

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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B E F O R E: COSTA G. CONSTANTINIDES
Chairperson

COUNCIL MEMBERS: Stephen T. Levin
Rory I. Lancman
Donovan J. Richards
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A P P E A R A N C E S (CONTINUED)

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NYC Department of Environmental Protection

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[sound check, pause] [gavel]

CHAIRPERSON CONSTANTINIDES: Alright, we had a little difficulty finding an attorney, but now we have one. [laughs] Thank you, thank you, sir. Good morning. I am—good morning, everyone. I am Costa Constantinides Chair of the Committee on Environmental Protection, and today this committee will address the Mayor's Fiscal 2018 Preliminary Budget for the Department of Environmental Protection. The department—the department's proposed Fiscal 2018 Expense Budget totals \$1.2 billion, which is \$232.5 million less than the Fiscal 2017 Adopted Budget. DEP's proposed Capital Commitment Plan for Fiscal 2017 through Fiscal 2020 includes \$11.6 billion, which is \$815 million more than the Fiscal 2017 Adopted Budget, an increase of 7.5% since the last budget adoption. The committee looks forward to hearing testimony on several important issues including the agency's work to reduce flooding and combined overflows, an update on City Water Tunnel No. 3, an overview of the Four-Year Capital Plan and Ten-Year Capital Strategy, and the agency performance in the Preliminary Mayor's Management Report. Acting Commissioner Vincent Sapienza of the Department of

Environmental Protection will be providing testimony today. Before we hear from the Acting Commissioner, I want to thank all of the committee staff and--and especially down here [laughs] for filling and--and Bill Murray and John Seltzer as well, and my staff for putting together today's hearing. With that I will swear in the witnesses and begin testimony.

LEGAL COUNSEL: Do you swear or affirm to tell the truth, the whole truth and nothing but the truth in testimony today?

COMMISSIONER SAPIENZA: Yes. [pause] Okay, beginning with our prepared statement. So good morning Chairman Constantinides and members. I am Vincent Sapienza the Acting Commissioner of the New York City Department of Environmental Protection, and with me today is our Chief Financial Officer Joe Murin, Deputy Commissioner for Public Affairs Eric Landau, and we have other members of the Senior DEP team here as well. Thank you for the opportunity to testify on DEP's Fiscal Year 2018 Preliminary Budget. As you very well know, DEP has the overall responsibility for the City's water supply and sewer system including drinking water to all New Yorkers, maintaining pressure of the fire hydrants, managing

storm water and collecting and treating wastewater.

In addition, DEP also regulates air quality,

hazardous waste and critical quality of life issues

including noise. All of our water related expenses

of operational and capital are paid for with money

collected from the water and sewer rate charge that

is billed to all New York City property owners and

authorized annually by the New York City Water Board.

In May 2016, the New York City Water Board adopted a

rate package that included a 2.1% increase, which is

the lowest in 16 years, freezing the minimum charge

of \$1.27 per day for the third consecutive year,

which benefits more than 150,000 customers who use

less than 100 gallons of water per day. Expansion of

the Home Water Assistance Program to any property

owner who makes less than \$50,000 per year, which

provides that \$118 credit, creating the Multi-Family

Affordable Housing Credit, which would provide a \$250

credit to any residential property that's sign at a

minimum a 15-Year Affordability Agreement with the

New York City Housing Preservation and Development or

the New York City Housing and Development

Corporation. Additionally, as part of last year's

budget, Mayor de Blasio fully implemented the

elimination of the rental payment, and he actually did that five years sooner than it was originally projected. It was intended to be phase out, but it was eliminated in its entirety last year. As part of the FY17 water rate, the New York City Water Board adopted a one-time credit of \$183 for all Tax 1 property owners, which is the 1, 2 and 3-family homeowners, but I think as—as you know, the FY17 water rate and the \$183 credit were challenged by the Rent Stabilization Association. Based upon an original ruling from New York State Supreme Court as well as a subsequent ruling from the Appellate Division First Department, we are currently unable to implement the FY17 rate, the associated program expansions and the \$183 credit. The Water Board is seeking to leave—to appeal this decision, and we'll be sure to keep you apprised of that process. The Water Board is also in the process of determining how it will proceed this spring with setting the FY18 rate and we will be sure to keep you updated on that as well. Before I get into the substance of my testimony today, I wanted to briefly touch on the quality of New York City's drinking water. Water quality in Flint, Michigan, Hoosick Falls and Newburg

in New York continue to be covered widely in the news. Much has been made of late about elevated lead levels in some New York City school fixtures and fountains and sinks, et cetera. So I—I wanted older New Yorkers to really rest assured that New York City's drinking water is the highest quality, and the water delivered from our Upstate reservoir system is lead free. We at DEP spend substantial time and resources testing the water quality from about 1,000 water quality testing locations around the five boroughs as well as testing water quality Upstate in our reservoirs, lakes and tunnels. In total, DEP conducts over 600,000 water quality tests every year. The Department of Education is currently completing citywide testing at more water fixtures in city schools. Any drinking or cooking water fixture with results of over 15 parts per billion of lead is immediately taken off line and remediated. Again, while New York City's water is lead-free when it's delivered from our reservoir water-reservoir system it can absorb lead from pipes, fixtures and solder, which is the material used to join pipes, that's found in plumbing in some buildings and homes in the city. To help reduce the risk of lead that can

dissolve from a homeowner's plumbing or service line into their tap water, DEP carefully monitors PH levels. That's a measure of alkalinity or acidity of the water and we add a food grade phosphoric acid, which creates a protective film on pipes thereby reducing the re-use of metals from household plumbing. Property owners that are interested in testing the water for lead can contact DEP for free-- for a free elected by call 311. Upon receiving the water sample, DEP will test the water and send the property owner the results within 30 days. Should the results show an elevated level of lead, DEP shares the results with the New York City Department of Health and Mental Hygiene and the city will inform the property owner of the next recommended steps.

I'll just to go over some key accomplishments in the past fiscal year. We'll start with some context on the capital and expense budgets and some updates and--and I want to specifically talk about the Mayor's One NYC program and--and give you a brief overview of some metrics. For the past year DEP completed a \$1 billion project to upgrade four our wastewater treatment plants to reduce nitrogen discharges into local waterways. We've--we've cut our

nitrogen discharges by about 60%. We have completed construction and activated a \$260 million water tunnel that connects Brooklyn to Staten Island thereby creating additional redundancy in that file. We began our \$132 million sewer upgrade project in College Point, Queens to mitigate street flooding and to improve harbor water quality in Flushing Bay. We began a \$34 million dredging project within Flushing Bay. WE began a \$56.5 million project in Canarsie, Brooklyn to reduce flooding, and to upgrade water mains. We've opened an additional 2,600 acres for recreation in our watershed. More than 133,000 acres are now open to fishing, hiking and other low-impact recreation. The lien sale was reauthorized with strong support from the City Council, the New York City Department of Finance and Housing Preservation and Development, and thereby providing DEP the ability to sell liens on delinquent water rate payers, ensuring that everyone who benefits from our water and wastewater system pays their fair share as well as helping us to keep water rates as low as possible. Playing a major role in our activities is Mayor de Blasio's One NYC plan, which was released last April-April 27, 2014. One NYC includes several

initiatives that DEP is hard at work on including protecting the city's water supply and maintaining the reliability and resiliency of our water supply system. Installing or repairing 500 water fountains and the water bottle refilling stations across the five boroughs, expanding green infrastructure and diversifying techniques for storm water management in neighborhoods across the city, and reducing pollution from storm water runoff. To meet the city's water supply needs, New York City has a robust water supply infrastructure investment program including projects such as the new tunnel that will bring water from the Kensico Reservoir into the Catskill Delaware Ultraviolet Disinfection Facility, significant upgrades at the Hillview Reservoir in Yonkers and optimization of the Catskill Aqueduct.

