

Discussion Points

1. In October, Super Storm Sandy caused unprecedented and widespread devastation to the State. Also, in the aftermath of the cleanup from the storm, millions of cubic yards of household, vegetative, and other debris needed to be removed and disposed of or recycled.

- **Question:** *Please explain and provide a breakdown of the cost and budgetary impact this event had upon DEP operations and with regard to the cleanup and repairs to damaged DEP facilities and to natural and other resources of the State (parks, forests, coastline, beaches, marinas, historic sites, dams, watersheds, shellfish beds, etc.).*

Answer: *Liberty State Park and Island Beach State Park suffered the greatest impact to the Department's facilities.*

Based on current estimates, there is \$66 million in repairs needed to Liberty State Park resulting from storm damage. These repairs include Ferry Slip restoration, repairs to the Terminal building, administration building, visitor's center, 911 memorial, restrooms, natural areas, beaches, trails and the nature center.

Island Beach State Park has an estimated \$21 million in needed repairs. The recovery efforts include the removal of storm debris and sand; multiple buildings and structures; sewer lines; bulkheads and docks; pavilions and walkways; and the rebuilding of the geo tubing and sand replenishment near Barnegat Inlet.

It is estimated that \$1.2 billion will be the cost to rebuild the State's beaches due to the significant erosion that occurred as a result of Super Storm Sandy. This erosion leaves our shore area vulnerable to future storms.

- **Question:** *To what extent were costs claimed and recovered from the Federal Emergency Management Agency (FEMA)?*

Answer: *The Department has submitted Project Worksheet to FEMA identifying the damages to its facilities resulting from Super Storm Sandy and to document our rebuilding costs.*

- **Question:** *What steps is the department taking to prepare for and deal with future weather-related catastrophes such as this?*

Answer: *The Department is working closely with the Governor's Office of Recovery and Rebuilding to provide resiliency and protection of the Department's property from future storm event.*

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It is New Jersey's expectation that US Army Corps of Engineers will construct all of NJ's beaches to the "design template", which will create a uniform coastal protection system for all of the State's beaches.

Additionally, the State is developing a program to buyout damaged homes utilizing federal hazard mitigation funding modeled after our current Blue Acres program.

Specifically, will the DEP be developing coastal plans and conducting vulnerability and coastal hazard assessments to prepare for future destructive weather-related events?

Answer: *The Department is evaluating our Coastal Zone Management regulations.*

Emergency Coastal Rule amendments are being reviewed to allow residents to rebuild and make changes. New General Permits are being considered to assist the aquaculture industry in their recovery, facilitate rehabilitation of existing marina facilities, create Living Shorelines and allow for towns to maintain engineered dunes and beaches.

Additionally, improvements of the Flood Hazard Area and Coastal Permit Program rules are being considered. This will provide for long term planning and resiliency in the coastal zone of the State. The Department is making coastal zone management funds available to communities for public access and resiliency planning.

What steps have been taken and remain to be taken to secure additional federal funds for these purposes?

Answer: *The Department is working with the Governor's Office of Rebuilding and Recovery to obtain New Jersey's share of the federal Super Storm Sandy supplemental appropriation bill passed by Congress. The Department will work with federal agencies such as NOAA, EPA, and Interior to identify funding. In addition, the Department is working with FEMA to obtain Hazard Mitigation Grant Program (HMGP) funding and with DCA regarding potential funding from the Community Development Block Grants – Disaster Recovery Program (CDBG-DR).*

Question: *Since the debris is subject to the State recycling tax once it is disposed as solid waste, how much in recycling taxes has been collected thus*

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far, and how much does the department estimate will be collected in total, and in which fiscal years, at completion of the cleanup?

Answer: Recycling taxes generate monies that are distributed to municipalities and counties for Tonnage Grants and County Planning Grants. Based on the tax information through December 31 an increase of approximately \$1 million was reported by the Division of Taxation for this tax quarter that may be attributable to the increased waste disposal from Super Storm Sandy. Regarding longer term collection of "recycling taxes", approximately 99% of debris, which was on public rights of way, has been removed, with very little remaining in temporary debris management areas. Accordingly we do not anticipate significant changes in recycling taxes collections going forward.

- ***Question:*** Are the estimates of the amount of solid waste caused by the storm accurately reflected in the evaluation data on Budget page D-126? If not, please provide revised evaluation data. Are the estimates of recycling tax revenue resulting from the storm accurately reflected in the revenue estimates for the Recycling Fund that appear on page 35 of Budget Supplementary Information? If not, please provide revised estimates of the fund's revenue for FY 2103 and FY 2014.

