



**ENVIRONMENTAL
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**Testimony on Environmental Impacts in
Governor Cuomo's Proposed Executive Budget**
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January 29, 2014

The data is clear: few efforts produce the broad economic benefits of investing in New York's environment.

In some respects, Governor Andrew Cuomo's proposed FY2014-15 budget lays the foundation for making New York State a desirable place to live, raise a family and do business by advancing common-sense environmental protections. But in other areas, it is critical the Legislature build upon what the Governor has proposed.

My name is Katherine Nadeau, and I am Environmental Advocates of New York's Policy Director. Thank you Chairman DeFrancisco, Chairman Farrell, and members of the Senate Finance, Assembly Ways and Means, Environmental Conservation, Agriculture, and Energy Committees for the opportunity to testify today.

Fair, Social Justice-Driven Community Revitalization

We support many of Governor Cuomo's Brownfields reforms and urge the Legislature to pass a reform package that will direct tax credits to clean up toxic waste sites most in need of redevelopment incentives while revitalizing our communities.

Tens of thousands of toxic sites blight our neighborhoods statewide – they can be found in nearly every county, municipality and legislative district. Brownfields create an unsafe environment, hinder our ability to attract new industry, and reduce property values.

The state's Brownfields Cleanup Program was designed to clean up these sites while directing development away from 'green fields' and investing in communities. Unfortunately, it has not produced results for areas most in need of public funding – particularly Upstate, communities of color, or those with high unemployment or poverty rates. In fact, an Environmental Advocates' November 2013 analysis found that New York State had cut checks totaling more than \$1.14 billion to clean up just 131 sites. Locations were disproportionately in wealthy areas with a robust building market, and many of these projects would have occurred based on the site's attractive real estate value regardless of the existence of the Brownfields tax credit.

With the program to sunset in 2015, Governor Cuomo has proposed meaningful reforms that will help guide redevelopment, and help ensure that taxpayer investment is used to its greatest

benefit. His proposal identifies three pathways for projects to be eligible for redevelopment tax credits (based on how long a property has been vacant or tax delinquent, whether the value of the property exceeds the cost of remediation, and a project's economic significance) while separating eligibility for more lucrative redevelopment credits from credits awarded based on the cost of cleanup.

Additionally his proposal will force projects accepted into the program under previous tax credit structures to either receive a certificate of completion by dates certain or reapply under the new system. This will force projects that have lingered for years while imposing significant tax liability on the state to either finish up or be completed under the much improved and more targeted tax incentive program.

But while the Governor has advanced a robust reform package, some elements of his proposal need additional attention.

First, the legislature should restore funding to the state's Brownfield Opportunity Area (BOA) program. Under the Brownfield Opportunity Areas (BOA) Program, state funding is used to complete revitalization plans and implementation strategies for areas affected by brownfield sites. In the Governor's reform package, the BOA program's importance is recognized by awarding additional credits to projects redeveloped consistent with BOA plans. However, absent funding to support the plans' creation and implementation, these efforts fall short.

Second, the plan establishes an 'EZ' program to fast track projects looking to redevelop brownfields without applying for tax credits. Unfortunately the program sets lower cleanup standards – to avoid ongoing public risk, all brownfields should be remediated to the same high standards, regardless of whether or not developers intend to take advantage of tax credits.

Building on the EPF's Community Benefits

The Environmental Protection Fund (EPF) is the state's hallmark program for funding environmental initiatives and the Legislature should provide \$200 million in funding this year.

The EPF invests in outdoor tourism, supports recycling programs, conserves farmland, and protects drinking water for millions of New Yorkers. It creates jobs and makes communities more attractive to tourists, businesses and residents. Every single county in New York State has benefited from millions of dollars in local investment since the Fund's 1993 launch.

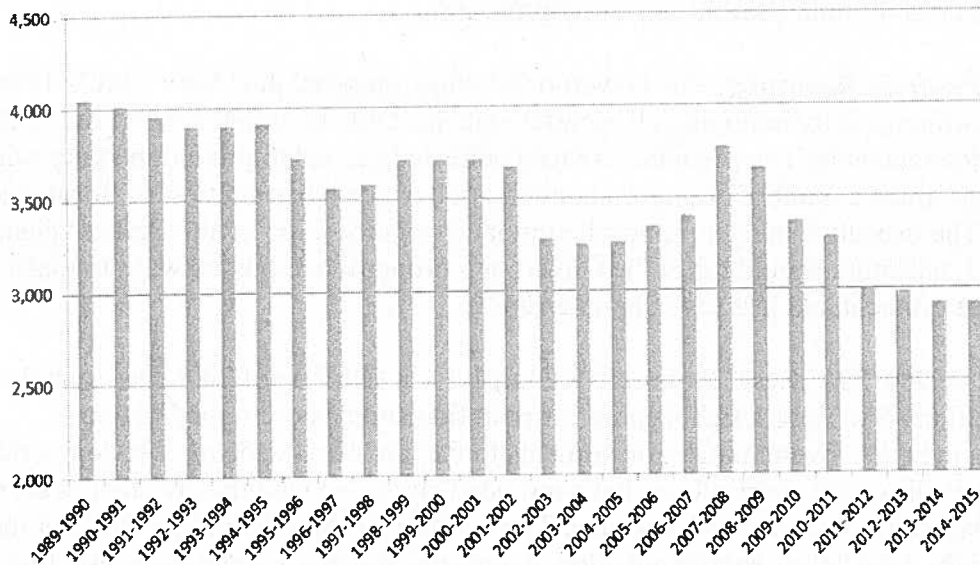
Despite the obvious and documented benefits, the Fund was raided by prior gubernatorial administrations, leaving a backlog of worthy projects to wither on the vine. Governor Cuomo held the line on funding, and has proposed a modest increase this year. However, our communities will not achieve the economic and environmental benefits of this program until adequate funding is restored.