In 2016, DEP continued details discussions with state regulators on renewing the Filtration Avoidance Determination or the FAD, which allows the city to continue to deliver safe, unfiltered drinking water to more than eight million residents.

In March, 2016, DEP completed a comprehensive assessment of the existing program and

of water quality trends. The summary confirmed that the programs and investment the city has made over the last two decades in watershed protection and infrastructure have maintained the high quality of our water supply.

In December 2016, DEP put forward a comprehensive plan for the next decade of source water protection, which will be your basis for the city's next FAD, which is expected to be issued by the New York State Department of Health later this year.

In February 2016, DEP substantially completed construction of the first phase of a \$1 billion project to replace a leaking section of the Delaware Aqueduct. We are in the process of construction a bell-out chamber right now, which is basically a large area where the tunnel boring machine will be assembled, and will serve as the staging area for mining the tunnel. In the coming months, the city will begin boring a 2-1/2 mile bypass tunnel more than 600 feet below the Hudson River. As a result of this project, water from the Delaware system will be unavailable for approximate five to eight months while the new bypass

tunnel is connected to the existing tunnel, and that—
that will be sometime in 2021 to 2022 frame. DEP has
developed a comprehensive program that will ensure
reliable water deliver during the construction period
including the expansion of water conservation
retrofits of 280 schools and 370 parks across the
five boroughs in 2016. We anticipate that the
completion of the project will be in around 2023. A
reliable water supply is not only valuable as it is
accessible and readily available for all New Yorkers.
In 2015, the City launched a program to install or
repair 500 water fountains and water bottle refilling
stations citywide encouraging residents to drink tap
water. An interagency force selected three different
models of outdoor fountains that make it convenient
for New Yorkers to fill their water bottles while in
transit across the city. The Task Force identified
30 schools and 42 parks as priority sites for the
first phase of installations and developed a GIS map
to identify existing drinking water fountains and
potential placement options moving forward. We are
pleased to report that 82 fountains have been
installed and four replaced and we expect to have
installed another 80 by the end of June. In addition

to schools and parks, five of these fountains have been installed in public plazas and the New York City Department of Design and Construction has installed 17 in connection with new construction. While DEP continues to be vigilant about protecting our water supply, we must also seek creative ways to manage the water that falls onto our streets and enters our sewers and wastewater infrastructure. Since the 1990s, the City has pursued has dual approach to alleviating flooding, and to protecting our surrounding waters through an expansive buildout of both gray and green infrastructure.

In 2012, DEP launched the Green Infrastructure Program in the combined sewer areas of New York City to reduce combined sewer overflows, CSOs. DEP has worked diligently over the last five years to advance construction of green infrastructure and priority CSO tributary areas, which reduces the amount of storm water runoff entering the wastewater system, and adds multiple co-benefits to New Yorkers such as increased shade and community greening. From its onset, DEP committed \$1.5 billion for the entirety of the program of which \$923 million has been allocated to green infrastructure through Fiscal

2027. The funding will be continue to be used to building right-of-way rain gardens and storm water green streets as well as green infrastructure within public parks, public schools, and public housing developments. To date, DEP has constructed more than 3,000 green infrastructure assets, the majority of which are located in the city's right-of-way.

Looking ahead, DEP intends to increase investment in public property retrofits as well as incentives for private property owners to retrofit their roofs, parking lots and other impervious surfaces.

While the city continues to make new strides in reducing CSOs, we are also developing a comprehensive plan to address water quality form storm water runoff in separately sewered areas. On August 2, 2015, New York State issues a separate Storm Sewer System MS4 permit to the city that requires the city to develop a Storm Water Management program, a SWAMP as we call it, plan and submit to DEC by August 1, 2018. DEP was delegated in 2013 to coordinate the efforts of all city agencies with respect to MS4 permit because other agencies like—like Parks and DOT are also impacted by the permit. And as such, DEP has been hosting multiple

interagency and stakeholder working groups to evaluate best practices and develop plans to address issues such as floatable, street litter that makes its way into the receiving waters, good housekeeping for municipal facilities and industrial and commercial storm water sources as required by the MS4 permit. I appreciated the opportunity to testify this past December before this committee on Intro 1346, which gives DEP the authority it needs to fulfill the permit requirements from the State. I look forward to its passage, and thank the chair for his leadership.

Alleviating flooding in Southeast Queens is also a major piece of One NYC. In 2015, Mayor de Blasio and DEP announced a \$1.5 billion program to substantially accelerate flood relief in Southeast Queens by undertaking a significant buildout of sewer infrastructure as well as the use of green infrastructure throughout the region. As part of this effort, DEP launched and completed an in-depth engineering assessment to evaluate on-the-ground conditions of 50 of the highest complaint areas within Southeast Queens. Armed with this data, DEP has identified near-term interventions as well as to

mid to long-term capital projects including DOT partnered solutions that can provide relief to these property owners. To date, nine capital projects funded through the Southeast Queens Program have received notices to proceed and three are anticipated to receive notices before the end of Fiscal 2017. In addition to the projects that have received notices to proceed, DEP has committed 20 other capital project initiations through the Department of Design and Construction for project starts.

And I want to go through some of our performance metrics. So in our Bureau of Water and Sewer Operations a major component to DEP's work is related to our water and sewer operations. There's big state of water streets and the sewers that are in the streets. This year we—we continued to focus on preventive maintenance techniques with the aim of improving efficiency and the operation of our vast infrastructure network. Some examples include inspecting and maintaining key valves and pressure regulators in our water system in order to reduce the potential for water main breaks due to pressure changes. Cleaning, repairing and replacing sewer segments with recurring issues. Working with the

Office of Emergency Management and the Departments of Sanitation and Transportation. We re-inspect historically flood prone areas in advance of major rain events, and inspecting all 148,000 catch basins annually and cleaning and repairing as needed.

One key issue to highlight that the committee is well aware of is the significant impact of sewer back-ups that are due to fat, oil and grease build-ups. While we have see the percentage slightly decrease this year, it is still the cause of approximately 66% of confirmed back-ups. Grease entry into sewers is preventable and relies on choices made by individuals. Focusing on public education and outreach we have worked closely with schools, community organizations and elected officials to help reduce the occurrence of grease of being poured down the drain. Additionally, using Southeast Queens as a pilot, staff at DEP have distributed door-to-door—have distributed information door-to-door. We reached over 50,000 homes in some neighborhoods. Finally, our staff follows up directly with restaurants and areas where there is persistent grease buildup in the sewers to ensure their proper use of grease traps. We believe our focus on

enhancing operational efficiency and targeting our resource deployments has affected a positive trend in our metrics. Some key performance statistics showing the changes between Fiscal 2012 and 2016 include sewer backup resolution time has decreased 33%; catch basin resolution time has decreased 26%; the number of catch basins with open work orders is down 38%; confirmed sewer backups is down 25%; sewer segments with recurring backups down 55%; sewer segments with recurring backups during dry weather is down 47%; proactive sewer cleaning is up 133%; reactive sewer cleaning has fallen by 67%. All in the right direction, and on air and noise, since of our updated Air Pollution Control Code last year, the city has met with agencies and external stakeholders to craft the necessary regulations to implement the updated air code. All rules necessary to be promulgated in association with air code have been promulgated with one final one regarding cook stoves that has been approved the Law Department and the Mayor's Office of Operations earlier this month.

On customer services, as the committee knows, DEP operates a Customer Service Office one in each borough in addition to our main call center to

collect water and sewer rate payments, enroll customers in payment agreements and to answer questions. We have improved our call center response time and we now consistently meet our service call goal of answering 80% of all calls within 30 seconds or less. We have achieved this through process improvements and the continued use of our virtual call center during peak call times.

