying with operating permits. DOD’s decision to authorize large-scale PFAS incineration without considering the health impacts is unlawful, in violation of the National Environmental Policy Act (NEPA) and the National Defense
Authorization Act (NDAA). Due to the fact that this action was taken by DOD without proper review, people living in Cohoes and neighboring communities have been left vulnerable to a myriad of potential untold consequences.

In February 2020, a federal lawsuit, in which Sierra Club is a plaintiff, was brought against the DOD due to concerns regarding the safety and potential impacts of incinerating PFAS chemicals. NYSDEC began an investigation after the lawsuit was commenced to determine whether the actions are a threat to public health or safety.

The incineration of this foam should be blocked by state and local officials, to ensure that the public health and safety of our communities is protected. Proposed state legislation (S.7880 Breslin/A.9952 McDonald) would ban the incineration of any aqueous film-forming foam and associated perfluorocarbon components. Given the current uncertain and unprecedented political landscape in New York due to the COVID-19 crisis, it is unclear whether this proposed state legislation will be signed into law expeditiously, if at all.

Though Norlite is not currently burning any PFAS chemicals, the facility plans to start test burning in May or June of this year. Therefore, it is imperative that the Cohoes Common Council approve Mayor Bill Keeler's proposed one-year moratorium on burning the chemicals in the city. This action will give state lawmakers enough time to pass more widespread legislation, in the event that it is unable to be addressed on the state level before Norlite resumes its operation as planned. The City of Cohoes, in the absence of this state legislation, must take immediate action on a local level to halt the incineration of these toxic chemicals to protect public health and the environment. The Sierra Club Atlantic Chapter and Sierra Club Hudson Mohawk Group jointly urge the Council to approve this moratorium.

Thank you for your consideration of our comments.

Kate Bartholomew, Chair
Sierra Club Atlantic Chapter

Monica Gray, Chair
Sierra Club Hudson Mohawk Group