



Testimony of The Nature Conservancy in New York Before the Joint Legislative Public Hearings on the 2013-2014 Executive Budget Proposal

February 4, 2013

My name is Stuart Gruskin and I am the Chief Conservation and External Affairs Officer for The Nature Conservancy in New York. On behalf of The Conservancy's 70,000 New York supporters, thank you Chairmen DeFrancisco, Farrell, Sweeney, Grisanti and other distinguished members of the panel, for the opportunity to testify before you today regarding the Executive Budget Proposal for State Fiscal Year 2013-14 (FY13-14).

I would like to start today by saying thank you for the work that you and your colleagues in the Legislature did last year in support of environmental funding. For the first time since the economic downturn, there were proposals, including legislative budget proposals as well as "stand-alone" legislation, aimed at enhancing the Environmental Protection Fund (EPF). The Nature Conservancy and many of our partners were enthusiastic supporters of the Legislature's efforts to enhance the EPF, which extended beyond the budget process into the remainder of the 2012 legislative session. We appreciated the passage of legislation in both houses that would have increased appropriations to the Fund in the coming years, and while that legislation was not signed into law, we believe it helped create momentum and visible support for the increase that Governor Cuomo has proposed in the budget currently under discussion.

The Nature Conservancy in New York

The Nature Conservancy in New York is the state program of a global conservation organization whose mission is to support the lands and waters on which all life depends. We work in all 50 United States as well as in over 30 countries around the world to protect nature for the benefit of people today and future generations. We have a collaborative, science-based approach to environmental problem-solving. We are engaged in hands-on research, we are land stewards for the many preserves we own, and we work with governments, community groups, industry, and other stakeholders around the world to secure a more sustainable future.

In New York, and around the world, The Nature Conservancy is taking on the toughest conservation issues facing our communities today — from climate change, to the availability of fresh water, to smart energy and infrastructure development. Here in New York, we organize our efforts by *habitats*,— focusing our efforts on freshwater, oceans and coasts, lands and forests, and our urban environments - - and on *impacts*, looking at climate change, invasive species, and energy development. Our work spans the Empire State, from restoring more natural water levels in Lake Ontario; to conserving forest connectivity and protecting forest health in the Allegany, Adirondack and Catskill regions; to assisting coastal communities on Long Island as they plan for future storm impacts and address impaired water quality; to understanding the value and role of natural systems in dense urban setting such as New York City; and of course, to the stewardship of our many preserves and the lands we own throughout the state. And across the state the Conservancy works with governments, companies, conservation partners, educational institutions and others to collaboratively advance our conservation priorities. This means working in *places* to protect and restore natural systems; promoting *policies* that use nature

sustainably; helping *people* as we broaden the constituency for conservation; and achieving *performance* by strengthening our organizational effectiveness.

Environmental Programs Pay Dividends for New York

Environmental investments support a wide variety of programs that generate revenue, protect public health and create jobs in many sectors throughout New York State. Recent studies have shown that publicly funded land and water conservation generates economic returns for New York and provides natural goods and services to communities. Environmentally-dependent industries including forestry, farming, outdoor recreation and tourism sustain hundreds of thousands of jobs throughout New York State and generate billions for our economy. Corporate CEOs say that quality of life for employees is a top factor in locating their business, making New York's communities with municipal parks, protected lands, revitalized waterfronts and other amenities strong contenders as locations for new companies.

This year the State once again recognized the economic benefits of investing in clean water and conserved open space by including more than \$23 million from the EPF in the Regional Economic Development Council awards. These funds support projects aligned with the economic development goals of the Regional Councils and included waterfront redevelopment, natural land protection and park creation, historic restoration, and programs that help New York businesses reduce pollution and improve efficiency.

Climate and Disaster Risk Reduction

While we have often highlighted the economic benefits of environmental funding, this year more than ever, we are seeing firsthand how important our natural systems are, and why it is critical that they be protected, conserved, and restored – not simply for the sake of nature, but very directly for the safety of people. Last fall, when Superstorm Sandy hit New York, our coastal communities were inundated by floodwaters and storm surge. At the same time, communities throughout upstate New York are still struggling to recover from Hurricane Irene and Tropical Storm Lee. These extreme weather events have put in the spotlight the importance of functioning, healthy coastal and inland natural resources, which defend our communities from storm impacts and reduce risk to the public.