Just to highlight some key programs and projects, the first thing about land acquisitions. So DEP is in the final year of a ten-year Filtration Avoidance Determination or FAD that was secured back in 2007. Land acquisition in the Upstate watersheds continues to be an important part of our Source Water Protection Program and DEP remains on track to meet the land solicitation goals established in the FAD. We continue to prioritize solicitation taking into account the high levels of protection that we have obtained in many parts of the watershed. Since 1997, DEP has acquired 144,840 acres of land in the watershed areas including land protection by other entities. More than 38% of all land in the Catskill-Delaware portion of our watershed is now protected from development. Expanding further on the green

infrastructure or GI program, DEP continues implementation of the program which incorporates different techniques to reduce storm water runoff into combined sewer systems and ultimately reduce CSOs. The GI program reflects the city's goal to improve water quality as outlined in NYC Green Infrastructure Plan by reducing CSOs into waterways by an additional 40% by 2030. DEP has developed strong partnerships with city agencies in order to implement the Green Infrastructure Program. Specifically the Department of Transportation, Parks and Recreation, Design and Construction and the Economic Development Corporation to design and construction green infrastructure in the public right-of-way. The Departments of Education, Parks and Recreation and New York City Housing Authority we're working with them to construct infrastructure, the infrastructure on their properties. To date, DEPS conducted, has completed 20 public retrofit projects with our partners. An additional 28 are in construction and 200 are in various stages of design. DEP with the support of EDC and DVC is designing and construction green infrastructure in priority watershed areas in the Bronx, Brooklyn and Queens

including the Hutchinson River, Westchester Creek and Bronx River in the Bronx, Flushing Bay, Flushing Creek, Newtown Creek and Jamaica Bay and areas of Queens, the Gowanus Canal, Newtown Creek and Jamaica Bay and areas of Brooklyn and work in selected area of the East River and open waters watersheds in all three boroughs.

Just a little bit on automated meter reading. As the committee knows, DEP began installing automated meter readings or AMR Transmitters in early 2009. AMR has played a vital role in ensuring that all property owners are appropriately and accurately billed for their actual water usage leading to significantly fewer estimated bills. In January 2009, 17.4% of bills were estimated while in February of 2017, less than 3% of bills were estimated. As of February 28, 2017, AMR transmitters have been installed in almost 824,000 meters of properties representing 98% of meters citywide based upon a citywide total of approximately 843,400 meter registers.

On the Service Line Protection Program, as the committee knows the water and sewer service lines that connect homes to city-owned water and

sewer mains are the responsibility of homeowners. Repairs to broken service lines can cost between \$3,000 and \$15,000 and can be financially devastating to a homeowner. Therefore, in January of 2013, we announced the availability of an optional Service Line Protection Program or SLPP. Under that program American Water Resources covers repairs to enrolled customers for a leaking water service line or broken or clogged sewer service lines. Homeowners who choose to enroll in the program sign a contract with American Water Resources and have the convenience of paying a small monthly enrollment fee. It's currently \$4.49 per month for water service line protection and \$8.47 a month for sewer service line protection, and they pay that through their water bills. In a little over three years over 237,000 customers have enrolled in the plan with 97% of subscribers having enrolled in both the water and sewer plans. These enrolled customers generated nearly 5,900 claims in Fiscal Year 2016 with SLPP coverage saving them more than \$20 million.

I'll now get into the Preliminary Fiscal Year 2018 Budget, both expense and capital. So on the expense side, the projected expense budget for

the current Fiscal Year, FY17, is \$1.6 billion including approximately \$300 million in community development block grants funds for the city's Build-it-Back program for which DEP serves as the contracting entity for the city. So backing out of Build-it-Back, DEP's FY18 Preliminary Expense Budget is \$1.2 billion. The Preliminary FY18 Expense Budget breaks down into the following large categories:

\$516 million or 42% is for personnel services to pay the salaries of our nearly 6,000 funded positions; \$701 million or about 58% is for other than personnel services, OTPS, which includes taxes on Upstate watershed plans, which accounts for \$167 million and nearly 14% of the Expense Budget. As you know, the ownership of the watershed lands represents a critical investment in attaining the high quality of the city's drinking water by protecting it at the source and ensuring that it does not require more expensive treatment such as filtration. I am pleased to report that we have successfully negotiated agreements with Upstate Jurisdictions to make our tax obligations more stable and predictable. DEP's energy costs including heat, light and power account for \$92 million or 8% of our

FY18 Expense Budget. DEP is the third largest municipal customer of electric power in New York City after the Department of Education and New York City Health and Hospitals. And our consumption will grow as we bring online new treatment processes for wastewater to control energy costs and meet Mayor de Blasio's major commitment to reduce greenhouse gas emissions, DEP is investing in projects to reduce energy needs including a co-generation plan at our North River Wastewater Treatment Plant. On chemicals, chemicals are estimated to cost \$57 million in Fiscal Year 18 or about 5% of our Expense Budget. For drinking water DEP continues to add chlorine and fluoride at Catskill (sic) water in order to meet federal, state and city treatment requirements. Also for drinking water the treatment process at our new Croton Water Filtration Plant requires chemical additions. Our wastewater treatment plants rely on the addition of chemicals such as polymers and-and sodium hypochlorite to improve removal rates, and continue to disinfect their effluent. On sludge management, we produce about 1,200 tons per day, which is project-projected

to cost about \$51 million in FY18, which is about 4% of or expense budget.

I'll now turn it over to the FY18 Preliminary Ten-Year Capital Plan. So DEP's FY18 Preliminary Plan for Capital is—is \$17.7 billion and that covers Fiscal Years 18 through 27, and was presented by Mayor de Blasio back on June 24 of 2017, this amount is \$2.7 billion over—over the prior Ten-Year Plan, which is about an 18% increase. The—the prior plan had been \$15 billion, and I'll just go through some of the major changes in the plan for the FY 18 to 27 period. First, the City Tunnel No. 3 I think as—as everyone knows the city began constructing City Water Tunnel No. 3 in 1970, and it's one of the largest and longest running public works projects in the city's history. The tunnel is a crucial conveyance that moves water from Hillview Reservoir and will provide redundancy to City Water Tunnels No. 1 and City Water Tunnel No. 2. In 2013, we activated the final leg of the Manhattan portion of Tunnel 3, and laid the groundwork to get water flowing into the Brooklyn-Queens leg of that tunnel. The tunnel and most of the infrastructure shafts that support it are complete. Just two remaining shafts

remain to be design and construction—and constructed.

Last year Mayor de Blasio prioritized the

construction of the two remaining shafts. As part of

last year's Executive Budget, the Mayor allocated

\$357 million for site acquisition, design, excavation

and construction on shafts 17-B and 18-B, which are

the two remaining shafts. \$21 million to immediately

disinfect and test the Brooklyn-Queens section of

Tunnel 3, making it activation ready meaning that the

tunnel will be ready for backup to deliver potable

water should the city confront an emergency that will

require additional redundancy to existing Tunnels 1

and 2, and \$7 million to construct a new connection

between Water Tunnel No. 3's Brooklyn-Queens section

and the Richmond Tunnel to Staten Island, which will

ensure that Staten Islanders have yet another backup

connection. As part of this year's Capital Plan, the

Mayor kept his commitment from last year and

allocated an addition \$300 million needed for the

installation of mechanical and electrical equipment

in those two shafts. This funding keeps us on

schedule for the previously announced accelerated

initiation of construction of the shafts in 2020. As

you know, these efforts are essential to the city,

and they come on top of multiple layers of redundancy already built into our water supply infrastructure. Our drinking water is frequently renowned as the best in the country exceeding all federal and state standards for quality. The system that delivers it is safe, reliable and secure. I thank the Mayor for continuing to prioritize this essential project and ensuring that the kinds of water challenges happening elsewhere around the country and the world could not happen here in New York City.

