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ATLANTIC CHAPTER

Joint Legislative Public Hearing  
2016-17 Executive Budget Proposal  
Environmental Conservation  
Legislative Office Building  
181 State Street, Hearing Room B  
Albany, NY 12247

Dear honorable Senators and Assembly members:

My name is Roger Downs. I am the Conservation Program Manager for the Sierra Club Atlantic Chapter. We are volunteer led environmental organization of 40,000 members statewide dedicated to protecting New York's air, land, water and remaining wild places. Thank you for giving us the opportunity to comment.

The 2016-17 Executive Budget Proposal represents an important convergence of the state's economic recovery with a growing political determination to act on behalf of our fragile climate and precious natural resources. Governor Cuomo's budget proposal largely demonstrates that good environmental policies can also be great job creators and economic generators. Conversely, as we have seen in Flint Michigan's tragic drinking water lead contamination scandal and the uncontrollable methane storage breach in Porter Ranch, California - failure of government to properly fund and manage environmental protection can have dire economic consequences that far surpass the costs of responsible stewardship. We urge the Legislature to support the following measures in the budget to ensure the protection of New York's environment:

**Supporting a \$300 million Environmental Protection Fund**

The Executive Budget proposal allocates an historic \$300 million appropriation to the Environmental Protection Fund (EPF), NY's primary funding source for critical programs like land acquisition, farmland and habitat protection, drinking water infrastructure and waste reduction. The initiatives the EPF funds are proven economic generators and job creators. Increased funding to the EPF at a time of budget surplus can help revitalize tourism and make entire regions more attractive to businesses, secure clean water resources for wineries and breweries, and ensure that farm land is preserved and is affordable to new generations of farmers.

The Sierra Club is grateful that the massive increase of \$123 million from last year's \$177 million appropriation will go to much needed environmental programs that have not reached full potential due years of disproportionate cuts. Equally encouraging are promises to continue

funding the EPF at the \$300 million dollar mark in future budget cycles. Of some concern, however, is the fact that almost the entire \$123 million dollar increase for 2016-17 budget cycle is comprised of settlement money funds. This money is welcome but represents an impermanent revenue source that cannot be replicated from year to year. We ask that the Legislature work to with the Governor to find a more stable revenue source to achieve this goal in the future.

The primary and traditional source of revenue for the EPF is the state's Real Estate Transfer Tax (RETT), a tax that was designed in part to offset the environmental impacts that come with land development. In the recent economic downturn, RETT revenue dropped to less than \$400 million justifying some cuts to EFP spending. But now that New York's economy has rebounded the annual RETT revenue is expected to grow back to historic levels of over \$1 billion annually. Over the span of the Fiscal Year 2016-17 outlook, the annual RETT revenue is projected to grow to historic highs of more than \$1 billion a year. As the RETT has fully recovered, so should sustained investments in the EPF. The Sierra Club thanks the Governor for proposing a fully funded EPF in 2016 and urges the Legislature to approve the \$300 million allocation.

#### **Supporting Department of Environmental Conservation Funding and Staffing**

New York State's economic resurgence is has been buoyed by billions in projected budget surplus, financial settlements and general declining debt. But over the past 7 years of New York's economic recovery, the Department of Environmental Conservation (DEC) has shouldered disproportionate cuts to staffing and funding when compared with other agencies that saw mere reductions to their rate of growth. The loss of nearly a quarter of the DEC's workforce since 2008 has meant fewer enforcement actions of polluters, increased spread of invasive species and less review of impending threats to our environment. Now that the Empire State has recovered economically, New Yorkers can no longer afford to keep environmental Agency spending at austerity levels - not when our true prosperity relies upon the protection of our air, the purity of our drinking water and the health of our communities.

NYS Comptroller Thomas DiNapoli's December, 2014 report *Environmental Funding in New York State*<sup>1</sup> concluded that over the past 10 years DEC's regulatory responsibility has grown while staffing and funding have been cut significantly, bringing into question whether the agency could legally fulfill its mandate under such fiscal hardship. Over the past ten years of staff decline and funding shortfalls DEC has expanded its core mission to include:

*The Brownfield Cleanup Program, The Regional Greenhouse Gas Initiative, Development of a State Climate Action Plan, The Waste Tire Recycling and Management Act, The Diesel Emissions Reduction Act, Regulation of shale gas development, Water withdrawal permitting, The Electronic Equipment Recycling and Reuse Act of 2010, The Mercury Thermostat Collection Act of 2013, Regulating mercury emissions from power plants and cement kilns, Updating State regulations to implement new federal clean air standards, Invasive species control, The Sewage Right to Know Act and the Transportation of crude oil through the State by rail and barge.*

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<sup>1</sup> [http://www.osc.state.ny.us/reports/environmental/environmental\\_funding\\_nys\\_2014.pdf](http://www.osc.state.ny.us/reports/environmental/environmental_funding_nys_2014.pdf)

It is hard to imagine that DEC can live up to its federal mandate to uphold the Clean Water Act, Clean Air Act and other basic environmental protection responsibilities, with this expanded list of priorities - without the requisite funding to be effective.

