

Budget Testimony of
Secretary Michael Krancer
Department of Environmental Protection
Governor's Proposed 2013-2014 General Fund Budget
Senate Appropriations Budget Hearing: February 21, 2013

Chairman Corman, Chairman Hughes and members of the committee, thank you for the opportunity to discuss Governor Tom Corbett's 2013-2014 Executive Budget for the Department of Environmental Protection. Joining me today are Jeffrey M. Logan, Executive Deputy Secretary for Administration and Management, and Dana Aunkst, Deputy Secretary for Field Operations.

DEP is proud to be an active partner in delivering on Governor Corbett's promise to make state government more efficient and customer-service-oriented and get DEP back to its core function of protecting public health and the environment. This is Governor Corbett's third consecutive budget requiring no furloughs at DEP - a marked distinction from the prior administration.

Let me now summarize briefly some of the things we have been doing at DEP since I appeared before this Committee about one year ago. The Department has accomplished many objectives that have been in line with the Governor's and my vision of getting DEP back to its core mission of protecting the environment.

Of the many tasks we have successfully undertaken this past year, I would like to take this opportunity to mention only a few, including:

- Permit Review Process and Permit Decision Guarantee
- Southeastern Pennsylvania Refineries

- Act 13's Natural Gas Vehicles Grant Program
- Acid Mine Drainage Initiative and Success Stories
- Susquehanna River Study Efforts
- Homer City Generating Station Permitting
- Oil and Gas Program Electronic Permitting
- Air General Permit 5 and Air Emissions Statewide
- Recommended Delisting Presque Isle Bay from the List of Great Lakes "Areas of Concern"
- Elimination of Redundancies
- West Nile Virus - Record Acreage
- Public Outreach and Compliance Assistance Webinars

Permit Review Process and Permit Decision Guarantee

On July 24, 2012, Gov. Corbett issued Executive Order 2012-11, which fulfilled his promise to direct DEP to establish a program aimed at assuring predictability and efficiency in environmental permit submissions and reviews. In November 2012, DEP implemented its Permit Decision Guarantee process.

Just the other day, the Department of Environmental Protection released the results of the first of four quarterly reports detailing progress under the new Permit Review Process and Permit Decision Guarantee policy. The early results are nothing short of stunning. The early overall data show that DEP has increased its permit review efficiency by 74 percent in the Mining programs; 68 percent in the Water programs; 67 percent in Waste, Air, Radiation and Remediation; and 19 percent in Oil and Gas. The agency has provided permit applicants with decisions within the targeted timeframes nearly 98 percent of the time and has reduced the permit application backlog by about 40 percent.

DEP's Permit Decision Guarantee Program has only been up and running for a short while, but thanks is due to both DEP staff and the regulated community for responding like champions to make this a resounding success for all Pennsylvanians right out of the chute.

The new process aims to eliminate what had become an inefficient process of "back and forth." Before the new policy, about 40 percent of permit applications came in the door with substantial deficiencies that prevented timely review.

We have accomplished quite a paradigm shift. Under Governor Corbett's and DEP's initiative, less than one and a half percent of applications have been in that category. This allows DEP

permit reviewers to focus on their core functions of protecting the environment and public health and safety.

We all know that it is still early, and we all need to keep up our efforts and our focus to continue this tremendous momentum.

Southeastern Pennsylvania Refineries

Governor Corbett and our administration focused on saving three oil refineries in the Southeastern part of our state. All three were declared dead suddenly and at the same time and along with them, tens of thousands of local jobs and a way of life in the Delaware Valley. This also presented a real threat to our nation's security in our own ability to refine oil on shore. Today, through Governor Corbett's and DEP's leadership and bipartisan work between federal, state and local officials, as well as labor and management, we were able to attract private sector investments that have provided solutions to save the refineries and to protect the environment. Two refineries are already up and running and the third facility is being used to receive natural gas liquid fractions from the Western part of our state.

As I just alluded to, this pro-growth approach brought to bear by Governor Corbett and our administration created tremendous and unprecedented alliances. Our successful mutual efforts have been so estimable that the matter has been the focus of at least two case studies, one in the media and another from the Temple University Center on Regional Politics.¹ The theme of both studies was how well government can work when it works well, and to record the events for posterity so our success can be replicated elsewhere. As we saw at the Governor's recent Budget address we were joined by, among others, representatives of: the Carlyle Group, the private investment firm which is partnering with Energy Transfer Partners to operate and re-invent the former Sunoco refinery in Philadelphia; Braskem America, a petro-chemical company customer of the refinery headquartered in Philadelphia; Delta Airlines' Monroe Energy, who bought, and is now operating, the former Conoco-Phillips refinery in Trainer, Delaware County; and workers from the United Steel Workers. When it comes to the economic growth potential to Americans provided by our own domestic natural gas and energy resources, our workers get it.

