



Testimony of Tracy Brown, Water Quality Advocate, Riverkeeper

New York State Senate & Assembly Environmental Conservation Committees

**Hearing on the impacts of the proposed 2014 State Budget on the Department
of Environmental Conservation (DEC)**

January 28th, 2014

Good morning and thank you for the opportunity to submit testimony on behalf of Riverkeeper. Riverkeeper is dedicated to defending the Hudson River and its tributaries and protecting the drinking water supply of nine million New York City and Hudson Valley residents.

The proposed 2014 budget we are here to discuss today misses important opportunities to reduce water pollution, protect public health, create jobs and support tourism in NY State. The question once again before us is: Are we going to deal with our mounting environmental challenges today, or are we going to wait, and pay more—much more—in recovery and repair?

Investment in Water Infrastructure

Governor Cuomo's proposed budget allocates \$1.6 billion of the \$5.5 billion federal storm recovery aid to shoring up the wastewater treatment plants damaged by Hurricane Sandy—funding that those systems greatly need. But outside of storm recovery, investment in water infrastructure is largely deferred in this budget, as it has been for decades. Instead of putting people to work rebuilding our water infrastructure, we'll be putting people and our economy at risk from polluted water.

The dirty secret is that it doesn't take a Hurricane Sandy to overwhelm our sewers and pollute our waterways. A spring shower will do. In the last eight months of 2013 the Sewage Pollution Right to Know Law documented well over 100 million gallons of sewage that was dumped into our waterways as a result of municipal wastewater system failures. That figure does not include the 22 billion gallons of raw sewage and stormwater dumped from NY's combined sewer systems during that same eight months, or the underground leaching of sewage from old pipes and septic systems that contaminate our groundwater.

In 2008 the Department of Environmental Conservation (DEC) described the crisis of deferred wastewater maintenance as a "[gathering storm](#)." It put the price tag at \$36 billion over 20 years to rebuild, replace and upgrade our sewers, 30 percent of which are operating decades past their design life.

Clean water is critical to public health and the health of our \$6.8 billion tourism industry. In addition to safeguarding existing jobs, an estimated 47,500 jobs are created for every \$1 billion spent on infrastructure. Storm recovery spending to date has helped the economies of New York City's suburbs. Meanwhile upstate, in the absence of government spending, the economic recovery has [stalled](#).

Many upstate communities, in part because of the state's 2 percent property tax cap, cannot afford the match required for state infrastructure loans, or the debt service. This means the same communities that most desperately need to put their citizens to work are the ones that will go without these infrastructure investments under the proposed budget.

We urge you to address this growing wastewater infrastructure crisis by increasing funding for water infrastructure projects statewide and exempting local water infrastructure spending from the tax cap.

Water Quality Monitoring and Assessment

Another critical component of fighting water pollution is consistent statewide water quality monitoring conducted by the DEC.

The ability to monitor water quality in our public waterways is central to the state's ability to carry out its obligations under the federal Clean Water Act. The data from the statewide ambient water quality monitoring program is used to:

- assess the health of our waterways,
- identify and manage pollution impairments [303(d) and 305 listings],
- set and track pollution discharge limits in impaired waterways [TMDL limits],
- monitor invasive aquatic species and harmful algae blooms,
- assess the efficacy of water quality investments and,
- track the permit compliance of dischargers [SPDES permit holders].

Last year the DEC's ambient water quality monitoring budget was cut by a third, from \$640k to \$440k. These budget cuts meant that pathogen testing, pesticide testing and PCB testing were altogether eliminated. These tests were cut despite the fact that many waterways in NY State are currently listed as impaired for these pollutants, and many more are suspected of impairment.

DEC budget cuts over the past several years have led to the *complete elimination of routine water pollution permit compliance monitoring*. This means that SPDES permit holders are now on their own recognizance. That's okay for the vast majority of businesses and municipalities that test properly and accurately report their data, but when it comes to the bad actors out there, the public and our environmental agency are in the dark.

We urge you to restore the ambient water quality monitoring program to its full funding level including sufficient staffing to collect ambient water quality data and spot inspections of permitted dischargers.

Combined Sewer Overflow Monitoring and Prediction

In response to tremendous public interest in water quality, Riverkeeper has been testing for fecal contamination (pathogens) in the Hudson River since 2006 and has expanded that program to seven tributaries of the Hudson in the past three years. Our data reveal locations where fecal contamination levels are unsafe for primary contact in all kinds of weather, wet and dry. Some of these locations are shoreline areas where the public is encouraged to come into contact with the water, including access points in communities with CSOs, such as the public dock in Kingston, the launch ramp in Newburgh and the rowing dock right here in Albany.

In an effort to protect the public from unknowing contact with fecal-contaminated water, Riverkeeper championed the Sewage Pollution Right to Know law which went into effect this past May. Although this law is starting to document the perennial problem of wastewater system failures, it is not yet documenting or reporting on the massive volume of sewage released into our waterways each year from combined sewer systems across the state—an estimated 33 billion gallons of combined sewage and stormwater runoff.

We urge you to allocate funds for CSO overflow monitoring and prediction for communities with combined sewer systems that do not already have that technology in place. We recommend \$850,000 to be used by the DEC to underwrite CSO outfall monitoring and predictive modeling, enabling communities to protect public health and better manage these systems.

DEC Staff Levels

Disturbingly, these mounting challenges face New Yorkers at a time when our state Department of Environmental Conservation has roughly 30 percent fewer employees than it did in the 1990s, despite an 11% population rise during those years and ever-increasing development pressures. Currently, DEC has 2,983 staff. In 1992, staffing was over 4,200. The current plan to have no additional hires in this budget cycle is tantamount to a staffing cut when you allow for retirement and attrition.

The impacts of these deep and disproportionate cuts at DEC are reflected by a shocking decline in actions to enforce our environmental laws. For example, according to DEC data, Region 4 enforcement “orders on consent” declined every year between 2009 and 2012, from 143 in 2009 to just 80 in 2012. In this region, as in others, personnel who have left the department, been reassigned, or retired, have not been replaced, making [staff attrition](#) another form of staff cut.

Over the past six years of New York’s economic recovery, the DEC has shouldered disproportionate cuts to staffing and funding resulting in less enforcement, less data collection and inadequate investments in the maintenance and upkeep of our water infrastructure assets. Now that the Governor is projecting a budget surplus, New York can no longer afford to keep environmental spending at austerity levels.

We urge you to redress the disproportionate staffing cuts at the DEC by funding additional staff positions in this budget, and set the course to pre-recession staffing levels within the next three years.

Riverkeeper thanks the Senate and the Assembly Environmental Conservation Committees for the opportunity to participate in today's hearing and for the important role they play in protecting New York's environment.

Contact:

*Tracy Brown, Water Quality Advocate, Riverkeeper, Inc., 914-478-4501 x243,
tbrown@riverkeeper.org*