In addition, as part of the formula to achieve annual surpluses outlined in the 2014-15 Executive Budget Proposal, there was a 2% prescribed limit to agency growth and State spending until 2018. But during this four year period, agency costs are projected go up as well, with guaranteed union pay increases, along with a projected rise in inflation – meaning that this cap on agency spending will translate into continued reductions in effective DEC funding. While the promise of surplus is a message of hope that every New Yorker wants to hear, it should not be based upon continued deficits to key areas of public health and safety.

The 2016-17 Executive Budget proposal holds DEC staff levels static at 2,946 FTE positions equaling last year's total. While the Department will receive an additional \$69 million in funding this budget cycle – much of that will be through EPF dollars.

Governor Cuomo and the Legislature deserve credit for stemming the losses that began in 2008 when the DEC lost nearly 800 staff positions, but there is little left to cut from this bare-bones agency. While we can appreciate the more equitable, across the board cuts to all agency spending that has occurred over the past 5 years, we have deep concerns about the cumulative impacts that the disproportionately deep cuts, through multiple budget cycles, have had on NY's environmental agencies. The Sierra Club calls upon the Legislature to take into account the past sacrifices and disproportionate cuts already sustained by the DEC and commit to funding restorations and common sense measures that can help revive this agency in crisis.

#### **Supporting Just Transition of Coal Generating Facilities in the Budget**

The Sierra Club applauds Governor Cuomo's historic State of the State announcement that New York will fully phase out coal generating facilities by 2020. As part of this announcement Cuomo committed to developing a transition plan that will ease the burden for coal affected communities and workers impacted by coal retirements. Phasing out New York's four remaining coal plants (Dunkirk, Cayuga, Huntley, Somerset) is a necessary step to eliminating over 13% of carbon pollution in New York's electric sector and critical to ensuring that New York is on the right path forward to achieve the commitments made in the New York State Energy Plan to reduce greenhouse gas emissions by 40% by 2030 and 80% by 2050.

These plants, three of which came online in the 1950s, are also the most polluting sources of the State's air and water resources, causing significant adverse public health impacts, including aggravation of existing respiratory and heart diseases, leading to increased hospitalizations and premature death.<sup>2</sup> Asthma is especially prevalent in New York, and according to the New York State Comptroller, costs the State \$1.3 billion annually in health care costs and lost workforce

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<sup>2</sup> See U.S. EPA, *Integrated Science Assessment for Sulfur Oxides—Health Criteria* (2008); 75 Fed. Reg. at 35,525; see also U.S. EPA, *Our Nation's Air: Status and Trends Through 2008*, 4 (2010) (noting that the health effects of SO<sub>2</sub> exposure include aggravation of asthma, leading to wheezing, chest tightness, increased medication use, hospital admissions, and emergency room visits), available at <http://www.epa.gov/airtrends/2010/report/airpollution.pdf>.

productivity.<sup>3</sup> Moreover, these dangerous plant emissions disproportionately harm the most vulnerable members of our society, including children, the elderly and low-income families.

Increasingly, internalization of costs due to environmental and climate regulations to reduce these pollutants, in addition to competition with less expensive renewable and natural gas generation, has undercut the economic viability of coal. Since 2012, two of New York's four remaining coal plants, Dunkirk and Cayuga, have requested to mothball and a third, Huntley, has requested to permanently retire due to unfavorable market conditions. Dunkirk and Cayuga continue to operate only because of ongoing ratepayer subsidies, costing New Yorkers tens of millions of dollars a year. The Somerset coal plant is quickly approaching a similar fate, as PILOT payments to the county have declined by 70% in the last four years and utilization has dropped to less than 30%.

New York's competitive energy markets no longer support the continued financial viability of coal in New York. These bailouts have proved to be a clumsy, expensive way to prop up community tax bases and job retention when the power isn't even needed. Absent continued ratepayer bailouts, coal plants in New York are unable to compete with other cleaner generation sources. There is strong public and political support for a responsible transition for impacted communities, and increasingly little support for continued coal bailouts. Additionally, the economics for repowering these facilities with natural gas are not favorable and compelling reliability studies for each plant suggest that modest transmission upgrades can close these facilities with out the assistance of replacement power.