Ultimately, overall emissions from these facilities will be lower through, among other things, the use of lower sulfur Bakken Crude oil from North Dakota, which is extracted by horizontal drilling and hydraulic fracturing, and the use of Pennsylvania natural gas for on-site power generation.

¹ Temple Center For Regional Politics, Patrick Kerkstra, *Taking Care of Our Own: How Democrats, Republicans, Business and Labor Saved Thousands of Jobs and Our Refineries*, December, 2012. (http://www.cla.temple.edu/corp/user_documents/RefineryStoryereadingcopy.pdf); Oil and Gas Investment Bulletin, August 20, 2012, *How a U.S. Oil Refinery Got Saved—and A Supply Shut-Down Averted* (<http://oilandgas-investments.com/2012/top-stories/oil-refinery-us/>)

Natural Gas Vehicles

In addition to the environmental and health benefits as a power generation source, natural gas could provide tremendous environmental and health benefits, as well as economic benefits through use as a transportation fuel.

Perhaps no program in a generation has created more public interest than Act 13's Natural Gas Vehicle program. Through the wisdom and foresight of the Governor and a bipartisan swath of the Legislature, Act 13 provides \$20 million from impact fee revenues to be used over the next three years to assist with the cost of buying or converting to natural gas-powered vehicles, providing for cleaner air and less exposure to volatile oil markets. DEP partnered with regional organizations and companies to introduce the concept of natural gas as a transportation fuel, and our agency's outreach program of webinars and seminars on this topic were all packed to capacity. We reached more than 2,000 individuals and entities at seminars statewide and hundreds more at other events.

There are currently 84 applications pending for the first grant round, which will be awarded in late March. The second grant round will open in mid-July and close in mid-September, which will allow applicants time to further develop partnerships with potential fueling infrastructure investors.

DEP will also be expanding the Alternative Fuel Incentive Grant (AFIG) program grant this spring to cover natural gas conversion of smaller light duty trucks. This is an important part of the on-road vehicle market. This round of grants would also cover natural gas fueling opportunities for off-road transportation vehicles, such as trains and tug boats.

DEP is also partnering with the Delaware Valley Regional Planning Commission, PECO and Philadelphia Clean Cities to launch a large-scale education outreach program to municipalities in Southeast Pennsylvania.

DEP believes that it is important for a state agency such as ours to do our part to deploy natural gas vehicles in our own fleet. We are practicing what we preach. We are currently working with the Department of General Services to secure vehicles for the North-central regional office in Williamsport, Lycoming County, and Southeast regional office in Norristown, Montgomery County. There are a number of refueling opportunities in place in the North-central service area—the Endless Mountains Natural Gas (AFIG-funded) Infrastructure project to be completed this spring; River Valley Transit Station (AFIG-funded) Natural Gas Infrastructure project to be completed at the end of the year; and two refueling stations in State College, Centre County. In the Southeast, there are fueling opportunities in Montgomery County's King of Prussia and Plymouth Meeting, with eight current refueling options and several more in the works.

Additional initiatives by DEP to promote natural gas as a transportation fuel include permit exemption for natural gas vehicle fueling stations; mapping the location of all natural gas fueling stations; completion of a Comprehensive Energy Analysis and Pennsylvania's Energy Plan to highlight the use of natural gas for transportation; modifying the State Energy Plan grant to allow

for more flexibility to fund alternative uses for natural gas; and the inclusion of natural gas vehicle information in our K-12 energy education efforts.

Acid Mine Drainage Success Stories:

In 2011, the Governor's Marcellus Shale Advisory Commission included among its recommendations encouraging the use of non-freshwater sources in drilling operations. DEP went right to work on that recommendation. In January 2013, DEP released its "white paper" on the use of Acid Mine Drainage (AMD) water in hydraulic fracturing.

We know very well in Pennsylvania that acid mine drainage is one of our biggest environmental challenges. This initiative, which combines remediating abandoned mine water with responsible extraction of our natural gas resources, is a win for everyone involved. Our agency developed the white paper after discussing throughout 2012 a draft version with stakeholder groups from across the state. I am happy to report that Senator Kasunic's bill, pending in the Senate, advances our shared interest in using AMD for hydraulic fracturing and DEP supports that legislation.

