

Dear Friends of Cayuga Lake,

Fall 2020

Please enjoy our Fall 2020 Wrap-Up Newsletter!

Joint Appeal of Case Against DEC is Dismissed as Moot

First, some discouraging news: the Appellate Division, Third Department in Albany dismissed as moot our appeal of the Article 78 case we and four municipalities brought in December 2017 against the DEC for not doing rigorous environmental review of Cargill's \$42M Shaft #4 project. The Court appeared to accept Cargill's claim that the project was 96% complete and thus did not "rule on the merits" of the case we brought, that the 20+ years of additional mining under Cayuga Lake had never undergone compliance with SEQRA (State Environmental Quality Review Act), and will put both miners and the lake itself at high levels of risk. In effect, the Third Department reasoned, we believe erroneously, that an injunction to stop Cargill's project was not legally appropriate.

CLEAN may decide to request that the State's high court (the Court of Appeals) review the Third Department decision, so the merits of our case are evaluated. The Court of Appeals may elect to retain jurisdiction despite mootness if recurring novel or substantial issues (basically, DEC compliance with SEQRA rules and legal precedents) require review and reversal. We will advise of the outcome once it is known.

Eye on Cargill

It is important that we continue to exhaust any viable legal remedies we have, and keep a watchful eye on Cargill Inc. We cannot allow them to take advantage of our community as they have with communities around the world:

<https://stories.mightyearth.org/cargill-worst-company-in-the-world/>

<https://ccrjustice.org/home/what-we-do/our-cases/doe-et-al-v-nestl-usa-inccargill-inc-amicus>

Steering Committee Reaches out to Community

CLEAN co-founders John Dennis and Brian Eden gave a presentation on the Cargill Salt Mine to the Tompkins County Water Resource Council and New Roots 9th and 10th graders this month. The talks were informative and engaging, providing important insights into the environmental impacts of extensive mine under Cayuga Lake. John Dennis also gave a presentation about CLEAN's Salt Deposition Study and the Cargill mine to the Lansing Conservation Advisory Council on December 3, 2020.

Cayuga Lake Water Monitoring Program Collaborates Locally

Over the course of the 2020 monitoring season, CLEAN researchers monitored a total of 25 locations throughout Cayuga Lake. Data for temperature, chlorophyll-a levels, cyanobacteria cell counts, sodium, chloride, pH, specific conductivity, and dissolved oxygen were collected. If a new grant proposal is approved, we plan to add a phosphorus study to the lake monitoring program in 2021.