So just some of the highlights on—on additional capital work that we're doing. One is the Kensico East View Tunnel. So we're—we're adding \$716 million, which has been allocated for Kensico East View Connection for a total of \$1.2 billion for the project. When completed, this project will provide additional redundancy for New York City's water delivery system, and an additional \$350 million has been allocated for structural improvements that the North River Wastewater Treatment Plant for a total of \$360 million. An additional \$567 million was added to the plan for a total of \$733 million to ensure continued compliance of the Ashokan reservoirs, dams and dikes with New York State Dam Safety Regulations.

This construction will also ensure that selective referrals of water from Ashokan Reservoir to the Catskill Aqueduct about 40% of New York City's daily supply continue to be uninterrupted to New York City's residents, and the continued safety of public—of the public traveling over the Dividing Weir Bridge at that reservoir.

Additional highlights from the FY 18 Preliminary Ten-Year Capital Plan include—and I'll talk about wastewater treatment. The plan—the plan projects a \$6.6 billion investments in wastewater treatment projects, \$3.8 billion of which is for the upgrade, reconstruction or replacement of components at wastewater treatments plants and pumping stations. The remaining \$2.8 billion investment will be used to mitigate combined sewer overflows with \$922 million for green infrastructure such as green roofs and rain gardens and the remainder for gray infrastructure such as tanks and tunnels to store wastewater. Included in the plan is \$220 million to upgrade the Hunts Point Wastewater Treatment Plan located in the Bronx by installing new digesters, which more effectively break down organic matter including the amount of residual solids that need to be trucked

from the site through the neighborhoods. More methane gas will be produced, which will offset the purchase of fuel. On dams, dikes and reservoirs the FY 18 through 27 Capital Plan now the administration is proposing to significantly invest in protecting the quality of reservoirs and the integrity of our dams providing for treatment where necessary and maintaining and repairing the water main system conveying potable water to all New Yorkers. We have budgeted a total of \$1.9 billion for projects Upstate including \$101 million for closeout work for the Croton Water Filtration Plant, \$130 million for the continuation of our current FAD programs, and \$997 million for the reconstruction of dams in our three watersheds. There is also \$2.1 billion available for the replacement of in-city water mains, which includes \$1.4 billion in specific water main work, \$91 million for accelerated replacement of underground water distribution infrastructure, \$237 million for emergency contracts for water distribution and \$159 million for state of good repair.

I'm going to talk now about our CSO Long-Term Control Plans. There is \$1.8 billion of funding

to cover the plan's Consent Order work related to long-term control plans for-for CSOs and storm water control. As the committee knows, DEP is in the midst of an unprecedented period of investments to improve water quality in New York Harbor. Since 2002, projects worth almost \$11.4 billion have been completed or are underway including a project for new street removal, CSO abatement, marsh land restoration among other projects. DEP has committed a total of \$5.4 billion towards reducing CSOs with both gray and green infrastructure about half of which has already occurred. By way of example, DEEP has completed four CSO storage tanks for the combined volume of 118 million gallons. Floatables Control Project and dredging of habitat (sic) base in Hendricks Creek. Projects underway include dredging of Flushing Bay and sewer work in areas of Queens. DEP through the Long-Term Control Planning Process, which includes robust public participation has proposed yet more projects with additional long-term control plans under development. Regarding sewers our 10-Year Capital Plan projects \$4.3 billion of spending on sewers, which includes the build-out in Southeast Queens of \$1.3 billion worth of sewers [bell]. In

addition, there are \$2 billion earmarked for replacement of sewers, storm, sanitary and combined. They're included in the Mayor's Initiative for accelerated replacement; \$2 billion for new sewers of all types of which storm sewers is the category by itself. Even new or reconstructed account for \$1.6 billion of the projected spending of which \$137 million is for high level storm sewers, and \$392 million of the total is for both conventional sewers and the lands necessary to create blue belt systems, which are being extended beyond Staten Island to Springfield like in Queens, Van Cortlandt Park in the Bronx and the Botanical Gardens in the Bronx.

On behalf of the almost 6,000 employees at the department I want to express our appreciation to Chairman Constantindies for your strong leadership and our continued commitment to work closely with the members of the committee and the Council as a whole. This concludes my prepared statement. I thank you for the opportunity to present testimony today, and look forward to any questions you may have.

CHAIRPERSON CONSTANTINIDES: Thank you, Commissioner, for your testimony. I want to recognize Council Members Donovan Richards and Eric

Ulrich and Rory Lancman all from Queens here today.

This is a Queens centric committee this afternoon. I

want to welcome also Errol Lewis and his class from

the CUNY Graduate Center and--and welcome to all the

students and hopefully have the opportunity to learn

a little bit about our water system, and the billions

of dollars that we spend. So I look forward to--glad

that you're here. So, Commissioner, let's start on

the national level. We have an administration that

does not believe in clean water [laughs] and is

slashing environmental programs as--as fast as we can

read. So, I want to ask, you know, at this time with

federal government being in so much flux and the

potential budget that this administration has

proposed, what impact will that have on DEP and the

work that we do at all?

COMMISSIONER SAPIENZA: So, yeah, as--as

citizens I think we're all concerned about what's

being done to--to the budget of--of EPA and other

agencies that oversee land and waters. At--at--New

York City DEP we, as you know, get essentially all of

our funding from water and sewer rates. We collect

\$8.8 billion a year, which fully funds all of the

work that we need to do to--to protect our water

supply and—and improve our wastewater treatment system. So at this point based upon what we know, we don't see any degradation at all to—to loop the local environment into our water system based upon the—the cuts that are being proposed in Washington.

CHAIRPERSON CONSTANTINIDES: So there's no grants or anything that we'd lose out on for green infrastructure or anything else that would affect our ability to get the work done that we need to get done?

COMMISSIONER SAPIENZA: No, again, we've gotten in the last several years essentially no funding from the EPA or EPA grants. Very little federal funding. We do get some state revolving fund money, but we expect that to continue.

CHAIRPERSON CONSTANTINIDES: And—and so working on sort of moving forward so quickly touching on what are some of them that I'm referring (sic) [laughs] when do we expect the remainder of the work to be complete and the tunnel to be fully operational?

COMMISSIONER SAPIENZA: Yeah, so just, you know, again a little bit of the history. The—

the--the tunnel itself it's between 6 and 900 feet on the ground--

CHAIRPERSON CONSTANTINIDES:

[interposing] Uh-huh.

COMMISSIONER SAPIENZA: --has--has all been constructed. We--we haven't completed building all of the shafts that bring the--the water from the underground tunnel itself to the surface. We completed work for Manhattan, and Manhattan has been getting water since October 2013, but the Brooklyn-Queens section of the tunnel while the underground section has been completed, we haven't been using it because two more shafts need to be built. When the Mayor was briefed on this about a year and a half ago, he recognized that we have this asset underground that we should at least have what--what we all term activation ready just in case there is some kind of a, you know, catastrophic incident with Tunnels 1 or 2. So we're working towards by the end of the year having water in the Brooklyn-Queens leg of the tunnel--

CHAIRPERSON CONSTANTINIDES:

[interposing] Uh-huh.

2 COMMISSIONER SAPIENZA: --and so that if
3 there is anything bad that happens, we will--we'll be
4 able to provide water to residents fairly quickly.
5 Because the two shafts are incomplete, the water
6 pressure may be low, but at least there--there will be
7 water if it's ever needed. Regarding the two final
8 shafts, the Mayor asked that we accelerate the work
9 by a year, and we are moving forward with the design.
10 We expect to have those [coughing] two shafts
11 completed around 2025, and at that point then the--the
12 full Tunnel No. 3 will--will be available for starts.