Answer: Yes. The evaluation data that was submitted for FY 2014 included estimates for Super Storm Sandy related solid waste and was based on FEMA estimates.

Recycling Tax revenue estimates reflected in the Budget's Supplementary Information did not include increases resulting from Super Storm Sandy related debris. Based on the last quarter's revenue collection and the information reported from the 5 counties, the Recycling Tax revenue estimates for FY 2013 should be increased to \$26 million and FY 2014 should remain at \$25 million.

2. Super Storm Sandy severely damaged wastewater treatment facilities in parts of the State. Notably, the Passaic Valley Sewerage Commission facility in Newark and the Middlesex County Utilities Authority facilities in Sayreville and Edison were completely flooded. Operators were forced to release raw or partially treated sewage into waterways. It appears that the releases of sewage were caused by a loss of power and by the overwhelming flooding of equipment.

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- **Question:** *What actions has the department taken thus far to respond to the infrastructure damage to the wastewater treatment plants and the environmental damage caused by the release of sewage?*

Answer: *The Department is responsible for the regulation of the wastewater treatment plants. The plants are owned and operated by independent authorities of the municipalities.*

In advance of the storm, on October 26th, the Department ordered the temporary closure of state waters to shellfish harvesting as a precaution due to expected heavy rainfall from Super Storm Sandy. During the storm, the Department reached out to 369 municipally owned and operated wastewater treatment facilities to determine impacts and offer assistance. Of those contacted 94 wastewater treatment plants in 21 counties reported impacts due to Super Storm Sandy. The Department's field personnel from various programs were dispatched to conduct on-site assessments and provide assistance to various wastewater treatment plants. At Passaic Valley Sewerage Commission (PVSC) and Middlesex County Utilities Authority (MCUA), enforcement inspectors were assigned full time to fulfill this role. At other facilities, field personnel assessed the situation daily and in some serious situations, multiple times each day.

Subsequent to the storm, the Department has continued to reach out to impacted facilities, working to expedite permits and treatment works approvals as well as enhancing communication of available information regarding FEMA and other sources of potential funding. In addition, regional roundtables of the wastewater systems were conducted to facilitate information-sharing between systems and to ensure the Department is informed of obstacles and issues related to the repair of the systems.

The Department, along with its internal and external partners, has continued to test waters at areas affected by the discharge of raw wastewater including those shellfish beds that were closed. On November 1st special water quality monitoring was initiated statewide and through this water quality monitoring, the Department was able to re-open sections of shellfish waters across the state. The Department has since resumed its National Shellfish Sanitation Program (NSSP) sampling.

Shellfish beds in the Little Egg Harbor section of Barnegat Bay reopened at sunrise today and beds in all of Raritan Bay will reopen at sunrise on April 15, 2013. With the resumption of shellfish harvesting in both areas, all of New Jersey's shellfish beds that were once closed as a result of Super Storm Sandy will return to the classifications they had before the storm hit.

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- **Question:** *To what degree are staffing and funding resources of the department being redirected to oversee the repair, rebuilding, future emergency planning, and construction for the damaged plants? What impact will the additional staffing and funding requirements have on the New Jersey Pollutant Discharge Elimination System program and other applicable environmental programs?*

Answer: *There will be no long term impact on the NJPDES program. Recovery and Rebuilding of our State is this administration's highest priority. Rebuilding New Jersey's infrastructure, including impacted wastewater treatment systems, pumping stations and associated sewer mains, is a priority for the Department. In the first month following the storm, the Department redirected approximately 30-40 staff from the Water Quality team and 150 staff from the Compliance and Enforcement team to assist local governments in the repairs of their infrastructure. Currently, we still have, on an as needed basis, approximately 15-20 staff from the Water Quality team and 35 staff from the Compliance and Enforcement team redirected to provide assistance to impacted wastewater systems, develop emergency planning and construction guidance, as well as assessing financial need and acting as a liaison for funding issues. We continue to have NJPDES staff assist NJPDES permittees with managing their treatment facilities. Remaining staff continue to handle new NJPDES permits on an ongoing basis.*

- **Question:** *Are any additional resources available in FY 2014 and beyond for the DEP to oversee the repair, address the long-term damage to the plants and environment, and provide for more effective emergency preparedness at these plants?*

Answer: *FEMA funding for rebuilding and recovery is available to the municipal owned treatment facilities. The Department will continue its oversight of the local governments rebuilding efforts.*

- **Question:** *In light of the fact that the law provides that fees for permits issued are based upon the cost of processing, monitoring, and administering the permitting program, does the department anticipate an increase in permit fees in FY 2014?*

Answer: *No increased fees are required by the Department to support its oversight of the local government's Super Storm Sandy recovery.*

Discussion Points (Cont'd)

3. The FY 2013 budget included an appropriation of \$2.125 million for "Public Facility Programming" to fund a Grants-in-Aid program to support State-owned or federal facilities of Statewide or national significance that have been operating with the help of non-profit organizations. The same amount is recommended for FY 2014.

