



## *Fresh Air*

The Quarterly Newsletter of the Mid-Hudson Group of the Atlantic Chapter

Summer 2021 | Vol. 53 | Issue 2

This newsletter will be posted to our website along with all previous newsletters.

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Because of differences in Email programs, the links above and back to top" links below may not work.

**[The first Mid-Hudson Group Online Auction is coming this Fall.](#)**

*also*

**[Visit our Mid-Hudson Group eBay page.](#)**

### *Chair's Corner by Lalita Malik*

Last year we saw the rapid progress science can make to improve our lives and the human behavior that continues to hold us back. Science gave us vaccinations that made it possible for us return to normal life. The naysayers are rejecting it. It reminded me of the progress technology has made towards renewable energy, energy efficient cars, appliances, and a myriad of other improvements, yet we are still fighting fossil fuel companies and developments that continue to clear cut land, fill in wetlands and continue to degrade the environment.

At the local level our Conservation Committee continues to fight to block the building of a Steel and Concrete plant at the edge of the Bluestone Wild Forest. A new issue that affects Blanding Turtles in a quarry has been added to their list. Check out the articles by Nancy and Marie and please participate in the public hearing or send comments to the planning board.

Most of us are aware of rabbits that folks give children on Easter, and cats and dogs as gifts that are eventually either released into the wild or given to shelters. Did you know about the exotic animals that many folks get with the same outcome? Check out Bob's article on Exotic Animals.

A new source of pollution has been added to our list, from Fertilizers. Check out the article on PFAs.

Our progress towards clean energy and new ways for generating renewable energy continues to grow. Check out Nivo's article on *Harvest From the Sun: Farming and Photovoltaics*. It discusses a partnership with farmers to grow crops and generate electricity.

Clean, renewable energy is electricity, which means we all have to transition to driving Electric Vehicles (EVs) in the near future. Can we travel long distances in our EVs? I tested this out in May.

I decided on a trip to ADK Loj, at Heart Lake near Lake Placid. Under normal circumstances this journey should not require much planning. But I intended to drive my new 2020 Chevy Bolt, an Electric Vehicle which cannot be refueled like a regular car. I had to figure out where to charge it en route and at my destination.

The network of EV chargers has been growing gradually along major highways, shopping centers, hotels and business offices. There are apps like Charge map, Place to Plug, and Nextcharge to help you find EV chargers. The Bolt has a range of 259 miles. My destination was 225 miles. Theoretically, I should be able to make the journey without charging on the way, but since actual mileage varies, it would have been risky. I did not want to get stuck on narrow mountain roads with no cell phone signals. So I planned one recharge halfway on my trip.

Using the apps I had installed on my phone I found the perfect location along my route, the Adirondack Welcome Center on I87 northbound. It turned out to be an incredibly good spot. They had fast chargers which can recharge my car in less than an hour. After plugging in the car we used Taste of NY vending machines for good food, checked out various displays, maps, travel guides and took a short walk. After recharging we continued our journey with almost a full charge on the car.

At our destination we had access to a Level 2 charger which we used after our day trips to keep the car fully charged. On the return trip, I had planned to recharge at Lake George. My plan was to plug in the car for charging and walk around the town and have lunch. I found a Level 2 Charge Point charger at the Holiday Inn Express but found that it would take three hours to recharge the car. After searching for a fast charger on various apps we decided to go back to the Adirondack Welcome Center we had used on our way North. Since it was on the Northbound side we had to travel South on I87 and then back north to the Welcome Center. After charging we traveled north to the next exit where we turned around and headed south.

The plan worked well. We had to travel three miles to go north to the Welcome Center and only one mile to the next exit after charging to turn around and continue south. If all fast chargers are situated so conveniently, traveling with an EV on the highway will be very practical.

The future looks good. We will continue to fight the usual fights for the environment as they surface. And continue to make progress towards a cleaner environment at the same time.

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## Conservation Corner

### **Mid-Hudson Group Conservation Committee**

*by Nancy Severns*

The Conservation Committee focused on Bluestone Wild Forest in the last month.

#### **Bluestone Wild Forest (BWF, Kingston, NY)**

BWF is a remote 3,000-acre state land preserve available for hiking, skiing, camping, fishing, and water sports. It contains Onteora Lake and Pickerel Pond. A steel and concrete slab fabrication plant is proposed at 850 Route 28, adjacent to Pickerel Pond and completely surrounded by BWF. Allied groups are asking the town of Kingston to review the full environmental impact and assess the impacts to recreational activities, tourist economy, habitat, wildlife, water, and air quality.

The Mid-Hudson Sierra Group Executive Committee decided to fund a community character study of the Town of Kingston. The goal of the study is to document the existing nature of the town of Kingston. It will include the area's natural, cultural, historic, aesthetic, and community resources. The issue of community character is considered both substantive and significant to the environmental impact proceeding. It is in addition to other investigations on the potential negative impacts of this steel and concrete slab fabrication plant.

The Town of Kingston Planning Board has just scheduled a virtual public hearing on this project for Monday, June 21, at 7 pm. For more details, see [Marie Caruso's article](#) on this subject which appears below.