The Nature Conservancy was proud to participate in the New York State 2100 Commission. Drawing upon our global resources and experience with climate disaster risk reduction here and in other places, we brought sound conservation science and on the ground policy experience to the table. The Commission's recommendations are an excellent foundation for the urgently needed policy conversation, and they will serve as the basis for implementing necessary measures to mitigate risk to our communities, so that we do not again experience the same levels of tragic loss that we did during Sandy, Irene and Lee. The Nature Conservancy will continue to be a resource and a partner for New York State, local governments, conservation partners and the public as we work together to implement key recommendations related to the use of natural systems and green infrastructure to reduce impacts to communities.

This budget represents an opportunity to prioritize public funding to support programs that increase community resilience, and to take the changing climate into account when spending public funds. Doing so will require changes to the status quo. We must revisit funding, planning and development decisions we have made in the past and determine if they are safe choices for our future. We must use the most current knowledge and the latest science to ensure that our public investments are sound and lasting. We know that more storms are coming – the extent to which the consequences will be catastrophic, and the ultimate cost of future extreme weather events, will depend upon the decisions we make starting now.

A timely example is the potential use of public funds to artificially close the 'Old Inlet' breach on Fire Island. Consistent with the NYS 2100 Commission's topline, cross-cutting recommendation that we 'rebuild smarter' and 'ensure replacement with better options and alternatives,' New York should

oppose artificially closing the naturally occurring barrier island breach at the Fire Island National Seashore's Otis Pike High Dunes Wilderness Area, also known as Old Inlet. This natural breach is providing extremely important water quality and other benefits to Long Island's Great South Bay without creating any additional risk to inland communities (in fact, the natural breach actually mitigates some types of risks). Acknowledging the benefits and monitoring instead of filling this naturally occurring breach will ensure that communities are not exposed to greater tidal impacts, while taking advantage of the new water exchange between the bay and the ocean. That approach also avoids the use of public dollars for a very expensive engineering project that will not enhance public safety, but, ironically, will instead eliminate significant environmental and other benefits that are costing the public nothing. The 2100 Commission recognized that a successful resilience strategy will rely upon both natural and manmade infrastructure. Accordingly, in those circumstances where natural systems are helping us we should maximize those benefits – whether it is the new breach at 'Old Inlet', or preservation of a flood plain that will absorb rising waters during a fierce storm, or maintaining a dune system that helps defend against storm surge, we need to consider these opportunities just as carefully, and with equal importance, as the 'grey' infrastructure options.

The Environmental Protection Fund (EPF)

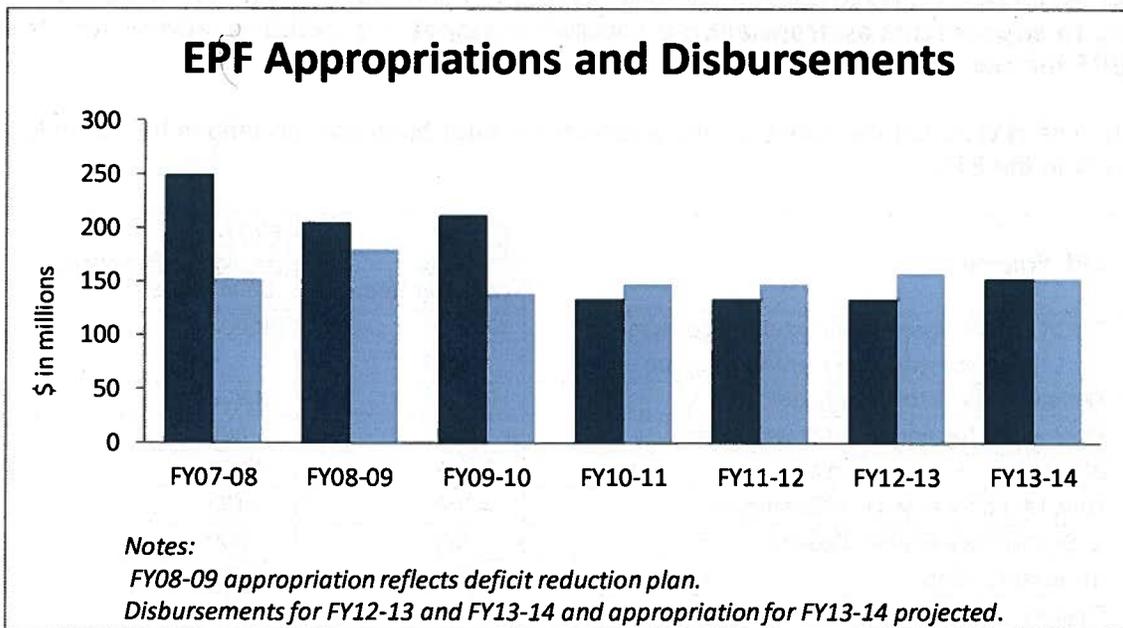
This year marks a major milestone for the EPF, the state's dedicated source of capital for community-based conservation and environmental programs that create jobs and improve our quality of life. 2013 is the 20th anniversary of the creation of the EPF. Since its inception, the EPF has funded critical programs that protect our most iconic landscapes and our most valuable natural resources, including clean water, and important community assets such as recycling programs, parks, zoos, and waterfronts. The Nature Conservancy applauds Governor Cuomo's proposed \$19 million increase to the appropriation for the Environmental Protection Fund. This proposed increase is an encouraging start, and represents a down payment on the commitment the Governor made recently to strengthen the EPF. It is also the first step in realizing what we believe is the shared vision of state leaders and the environmental community to continue to enhance the Fund in future years. **We urge the Legislature to support this appropriation throughout budget negotiations, and ensure that the enacted EPF includes at least \$153 million.**