- **Question:** *What is the current status of this program? How many grants have been awarded so far and for what amounts? To whom and for what purposes were the grants awarded? What amount, if any, of these grant funds remains? Will FY 2014 funding be allocated differently than FY 2013? If so, in what ways?*

Answer: *As of April 1st grants have been made to support the operating expenses at three historic sites. Morven and the Old Barracks received \$250,000 and \$450,000 respectively. The Battleship New Jersey has received \$600,000 to date.*

We expect a similar funding approach to be taken in FY 2014.

4. The State is almost out of money to fund and continue the acquisition and preservation of open space. Virtually all the funds remaining in the Green Acres and Blue Acres Program have been appropriated. According to NJ Keep It Green, a coalition of park and conservation advocates for establishing a dedicated preservation funding source, approximately one million acres (20 percent of the State) are still unprotected and developable.

- **Question:** *What is the current financial status of the Green Acres and Blue Acres Program and what are its spending projections during FY 2014?*

Answer: *In FY 2014 the Department anticipates having \$100 million to expend under the Green Acres/Blue Acres program. In addition, we expect to spend \$250 million in federal hazardous mitigation funding, modeled through our Coastal Blue Acres program, to buyout Super Storm Sandy damaged properties.*

- **Question:** *What is the department's preferred long-term dedicated funding source for continuing the Green Acres and Blue Acres Program? What is the estimated amount that would be appropriate to fund the program over the next five fiscal years?*

Answer: *The Department is working with the Governor's Office to review recommendations on open space financing.*

Discussion Points (Cont'd)

5. As of May 7, 2012, under the Site Remediation Reform Act, all remediations, with limited exceptions, in the State are to proceed under the supervision of a licensed site remediation professional without department approval to increase the pace of remediation, and thus decrease the threat of contamination to public health and the environment.

- **Question:** *Please provide an update on the current status of the site remediation program and its accomplishments thus far.*

Answer: *The Site Remediation Program's accomplishments and highlights under the SRRRA include the establishment of the SRPL Board on November 15, 2010; the issuance of 514 permanent LSRP licenses within the past year; the decrease of site remediation cases from about 20,000 in 2009 to about 14,300 as of the end of March; and the handling of 9,844 cases by LSRPs instead of DEP staff. Under the LSRP program, the entire process from the point at which a case comes into the system until the issuance of a Response Action Outcome (RAO) averages 299 days. This is a significant improvement to the old methodology of case management.*

- **Question:** *What impact did this change have on the department's resources, staff, and budget?*

Answer: *The LSRP program has allowed the Site Remediation Program to allocate staff to compliance assistance and enforcement, as well as other programs, to support the goals and priorities of the Department.*

6. The federal Budget Control Act mandates across-the-board reductions to mandatory and discretionary programs that could affect the department's programs and services, many of which are federally-funded.

- **Question:** *If the reduction in federal funds occurs, how will this affect the department and its constituencies? What measures could and would the department take to close the funding gap? Would any programs and services be reduced or eliminated?*

Answer: *No programs or services will be reduced or eliminated. Based on our preliminary estimates the reductions represent approximately \$3 million in program related funding (salaries and operating support) for all federally supported programs (\$58 million).*

Discussion Points (Cont'd)

7. Enacted in January 2011, P.L.2010, c.112 regulated the sale of certain fertilizer containing phosphorus and nitrogen, established standards for the application of fertilizer to turf, established penalties for violations of certain provisions, and directed the New Jersey Agricultural Experiment Station (NJAES) at Rutgers, in consultation with the DEP, to develop and operate training and certification programs for professional fertilizer applicators. The NJAES was also authorized to establish and charge participant fees for training and certification programs in order to cover administrative expenses incurred in managing the programs, and develop a public information program concerning fertilizer usage and issues.