13 CHAIRPERSON CONSTANTINIDES: Great. I
14 know last year we had a little bit of a
15 miscommunication [laughs] and the money was there.
16 So I just wanted to make sure that we are just
17 reiterating today the money is all there to get all
18 this work done, correct?

19 COMMISSIONER SAPIENZA: That's correct.

20 CHAIRPERSON CONSTANTINIDES: Okay, great.
21 Just want--wanted to cover our bases, right? Thirdly,
22 looking at energy savings through aeration
23 improvements at Hunts Point, and really sort of
24 looking at all of our--all of our assets within DEP
25 and--and throughout city. You know, have we evaluated

all DEP sites for suitable installations of renewable energy? You talked about it's, what, close to \$100 million in-in heating costs and energy costs. What are we doing as part of the Mayor's plan throughout our system to get to our goal 80 x 50 and retrofitting the city buildings and city assets with solar and other renewable energy sources?

COMMISSIONER SAPIENZA: Well, thank you, Mr. Chair. We--and just I'll start with Hunts Point first because you mentioned that one so--

CHAIRPERSON CONSTANTINIDES:
[interposing] Uh-huh.

COMMISSIONER SAPIENZA: It-it's been a challenge for--for DEP. We've--we've done a lot of federal and state regulations that require improvements to our--to--specifically our wastewater treatment systems to do things like NYCHA Gen removal and--and controlling CSOs, collecting more of the wastewater before it's released and treating it, and that's pushed up our energy profile a little bit. So, you know, we've been looking long and hard at how--how to bring that back, and at Hunts Point we came up with a really innovative solution that as part of the treatment process we have to add air to

the-the-the biological colonies to-to have them do their work, and we came up with at solution where the air is only injected as it's needed. It's not just like set it at one level and you go. There are actually gauges in there that say alright, you need air now. Add it. You don't need it. Let's dial back a little, and so that system has worked out pretty well in helping us to cut back on how much compressed air we need to push in. But just overall, we're-we're-we're doing a couple of things. One is we're-we're-we and along with DCAS, letter of request for information an-and RFI last September [bell] to evaluate applications such as photovoltaic in our wastewater treatment plants. We already have a-a photovoltaic installation at our Port Richmond plant and we want to look for opportunities elsewhere. But just system wide we've been doing simple things like replacing lighting. We-we would be, you know, a lot of our facilities particularly at North River where it's all essentially an in-door facility, we actually use one megawatt of-of power just to light the facility. So we've been doing things to-to reduce that. Looking at opportunities for wind. Looking at more opportunities. I think, Council Member, as-as

you—as you know at Newtown Creek to—to use the methane gas that we produce in the process--

CHAIRPERSON CONSTANTINIDES:

[interposing] Uh-huh.

COMMISSIONER SAPIENZA: --to-to generate energy. So that's—that's part of the the-the things we've been looking at.

CHAIRPERSON CONSTANTINIDES: And when is your RFI coming due or how—how—how long of a process it that out there for?

COMMISSIONER SAPIENZA: I've got—I think it's June 10th, and this doesn't—doesn't have much.

JOE MURIN: So the—the RFI brought in a little over two, excuse me, over a dozen responses and those are all being evaluated now.

CHAIRPERSON CONSTANTINIDES: Okay, great, great. So we're definitely on the right track to getting these—these sites retrofitting and—and more energy efficient if we can, and looking at green infrastructure how are we doing installing? I know you talked about public/private partnerships. How can we do more to install green infrastructure in our communities? Is that working with community groups to—to be caretakers for them or how—how do we get

more green infrastructure in our communities we can have better partnerships and—and get them installed?

COMMISSIONER SAPIENZA: And so over the last few years, we've installed about 3,000 green infrastructure projects. These—these bioswales are curbside rain gardens. We have contracts underway that are now doing site assessments. One of the things that we've been finding challenging as far as siting is just subsurface conditions where either groundwater is near the surface or there's—there's rock near the surface, and that doesn't allow for—for percolation of—of—the—the storm water that's captured in the bioswale. So that's been a little bit challenging. We have been working with communities to just get better messaging out as to, you know, here's what our folks are—are doing. Green infrastructure may be coming to your neighborhood, and I know. I think the Commission and I have discussed that little bit further.

ERIC LANDAU: And the only thing I would add to what the Commissioner already said, Mr. Chairman, is that while green infrastructure started out as a technique for reducing CSOs and improving the local harbor water quality by reducing CSOs,

we're also now looking at the use of green infrastructure in the separate sewer areas, the-the MS4 areas as well as looking at the them as sort of first lines of defense where the soil conditions make sense to alleviate street ponding and, in fact, we're piloting that use in Southeast Queens as part of the overall plan for Southeast Queens.

CHAIRPERSON CONSTANTINIDES: Great. I think there's this misnomer out there that somehow bioswales are very difficult to take care of, and-and we're running into some unnecessary conflicts there, and we want to make sure we get the messaging out, and find ways to get these- If they're needed, right, we want to make sure they can get them installed.

ERIC LANDAU: That's right. So there- there certainly has been a-a conversation that's been developing over the last several months about bioswales that we've spend a lot of time trying to educate, trying dispel some of the myths about them trying to explain why they are valuable, not just from a water and sewer perspective, but also from a general environmental perspective and all the co-benefits that come with adding more plant life to

blocks, and—and that is an ongoing conversation certainly with the community, and we look forward to continuing to partner with you and your colleagues in the city council and other elected officials to help get that message out.

CHAIRPERSON CONSTANTINIDES: Alright, and then moving forward to water right, you know, [laughs] when do we—when do you—I know we have the lawsuit that's currently working its way through the courts. We're looking at the appeal process now. When do you foresee the new rate being put in and guessing, and that the Mayor has already made the commitment to not take the rental payment, and that will continue in FY18, correct?

COMMISSIONER SAPIENZA: That's correct. So because of the lawsuit that the Fiscal 17 rate increased to 2.1% and all of the—the programs to basically to return some money to certain homeowners. The lawsuit was all in abeyance. So it's almost as if the Fiscal 17 rate proposal never happened at this point. Typically, what the Water Board does is every spring in the April and May time frame, they look ahead at what the next fiscal year rate needs to be.

So, we've started having discussions with the Water Board about what we--

CHAIRPERSON CONSTANTINIDES: April starts next week. [laughs]

COMMISSIONER SAPIENZA: We've--we've started to have discussions with the Water Board about what the needs of systems are, and--and that's typically how they'll do things in the April to May time frame is what their--what FY18 may look like.

ERIC LANDAU: And so, we'll keep you updated as that process continues, and--and obviously as we continue to learn more about the appeal that the Water Board is seeking.

CHAIRPERSON CONSTANTINIDES: I--I understand how that impacts it. So, but April is here. I mean it's--this whole year has gone by pretty quickly. Lastly, before I turn this over to my colleagues, I have two questions relating to reconstruction of water pollution control pumps. I see it's \$155.7 million included in the Ten-Year Strategy to harden 14 wastewater treatment plants, and 32 pumping stations for storm water, a future storm water events or storm events. How many of these facilities are located in flood zones?