Specifically, The Nature Conservancy strong supports the proposed appropriations for the following programs within the EPF:

EPF Program	FY12-13 Enacted (000s omitted)	FY13-14 Executive Proposed (000s omitted)
DEC/OPRHP Open Space Land Conservation <i>LTA Conservation Partnership Program</i>	17,500 1,575	20,000 1,575
Hudson River Estuary Management	3,000	3,800
Biodiversity Research and Stewardship	500	500
Albany Pine Bush Commission	2,000	2,000
Long Island Pine Barrens Commission	1,100	1,100
LI South Shore Estuary Reserve	900	900
Invasive Species	3,400	3,600
Oceans and Great Lakes Initiative	4,728	4,750
Water Quality Improvement Program <i>Natural infrastructure</i>	2,932 0	7,945 5,000
State Land Stewardship	16,000	18,000
Municipal Parks	13,000	15,500
ZBGA	9,000	9,250

Of note is a new \$5 million program as part of the Water Quality Improvement Program geared at natural infrastructure and flood resilience. The appropriations language states that it is for “natural infrastructure projects designed to mitigate the impacts of floods, storm surge, and other effects of climate change.” The Nature Conservancy supports these programs in concept, and is eager to learn more about how this funding would be used by the State. Specifically, we urge that funding be used, in part, to restore natural infrastructure including dunes, tidal and freshwater wetlands, floodplains and other areas that buffer communities from storm impacts. This use of funding could complement possible “buy-outs” of property from willing sellers in flood prone areas, as announced by the Governor in his State of the State and Budget addresses. Enabling people to move out of harm’s way is clearly important, but we must also carefully restore the surrounding natural systems to reduce risk to more inland properties, and, importantly, ensure that we capture all potential co-benefits, (e.g., outdoor recreation and other tourism purposes), so that communities derive the full economic benefit of the new use of these lands.

Another positive aspect of the Governor’s EPF proposal is that once again the financial plan directs that disbursements from the EPF will equal appropriations. Past budgets included appropriations that were not always backed up by the same amount of cash, or financial plans did not anticipate full disbursement of the appropriated funding. This led to a significant fund balance that was subject to almost \$500 million in “sweeps” of cash to balance past budgets. Despite the legislative intent to use those funds for environmental programs, the money has not been returned to the EPF. In recent years we have been pleased to see that agencies are making progress in more efficiently disbursing EPF monies to projects, with disbursements for FY11-12 totaling \$148 million and disbursements for FY 12-13 projected to total \$158 million, both in excess of the annual appropriation indicating spending against the Fund’s built-up balance. This is excellent progress, and knowing the complexities of the state procurement and disbursement process, we are very appreciative of agency staff efforts to achieve these results.



