



**ENVIRONMENTAL
ADVOCATES OF NEW YORK**
YOUR GOVERNMENT WATCHDOG

**Testimony of Environmental Advocates of New York
By David VanLuven, Policy Director**

February 4, 2013

Introduction

Thank you Chairman DeFrancisco, Chairman Farrell, and members of the Senate Finance and Assembly Ways and Means Committees for the opportunity to provide testimony today. My name is David VanLuven, and I am the Policy Director for Environmental Advocates of New York.

Environmental Advocates' mission is to protect our air, land, water, wildlife, and the health of all New Yorkers. Based in Albany, we monitor state government, evaluate proposed laws, and champion policies and practices that will ensure the responsible stewardship of our shared environment. We support and strengthen the efforts of New York's environmental community and work collaboratively to make our state a national environmental leader.

Testimony Overview

Environmental Advocates of New York sees many positive elements in Governor Cuomo's 2013-14 Executive Budget proposal, including no revenue from or expenses from fracking in New York, a \$19 million increase to the Environmental Protection Fund, and stable staff levels in vital state agencies like the Dept. of Environmental Conservation.

There are also opportunities for further improving the budget, including reforming tax credits associated with the state Brownfield cleanup program and re-authorizing the State Superfund Program.

Additionally, New York is slated to receive billions in federal funds for Superstorm Sandy recovery. It is vital that we closely monitor expenditures of these funds to ensure that they both help communities in the short term and make them more resilient against future storms by guiding redevelopment and new building out of flood-prone areas like wetlands, floodplains, and shorelines.

We are also looking forward to details on how the Green Bank and NY-Sun Initiative will be structured to help meet the state's renewable energy goals.

Fracking

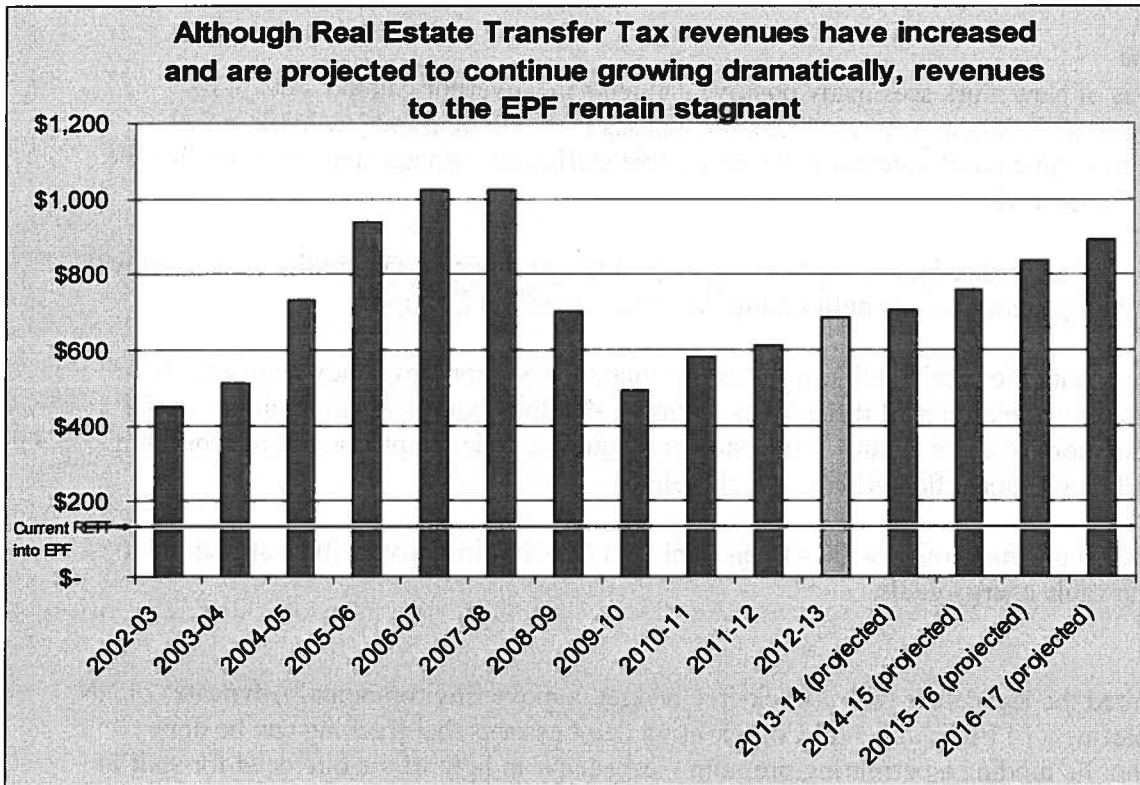
Governor Cuomo presented the legislature with a frack-free budget, a move Environmental Advocates of NY supports. Until the Department of Environmental Conservation demonstrates that fracking can be done safely, the state should not be funding a permitting program – especially in light of the dire need for staff in other DEC core program areas. The Assembly and Senate should ensure that the final adopted budget remains frack-free, for without a true health impact analysis and without addressing major holes in the state's plans for fracking, like the gaping hazardous waste loophole, the state cannot create a permitting program that protects public health, safety, and our environment.

