

FISCAL YEAR 2010 BUDGET STATEMENT

OF

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DEPARTMENT OF ENVIRONMENTAL PROTECTION**

BEFORE THE

SENATE BUDGET & APPROPRIATIONS COMMITTEE

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Good Morning, Madame Chair and members of the committee. I want to thank you for the opportunity to come before you today to discuss Governor Corzine's proposed Fiscal Year 2010 budget for the Department of Environmental Protection.

As you well know, the Fiscal Year 2010 budget is an austere budget across State government, including the DEP. The budget put forward by Governor Corzine for the DEP ensures that we can perform many of the core functions necessary to meet our mission, but a number of our programs are now operating at a bare minimum, or even below that minimum.

The State budget proposed by the Governor includes \$29.8 billion to bring overall spending more than \$3.4 billion below the current year. For the DEP, the Fiscal Year 2010 funding level has been set at \$370.1 million, or \$64.1 million less than the adjusted Fiscal Year 2009 funding. Our Direct State Services operating budget of \$216.3 million (including \$2.7 million for the Palisades Park Commission) reflects an overall decrease of \$14.7 million from Fiscal Year 2009.

The DEP's Grants in Aid budget of \$14.9 million reflects a \$7.2 million drop from adjusted Fiscal Year 2009 levels. Similarly, our State Aid funding of \$19.3 million is \$16,000 less than the 2009 level, reflecting budget reductions to the Pinelands Commission.

The reductions to our Capital budget reflects the fact that capital improvements in our parks, forests and wildlife management areas and site remediation projects are dependent on the year to year funding levels of dedicated CBT resources. For Fiscal Year 2010 these levels are projected to be \$25.1 million less than the adjusted Fiscal Year 2009 amounts.

As of January 2009, the DEP filled position complement was 3,084, of which 38 are "In But Not Of." During the past 39 months, we lost 637 employees to separation, attrition or retirement. Against this loss we converted 25 hourly employees to full time (including the conversion of Intermittent and Part Time employees) and we hired or backfilled 223 positions. The new hires were authorized staffing increases to meet legislative mandates in child care facility inspections, diesel emission reductions, administration of the underground storage tank (UST) grant program, the Highlands Act permitting staff, Land Use permitting staff and expansion of the UST inspection and enforcement program.

General Fund Support of DEP Programs

Over the past decade and a half, the DEP has, with the Legislature's approval, steadily weaned much of our operations away from General Fund support by systematically increasing the reliance on fees and user charges. This reliance shifts the burden to those specific parties that are either responsible for the problems we are working to correct or benefit from the services we provide. As a result, the percentage of the DEP's Fiscal Year 2010 operating budget covered by the taxpayers will be only 27.1 percent, significantly down from 41.3 percent in Fiscal Year 2002.

However, there are areas in the budget that receive substantial support from the General Fund in the Fiscal Year 2010 budget. They include: parks operations, forestry management, dam safety, shellfish regulation, and our science and research efforts. These are all broad-based public functions for which it only makes sense for the State to support. Also, there is not a base on

which fees for services can reasonably be applied. Furthermore, some of the funds we receive in these programs are used to leverage and match federal funds.

Last fiscal year, the Legislature reallocated \$9.0 million from the Shore Protection Fund to parks operations. Through intense scrutiny of the operations of our parks management, the streamlining of our processes and the elimination of waste and redundancy, I am pleased to report that we are able to carry forward \$3.0 million of this money into FY 2010. As such, we will not be faced with the prospect of closing, either fully or partially, any State parks for the coming year. We are still evaluating options to further reduce our costs and to augment the long-term funding of our park system.

The Parks capital budget is funded out of the constitutional dedication of the Corporate Business Tax (CBT). This money is dedicated for buildings, trails and capital funding. We anticipate continuing our efforts to improve the infrastructure at many of our parks, wildlife management areas and historic sites. However, since the overall CBT revenues are down, a number of projects that we originally scheduled to commence or advance in the next fiscal year will necessarily be delayed until future years.

Savings through Operations & Administrative Reviews

Over the past several years, DEP managers have devoted a great deal of time and effort to reviewing what we do and how we do it. At all times, our overriding concern has been to maintain a level of service that would continue a high level of commitment to protect the environment and the public. We have consolidated offices and transferred staff where it made programmatic sense. We have eliminated positions that were either redundant or, in these economic times, considered a luxury.