## Quarry Expansion

We've been advised of a plan to expand Red Wing Sand and Gravel's quarry located on White School House Road in Rhinebeck, NY. The expansion directly affects the habitat of the Blanding's turtles. According to the NY State Department of Environmental Conservation, "Since Blanding's turtles mature late and their populations depend on adults reproducing throughout their relatively long lifespan, the loss of even a single female can have a major impact on a population." See this article about the decision by the DEC to issue an incidental take permit which allows for the Blanding turtles to be killed incidental to the construction of this site. [Threatened Turtles to Be Crushed to Death!](http://idausa.org) ([idausa.org](http://idausa.org))



Photo courtesy of NYS DEC (Ryan von Linden)

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The Conservation committee meets every other month on the third Thursday of the month at 6:30 pm via Zoom. Our members provide updates on four topics (Bluestone Wild Forest, Danskammer, Wheaton Park, and Education). A new issue for the next meeting will be the expansion of Route 17 over Wurtsboro Mountain.

Our next meetings are June 17th and August 19th at 6:30 pm and will be held via Zoom. If you'd like to join the meeting, send an email to Nancy via [midhudsonsierragroup@twc.com](mailto:midhudsonsierragroup@twc.com).

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Update:

### **Bluestone Wild Forest**

*By Marie Caruso*

### **Public Hearing Scheduled for 850 Route 28, Steel And Concrete Plant in Midst of Bluestone Wild Forest**

The Town of Kingston Planning Board has announced a virtual public hearing for **Monday, June 21, at 7 pm**, on the site plan and special permit application for 850 Route 28, LLC, the precast concrete and steel manufacturing plant proposed on property completely surrounded by the Bluestone Wild Forest. For over two years, your Mid-Hudson Group Sierra Club, the Adirondack Mountain Club, the Woodstock Land Conservancy, Catskill Mountainkeeper, many local residents, and other groups have been opposing this project, which will involve years of blasting and rock crushing, water and air pollution, and heavy truck traffic at this gateway to the Catskill Park.

In August of 2019, following massive attendance at meetings and a huge public outcry, the Planning Board rescinded the negative declaration which would have allowed the project to proceed without further environmental review. However, the Planning Board of this sparsely populated town of about 900 residents has not yet issued a positive declaration, which would require the applicant to file an environmental impact statement (EIS) and force the project to undergo a rigorous review of its likely negative impacts.

**This meeting will be held via WebEx ([www.webex.com](http://www.webex.com)).** All interested parties may attend the meeting via WebEx or by calling: 1-408-418-9388 / Access Code (Meeting Number): 132 981 8139; Password: 5678. Physical attendance by the public will not be permitted.

You can view the full notice and application documents on the Town of Kingston website: [www.townkingstonny.us](http://www.townkingstonny.us).

The Planning Board has paid scant attention to the numerous studies that have been submitted over the past two years documenting the likely negative impacts of this manufacturing facility upon the wildlife, habitats, and recreational users of the Bluestone Wild Forest. Instead the Board is allowing the developer to push for a speedy approval of the project. In response, Catskill Mountainkeeper (CMK) and Woodstock Land Conservancy (WLC), the two groups spearheading the opposition, are urging everyone concerned about its impacts to attend the public hearing and voice their concerns. As of this writing, though, there is as yet no information available on how people can sign up to speak.

Written comments, however, can and should be submitted to the Planning Board via the following email addresses:

Town Clerk [TOKclerk@gmail.com](mailto:TOKclerk@gmail.com)

Planning Board Secretary [UlaFest@gmail.com](mailto:UlaFest@gmail.com)

Put "850 Route 28 Public Comment" in the subject line and ask that your comments be sent to all the Planning Board members. Also, please cc the Planning Board attorneys:

cc:

Richard Golden, attorney [Rgolden@bmglawyers.com](mailto:Rgolden@bmglawyers.com)

Kelly Naughton, attorney [knaughton@bmglawyers.com](mailto:knaughton@bmglawyers.com)

No announcement has yet been made of the deadline for submitting written comments, so it is suggested that people do so as soon as possible. CMK and WLC will be resubmitting all the studies that have thus far been done, plus a new report on the importance of community character that has recently been funded by your Mid-Hudson Group Sierra Club.

The studies themselves can be found on the website: [www.saveonteoralake.org](http://www.saveonteoralake.org), where, if you haven't yet done so, you can also SIGN THE PETITION urging the board to require a full EIS. And for more information, both Kathy Nolan of CMK and Maxanne Resnick of WLC have a wealth of knowledge regarding the significant adverse impacts this project is likely to have. You can contact them at [kathy@catskillmountainkeeper.org](mailto:kathy@catskillmountainkeeper.org) or [maxanne.wlc@gmail.com](mailto:maxanne.wlc@gmail.com).

On May 27, Claudia Braymer, the attorney for CMK and WLC, presented an excellent webinar on the State Environmental Quality Review (SEQR) process, as it relates to this issue. She stressed that if an action *may* include the potential for at least *one* significant adverse environmental impact, it *must* trigger a positive declaration, which *requires* the filing of an EIS. Although many potential adverse environmental impacts have been identified and submitted to the Planning Board, the board has thus far refused to issue the positive declaration that these potential impacts require. [Claudia Braymer's webinar can be viewed online here.](#)

You can sign up for regular updates on this issue at [bluestoneforest@gmail.org](mailto:bluestoneforest@gmail.org). The full story can be found in the articles published every quarter in this newsletter since the Fall of 2019. And, for further information, please feel free to contact me at [mariehvwdk@gmail.com](mailto:mariehvwdk@gmail.com).



Equipment and construction materials being stored at site of proposed industrial plant. Pickerel Pond is directly above the site. You can see most of Onteora Lake on the left.

