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The New York Environmental Lawyer

A publication of the Environmental & Energy Law Section
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**Renewable Rikers: Examining Current Plans
To Repurpose and Revitalize Rikers Island**

**Environmental Responsibility in New York's
Craft Brewing Industry**

**Professor William R. Ginsberg Memorial
Essay Contest 2022 Winners**

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Renewable Rikers: Examining Current Plans To Repurpose and Revitalize Rikers Island

By Melanie Calero, Kayley McGrath and Eva Schneider



I. Introduction

With the passage of the Renewable Rikers Act (the act) by the New York City (NYC or the city) Council in February 2021,¹ Rikers Island, the penal colony with a horrific legacy of environmental injustice, inhumane conditions, and a mounting death toll,² has been given a chance many people incarcerated there have not been afforded: a chance at rehabilitation. The act, originating from the vision of a coalition of environmental and criminal justice advocates,³ proposes to transform Rikers Island from a “symbol of brutality and inhumanity” to a renewable energy hub and restorative justice success.⁴ The act requires the full transfer of jurisdiction of Rikers Island from the Department of Corrections (DOC) to the Department of Citywide Administrative Services (DCAS), with incremental transfers of Rikers buildings and land not being used by incarcerated people mandated to occur every six months between July 2021 and the end of August 2027. Additionally, the act directs the city to study Rikers Island’s potential for wastewater treatment and renewable energy generation and storage—an initial step in effectuating plans to create a green hub on Rikers Island while reducing environmental burdens on communities of color throughout the city.

To date, the James A. Thomas Center, a 1,200 bed jail, and 43 acres of vacant, unused land on Rikers Island have been transferred to the jurisdiction of DCAS, while the full 413-acre land transfer from DOC to DCAS is scheduled to be completed by August 31, 2027.⁵ After delays initially attributable to the CO-

VID-19 pandemic,⁶ the city continues to suggest additional delays in its plan to close Rikers Island down as a jail complex.⁷ Per the Closing Rikers Commitment Tracker maintained by the city, progress is being made toward building four “new, smaller, and more modern facilities” in Manhattan, the Bronx, Brooklyn, and Queens, known as the borough-based jail (the BBJ) system.⁸ However, the Closing Rikers Commitment Tracker has not been updated since August 2022, and the BBJ system faces construction delays, which has caused key stakeholders to question Mayor Eric Adams’ commitment to closing Rikers Island by the 2027 legally mandated deadline.⁹ Moreover, the number of people incarcerated in the city is not shrinking fast enough to reach the population target for the BBJ system: as of June 1, 2023, a total of 6,004 people were incarcerated, which is close to double the intended capacity of the BBJ system.¹⁰ Finally, and most recently, Mayor Adams and City Council Speaker Adrienne Adams announced that they reached an agreement on the city’s \$107 billion budget which, among other things, cuts important social services at Rikers Island, which advocates argue will thwart the city’s ability to effectively reduce the overall jail population and reintegrate individuals back into society.¹¹

Although the city has taken these initial steps to implement the Renewable Rikers vision, its progress over the next few years will be crucial in ensuring that the vision is timely realized and input from communities disproportionately affected by mass incarceration and environmental injustice and racism is solicited and prioritized. After providing a brief history of Rikers Island,

this article examines the current plans for Rikers Island—known as the Renewable Rikers Plan—and discusses legal considerations for Rikers Island’s future.

II. Background

A. History of Rikers Island

Rikers Island was originally purchased by the Riker family in 1664.¹² The most infamous member of the family was Richard Riker, whose personal history is as troubling and racist as the history of the Island itself. Richard Riker was the city recorder from 1815 to 1838—his job was to manage the city’s criminal courts. Richard Riker was a member of “a group that sold free black people to the South without due process . . . [including] without hearings or jury trials” and had a “reputation for locking up free black[] [people] in jail for months without evidence.”¹³

