The Honorable Louis D. Greenwald, Chair  
Assembly Budget Committee  
State House Annex  
PO Box 068  
Trenton, NJ 08625-0068

Dear Assemblyman Greenwald:

In response to questions raised by the Assembly Budget Committee, I am hereby forwarding the following information.

You requested a copy of the Department’s Vision Document and Transformation Plan once it is finalized. I will be forwarding this under separate cover in the very near future.

Regarding the cost analysis/revenue calculation associated with the No Net Loss program’s estimate of the New Jersey Turnpike’s roadway widening project the compensation level is based on the number of acres being deforested. A forested acre has been calculated to contain 204 trees (as reflected in the No Net Loss statute as a tree replacement factor). The number of trees per acre is based on an average 6 inch or greater diameter tree being cut with the acre being totally forested. At $300/tree as the replacement cost, the revenue associated with an acre is $61,200/acre. The cost is reduced for partial acres and/or seedlings and smaller diameter trees.

Regarding the Turnpike widening project, there are several miles of deforestation approximating 440 acres. The funding that is estimated to be available was based on the Turnpike Authority’s initial draft plan of how many acres they will replant as part of the project, with the net amount representing the compensation for the loss of the remaining trees.

Assemblywoman Pou asked for the impact of reallocating $65.2 million from the Global Warming Solutions Fund to the General Fund and activities supported by the Fund.

The $65.2 million represents the current available balance of $22.8 million along with the anticipated revenues from the next five RGGI auctions. From the revenues collected during the first year the Department has provided $36.7 million to EDA (as its 60%
share) to establish the Clean Energy Solutions Capital Investment Grant and Loan ("CESCI") program; and $11.5 million to BPU for the NJ SHARES program. The Department of Environmental Protection has not committed any of its grant funding as of this date. In June 2009, DEP’s Office of Planning and Sustainable Communities released a Request for Preliminary Proposals (RFP) for $2.5 million for the RGGI Local Government Grant Program. By the pre-application deadline in early September, over 300 applicants had submitted a total of 720 projects for greater than $51 million in requested funds. We established a database, reviewed the projects and established a prioritization system to request full applications from a subset of the projects. The request for full applications has been placed on hold.

Assemblyman Webber asked how the compensation rates are developed with outside law firms supporting the Department’s Natural Resource Damage litigation.

For most of the retainer agreements, the contingency fee rates are pretty standard in the industry. The compensation rates for outside counsel retained by the State to bring Natural Resource Damage cases are governed by the New Jersey Court Rules (R 1:27-1). The retainer agreement with each outside firm requires court approval for a fee award in any case where the damages exceed $2 million. In addition, the retainer agreements reserve to the Attorney General the right to reduce any fee that she determines is unreasonable.

Assemblywoman Quigley asked for the identification of any funds that might be available to repair river bank erosion in Jersey City; and timeline for settling/collecting the outstanding penalty associated with the Bayonne Golf Course.

As part of the Department’s capital construction program any river bank erosion at Liberty State Park that affects the park’s operation would be repaired using the dedicated CBT capital appropriations.

The following represents the timeline associated with the Department’s enforcement action against the Bayonne Golf Course.

An Administrative Order and Notice of Administrative Penalty Assessment (AO/NCAPA) was issued on December 27, 2007 and received by the entity on December 28, 2007. They have 35 days to file for a hearing request.

A hearing request was filed on January 22, 2008, with the request granted by the Office of Legal Affairs on January 6, 2009.

The case was then forwarded to the Office of Administrative Law on February 27, 2009 for assignment. The Administrative Law Judge set a preliminary hearing date for February 2010.

However during the past year while discovery motions were filed and/or answered the parties began confidential settlement discussions and the hearing date was postponed. There is ongoing oversight by an Administrative Law Judge who is monitoring settlement discussions to ensure the parties continue to negotiate in good faith. There is a site meeting with the Judge on April 28, 2010.
If the current discussions fail to achieve a settlement the Administrative Law Judge will reschedule the hearing date.

I also plan to use the above chronology as a test case to further review the process and timing associated with this proceeding. To have an entire year elapse from receipt of a hearing request and the granting of the request – and for another year to elapse between referral to the Office of Administrative Law and the scheduling of a hearing – strikes me as excessive. I plan to review this matter further to evaluate if such proceedings can move forward more quickly in the future.

Assemblyman Johnson asked for the identification of the five Environmental Justice Communities and information on the operating expenses of the Palisades Interstate Park Commission police operations and court system.

One of the roles of the Department’s Environmental Justice program is to work with communities in New Jersey to reduce and alleviate cumulative environmental burden resulting from environmental pollution and improve their quality of life. The most recent focus of the program has been to broaden the Department’s environmental justice efforts to address five pilot communities, using existing resources and building upon cooperative efforts of the local government, citizen groups, environmental justice organizations and corporate neighbors. The plan in place at this time is to continue and expand, as necessary, our current environmental justice initiatives in Camden - Waterfront South, Newark - Ironbound and Long Branch. Our work in Long Branch has focused on the cleanup of contamination left behind from coal gasification operations. New Jersey Natural Gas and the local community have been working closely with our site remediation program to address the environmental burdens left in this area. My plan is to work with the Environmental Justice Advisory Council to assess the direction which had been in place at the end of the prior Administration and potentially identify and add two more municipalities/communities to our efforts. While I have stopped in at two EJ Council meetings to date, I have just begun to get fully briefed on all the Council’s activities. I hope to focus on this important program area in greater detail over the next month.

After conferring with Executive Director Jim Hall, I have inserted below his summary of the Fiscal Year 2009 expenses for the New Jersey’ section of the Palisades Interstate Park Commission police operations.

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<tr>
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<tbody>
<tr>
<td>Salaries</td>
<td>$1,887,112</td>
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<tr>
<td>Overtime</td>
<td>420,655</td>
</tr>
<tr>
<td>Operating</td>
<td>401,000</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$2,708,767</strong></td>
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</tbody>
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Against the cost, the Park Commission’s police operation collects approximately $1.5 million in fines and penalties that offset these expenses.

Salaries of the Park Commission police officers are on average $25,000 to $30,000 lower per officer than the surrounding local jurisdictions. Previous discussions and proposals
regarding shared services were determined to not be feasible because of the higher costs to the Commission and State because of these salary differences.

Regarding the question of the Park Commission’s court operations, the operations have recently been restructured under current Assignment Judge McGeady. Under Judge McGeady the court sessions are now scaled/limited to reflect the size of the building and available parking. This has resulted in eliminating overcrowding conditions and increased the efficiency of the court.

By way of comparison, the Park Commission’s court parking facilities are similar to the local parking availability and court size in the surrounding jurisdictions. This limits any advantage of using surrounding municipal facilities. If there are any additional specific questions on the Palisades Interstate Park Commission please feel free to contact Jim Hall, Executive Director, PIPC at 845-78602701.

In closing I would like to thank you once again for the time you afforded me to present the Department’s Fiscal Year 2011 budget needs.

Sincerely,

[Signature]

Bob Martin,
Commissioner