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*The following is a press release recently issued by the Sierra Club. We are presenting this to you as it is an important issue that may directly affect you.*

### **Report Reveals PFAS in Home Fertilizers Made From Sewage Waste, Highlights Urgent Need for Safeguards**

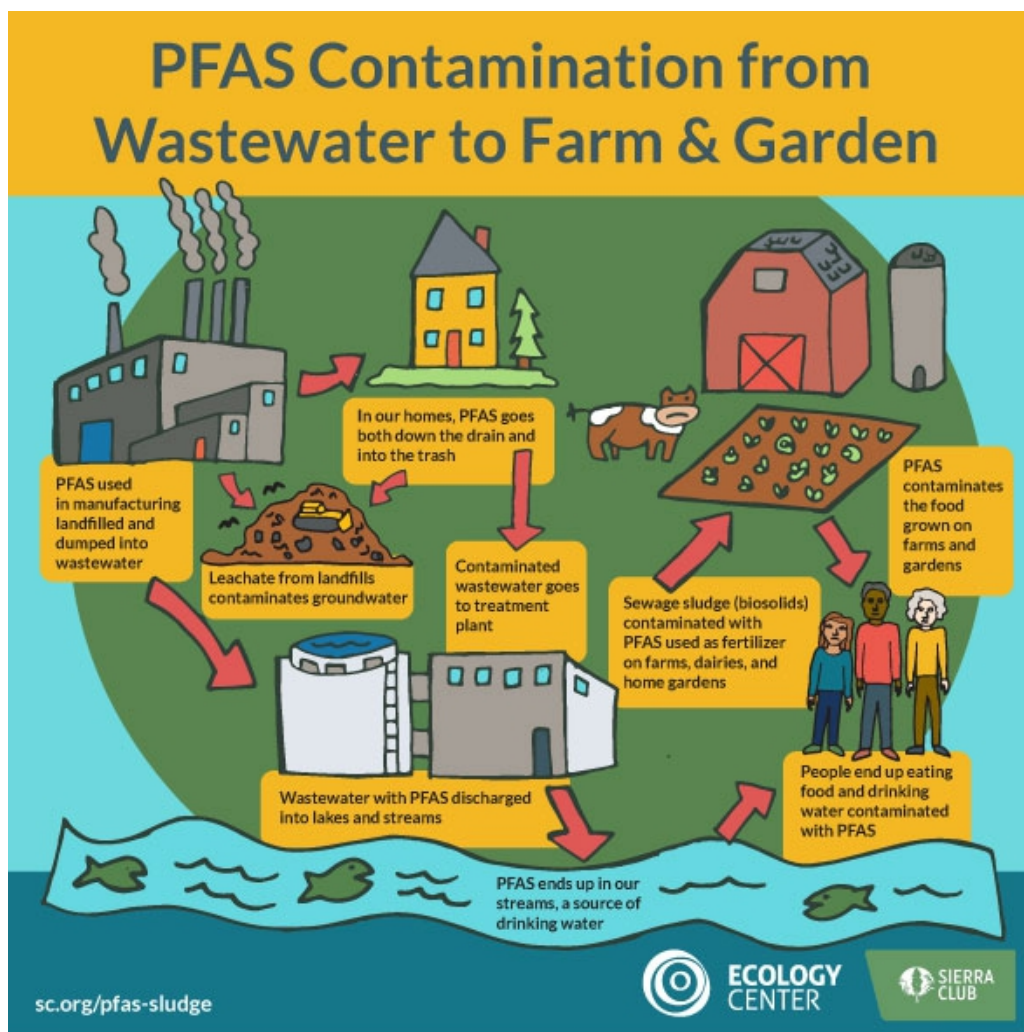
Tuesday, May 25, 2021

**WASHINGTON, D.C.** — A new report released today found concerning levels of toxic PFAS (per- and polyfluoroalkyl substances) found in home garden fertilizer products widely sold throughout the United States. [The Read the full report here.](#)

Testing conducted by the Sierra Club and the Ecology Center, found **PFAS chemicals in nine fertilizers** made from sewage sludge — commonly called “biosolids” in ingredient lists — and maps more than 30 companies selling sludge-based fertilizers and composts for home use across the US. Eight of the nine products exceed the screening guideline for PFOS or PFOA set in Maine, the state with the strictest safeguards for PFAS levels in sludge spread on agricultural lands.

PFAS are “forever chemicals” that don’t break down in the environment and are highly toxic to people. They are virtually unregulated by the US government, meaning that industries are legally allowed to flush PFAS chemicals down wastewater drains where they settle out in the solid materials during wastewater treatment. Across the US, sewage sludge is frequently spread on farmland, pastures, and sold to home gardeners as a source of fertilizer deemed to be a “beneficial reuse.” But PFAS residues in sludge-based materials have been found to contaminate farms and dairies as well as water resources. The test findings highlight the urgent need to keep toxic chemicals like PFAS out of the wastewater system and biosolids. Ultimately, the authors write, PFAS must be prohibited from use in consumer and industrial products, with only limited exceptions for currently unavoidable uses.





Report authors and experts issued the following statements:

“EPA and states must take swift action to enact strong standards to safeguard us from toxic PFAS continuing to flow into our wastewater and keep contaminated sewage wastes out of home gardens and farm lands,” said **Sonya Lunder, Senior Toxics Policy Advisor for the Sierra Club**. “While chemical companies have profited handsomely from PFAS chemistry, our drinking water, farms, dairies and the American public have paid the price.”

