



# Save the Pine Bush

## February/March Newsletter

Feb/Mar 21 No. 156 • 223 S. Swan St., Albany, NY 12202 • email [pinebush@mac.com](mailto:pinebush@mac.com) • phone 518-366-7324 • web [www.savethepinebush.org](http://www.savethepinebush.org) • Circ. 625

### *Take-Out or Delivery* Vegetarian/Vegan Lasagna Dinner

Wednesday, February 17, 2021, at 6:30 p.m.

Yes! Full Lasagna Dinner for Take-out or Delivery!

## Hugh Johnson

Retired National Weather Service Meteorologist will speak about

### Are the “Winds of Change” Finally Here?

So we finally have a new President and a attitude toward climate change. Will it be enough or is it too late? More importantly will these policies be blocked? Meanwhile how fast is the earth warming now? Join us to listen to Hugh Johnson give us his informed opinion on the subject.

### How to Order Dinner

All-you-can-eat lasagna dinner, with vegetarian, vegan and gluten-free options, salad, garlic bread and delicious desserts. Only \$20 for adults and \$10 for students. **Please order dinner by Friday, February 12.** Order by emailing [pinebush@mac.com](mailto:pinebush@mac.com) or calling (518) 366-7324. When ordering, specify take-out or delivery. If delivery, please include your name, address and phone number Deliveries will be made between 4:00 and 6:00 PM. Pickup will be 4:00 to 5:00 PM on February 17 at Westminster Presbyterian Church, 85 Chestnut Street, Albany, NY.

### How to Join the Zoom Meeting

A link to the Zoom meeting will be posted on the Save the Pine Bush website by Monday, February 15. Go to [savethepinebush.org/zoom.html](http://savethepinebush.org/zoom.html). If you want to test getting online at 6:00, you are welcome to do so! Also, you may call (518)366-7324 until 6:15 for assistance.

**See you online at 6:30! • Everyone is welcome!**

### No Save Pine Bush Hike

However, the Pine Bush is open for social distancing hikes and walks. The Discovery Center and the outdoor rest rooms are open for limited hours. The ecosystem is open to visitors. Please practice social distancing, and take precautions for ticks, and enjoy the great outdoors!

[www.savethepinebush.org](http://www.savethepinebush.org)

### Update on Land Conservation Struggles in Our Region

*By Grace Nichols*

Save the Pine Bush is overjoyed that the NYS Supreme Court heard our plea for land protection for over 46 acres of Pine Bush threatened by Pyramid Development Corporation. As we prepared to file our Article 78 lawsuit, a coalition of neighbors to the land along with a local business filed suit with Attorney James Bacon on a selection of arguments against the development. Then, Judge Peter A. Lynch issued a 77 page decision which upheld not only those specific causes of action but also a range of environmental laws and policies that were ignored by the State Environmental Quality Review Act (SEQRA) process.

The Town of Guilderland must respect a prior policy passed geared to reduce the climate impact in the area (a transit oriented district designation); the lead agency must consider  
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### Deconstruction Not Demolition

*By Tom Ellis*

RENSELAER: Andrew Cuomo has now been governor for ten years. He constantly congratulates himself for being a wonderful forward-looking environmentalist and as someone serious about fighting climate change.

Missing from his action plans are commitments to detoxify the economy, reduce solid wastes, and correctly manage what we discard. I frequently observe tremendous amounts of materials placed out on the curb for disposal, much that could be recycled, reused, and composted.

I often read about buildings being demolished or see newly-vacant lots where “emergency demolitions” have occurred. Much of the demolished building waste ends up in the Dunn Waste Connections dump in Rensselaer, permitted by the NYS Department of Environmental Conservation (DEC) in 2012 and opened in 2015, right next to the brand new 1000-plus student Rensselaer public school campus.

