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Testimony of The Nature Conservancy in New York Before the Joint Legislative Public Hearings on the 2014-2015 Executive Budget Proposal

January 29, 2014

My name is Jessica Ottney Mahar and I am the director of government relations for The Nature Conservancy in New York. On behalf of our 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 2014-15 (FY14-15).

I would like to start today by expressing appreciation for the work that you and your colleagues in the Legislature did last year in support of environmental funding. Your partnership with Governor Cuomo to increase funding for the Environmental Protection Fund (EPF) by \$19 million, as part of a plan that includes a further \$4 million increase in the coming budget, was an excellent first step toward restoring adequate environmental funding, and a great way to mark the 20th anniversary of the creation of the Fund.

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 conserve 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 tough conservation issues facing our communities — from climate change, to the availability of fresh water, to smart energy and infrastructure 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. Across the state the Conservancy works with governments, companies, conservation partners, educational institutions and others to collaboratively advance our conservation priorities. Our work combines policy advocacy, cutting edge science research, and on-the-ground projects across the globe.

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. A 2012 study by the Trust for Public Land found that for every \$1 invested in land and water conservation through the EPF, New York State receives \$8 in return. An 8-1 return on investment is leverage that any program should be proud of, and shows a wise use of state resources.

Public Support for Environmental Funding

In November 2013, The Nature Conservancy, the Open Space Institute, Natural Resources Defense Council and the Trust for Public Land jointly commissioned a poll from Global Strategies Group, a leading public opinion research firm, to understand voter attitudes about environmental and conservation funding in New York State. We learned that 2/3 of New York voters would support a \$5 billion Clean Water, Clean Air, Green Jobs Bond Act, which has been proposed in both houses of the Legislature (A. 8121 Sweeney / S. 5925 Grisanti). In addition, we learned that a strong majority of voters (57%) would support increased funding for the Environmental Protection Fund (EPF) as part of the state budget. Demographically diverse groups of voters in every region of our state value New York's natural assets – such as our clean and abundant water resources – and support dedicating funding to protect natural resources. The work that is done this year in the state budget to enhance environmental funding will be a story that resonates with the public in all corners of the state, and is something that we can all continue to take pride in.

The Environmental Protection Fund (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 invasive species prevention programs, parks, zoos, and waterfronts.

When the EPF was created 21 years ago, the Legislature and Governor took the important and wise step of identifying a dedicated funding source for the program. The state's Real Estate Transfer Tax (RETT) generates revenue every time real property is transferred, and starting in 1993 a portion of that revenue was to be dedicated to ensuring New York can conserve land and clean water, create community parks, support municipal recycling and undertake other important programs that reduce pollution and make our communities more attractive for businesses, tourists and residents, and keep New Yorkers healthy.

While there have been a few issues along the way (for example, the "sweeping" of more than \$450 million in cash from the EPF between 2003-2009 in order to make up for deficits in the state budget) the EPF has worked extraordinarily well, and communities in every county of the state have significantly benefited.

Then the recession hit. Real estate transfer taxes, like everything else, dropped, and accordingly EPF funding dropped. While not a good thing, it was understandable – nobody could argue that a fund linked to a revenue source should not decrease as the revenue source decreased.

Happily, the economy is recovering, and thanks to Governor Cuomo and the Legislature, last year the process started to restore the EPF to pre-recession levels. A deal was struck to increase the EPF by \$23 million to \$157 million (still significantly below pre-recession levels, which topped \$250 million), in two installments – by \$19 million to a total of \$153 million in FY13-14, and another \$4 million to a total appropriation of \$157 million in FY14-15. This year's Executive Budget proposal implements the agreement from last year and includes the additional funding from increased Bottle Bill enforcement in the EPF.

