

111TH CONGRESS  
2D SESSION

# S. 3943

To amend the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to carry out activities for the restoration, conservation, and management of Onondaga Lake, New York, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2010

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to carry out activities for the restoration, conservation, and management of Onondaga Lake, New York, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Onondaga Lake Res-  
5       toration Act”.

1 **SEC. 2. ONONDAGA LAKE, NEW YORK.**

2 (a) RESTORATION, CONSERVATION, AND MANAGE-  
 3 MENT ACTIVITIES.—Title I of the Federal Water Pollution  
 4 Control Act (33 U.S.C. 1251 et seq.) is amended by add-  
 5 ing at the end the following:

6 **“SEC. 123. ONONDAGA LAKE, NEW YORK.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) ADAPTIVE MANAGEMENT PLAN.—The  
 9 term ‘Adaptive Management Plan’ means the plan  
 10 developed by the Council under subsection (b)(1).

11 “(2) AMENDED CONSENT JUDGMENT.—The  
 12 term ‘Amended Consent Judgment’ means the  
 13 Amended Consent Judgment entered January 20,  
 14 1998, in the case of ‘Atlantic States Legal Founda-  
 15 tion v. The Onondaga County Department of Drain-  
 16 age and Sanitation’, Civil Action No. 88–CV–0066,  
 17 in the United States District Court for the Northern  
 18 District of New York (including any amendments to  
 19 that judgment).

20 “(3) CENTER.—The term ‘Center’ means the  
 21 Onondaga Lake Scientific Center established under  
 22 subsection (d)(1).

23 “(4) COUNCIL.—The term ‘Council’ means the  
 24 Onondaga Lake Watershed Council established  
 25 under subsection (b)(1).

1           “(5) ONONDAGA ENVIRONMENTAL INSTI-  
 2           TUTE.—The term ‘Onondaga Environmental Insti-  
 3           tute’ means the nonprofit corporation established  
 4           pursuant to section 401(d)(1) of the Great Lakes  
 5           Critical Programs Act of 1990 (Public Law 101–  
 6           596; 104 Stat. 3010) and section 411(d)(1) of the  
 7           Water Resources Development Act of 1990 (Public  
 8           Law 101–640; 104 Stat. 4648).

9           “(6) ONONDAGA LAKE.—The term ‘Onondaga  
 10          Lake’ means Onondaga Lake, in the State of New  
 11          York, and the associated watershed.

12          “(7) ONONDAGA LAKE MANAGEMENT PLAN.—  
 13          The term ‘Onondaga Lake Management Plan’  
 14          means the plan—

15               “(A) developed pursuant to section  
 16               401(a)(1) of the Great Lakes Critical Programs  
 17               Act of 1990 (Public Law 101–596; 104 Stat.  
 18               3010) and 411(a)(1) of the Water Resources  
 19               Development Act of 1990 (Public Law 101–  
 20               640; 104 Stat. 4648);

21               “(B) modified by the Amended Consent  
 22               Judgment; and

23               “(C) revised under section 573(c)(1) of the  
 24               Water Resources Development Act of 1999  
 25               (Public Law 106–53; 113 Stat. 372), as in ef-

1           fect before the date of enactment of this sec-  
2           tion.

3           “(b) ONONDAGA LAKE WATERSHED COUNCIL.—

4           “(1) ESTABLISHMENT.—The Administrator  
5           shall establish a council, to be known as the ‘Onon-  
6           daga Lake Watershed Council’, to develop a plan in  
7           accordance with subsection (c), to be known as the  
8           ‘Adaptive Management Plan’, for the restoration,  
9           conservation, and management of Onondaga Lake.

10          “(2) MEMBERSHIP.—

11               “(A) IN GENERAL.—The Council shall con-  
12           sist of the following members:

13               “(i) The Administrator.

14               “(ii) The Secretary of the Army.

15               “(iii) The head of any other interested  
16           Federal department or agency, as deter-  
17           mined by the Administrator.

18               “(iv) The Governor of the State of  
19           New York.

20               “(v) A representative designated by  
21           the Onondaga Nation Council of Chiefs.

22               “(vi) A representative designated by  
23           the mayor of the City of Syracuse, New  
24           York.