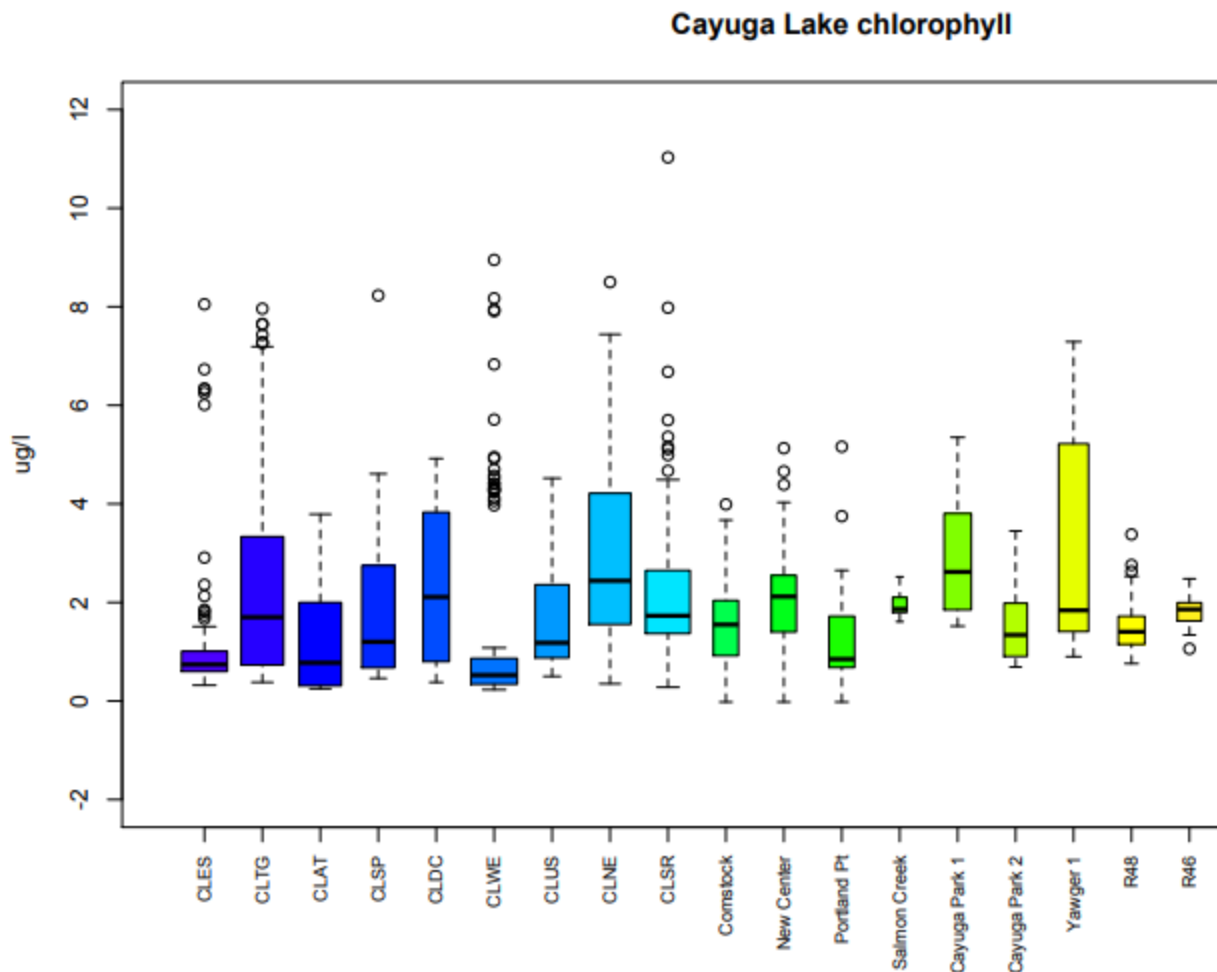
We enjoyed a successful collaboration with CSI this summer, taking our final lake outing for the year with them in October, and look forward to partnering up again in the summer of 2021. We are fortunate to have access to lab services made available by CSI and the Cornell Nutrient Analysis Laboratory to analyze our samples in order to both verify field measurements and to provide additional analysis that we can not do in the field.