I would also like to discuss two "on the ground" success stories where this administration championed partnerships with the mining industry to treat AMD, that will result in miles of clean streams and jobs for our coal industry workers:

St. Michael's Discharge:

DEP signed a consent order and agreement with Rosebud Mining Co. that will allow the company to access substantial coal reserves, while at the same time significantly reduce acid mine drainage to the Little Conemaugh River. The St. Michael discharge just north of Johnstown, Cambria County, contributes nearly 30 percent of the AMD in the Little Conemaugh.

Under the agreement, Rosebud Mining Co. will fully fund and construct a \$15 million water treatment facility, which is already under construction and due to go on line in May. In addition, Rosebud will pay treatment expenses during the time of active mining at the St. Michael shaft, a mine that was abandoned in 1963 and constitutes the largest single source of AMD pollution on the Little Conemaugh River. As they dewater the mine and treat the water, a large coal seam will be opened up and mined. The company estimates it will be mining that seam for about 20 years.

Rosebud will also contribute \$35 million for the benefit of establishing a fully funded AMD perpetual treatment trust fund.

This was a ground breaking agreement for a National Pollutant Discharge Elimination System (NPDES) permit—the first mining permit issued in Pennsylvania to include specific language requiring a company to document the meeting of goals by addressing other discharges in the area, as well as the St. Michael's discharge. In other words, this settlement, through an off-set approach, unlocks environmental benefits that had heretofore been unattainable. The agreement

is also the first to provide a methodology for calculating and reporting acid mine drainage load reductions on the river.

Amfire:

In Portage Township, Cambria County, lies the Hughes Borehole, which contributes an average of 800 gallons per minute of acid mine drainage into the Little Conemaugh.

As a result of a proposed consent order and agreement, in return for a \$5.6 million contribution to a trust fund, Amfire Mining will be granted access to substantial additional reserves that were originally deleted from their mining permit, and will be permitted mine for metallurgic coal in the Upper Freeport coal seam in Cresson Township, Cambria County. That will be used to address AMD discharges in the watershed, including the Hughes Borehole.

DEP needed Amfire to demonstrate that additional mining at the Cresson Mine would not increase the discharge from the abandoned Hughes No. 2 mine. A notice of a 30-day public comment period on the proposed consent order and agreement appeared in the Jan. 26 *Pennsylvania Bulletin*.

The company is also proposing to open a new underground mine in South Mahoning and West Mahoning townships in Indiana County. The plan is to use room-and-pillar mining to extract coal from the site, which would cover 62 surface acres. The company would construct a coal stockpile, equipment storage area, water treatment system, sediment ponds, ventilation fan, bathhouse and mine office.

Amfire has been working with DEP on discharges. The proposed Ainsley Mine is located within the Little Mahoning Creek, which is in a special protection watershed. DEP has approved the company to pump its discharges to a second treatment system in a non-protection watershed about two miles away from the mine. The company estimates the mine could be in operation for as long as 30 years.

Susquehanna River Study

The Susquehanna River Basin Commission's (SRBC) "State of the River" Report issued on Feb. 13, 2013, states, among other things, that:

- The overall health of the Susquehanna River Basin continues to improve;
- Nutrient and sediment monitoring data indicate the overall health of the Susquehanna River Basin is continuing to improve;
- Of the more than 49,000 miles of rivers and streams in the basin, less than 14 percent are impaired for aquatic life uses. That is an impressive statistic for a watershed as large as the Susquehanna basin, according to Paul Swartz, Executive Director of the SRBC.

- “With efforts such as the Commission’s policy incentivizing the reuse of mine drainage and other lesser quality waters, the SRBC is encouraged that there will be additional improvements in the future.”

That being said, the SRBC also notes that the incidence of disease in the smallmouth bass population, particularly in the lower Susquehanna region, continues to increase but, importantly, the SRBC adds that the cause is “due to yet unknown sources.”

DEP has been and will continue to hit that question head on. DEP takes the concerns expressed about the Susquehanna’s smallmouth bass population very seriously, and we are doing something about it. Within the Susquehanna River, this condition has appeared in a few tributaries and the impact is limited to smallmouth bass. As the SRBC correctly notes, the actual cause of the issues with the smallmouth bass has not yet been determined nor linked to any particular water quality issue.

DEP’s scientists agree that there does not appear to be any demonstrated cause and effect between water quality and the young-of-year die-offs. Our scientists also tell me that no cause and effect can be established right now between water quality and the tumors and lesions found on adult bass. It is not at this point clear how prevalent the tumors and inter-sex conditions are throughout the river, or if those conditions are related to the young-of-year die-offs.

But DEP is dedicated to finding the answer through a disciplined scientific approach, and we will not rest until we have the answer.