Environmental Protection Fund (EPF)

The Environmental Protection Fund (EPF) delivers resources to communities to help them recover from Superstorm Sandy, create parks, support family farms, keep waterways clean, and much more. Environmental Advocates of NY appreciates Governor Cuomo's commitment to bolstering the EPF, particularly the \$19 million increase included in his proposed budget.

Of this \$19 million, we support drawing \$15 million from unclaimed beverage container deposits. However, we are concerned about tying the final piece of EPF funding (\$4 million this year and \$8 million thereafter) to additional revenues received above the 2012-13 level, especially as these revenues are dependent on new, untested enforcement policies. With unclaimed deposits returning over \$110 million annually since the Bigger Better Bottle Bill's full implementation in 2011, the EPF should receive consistent funding rather than funding based on a revenue stream's projected future growth. The \$19 million increase to the EPF should not be connected to increased bottle-collection revenues.

Beyond new revenue from bottle collections, the Real Estate Transfer Tax (RETT) remains the primary funding source for the EPF. In the two years following the housing market crash of 2008, total RETT revenues to the state fell by half from \$1 billion to \$493 million. In response, the state slashed RETT revenues to the EPF to \$119 million by 2010. Since then, total RETT returns have grown steadily and this trend is expected to continue with projected revenues reaching nearly \$900 million by 2017. Although total RETT revenues are estimated to surpass \$685 million in 2013-14, a 39% increase from the 2010 level, RETT revenues to the EPF remain stagnant at \$119 million. Clearly, the RETT contribution to the EPF should be increased dramatically so communities can implement local projects that create jobs and deliver tangible benefits to New York residents and the environment.