- **Question:** *What were the first-year start-up costs of the training and certification programs, and were they significantly greater than the fees collected in the first year of the programs?*

Answer: *The cost was not greater than the fees collected. The startup costs for the first year of the fertilizer certification program managed by Rutgers was \$138,750. Fees generated from the first year were \$145,750. The fee is \$75 to become certified as a fertilizer applicator. The fee is \$25 for a trained applicator working for a certified applicator. Annual renewal fees are \$25 for both certified applicators and trained applicators.*

- **Question:** *Since taking effect, are the training and certification fees collected by the NJAES adequately covering the program costs and are they expected to cover the costs in the near future?*

Answer: *It is anticipated that the cost of the fertilizer certification program managed by Rutgers will cost approximately \$160,000 to run in the second year. This is due to the required additional continuing education programs that will be implemented. If annual renewal fees do not cover the additional program needs, Rutgers anticipates a fee increase in order to operate the program.*

- **Question:** *What are the costs associated with the development of the public education program and what are the ongoing costs?*

Answer: *The Department developed information flyers, stickers, issued letters to people holding pesticide licenses, Public service announcements and web based information. The total cost for the mailing/letters, flyers and stickers was \$6,130. Web support, attendance and distribution at events and public service announcements were done internally. The Department is requesting a budget of \$7,500 to continue to support outreach.*

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- **Question:** *Have any penalties for violations been assessed yet? If so, how many and in what amount? What amount has been collected?*

Answer: *The fertilizer law directs enforcement authority, action and penalties to municipalities and Soil Conservation Districts. The Department has no information on compliance, enforcement or penalties that may have been assessed.*

8. The Electronic Waste Management Act, as of January 1, 2011, banned the disposal of televisions and all personal and portable computers in the regular waste stream and required that they be recycled.

- **Question:** *How much electronic waste has been recycled thus far, and how much is expected to be recycled through the end of this fiscal year and next fiscal year?*

Answer: *The program runs by law on a calendar year basis. For calendar years 2011 and 2012 combined, approximately 86 million pounds of covered electronic devices were collected under the manufacturers' financed programs. It is anticipated that at least this amount will be collected in calendar years 2013 and 2014.*

- **Question:** *What costs has the department incurred in administering the program and have the registration fees collected been sufficient to cover those costs? What costs, if any, have decreased or been eliminated by the act?*

Answer: *The department has incurred approximately \$900,000 in costs since the inception of the program. Registration fees have been sufficient to cover these costs (approximately \$1.4 million collected to date). In as much as the Act requires covered electronic device manufacturers to incur the costs for collection and recycling of these items, previous costs incurred by municipalities and counties for collecting and recycling these items prior to the Act have been eliminated. Specifically, prior to the Act, public entities were paying approximately \$.20/pound to recycle these items. These costs are now being covered by the manufacturers.*

- **Question:** *Has the department received any revenue from the increased penalties that the act provides? If so, how much?*

Answer: *At this time the Department has not received any revenue from increased penalties. The Department continues to do inspections and is focused on compliance assistance with the recyclers.*

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9. Newly recommended budget language on page D-125 of the FY 2014 Budget would appropriate \$2,032,000 from the State Recycling Fund to support the Office of Sustainability and Green Energy, subject to the approval of the State budget director. No legislative approval of this appropriation would be required under this language.

- **Question:** *Please explain the impact on the State Recycling Fund and its statutory purposes from this proposed transfer. Why are other State funds not being used to support this office?*

Answer: *The requested appropriation is \$120,000 less than the FY 2013 amount. This transfer of funding did not have a negative impact on the Fund last year and there will be no negative impact in FY 2014.*

10. General provision language appropriates \$21.6 million from the State Recycling Fund to the General Fund for revenue. This reflects an increase of \$1.6 million over a FY 2012 appropriation from the fund for the same purpose.

- **Question:** *Please explain the impact on the State Recycling Fund and its statutory purposes from this proposed transfer.*

Answer: *This transfer of appropriation will not result in a reduction or elimination of local government grant funding.*

11. General provision language appropriates \$5 million from the Sanitary Landfill Facility Contingency Fund to the General Fund for revenue. This reflects a decrease of \$5 million from the FY 2013 appropriation from the fund for the same purpose.

- **Question:** *Please explain the impact on the Sanitary Landfill Facility Contingency Fund and its statutory purposes from this proposed transfer.*

Answer: *Based on historical spending, the remaining balance will be sufficient and there will be no negative impact on the Sanitary Landfill Facility Contingency Fund.*

12. As of May 3, 2011, the New Jersey Economic Development Authority (EDA) stopped accepting new applications for the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Program for non-leaking tanks. For the leaking tank program, the DEP is continuing to accept new applications and is holding them until sufficient funds become available.

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- **Question:** *What is the current status of each program? How many applications are pending and what is the total dollar value of the applications for each program? What is the cash balance in the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund?*

Answer: For the Non-Leaking Tank Program there is only one application pending with EDA in the amount of \$3,500.

For the Leaking Tank Program a total of 1,927 applications are pending, with a total value of \$49,738,000. Typically applications are funded on a first come first serve basis with the exception of statutory priorities.