2 COMMISSIONER SAPIENZA: Yes.

3 CHAIRPERSON CONSTANTINIDES: Because I
4 know that my community it is.

5 COMMISSIONER SAPIENZA: Yeah, yeah. So-
6 so, Mr. Chair, all--all 14 of our wastewater treatment
7 plants are built right at the water's edge and that
8 was done intentionally because you want sewage to
9 flow by gravity as much as possible. So you--you put
10 your wastewater treatment plans at elevation zero,
11 and so--so all 14 of our wastewater treatment plants
12 we are doing things to harden them including
13 elevating electrical equipment, putting static
14 barriers around structures, hardening buildings. So
15 that affects all of our wastewater treatment plants,
16 and regarding out pumping stations we have 96 in the
17 city, 32 of which are--are in flood areas, and we're
18 doing similar things there to protect those pieces of
19 infrastructure as well.

20 CHAIRPERSON CONSTANTINIDES: And is that
21 enough to make sure that, you know, for potential
22 future storm events that we know that these sites
23 will not be damaged and--and--

24 COMMISSIONER SAPIENZA: [interposing]
25 Yeah, we--we--

CHAIRPERSON CONSTANTINIDES: --creating larger issues for our communities than a storm could.

COMMISSIONER SAPIENZA: Yeah, we've been-- we've been working with the City Emergency Management, and with FEMA to determine what the proper flood elevations are, but the--the \$155.7 million goes a long way to--to do the most critical protection that's needed.

CHAIRPERSON CONSTANTINIDES: And looking lastly at before I'll come back for a second round, but looking at dredging, I--I see that we're doing very well in Flushing Bay. Very excited about that as someone that represents the district that's not too far away from there. It's--it's great to see that moving forward. I represent a community that has Bowery Bay, and my son affectionately calls it--his Little League is right on the water there at--on Jack Little League between the port and--and the bay, and at low tide he calls it Rotten Egg River. [laughs] So how are we looking at Bowery Bay and--and the long-term remediation plan for that? I know that we're at the very beginning stages, but how are we looking--and looking forward. How do we turn that into not so Rotten Egg River?

COMMISSIONER SAPIENZA: Right, so
Flushing Bay we've—we've started the dredging and
basically what we're dredging sewer sediments that
have collected over the decades, and at low tide some
of those sediments are exposed. They bake in the hot
sun and they become odorous, and—and a similar issues
though to a lesser degree in Barry Bay, but under out
Long-Term Control Plans, the—the CSO plans that we're
negotiating with DEC, we're looking at to where else
dredging will need to be done. We know that in
Gowanus Canal there will be some dredging, and we're
coordinating that both with DEC, EPA and National
Grid because it's a Superfund site, but—but under the
Long-Term Control Plans, we're going to be looking at
where else dredging needs to accomplished.

CHAIRPERSON CONSTANTINIDES: I'm going to
come back for a second round, and talk a little bit
more about the Long-Term Control Plans at that
junction, but I want to make—give the opportunity for
my colleagues to ask questions. Council Member
Richards I'll turn it over to you first.

COUNCIL MEMBER RICHARDS: Than you so
much, Mr. Chairman and thank you, Commissioner and—
and to the whole crew for the work that you're doing

especially in Southeast Queens, which is obviously important to me and ensuring that we really address the long systematic flooding issues that we've dealt with, and I want to say that, you know, we're seeing a lot of hammers in the ground, and our constituents are really noticing it. So, I want to thank you for that work certainly. I do have questions around catch basins. So obviously Council Member Williams and myself sponsored some legislation that required you—you to clean and inspect every catch basin in New York City. So I'm interested in knowing where we're at. What did you discover in your first year, fiscal year in inspections?

ERIC LANDAU: Thank you. So this is first year, as you know, based on—the law that you and Council Member Miller and Council Member Williams put forth where we changed our inspection cycle from a three-year rotation of all 148,000 catch basins to inspecting all catch basins annually and cleaning as needed, and we believe that we are fully on target by the end of this fiscal year to have inspect all 148,000 basins. We've hired additional staff to help us do that. The majority of that staff is already on board. There—there are three additional positions

2 that need to be filed and the candidates have
3 actually been selected, and we're going through the
4 hiring process. Right now. But through the use of
5 more staff over time, we are supremely confident that
6 by the end of the fiscal year all 148,000 basins will
7 have been inspected, and those that need to have been
8 repaired, will have been repaired.

9 COUNCIL MEMBER RICHARDS: How many did
10 you find that needed to be repaired?

11 ERIC LANDAU: So the total number of
12 catch basins that we have repaired to date at this
13 point is just over 2,300.

14 COUNCIL MEMBER RICHARDS: 2,300?

15 ERIC LANDAU: 2,300.

16 COUNCIL MEMBER RICHARDS: And you
17 inspected how many?

18 ERIC LANDAU: We've inspected over 82,000
19 so far.

20 COUNCIL MEMBER RICHARDS: So 82,000, and
21 you have confidence that you'll get to the full 148--

22 ERIC LANDAU: [interposing] That's
23 correct.

24 COUNCIL MEMBER RICHARDS: --by July, June
25 30th or July 1st?

2 ERIC LANDAU: Absolutely.

3 COMMISSIONER SAPIENZA: And Council
4 Member, I just want to add of those 2,300 defective
5 basins we found that most of those were just broken
6 gratings on top.

7 COUNCIL MEMBER RICHARDS: Yeah.

8 COMMISSIONER SAPIENZA: So it's not that
9 the box itself wasn't functioning effectively. It
10 was just the grading that needed to be repaired.

11 COUNCIL MEMBER RICHARDS: Okay, and I see
12 in your report, you speak of sewer backup resolution
13 time a 33% decrease; catch basin resolution time, a
14 26% decrease. So good numbers. Do you attribute
15 that to the bill the City Council forced you to—I
16 mean let me not—let me not use the word 'forced'.
17 The legislation that the City Council compelled is a
18 good word. Exactly. Compelled you to—compelled you
19 to work with us.

20 ERIC LANDAU: Council—Councilman, we're
21 partners in this. I think it's a combination of a
22 variety of things including the way that we
23 proactively look at our infrastructure and try to—to
24 update as—as well as a variety of other measures.

COUNCIL MEMBER RICHARDS: Great. A question on biodiesel. So, I know Council Member Costa and I had legislation on a biodiesel pilot, the ferry and the DEP tug boat. Where are we at with that? Are you—how—are we making progress with biodiesel?

COMMISSIONER SAPIENZA: Yeah, so we started the pilot I guess a couple of years ago now for some of our fleet. We expanded it just recently to our harbor survey vessel. All—all is going well. We—we had some concerns early on about what percentage of biodiesel the engines in these vessels could use, but—but things have been progressing reasonably well.

ERIC LANDAU: Yeah, so we've been doing, as the Commissioner said, a pilot on a couple of different vessels. That pilot does continue. We're piloting B5 biodiesel, and at this point the vessels have performed well in all seasons. No issue with excess smoking, hesitation. A lack of performance has been observed, and there were no problems with fuel storage. So, the—the pilot has been—has been going very well.

2 COUNCIL MEMBER RICHARDS: So that means
3 we'll pass legislation eventually there.

4 ERIC LANDAU: Look forward to continue
5 working with you on it.

6 COUNCIL MEMBER RICHARDS: Okay. [laughs]
7 And alrighty, just around the federal cuts. So there
8 was a rumor that the Brownsville program sort of was
9 entangled with federal dollars. So do you see that
10 being affected through the New York City Office of
11 Remediation, ground fill remediation? If you don't
12 have the answer that's fine. Just need to know--

13 ERIC LANDAU: [interposing] Again, so the
14 work--

15 COUNCIL MEMBER RICHARDS: --but we
16 anticipate.

17 ERIC LANDAU: --you know, Brownsfield is
18 also significantly overseen by the Mayor's Office of
19 Environmental Remediation, but-but again to sort of
20 reiterate, while there was a significant cut in the
21 President's EPA budget, I think 31% was cut, as the
22 Commissioner stated, our-our projects water and sewer
23 projects are funded with the New York City water
24 rate, and so therefore we do not see any-any impact
25 at this time on our program.