1                   “(vii) A representative designated by  
2                   the County Executive of Onondaga County,  
3                   New York.

4                   “(B) EX OFFICIO MEMBERSHIP.—The  
5                   Council shall consist of the following ex officio,  
6                   nonvoting members:

7                   “(i) The Senators from the State of  
8                   New York.

9                   “(ii) Each Member of the House of  
10                  Representatives whose congressional dis-  
11                  trict is located wholly or partially within  
12                  the Onondaga Lake watershed.

13                  “(iii) Each member of the New York  
14                  State Legislature whose district is located  
15                  wholly or partially within the Onondaga  
16                  Lake watershed.

17                  “(iv) Such other members as the Ad-  
18                  ministrator determines to be appropriate.

19                  “(C) DESIGNEES.—Any member of the  
20                  Council specified in clauses (i) through (iv) of  
21                  subparagraph (A) or in subparagraph (B) may  
22                  appoint a designee to serve in place of the  
23                  member on the Council.

24                  “(3) COMMITTEES.—

1           “(A) ESTABLISHMENT.—The Council shall  
2           adopt bylaws providing for the establishment of  
3           standing committees, including—

4                   “(i) a public outreach and participa-  
5                   tion committee; and

6                   “(ii) a science and engineering com-  
7                   mittee.

8           “(B) APPOINTMENT.—The Council shall  
9           appoint members to each committee described  
10          in subparagraph (A).

11          “(4) DUTIES.—

12                  “(A) DEVELOPMENT OF ADAPTIVE MAN-  
13                  AGEMENT PLAN.—The Council shall develop  
14                  and (as necessary to achieve the goals identified  
15                  under subsection (c)(1)) periodically revise the  
16                  Adaptive Management Plan, in consultation  
17                  with the Onondaga Lake Scientific Center.

18                  “(B) ESTABLISHMENT OF PROGRAM FOR  
19                  PUBLIC PARTICIPATION.—The Council shall es-  
20                  tablish and carry out a comprehensive, inclu-  
21                  sive, and ongoing program for participation of  
22                  the public, including the Onondaga Nation,  
23                  Federal, State, and local governmental entities,  
24                  and all other entities that may be affected by  
25                  activities under this section, in the development

1           and revision of the Adaptive Management Plan  
2           under subparagraph (A).

3           “(c) ADAPTIVE MANAGEMENT PLAN.—

4           “(1) IDENTIFICATION OF GOALS.—The Adapt-  
5           ive Management Plan shall identify measurable goals  
6           for—

7           “(A) the restoration, conservation, and  
8           management of Onondaga Lake; and

9           “(B) compliance with all provisions of law  
10          (except a provision of law described in sub-  
11          section (g)(1)(A)) affecting the restoration and  
12          conservation of Onondaga Lake, including the  
13          water quality standards established for Onon-  
14          daga Lake (including total maximum daily  
15          loads established under section 303(d)(1)(C))  
16          and the Amended Consent Judgment and all ef-  
17          fluent limitations under those standards or the  
18          Amended Consent Judgment (or otherwise pro-  
19          mulgated under this Act).

20          “(2) RECOMMENDATION OF STRATEGIES.—To  
21          achieve the goals identified under paragraph (1), the  
22          Adaptive Management Plan shall incorporate and  
23          update the recommendations of the Onondaga Lake  
24          Management Plan to recommend strategies for man-  
25          agement of—

1                   “(A) the biological makeup of Onondaga  
2                   Lake;

3                   “(B) the physical development of Onon-  
4                   daga Lake and the surroundings of Onondaga  
5                   Lake; and

6                   “(C) the use of Onondaga Lake for rec-  
7                   reational and other purposes.

8                   “(3) COORDINATION WITH OTHER ACTIVI-  
9                   TIES.—The strategies recommended under para-  
10                  graph (2) shall provide for coordination with all  
11                  other activities to restore or conserve, or otherwise  
12                  affecting the restoration or conservation of, Onon-  
13                  daga Lake, including ongoing public participation  
14                  activities, monitoring activities, and other activities  
15                  carried out under Federal or State law.

