



**Testimony of
Dan Shapley, Water Quality Program Manager, Riverkeeper, Inc.**

**Joint Public Hearing on the 2016-2017
Executive Budget Proposal – Environmental Conservation**

January 28, 2016

Thank you Chairman Farrell, Chairman Young, and distinguished Senators and Assembly Members for the opportunity to testify before you regarding the Proposed Executive Budget for Fiscal Year 2016-2017.

Riverkeeper is a 79,000-person strong, 50-year-old member-supported watchdog organization dedicated to defending the environmental, recreational and commercial integrity of the Hudson River and safeguarding the Watershed that provides drinking water to nine million New York City and Hudson Valley residents. The Hudson River Watershed covers nearly a quarter of the state's land area where roughly half of the state's residents live. I'm here to speak for the Hudson, the people who swim boat and fish in its watershed, and all of us who drink the water.

We have several priorities that we would like to highlight.

I. Water Infrastructure Improvement Act of 2015

We're pleased the Governor has proposed an additional \$50 million in each of the next two years for the Water Infrastructure Improvement Act, and ask the Legislature to build on this successful and needed program by increasing spending on water infrastructure to \$800 million. The \$75 million in first-round grants, announced in December, will leverage more than \$440 million in total project costs to improve 45 drinking water and wastewater systems statewide, saving local taxpayers \$284 million through a 59% reduction in municipal costs.¹ We urge the Legislature to invest more -- a total of \$800 million in the coming fiscal year -- given that New York State communities face the nation's largest documented need for investment in wastewater, at \$31.4 billion,² and \$39 billion in need for drinking water infrastructure.³

¹ Press release, Gov. Cuomo, December 15, 2015, *available at* <https://www.governor.ny.gov/news/governor-cuomo-announces-75-million-grants-local-governments-water-infrastructure-improvements>.

² U.S. EPA, Clean Watersheds Survey 2012, *available at* <http://www.epa.gov/cwns>.

³ NYS Department of Health, Report to the Governor: An Assessment of the Capacity Development Program, 2014, *available at* <https://www.health.ny.gov/environmental/water/drinking/capacity/14govrpt.htm>.

Investments have multiple benefits, protecting the environment, local economies and property values, and quality of life. The impacts of insufficient investment are apparent in water main breaks and sewage leaks. The Sewage Pollution Right to Know Act documented more than five reported releases of raw or partially treated sewage to water *per day*, on average, in 2015.⁴ Riverkeeper's own data -- gathered by dozens of community partners including our science partners at Columbia University's Lamont-Doherty Earth Observatory and CUNY Queens College -- show that 23% of samples taken in the Hudson River Estuary from 2008-2014 failed to meet safe-swimming thresholds set by the U.S. Environmental Protection Agency⁵ (EPA), with higher failure rates in many creeks that feed the river, and at New York City waterfront access points. Our coalition -- which includes environmental advocates as well as utility, municipal and recreational groups, continues our longstanding call for \$800 million for water infrastructure.

II. Environmental Protection Fund (EPF)

We applaud the Governor's recommendation to increase the EPF to \$300 million. The EPF provides needed resources to many critical programs, several of which I will highlight.

a. Water Quality Improvement Program (WQIP) and Municipal Non-Point Source Pollution

We're pleased that the Governor has proposed doubling the money available for statewide WQIP grants, which after designated earmarks (for three specific Nassau and Suffolk County projects) increased from \$5 million to \$10 million. Likewise, we are pleased with the proposed increase in spending on Municipal Non-Point Source Pollution, from \$4.8 million to \$8 million. Like the New York State Water Infrastructure Improvement Act, these grant programs have a proven track record of success in funding needed projects to stop water pollution where we swim, boat and fish. The last round of funding, the first in three years, announced in December as part of the Regional Economic Development Council (REDC) Awards, provided \$31 million in grants.⁶ Requested aid in applications exceeded grants by a 4:1 ratio.⁷ We support the governor's request for \$8 million for Non Point Source Pollution, and suggest increasing the WQIP available for statewide grants to \$25 million, after earmarks.