“Finding PFAS in home fertilizers shows how these chemicals end up back in our lives even when we think they’ve been disposed of. There is no ‘away’ for PFAS. The only truly effective way to stop the cycle and protect our food and water supply is to end most uses of PFAS,” said **Gillian Miller, Senior Staff Scientist for the Ecology Center of Michigan**. “As we’ve argued before, Michigan lawmakers and manufacturers have an opportunity to take the lead in stopping the flow of PFAS waste into our environment.”

“Around the country home gardeners are unintentionally purchasing fertilizers, compost and topsoil marketed as ‘natural,’ ‘eco-friendly’ or even ‘organic’ but containing a cocktail of persistent and harmful industrial chemicals,” said **Christy McGillivray, Legislative and Political Director of Sierra Club Michigan**. “Sewage sludge cannot be used as a fertilizer on certified organic crops, so if you wish to keep your home garden organic, use fertilizers and composts that are not made from sewage waste.”

“Every week we learn of another way that PFAS chemicals contaminate our bodies and the environment around us. Enough is enough,” said **Linda Birnbaum, Scientist Emeritus and Former Director, National Institute of Environmental Health Sciences and National Toxicology Program**. “The EPA needs to take immediate action to prevent the reckless contamination of our food and water, soil and air by limiting the use of PFAS chemicals wherever possible.”

## Harvest From the Sun: Farming *and* Photovoltaics

As the urgency of the climate crisis becomes ever more acute, the need for ramping up renewable energy sources is clear. Whether wind or solar, our nation and the world must transition from burning fossil fuels (which emit greenhouse gases that are at the root of the catastrophic global warming) to tapping sources of energy that do not harm the planet. So it is critically important now to plan how to go about this in an optimal and least damaging manner.

One aspect to consider is the land footprint involved. We do not want to harm good land that is used for farming or wildlife habitat as we build out renewable energy infrastructure. Wind turbines can be erected offshore as is the case with the first large scale offshore wind farm in the USA, the Vineyard Wind Farm off the coast of Massachusetts. It has finally completed all approvals to proceed.

Onshore, the tall wind turbines are able to reasonably coexist with farming and ranching, as evident in upstate NY and the Midwest where leasing fees from utilities provide helpful income to farmers. But solar farms require surface area to gather the sun's rays; the larger the area, the more power an installation will generate. Photos of huge swaths of land covered in solar panels are impressive, but they also raise the question of the loss of other uses for that acreage. There are pilot projects for floating solar arrays on bodies of water, but it is likely that in the time frame in which the crisis constrains us, most solar installations will be on land.

One method to consider is using farmland to harvest solar power. Solar developers like farmland since it is generally flat, close to roadways and already cleared of trees and brush. But areas of good soil are needed to grow food. Can we satisfy both our gastronomic appetite as well as our hunger for electrical power? Both growing crops and solar electrical generation are powered by the sun. Can they coexist, or do they compete? The name given to the idea of combining agriculture and photovoltaics (PV) is agrivoltaics (APV).



The article “Agrivoltaics: Have Your Kale And Eat It Too”, by Stephen Heckerth and Carly Rixham in the Spring 2021 edition of *Solar Today* has some interesting background on APV. One might think it is a relatively new concept, but this idea was first explored in the early 1980s, when two individuals thought some crops might benefit from the partial shade of the panels while harvesting electricity. Ironically, they published their paper on APV in 1981, “at about the same time Exxon spent more than \$1 million on groundbreaking research showing how increased CO<sub>2</sub> emissions would raise temperatures in the atmosphere and have negative effects on life in the world's oceans.” Exxon's findings were buried. They and other oil giants have since spent more than \$30 million to discredit the science and promote climate denial in order to have humanity continue its fossil fuel demand.

Despite his attempts, it was not until 2016 that one of the original paper's authors could get funding for a small scale, multi-year pilot project in southern Germany. The 194 kW solar panels were placed 5 meters above the land, with spacing that had been calculated in 1981 for letting enough light through for the plants to grow while maximizing electrical output. The controls were a field with just the solar panels and a planted field with no PV. The first year showed a 160% total yield for crops plus electricity on the APV field versus the two fields which separately grew crops and had PV installed.

Then in 2018, the yield climbed to 186% higher for the APV, attributed to that year being hotter and drier (sounds like the conditions that are predicted for much cropland around the world due to the climate crisis). It appears that APV reduces water usage, and the shading lowers temperatures below the panels. The article clearly states the APV advantages: “Massive deployment of APV would reduce the need to convert land to agriculture [as existing farmland degrades due to climate change] and eliminate the need for the significant fossil fuel energy infrastructure while making the necessary transition to the solar electric economy. APV could also slow the shift of viable agricultural land toward the poles by retaining moisture and

cooling temperatures  
under the solar canopy.”

A larger scale study is being carried out on a small farm outside Boulder, CO, in which 3200 solar panels with 1.24MW output are arrayed over 5 acres, operating as a “community solar garden”. Below them, crops will be grown for agricultural research and food. The panels are on single-axis trackers (so their angle can be changed) six to eight feet above ground when flat, so cattle can graze below (to demonstrate to ranchers that livestock can coexist with PV). The shade might be welcome to cattle on hot days. The panels will absorb much of the midday radiation, helping soil retain moisture. The panels can create microclimates that nurture resident plants.



The tracking system is set up so direct sunlight and shade are provided to every part of the field for varying amounts each day. Rather surprisingly, in very arid places it has been found that the plants can cool the panels sufficiently to increase electrical output 3%. In addition, the installation is a community solar business in which subscribers can purchase a share in the output and get a discount on their electric bills from the utility. This can provide farmers with extra income, a buffer to the volatility of the agriculture business. Leasing land to solar developers is another potential way to bring in money.