The island remained in the Riker family’s control until 1884, when it was sold to the city for \$180,000.¹⁴ The city planned to transfer its primary jail complex located on Blackwell’s Island (now Roosevelt Island) to Rikers Island.¹⁵ From the 1880s onward, the city used Rikers Island as a dumping ground for garbage, and used prison labor to build out and expand Rikers Island using metal, refuse, cinders, and subway dirt.¹⁶ By the 1920s, city officials were fully aware of the problems that burning and using garbage as landfill for Rikers Island was causing: “Remarking on an outbreak of flies and rats, which the city combatted with an army of dogs and poison gas, the state Commission of Corrections urged the city to find a different location for the new jail, but the city plowed ahead.”¹⁷

In 1934, the city invested \$10 million to construct new facilities on Rikers Island. However, the jail’s architect constructed the facilities extremely poorly, and substandard conditions were not rectified. Indeed, NYC’s Commission of Accounts noted in a 1934 report to Mayor Fiorello La Guardia that “serious cracks” were found in some of the newly constructed buildings, as well as violations of plumbing and roofing contracts.¹⁸ The new jail complex opened on Rikers Island in 1935.¹⁹ By 1939, through the use of the aforementioned prison labor, Rikers Island had grown from 87.5 acres to 400 acres, over four times its original size.²⁰ Around that time, the Executive Committee of the Prison Association of New York called attention to the “cruel and inhumane” treatment of those detained at Rikers Island, citing the “foul odors” resulting from rotting trash piles on the Island.²¹

Overcrowding also quickly became a persistent problem on Rikers Island. Press reports in 1954 indicated that the city’s jails held 7,900 incarcerated people in spaces designed for 4,200.²² Though new buildings were added in the mid-1960s and early 1970s, overcrowding continued to worsen: in 1969, the city held 14,000 people in spaces designed for 8,000.²³ The population at Rikers Island increased even more dramatically after the passage of the Rockefeller Drug Laws in the 1970s.²⁴ These laws exacerbated the racial disparities within the criminal justice system that

persist today: the jail population went from “85% white in 1930 to 35% white by 1970 to 92.5% people of color in 2015.”²⁵

As Rikers Island became more crowded, conditions became increasingly inhumane. In 1978, when Mayor Ed Koch took office, he pledged to “restore order” to Rikers Island and the city as a whole.²⁶ The city resolved Rikers Island-related litigation resulting in “a judicial consent decree that covered thirty areas, from environmental health to punitive segregation.”²⁷ This consent decree did not, however, improve conditions on Rikers Island, as it continued to be overcrowded and underfunded. By 1983, overcrowding was so severe that a court ordered the city to reduce the number of pretrial detainees being held on Rikers Island, which caused uproar in the local newspapers.²⁸ In an attempt to avoid detainee releases, the city expanded the detention facilities on Rikers Island and across the city. By the 1990s, the city was jailing close to 22,000 people on Rikers Island. Correctional officers began resorting to more violent tactics and solitary confinement.²⁹

In the 2000s, by the end of Mayor Michael Bloomberg’s third term, Rikers Island’s population had fallen below 12,000 people due to a decline in crime.³⁰ However, Rikers Island continued to deteriorate: a report in the *Village Voice* revealed a “Fight Club” run by correctional officers who forced teenaged male detainees to fight and violently enforce discipline against each other.³¹ Through the transition from Mayor Bloomberg to Mayor Bill de Blasio, Rikers Island “continued to exist in a state of dysfunction,” and in 2014, the U.S. Attorney for the Southern District, Preet Bharara, released a report that detailed the “deep-seated culture of violence” on Rikers Island, along with its “systematic deficiencies, such as inadequate staff discipline and widespread corruption.”³² While certain efforts at reform were made, such as attempting to end solitary confinement for young people, these reforms were ultimately too little too late, as deaths, suicides, and decrepit conditions continued.³³

The horrific state of the compound has been repeatedly condemned. State legislators have referred to Rikers Island as “Horror Island,” and the former DOC commissioner Vincent Schiraldi has admitted that Rikers Island was facing a humanitarian crisis.³⁴ The city has been sued multiple times over the unconstitutional conditions persisting at Rikers Island, including the recently filed class action *Dunn et al. v. City of New York*, commenced November 2, 2021.³⁵ Violence and death also continue to plague Rikers Island: in 2022, 19 individuals died, which is the most since 2013, when almost twice as many individuals were incarcerated on the island.³⁶

