



ENVIRONMENTAL ADVOCATES OF NEW YORK

YOUR GOVERNMENT WATCHDOG

Testimony of Environmental Advocates of New York

By Alison Jenkins, Fiscal Policy Program Director

Tuesday, January 26, 2010

Thank you Chairman Farrell, Chairman Kruger and members of the Assembly Ways and Means and Senate Finance committees. My name is Alison Jenkins and I am the Fiscal Policy Program Director for Environmental Advocates of New York.

Environmental Advocates of New York's mission is to protect our air, land, water and 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 work to support and strengthen the efforts of New York's environmental community and to make our state a national leader.

While all of New York State is suffering through the current recession, and almost all agencies have been cut, New York's Department of Environmental Conservation (DEC) and Environmental Protection Fund (EPF) were slashed in the 2010-11 Executive Budget proposal.

To put it simply, Governor Paterson's Executive Budget proposal is bad for the environment. DEC's appropriation is cut by 34 percent after years of stagnant appropriations have already confounded the agency's ability to enforce environmental laws and manage the state's natural resources. Since March 2008, the twin policies of the hiring freeze and retirement incentives will result in the DEC losing more than 400 staff by the end of this fiscal year. The Executive Budget proposal shows the agency down to 3,314 staff by March of 2011, a far cry from the 4,000 staff the DEC had in the mid 1990's. On top of agency reductions, the Environmental Protection Fund, the state's only dedicated fund protecting the state's air, land and water quality, was cut by a third for the second year in a row.

DEC Appropriations

The DEC needs the resources and staff necessary to comply with and enforce federal and state laws, and to keep both the environment and the public healthy and safe. The well being of all New Yorkers depends on the State's environmental agency to implement existing environmental laws. The 2010-11 Executive Budget proposal slashes DEC appropriations by 34 percent, and hews 83 more staff from the already short-handed agency. Years of cutbacks have left the agency with 700 fewer staff than 20 years ago.

Deep Green Cuts

The Governor's cuts are disproportionate to those planned for other agencies. The Department of Health received a one percent reduction in appropriations, while the State Education Department's budget declined by two percent. All three agencies provide services that protect public health and safety, but only the DEC had one-third of its budget eliminated. Part of the decrease is attributed to federal stimulus payments ending, but even taking that into account, the agency would still be without 10 percent of last year's funding. The DEC's total appropriation reduction of more than \$500 million cannot be attributed solely to the lack of

federal stimulus funds this year. While the agency received \$461 million in federal stimulus last year and \$1.2 million this year, sources of appropriations decline by \$100 million beyond that. Additionally, a \$60 million Great Lakes Restoration Initiative grant included in agency operations will mainly serve as a pass-through grant program, with almost no benefit to agency programs, and yet to be approved by the federal government. So while agency resources are being cut, some of the resources included in the Governor's Executive Budget are far from certain.

Together, the DEC, Office of Parks, Recreation and Historic Preservation (OPRHP), Department of Agriculture and Markets (Ag & Mkts), and Department of State (DOS) represent 1.7 percent of the total state budget, and the Executive Budget proposal recommends that environmental agencies receive a cumulative 28 percent cut in total appropriations. These agencies were cut by more than \$600 million, while the total state budget increased by an additional \$800 million.

Long History of Cuts to DEC Staff & Resources

This hacking of agency resources is not a new phenomenon. Ongoing analysis by Environmental Advocates of New York shows the agency in an ever-tightening vice. Resources are dwindling while agency responsibilities continue to grow.

Among other responsibilities, the DEC manages water and air quality, open space, forests, wetlands, gas and oil drilling, hazardous waste, hunting and fishing, invasive species eradication, dam safety, and many other programs. By shortchanging the agency, New York shortchanges the health of our shared environment.

While many agencies grew and enjoyed an influx of state money in good fiscal times, DEC was enduring stiff cuts. Now, in bad times, the Governor is determined to further damage the already hemorrhaging agency. For years the quick fix for the agency has been to stick a finger in the hole in the dam, now the dam is cracked, and about to burst open.

The DEC protects the air we breathe and the water we drink. Without the staff or resources to effectively manage and prevent pollution, we threaten the well being of the environment and endanger people's health. By failing to devote resources to critical agency activities now, we risk having to clean up costly pollution in the future.

More Cuts to Green Agencies

The DEC is not the only state agency charged with protecting our natural resources, public health and safety. Environmental agencies such as the OPRHP have seen a decline in appropriations and staff levels. The Executive Budget proposal cuts of \$64 million, or 20 percent, will force the OPRHP to close state parks, which the state desperately needs for hard working New Yorkers who need an affordable place to take their families. With budget cuts of \$46 million over the past two years, and reductions in permanent staff of more than 200, and now graver cuts proposed to resources and staff, OPRHP cannot afford to maintain state parks, impacting both the environment and New Yorkers' quality of life.