Region plays a role in the impact APV could have on agriculture. In the article “Solar’s Flexibility Can Be Agriculture’s Gain” in the online *PV Magazine* for February 20, 2021, by Mark Hutchins, the author states “The biggest benefits for [APV] are found in warm, dry climates. ... work in the south of France provides one example of this, Italy and other areas of southern Europe have also seen successful projects. In general, more sunshine means more output from PV and more likelihood that plants will benefit from shade in the hottest parts of the day.” There are some ideas being floated in which PV arrays may help manage frost issues. “Agriculture in colder, wetter regions may also be able to benefit from integration with PV ... the panels can also help to prevent frost, potentially lengthening the growing season in multiple regions.”

Of course, there are still hurdles for widespread adoption of APV. Trying to determine which crops might be optimal for integration with solar is not simple, as it involves modeling all of the factors that influence plant growth (such as the amount of sunlight, temperature, wind, soil content, water supply) and then adding the effect of a PV installation. For many plants, adequate models are not yet available. Another issue is that the generally fixed nature of a solar array makes crop rotation difficult. Cycling different crops is needed to maintain soil health and strategies for this also vary greatly in different regions, but if a PV system is designed to be fixed in place for 20 years or more and is designed to the requirements of a specific crop, then farmers may be limited in what they can plant.

Mitigation of this problem may be offered by a solar panel tracking algorithm being developed by a French company, Sun’R. Tracker mechanisms allow altering the angle of the panels, “... according to both long- and short-term requirements of the crop. Sun’R is developing a software algorithm, AV Studio, that can simulate both electricity production and the microclimate beneath the panels and interact with plant growth models to compute the ideal tilt angle for the crop...allowing engineers to simply reprogram trackers to match different requirements.” Another possibility is mobile solar arrays that can be taken apart, moved, or reconfigured based on the planned crop for the year.



In the USA, government policy specific to APV has not yet caught up to these latest positive findings and APV's potential, although the solar federal tax credit is available to farmers, as well as a program called the Rural Energy for America Program. Perhaps more data and experimentation may help our lawmakers and farmers become convinced to act on APV. As Mark Hutchins states in his article, “While several gigawatts of agrivoltaics have already been deployed around the world, those



working in the field are keen to point out that the concept is still far from realizing its full potential.”

At present, there are restrictions in some states on mixing solar with farmland. But APV has come to the attention of the United Nations, as evidenced by the signing of a memorandum of understanding between the Food and Agriculture Organization of the United Nations (FAO) and the International Renewable Energy Agency. As noted in Hutchin's article, this promises broader collaboration and knowledge exchange between the two sectors. “Renewable energy is essential for agri-food systems transformation, climate resilience and net-zero strategies,” said Qu Dongyu, FAO director-general, announcing the collaboration in January. “Through our collaboration, we aim to generate and share knowledge, innovative products and technologies, as well as data and information. This agreement will allow us to strengthen the role of renewable energy within FAO’s initiatives.”

Much of the information for this article came from “Agrivoltaics: Have Your Kale And Eat It Too”, by Stephen Heckerroth and Carly Rixham in the Spring 2021 edition of *Solar Today*, and from “Solar’s Flexibility Can Be Agriculture’s Gain” in the online *PV Magazine* for February 20, 2021, by Mark Hutchins.

Is there a particular energy topic that you would like to hear about in the Mid-Hudson Sierra Club newsletter? Send an email to [midhudsonsierra@twc.com](mailto:midhudsonsierra@twc.com).

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### Exotic Animals: Fifty Flavors of Legal by Bob Heinemann

Sierra seeks to protect water, air and wildlife. This effort often is more complex than realized at first thought. Non-native exotic animals are often introduced into the environment as discarded pets too troublesome to keep; or are poorly maintained for profit by wild animal parks. These wild animals, fish and flora often are invasive and destructive to native species; and some exotic animals are safety concerns despite our inaccurate assumption that dangerous animals are never roaming about uncontrolled. We misplace our trust in laws and regulations as if they were certain rules akin to traffic laws or sports rules that are consistently enforced by neutral referees. The current hodgepodge of exotic wildlife laws are neither effective or consistent.

It is only when we read about unpredictable risks like the recent report of a tiger roaming around a Houston suburb that issues hidden in plain sight become a bit more obvious. The desire to own an exotic pet is often poorly regulated locally. We assume incorrectly that it is not happening in our backyard or neighborhood. Jackson Township, New Jersey is just 75 miles from New York City and in 1999 a 430 pound Bengal tiger, owned by one individual who had almost two dozen tigers in a poorly fenced compound maintained in squalid conditions on her property, escaped and was roaming around a suburban neighborhood until it was eventually killed in someone’s driveway.

The owner, Joan Bryon-Marasek, was dubbed “The Tiger Lady”. Her property reportedly had the highest concentration of tigers in one place in the world. She started owning tigers with 5 cubs in 1976. The State of New Jersey eventually revoked her permit and relocated more than 20 tigers to the Wild Animal Orphanage in San Antonio, Texas in 2003. Before the court ordered transfer of the tigers to Texas, she briefly obtained a license from the state of New York to move her 24 tigers to a horse stable in Hamptonburgh in Orange County. The license was pulled by the Town Clerk before it could be used when the full magnitude of the application became evident. The reason given for the late denial was the zoning law. Whew!

The World Wildlife Fund estimates that there are 5,000 tigers in the United States, which exceeds the approximately 3,200 tigers in the wild in the rest of the world.

