



PECKHAM
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July 1, 2022

Draft Scoping Plan Comments
NYSERDA
17 Columbia Circle
Albany, NY 12203-6399

RE: CLCPA Draft Scoping Plan – Plan Review Comments

To Members of the Climate Action Council:

Thank you for the opportunity to present the following comments on the draft New York State Climate Action Council Draft Scoping Plan, which is intended to guide the implement of the Climate Leadership and Community Protection Act (“CLCPA”).

Peckham Industries, Inc. (Peckham) is a nearly 100-year-old New York-based supplier of construction materials and construction services that employs nearly 1,000 people across five states. Peckham owns and operates 11 mines in New York State, including several that will be located in areas covered by the proposed regulations. These mines provide valuable and irreplaceable aggregate materials and services that support public and private construction, including infrastructure and public works, and the people of this State. The industry is vital not only to the roadways, bridges, and buildings we all use and rely on every day but is also an integral part of the State’s economy. The mines we own and operate employ hundreds of New York workers both directly and indirectly through our trucking and vendor partnerships.

The future operations and viability of our company, and the industry as a whole, will be severely impacted if the draft Scoping Plan is adopted as written. The final version of the plan requires significant modification in order to address the potentially devastating impacts that will result from an unsupported and drastic push to electrification of the industry.

The Scoping Plan can only achieve its intended goals if the State considers a balanced and integrated approach to environmental, social, and economic sustainability. Regrettably, the draft Scoping Plan presented for comment fails to provide such balance. In fact, the alternatives put forth do not provide the greatest return on investment for achieving short and long-term emission reduction goals. Rather, the draft Scoping Plan is pre-decisional and outcome determinative in its near exclusive reliance on electrification of our industry, as well as its dependence on induced



changes in individuals' behavior to achieve the CLCPA's goals. Specifically, the plan fails to adequately assess and/or consider the following:

- (1) Overstates the benefit-costs analysis on individuals and businesses of transitioning facilities, equipment, and fleets to all electric energy sources. Specifically, does not consider the feasibility and lack of technology to electrify industry equipment such as drill rigs and haul trucks;
- (2) Undervalues prior contributions by certain sectors, including transportation and construction, in the development of new strategies and policies to support topline Plan emission reductions;
- (3) Omits the cost effectiveness/fiscal impacts of each mitigation strategy as stand-alone actions;
- (4) Disregards the probability for success for each mitigation strategy in lieu of aspirational goals, including any meaningful assessment pertaining to the availability or reliability of proposed solutions;
- (5) Excludes independent safety and engineering-based validations for recommendations impacting construction materials, means and methods;
- (6) Ignores physical and geographic limitations for certain types of activities, such as the sourcing of aggregates; and
- (7) Overestimates the commercial viability of hard to electrify industries/equipment and underestimates, or completely ignores, fiscal impacts of 'make ready' costs on such individuals and businesses.

In addition to the shortcomings of the draft Scoping Plan, we, as a company and an industry, remain concerned with Section 7 of the CLCPA. Section 7 grants each New York agency and Authority the unprecedented license to deny any and all sensible projects requiring State approval or decision without due process by arbitrarily determining that a proposed industry action is inconsistent with or will interfere with achievement of the Climate Act's emission mandates/goals. This new and unparalleled 'administrative' influence may afford any entity with an inherent bias or an alleged aggrieved individual, including persons who may be in direct competition, the ability to delay or indefinitely defer action on a proposed project or the renewal of new or an existing permit. This section of the CLCPA at best appears to be a direct effort to



circumvent existing statutory requirements, policies, and processes and at worst an explicit infringement of the State and Federal Constitution on a variety of grounds.

Mines are preferentially located in more rural areas, not because they are trying to impact disadvantaged communities but because it is easier to develop and operate mines where the population density is less. Essentially, this proposed law would punish the mining companies for doing the right thing and trying to reduce the environmental impact of their mines on surrounding communities, or on facilities where the community has developed around a mine that has been operating for many decades.

One of the most alarming aspects of the proposed law is the intention to apply it to existing, permitted mines seeking to renew their permit. This idea will have a severe impact on affected mines for the following reasons:

- (1) The mines have undergone an extensive review period, and, by law, renewals are de minimis actions and not an opportunity to pull the rug out from under an existing, operating business;
- (2) Making it harder for businesses to get permits in disadvantaged communities will result in less businesses working in those communities and less employees and revenue being generated;
- (3) Mines require large capital investments in land, exploration, permitting and equipment before they can even start operations. It often takes decades to repay this initial investment. Changing the rules on existing mines would literally pull the rug out from under their business and change their profitability. This practice would simply be unfair;
- (4) Peckham has permitted mines across eastern New York we cannot recall a single instance where a home or community was treated differently because it was richer or poorer. The whole premise behind this proposed law is flawed and should be immediately abandoned or re-written.

For the reasons stated above we believe that the draft Scoping Plan does not accomplish its purported goal of implementing impactful actions to mitigate harmful emissions and enhance environmental sustainability. The lack of practical and feasible low-emission and renewable alternatives included in the draft Scoping Plan not only will substantially increase the costs of living and doing business in New York, it further places the State at a competitive disadvantage with other states. It is unreasonable to assume that other states competing for development



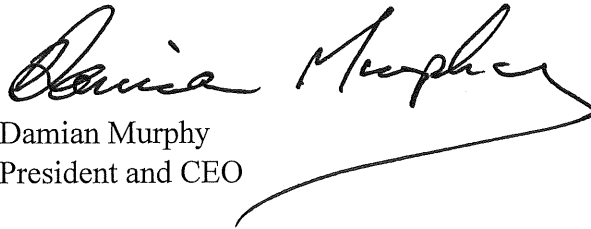
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opportunities with New York will implement and/or enforce equivalent climate policies, and in that vacuum, the Scoping Plan and CLCPA will serve only to drive further businesses and industries out of New York State.

Thank you for your time and consideration of these comments.

Sincerely,
Peckham Industries, Inc.



Damian Murphy
President and CEO