DEC Staff

Since March 2008, the twin policies of the hiring freeze and retirement incentives will result in the DEC losing more than 400 staff by the end of this fiscal year. The Executive Budget proposal shows the agency

down to 3,314 staff by March of 2011, a far cry from the 4,000 staff the DEC had in the mid 1990's. The proposal also shows the agency gaining 29 new staff to work on issues related to natural gas drilling in the Marcellus Shale Formation. This shell game of moving staff from one program to another does not address the hundreds of staff the agency desperately needs just to implement state and federally mandated laws.

While the addition of staff to provide oversight for drilling is positive, it is unsettling that the Executive would propose to staff a non-existent program, while allowing current programs to slowly expire because staff cannot keep up with burgeoning responsibilities. Additionally, most staff lost to attrition are experienced scientists whose institutional knowledge will not be replaced.

Fewer Staff = Less Oversight

Water Pollution

Understaffing at the agency has led to serious problems. For instance, the water program relies on polluters to self-report the toxicity of effluent discharged into surface water. In 1990, staff sampled effluent 1,113 times to verify polluters' reports. In 2008, the DEC took 112 samples from the thousands of sources that release tens of billions of gallons of sewage and industrial waste every day, a 94 percent decrease due to staff shortages. This lack of testing puts New York's drinking water, fishing streams and beaches at risk.

Hazardous Waste

Because of improper handling of hazardous wastes by generators and storage facilities, toxic substances such as mercury, arsenic, ammonia and inorganic metals continue to threaten public health and safety in New York. The state is home to thousands of large and small hazardous waste generators, including manufacturers, universities, hospitals and laboratories. The DEC has 19 staff to inspect 54,302 generators of hazardous waste. Staff inspected 825 such generators in 2008, only 1.5 percent of all hazardous waste generators.

Air Quality

In New York, 30 counties fail to meet federal air quality standards for ozone (smog) and 10 counties fail to meet minimum standards for particulate pollution (soot). The DEC needs to finish federally mandated plans to reduce air pollution in order to meet federal air quality standards. The agency needs to finalize 17 out of 30 plans for 1997 standards. Then the agency needs to do 10 more plans for 2008 standards, which are stronger for smog. In January 2010, the EPA proposed new, even lower limits. The DEC needs to finish the plans in order to address air pollution, and they need the staff to do so. Not only is the environment at risk, but so are public health and safety. Air pollution causes heart and lung diseases and especially affects children and the elderly.

Natural Gas Drilling

While it does not address the staff desperately needed for current agency responsibilities, by adding 29 positions to monitor natural gas drilling, the Governor has made the right gesture. The already beleaguered agency will also need more staff to monitor water withdrawals, wastewater disposal, and have staff on-site during the drilling of each well. At a forum hosted by WAMC just yesterday, representatives of the gas industry even agreed that the DEC cannot provide proper oversight with the current staffing. However, the Governor's perceived gesture of goodwill leaves unanswered questions. There is no timeline for hiring new employees, and little information about when regulations for drilling will be adopted. Unfortunately, the Governor is putting the cart before the horse. For years the Division of Water's need for staff to process water permits to protect drinking water was ignored, and now new staff are being added to a program that

does not have the regulatory authority to proceed. Also included in the Executive Budget proposal is a severance tax on gas drilling in the shales. This tax needs to be expanded and deposited directly into agency resources that clean up spills and monitor pollution.

Unequal Freezes

The statewide hiring freeze is not universal. Certain agencies have hired new staff when public health and safety are at risk or if additional staff could help increase revenue for the State. We question whether the lack of reviewing pollution permits that protect our drinking water or creating plans to reduce air pollution in order to safeguard public health and safety are less critical tasks. In addition, environmental enforcement actions could not only bring polluters to justice, much-needed enforcement could bring in extra revenue through fines that the agency, as well as New York State, desperately needs.

Other environmental agencies are experiencing the crunch of staff losses as well. The net loss in environmental staffing makes up 43 percent of the total budget's net loss, while total environmental staff make up just over three percent of total state staff.

In addition to cuts at the DEC, environmental agencies such as the OPRHP saw a decline in appropriations and staff. The Executive Budget proposal cuts OPRHP staff by 87 more, after reductions of 200 over the past two years. The OPRHP will have no option but to close state parks, which the state desperately needs to keep open for hard working New Yorkers who need an affordable place to go, and to attract tourists during this economic downturn.

The DOS is slated to lose 130 staff over the next year, 16 percent of total staff. The DOS' Waterfront Revitalization Program, has fallen from 22 full-time employees in 1995 to 10 today. Remaining staff have increased responsibilities, leaving little time for the important work of outreach to local governments to meet the complementary goals of enhancing our natural environment and rebuilding New York's economy.

Environmental Protection Fund

The EPF appropriation included in the Executive Budget proposal for SFY 2010-11 cuts funding by a whopping one-third in addition to a series of cuts over the past few years. Without restorations, the State will not be able to pay the bills for the projects already in the pipeline, projects that address New York's most critical environmental needs, invest in our economy, and protect public health.