B. The Close Rikers Campaign

Community activism to close the Rikers Island compound has been fierce.³⁷ The Close Rikers campaign began in 2016, led by JustLeadershipUSA (JLUSA), with a two-part goal to both dramatically reduce the number of individuals detained in the

city's jails and shutter the Rikers Island complex.³⁸ Through a combination of community organizing, coalition-building, public demonstrations, social media activism and policy advocacy, the Close Rikers movement successfully led to Mayor de Blasio's 2017 announcement that Rikers Island would be closed in 10 years' time.³⁹ Ultimately, the compound at Rikers Island will be replaced by a network of four jail sites in Manhattan, Brooklyn, Queens, and the Bronx.⁴⁰ This smaller BBJ system will house a population of no more than 3,300 incarcerated persons.⁴¹

In 2019, the Uniform Land Use Review Procedure (ULURP) applications for the BBJ system were approved by the City Council. The ULURP process allows community boards the opportunity to respond to and advise on land use plans that will directly impact their districts. In this case, the city combined all individual BBJ proposals into a single ULURP, which arguably limited debate at the community level. While every community board with a jail proposed in its district voted against the plan in the spring of 2019, the City Council ultimately overrode these recommendations in one vote to push the plan forward.

Despite the incremental success of the Close Rikers campaign to end the sordid history of violence, disrepair, and dysfunction of Rikers Island as a jail complex, the BBJ system faces continued opposition from certain community groups that do not want jails sited in their neighborhoods.⁴² At present, the four new jails are to be built on the sites of the NYPD's Bronx tow pound, the Queens Detention Center in Kew Gardens, the Brooklyn Detention Complex in Boerum Hill, and the Manhattan Detention Complex in Chinatown.⁴³ In addition to community opposition, the BBJ system construction and development has also experienced significant delays. For example, only one public contract for the BBJ system has been announced so far, which is for the Brooklyn Detention Complex, and based on the six-year construction timeline outlined in the contract, the facility is projected to be finished by 2029, approximately two years after the legally mandated deadline to close Rikers Island.⁴⁴

C. Renewable Rikers

The Renewable Rikers coalition, formed in 2019, advocates for the development of Rikers Island in a way that supports green infrastructure for the benefit of the communities that have been most deeply affected by mass criminalization and environmental injustice. The coalition's objective is to "ensure, as the jails [on Rikers Island] are closed, that the island's future uses benefit and respond to the wishes of the people and communities that have been harmed through its long, painful history."⁴⁵ The Renewable Rikers Plan (the plan) explores several ways that Rikers Island's 413 acres can be repurposed to accomplish these goals. This plan focuses on the development of renewable energy and wastewater treatment infrastructure on Rikers Island that can supplement and potentially replace older, dirty facilities currently located in communities of color throughout the city.

On June 13, 2019, the Renewable Rikers Act was introduced in the NYC Council.⁴⁶ The act passed in February 2021.⁴⁷ The act is comprised of three pieces of legislation: Local Law 16, Local Law 17, and Local Law 31. Local Law 16 mandates the gradual transfer (every six months) of jurisdiction of unused Rikers buildings and land from DOC to the DCAS, with a final deadline of the full 413 acres of land set to occur by August 2027.⁴⁸ So far, the James A. Thomas Center and 43 acres of vacant, unused land on Rikers Island were transferred from DOC's jurisdiction to DCAS; however, the city is behind on the legally prescribed deadlines for this gradual transfer.⁴⁹ Local Law 16 also establishes a Rikers Island Advisory Committee (RIAC) that includes survivors and immediate family members of survivors of Rikers Island, and is charged with recommending prospective future uses of Rikers Island.⁵⁰ Per Local Law 16, RIAC was required to convene 180 days from the effective date of the legislation (i.e., August 2021), but instead, the city again missed the legally prescribed deadline, and RIAC met for first time in June 2022.⁵¹ Moreover, according to available information in the press, RIAC has not met again since.⁵²

