Memorandum of Support

S.1031-B (Stewart-Cousins)

Purpose: To make the concept of environmental justice central to the State Environmental Quality Review Act.

Statement of Support:
Since its enactment in 1976, the State Environmental Quality Review Act has been the mechanism by which all new development or policy that comes before any government body or agency within the State of New York is reviewed to determine whether the environment will be negatively impacted, and if such impacts can be avoided or mitigated in balance with the benefits of the proposed action. Central to this review is the environmental impact assessment process that asks of the developer whether the project will have a negative effect upon critical habitats, state or nationally listed historic places, archeological resources, rare plants or animals, wetlands or any other water bodies, flooding, water quality, community character, traffic, air quality, release of hazardous chemicals, local or regional planning, important agricultural soils and other important environmental considerations.

What has been conspicuously missing from the SEQRA law and regulations for the past 40+ years are direct assessment questions of whether disadvantaged communities or communities of color, who already bear the burden of disproportionate environmental degradation, shall be inflicted with even more environmental transgressions. While SEQRA has undoubtedly improved New York’s environment and saved us from some especially harmful projects and policies, the disproportionate focus on protecting what is rare and pure has distracted efforts to restore equity and justice to where pollution and discrimination have been allowed to comingle for decades. In the time of SEQRA, power plants, factories, waste treatment facilities, incinerators, dumps, transit depots and other concentrated sources of pollution have been sited in communities without the resources to oppose such projects, and to the profit of affluent communities who would not receive the direct negative effects.

S1031-B requires the state to expressly factor in disproportionate or inequitable burdens on minority communities or economically distressed areas under the State Environmental Quality Review Act. Making environmental justice a central element to environmental impact statements may in fact yield better projects and policies for communities everywhere. The Sierra Club strongly urges your support of this important legislation.

As a side note: There is no state agency that has the power to enforce SEQRA. The responsibility of enforcing SEQRA falls squarely on citizens under Article 78 of the New York State Civil Practice Law and Rules. Unfortunately, through regressive court rulings, restrictive standing requirements have stifled the public’s ability to uphold the integrity of SEQRA as reasonable complaints are thrown out on standing technicalities before the merits of the case can be heard. Enacting S1031-B is an important step in reversing decades of environmental racism, but if these new provisions cannot be enforced then we ultimately cannot achieve true justice. We suggest enacting A.3510/S.2798 as a companion to this legislation so that the important principles of environmental justice can be enforced.