Finally, as our office has received inquiries from legislative offices and others, we note that the budget does include a \$15 million transfer of cash from the EPF to the General Fund.¹ This transfer is tied to bonding to cover EPF project costs.² Unlike the “sweeps” mentioned above that significantly impaired

¹ PPGG Article VII Bill, Part M §2 (p. 87)

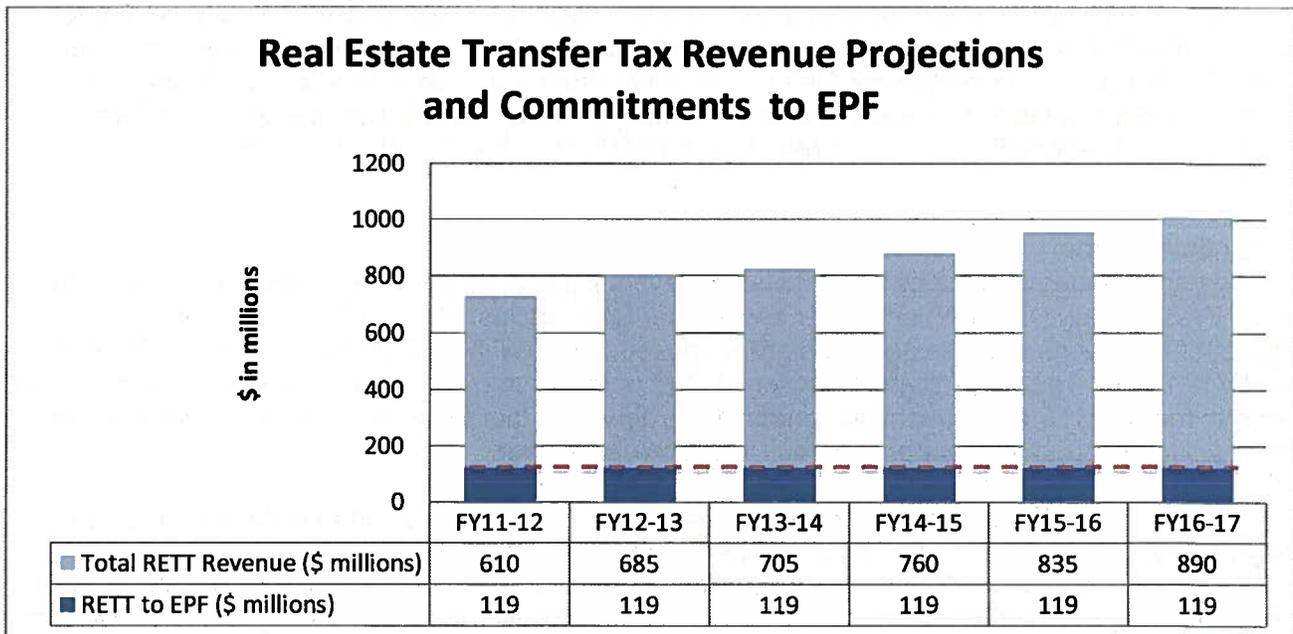
² PPGG Article VII Bill, Part M §55 (p. 147)

EPF programs, this transfer is backed by bonding and should not impact program spending. The Nature Conservancy will continue to monitor these transfers to ensure that an exchange takes place and bond proceeds are received by the EPF. One issue that must be addressed before the final financial plan for FY13-14 is adopted is that the FY2014 Cash Combining Statement for the EPF³ (CAS FUND #078) should be amended to show the bond proceeds entering the EPF.

Continue to Grow the EPF in the Future

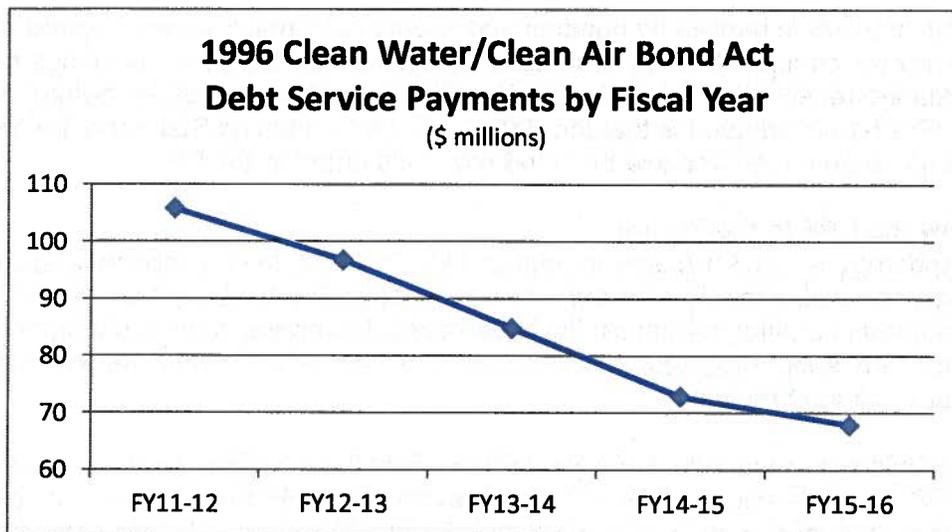
In addition to supporting the \$153 million appropriation for FY13-14, the Legislature and Governor must continue to support enhancing the Fund in the future. By continuing to strengthen the EPF, we can ensure that much-needed environmental capital is deployed around the state, creating and protecting jobs, increasing tourism, supporting economic development, and safeguarding valuable natural resources to reduce risk to communities.

