

1



**Testimony of
Joe Martens
Commissioner
New York State Department of Environmental Conservation**

**New York State Legislature
Senate Standing Committee on Finance
Assembly Standing Committee on Ways and Means
Hearing:**

**The 2014-15 Executive Budget Recommendations for the
Department of Environmental Conservation**

January 29, 2013

Chairman DeFrancisco, Chairman Farrell, Senator Grisanti, Assemblyman Sweeney, members of the legislative fiscal and environmental conservation committees, thank you for this opportunity to discuss Governor Cuomo's Executive Budget as it pertains to the Department of Environmental Conservation (DEC) for State Fiscal Year 2014-15. Under the Governor's leadership, DEC is working to make New York more business-friendly, more resilient and prepared for emergencies, more welcoming to outdoor recreation and tourism, and even more protective of our valuable natural environment. We have made good progress, and I appreciate the support I have received from the Legislature and many of you individually. We have a list of accomplishments, ranging from one of the largest land conservation and public access projects in the State's history—the Finch Pruyn purchase in the Adirondacks—and two historic Constitutional Amendments; to streamlined permitting for key economic development projects and innovative voluntary programs like DEC's new environmental audit policy.

Climate: Extreme weather is a source of significant concern, and DEC, working with NYSERDA and others, is aggressively pursuing policies to reduce emissions that cause climate change. Last year, working with our partner states, Governor Cuomo called for a lower cap on greenhouse gas emissions and inspired a nine-state agreement to reduce the cap by 45% this year, increasing to more than 50% by 2020. We project that New York's investment of Regional Greenhouse Gas Initiative auction proceeds through 2020 will yield an estimated \$5.8 billion benefit to New York's economy, create nearly 3,000 new jobs, and reduce consumer energy bills.

New York Open for Fishing and Hunting: Outdoor sporting activities generate over \$9 billion in economic activity in New York. In 2013, the Governor launched NY Open for Fishing and Hunting, an initiative to improve recreational activities for sportsmen and sportswomen and boost tourism opportunities throughout the State. The initiative reduced fees for most sporting licenses and simplified the number and types of licenses available.

In addition to the Adventure License announced in the State of the State, the Executive Budget builds on last year's NY Open for Fishing and Hunting by proposing promotional license sales

days, up to eight free fishing days, and three- and five-year licenses at discounted prices, as well as reducing the cost of seven-day fishing licenses and authorizing DEC to promulgate regulations allowing the use of crossbows for hunting. We expect this initiative to increase participation in fishing and hunting and make New York even more attractive as an outdoor sports destination.

Invasive Species: Invasive species are a challenge, negatively affecting both our economy and environment. Working with the Department of Agriculture and Markets, we have proposed regulations that identify invasive species that may significantly harm native flora and fauna, and prohibit or regulate their sale. DEC is also working on a statewide aquatic invasive species plan to further mitigate the impact of this serious problem, and recently proposed regulations that would require the removal of visible plants and animals from boats and trailers before launching them at DEC facilities. And, DEC's new prohibitions on selling or possessing Eurasian boar will curtail their destructive impacts.

NY Works: Working with the Legislature, we have made a significant investment through the NY Works program in critical environmental infrastructure projects. The coastal, dam, and flood control investments are mitigating the risks posed by the forces of nature, while putting New Yorkers to work. Last year, NY Works II allowed us to invest in improvements to recreational facilities, cleanup of municipal brownfields, and upgrades to wastewater treatment systems. This year, the Executive Budget proposes \$40 million in NY Works III for DEC. We plan to use these funds to invest \$6 million for 50 new public access projects and \$4 million for fish hatcheries announced by the Governor. Funds will be used for repairs and improvements to existing DEC facilities, including campgrounds, education centers, dams, and a shellfish lab on Long Island. Funds will also be dedicated to plugging orphaned oil and gas wells, replacing air monitoring equipment, and investing in IT for the next phase of DEC's eBusiness Strategy.

Sandy Response: It has been over a year since Superstorm Sandy, but we continue to work on recovery and rebuilding in keeping with the recommendations of the 2100 Commission. In partnership with the Army Corps, DEC is working on large-scale projects to repair and build coastal protection projects. DEC will continue to be thoroughly involved in all aspects of these

projects, from environmental reviews to design and construction, and will seek to expedite these projects on every front.