⁴ Analysis of DEC data, "Sewage Discharge Reports," *available at* <http://www.dec.ny.gov/chemical/90321.html>

⁵ Riverkeeper, "How's the Water?," (2015), *available at* http://www.riverkeeper.org/wp-content/uploads/2015/06/Riverkeeper_WQReport_2015_Final.pdf.

⁶ 2015 REDC Awards, *available at*

https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/REDCAwardsBooklet2015_2.pdf.

⁷ Analysis of DEC data provided to Wastewater Infrastructure Subcommittee of the Water Management Advisory Committee, December 2015.

b. Agricultural Non-Point Source and Agricultural Waste Storage Management

Governor Cuomo has proposed to increase “Agricultural Non-Point Source Pollution Control” funding by \$4.8 million, to \$19 million. We respectfully urge the Senate and the Assembly to increase the Governor’s proposed funding to \$25 million total and earmark the increase for waste storage purposes⁸ on Concentrated Animal Feeding Operations (“CAFOs”). We also request an increase in “Agricultural Waste Storage Management,” from \$1.5 million to \$5 million, directed towards studying and addressing the waste storage needs in New York.

New York has over 500 CAFOs, most of which are dairy farms that support New York’s yogurt industry.⁹ Due to the mass amounts of animal waste produced, each of these facilities has the same pollution potential as a major sewage treatment plant.¹⁰ The need for additional animal waste storage at these farms has become increasingly dire, as farmers that lack adequate storage capacity often spread manure on frozen ground throughout the winter season, with disastrous environmental consequences as snowmelt and runoff wash wastes directly into streams. During the spring of 2014, the DEC investigated at least 40 surface water and groundwater contamination incidents most likely caused by land application of manure during the preceding winter. In one such incident in Owasco Lake, a Finger Lake and drinking water supply for 44,000 near the town of Scipio, N.Y., residents documented a 75-by-25 foot plume of liquid manure, which resulted from winter spreading at a dairy CAFO.¹¹ A reasonable investment in waste storage for mid-sized farms could have an enormous impact on this significant pollution problem.

c. Hudson River Estuary Management Program

The Governor has proposed a welcome increase in funding for the Hudson River Estuary Program, to \$5 million, a net increase for program work of \$300,000. We are also pleased that the Peconic Estuary Program is no longer an earmark under the Hudson River Estuary Program; while the Peconic has real needs, funding to address them should not be carved out of the

⁸ The Executive Budget inexplicably proposes to direct \$224,000 to Cornell Pro-Dairy. We believe no portion of the “Agricultural Non-Point Source Pollution Control” protection funds should be set aside for Cornell Pro-Dairy as that organization exists solely to promote economic development. Instead, this funding should be directed to animal waste storage issues.

⁹ Press Release, N.Y. State Dep’t of Env’tl. Conservation, “DEC Announces Draft General Permits for Concentrated Animal Feeding Operation Available for Public Comment”(Dec. 23, 2015), *available at* <http://www.dec.ny.gov/press/104509.html>.

¹⁰ N.Y. State Dep’t of Env’tl. Conservation, Draft Phase II Watershed Implementation Plan for New York Susquehanna and Chemung River Basins and Chesapeake Bay Total Maximum Daily Load, (July 6, 2012).

¹¹ Carrie Chantler, Owasco Lake Advocates Decry Runoff of Manure into Water, AUBURN CITIZEN (Apr. 6, 2014) *available at* http://auburnpub.com/news/local/owasco-lake-advocates-decry-runoff-of-manure-intowater/article_498bd2fe-a7ec-5994-b4ed-005111da2e89.html.