In the future, we would like to see additional Real Estate Transfer Tax (RETT) revenue dedicated to the EPF. When the EPF was created in 1993, the state’s existing Real Estate Transfer Tax (RETT) was established as the perpetual source of revenue for the Fund. Since then, it has remained the primary source of revenue for the EPF. The current budget proposal includes \$119 million of RETT to support the EPF. While the recent economic downturn caused a drop in RETT revenue, this source of funding is expected to grow to more than \$700 million again in the coming fiscal year, and to nearly \$900 million over the scope of the Financial Plan. The Nature Conservancy applauds the Legislature and Governor for maintaining the RETT as the enduring and consistent primary funding source for the EPF. As RETT revenue increases, we are requesting that the EPF also increase.



It is important to note one other use of RETT revenue. In addition to supporting EPF programs, the RETT has been used to pay debt service on the 1996 Clean Water Clean Air (CWCA) Bond Act. These debt service payments are now declining. As there has not been another major Bond Act adopted to support environmental programs, and demand for capital investments in our natural resources across the state remains high, we strongly urge that as Bond Act payments decline, the RETT funds that are no longer needed for environmental debt service be used for direct environmental spending through the EPF. This will continue a conservation use of the RETT revenue, but instead of paying debt service, it will be deployed in direct support of our pressing community conservation needs.

³ Financial Plan p. 368



New York Works Program

The Nature Conservancy supports continued appropriations of bonded capital to environmental agencies through the New York Works Program. This year, the program includes funding for important environmental programs including \$90 million of capital projects and stewardship at state parks, and \$40 million for projects at Department of Environmental Conservation (DEC) including state land stewardship. The budget also makes reappropriations to both agencies to allow them to complete projects authorized under last year’s New York Works budget that are in design and implementation phase. The Nature Conservancy believes it is critically important to provide these agencies with the resources needed to maintain valuable environmental and conservation assets to preserve these investments for the benefit of all New Yorkers, and to maximize the benefits to surrounding communities.

Agency Operations

The Governor’s budget maintains current staffing levels at DEC, the Office of Parks, Recreation and Historic Preservation (ORPHP) and other environmental agencies. While we are relieved that no further staff reductions at these agencies are proposed, DEC will have 2,916 FTEs and OPRHP will have 1,719 FTEs. There is a slight reduction in staff numbers in each agency budget due to some staff moving to the new ITS department; we understand, however, that those staff remain in place at both agencies and although they are accounted for in another budget.

While maintaining staff levels is an improvement over the deep cuts experienced by both agencies in prior years, we remain concerned about the constraints each agency is under after losing more than 20% of their workforce since 2008. Any hope that we have of ensuring the quality of our clean air and water; protecting our valuable lands and other natural resources; adequately caring for our state parks and other publicly accessible natural areas; and implementing important new strategies to reduce community risk in the face of extreme weather, is directly linked to adequate agency staff levels. Staff at these agencies provide critical on-the-ground expertise to communities as the state works with local governments, the federal government and community stakeholders to plan for the management and stewardship of natural resources across the state. This work has significant economic and public health and safety implications, and we urge that in the future staffing levels be evaluated to determine where additional staff are needed to fully implement the mission of each agency. Targeted staffing increases at these agencies would benefit the state by ensuring efficient and effective deployment of critical programs, and to the extent that the state intends to implement recommendations from the 2100 Commission and take other steps to provide climate resiliency, additional staff resources will be required.

Protect Federal Matching Funds for the Conservation Fund

Last year the federal government became concerned with “general sweep” language in the state budget and the potential for this language to impact the Conservation Fund. The United States Fish and Wildlife Service asserted that due to the general sweep provision New York could lose out on more than \$20 million in federal aid through the Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration funds.