For example, in my own office I have not refilled Deputy Commissioner, Special Assistant or Secretary positions when they became vacant. We have eliminated the Office of Communications and the Division of Science & Research has been dramatically reduced in size with some of the staff reassigned to the Office of Climate Change and Energy. In addition, we eliminated three Director and seven Bureau Chief positions that became vacant due to ERI.

As part of the DEP's Fiscal Year 2009 Reduction Plan, we reduced our leased office space facilities and increased the offset to the General Fund payments to other leased offices. During the first week of April 2009, DEP vacated 19,360 square feet of office space, moving approximately 50 employees into two of our existing Trenton Campus buildings at 401 and 501 East State Street. This move will result in annual savings of \$308,000 in rental fees and \$104,000 in other operating expenses.

Currently, we are relocating field staff from Hamilton Township to the Trenton Complex, freeing up another 33,500 square feet and yielding approximately \$663,300 in reduced rent expenses and operating costs of \$118,600.

By May 31, 2009, DEP will have consolidated two buildings into one at our Environmental Equipment Services Center in Washington Township, Mercer County. This effort will result in savings of \$57,000 in rental expenses and \$14,000 in operating expenses.

In cooperation with the Department of Treasury, DEP is looking to relocate our Coastal Engineering and Coastal Enforcement staff to a new location in Toms River by early next fiscal year. This will yield another \$144,000 in net savings.

Along with the specific steps we have taken to reduce leased office space, the DEP turned back to the Treasurer \$831,000 in savings with Procurement Efficiencies. The DEP also took advantage of reduced IT equipment pricing and provided \$216,000 in savings. We have eliminated leased data lines connected to our Air Monitoring Stations around the state and installed new wireless technology. This has saved \$160,000 in telephone line expenses. Next, the Department will be switching over similar leased land lines throughout the Nuclear Emergency Radiation Monitoring Network, yielding another \$30,000 in savings. Our Compliance and Enforcement programs eliminated 124 desk phones in their three field locations requiring the inspection staff to utilize cell phones for all communication. This saved another \$32,000.

Lastly, in addition to these specific programs the Department reduced its operating resources and provided \$639,000 to the Treasurer.

With regard to specific reductions called for by the Treasurer in December, the Department identified \$6.3 million in available resources that could help meet the demand to reduce spending. These resources included:

- Lapsing Prior Year Balances in dedicated operating accounts (\$1.6 million)
- Lapsing projected Salary Balances (\$957,000)
- Lapsing State Aid balances not needed this fiscal Year (\$281,000)
- Lapsing Capital Fund balances where alternate funding sources were available (\$1.1 million),
- And increasing offsets to General Fund expenses associated with fringe benefit costs and other subsidies (\$2.3 million).

With the continuing downturn of the economy, the Treasurer further reduced potential Fiscal Year 2009 spending by another \$3.3 million and adjusted the CBT dedicated resources by \$13.4 million. The reductions impacted:

- Dedicated operating balances (\$1.04 million)
- Identified Non-state offset to General Fund expenses (\$998,000)
- Eliminated vehicle replacement purchases (\$755,000), and
- Lapse additional salary balances (\$500,000)

Lastly, the CBT Adjustments affected the following programs:

- Site Remediation \$3.8 million
- Brownfields \$3.4 million
- Diesel Retrofits \$2.3 million
- Watershed Management \$2.0 million
- Parks Capital \$2.0 million

Economic Stimulus Funding

Under Governor Corzine's leadership, the Department of Environmental Protection is overseeing the distribution of a minimum of \$213 million in federal funds made available from the American Recovery and Reinvestment Act (ARRA). These funds will help local governments and other qualified entities in a variety of programs to create jobs, improve the State's infrastructure and generally stimulate our economic recovery.

Under the **Clean Water State Revolving Fund**, the Department is working with the Environmental Infrastructure Trust to award \$161.4 million in federal funding (grants and loans). This will support \$215 million in new construction cost. This stimulus funding will complement the traditional DEP/Trust funding program, which last year awarded \$246.8 million in loans to finance a wide variety of projects that help to protect, maintain and improve water quality in New Jersey. The loans are generally awarded to municipalities, counties and utility authorities for actions related to improving water quality in the State.

Similarly, under the **Drinking Water State Revolving Fund**, we will award \$43.2 million in fund grant funding. This will support \$57.6 million in project costs and will likewise supplement the traditional loan program. Last year, \$87.9 million was provided under the traditional DEP/Trust funding program to assist publicly and privately owned community water systems and nonprofit non-community water systems to finance the cost of the infrastructure (including water treatment, storage and distribution lines) needed to achieve or maintain compliance with Safe Drinking Water Act requirements and to protect the public health in conformance with the objectives of the Safe Drinking Water Act.

