June 13, 2012

Dr. David Rosen  
Legislative and Budget Finance Officer  
Office of Legislative Services  
State House Annex, PO Box 068  
Trenton, NJ 08625

Dear Dr. Rosen:

In response to Assembly Budget Committee Chair Prieto’s letter of May 9, 2012, following please find responses to questions and requests raised by members of the committee.

Assemblyman Burzichelli

- Please provide the committee information on tipping fees charged at sanitary landfill and disposal facilities for each county in the State, and the total amount of tipping fees collected by each county for the last several years.

Response: List is attached.

- Please provide the committee information on the total number of Licensed Site Remediation Professionals (LSRP) that would be required to oversee the investigation and remediation of the 9,000 contaminated sites mentioned in the various stages of cleanup under the Site Remediation Program. Please provide an estimate on the amount of funds needed for all of the 15,000 contaminated sites identified by the department in need of remediation.

Response: There are currently 577 temporary LSRPs. The first exam for permanent licenses was offered on May 14, 2012. Approximately 280 people took this first exam. Three additional exams will be offered by February 2013. As stipulated in the Site Remediation Reform Act, the LSRP is not required to actually perform all of the remediation work. N.J.S.A. 58:10C-14a states that the LSRP is to manage, supervise, or perform the work that is the basis of the submission.

Of the 15,000 sites requiring remediation in New Jersey, it should be noted that approximately 2,500 of these are unregulated heating oil tank (UHOT) sites, and are not required to hire an LSRP. The actual number of sites requiring an LSRP is
approximately 12,500. Additionally, not all remediations are ongoing at the same time — some are actively working in the field, others are preparing and reviewing reports, and others are between remedial phases. The Department believes that the current number of temporary LSRPs and the future number of permanently licensed LSRPs is and will be sufficient to oversee the remediation of the contaminated sites in New Jersey.

It is not possible to provide an estimate on the amount of funds needed for all of the 15,000 contaminated sites identified by the Department in need of remediation. The types of remediations ongoing in the State range from tank removals with no discharges of contaminants, to multi-acre industrial complexes with discharges from potentially dozens (even over 100) different areas of concern that have also impacted ground water, surface water, and sediment.

Assemblyman Singleton

- Please provide an overview of the air permitting program and the process by which air quality permits are reviewed and evaluated. Please provide a report on the number and status of all air quality permits — i.e., general, pre-construction, operating and others — applied for over the last several years and the backlog of permits in each of these categories.

Response: The bulk of delays is limited to one category of permits relating to permit renewals and minor modifications. Because these are renewals and modifications of existing permits, facilities are allowed to continue to operate. Compared with applications for new facilities, major modifications and large sources of emissions, renewals or minor modifications to existing permits are of lesser priority. The DEP Air Permit Program has been taking steps to address this backlog.

The Air Permitting Program regulates approximately 18,500 minor air permit facilities and another 280 major air permit facilities. General Permits have been developed for both major facilities and minor facilities and may be obtained via a registration process, with no review time. Last month, the Air Permitting Program made final decisions on 243 permit activities. Of those, 222 were completed on time and 21 were completed late, for an on-time percentage of 91 percent.

Note that for Title V operating permit renewals (major facilities), the facility is able to continue operation, including obtaining new and modified equipment, even while these renewals are under review. Permits to install new or modify existing equipment are given priority over renewals.

- Please provide a report comparing the cost of all environmental license and permit fees charged by the department with the amounts charged by neighboring states, specifically New York and Pennsylvania.

Response: Because of differences in how the various environmental programs in each state are operated and funded, an apples-to-apples comparison is impossible. Over the past twenty years, the New Jersey State Legislature has promoted a shift from financing
environmental protection programs from the General Fund to a fee-for-services basis. This does not appear to be the case in neighboring states.

In addition, to appropriately compare license and permit fees there should also be a comparison of the underlying statutes and the requirements of those statutes. For example, while all states have site remediation programs to oversee the cleanup of contaminated sites, neither New York nor Pennsylvania has enacted a law creating an LSRP program.