Contrary to what some assert, the opposite

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### *UPDATE continued from page 1*

alternative proposals which would result in reduced impact to the ecosystem and surrounding communities; they must arrange for good species surveys when the developer submits faulty or insufficient ones; they must involve the NYSDEC in the evaluation of lands so close to the breeding grounds of a federally endangered butterfly, and part of an extent ecosystem which supports a wide diversity of threatened wildlife; and the lead agency must not violate SEQRA by beginning the clearing of land under review but not approved for development. It is very important to environmental groups statewide that these principles be upheld. Save the Pine Bush submitted copious scientific evidence into the record which was heard by the courts. So this win which upheld the rights of the community also upheld the rights of nature. The proposed development is completely halted, and our lawsuit, filed in November 2020, will preserve our appeal rights should the decision be overturned.

One additional result of the decision is that other land conservation struggles have been heartened by the ability of a coalition to win in court against the largest mall owner in the Northeastern United States and the local politicians controlled by their economic might. I wanted to tell you about two of these terrific groups that we support.

#### *Friends of the Mahicantuck:*

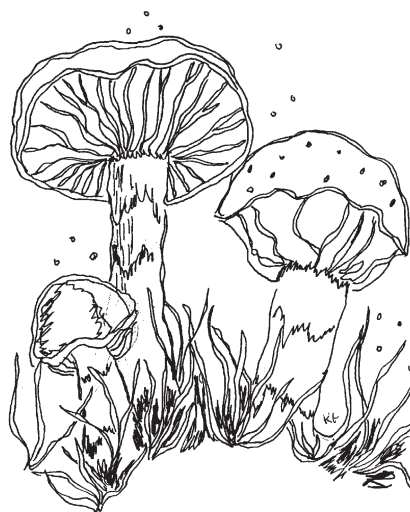
Nestled along the shores of the Hudson River known in prior times as the Mahicantuck is a ten acre stretch of land which includes a slate cliff overlooking the shoreline and the river. It is beautiful land which supports wildlife which thrives near the water and provides greenspace to North Troy just north of the Troy-Waterford Bridge. The land is owned by the Golub Corporation which is entertaining a plan by the developer Kevin Vandenburg to erect 240 units of housing in 6 three story apartment buildings. They are requesting a rezoning of the area to accommodate the plan. Save the Pine Bush has signed in support of the work of a scrappy coalition of community groups, indigenous spokespeople, environmental groups and allies to urge the Troy City Council to turn down this plan and preserve the site. Indeed, a riverside area that has never been developed is of great benefit to the health of the river. Additionally, this land has well-documented artifacts of Native American settlement dating back before 1500 CE which should be protected for its cultural and historical significance to First Nations. Save the Pine Bush volunteers attended the December 2020 meeting of the Troy Planning Board and urged them to make a negative recommendation regarding the

rezoning to the Troy Common Council. You can learn more about Friends of the Mahicantuck: <http://www.friendsofthemahicantuck.org/>

#### *Save Oteora Lake and Wild Bluestone Forest:*

Much further from home but of importance to the region is a grassroots struggle to save an area of the historic Bluestone Wild Forest from proposed development by a cement and steel plant. After the group introduced the public to the research showing the historical and cultural value of the site to Algonquin peoples. On the land are large stones oriented to point towards the sky delineating events on the calendar. These stone monuments erected by pre-Columbian peoples for worship which the indigenous community call "stone prayers" should be preserved as sacred sites. The forest is also a gorgeous watershed which contains the rich history of bluestone mining which was a basis of the establishment of Kingston. The NYS Historical Preservation Office has now revoked its approval for the development plans. The conservation group was also delighted when the Open Space Institute arranged for purchase of the 208 acres of land adjacent to the proposed development site.

The next step for this multifaceted preservation effort is a Town of Kingston public hearing February 1st, 7pm for Introductory Local Law No. 1 of 2021. The law would establish minimum requirements for meeting attendance and the training of Planning Board members. Much like the decision Save the Pine Bush is celebrating, adopting this law would have implications for defining good state environmental quality review. To keep up with their progress please visit <http://www.saveonteoralake.org>.