Local Law 31 requires New York City to study the potential for the construction of a new wastewater treatment facility on Rikers Island.⁵³ In March 2022, the Department of Environmental Conservation awarded a \$2.9 million contract to Jacobs Civil Consultants "to determine the feasibility of constructing a new Wastewater Resource Recovery Facility (WRRF) on Rikers Island."⁵⁴ The city's Department of Environmental Protection (DEP) did not start work on the feasibility study until September 2022,⁵⁵ and according to a public meeting held on February 9, 2023, DEP is only halfway through the study.⁵⁶

Finally, Local Law 17 requires New York City to assess the types of renewable energy sources that can be generated and stored on Rikers Island.⁵⁷ The renewable energy study is being consolidated into the Mayor's Office of Climate and Environmental Justice's (MOCEJ or the office) long-term energy planning process.⁵⁸ The office's findings were project to be published in its final report in spring 2023, but as of the date of this writing, the final report has not yet been published.⁵⁹

III. Analysis of Potential Uses in the Renewable Rikers Plan

As an initial matter, it must be noted that no official or recent investigation has been conducted into the current soil conditions on Rikers Island, though numerous complaints point to the likelihood of methane emissions, a result of organic waste degradation, and the presence of carcinogenic polycyclic aromatic hydrocarbons (PAHs), which are associated with coal ash discards.⁶⁰ Accordingly, before any future uses are formally pursued, a thorough environmental assessment should be undertaken, and any necessary institutional and engineering controls should be imposed to minimize health or environmental risks

associated with past contamination. With that caveat in mind, three potential uses have emerged for Rikers Island, including (1) solar power generation and storage; (2) a wastewater treatment facility; and (3) a composting and recycling hub. Each is examined in turn.

A. Solar Energy Installation/Storage

The current plan envisions a south-facing solar array on the eastern portion of Rikers Island, adjacent to a substation, transformer, and battery farm.⁶¹ This eastern section of Rikers Island will include a “patchwork of planted zones and retention ponds that promote robust environmental performance, from water filtration to carbon sequestration.”⁶² In terms of topography and grading, three interconnected mounds will be constructed in the eastern parcel, creating a large south-sloping lawn “where efficiently spaced solar photovoltaics can exploit the southern solar exposure.”⁶³ The grade change on the eastern side of Rikers Island will allow for a natural drainage system, whereby swales “collect runoff and guide it to on-site retention ponds and coastal buffer zones.”⁶⁴ Any plantings will utilize hardy species requiring minimal maintenance that are able to reduce erosion and runoff, uptake contaminants, sequester carbon, and boost soil fertility.⁶⁵ A coastal buffer of “wetlands and mixed woodlands” is intended to mitigate against storm surge intensity and urban heat island effects.⁶⁶ It is projected that Rikers Island could provide 1,500 megawatts of energy storage and 275 megawatts of solar power.⁶⁷ As contemplated in the plan, Rikers Island would be the world’s largest battery farm, with 500 three-megawatt containers on-site.⁶⁸

Solar energy generation and storage on Rikers Island could aid the city’s achievement of its renewable energy goals. The city is targeting 1,000 megawatts of solar citywide by 2030 and 500 megawatts of energy storage by 2025.⁶⁹ The city is also committed to installing 100 megawatts of rooftop solar on city-owned buildings by 2025,⁷⁰ established in 2016 with the city’s passage of Local Law 24 (LL24).⁷¹ Under LL24, DCAS is required to assess the solar photovoltaic potential of all city-owned buildings over 10,000 gross square feet once every two years.⁷²