We will be taking, separately, a comprehensive and strategic approach to ensure that the Susquehanna River is protected. DEP will be working with our partners who include, among others, the Pennsylvania Fish and Boat Commission and the U.S. Geological Survey to ensure water quality and aquatic life are being protected in the Susquehanna River.

DEP’s work in this area has been underway for some time. Last summer, agency staff spent 187 combined days on the river, collecting hundreds of samples to characterize the water quality in the Susquehanna and its many tributaries. Samples collected included fish, macroinvertebrates, algae, chemistry and data on the river’s dissolved oxygen, pH and temperature.

DEP will keep up its efforts. We will continue sampling at 30 locations throughout the Susquehanna River basin to develop a very comprehensive set of data. We will continue to look at water quality issues facing the river, such as pesticide runoff; hormone-disrupting compounds; and nutrients, such as phosphorus and nitrogen.

DEP will also continue to consult with Dr. Hunter Carrick of Central Michigan University, a respected algal expert, and Dr. Vicki Blazer of the U.S. Geological Survey, a respected fish pathologist.

In addition, DEP has designated a veteran staffer who will serve as Susquehanna River Coordinator to ensure the continuing attention and focus of our efforts and that such

investigation continues to adhere to the standards of scientific rigor.

Homer City Generating Station Permitting

The owners of the Homer City Generating Station in Indiana County employ 265 workers and support several hundred more area jobs in mining, trucking and equipment manufacturing. The plant was in imminent danger of being shuttered when the owners approached DEP and told us that they would be interested in making a more than \$750 million investment to retrofit the plant with pollution control equipment.

Time was of the essence. The owners had a very tight permitting and construction schedule to save the plant that allowed less than a year to prepare the designs, obtain the appropriate permits, get the financial arrangements in place and start construction prior to the closing scheduled for October 2012. The retrofit of new pollution control equipment would require complex new environmental permitting to be done.

The prospect of saving direct and indirect jobs; creating at least 600 new jobs for the retrofit construction project; and at the same time, having pollution control equipment installed on one of the largest power generating stations in the commonwealth, resulting in a reduction of SO₂ emissions from the station by 90 percent or 100,000 tons a year, presented a win-win situation. Suffice it to say that DEP was excited by the prospect and, at the same time, sobered by the task of completing this complex permit review process in a timely manner.

DEP formed an “A-team” of technical and legal staff that held regular status conferences with the plant owners to keep the project on schedule and assure all environmental regulations were met.

The complex Air Quality Plan Approval permit applications were submitted, reviewed and with an extensive public participation process, approved within six months. DEP handled, in a similarly efficient manner, the various other permit applications and approvals that were required for the project.

As of January 2013, this major project is now under construction—saving jobs, creating new jobs and resulting in environmental and health benefits.

Oil and Gas Electronic Permitting

DEP has developed the Oil and Gas Electronic Well Permit (eWell Permit), which will encompass electronic submission of oil and gas well permit applications; facilitate permit review and authorizations; integrate data with enterprise systems; and allow permit status tracking. This new tool will result in accelerated permit processing time, a higher level of data accuracy, reduced data entry workload and higher customer satisfaction, all with greater transparency of DEP processes.

Air General Permit 5 and Air Emissions

DEP, with participation from all stakeholders, has established a comprehensive air general permit for use only by facilities that are below the major source emissions thresholds. The new revised general permit, known as “GP-5,” allows owners and operators of these non-major sources that meet certain conditions to obtain necessary permits for construction and operation in an efficient manner. The use of a general permit for these smaller emissions sources allows department permitting staff more time to focus on larger and more complex permitting efforts. In addition, this will facilitate the environmentally responsible hand-off of natural gas from the well-head into transmission and processing operations, so that our abundant and clean-burning natural gas resources can be brought to market for use by the end customer.

The new GP-5 contains significantly lower allowable emission limits than the previous version of the GP-5. The new GP-5 is also unique in that it provides an incentive to operators to develop lower emitting equipment to maximize the amount of gas processed at a facility. Furthermore, it allows operators to maximize efficiency and ultimately reduce the cumulative emissions associated with gas transmission and processing because fewer facilities will be necessary, which will result in lower emissions per unit of gas processed.