To better leverage our funds, economic stimulus awards for both of these programs will consist of 50 percent grants from federal stimulus funds matched by 50 percent low interest (which range from approximately one quarter to one half market rate) loans. The funds are to be distributed based on project readiness and a federally approved and published Project Prioritization Criteria whereby projects are evaluated on a number of factors, including project type and water quality benefit.

When the March 2009 deadline for project submissions passed, we had received over \$2 Billion in project applications from local government units for clean water projects and over \$700 Million for drinking water projects. Any projects that do not qualify for stimulus funding will be considered for the traditional program, which consists exclusively of low-interest loans. We anticipate that the list of projects to be funded as stimulus projects will be finalized within the next couple of weeks. I will ensure that the committee is informed when the list is completed.

While a bit confusing, let me clarify that DEP will manage two distinct State Revolving Fund programs this year for Clean Water and Drinking Water. An ARRA funding program will be administered using the combined total \$213 million dollars in added Stimulus monies in providing 50% grant and 50% low interest loan financing. We concurrently will also manage a traditional SRF loan program. In total, we hope to be able to manage an unprecedented SRF program that, when combined with Stimulus and traditional funding, puts \$700 million to \$1 billion of shove-ready projects on the street. The stimulus funds for these two programs represent 500% increase over direct funding typically received and will create approximately 6,000 jobs.

New Jersey will also be receiving funds from the federal **Leaking Underground Storage Tank (LUST) Trust Fund**. This fund provides states with grant funding to oversee and conduct the cleanup of discharges resulting from underground storage tanks (UST) regulated by Subtitle I of the federal Resource Conservation and Recovery Act (RCRA). The largest single group of USTs covered by this program contains motor fuel at gasoline service stations and commercial establishments. New Jersey's portion is \$4.8 million, although we may receive as much as \$17 million if other States do not participate. The universe of tanks includes those that are owned or operated by those "Unable or Unwilling" to Perform (Already Under an Enforcement Action). A total of 75 candidate sites have been submitted to USEPA for consideration. The Department is awaiting implementation guidance being developed by USEPA

Last week, the USEPA announced their awards for **Hazardous Substance Superfund** stimulus funding. ARRA increases the "Superfund" by \$600 million for Remedial Programs. That is about double the annual appropriation for construction projects. The State will have to provide a 10% match, which will not be a problem since constitutionally dedicated Corporate Business Tax funds are available to provide this match. A total of 50 sites were selected nationally; New Jersey has 8 of these sites. No other state has more than 3. Using EPA's numbers, the range that New Jersey will receive is between \$111 million and \$165 million. The next closest state is Massachusetts at about \$75 million. All the money will go to the EPA regional office for them to spend; DEP will be a support agency. The sites selected are:

- Welsbach (Camden & Gloucester County)
- Vineland Chemical (Vineland)
- Roebling Steel (Florence)
- Horseshoe Road (Sayreville)
- Cornell Dubilier (South Plainfield)
- Imperial Oil (Morganville)
- Price Landfill (Pleasantville & Egg Harbor)
- Emmell's Landfill (Galloway)

New Jersey has received a \$1.73 million direct **Diesel Emissions Reduction** allocation for tailpipe retrofits of construction equipment to reduce particulate matter emissions. We will also be competing for a portion of \$18.4 million made available for USEPA Region 2. We have an existing state contract that will enable us to process the grant money quickly, thereby complying with the intent of the ARRA. In addition, since construction often occurs in urban areas, thereby exposing sensitive populations to harmful emissions for extended periods of time, reducing emissions from construction equipment is a priority project for the Department.

New Jersey has been allocated \$1.6 million for **Watershed Planning Grants** to carry out planning under the federal Clean Water Act (CWA), supplementing our statewide water quality management planning efforts. CWA defines water quality management planning activities as determining the nature, extent and causes of water quality problems, determining point and non-point source pollution controls necessary to solve those problems, and determining those publicly owned treatment works that should be constructed with public assistance from the (CWSRF). These funds will be proportionally distributed to participating counties.