The city’s Municipal Solar Readiness Assessment, published in 2022 in compliance with LL24, evaluated the suitability of Rikers buildings for solar installations, including the size and condition of each roof structure and the annual emissions reduction associated with a solar installation.⁷³ Unfortunately, the vast majority of the buildings on Rikers Island were deemed “not solar-ready,” and several of the buildings are either more than 20 years old or of unknown age.⁷⁴ Because the city “avoids installing solar on roofs that are older than ten years or in poor condition to minimize the chance that a solar PV system will need to be removed to accommodate future roof repairs or replacement,” several roofs on Rikers buildings will have to be repaired or replaced before solar installations will be possible.⁷⁵ Accordingly, while solar energy installations on Rikers Island dovetail with the



city’s renewable energy goals, there are impediments to realizing a solar Renewable Rikers. Still, the Municipal Solar Readiness Assessment noted that at least one solar installation has been completed on Rikers Island, which is encouraging.⁷⁶

B. Wastewater Treatment Facility

The plan contemplates that, “[g]iven the constraints of unstable ground associated with landfilling, projected sea level rise, and [LaGuardia] airport related noise and height regulations,” the building-intensive wastewater management facility is proposed for the western side of Rikers Island.⁷⁷ Four nearby plants are being considered for consolidation on Rikers Island—Wards Island, Bowery Bay, Tallman Island, and Hunts Point.⁷⁸ These plants are overtaxed, based on their disproportionate contribution to the city’s combined sewer overflow (CSO) volume; indeed, these plants are “responsible for 55% of the city’s total CSO volume, which diminishes local water quality and limits the recreational use of the nearby East River and Flushing and Bowery Bays.”⁷⁹ The new plant “will be designed to maximize energy efficiency and to recover biogas and biosolids for beneficial reuse, a priority and focus of NYC’s Department of Environmental Protection.”⁸⁰ Decommissioning the four adjacent plants also frees their properties for recreational spaces and other uses in the public interest.

To that end, in September 2022, the DEP announced that it started work on the Feasibility Study for the Consolidation of NYC Wastewater Resource Recovery Facilities on Rikers Island to determine the capacity for organics and wastewater processing on the Island as mandated by Local Law 31.⁸¹ Local Law 31 provides that:

The study shall consider population projections and possible alternatives to wastewater treatment and disposal, as well as the minimum and maximum capacity a wastewater treatment facility on Rikers Island should have, how much wastewater might be able to be di-

verted from other facilities, and the capacity on Rikers Island for the capture of combined sewer overflow. Such study shall also consider the potential for organic waste recycling via composting operations, organics co-digestion, and biosolids reuse. The [DEP] commissioner shall also assess, in a separate review, the presence of methane on Rikers Island, the potential for the installation of methane recovery systems, and the use of such systems by any such wastewater treatment facility.⁸²

DEP has maintained its commitment to intentional community engagement for this study and has met with advocacy groups and the RIAC.⁸³ DEP is developing an expanded website for this study to provide study information, key deliverables, and status updates to the community at large.⁸⁴ In the interim, DEP's preliminary assessments have revealed that the four WRRFs under consideration for consolidation were first built in the 1930s, such that "operating, maintaining and upgrading these facilities to modern standards are not as cost-effective as compared to newer facilities" on Rikers Island.⁸⁵ Any wastewater processing on Rikers Island will also attempt to recover valuable resources from the processed wastewater, including inputs to high-quality fertilizer, nutrients such as nitrogen and phosphorus for use in soils on farms, parks and forests, and recycled water for non-potable uses, including irrigation and industrial cooling.⁸⁶

C. Composting and Recycling Hub

It is estimated that Rikers Island could process over 365,000 tons of organic waste per year—34% of NYC's total organic waste stream.⁸⁷ This capacity is sorely needed: the city of New York Department of Sanitation's (DSNY) statistics from 2019 demonstrate that "1.3% of municipal solid waste (or 3.7% of the total organic stream) was collected for recycling."⁸⁸ Organ-

ic waste would be transported by barge to Rikers Island, correspondingly reducing truck traffic in residential communities located near the three major marine waste transfer stations currently operating in the city.⁸⁹ The plan concludes that "[i]nvesting in a range of organics processing facilities will add a level of redundancy and allow the organics hub to be scaled up in a phased manner. [. . .] When the WRRF co-digester, which has the greatest processing capacity, goes online, it will combine with aerated static composting and a stand-alone anaerobic digestion facility to process almost 35% of the municipal organic waste stream."⁹⁰ In the future, Rikers Island may also be able to accept and process high-volume and low contamination organic waste streams originating from the private sector.⁹¹