*Drawing by Katherine Gordon*

### *Demolition continued from page 1*

of constructing a building is not demolishing it, but deconstructing it. We have made little or no progress in NYS during the Andrew Cuomo decade enacting legislation, policies and regulations requiring buildings be designed so they can be eventually deconstructed rather than demolished.

It is the same old same old design and construct new buildings often using plenty of toxic materials, let buildings decay until they are no longer salvageable, suddenly and quickly tear them down when they start to collapse, throw away everything including plenty of reusable materials, and dump everything in the poor city of Rensselaer.

Reusing materials is much better for the environment and minimizing climate change than disposing and replacing them. Detoxifying the economy would improve public health. We need competent waste minimization leadership that neither DEC nor Cuomo care to provide.

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## **Drivers Needed!**

*We are very excited to be able to offer a full lasagna dinner in February! The pandemic has been a long, hard road. It is not safe to gather together yet — But, that does not mean we cannot enjoy good food!*

*The plan for February is to deliver the delicious dinners between 4:00 and 6:00 PM.*

*If you can help deliver meals, please email [pinebush@mac.com](mailto:pinebush@mac.com).*

*We can use more drivers!*

# Battling Hazardous Waste Incineration

by Tom Ellis

COHOES: Lights Out Norlite, NATURE Lab, Saratoga Sites Against Norlite Emissions, and the Hudson Mohawk Environmental Action Network held a virtual Hazardous Waste School on December 16 at which four hazardous waste experts discussed various aspects of the issue. The program concerned the Norlite hazardous waste incinerator in Cohoes.

Bruce Buckheit worked for the federal government from 1984-2003 helping enforce the Clean Air Act. He was Senior Counsel in the Environmental Enforcement Section of the Department of Justice, and later Deputy Director and Director of the Air Enforcement Division of Environmental Protection Agency (EPA).

He said that when battling hazardous waste incineration, begin fighting as soon as you become aware of it. Hazardous waste incinerator emissions, he said, vary widely depending on what all is being burned.

Hazardous waste incinerator companies, he said, can help assure results of required stack tests suit their needs. They hire the testing company, control the date of the test, and determine what gets burned that day. Stack tests are like a "beauty pageant" in that the incinerator company presents itself at its very best for the few hours the tests are conducted once every year or several years.

Incineration performance, he said, depends on the fuel quality, operational stability, and pollution control efficiency. Fuel quality, he said, should be checked randomly and frequently; temperatures that are too high can cause the manufacture and release of dioxins and furans, while temperatures too low lead to products of incomplete combustion. When pollution controls fail, even briefly, operational efficiency can drop from 99.9 percent to 20 percent.

He said federal and state governments perform cursory checks of incinerators, and he urged Cohoes residents to pressure the EPA to conduct a community health assessment.

Dioxin, he said, is very difficult to control and very toxic at low levels, Norlite has a relatively low stack height of only 130 feet. How polluted the aggregate is, he said, depends on what is being burned; if Mercury, Mercury will be in the aggregate. He said test burns are supposed to represent a "reasonable worst case" and Norlite likely knows what is coming in to be burned on certain days, so it can game the system (stack test) to help assure favorable results.

Jane Williams is an environmental economist with 30 years experience working on air pollution and hazardous waste incineration. She is the Chair of the Sierra Club's Clean Air Team and Director of California Communities

Against Toxics. She said New York State is sort of a permit-free and enforcement-free zone.

Jim Pew is a staff attorney in the Washington DC Earthjustice office. His litigation against EPA resulted in EPA issuing its existing rules limiting emissions of hazardous air pollutants and criteria pollutants from kilns and incinerators burning hazardous wastes.

Discussing regulatory issues, he said testing procedures are inadequate, and even if a kiln is in compliance with its permit conditions, it is still not a safe operation. He said EPA emissions standards are not health based but actually technology standards, and EPA acknowledges this. EPA, he said, combined Resource Conservation and Recovery Act (RCRA) and Clean Air Act standards together, rather than requiring compliance with both, and the standard is weak.