New Jersey is competing for funds under a number of other programs. Various federal agencies are still determining whether the State will receive funds, and if we do, how much we would receive. These programs are:

- **Brownfield Investigation & Cleanup** – EPA annually awards competitive grants for assessment and cleanup of brownfield sites to promote their redevelopment and reuse. Applicants are usually municipalities or counties, but states may also apply. Seven New Jersey municipalities/counties (Camden, Elizabeth, Hopatcong, Plainfield, Hudson County, Passaic County and Union County) applied for Assessment Grants, and three New Jersey municipalities (Jersey City, Newark and Plainfield) applied for seven Cleanup Grants in 2009. EPA will likely award the additional brownfield funding based on applications already received. States do not participate in or have influence on the award process.
- **Wildfire Hazard Reduction** – In February, the New Jersey Forestry Service submitted 35 preliminary project proposals totaling \$8.5 million to the USDA. The USDA prioritization of projects will be based on multiple factors, including the number of jobs created, job sustainability and timeframe for completion. Recently we were notified that eight projects totaling \$3.1 Million were selected and short-listed for National Competition. The established Federal timeline for final project selection should provide results by May 1, 2009.
- **Army Corps of Engineers** – The DEP Office of Engineering and Construction provides project review, construction oversight, and matching construction funds (65-35% for shore protection projects and 75-25% for flood control) for USACE projects. Project types include beach replenishment, bulkheads, seawalls, floodwalls, levees, and stream channelization. Nine projects are pending with the Army Corps (4 in New York Region and 5 in Philadelphia Region). DEP would match Corps funding with Shore Protection Program funding and direct appropriation of state monies known HR-6 Funds. New Jersey is competing for a portion of the \$2 Billion available. New Jersey's portion is unclear at this time pending guidance from Army Corps.
- **National Oceanic and Atmospheric Administration (NOAA) Projects** – This competitive grants program administered by NOAA Marine Fisheries Service is designed to restore and enhance habitats that support valuable fisheries and protected resources, improve the quality of our water, provide recreational opportunities for the public's use and enjoyment and buffer our coastal communities from the impacts of storms and sea level rise. Through this solicitation, NOAA is seeking to openly compete funding available for habitat restoration under the American Recovery and Reinvestment Act of 2009. Applications selected for funding through this solicitation will be implemented through a grant or cooperative agreement, with awards dependent upon the amount of funds made available to NOAA for this purpose by Congress. Typical awards are expected to range between \$1.5 million to \$10 million. On behalf of the State the Department submitted two grant applications to NOAA for wetland restoration projects at Lincoln Park in Jersey City and Liberty State Park in Jersey City.

Permit Efficiency Review

The DEP is fully aware that, for the State to be strong and vital, we need to promote smart economic growth and development. We also need to ensure that this growth is done responsibly by doing such things as incorporating renewable energy at the planning and design stages of projects. We also need to be cognizant of other societal goals. For example, how do we take the Governor's goal and the constitutional requirement for affordable housing and make sure that it is affordable, safe and sustainable and decent and sanitary. Nor should it be located in environmental sensitive areas, in flood planes, etc.

As a regulatory agency, our permitting and planning processes can play a key role in determining where and how that growth and development can proceed. While we work hard with many of our public and private partners to advance environmentally-responsible development, the Department, with its complex array of regulatory requirements and a stretched-thin workforce, can be a hindrance rather than a help in this regard.

Last year, toward this end former Commissioner Jackson established the DEP Permit Efficiency Review Task Force to evaluate this issue and to develop recommendations for improvement. This Task Force, which was headed by former DEP Commissioner Christopher Daggett and consisted of a broad spectrum of environmental, development, business and other stakeholders, conducted a comprehensive analysis of DEP permitting programs. They developed recommendations for restructuring and re-engineering to enhance timely and efficient service and our ability to advance sustainable development projects.

Last summer, the Task Force unanimously issued its final report, which they delivered to Commissioner Jackson. The Department immediately commenced the development of an implementation plan. This plan, which I will be happy to provide to the Committee and which you can find on our website, presents a range of action items including augmenting and improving our electronic data management, amending our rulemaking process, managing our resources more effectively and efficiently, and reviewing how we set standards. Many of the recommendations, and the resultant implementation steps, involve administrative or regulatory changes that the DEP can implement under current authority. However, a number may require statutory changes. I will keep you advised as this effort proceeds.