The EPF has been ransacked to the tune of almost a half of a billion dollars in sweeps over the past 10 years, as well as an unprecedented fourth quarter cut in February 2009 of \$50 million, and another mid-year cut of \$10 million this past December.

During the SFY 2009-10 budget negotiations, the State Legislature fought to include \$222 million for EPF-funded programs and provided the revenues to support that level of spending. Environmental Advocates of New York is grateful for this support.

Slash & Burn Piggybank

This year, the Executive proposed a \$143 million Fund and zeroed out the land acquisition category entirely, which threatens the integrity of the Fund. The EPF was founded in part to protect land from development and pollution, as well as to provide wild areas for animals and plants to thrive while offering a unique

experience for people. Land conservation not only protects the environment, it protects public drinking water by allowing undeveloped land to act as a filtration system, instead of building billion dollar drinking water treatment facilities. A small investment in land can result in hundreds of years of clean drinking water, with no facility to build or maintain.

Tied Up In Knots

By withholding EPF expenditures through the Attachment A process, the Division of Budget, through the Governor's authority, is putting critical programs at risk. Organizations such as the Finger Lakes-Lake Ontario Watershed Protection Alliance and soil and water conservation districts need the payments that New York State promised them so they can continue to do important work such as combat invasive species and protect town water supplies. Without that funding public health and safety are threatened.

Due to lack of funding some programs have already closed. The Breast Cancer program closed its doors in October 2009 during Breast Cancer Awareness Month, after 14 years of breast cancer and environmental factors research. How many other programs will have to close their doors, layoff staff, and abandon their important missions before EPF spending resumes?

No New Projects without New Funding

Not only has the Governor slashed EPF programs, the Paterson Administration has added offloads in place of funding for usual lines. The EPF should not be given new projects without new funding. The EPF cannot pay the bills it has because of funding cuts and the Attachment A process, adding new projects will exacerbate the situation.

For six of the past seven years, the EPF has received bonding in replacement of some cash appropriations. Bonding has amounted to more than \$400 million and was not included in the Executive proposal. Bonding would be the easiest way to restore funds for land acquisition, as well as other categories in the EPF.

The EPF not only protects the environment it provides economic development. Parks money provides attractions for New York's families and tourists, and waterfront revitalization rebuilds waterfronts in communities, making them more attractive for businesses, residents and visitors.

Revenue Raisers

The State should focus on annual revenue generators and not one-time deals in order to jumpstart investments in the economy, protect our shared environment, and safeguard public health and safety.

A good starting place to look for state revenue include the tax exemptions and loopholes that currently allow cash to leak out of New York State revenue collections. By looking at the Division of Budget's Tax Expenditure Report, it is clear that the State could do a lot to reverse its fiscal situation, just by closing some outdated and special interest-driven freebies. Repealing the gas tax cap would have provided the State with \$152 million in 2009-10.

Programs such as the Brownfield Cleanup Program could use further improvements. Tax credits for current projects may still far exceed the State's ability to pay. By restructuring or lowering the cap on redevelopment credits, the State could end incentives for billion-dollar luxury apartments in New York City to take advantage of the program.

Other environmentally friendly revenue raisers include a plastic bag tax, and increasing the Real Estate Transfer Tax (RETT). By putting a five-cent tax on each plastic bag used at grocery, convenience and liquor stores, New York could bring in \$225 million. This would only cost the average person \$15 while changing behavior and reducing the more than six billion plastic bags New Yorkers use every year.

The RETT has never been increased, and proceeds are the primary source of funding for the EPF. By increasing the rate from \$2 on every \$500, to \$4 on every \$500, the State could double RETT revenue and the average priced home seller would only pay \$800 more. Instead of generating \$422 million this year, the RETT could have produced \$844 million, which approaches the billion dollar mark from just a few years ago.

Conclusion

New York State, the country and the world are experiencing difficult fiscal times. In addition to the numbers in the Governor's slash and burn approach to the Executive Budget, it's critical to keep track of the programs that are cut. Jobs and vital services are at stake. Cutting jobs, both at the DEC and by means of unfunded EPF projects, will only worsen the State's financial situation.

The DEC has endured years of reductions to resources and staff, and now cutting appropriations by one-third, and adding to the 400 staff lost over the past two years, the Governor's budget proposal puts the agency between a rock and a hard place by mandating that the DEC uphold environmental laws, but not giving the agency the resources to do so. And in the final analysis, environmental programs have been disproportionately cut compared to other, similarly critical, programs and services.

While the State's financial situation concerns all New Yorkers, the Governor's proposal only makes things worse. By slashing and redirecting funds that help create local jobs and improve quality of life while protecting the environment and public health and safety, the Governor's proposal is bad for New Yorkers and contrary to the public interest.