IV. Conclusion

Though Rikers Island has a dark past, the future of the island is promising. As currently proposed, the Renewable Rikers Plan envisions a multifaceted green energy hub, complete with solar installations, energy storage facilities, wastewater treatment capabilities, and a composting and recycling processing center. The plan is an encouraging and productive use for Rikers Island that will advance much needed and long-awaited environmental and restorative justice in the city. However, it faces impediments: old, decrepit buildings make solar photovoltaic installations challenging, and city agencies are already missing legally mandated deadlines, leading to delay in the act's implementation. At the time of this writing, many administrative assessments have been promised, and it remains to be seen whether, and to what extent, Rikers Island can live up to the lofty goals of the Renewable Rikers Plan. At a minimum, any plans for Rikers Island must incorporate the feedback and wishes of communities of color that have been most burdened by Riker Island's painful history by uplifting and centering their voices in decision-making and offering ample opportunities for public comment.



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Endnotes

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11. Dan Rubinstein & Emma G. Fitzsimmons, *Libraries Spared by Rikers Suffers in \$107 Billion N.Y.C. Budget Deal*, The New York Times (June 29, 2023), <https://www.nytimes.com/2023/06/29/nyregion/new-york-mayor-city-council-budget-deal.html>.
12. Janos Marton, *#CLOSERikers: The Campaign to Transform New York City’s Criminal Justice System*, 45 Fordham Urb. L.J. 499, 504 (2018).
13. *Id.* at 505.
14. *Id.*
15. *Id.* at 506. This was not the first time Rikers Island was used to house incarcerated people: during the Civil War, “it was used as a Confederate prisoner-of-war camp” and was mired in controversy “not over the jail conditions, but the cramped, dilapidated, and freezing conditions of the Union’s 20th U.S. Colored Troops stationed there.” *Id.* at 505.
16. *Id.* at 506.
17. *Id.* at 506-507.
18. *Id.* at 507; Stuart Marques, *The Birth, Life and—Maybe—Death of Rikers Island*, N.Y.C. Dep’t Recs. & Info. Servs. (Mar. 22, 2019), <https://www.archives.nyc/blog/2019/3/21/the-birth-life-and-maybe-death-of-rikers-island>.
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20. *Id.*
21. *Id.*
22. Marques, *supra* note 18.
23. *Id.*
24. Marton, *supra* note 12, at 508-509.
25. *Id.* at 509.
26. *Id.* at 510.
27. *Id.*
28. *Id.* at 511-12.
29. *Id.* at 513.
30. *Id.* at 516.
31. *Id.* at 516-17.
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39. *Id.* at 500-02; J. David Goodman, *Mayor Backs Plan to Close Rikers and Open Jails Elsewhere*, N.Y. Times (Mar. 31, 2017), <https://www.nytimes.com/2017/03/31/nyregion/mayor-de-blasio-is-said-to-back-plan-to-close-jails-on-rikers-island.html>.
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43. *Id.*
44. Ximrna Del Cerro, *Brooklyn Jail Construction Delays Leave Advocates Fuming at Mayor, Jeopardizes Plans to Shut Rikers*, Brooklyn Paper (Mar. 15, 2023), brooklynpaper.com/brooklyn-jail-construction-mayor-rikers/; see also, Chris Sommerfeldt and Graham Rayman,

- NYC may House Inmates at Half-Finished Brooklyn Jail to Comply With 'Flawed' Rikers Island Closing Plan: Mayor Adams, Daily News (Mar. 15, 2023), <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-nyc-house-inmates-at-half-finished-brooklyn-jail-to-close-rikers-20230315-n576qdhengrbkfamsyn4ofu7a-story.html> (“Asked Wednesday morning how his administration will abide by the 2027 deadline given the Brooklyn construction delay, Adams indicated inmates may be housed at the Atlantic Ave. facility even if it’s not done.”).
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 48. N.Y.C. Local Law No. 16 (codified at N.Y.C. Admin. Code § 4-215).
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