The Department continues to make technology improvements in support of the DEP Priorities and Action Plan, and more recently focused to fulfill Permit Efficiency Task Force recommendations. We have accelerated efforts to make more electronic permitting and reporting services available online and enhance NJEMS, the department's enterprise data system, to improve processing, and in some cases automatically issue, permits. Several new electronic services have been developed and some, such as Diesel Retrofits, Air General Permits, Dental Registrations and Water Allocation Reports, were recently put online. This summer, permit applicants will be able to submit well permits and records, as well as stormwater permits, online. The Land Use Regulatory Program will begin work to implement ePermitting within the next 4 months.

DEP is also developing new GIS data and an improved online mapping tool, NJ GeoWeb, to make more information available to DEP staff and stakeholders. Linked to the new ePermitting services, this will allow applicants to identify environmental areas of concern upfront in the

permit process and facilitate dialogue with DEP. NJGeoWeb will go online this spring and be available for electronic well permits.

NJEMS enhancements to improve debt collection, especially for site cleanup have been implemented, and new online payment services are coming soon.

Lastly, the Department is enhancing its eFiling and imaging capabilities so more information comes in, is stored, and made available electronically at DEP desktops and to the public via its DataMiner website. These efforts will provide for more transparent and efficient access to information, and hopefully reduce OPRA requests. DEP is now looking to eMail letters, permits, and other regulatory documents to save paper use and mailing costs.

Site Remediation Program Reform

As we advised you last year, another DEP program that strongly influences where, when and how development can proceed is the cleanup of contaminated sites. New Jersey has always been a leader in the field of site remediation. We regulate more categories of cases than any other state and lead the way in utilization of innovative remedial technologies for remedial investigations and environmental cleanups.

New Jersey is now home to nearly 20,000 known contaminated sites. These range from underground storage tanks (UST) in backyards all the way up to complex Superfund sites. Unfortunately, due to a very prescriptive review process, extremely large case loads, new regulatory issues (vapor intrusion, day care regulations and pesticides in school yards) and pressures associated with economic redevelopment, stakeholders have conclusively agreed that we cannot meet the expectations of the regulated community and general public. Many cases linger in the system for years as case managers struggle with competing priorities. Cases remain unassigned as resources dwindle. Recalcitrant responsible parties, aware of our resource issues, take advantage of the system knowing we do not have the resources to devote to enforcement. As a result, contaminated sites remain unremediated. Some developers proceed without SRP oversight, resulting in residential developments on contaminated sites. Other developers forfeit redevelopment opportunities – often in our urban areas where redevelopment is most needed – due to the liability associated with offsite contamination.

I would like to thank the Legislature for recently passing legislation that would create a licensed site professional (LSP) program. This will be a cornerstone of true SRP reform. For the first time in New Jersey's history, we will hold environmental consultants accountable for their work, similar to that of a Professional Engineer. An LSP will be required to adhere to a strict code of ethics with provisions for license revocation, suspension and penalties. The DEP would still provide case oversight, but to a lesser degree for most cases. The extent of this oversight would be based on the complexity/sensitivity of the case. For high priority cases, we would actually expand Departmental oversight and take more control over the license site professional, the remedial process and remedy selection.

The above-mentioned changes, coupled with strengthened enforcement authority, a greater say in remedy selection and tighter controls on financial assurances will result in a more protective program as well as one that promotes economic redevelopment. It would allow the Department

to adequately address more cases and move cases more expeditiously through the system while still adhering to strict clean up standards.

We look forward to the Governor signing this landmark legislation into law.

Climate change

Another priority for Governor Corzine and the Department that we reported on last year and on which there has subsequently been great progress is for New Jersey to significantly reduce its greenhouse gas emissions to meet the goals laid out in the "Global Warming Response Act." Over the past year, the Department provided the Legislature, pursuant to the Global Warming Response Act, our recommended suite of measures to reduce greenhouse gas emissions in our state by 20% from 1990 levels by 2020, along with an eye towards 80% reductions by 2050. We have also created a new office, the Office of Climate Change and Energy, through a reallocation of existing resources to focus and coordinate our efforts in combating global warming.

The Regional Greenhouse Gas Initiative, or RGGI, which was also passed by the Legislature last session, is one part of this effort. I serve as vice chair of RGGI, Inc. Under these acts, New Jersey, in conjunction with the 10-state Regional Greenhouse Gas Initiative, sells allowances, also called credits, for electric generating companies to emit greenhouse gases. We have thus far participated in two quarterly auctions, which have generated approximately \$32.1 million for the State to fund energy conservation and efficiency projects.

Again, I thank you for the opportunity to appear before you today. I am available to answer any questions you may have.