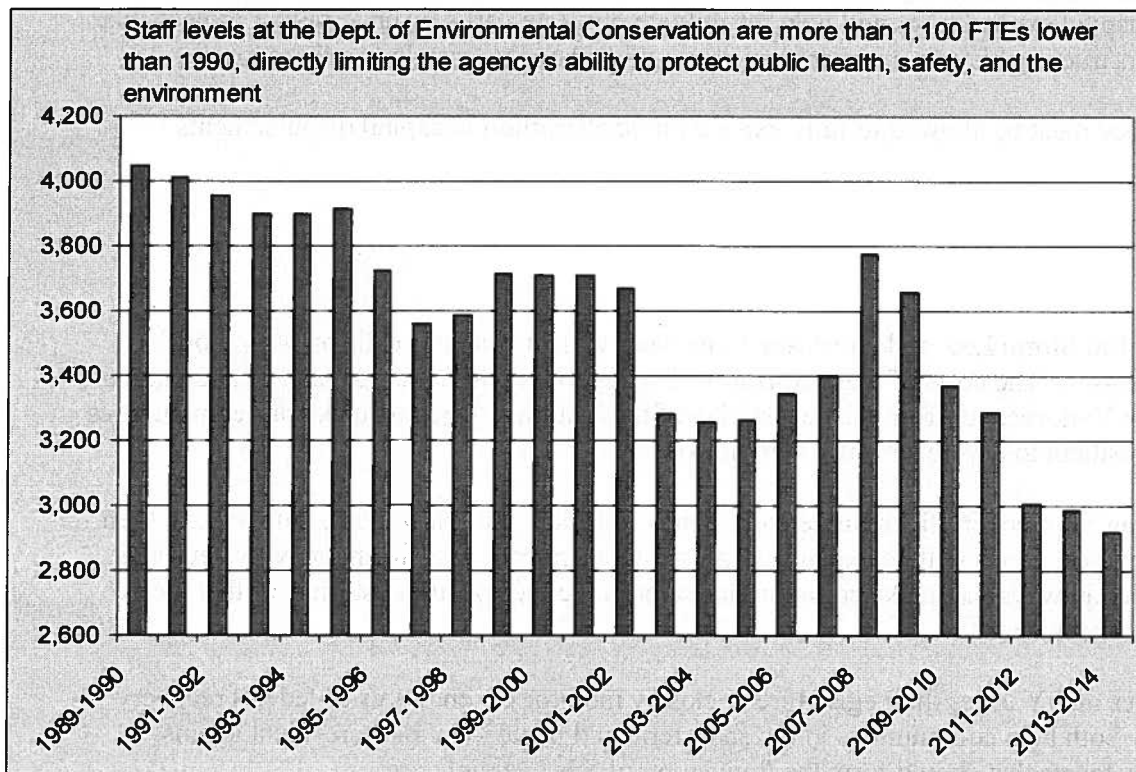


State Agency Resources

Appropriations for state environmental agencies are generally consistent with prior year funding levels with small gains for State Operations. Retaining and rebuilding operating funds is critical to the ability of these agencies to monitor the health of our air, water, and lands; properly oversee utility investment in infrastructure, energy efficiency, and renewable power; manage our State Parks; and properly enforce public health, safety, and environmental laws.

Department of Environmental Conservation (DEC)

The Dept. of Environmental Conservation (DEC) has experienced relatively stable year to year staffing levels in the short term, but decreases over the long term trend are alarming and remain unaddressed. The agency has lost over 1,100 FTEs, or 28% of its total staff, since 1990. While the staffing cuts have not been substantive in the past few years, each new year has continued to register the DEC's lowest staffing level to date. This directly limits the agency's ability to protect public health and safety, administer grants to communities that get shovels in the ground, and other key functions.



The State Superfund Program's 2003 reauthorization for \$1.2 billion over ten years becomes fully appropriated during the current fiscal year, and there is no appropriation for it in the Executive's 2013-14 budget proposal. Unfortunately, there are nearly 900 highly polluted sites on the state Superfund list and this number continues to grow. Superfund sites are some of the most contaminated and toxic in the state, and cleaning them up involves lengthy contract periods which can be hampered by uncertain funding. Spending authorization for the State Superfund Program needs to be renewed. This should be done either in the state budget or as part of a Brownfields reform package this legislative session.

Last fall, DEC proposed undermining clean water protections by allowing concentrated animal feed operations that create up to 36,000 pounds of waste per day (the equivalent of a town with 6,000-12,000 people) to operate without a permit. Environmental Advocates of NY adamantly opposes this change, as New York State should be providing assistance to help industries thrive while protecting our waterways, not removing safeguards designed to prevent pollution and protect public health. Despite claims from DEC that

this is indeed their goal, the Executive Budget includes only a \$300,000 increase to the Agricultural Environmental Management Program for assistance to farms while DEC continues its move to weaken public health regulations.

State Parks

The Office of Parks, Recreation & Historic Preservation finds itself reeling from recent budget reductions that have resulted in shortened hours, days, and seasons of operation as the agency searches for efficiencies to meet reduced operational funding. We are pleased that the proposed Executive Budget maintains staff and operating funds for Parks, but additional revenues are needed to rebuild crumbling park infrastructure and restore services that all New Yorkers can enjoy.

The continuation of New York Works capital funding is essential to completing the estimated \$1 billion backlog of State Parks infrastructure rehabilitation projects that are literally waiting in the weeds. A 2012 safety-of-infrastructure audit by the Office of the State Comptroller found that the longer these infrastructure problems remain unaddressed the more expensive rehabilitation becomes. The \$45 million in additional New York Works expedited capital expenditures will help rehabilitate our state parks by undertaking projects like repairing roofs and reconstructing historic exteriors that are so dilapidated we risk losing them forever.