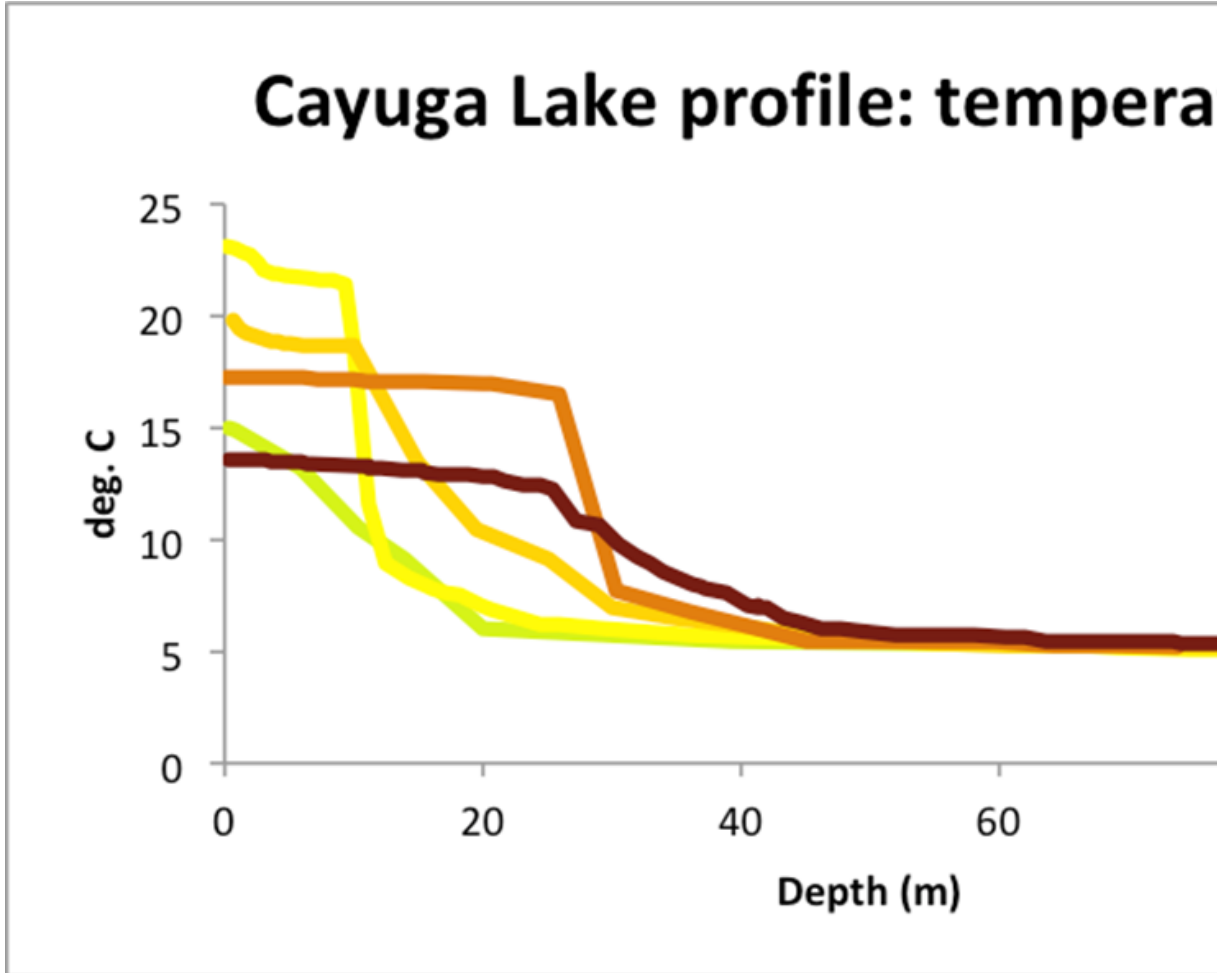
We are also excited to begin a new collaborative project in 2021 with researchers

at Boyce Thompson Institute studying genomes of cyanobacteria. It will be interesting to compare the water quality data to the genomic data. We will keep you up to date as this partnership develops.

CLEAN researchers enjoyed visiting with New Roots 9th and 10th graders virtually to teach them about the water quality projects we have been working on. We were able to give the students a tour of the instruments we use as well as go over the data that we have gathered such as the graph below.

After a productive summer, the boats have been winterized to be stored until spring. The Eureka Manta Water Probe will remain deployed at a dock along the western shore as long as weather permits.