16                  “(4) ONGOING EVALUATION OF STRATEGIES.—  
17                  To evaluate the effectiveness of the strategies rec-  
18                  ommended under paragraph (2) in achieving the  
19                  goals identified under paragraph (1), the Adaptive  
20                  Management Plan shall—

21                         “(A) identify specific monitoring param-  
22                         eters by which to make such an evaluation, and  
23                         provide for the periodic revision of the moni-  
24                         toring parameters to achieve those goals;



1           “(B) establish a monitoring program to  
2           measure the monitoring parameters identified  
3           under subparagraph (A); and

4           “(C) provide for the periodic evaluation of  
5           the data collected pursuant to the monitoring  
6           program required by subparagraph (B).

7           “(5) APPROVAL.—The Administrator, after pro-  
8           viding an opportunity for public review and com-  
9           ment, shall approve the Adaptive Management Plan  
10          by not later than 120 days after the date of develop-  
11          ment of the plan under subsection (b)(1), if—

12           “(A) the Administrator determines that  
13           the Adaptive Management Plan meets the re-  
14           quirements of this section; and

15           “(B) the Governor of the State of New  
16           York concurs in the approval.

17           “(6) EFFECT ON ONONDAGA LAKE MANAGE-  
18          MENT PLAN.—Nothing in this section shall affect  
19          any activity carried out under the Onondaga Lake  
20          Management Plan, or any other activity affecting  
21          the restoration, conservation, or management of On-  
22          ondaga Lake, before the date of approval of the  
23          Adaptive Management Plan under paragraph (5).

24           “(7) IMPLEMENTATION OF ADAPTIVE MANAGE-  
25          MENT PLAN.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall carry out the recommendations contained in the Adaptive Management Plan by—

“(i) cooperating with Federal and State agencies;

“(ii) providing grants, and otherwise making funds available under subsection (f);

“(iii) consulting with the Council; and

“(iv) facilitating the participation of the public, including the Onondaga Nation, Federal, State, and local governmental entities, and all other entities that may be affected by activities under this section.

“(B) RECOMMENDATIONS.—The recommendations of the Adaptive Management Plan shall not be carried out under this section before the date on which the plan is approved by the Administrator and the Governor of the State of New York.

“(d) ONONDAGA LAKE SCIENTIFIC CENTER.—

“(1) ESTABLISHMENT.—The Council shall establish and direct a center, to be known as the ‘Onondaga Lake Scientific Center’.

1           “(2) DUTIES.—The Center shall advise the  
2 Council on—

3           “(A) development of benchmarks to accom-  
4 plish the goals identified under subsection  
5 (c)(1);

6           “(B) implementation of the strategies rec-  
7 ommended under subsection (c)(2);

8           “(C) implementation of the monitoring  
9 program under subsection (c)(4)(B);

10           “(D) establishment of the program for  
11 public participation described in subsection  
12 (c)(7)(A)(iv); and

13           “(E) other matters concerning the develop-  
14 ment and implementation of the Adaptive Man-  
15 agement Plan.

16           “(3) MEMBERSHIP.—The membership of the  
17 Center shall consist of—

18           “(A) the Administrator;

19           “(B) representatives of such non-Federal  
20 entities as are appointed by the Council, includ-  
21 ing—

22           “(i) Syracuse University;

23           “(ii) the State University of New  
24 York College of Environmental Science and  
25 Forestry;

1                   “(iii) the Upstate Freshwater Insti-  
2                   tute; and

3                   “(iv) the Onondaga Environmental In-  
4                   stitute; and

5                   “(C) such other members as the Council  
6                   determines to be appropriate.

7                   “(4) REPORTING.—The Center shall submit to  
8                   the Council an annual report—

9                   “(A) assessing the effectiveness of the  
10                  strategies recommended under subsection (c)(2)  
11                  in accomplishing the goals identified under sub-  
12                  section (c)(1);

13                  “(B) recommending changes to manage-  
14                  ment and monitoring activities to accomplish  
15                  the goals identified under subsection (c)(1); and

16                  “(C) recommending means for implementa-  
17                  tion of those changes.

18                  “(e) ONONDAGA ENVIRONMENTAL INSTITUTE.—The  
19                  Onondaga Environmental Institute, as a condition of re-  
20                  ceiving grants under subsection (f)(2), shall provide ad-  
21                  ministrative services for the development and implementa-  
22                  tion of the Adaptive Management Plan.