Stack tests, he said, are conducted every few years, and no one should trust the regulations to keep them safe from Norlite emissions. He recommended the Biden Administration upgrade standards to what the law requires and conduct a community health assessment in Cohoes.

Bruce Buckheit said EPA has a culture such that the agency is unlikely to take a safety approach. "What you don't measure, you don't deal with," he said.

Neil Carman, a 1980-1992 Texas state regulator, conducted 200 annual inspections for the Texas Air Control Board. Since then he has worked for the Texas Sierra Club and the Galveston-Houston Association for Smog Prevention. He has a Ph.D. in botany.

As a state regulator, he became concerned about dioxins and was often told to not make waves. During the 1980s, he said, there was a big EPA push for incineration in cement kilns. "Commercial operations," he said, "are horrific because they burn pages and pages of these waste codes." Cement kilns, he said, are pseudo incinerators, and during upset (malfunctions) conditions, results are worse.

He said a Lafarge incinerator in Alpena, Michigan may have poisoned fish in Lake Huron. Lafarge, he said, had a facility south of Austin. Texas lawmakers enacted new legislation banning hazardous waste incineration within a half-mile of residential neighborhoods if the corporation did not possess a specified federal permit.

"The only good incinerator," he said, "is one that is not operating." He said many poisons are not tested at all, much that is emitted is not burned at all, and hazardous waste incineration can involve hundreds or thousands of chemicals.

Alternatives to incineration and landfilling exist. Some chemicals can be dechlorinated to break down materials. "Incineration is insanity," he said, and many businesses work diligently to generate less hazardous wastes.

Jim Pew has researched alternatives to incineration and open burning of wastes by the US military. Supercritical water oxidation, he said, is a mature technology to destroy hazardous wastes. Many in the incineration and cement industries, he said, do not want safer alternatives.

Judith Enck asked if we could get continuous emissions monitoring, what would we test for. Mr. Carman said sampling devices exist and samples taken should be tested carefully in labs, and dioxins can be tested at less than one part per trillion (ppt). He said he does not like pounds-per-hour emission limits because they allow for giant short-term spikes, and Norlite should not be incinerating chlorinated chemicals.

Joe Ritchie, who lives 100 feet from the Norlite property line and 500 feet from the stack, said he sees a fine layer of dust on his car every day, the smell is unbearable, and dust storms over the Norlite neighborhood are visible from a half-mile away. Mr. Carman said "it is criminal to be exposed to all this toxicity" that gets in the lungs and blood stream. He urged Joe and others to complain every day and said "I was always amazed at how much noncompliance there was." He said Norlite's hazardous waste permit should be revoked.

Jane Williams said the original federal Clean Air Act and 1990 amendments put limits on air pollution. Air pollution control, she said, is like a series of black boxes that include filters, scrubbers, and bag houses. She said Norlite could reduce emissions, the factory is highly engineered, and Norlite operates out of compliance perhaps because it is a Spanish company based in a nation with a weak culture of compliance. She said she has examined 20 years of Norlite data, Norlite began burning hazardous waste in the late 1970s, Norlite is refusing to comply, Norlite burned mixed wastes (both hazardous and radioactive) during the term of the first President Bush, and Norlite has been problematic for a long time.

Ms. Williams urged residents to take hair samples and have them tested for metals, as was done in Los Angeles with 20 people who lived in a community with four foundries. She urged that a metals analysis be conducted, said much has been emitted over many years, and the metals are still in the community because the stack is so low.

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*Hazardous Waste continued from page 3*

Ms. Williams said first responders at a 3-day AFFF fire in Houston were seriously contaminated. It is hard to believe, she said, that Norlite could operate as it has all these years in a state like New York. Many states, she said, view themselves more as waste managers than health protectors. New York State regulators, she said, are lap dogs more than watch dogs, and "You will not be able to control what Norlite burns; it must be closed." She and Neil Carman help people all across the United States and "We are here to help."