This \$4 million increase is a start, however we urge the Legislature to go further. The RETT is continuing to recover, and in fact, is now projected to match pre-recession levels over the next four fiscal years. As the RETT recovers, the EPF should be restored as well – just as it went down when RETT revenues decreased, it should go up as RETT revenues increase. The financial plan, however,

as currently proposed, maintains a sharply reduced amount of revenue from the RETT for the EPF in FY14-15 and all years thereafter.

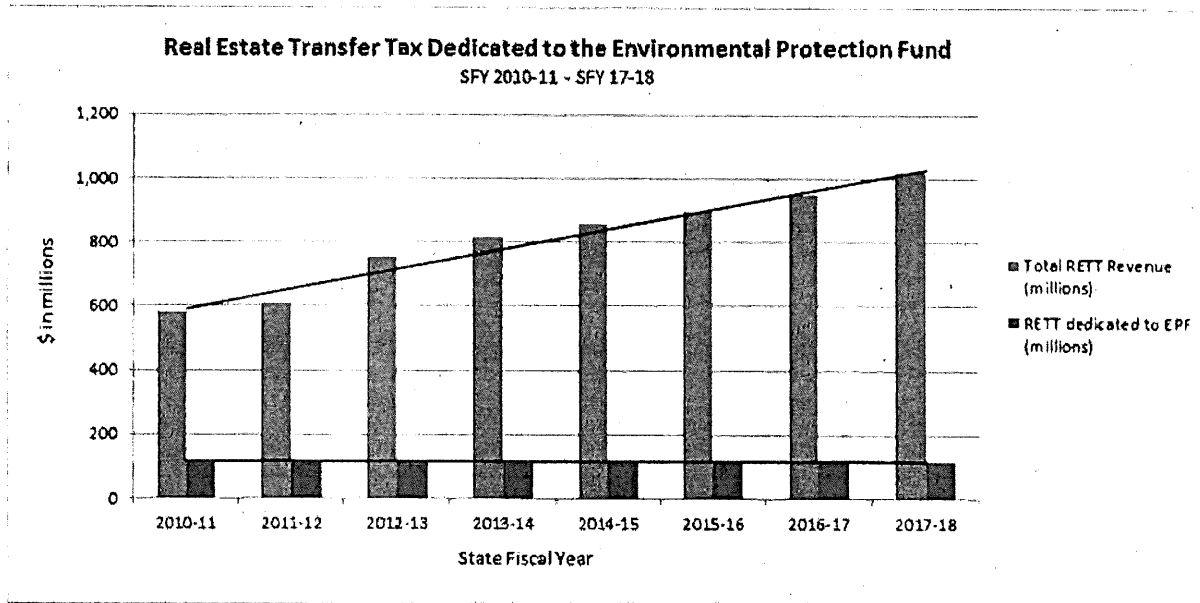


Chart by The Nature Conservancy. Data source: DOB Financial Plans.