COUNCIL MEMBER RICHARDS: Okay, and then this is my last question on air complaints and something very important to me especially with a community that has high asthma rates, and we did see I think according to the Mayor's Management Report we did see an increase in air complaints. From 2014 through 2016 we saw a significant jump in air complaints. So can you speak to that the many strategies you're using to address air complaints, and I know we passed the Air Code. I look forward to getting briefed on that actually now that the rules are being put in place. So if you can—I would appreciate a briefing on that as well.

ERIC LANDAU: Yeah, we'd be happy to schedule a briefing for you.

COMMISSIONER SAPIENZA: Yeah, just in general we've seen an uptick of complaints particularly regarding idling since kind of passage of-of the idling law. Just-folks are just more attuned to-to when they see idling calling 311 and so there's been a significant uptake-tick there, and-and we've been working closely with-with NYPD to address those. It's-it's often tougher for DEP's inspectional crews if there's some idling for five

minutes, they leave before we get there. So we've been working more towards the--the trucks that--that may be sitting for longer periods of time and idling.

COUNCIL MEMBER RICHARDS: Okay, on that, but I--I will go back to what I always say on that and perhaps--I know Council Member Rosenthal and myself had some legislation to allow voluntary, perhaps the public to somehow work, you know with our partners in the city to address this issue, but I think it's something we should not take lightly and, you know, if we need more inspectors on this issue, and more work between NYPD and--and DEP, more coordination that needs to happen. There is too much idling going out--going on even outside of this building. There's a lot idling going on. With that being said, I want to thank you once again for the work that you're doing. I have nothing but good to say about the work you're doing in Southeast Queens. May we continue, and look forward to continuing to work with you. Thank you.

COMMISSIONER SAPIENZA: Thank you.

CHAIRPERSON CONSTANTINIDES: Thank you, Council Member Richards. I'll turn it over at this time to Council Member Lancman.

COUNCIL MEMBER LANCMAN: Good morning.

2 COMMISSIONER SAPIENZA: Good morning.

3 COUNCIL MEMBER LANCMAN: So I understand
4 that you don't set the water rates, but you're here
5 today and you're the ones who have to take the
6 questions and give the answers. I want to know first
7 as a result of the court decision, two court
8 decisions [coughs] blocking the rate increase and the
9 rebate scheme that the Mayor had concocted. Has DEP
10 had to cut any programs, any services, lay off any
11 personnel as a result of not getting that money from
12 the rate increase?

13 COMMISSIONER SAPIENZA: Yeah, so-so last
14 year there was a proposed rate increase of-of 2.1%
15 and-and the way the Water Board and the Municipal
16 Water Finance Authority looks at rates is they both
17 look at what the needs are in any particular fiscal
18 year, but they also look at coming new needs-the
19 coming year and new needs, particularly to pay back,
20 you know, loans on the Capital Program. So actually,
21 just because of capital commitments in this past
22 fiscal year, and revenues being a little higher than
23 we had anticipated, we do not need to-to cut back any
24 programs. Not having that \$2.1 million. (sic)

COUNCIL MEMBER LANCMAN: And—and I would have been surprised had a I gotten a different answer because last year when I asked the question of whether or not DEP actually needed any additional revenue to come from the water rates to function and to operate, I was told that no it did not. And so we were very surprised when the Mayor nonetheless pushed through a water rate increase. So let me ask you, this year we don't what increase, if any is going to be sought by the Mayor, if you were not to receive any increase in the water rates and—and the revenues that come from that increase, would that in any way prevent you from operating the water and sewer system, the water and—and sewer system according to the—the plan that's laid out here?

COMMISSIONER SAPIENZA: It's—Council Member, it's—it's a complicated issue in that the—the Water Board and the Water Finance Authority take a longer term view of things because if we were to say no water rate increase, that could potentially, even though it may not impact any of our operations, reduce the amount of money that we have in the reserve at any point the bonding rating agencies look unfavorably upon that. Interest rates on our bonds

through that increase and that affects water rates in the out years. So we always that-and-and, you know, we have—we have our bonds consultant and we have bonds counsel. They look at all of those things when they make the presentations to the Water Board about what we think rates should like in a year.

COUNCIL MEMBER LANCMAN: [interposing]

So, I—I—I get the desire of the bond rating agencies, and the bond market to perhaps see that you are raising the rates on property owners every year. But I have a different question. So I want an answer to that question, which is based on the money that is collected through the water rates, will—is there—is there a need for an increase in the amount of money that's coming into DEP in order to perform the services and provide the—the—the—the functions that is laid out in this 2018 Preliminary Budget.

COMMISSIONER SAPIENZA: That's what I thought. That's right. So, you know, I—again, at this point I don't think we can—we can speculate on what the Water Board will do, but again it comes down to if we—if there's no rate increase because we say well, we can live off the—the—the revenues that are coming in our reserves. If we start again drawing

2 down our reserves that-that can't happen on this
3 rate. (sic)

4 COUNCIL MEMBER LANCMAN: [interposing]
5 Well, let me-let me put it to you this way: How much
6 was raised in this fiscal year through the water
7 rates, the fees, the taxes that-that homeowners like
8 myself and others pay?

9 COMMISSIONER SAPIENZA: It's \$3.8 billion.

10 COUNCIL MEMBER LANCMAN: \$3.8 billion,
11 and-and what was the amount of money that DEP spent
12 is expected to spend through the conclusion of this
13 fiscal year? Is it more or less than that amount?

14 COMMISSIONER SAPIENZA: It's-it's that
15 amount and again, you know, we're rounding a lot and,
16 you got to remember--

17 COUNCIL MEMBER LANCMAN: [interposing] We
18 aren't facing a deficit, right? We aren't facing a
19 short fall or a deficit for this year?

20 COMMISSIONER SAPIENZA: We're not facing
21 a shortfall, but again--

22 COUNCIL MEMBER LANCMAN: [interposing]
23 And the rates didn't go up?

24 COMMISSIONER SAPIENZA: Councilman, again
25 these-these are our budgetary numbers that we

establish at the beginning of the year. If there are changes in there it probably says up or down. Chemical prices up or down. If labor settlements are made, if there's an emergency and we need to-to-it--the--the 2.1% increase that was proposed last year, was--was essentially \$80 million, which is again it's a small amount of our \$3.8 billion budget, and until--until we get through the fiscal year, we're not going to know where land. And so that's why when we're looking forward at what prospective rates need to be all of things are--are rolled into the equation.

COUNCIL MEMBER LANCMAN: Alright. So this coming fiscal year, you've got--it looks like a \$232 million difference in your budget than the previous year. Correct?

COMMISSIONER SAPIENZA: Correct.

COUNCIL MEMBER LANCMAN: Just roughly outline why you think that it's going to cost \$232 million less to run the--

COMMISSIONER SAPIENZA: [interposing]
Yeah, and Eric, I'll ask you to take it.

COUNCIL MEMBER LANCMAN: --water and sewer system this year than last year?

ERIC LANDAU: Councilman, it's a good question because, you know, keep in mind that we as DEP are acting as the host agency so-so to speak for the Build-it-Back program. So every year we have allocated into our budget CDBG, Community Development Block Grant funds that are for the Build-it-Back program, and those have been in the past year it was about \$200 million. Those don't get re-upped every year. Depending on how Build-it-Back, you know, will spend those funds and-and what they need to go back and get reauthorized from the federal appropriations, which is handled centrally through, you know, the Office of Management and Budget. So those funds generally come in and the go out as do the related headcount and other, you know, related expenses for those-those programs. So, come Exec and adoption and I should really say with adoption and the start of a new fiscal year those funds will be restored to the budget, to the extent that they haven't drawn down on the full \$200 million.