Mark Dunlea asked the panelists what strategy they recommended to close Norlite. Ms. Williams recommend a "wild dog strategy" of attack every permit, unleash every strategy, do everything, do it at once. "You never know which one won."

Mr. Carman said focus on the toxics coming from the Norlite stack. Even if it is not in the lungs it is on the ground and will get tracked into homes and attics, and on roofs.

A man said there is a pond on the Norlite property that is pumped out a few times a year into the Hudson River. Mr. Carman said it is not safe, fugitive dust on the Norlite grounds blows into the community and asked what types of dust inspections occur.

Jennifer, who lives in public housing next to Norlite, said her son has asthma, and she cannot afford to move. Mr. Carman urged her to complain to US Housing and Urban Development officials, issue a news release, and said testing the children's hair for metals may provide powerful evidence. He urged that DEC be required to analyze citizen-collected dust samples.

## Low Oliver Remembers Reszin and Ted Adams

*By Lewis B. Oliver Jr., Esq.*

Dear Save the Pine Bush Newsletter:

I was in Albany Med recovering from an operation on September 16 and was unable to participate in the remembrance for Reszin. (Also, I am not computer literate and could not have gone online!).

What always impressed me about Reszin was her deep world wide perspective that was the inner source of energy for her many local peace, social justice, and environmental commitments. Reszin was active with the US-China Peoples Friendship Committee for decades, and was an advocate for the United States to reach out to the people and government of China even during Chairman Mao Zedong's Cultural Revolution. Reszin had visited China and met with Chinese government officials. She had an understanding of world history that drove her local activism.

Having recently been in China and Tibet for five weeks myself, Reszin's foresight was remarkable. China now has a larger and more vigorous economy than our country, the Chinese people on the whole are more prosperous and happier with their government than we are with ours, the one party government gets things done more efficiently than we do. Yes, there is favoritism toward members of the Communist Party, but no more than the graft, corruption, and nepotism of both Democrat and Republican parties in local and national government here. In China's urban cities there is not the kind of poverty and homelessness our form of capitalism thrives on. The high speed train network runs smoothly like riding in a Cadillac throughout the huge country, five times the size of the United States, at 200 miles an hour, and the airports, highways, bridges, and buildings

have been constructed in the last 25 years and are more modern and attractive than our own infrastructure.

On the negative side, Tibet is an occupied country similar to East Germany when I visited in 1961, and the Muslim Uighurs are being forced to accept Han culture, but this does not seem very different to me than what we have done to Puerto Rico, Hawaii, and the Marshall Islands, not to speak of the Native Americans. Surveillance in China is so intense it's scary. In the major cities the roads have face recognition cameras overhead almost every third of a mile that can peer into vehicles and track people, and instead of receiving a paycheck workers are issued cards by the government with a different number of credits and all transactions are cashless, through computers that are operated by the government and completely traceable. Our country seems to be headed in this direction, but fortunately we are not anywhere near where China is yet.

Reszin had a tough side, and she leaned heavily on Ted for his humanness, poetic whimsy, good humor and kindness. I became involved with Save the Pine Bush because I was statewide litigation counsel to NYPIRG and attorney for the Student Association at UAlbany. Ted was a friend before I knew Reszin. I had helped one of Ted's students, and when Friends of the Pine Bush, as it was then called, was looking for a lawyer Ted told Reszin about me.

One of my most fond and vivid memories of Reszin was seeing her climb into a convertible with Jerry Jennings near the Social Justice Center on the day he beat Harold Joyce for Albany mayor, and watching them drive off toward Lark Street with the car horn blasting away and Reszin and Jerry sitting up on the trunk with their feet on the back seat waiving joyously to everybody on the streets and sidewalks. Defeat of the old boss.

Meet the new boss. Don't be fooled again!

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