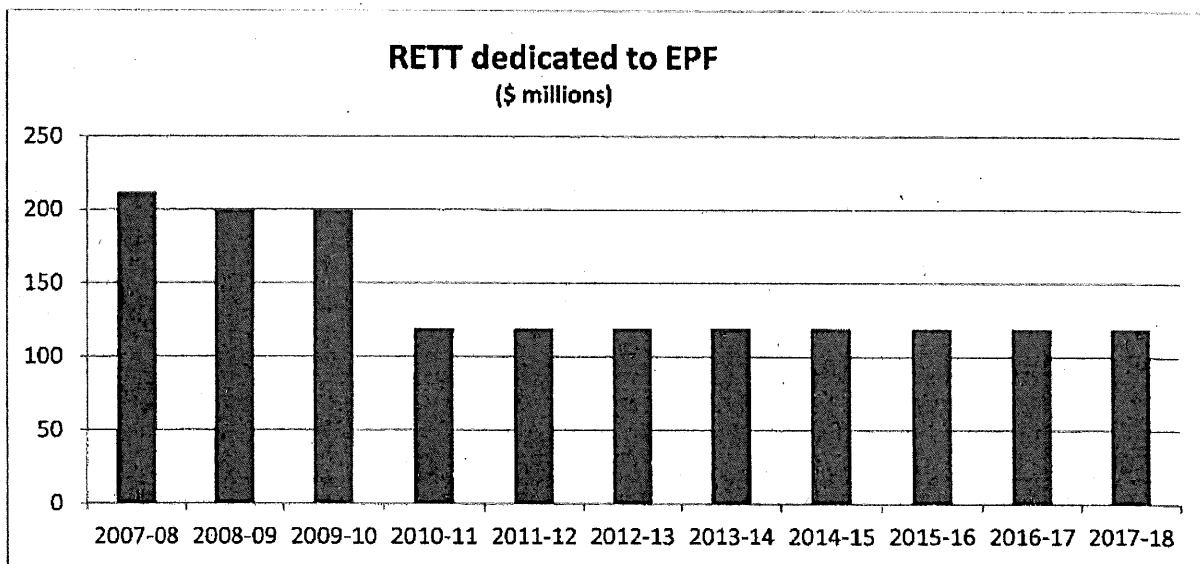


Chart by The Nature Conservancy. Data source: DOB Financial Plans.

Additionally, and of note, is another environmental use of the RETT. Nearly 20 years ago, New York State passed its most recent environmental bond act – the Clean Water/Clean Air (CWCA) Bond Act, which provided more \$1.75 billion in funding for open space conservation, pollution prevention, water protection, air quality improvements and other environmental capital needs throughout New York State. The State has been using the RETT to pay debt service on the CWCA Bond Act. This is an excellent and important additional level of investment of RETT revenue into environmental programs, and should be maintained. In recent years, as scheduled the annual payments for the CWCA Bond Act have declined from \$104 million annually in FY11-12 to a projected \$60 million annually in FY17-18. We suggest that in order to maintain the level of environmental investment from the RETT, the difference be directed to the EPF. This would simply continue a steady and reliable spending level for environmental purposes from a dedicated fund.

1996 CWCA Bond Act Debt Service Payments

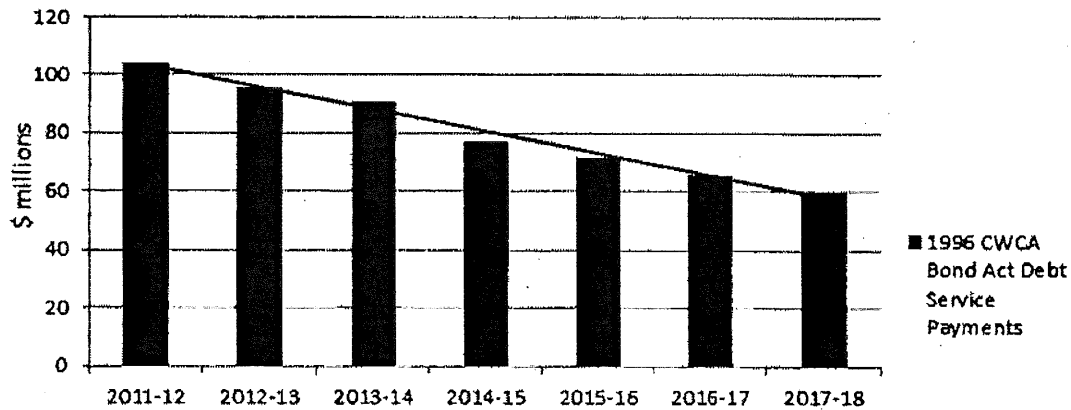


Chart by The Nature Conservancy. Data source: OSC March 2013 Annual Cash Basis Report

Because of the growth in RETT revenue, and the budget surplus projected for FY14-15 and beyond, we strongly urge that additional funds be appropriated for the EPF to continue the critically needed restoration of environmental programs. The last time the RETT generated more than \$700 million, the EPF was appropriated at \$205 million. This year the RETT is expected to grow to \$816 million, yet the EPF is stuck at \$157 million. We urge the Legislature and Governor to appropriate \$200 million to the EPF so that critical programs to protect our land and water resources can be reinvigorated, expanded, and receive a much needed infusion of cash. Should the EPF be further increased in the enacted budget, we urge the following programs be increased to the following suggested funding levels as part of that agreement:

<u>EPF Open Space Program</u>	<u>FY13-14 Enacted</u>	<u>FY 14-15 Executive Proposal</u>	<u>FY 14-15 TNC support within expanded EPF</u>
DEC/OPRHP Open Space Land Protection	20,000	20,150	30,000
<i>Cons. Partnership Program/LTA</i>	1,575	2,000	2,000
Farmland Protection	13,000	14,000	20,000
Hudson River Estuary Management	3,800	3,800	5,800
<i>Mohawk River Action Plan</i>	800	800	800
Albany Pine Bush Commission	2,000	2,200	2,200
Invasive Species	4,600	4,600	8,000
<i>Lake George</i>	100	450	450
<i>Eradication Grants</i>	1,000	1,000	1,000
Oceans and Great Lakes Initiative	4,750	4,800	9,000
Water Quality Improvement Program	6,945	6,800	7,945
<i>Suffolk County Water Quality*</i>	0	2,000	2,000
<u>EPF Parks and Recreation Program</u>			
State Land Stewardship	16,600	17,600	22,000
<i>Belleayre Mountain</i>	500	500	500
ZBGA	10,250	10,350	11,250

Governor Cuomo's Executive Budget Proposal includes modest increases for key programs, including land conservation; zoos, botanical gardens and aquaria; farmland protection; and state land stewardship. We support these increases, and hope additional increases are possible in the negotiated budget. Furthermore, we strongly support the new allocation of \$2 million for water quality improvement in Suffolk County as part of the Water Quality Improvement Program appropriation. These funds, which will be matched by the county, will enable the state, county and local municipalities to work together to begin to address a serious and frightening issue – excessive nitrogen contamination of Long Island's groundwater, leading to pollution in our bays and harbors, which is causing impacts like red and brown tides that are dangerous to both public health and the maritime economy of Long Island. Science has shown the main source of this pollution in our bays is actually nitrogen from wastewater treatment systems, including septic systems that do not remove nitrogen from effluent before discharging into groundwater. Finally, in an expanded EPF, The Nature Conservancy strongly urges increased appropriations for key programs as outlined in the chart above.

EPF Disbursements

An important and positive trend continues in the Executive Budget Proposal as EPF disbursements will either match or exceed appropriations in FY13-14 and Fy14-15. Past budgets included appropriations that were not always backed up by the same amount of cash, and 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 in FY11-12, FY 12-13 and FY13-14 (projected) all exceeding the annual appropriation. This disbursement of cash to projects in many EPF programs 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. We are hopeful that this trend will continue in future years, and that along with increased appropriations, will help address backlogs of funding requests/needs and constrained cash flow issues that we have heard exist in many EPF programs. Currently, despite this progress, organizations are required to wait to receive payments from EPF programs in some cases, because agencies simply do not have enough cash each month to cover all bills/invoices they receive.

Enviromental Protection Fund Appropriations and Disbursements
SFY 2005-06 through 2014-15