The good news is that the Cuomo Administration has already established a policy framework in the New York Energy Highway Blueprint that can be successfully drawn upon to facilitate a statewide coal transition, though community tax base support and worker compensation. Additionally, the Legislature in 2015, allocated \$19 million for Community Transition Funds, stipulating that NYSERDA funds can be distributed to communities in which a plant has "*permanently ceased operations.*" **It is imperative that funds only can be used to support communities with plants that have "permanently retired."** Communities accepting transition money should also be required to adopt community transition plans to ensure that this funding is temporary (no more that 3-5 years) and is in fact used as a glide path until other economic development opportunities can be established to supplement the lost tax base. Additional existing state money could also be leveraged to support the transition framework from such funding sources as the New York Power Authority (NYPA), the Federal Power Initiative, and Empire State Development funds.

With this existing framework, a statewide Coal Community Transition policy funding package drawing on existing programs and coupled with existing state and federal funding sources could provide additional support for a statewide transition framework. Currently, the Governor has requested in his 2016-17 budget proposal \$15 million for worker retraining programs, which the Sierra Club supports. The Sierra Club also recommends that the Administration and the Legislature explore requirements for plant owners to provide early retirement options for

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<sup>3</sup> Office of the New York State Comptroller: The Prevalence and Cost of Asthma in New York State, April 2014 [http://www.osc.state.ny.us/reports/economic/asthma\\_2014.pdf](http://www.osc.state.ny.us/reports/economic/asthma_2014.pdf)

workers and worker priority placements at local transmission projects, or construction sites requiring plant remediation, decommissioning and/or revitalization.

The Sierra club calls upon the Legislature to embrace the executive plan to transition New York to a coal free future by 2020 and support funding to help coal impacted communities with temporary tax base relief, worker retraining and replacement renewable energy facilities.

### **Supporting Electric Vehicle Incentives in the Budget**

Meeting New York's climate obligations will require not only transitioning off of New York's dirtiest energy sources in the power sector, but also electrifying the State's transportation sector, which accounts for 40% of New York's GHG emissions.

New York is already a member of an eight-state Zero Emission Vehicle Memorandum of Understanding ("ZEV MOU") to achieve a collective goal of 3.3 million EVs on the road by 2025. New York's own Charge NY program, established in 2013, has set a statewide goal of 3,000 charging stations and 40,000 electric vehicles on the road by 2018. Most recently, New York also joined the International ZEV Alliance in pursuit of making all new passenger vehicles ZEVs by no later than 2050.

With constant innovations in electric vehicle options as well as battery range and charging capabilities, New York's electric vehicle market can be poised to increase exponentially, and those EVs can deliver tremendous emissions benefits, customer benefits and grid benefits. As a recent NYSERDA EV study found, controlled charging of EVs could save ratepayers up to \$46 million annually in reduced generating and capacity costs and an additional \$103 million in reduced infrastructure upgrade costs over the next 15 years.

However, there remain obstacles to fulfilling the State's ambitious goals for widespread EV adoption. Specifically, in order to jumpstart New York's EV market, steps must be taken to reduce some of the initial higher up-front costs of EV purchases and charging station installations. Other states such as Massachusetts, Connecticut, and California, are already enjoying enormous success through EV rebate programs that provide a number of incentives for prospective EV owners. For example, Connecticut offers a \$3,000 immediate rebate off the purchase or lease price of a new EV and a \$10,000 rebate for installation of publicly available charging stations.

To fulfill New York's State Energy Plan/Charge NY goals and make New York a national "forerunner" in the EV market, New York must match other states' efforts in expanding EVs and reaping the corresponding economic and environmental benefits. Unfortunately, New York only has 12,000-15,000 electric vehicles on the road, a long way from the State's goal of 40,000 vehicles by 2018.

The 2016 Executive Budget proposal includes \$9 million dollars of dedicated funding for EV charging station installations, which is positive news. But as we have found in other states, it is rebate programs that incentivize EV purchases that are the most effective at putting cars on the road. The EV purchase rebate program ideally should provide the rebate at the point of sale to better incentivize prospective buyers. The charging installation rebate program should also target

installations at underserved areas and areas where the market is falling far short, such as in multi-unit dwellings ("MUDs") and workplaces. Both programs should provide dedicated long-term funding to ensure certainty for prospective EV buyers and charging installers.

New York must act to seize the enormous potential of EV expansion. Not only will a substantial switch to EVs reduce GHG emissions and promote renewable energy to achieve the State Energy Plan goals, but installation and operation of EV charging infrastructure will generate a multitude of economic benefits to New Yorkers. **In order to secure these benefits, we urge you to support the inclusion of both EV rebate programs for EV purchases and charging installations in the 2016-17 State Budget.**

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Again, we appreciate the contributions that the Legislature has made in bringing back New York's economy from the deep budget deficits we've experience in the recent past. With greater resources on the horizon, we look forward to working with Governor Cuomo and Legislature in rebuilding New York's environmental agencies and strengthening the State's long-term environmental health.

Thank you,



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