“Pet” leopards and tigers also have injured and killed people in Illinois, Louisiana, North Carolina and Minnesota to name just a few other states. An alligator, likely released by a former owner, was spotted in Chicago’s Humboldt Park lagoon in 2019; an elephant was wandering around Westtown, NY in 2018; a mountain lion tried to use the revolving doors to



enter a casino in Reno, Nevada in 2012, and another one was strolling around near downtown Des Moines, Iowa the same year; and even a kangaroo hopped across a bridge in Grand Chute, Wisconsin in 2019.

Other exotic “pets” like Burmese pythons have become an invasive apex predator in the Everglades since they were first seen in 1979 after a likely release there by a former owner. Now, it is estimated that between 100,000 and 300,000 pythons make their home in the Everglades happily decimating Florida’s native bird population, as well as deer and even alligators. Not to mention Asian carp closing in on the Great Lakes from downstream rivers and smaller lakes. Clearly, there is an unaddressed problem with exotic pets!



### **Federal Wildlife Law**

The Lacey Act, 16 USC 3371-3378, is one of the better laws attempting to control the unlawful purchase, sale and possession of wild animals. This federal law is tough and tries to cover most situations with “fish or wildlife” whether alive or dead that are “possessed, transported, or sold in violation of any law or treaty, or regulation of the United States”. The penalties include both civil fines from \$250 to \$10,000 per offense and criminal penalties up to 5 years in prison. The Secretary of the Interior and the Secretary of Commerce are tasked with enforcement. There are still several gaps and large loopholes in the law.

The Lacey Act defines prohibited wildlife species as “any live species of lion, tiger, leopard, cheetah, jaguar or cougar or any hybrid of such species”. When the Lacey Act was first passed in 1900 it was the first federal law protecting wildlife. It was amended in 2008 largely to cover a wider variety of prohibited plants, including illegally logged wood. Much of the text concerns plants and plant products. Given the serious wildlife incidents briefly referenced above it is clear that much still needs to be done regarding meaningful enforcement and inspection of wildlife facilities.

There are significant exclusions and enforcement gaps in the federal law. Exceptions include persons who are “licensed or registered” by the federal inspection service or “any other Federal agency with respect to that species.” The law excludes “a corporation that is exempt from taxation under section 501(a) of Title 26” and a person who “does not commercially trade in animals” or “does not allow direct contact between the public and animals”. The federal law also is very deferential to State laws, whether the State is stricter or more lenient, stating that “Nothing ...preempts or supersedes the authority of a State to regulate wildlife species within that State”. These are enforcement gaps that a tiger, kangaroo or boa constrictor can stroll, hop or slither through quite easily when owned by a careless citizen or tax exempt commercial enterprise.

Other federal laws are more stringent with significant penalties like the Endangered Species Act with a minimum penalty of \$3,500 for keeping an endangered species as a pet, and the Captive Wildlife Safety Act which prohibits interstate commerce of live big cats with penalties of up to five years in prison and a maximum fine of \$500,000. However, as with gun laws, much enforcement is left to the individual states with their wildly different standards. Therein lies most of the problem.

### **State Wildlife Laws**

The fifty States have vastly different approaches to regulating exotic wildlife. There are basically five groups of regulatory approaches. The most stringent laws ban private ownership of exotic animals though they often name specific species thereby leaving unintended gaps. Other states have only partial bans on private ownership. A third group of states only requires the owner to obtain a license or a permit to register the animal for possession. A fourth option of some states does not even require a license or permit to possess a wild animal but only regulates some lesser aspect requiring an entry permit from another state or a veterinary certificate. Finally, the most lax states have no statute or regulation of exotic pets. All specific state laws discussed below are as of May, 2016. Given the recent political climate nationwide since January, 2017, it is unlikely that many State laws, if any, have been substantially changed since then.

Hawaii, California and New York, as three examples, have tough laws. Hawaii, wisely being protective of its native species and citizens, quite comprehensively says it is unlawful for persons to introduce exotic animals for private use into Hawaii. California makes it unlawful to possess wild animals unless the animal was in possession prior to January 1992 so they age out the potential problem. Though specific species are named, the law also states that the rules are not limited to the stated list of animals. New York also comprehensively says it is unlawful to possess a wild animal, set January 1, 2005 as the effective date, and gave all owners on that date 60 days to obtain a permit for the animal from the Department of Environmental

Conservation.

New Jersey, as we have seen with the Tiger lady saga, tries hard but has some ambiguous laws using language like “potentially” dangerous species. NJ allows zoos and “other exhibitors” who have “extensive experience in handling and caring for the animal” to possess a potentially dangerous species. The Tiger Lady was said to have such expertise, until she didn’t. Enforcement is difficult and appeals may drag out the enforcement process for years.

Then there are rather quirky laws like in Indiana which uses more of a licensing approach which likely provides revenue. Indiana requires a possession permit for each wild animal. Despite dividing the pet choices into three Class categories, there are exclusions for crocodilians less than 5 feet long! Minnesota despite having an effective date of January 1, 2005 with 90 days to register an animal, has an exotic pet lover’s loophole. You may replace your “pet” if it dies, but you may only replace it once. One wonders how that rule is enforced. And, Maine with its laconic down east style simply says a person may possess a wild animal after obtaining a permit.

Most liberally there are states where you can literally walk an elephant through the loophole in the absence of any meaningful law. Montana only requires a permit for a wild animal menagerie. Outside of public exhibitions the owner of exotic animals such as reptiles or monkeys only needs to acquire a one-time entry permit and an official health certificate.