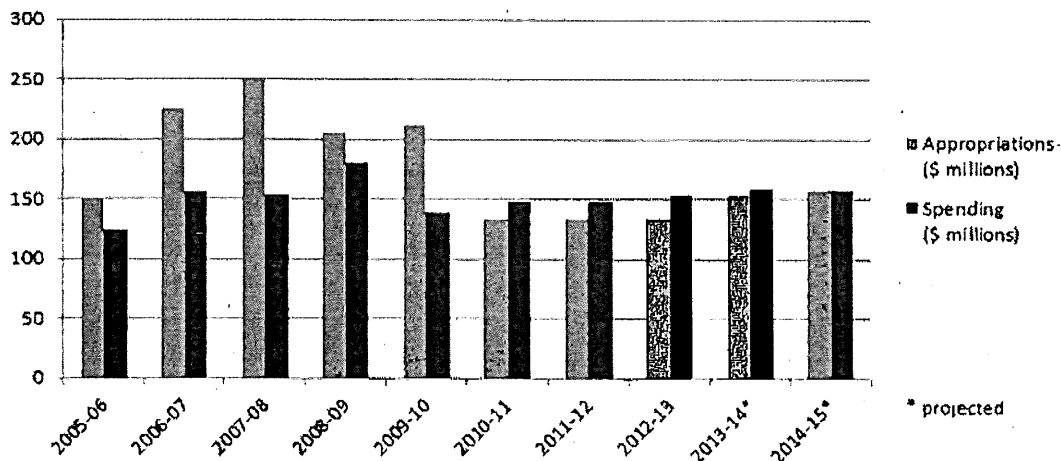


Chart by The Nature Conservancy. Data source: OSC Cash Basis Reports and FY14-15 Financial Plan.

New York Works Program

The Nature Conservancy strongly 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 the \$6 million recreational access initiative. 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.

DEC Appropriations and Disbursements

The Executive Budget Proposal includes more than \$1 billion in appropriations for the DEC in FY14-15, up from \$899 million in FY13-14. The Nature Conservancy supports this increased level of appropriations for the DEC, which as you know is tasked with ensuring the quality of our clean air and water; protecting our valuable lands and other natural resources; adequately caring for publicly accessible natural areas; and implementing important new strategies to reduce community risk in the face of extreme weather. We are, however, troubled that although appropriations increase in the proposed budget, disbursements lag behind. There is a gap of nearly \$130 million between DEC appropriations and disbursements projected for FY14-15. There is also a trend of declining disbursements by DEC throughout the term of the financial plan. In fact, DEC annual disbursements decline by a total of approximately \$200 million between FY12-13 and FY17-18. While a portion of this is the result of the federal stimulus spending coming to an end, it is a significant reduction and must be carefully examined to determine if additional appropriations are needed for key DEC programs, especially given the fact that the agency is still operating under reduced staffing and funding levels following sharp cuts enacted starting in 2008 through the economic recession. We are concerned that the mismatch between appropriations and disbursements, and declining spending levels, will effectively be a further defunding of DEC operations. DEC's work has significant economic and public health and safety implications, and as a matter of responsible oversight, public protection, and to ensure community economic prosperity, we strongly recommend that DEC funding, disbursement and staffing levels be evaluated to determine where additional resources are needed to fully implement the mission of the agency.

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 FY14-15 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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Addendum: Additional Testimony by The Nature Conservancy in New York

Legalization of crossbows and amendments to General Obligations Law TED Article VII Part I

The Executive Budget proposal includes legislation that will legalize the use of crossbows for hunting in New York and amend the General Obligations Law to clarify laws regarding liability for private landowners, including The Nature Conservancy, who choose to open their lands for recreational access and public benefit. The Nature Conservancy supports both of these proposals. The recreational access liability changes will complement the DEC Public Access Initiative, also proposed in the budget, which will open hundreds of thousands of acres of state owned lands and waters to the public for a variety of recreational uses. We are particularly supportive of the inclusion of swimming in the proposed language, along with other forms of recreation.

The legalization of crossbows in New York will provide the state and hunters with another tool to manage wildlife populations and pursue recreational opportunities. The Nature Conservancy is especially concerned with deer populations across New York, from Long Island to the Allegheny forest, which are currently not being managed to protect our forest's health, and causing serious economic risks due to the impacts of overbrowsing.

A 2010 study on forest regeneration in New York by scientists at The Nature Conservancy* found that "the impacts of deer herbivory on forest regeneration in New York have been documented from the Adirondack to the Allegheny forests. Sustained overbrowse by deer is known to reduce forest regeneration and diversity, shift species composition, and have cascading effects on plant and wildlife communities particularly wildflowers and forest bird species."