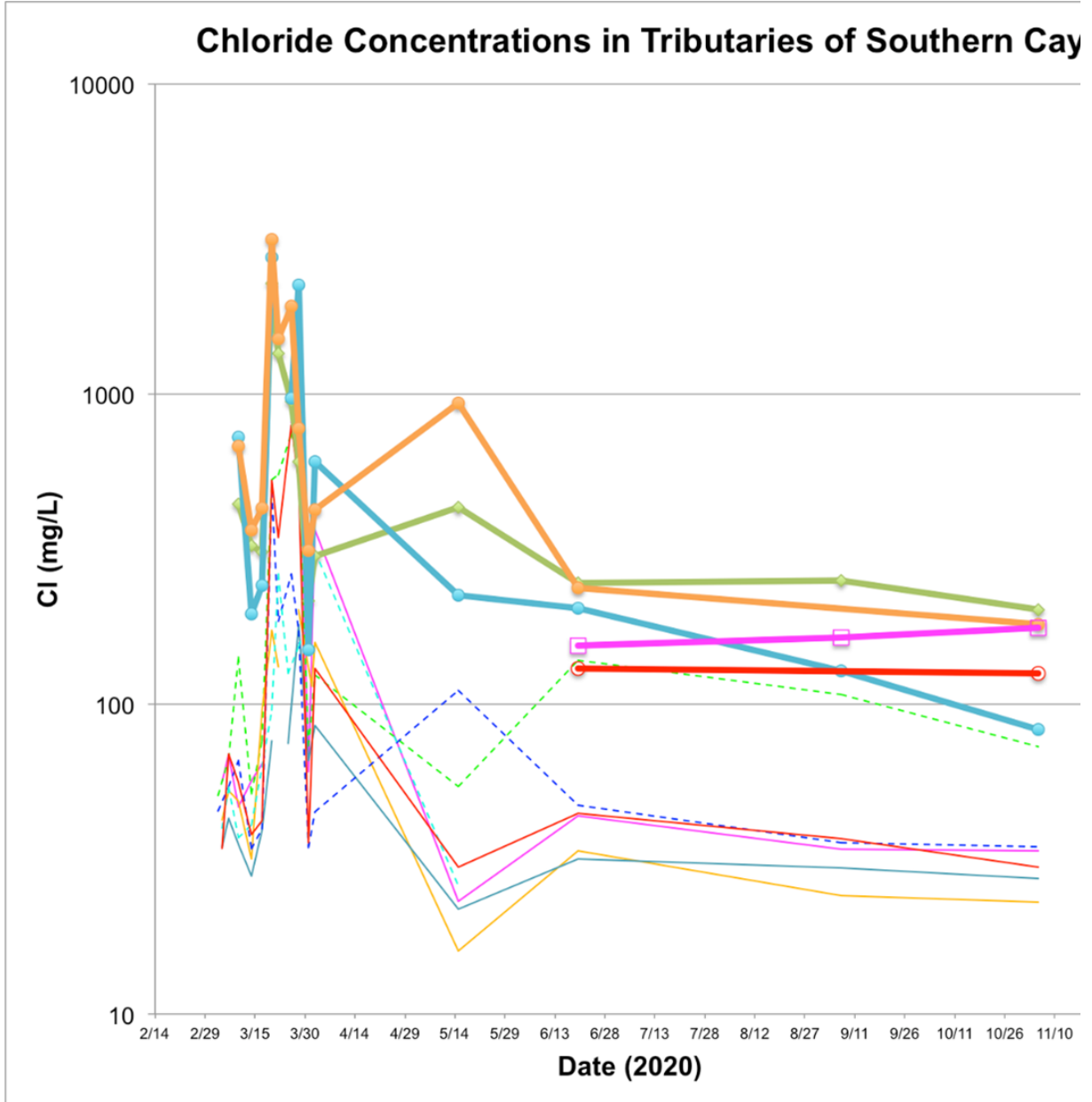




Visit our website at <https://cleancayugalake.org/lake-station/> to view more data for the Cayuga Lake Water Monitoring Program during the 2020 season.

Ongoing Study Shows High Salt Levels in Several Tributaries

CLEAN researchers have continued to monitor chloride and overall salinity levels of tributaries flowing into Cayuga Lake. The levels have generally decreased over the summer but have remained elevated in a couple of areas. It is likely these levels will rise again in the coming months as some municipalities have already begun to spread road salt.



CLEAN Investigates Coal Ash at Cayuga Power

Now that lake monitoring is mostly over for the season, CLEAN researchers are switching gears to begin an investigation into the coal ash landfill at Cayuga Power. We are excited to have assistance from Prof. Susan Allen and her Ithaca

College Ecotoxicology class to help us gather information into contamination and possibilities for remediation. The 2019 Annual Report on the landfill prepared by GEI Consulting and submitted to the DEC by Cayuga Power indicates that more than 34 million gallons of untreated leachate mixed with stormwater was released into Cayuga Lake through Cayuga's SPDES outfall 013. We are hoping to collect data to determine how far the contamination plume has reached. We are curious to know whether any contamination plume has reached the aquifer below the residential area on Milliken Creek delta or if whether it may have reached the lake below the water level.

Comment on NYS Solar and Wind Guidance Now

The Office of Renewable Energy Siting is seeking public comment on the first portion of regulations for implementing the Accelerated Renewable Energy Growth and Community Benefit Act. The deadline is Monday, December 7. You can learn more about the act and submit comments here: <https://ores.ny.gov/regulations>.