Florida has very stringent rules for private ownership prior to August 1, 1980, but in keeping with being the Land of Disney, exempts traveling wildlife exhibitors who are licensed and registered. As the best estimate for the first sighted Burmese python in the Everglades was in 1979 and their increased numbers were regularly noticed in the 1990’s, Florida’s law may have caused some exotic “pet” owners to end their ownership, just not in the way intended. The situation in the Everglades has become so unfortunate that rabbits, fox, raccoons, opossums, and bobcats have all but disappeared from the Everglades, not to mention the loss of herons and other birds and their young in nests. So, Florida has placed a bounty on killing Burmese pythons. The lucky hunter receives \$50 for the first 4 feet and \$25 for every foot thereafter with a bonus of \$200 if the python was guarding eggs! Still, there is no end of pythons in the Everglades and likely never will be.

Nevada, in keeping with its financial resources from casinos, glamorous spectacles and floor shows, wins the prize for ignoring anything that interrupts a revenue stream. Specific animals are prohibited from private ownership but other exotic animals may be possessed without a license or permit. Nevada even gives examples of the exotic animals exempted by naming them, including monkeys and other primates, marsupials, elephants, felines, and wolves. No wonder Siegfried and Roy held their act at the Mirage Resort and Casino from 1990 to 2003 when the show famously ended with Roy being given the hook by a large white tiger and dragged off stage by his neck.

### **Final Thoughts**

Perhaps most important, we need to keep wild animals safe from humans more than the other way around. What catches our attention are the isolated instances of cougars trying to get into casinos and tigers in our driveway. Wild animals belong in the wild, if we can keep some wild places truly wild on planet earth. Loss of natural habitat, and the lucrative market for wild animal furs, teeth and body parts for misplaced reasons of fashion and health require better regulatory control everywhere.

The exploitation of wild animals is pervasive and usually overlooked. Most of us have fond memories of going to the circus as a child, and we have taken our kids there, too. Now that Ringling Brothers Barnum & Bailey Circus is past history we may be able to see beneath its surface a bit clearer. Feld Entertainment, the parent company of Ringling Brothers had more than 150 Animal Welfare Act violations. Animals were kept confined for long periods in small, cramped cages and transported hundreds and even thousands of miles in depressing conditions just for profit and a show of surface enjoyment for the public.

The Tiger Lady of NJ was a former Ringling Brothers animal trainer who was gifted several unwanted tigers by Feld Enterprises after she left the circus early into her Jackson Township years as a tiger breeder and self appointed tiger expert. After the circus closed, Feld Entertainment tried to offload their exotic animals anywhere they could, even trying to fly many big cats to Europe for yet another circus operation before being tagged with additional Animal Welfare Act violations.

Next time you are tempted to take the kids or yourself to a circus with animal acts, or to a wild animal farm, or even to buy an exotic pet that you may not keep for its full life, stop for a moment to think about how the animal was obtained, and how it is trained and maintained. If you do, you may just decide to take a pass and not support those endeavors with your dollars.

And, next time you take a hike on a lonely trail or walk through a suburban or rural area be sure to stay alert in case something is creeping up on you.

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(Michigan State University College of Law)

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## The Federal Lacey Act

### *Three Examples of Different State Requirements Regarding Wildlife*

#### **New York**

*Category: B* (Ban on private ownership of exotic animals — non-domesticated felines, wolves, bears, reptiles, non-human primates)

Summary of Law: It is unlawful for a person to possess a wild animal. A wild animal is defined as: all members of the felidae family (except domestic cats); all members of the canidae family (except domestic dogs); all bears; all non-human primates, venomous reptiles, and crocodiles. A person who possesses a wild animal on the effective date of the law, January 1, 2005, has 60 days to obtain a permit for the animal with the Department of Environmental Conservation.

#### **Alabama**

*Category: N* (The state does not require the “owner” to obtain a license or permit to possess the animal within the state, but may regulate some aspect thereof (i.e. entry permit, veterinary certificate, etc.)

Summary of Law: No person, firm, corporation, partnership or association may possess, sell, offer for sale, import or cause to be brought or imported into the state the following fish or animals: fish from the genus *Clarias*; fish from the genus *Serrasalmus*; Black carp; any species of mungoose, any member of the family *Cervidae* (deer, elk, moose, caribou), species of coyote, fox, raccoon, skunk, wild rodents or wild turkey. However, there are no requirements for a person possessing exotic animals, such as lions, tigers, monkeys, etc.

#### **Nevada**

*Category: O* (No statute or regulation governing this issue)

Nevada has some of the laxest wildlife laws. You may own primates, elephants, camels, wolves, ostriches, alpacas, zebras, non-domesticated felines, and many other animals without a permit or license. Animals that are prohibited include alligators, crocodiles, raccoons, bats, coyotes, moose, venomous snakes, and foxes. Some animals may be possessed, transported, imported and exported without a permit or license issued by the Department such as monkeys and other primates, elephants, all felines, except mountain lions and bobcats, and wolves, among others.

## Book Review by Sarah Kennedy

For an unusual approach to nature writing, try *Hunger Mountain: A Field Guide to Mind and Landscape* by David Hinton. Hinton’s life’s work has been to translate Chinese poetry and philosophical treatises. That work informs his way of being in the world, and most particularly, his way of being on Hunger Mountain.

This slim volume contains musings on a wide variety of topics, arranged by the author using a simple structure. The author took regular walks up Hunger Mountain, near his home in Vermont. This allowed for his mind to empty out and for meditation. Each elegant chapter is focused on some issue which came up for the author on these solitary walks; thoughts related to nature, philosophy, ethics, beauty, art, poetry, the nature of life and death, and so on.