As importantly, the agency must be allowed to fully expend the \$558 million in capital disbursements planned through 2018.

Other Budget Items

Storm Recovery

Superstorm Sandy, Tropical Storm Lee, and Hurricane Irene were violent wakeups calls on New York's vulnerability to severe storms. The costs of these storms were staggering, both in human and financial tolls. As we work to help New York recover from the devastation of these storms, we must make our communities and environment more resilient to severe storms when they occur.

Billions in federal funding for recovery from Superstorm Sandy will flow into New York, but we have seen little information on how these funds will be expended. As we've seen from past storm recovery activities, resources can be expended in ways that make communities safer in the face of future storms, or that create conditions that make problems worse.

Environmental Advocates of NY urges the Legislature to closely monitor expenditures of federal recovery funds to ensure that they both help communities in the short term and make them more resilient against future storms. Three key tenets that should form the foundation of this oversight are:

- Keep people out of harm's way by making the correct choices about where we rebuild.
- Direct new development out of low-lying, flood-prone areas that we know are most risky.
- Protect wetlands, coastal dunes, and upland open spaces. Along the coast, these natural areas provide excellent protection against flooding and storm damage more cheaply than over-engineered seawalls. Elsewhere in the state, wetlands, forests, and farm fields absorb and slow rainwater, decreasing flooding dangers in downstream communities.

Green Bank

Governor Cuomo's \$1 billion Green Bank is a reorganization of existing funding sources that would allow more creative financing of renewable energy projects and attract more private sector investment to spark the green economy. Environmental Advocates of NY supports the concept of the Green Bank as a way of further leveraging New York's investment in clean energy. In developing the Green Bank, New York should build off its experience with the Green Jobs Green New York program while avoiding the pitfalls that have stalled Connecticut's Green Bank. Like the legislature, we are still awaiting details on how these funds will be

managed and how they will be directed out to New York communities and businesses to deliver tangible results.

NY-Sun Initiative

Repowering New York with clean renewable energy is critical to combating climate change and reducing the frequency of severe storms like Superstorm Sandy. Governor Cuomo's commitment to solar power through his proposed 10-year extension of the NY-Sun Initiative can spark solar development in New York and give solar companies the confidence to invest more aggressively in New York's green economy. Environmental Advocates of NY supports enhancing and extending the NY-Sun Initiative for 10 years, but it must have a predictable schedule of awards, real-time project status updates, and provisions that direct funding to installations based in New York.

Budget Proposal Improvements: Brownfield Cleanup Tax Credits

The Brownfield cleanup program was designed to encourage the restoration of contaminated former industrial and commercial sites with the intent of stimulating economic growth in low-income neighborhoods, all while making these communities healthier and safer. Unfortunately, an Environmental Advocates of NY analysis of state tax and finance data in 2012 found that although \$1 billion has been spent since 2006, only 114 sites have been cleaned up.

It does not make sense for New York State to continue with the current system of tax credits which provides disproportionate incentives to projects that would likely be cleaned up regardless of the existence of the Brownfields program. For example, \$20 million in tax credits was given to build an Ikea in Brooklyn, and \$18 million was given to build upscale apartments in Long Island City where rents start at \$2,200 per month.

Now is the time for New York's leaders to reform Brownfield tax credits by delinking them from eligibility for the Brownfield cleanup program. Allowing a simplified process for certifying a cleanup without tax credits would result in more cleanups and allow the program to admit sites that are currently excluded, such as historical fill sites and sites contaminated by off-site sources.

The state should also cap tax credits associated with the redeveloped value of the property. This would allow the state to better predict and manage its fiscal exposure and develop criteria to guide the distribution of tax credits to better target underserved communities most in need of incentives to attract development.

Conclusion

New York State is experiencing difficult fiscal times, but we must look at the long- and short-term consequences of the decisions we make. For example, limiting the ability of state agencies to implement public health and environmental laws by denying them staff allows more pollution to poison our lands and waters, and in turn generate much higher costs for future clean up at the tax payer's expense. I urge you to take these long-term perspectives as you consider this year's Executive Budget. Thank you.