Such differences can be found in the requirements of many other environmental statutes. For example, a higher level of review (and the concomitant dedication of resources) is required for a permit application filed in New Jersey than for one filed in Pennsylvania. The Christie Administration was successful in its legal efforts to force the GenOn-operated coal-fired power plant in Portland, PA (across the Delaware River from Warren County) to dramatically reduce emissions of air pollutants that affected New Jersey residents. Because of our stringent air pollution control laws that protect public health, a plant that emits such high levels of pollutants would not have been allowed to operate at all in New Jersey.

Assemblyman Coutinho

- Please explain why the U.S. Environmental Protection Agency (EPA) is not accepting LSRP authority over cleanups.

Response: EPA is accepting LSRP authority over a majority of the cleanups overseen by LSRPs in New Jersey. EPA is not accepting solely LSRP oversight of cases being remediated pursuant to Federal statutes, namely the Resource Conservation and Recovery Act (RCRA) cases and Comprehensive Environmental Response, Compensation, and Liability Act (CERCA or, more commonly, Superfund) cases. These cases are remediated to the same standards as every other case in the state, but they have specific administrative and procedural requirements that are contained in Federal statute and regulation (for example, CERCLA statute and regulations specifically refer to “the State” as having a role in the program). EPA has accepted LSRP authority for cases that are remediated according to State law and is accepting LSRP-issued Response Action Outcomes (RAO) in the same way they have accepted State-issued No Further Action (NFA) letters in the past. This includes a RAO for federally regulated underground storage tanks that are related to federal funding that the State receives.

- What is the total amount of funding needed by the N.J. Environmental Infrastructure Trust to fully fund all environmental infrastructure projects in the State?

Response: Each year, the DEP, in consultation with the New Jersey Environmental Infrastructure Trust, issues the Intended Use Plans (IUP) as required by the Environmental Protection Agency. These IUP contains information about the proposed program parameters pertaining to the use of monies expected to be available separately to each, the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF) programs for the ensuing fiscal year.
DEP does not initiate the projects; they are initiated by various entities including but not limited to counties, municipalities and other utilities authorities. The IUPs represent a summary of the project prioritization methodology to be used by the DEP in the allocation of funds to project applicants for potential projects throughout New Jersey. Based on the IUPs, projects are ranked and annual legislation is created to appropriate the funds for those projects that have applied for funding. For example, based on the parameters and the allocation methodology in the IUPs for the past few years, the legislature appropriated the following net amounts for FY2010, 2011 and 2012 respectively; $2.034B, $821M, and $616M. Please note that some projects in the IUP are not ultimately funded in a particular year for various reasons such as a change in the applicant’s priorities or the applicant’s inability to meet the eligibility requirements of the program.

For more information regarding the NJEIT program please visit:
http://www.njeit.org/faqs.htm

Assemblyman Wimberly

- Will there be a plan or agreement with the U.S. Army Corps of Engineers to provide assistance to the State to raise the bridges in and around the City of Paterson due to flooding?

Response: The DEP is not aware of any request or plan being studied by the Army Corps. Any Paterson bridge-raising request would need to be presented to the Army Corps by our Congressional delegation.

- Are any funds available from the N.J. Office of Emergency Management (NJOEM) to cover the cost of supplies needed for floods and emergencies?

Response: NJOEM (under the State Police) advised the DEP that they do not provide such reimbursements, but they work with eligible applicants to identify projects that meet FEMA’s eligibility requirements. After those determinations are made and the various projects are written and approved, Federal monies are obligated and passed on to the applicants through NJOEM.

There was an initiative within the Citizen Corps program that deployed flood trailers to a limited number of municipalities in recent years. This deployment was not to “cover the costs” of municipalities, but instead to augment their ability to respond to a flood event.

Please feel free to contact me if you have any further questions.

Sincerely,

Bob Martin
Commissioner