There is \$9.6 million available in EDA's Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund.

- **Question:** *Please provide a breakdown of how much money will be available to businesses, homeowners, and municipalities for FY 2014 for the leaking and non-leaking tank programs.*

Answer: The FY 2014 funding that is being provided to the UST Fund Program is approximately \$11.1 million. The constitutionally dedicated annual funding is calculated based on a percentage of the State's Corporate Business Tax revenue.

- **Question:** *When will the department and EDA actually start releasing the money? When will new applications start being processed for both programs? When does the department expect it will have sufficient funds to fully fund the programs?*

Answer: The Department and EDA will continue to fund the environmental exigency of leaking underground tanks until all pending applications are processed and no backlog exists. At that point, the non-leaking tanks will be considered.

13. In September 2011, the DEP and Mercer County agreed to a joint, cost-shared project to preserve and restore the Petty's Run archaeological site in Trenton, and to create a historical interpretive center at the site. The agreement calls for the State to contribute \$800,000 to create and maintain an interpretive site, plus an estimated \$300,000 for maintenance and upkeep over a 10-year period.

- **Question:** *What is the current status of the project? Is it within budget and on schedule for completion and opening to the public?*

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Answer: *The project is in its final stage of completion. It's within the budgeted amount as agreed upon between the Department and Mercer County. Opening to the public is planned for May 2013 in conjunction with NJ Historic Preservation Month.*

- **Question:** *Will the State be spending any more money on the project over what is stated in the agreement with Mercer County?*

Answer: *No additional funds will be expended by the Department or Mercer County as stated in the agreement.*

14. The southern pine beetle still remains a significant threat in New Jersey, especially within the Pinelands National Reserve. According to the DEP, in 2012, pine beetle infestations claimed 6,200 acres, bringing the total number of acres affected in New Jersey to 27,000 since 2010.

- **Question:** *How successful has the DEP's Southern Pine Beetle Suppression program been so far in containing and eliminating this destructive insect? What resources and funding will be utilized in the next fiscal year to support the program?*

Answer: *The trend has shown that since 2010, the amount of acreage affected by the SPB has been declining, going from 14,154 acres affected in FY 2010 to 6,260 acres affected in FY 2012. The Department's efforts have been successful in reducing the spread of the SPB.*

Routine air reconnaissance missions are conducted and as sites are discovered, we evaluate, prioritize and suppress as needed. The state undertook mitigation efforts on hundreds of acres of state agency lands, with these efforts being funded thru state and federal resources.

The Department anticipates in FY 2014, continuing to utilize the same funding resource pool and federal grant opportunities.

- **Question:** *For FY 2014, what types of assistance and financial resources will be made available to help local governments and private property owners combat the pine beetle?*

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Answer: *The Department passes through federal assistance to municipalities and homeowners through federal grant opportunities for qualified applicants from the following three sources:*

- *Forest Health SPB – homeowners with five (5) acres or more*
- *SPB Wildfire Fuels Management – municipalities/counties/homeowner associations/non-profits*
- *Community Forest SPB – municipalities/counties*

The Department has \$315,000 in federal grant funding to award to local governments in FY 2013 and plans to continue the same level of assistance in FY 2014.

15. The New Jersey Constitution dedicates four percent of the revenue derived from the Corporation Business Tax (CBT) for certain specified purposes within the Department of Environmental Protection, such as recreational land development and conservation, water resources monitoring and planning, and pollution remediation. The FY2013 appropriations act appropriated \$112.3 million for these constitutionally dedicated purposes. In the Governor's Budget Message, the FY 2013 estimate for the CBT was reduced from \$2.566 billion to \$2.232 billion (13%) and the projected FY 2013 lapse list includes \$19.966 million from these accounts. The GBM also includes a 17% reduction in the FY 2013 casino revenue forecast, yet there are no corresponding lapses being taken from programs supported by the constitutionally-dedicated Casino Revenue Fund. In prior fiscal years, when the forecast for the gross income tax was revised downward, General Fund money was shifted over to support appropriations that were originally made from the constitutionally-dedicated Property Tax Relief Fund.

- **Question:** *Are the programs supported by the CBT dedication not of sufficient importance as to warrant funding from other sources when the CBT dips? Does the pattern of spending only what is required by the Constitution suggest that absent this dedication the State would opt to spend less on these programs than it does?*

Answer: *The reduction in the Department's Corporate Business Tax allocations is based on the projections of the overall declining revenue. The programs supported by the Department's CBT dedication are important; however the reductions to appropriations are not expected to have a significant impact.*