Open For Business: Another DEC accomplishment is our focus on efficient permitting by issuing timely permits for economic development projects, especially priorities of the Regional Economic Development Councils. We have succeeded in expediting project reviews and permitting all across New York. We also formed a special team in New York City to focus on dredging to allow important harbor deepening projects to proceed, fostering the success of the largest port on the east coast while assuring that contaminated sediment is safely managed.

Environmental Protection Fund: Over the past 20 years, the EPF has provided more than \$2.7 billion for a variety of key environmental programs. Much of that total has flowed to New York's cities and towns via grants for recycling, landfill closure, municipal parks, or water quality projects. As you know, the EPF supports the acquisition and stewardship of state lands and important agricultural programs. The Executive Budget for 2014-15 increases the EPF to \$157 million. The EPF categories are generally unchanged, with the notable addition of a sub-category under Water Quality Improvement Projects to dedicate \$2 million to research, assess, and address the issue of elevated levels of nitrogen in Long Island groundwater. These funds will be matched by our partner Suffolk County. DEC will work closely with SUNY Stony Brook and towns like Southampton that are eager to clean up Long Island's water resources.

Brownfield Cleanup Program: Since it was adopted in 2003, the Brownfield Cleanup Program has resulted in the successful clean up of more than 150 sites, by offering liability relief and refundable tax credits. The Executive Budget extends the program for ten years while instituting necessary reforms, targeting redevelopment credits to priority economic development projects and sites that need incentives to get cleanups underway, and spur redevelopment. This proposal also includes a streamlined program for lightly contaminated sites where the developer waives the right to tax credits. This voluntary program will ensure that cleanups are completed to State standards and subject to DEC oversight while providing critical liability relief to enable sites to obtain financing, and save the State millions in tax credits.

The budget includes \$100 million for Superfund to ensure that site investigations and construction projects can continue to move forward to address the State's most contaminated sites. This includes a \$10 million carve out for the Environmental Restoration Program, the popular municipal brownfield cleanup program.

Transportation of Crude Oil: Recently, several serious train derailments involving crude oil have heightened awareness and concern about the transportation of crude oil across the nation. In response, Governor Cuomo issued an Executive Order last night directing DEC and our sister agencies to petition our federal partners to ensure New Yorkers are safe and the State's irreplaceable natural resources are protected. The order also directs the agencies to evaluate the State's spill prevention, response, and inspection programs governing the rail, ship and barge transportation of crude oil and other petroleum products. We will report our recommendations to the Governor on or about April 30th for program improvements and enhanced coordination between State and federal agencies and the role of local governments. Following the Governor's Executive Order, the Commissioners of Transportation, Health, Homeland Security and I sent a letter calling on the federal government to expedite adoption of enhanced requirements governing the transport of crude oil by rail and water to reduce the potential for spills and accidents, and to pre-deploy appropriate spill response equipment and resources to protect New York State's communities, residents, land and waterways.

Between reforming the brownfield cleanup program, increasing EPF funding, investing in environmental infrastructure, and maintaining staff and funding for DEC, the Executive Budget demonstrates Governor Cuomo's continued commitment to the environment. Thank you for inviting me to testify. I look forward to working with you to enact the Governor's 2014-15 budget so that we can continue our forward progress. Thank you again for your support. I'd be happy to answer any questions you may have.

Attachment.

JAN 28 2014

Department of State
Secretary of State



State of New York

Executive Chamber

No. 125

EXECUTIVE ORDER

DIRECTING THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF TRANSPORTATION, THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, THE DEPARTMENT OF HEALTH, AND THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY TO TAKE ACTION TO STRENGTHEN THE STATE'S OVERSIGHT OF SHIPMENTS OF PETROLEUM PRODUCTS

WHEREAS, on July 6, 2013, a train derailment in Lac-Mégantic, Québec involving tank cars carrying crude oil caused the devastation of an entire community, the deaths of 47 persons, and the evacuation of thousands; and

WHEREAS, on December 30, 2013, a train derailment in Casselton, North Dakota caused 18 tank cars carrying crude oil to be punctured, spilling more than 400,000 gallons of crude oil into the environment, and causing a fire which resulted in the evacuation of more than one thousand Casselton residents; and

WHEREAS, rail cars transporting crude oil traverse 1,000 miles of New York State's 3,500-mile freight rail network, from Western New York along the Mohawk River and its communities to the Port of Albany, and from Canada across the border at Rouse's Point along Lake Champlain and through communities to the Port of Albany, where it is then transported south by rail, ship, and barge on or along the Hudson River and along or through New York communities to refineries in mid-Atlantic states; and