Hudson River Estuary's line. We and our colleagues Scenic Hudson support funding of \$6.5 million for the Hudson River Estuary Program, including continued funding for the Mohawk River Basin Program. This non-regulatory program of the NYS DEC has a strong record of success in helping people enjoy, protect, and revitalize the estuary, and funding over the next five years will allow the Program to effectively implement the Hudson River Action Agenda,¹² achieving substantial and important benefits in collaboration with organizations and municipalities by 2020.

d. Waterfront Revitalization

We support the Governor's proposal to increase funding for Waterfront Revitalization to \$15 million, recognizing that in particular among the programs funded by this line are watershed protection and restoration planning grants that are important to improving water quality, habitat and public enjoyment of the Hudson River Watershed and throughout the state.

e. Hudson River Valley Trails Grants

We support the Governor's proposal to increase funding for the Hudson River Valley Trail Grants to \$250,000. These grants will, among other things, support the progress of the Hudson River Water Trail.

III. DEC Staffing and Budget

The Executive recommends support of 2,946 full time equivalent DEC positions, unchanged from the SFY 2015-16 levels. DEC has suffered disproportionate cuts to staffing, and now has nearly 30% fewer staff than in the 1990s, despite an 11% increase in population. Between 2008 and 2010 alone, DEC lost 849 of its scientists, engineers, and enforcement officials¹³—one-quarter of its total workforce. As a result, enforcement of water pollution violations is in free fall. The number of facilities in significant noncompliance with water pollution laws rose 19 percent between 2010 and 2014 -- while the number of facilities facing any kind of enforcement for clean water act violations *declined by 64 percent*.¹⁴ We urge the Governor and the Legislature to restore DEC's capability to enforce New York's environmental laws.

¹²DEC, Hudson River Action Agenda 2015-2020, *available at* <http://www.dec.ny.gov/lands/5104.html>.

¹³ Press Release, The Adirondack Council et al., "Groups Congratulate Gov-Elect Cuomo, Send 1st Green Assignment: Rebuild NY's Environmental Agencies & Restore Funding" (Nov. 3, 2010), *available at* <http://www.riverkeeper.org/news-events/news/riverkeeper/cuomo-1st-green-assignment/>.

¹⁴ NYS Comptroller, "Environmental Funding in New York State," December 2014, *available at* https://www.osc.state.ny.us/reports/environmental/environmental_funding_nys_2014.pdf.

IV. Legislation Assuring Financial Responsibility for Spills resulting from Petroleum Handling Operations of Major Facilities, Vessels, and Railroads

Riverkeeper strongly supports proposed financial assurance legislation (A.7625 Fahy)/S.5715A Avella) that would require that companies engaged in the storage, transfer and transportation of petroleum products in New York State submit evidence of insurance sufficient to cover the costs of cleanup, decontamination, and damages associated with a release of petroleum, and that this proof be approved by the State as a condition of operating in New York.

The legislation also requires railroad companies transporting crude oil within the state to submit information regarding their ability to pay. As the amount of crude oil moving by rail across western New York and down the Champlain Valley, and by rail, barge and tanker down the Hudson River Valley, increases, so does the risk of a catastrophic spill in nearby communities. Any release of oil could devastate adjacent ecosystems, including that of the Hudson River or Lake Champlain, contaminating local drinking water supplies and harming the regional economy. An oil train explosion could lead to catastrophic loss of life and destruction of the surrounding community, as occurred in Lac-Megantic, Quebec, in 2013. Under current law, New Yorker taxpayers could be left with the burden of paying for cleanup and decontamination after an oil spill if the company responsible does not have sufficient financial resources. Riverkeeper strongly supports this legislation to help assure that taxpayers are not left with the burden of footing the bill in the event of a major spill, and that companies handling oil in New York State have a financial incentive to make their operations as safe as possible.

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On behalf of the tens of thousands of Riverkeeper members and supporters throughout New York State, thank you again for the opportunity to participate in today's Joint Hearing on the Executive Budget and for the important role you play in protecting New York's environment. We look forward to working with the Members of the Assembly and Senate to improve upon some of the key provisions of the Executive Budget we have highlighted today.

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