Properly Staffing DEC to Hold Polluters Accountable

The FY2014-15 budget should restore Department of Environmental Conservation (DEC) staff levels to address the losses sustained at the agency in order to ensure the state's laws and protections can be fully enforced.

Since 2008, DEC has lost over 800 staff, forcing the agency to choose between increasingly poor options as it struggles to carry out its mission to protect our health and the environment leaving New Yorkers vulnerable to harmful pollution.

Historic DEC Full Time Equivalent (FTE) Staff Levels



An Environmental Advocates' September 2013 report demonstrated how Governor Cuomo's DEC has become increasingly reliant on polluter-produced self-monitoring reports to determine compliance with environmental permit conditions – including the federal Clean Air and Clean Water Acts. Across the board cuts include:

- Cutting across-the-board pollution inspections by 35%;
- Slashing water pollution inspections by 74%;
- Reducing enforcement actions against polluters by 24%; and
- Eliminating effluent tests for water pollution and chopping “stack” tests for climate-altering pollution by 44%.

This data was pulled directly from reports the DEC must file with the federal Environmental Protection Agency (EPA). Unfortunately, despite the documented public health concerns that stem from an understaffed environmental watchdog, only one new staff line is being added at the agency meaning the public will continue to be forced to place its trust in polluters. DEC staff do the best they can with the resources they have, but there are not enough “cops on the beat” to keep New Yorkers safe.

This problem will only worsen in the out-years under Governor Cuomo's proposal. Inflation is projected to increase by 2%, negotiated contracts include salary increases this year and next, and pension costs are likely to rise as an aging state workforce retires. By calling for flat agency budgets and staffing, Governor Cuomo is sentencing DEC to staff cuts.

Restorations and Rollbacks

Superfund: Governor Cuomo has proposed a one-time \$90 million investment in the state's Superfund program which funds cleanups for the state's most toxic sites. The Governor's investment is an important first-step as the appropriation authority granted by the 2003 refinancing winds down. However, Superfund cleanups are multi-year endeavors requiring multi-year funding commitments. The Legislature should fully refinance the program rather than addressing the need through year-to-year appropriations.

Eviscerating Pesticide Reporting: The Governor's budget proposal guts New York's 1996 Pesticide Reporting Law by removing all requirements for DEC to monitor report on, or track the use of pesticides statewide. The pesticide use data collected has led to groundbreaking scientific research and informed a number of important public policy decisions at the state, local, and federal level. The executive budget proposal eliminates opportunities for medical or scientific research. The Legislature should reject the Governor's proposal and pursue ways to make data collection more efficient and less resource-intensive.

Undercutting DERA: The Diesel Emissions Reduction Act (DERA) of 2006 was roundly praised as a tool in New York's fight against air pollution and a boon to the Upstate manufacturing industry. Even though amendments to the law were made in 2010 to provide compliance flexibility, and court rulings have provided clarity on who the law applies to, the Senate has delayed the law's compliance date. The executive proposed budget does not include any delay, and the Legislature should not allow delay amendments. Compliance with this nearly 8 year old statute needs to be demonstrated at the end of this year. Further delays put our children's health at-risk and are unacceptable.

Fracking

Governor Cuomo has committed to waiting on the science of fracking's public health impacts before issuing a decision, and has refused to permit the process unless and until it can be proven safe. That commitment is reflected in this budget proposal which does not include funding to support any permitting program. However, we call on the Legislature to appropriate \$100,000 for a true Health Impact Assessment. Though Dr. Nirav Shah is conducting a health review, a full Assessment would follow clear and medically-approved standards, provide for baseline community health analysis, a public process for vetting information and drawing in independent scientists, and a transparent path for data collection and better understanding of fracking's full impacts.

New York Works

The budget includes \$40 million from the "New York Works" program for funding some DEC capital projects which Environmental Advocates fully supports. We are concerned, however, that capital funds are being used to cover items that should be considered basic agency operations.

According to DEC, \$2 million of New York Works funds are earmarked for air pollution monitoring equipment – equipment that is sorely needed to provide the critical information about the health and safety of our air that people with asthma, respiratory illnesses, and advanced age rely on for day-to-day planning. It will also be required to keep up with new federal guidelines that call for increasing particulate matter (soot) monitoring near roadways.

While Environmental Advocates supports capital investments and increased air pollution monitoring, these are basic functions that the agency should undertake as a matter of course and should be addressed through additional operations funding. The state should not be bonding for basic equipment that is unlikely to outlive the bond terms. Governor Cuomo should appropriate operating funds to support operating expenses like deployment and maintenance of air pollution monitors.

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.