23                  “(f) FUNDING.—

1           “(1) IN GENERAL.—The Administrator may  
2           make funds available to members of the Council and  
3           to the Center for use in carrying out this section.

4           “(2) GRANTS.—The Administrator, in consulta-  
5           tion with the Council, may provide grants on a non-  
6           competitive basis to the Governor of the State of  
7           New York, the mayor of the City of Syracuse, New  
8           York, the County Executive of Onondaga County,  
9           New York, and members of the Center described in  
10          subsection (d)(3)(B)—

11                 “(A) to implement the strategies rec-  
12                 ommended under section (c)(2);

13                 “(B) for research, surveys, administrative  
14                 services, and studies; and

15                 “(C) to gather data necessary to carry out  
16                 this section.

17          “(3) NO RELIEF FROM LIABILITY.—Grants pro-  
18          vided under this subsection shall not relieve from li-  
19          ability any person that would otherwise be liable  
20          under Federal or State law for damages, response  
21          costs, natural resource damages, restitution, equi-  
22          table relief, or any other relief.

23          “(4) COST SHARING.—

24                 “(A) IN GENERAL.—Federal funds ex-  
25                 pended for activities to carry out this section,

1 including funds made available under para-  
 2 graph (1), grants provided under paragraph  
 3 (2), and funds used for administrative expenses  
 4 under subsection (h)(2), shall not exceed 65  
 5 percent of the costs of carrying out the activi-  
 6 ties.

7 “(B) NON-FEDERAL SHARE.—The non-  
 8 Federal share of the costs of carrying out any  
 9 activity described in subparagraph (A)—

10 “(i) shall be provided from non-Fed-  
 11 eral sources; and

12 “(ii) may be provided in the form of  
 13 in-kind services.

14 “(g) RELATIONSHIP TO OTHER LAWS.—

15 “(1) NO EFFECT ON FEDERAL OR STATE LAW  
 16 OR RESPONSIBILITIES ASSIGNED THEREUNDER.—  
 17 Nothing in this section alters, modifies, or otherwise  
 18 affects any other provision of Federal or State law,  
 19 including any responsibility assigned under such a  
 20 provision, including—

21 “(A) a provision of law (including a provi-  
 22 sion of the Comprehensive Environmental Re-  
 23 sponse, Compensation, and Liability Act of  
 24 1980 (42 U.S.C. 9601 et seq.) or the New York  
 25 State Environmental Conservation Law) that

1 requires, and assigns responsibility for, the per-  
 2 formance of cleanup activities (including re-  
 3 sponse and removal activities) or other activities  
 4 affecting the restoration or conservation of On-  
 5 ondaga Lake; and

6 “(B) the responsibility assigned under a  
 7 provision of law described in subparagraph (A).

8 “(2) NO EFFECT ON EXISTING LIABILITIES.—  
 9 Nothing in this section creates or expands any liabil-  
 10 ity that any party may have for natural resource  
 11 damages under any provision of law.

12 “(h) AUTHORIZATION OF APPROPRIATIONS.—

13 “(1) IN GENERAL.—There is authorized to be  
 14 appropriated to the Administrator to carry out this  
 15 section \$10,000,000 for each fiscal year, to remain  
 16 available until expended.

17 “(2) ADMINISTRATIVE EXPENSES.—The Ad-  
 18 ministrator may use amounts appropriated under  
 19 paragraph (1) for administrative expenses incurred  
 20 in carrying out this section.”.

21 (b) WATER RESOURCES DEVELOPMENT ACT OF  
 22 1999.—

23 (1) REPEAL.—Subject to paragraph (2), section  
 24 573 of the Water Resources Development Act of

1       1999 (Public Law 106–53; 113 Stat. 372) is re-  
2       pealed.

3               (2) CONTINUED APPLICABILITY.—Section 573  
4       of the Water Resources Development Act of 1999  
5       (Public Law 106–53; 113 Stat. 372), as in effect on  
6       the day before the date of enactment of this Act,  
7       shall continue to apply to amounts appropriated be-  
8       fore that date and made available to carry out that  
9       section.

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