In one chapter on the topic of friendship, Hinton includes a beautiful poem called “Moonrise”. This poem was written by the Chinese poet Tu Fu, over twelve hundred years ago. Thinking about this poem on one of his walks, Hinton provides a lovely





description of the ways the feelings of friendship can extend beyond the personal to an eternal feeling of friendship that extends beyond the individual, and across time and space.

Hinton explores with the reader how he translates the Chinese graphs which use pictorial elements to depict language. By showing the graphs, and explaining this process, he gives us a window into Chinese philosophy and art. In turn, this helps us understand something about the development of Chinese philosophy. Hinton then considers the way these Chinese poets and philosophers think about ethical issues related to the environment. He sees a connection between thinking in this way about how people belong in the natural world to those who came before us in North America. Writing about Ritual, Hinton thus explains:



“So Ritual expands ethics across our human divides and beyond into the nonhuman realm, for it is all of the ten thousand things, not just the human, that are ‘there in me.’ It therefore provides the basis not only for a comprehensively inclusive ethics within human societies, but also for an environmental ethics valuing the nonhuman realm that mainstream western thought has historically deprived of value because it has no meaning or inner reality or spirit. Indeed, it is remarkable how close this feels to the view that shaped the experience of hunting for Hunger Mountain’s ancient Paleo-Indians, with their sense of identity migrating through the food web.”

Sprinkled throughout the book are lovely observations of nature. Returning to Hunger Mountain over and over allows Hinton to notice small variations which occur depending upon weather and time of day, as well as larger seasonal changes. Having places we return to so often is a comforting practice.

Reading this book, I found myself carrying it with me on my daily walks. It seemed most fitting to read it in relatively short bits, where I could enjoy my surroundings, listen to the birds, and let my mind wander. Pictured here are some of my favorite reading places.



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## Letters from our Members

*Editor's note:* Send us a letter about issues that are important to you—whether local, state or national. Please submit your letter to our Newsletter Editor: Andy Moss, at [andy@hvi.net](mailto:andy@hvi.net). Our submission schedule is posted at the bottom of our website's [Newsletters](#) page. We will consider letters of up to 250 words. Your letter will be published in the next newsletter upon review and acceptance by the editor. Subjects should focus on Sierra Club areas of interest: conservation, environmental protection, political action, climate change, getting outdoors, etc. Visit the [Sierra Club](#), [Atlantic Chapter](#), or [Mid-Hudson Group](#) website to learn more about where we stand.

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## Fundraising by David Friedman

### Online Benefit Auction for the Mid-Hudson Group

We are planning to hold an online Mid-Hudson Group Auction sometime in the early Fall. As with our past tag sales we are asking our members to help us by donating items, services or by bidding. In addition, we hope local businesses will donate

goods or services. Please join us for this exciting new event by participating in any way you can.

We're looking for great items in excellent condition to put up for auction with the proceeds all benefiting the Mid-Hudson Group. We're seeking your participation to make it a spectacular event.

We are looking for high quality items and services to be put up for bid. Items donated will be seen by thousands of potential bidders. Here are some ideas of what we are looking for:

1. Gift Certificates to local businesses (either your own, or a business that you contact on our behalf). The business will be seen by thousands of potential clients)
2. Products from local businesses or artists
3. Event tickets (Concerts, theater, etc.)
4. Collectible antiques and related goods
5. High quality sporting goods such as boats, canoes, kayaks, sailboats, bicycles, camping equipment, etc.
6. Artwork
7. Cameras and small electronics, watches, pocket knives, etc
8. Gift quality goods
9. Designer goods
10. Time-share week - (or similar getaway opportunities)

We are looking for quality and desirable goods for the auction! Please do not offer goods that are in less than excellent condition.

To make a contribution or for more information contact David Friedman (Fundraising Chair) at: [Friedman\\_David@msn.com](mailto:Friedman_David@msn.com) or call/text: 845-701-6229.

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### **Visit our Mid-Hudson Group eBay page**

Our group now has an eBay page. We feature Sierra Club items and related goods. You can even let us know if you have items you wish to donate to be sold on our page!

[Visit our eBay page today to see what's for sale.](#)

To make a contribution or for more information contact David Friedman (Fundraising Chair) at: [Friedman\\_David@msn.com](mailto:Friedman_David@msn.com) or call/text: 845-701-6229.

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### ***Make A Gift - Make A Difference***

Our local group depends on the support of volunteers and the generosity of our membership. The work of the group takes Sierra Club volunteer effort, and of course funds. We hope that you will consider making a gift to the Mid-Hudson group of the Sierra Club. In these turbulent times it's vital that we all do what we can to speak out and work for the protection of our environment and the future of our world. We welcome and appreciate your support, and encourage you to consider providing financial support for our efforts. Our mailing address is at the bottom of this newsletter.

To speak about specific opportunities, or with any questions, please contact David Friedman, [Friedman\\_David@msn.com](mailto:Friedman_David@msn.com) or our Treasurer Richard Gunn, [richard.gunn.sierraclub@gmail.com](mailto:richard.gunn.sierraclub@gmail.com).

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Contact us:

**Email:** [midhudsonsierra@twc.com](mailto:midhudsonsierra@twc.com)

**Mail:** Mid-Hudson Sierra Club, PO Box 1012, Poughkeepsie, NY 12602

You can find the names of our Executive Committee members on our website:

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