These federal funding programs provide critical support to protect and restore wildlife and natural resources that are important for New York’s environmental quality and economy. In particular, the Pittman-Robertson Wildlife Restoration Fund provides resources for the DEC to maintain and enhance Wildlife Management Areas and their facilities for the benefit of both game and non-game bird and wildlife species. The Dingell-Johnson Sport Fish Restoration Fund provides support for the Department to enhance our economically important sport fishing industry, including wetland habitat restoration and delineation, and research into the health of our fisheries. DEC relies heavily on this federal aid to advance conservation of wildlife and fish species which are important for tourism and recreation in New York State.

In response to the federal agency’s concerns, language was added to the budget last year to ensure that diversion of funds from the Conservation Fund that would result in a loss of federal funding would not happen. The federal government accepted this language and continued to provide funding to New York State for critical wildlife management programs. We are pleased that this language is once again included in the budget⁴ and urge this language to be adopted and New York to continue direct and regular communication with federal agencies to ensure they understand our state’s commitment to wildlife conservation programs and are aware of the continued inclusion of language in the budget restricting the removal of monies from the Conservation Fund.

Conclusion

Thank you again for the opportunity to testify before you today. The Nature Conservancy appreciates your leadership in protecting New York’s precious natural resources, which provide our state residents and visitors with clean and healthy air and water, natural lands for recreation, habitat protection and climate change and disaster risk reduction. As you continue to work on the FY13-14 budget, we urge you to continue to support and enhance the EPF and other environmental programs, which time and time again have proven to benefit our communities and our economy. We look forward to working with you to ensure New York’s historic and long-term environmental investments meets the State’s current needs and challenges.

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⁴ PPGG Article VII Bill, Part M, §15 (p. 100)

Environmental Protection Fund FY13-14

(,000s omitted)

Open Space Program	FY12-13 Enacted	FY13-14 Exec Proposed
DEC/OPRHP Open Space Land Protection	17,500	20,000
<i>Cons. Partnership Program/LTA</i>	1,575	1,575
<i>Urban Forestry</i>	500	500
<i>Cities with population 65,000</i>	250	250
Farmland Protection	12,000	13,000
Agricultural Waste Management	700	1,000
Municipal non-point source pollution	4,000	4,500
Ag. non-point source pollution control	13,000	14,200
Hudson River Estuary Management	3,000	3,800
<i>Mohawk River Action Plan</i>	0	800
Biodiversity Research and Stewardship	500	500
Albany Pine Bush Commission	2,000	2,000
Long Island Pine Barrens Commission	1,100	1,100
LI South Shore Estuary Reserve	900	900
Finger Lakes/Lake Ontario Alliance	1,000	1,000
Smart Growth	300	300
Invasive Species	3,400	3,600
<i>Lake George</i>	100	100
<i>Eradication Grants</i>	1,000	1,000
Oceans and Great Lakes Initiative	4,728	4,750
Water Quality Improvement Program	2,932	7,945
<i>Total Maximum Daily Load study</i>	300	0
<i>Natural infrastructure</i>	0	5,000
Soil and Water Conservation Districts	3,500	3,500
Sub-Total	70,560	82,095
Parks and Recreation Program		
State Land Stewardship	16,000	18,000
<i>Belleayre Mountain</i>	500	500
Waterfront Revitalization	11,500	12,500
<i>Inner city/Underserved</i>	5,750	6,250
<i>Erie-Niagara Waterfront</i>	400	0
<i>Jefferson & St. Lawrence</i>	60	0
Municipal Parks	13,000	15,500
<i>Inner city/Underserved</i>	6,500	7,750
<i>Buffalo Area Parks</i>	425	0
<i>Erie-Niagara Historic Preservation</i>	300	0
<i>Ulster County Rail Trail</i>	0	2,000
Hudson River Park	3,000	3,000
ZBGA	9,000	9,250
Sub-Total	52,500	58,250
Solid Waste Program		
Municipal Recycling	6,435	7,000
Secondary Materials Markets	1,000	1,000
Pollution Prevention Institute	2,100	3,250
Pesticide Program	960	1,000
Natural Resource Damage Assessment	175	155
Landfill Closure/Gas Management	270	250
Sub-Total	10,940	12,655
TOTAL EPF	134,000	153,000