The same study found that there is evidence for concern over the status of forest regeneration in New York State. Nearly one-third of the state may not have sufficient regeneration to replace the forest canopy after a significant overstory disturbance. When considering only commercially desirable timber species, nearly half of New York State had insufficient regeneration. These regeneration issues appear to be the worst in the Southeastern portion of the state, but exist in every region.

Research showed that at The Nature Conservancy's Mashomack Preserve on Shelter Island, forest regeneration increased from 2000 to 2005 following an increase in deer hunting. In the Hudson Valley, seedlings and saplings were shown to be significantly more abundant within deer exclosures and managed areas than in the surrounding forest. The study also corroborated a 2010 survey of practicing foresters in New York that reported a regeneration success rate of only 30%, with the greatest problems in the Lower Hudson, Capital District, and Great Lakes regions, mostly attributed to deer herbivory.

Deer populations throughout New York must be better managed for forest health, in order to protect economically important industries including forestry and tourism. Legalizing crossbows provides the state another tool to use as we work to achieve this important goal. We urge the Legislature to support this legislation as part of this year's state budget.

*Full report available online at:

<http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/newyork/placesweprotect/easternnewyork/final-nys-regen-091410-2.pdf>

More information about New York's forest regeneration at nature.org/nyforests.

Environmental Protection Fund (EPF) FY14-15

(,000s omitted)

<u>Open Space Program</u>	<u>FY13-14</u>	<u>FY14-15</u>
	<u>Enacted</u>	<u>Executive</u>
Open Space / Land Conservation	20,000	20,150
<i>Cons. Partnership Program/LTA</i>	1,575	2,000
<i>Urban Forestry</i>	500	1,000
<i>Cities with population 65,000</i>	250	250
<i>Projects in DEC regions 1-3</i>	1,000	0
<i>Resiliency Planting Program*</i>	0	250
Farmland Protection	13,000	14,000
Agricultural Waste Management	1,000	1,500
Municipal non-point source pollution	4,500	4,500
Ag. non-point source pollution control	14,200	14,200
Hudson River Estuary Management	3,800	3,800
<i>Mohawk River Action Plan</i>	800	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	1,300	1,300
Smart Growth	400	400
Invasive Species	4,600	4,600
<i>Lake George</i>	100	450
<i>Eradication Grants</i>	1,000	1,000
Oceans and Great Lakes Initiative	4,750	4,800
Water Quality Improvement Program	6,945	6,800
<i>Natural Infrastructure</i>	4,000	0
<i>Suffolk Water Quality*</i>	0	2,000
Soil and Water Conservation Districts	3,500	4,500
Sub-Total	82,495	85,050
 <u>Parks and Recreation Program</u>		
State Land Stewardship	16,600	17,600
<i>Belleayre Mountain</i>	500	500
Waterfront Revitalization	12,500	12,500
<i>Inner city/Underserved</i>	6,250	6,250
<i>City of Tonawanda</i>	300	0
<i>Town of Tonawanda</i>	75	0
Municipal Parks	15,500	15,500
<i>Inner city/Underserved</i>	7,750	7,750
<i>Town of Orchard Park*</i>	200	0
<i>Cazenovia Community resource center</i>	100	0
<i>Buffalo Military Naval Park</i>	275	0
<i>Ulster County Rail Trail</i>	2,000	0
Hudson River Park	3,000	2,000
ZBGA	10,250	10,350
Sub-Total	57,850	57,950
 <u>Solid Waste Program</u>		
Municipal Recycling	7,000	7,000
Secondary Materials Markets	1,000	1,000
Pollution Prevention Institute	3,250	3,250
Pesticide Program	1,000	1,200
Natural Resource Damage Assessment	155	1,300
Landfill Closure/Gas Management	250	250
Sub-Total	12,655	14,000
TOTAL EPF	153,000	157,000