WHEREAS, much of the increase in the volume of crude oil transported is due to increased production from the Bakken formation in North Dakota, Montana, and Canada, which, due to lack of pipeline capacity, must be transported by rail; and

WHEREAS, historically, rail transport of crude oil is safer and more environmentally protective than truck transport; and

WHEREAS, there has been a significant expansion in the use of the Port of Albany in the distribution and transportation of crude oil and other petroleum products by rail, ship, and barge for shipment on and along the Hudson River and along or through our communities to out-of-state refineries and storage facilities; and

WHEREAS, the increase in frequency and numbers of rail cars, ships, and barges carrying crude oil and other petroleum products through hundreds of New York communities increases the public's vulnerability to a serious accident; and

WHEREAS, New York's waterways, including the Hudson River, Mohawk River, and Lake Champlain, on or along which rail cars, ships, and barges travel, are unique ecological, cultural, economic, natural, and recreational resources upon which millions of New Yorkers rely, which makes these waterways especially vulnerable to spills of crude oil and other petroleum products; and

WHEREAS, Bakken crude oil has a lower flashpoint and is therefore more prone to ignite during a rail accident; and

WHEREAS, the U.S. Department of Transportation (USDOT) is in the process of designating new safety standards and requirements for rail tank cars and evaluating potential new rules for the transportation of flammable liquids; and

WHEREAS, recognizing the value of these efforts, New York nevertheless cannot await the final outcome of these federal assessments before taking action; and

WHEREAS, New York is preempted by federal law from regulating rail freight transportation and rail car safety standards, and the navigation of vessels operating on the State's navigable waterways; and

WHEREAS, the New York State Department of Environmental Conservation (DEC) has jurisdiction over air permitting, oil spill response, and storage of petroleum products in bulk tanks; and

WHEREAS, the New York State Department of Transportation (DOT) has jurisdiction to inspect freight rail track and equipment; and

WHEREAS, the New York State Division of Homeland Security and Emergency Services (DHSES) provides assistance and support to local entities relating to emergency planning, training, and response to incidents, including petroleum spills and fires; and

WHEREAS, the New York State Department of Health (DOH) assesses and monitors the human exposure and public health impact of petroleum spills and fires, advises on the safe handling of hazardous materials and the cleanup of such materials, and provides public information on health impacts and protective measures; and

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) acts as a central clearinghouse for energy resource information, monitors and regularly reports on liquid fuel supply and market trends, and maintains data on major liquid fuel storage terminals;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby direct that:

1. DEC, DHSES, DOT, and DOH shall promptly petition USDOT, the U.S. Department of Energy (USDOE), the U.S. Department of Homeland Security (USDHS), and the U.S. Coast Guard (USCG) to upgrade tanker car and rail line safety, assess federal agency needs and risks, and pre-deploy appropriate spill response equipment and resources to protect New York State's communities, residents, land, and waterways from accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge; and

2. DEC and DHSES, working with DOT, DOH, and NYSERDA, shall, in consultation with USDOT, USDOE, USCG, and USDHS, conduct an assessment of the State's spill prevention and response rules and inspection programs governing the transportation of crude oil and other petroleum products by rail, ship, and barge; and

3. On or about April 30, 2014, DEC and DHSES, with DOT, DOH, and NYSERDA, shall submit to me a consolidated report summarizing the State's existing capacity to prevent and respond to accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge; and

4. This consolidated report shall include but shall not be limited to: (i) a summary of the State's readiness to prevent and respond to rail and water accidents involving petroleum products; (ii) recommendations concerning statutory, regulatory, or administrative changes needed at the State level to better prevent and respond to accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge; (iii) recommendations concerning the role that local governments across the

State have in protecting their communities and their residents from spills of petroleum products shipped by rail and water; and (iv) recommendations concerning enhanced coordination between the State and federal agencies in order to improve the State's capacity to prevent and respond to accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge.



GIVEN under my hand and the Privy Seal of the
State in the City of Albany this twenty-
eighth day of January in the year two
thousand fourteen.

A handwritten signature in black ink, appearing to read "Andrew Cuomo".

BY THE GOVERNOR

A handwritten signature in black ink, appearing to read "Lance Roberts".
Secretary to the Governor