While CLEAN is in favor of renewable energy, we want to be wary of attempts to "greenwash" a contaminated site in a way that ignores the need to first remediate the contamination. The Cayuga Power coal ash landfill is located adjacent to a critical waterway that provides drinking water and other ecosystem services to the region. There must be rigorous and continued groundwater monitoring, better measures to treat leachate and prevent it from entering local waterways, assurance of a substantial surety bond, and a requirement that the facility owner remain liable for any future remediation. There are a number of policies that should be put in place at the site to be sure it does not become a taxpayer-funded superfund site in the future:

a) additional down-gradient water sampling

b) revise the SPDES permit to

- i) end discharge of any once-through cooling water into the lake,
- ii) like DEC Region 8's consent order to Greenidge Energy in Dresen NY

on Seneca Lake, require Cayuga Power to treat all coal ash leachate (or coal ash leachate mixed with surface runoff) through an appropriately-competent Waste Water Treatment Plant.

c) ask that Cayuga Power be required to post an environmental bond to enable NYS to remediate groundwater contamination, perhaps at least \$10M

d) ask that Cayuga Power line up a schedule of sale of landfilled coal ash (coal combustion residuals or CCRs) to one or more well-known concrete companies over the next decade with a pledge to dig up and place into a water-tight containment receptacle any residual that is not sold to concrete or other companies and removed by, say 2030.

Data Center Going Forward

Meanwhile, it appears the Data Center on the Cayuga Power site is moving forward. We continue to request that taxpayer dollars not be used to finance the data center. Please join local residents to voice their concern by [signing a letter to the Empire State Development Council HERE](#)

We are concerned that the Data Center could eventually be powered by the plant to provide behind-the-meter electricity. This is the situation the resident surrounding the Greenidge Power Plant on Seneca Lake have been faced with. The power plant has used its previous permits to produce power to the grid to instead provide it behind-the-meter to its tenants, a data center. The lake source cooling used to cool the power plant and the data center has a detrimental effect on the aquatic life. To learn more, please visit the [Committee to Preserve the Finger Lakes](#).

ALERT! Waste Transfer Station Could Bring Leachate to Tompkins County

CLEAN has learned of a plan to build a waste transfer station in Cayuta that would bring 30,000 gallons of leachate annually to the Tompkins County Wastewater Treatment Facility. This leachate is of particular concern because it contains PFAs

which the wastewater treatment facility is unable to filter out before it reaches the lake. PFAs exposure has serious potentially adverse health consequences including liver damage, thyroid disease, decreased fertility, high cholesterol, obesity, hormone suppression and cancer. You can learn more, as well as sign on to a letter to urge Governor Cuomo to deny the permits, at [Seneca Lake Guardian HERE](#).

Please see [this article](#) to learn more

Governor Cuomo blocks Stream Protection Bill

In November Governor Cuomo vetoed, NY A8349 (19R), a bill that had already passed the house and senate by a wide margin. Many environmental groups voiced their disappointment to the veto as this bill would have provided DEC regulation to Class C streams to prevent degradation cause by disturbances from development projects. Cuomo cited the lack of funding to support the added workload as his reason for the veto. However, restoration projects are far costlier than taking preventative measures to stop damage to these resources.

Further Reading...

CLEAN had filed the original Article 78 lawsuit against the drilling of Cargill's Shaft #4 in December of 2017 challenging DEC's decision to issue the permit. The Article 78 proceeding was denied by Judge Rowley In October 2018. In April 2019 CLEAN and our co-petitioners appealed this decision and also included documents questioning the Department of Environmental Conservation recent action granting the request of Cargill Incorporated to modify a mining permit. The DEC mischaracterized the changes as "mostly housekeeping changes," and did not notify the court of these modifications.

Cargill and DEC have refused to provide access to numerous key documents. With no access to the supporting information, it has been impossible for CLEAN's legal team and scientific advisors to determine that the permit modifications meet legal requirements. However, the Third Department court decided the construction work is nearly complete and work cannot be safely halted without substantial hardship.

The CLEAN legal team has also filed with DEC a FOIL to get the log data for Corehole 19 (near the Shaft #4 project) which is currently sealed for confidentiality until the end of November 2020. These data are of particular interest because the log for Corehole 18 shows a spike in gamma radiation. It is unclear if Cargill Inc. intentionally sealed this data to eliminate concern regarding the boring of Shaft #4. In early November, CLEAN researchers collected a final round of water samples from four residential wells near Shaft #4 as well as from a more distant control well. We have seen some increases in methane levels and plan to continue to monitor several of the wells for changes in water depth, temperature and conductivity.

We appreciate your continued support. Tax-deductible donations can be made to CLEAN [here](#).

Thank you, Cayuga Lake Environmental Action Now

Clean the Lake.
Protect the Lake.