Overall, air emissions across the state have declined substantially. SO₂ emissions have declined about 59 percent, due in no small part to the increasing use of natural gas as a fuel for electricity generation. We just saw a few days ago, with the release of the Rand Corp. report and the release of DEP’s first air emissions inventory from the unconventional drilling industry, that air emissions from this sector represent only a small fraction of overall air emissions in the state. The data from our air emissions inventory for the unconventional natural gas sector, which includes natural gas production and processing, as well as compressor stations, is stunning. That sector accounts for only 8 percent of all CO emissions; 8.6 percent of NO_x emissions; 2.5 percent of particulate emissions; 0.03 percent of SO_x emissions; and 13 percent of VOC emissions. Largely due to use of natural gas as a fuel for electricity generation, overall SO₂ emissions have decreased 59 percent in our state since 2008. Using EPA’s methodology from its recent Utility MACT Rule, that translates into \$14 billion to \$37 billion in public health benefits.

This is separate and apart from the carbon emissions reductions, associated with using natural gas in the utility sector, that have been realized in the United States. The world has taken notice. In fact, the International Business Times Green Economy Section ran a story on June 20, 2012, headlined: “*U.S. Carbon Emissions Down More Than Any Other Country*” and the Vancouver Observer ran a story on June 4, 2012, headlined: “*Climate Stunner: USA Leads World In CO₂ Cuts Since 2006.*”

This trend is just at the beginning. In fact, DEP is aware of at least nine proposed gas-fired power plants in the queue for coming on line in Pennsylvania. These plants together would represent more than 7,000 MW of generating capacity.

DEP Recommended Delisting of Presque Isle Bay as an Area of Concern

Based on the tremendous progress that has been made over the last 20 or more years to improve the quality of Presque Isle Bay, DEP at the end of last year officially requested that the

Environmental Protection Agency and the Department of State remove Presque Isle Bay from the list of Great Lakes Areas of Concern (AOC). In other words, DEP has found that the Bay is healthy and should be removed from the EPA's "watch list" of impaired waters. If approved by both EPA and the U.S. Department of State, this would be only the second American AOC taken off the list of environmentally impaired sites identified under the Great Lakes Water Quality Agreement.

The proposed delisting is the result of years of work and collaboration among federal, state and local government agencies, universities, researchers and citizens. Reduction in contaminants entering the Bay were accomplished by, among other things, the City of Erie's upgrades to its wastewater treatment, collection and conveyance system; reduction in combined sewer overflows within the bay's watershed; and regulation of pollutant discharges. These actions translated into the bay becoming the first American AOC to be designated in the Recovery Stage in 2002, with the restrictions on dredging impairment having been removed in 2007.

In making its recommendation to delist, DEP consulted with the Presque Isle Bay Public Advisory Committee and determined that the goal of the AOC program, to improve environmental conditions so they are equal to other non-AOC locations elsewhere in the Great Lakes, had been met.

In early January 2013, EPA approved the delisting and recommended to the Department of State that it do the same. I am delighted to inform the Committee that the "breaking news" is that by letter dated Feb. 13, 2013 the Department of State has concurred with EPA's recommendation.

This is truly an historic success story for the City of Erie and its economy, and it demonstrates how government and the public can work together to accomplish environmental protection and restoration.

Elimination of Redundancies

In the first 90 days of the administration, DEP reviewed more than 5,500 pages of environmental regulations and 530 technical guidance documents for necessity, clarity, administrative efficiency, economic competitiveness and federal statutory consistency. Through this evaluation, DEP identified 12 regulatory packages for potential revision and action, including the repeal of three regulations. In addition, DEP identified 82 policies needing revision and 22 policies needing complete rescission. We continue to make progress on this task and, to date, DEP has repealed three regulations, rescinded 30 policy documents, withdrawn 16 proposed policy documents and revised 41 policies. DEP has eliminated a total of 320 pages of unnecessary policies and regulations.

West Nile Virus - Record Acreage

In 2013, DEP treated more than 93,000 acres to control West Nile Virus, a one-year record.

Public Outreach and Compliance Assistance Webinars

DEP, as with most regulatory agencies, can find it challenging to provide cost-effective compliance assistance to a wide-ranging audience on the myriad of environmental topics our agency handles. In-person meetings typically require travel for both presenters and attendees. In addition, holding in-person training requires time away from the office and other duties. In late 2011, DEP began conducting web-based seminars, or webinars, on a variety of topics. The online sessions allow staff to explain changes to programs or regulations and provide participants the chance to ask specific questions directly of staff. The webinars have proven popular, and on several occasions, we have reached our online capacity.

Just last month, participation in DEP-sponsored webinars topped 5,032 people in January 2013, not including statistics on internal webinars for staff. Broken down by category, 4,350 people attended compliance assistance-related webinars and 682 participated in general education webinars. Since December 2011, 2,729 people have participated in oil and gas-related webinars.

Conclusion and Invitation for Questions

Chairman Corman, Chairman Hughes and members of the committee, I greatly appreciate your time and consideration today. I would be happy to answer any questions that you may have for me.