COUNCIL MEMBER LANCMAN: Well that-that \$232 million [coughs] reflects the ebb and flow of the Build-it-Back money-

2 ERIC LANDAU: [interposing] That's
3 correct.

4 COUNCIL MEMBER LANCMAN: --from the
5 federal government.

6 ERIC LANDAU: Yes.

7 COUNCIL MEMBER LANCMAN: Got it and so
8 not accounting for that, it still looks like the 2018
9 Preliminary Plan [coughs] which is \$1 billion \$217
10 million is still less than what was actually spent in
11 2016, which we have as \$1 billion, \$267 million.
12 Does that sound right?

13 ERIC LANDAU: Correct.

14 COUNCIL MEMBER LANCMAN: Our folks are
15 pretty good with the numbers, right?

16 ERIC LANDAU: That is correct.

17 COUNCIL MEMBER LANCMAN: So you're
18 actually spending less money to run the water and
19 sewer system and do what you do than you have in the
20 past, and that's highly commendable. So, let me just
21 say here on the record that it would be extraordinary
22 for the Mayor to seek an increase in the rates that
23 property owners pay for a water and sewer system that
24 is actually spending less to run that water and sewer
25 system than it has in previous years, and we will be

looking to see whether or not we are hit yet again with some scheme either to pad the city's general fund with our water rates or some election year scheme where rates are collected and then redistributed in the form of credits to politically important constituencies, and I'm not even going to ask you to comment on that.

JOE MURIN: Well, but I would like to comment on it.

COUNCIL MEMBER LANCMAN: But you're welcome.

JOE MURIN: Yes, and is—you know and I would—and you are correct. When you look at the numbers there is a decline from Fiscal Year 16 or 17 or I'm sorry, from the '17 and to the '18. Part of that is a—a variety of factors. So you—understanding that you have at the end of each fiscal year we have to go through and do the accounting for what was actually spent and also do—take account of accruals and which were actually used to draw down upon. One thing that we had that happened in this past year is that we had a significant accrual built for some of our labor settlements and because some of those later—labor patterns followed—followed the same

pattern as a UFT settlement, we had where we thought we were going to have to spend retroactive money that then became prospective money. So that was about \$40 million worth of money that didn't have to be spent immediately, but would be spent out into future years as well. We also have where sometimes there's new needs or, you know, programs that may have sunset, but still may have a cause that needed to be there. So we would have those conversations with OMB as we're having them now as to which one of those, you know, would need to be continued or be revised. I think one of the other things, too, that you saw was there as a large decrease in the budget because of the Flushing Bay dredging, which is an expense item, which was in for \$23 million. As the total I believe it's like \$35 million of which \$23 million is being spent this year, of which \$7 million will continue into next year. So your point is valid, but there are also a variety of ins and outs both year-to-year and both for the long term as well that we have to take into consideration in cooperation with the--the OMB, the Water Board and the Water Finance Authority. You know, another big addition that you've seen in this Capital Budget that we're putting forth here is

an additional \$2.6--\$2.16 billion in new capital programs. So that gets to the Commissioner's point of where as we go and take a longer term view in terms of what rates do you raise, you know, how much of that has to be accounted for now versus having much higher rates possibly in the future? And that's something we're always trying to balance to make sure that we're mitigating the rate impact as much as possible, but also making sure that we have sufficient resources to be able to fund and finance those capital programs as they mature up and as they get, you know, initiating through the next ten years.

COUNCIL MEMBER LANCMAN: So for when you come back in May by which time we would probably know what the--the rate increase is being proposed, I can say that the rate payers in my district including single-family homeowners like myself, multi-family homeowners, commercial, et cetera, we are willing to pay our fair share for running the system including having a responsible reserve including for planning for future capital expenditures. But we are not willing to pay water rates that are either diverted to a general fund or part of some scheme to benefit one constituency over the other, and those are the

kinds of questions that I will ask you come May when we know what the water rate is proposed, if any. You know, it doesn't have to be an increase, but if any, and measured against what are we using this money for? But I'll just conclude by commending you for running a really efficient and well run water and sewer system, which we're happy to pay for but not more. Thank you very much, and I'm looking forward to speaking to you later on that.

CHAIRPERSON CONSTANTINIDES: Thank you, Council Member Lancman. I'll turn it over at this time to Council Member Ulrich.

COUNCIL MEMBER ULRICH: Thank you. Thank you, Mr. Chairman and Commissioner, thank you for your testimony. I apologize for being late, but all the hearings, budget hearings going on simultaneously. I want to thank you and your terrific staff for the work that they do with my office to mitigate some of the Flushing-flooding issues that we have. You were talking about Flushing so I Flushing on my mind, but there's no pun intended, but the flooding issues in my district in particular. Tomorrow morning I'll be meeting with a constituent of mine and I know that your office was

helpful in setting up one of your water and sewer folks to meet me on site to deal with an issue that I think all of us have to deal with and that's this--this chronic ponding issues that occur in certain locations and parts of the city. And I know, I don't--I know what's going to happen at this meeting tomorrow. I'm going to go there and at 9 o'clock in the morning. My constituent will be there. Sand her 93-year-old have been dealing with this forever. They can't get into their garage because there's massive lake in front of their house that DEP will say is DOT's responsibility and DOT will say--point the finger back and DEP. At some point there has to be some relief for my constituent who comes to me, who calls 311, who's been dealing with this for years, who can't--they can't leave their home when it snows and ice is over because it's just such a serious issue that there has to be some overriding jurisdiction there. There has to be some agency or someone that's able to say no, you have to fix this. This is unacceptable, and I want to know if that's going to happen tomorrow and--and I don't--and I'm not trying to dump on you or blame you for anything, but there has to be some relief for these property owners

in our districts that dealing with street flooding, and it's the--the plan--the game of, you know, it's not fault. It's not my responsibility. It's for you. So maybe you want to address that first.

ERIC LANDAU: Thank you, Councilman.

I'll be happy to. As I'm aware of tomorrow morning's site visit. You know, and--and as we've certainly talked in the past, and as you very well know, there are a variety of reasons why there can be street ponding, and sometimes it is a DEP infrastructure issue. Sometimes it is related to street grade, and--and falls under DOT's purview, and so in these types of situations the last thing we really want to see happen is--is an individual meeting with one agency where there is finger pointing going on whether it's DEP saying DOT or DOT saying DEP or any other agency in the mix for that matter. And so in these situations we often strongly recommend and I hope so will be the case tomorrow morning when our borough manager from Water and Sewer Operations goes out to meet with a constituent that there is also a DOT representative that's been invited, and so that we can have that conversation all parties together to

2 try to figure out what is the best and most
3 appropriate solution for your constituent.

4 COUNCIL MEMBER ULRICH: Right, right.

5 ERIC LANDAU: So we look forward to
6 hopefully being able to help.

7 COUNCIL MEMBER ULRICH: [interposing] I
8 hope that happens because for years they've been
9 dealing with this situation. It's not the only case,
10 but, you know, we hear stories like this all the
11 time. There has to be some sort of protocol that I
12 think that's part of the code or the—a directive that
13 comes from the Mayor's Office. It doesn't have to be
14 a bill that—that we passed that basically says like
15 someone ultimately has to take responsibility for
16 these issues.

17 ERIC LANDAU: And—and we certainly do
18 work very closely with DOT in trying to—to find the
19 solutions where there is overlap, but again having
20 that joint site visit together so everyone is looking
21 at the exact same time at the problem can be super
22 helpful.

23 COUNCIL MEMBER ULRICH: I—I hope and I
24 will be there myself, and we've invited DOT and I'll
25

call them after this hearing just to confirm that they'll be there and circle back with you.

ERIC LANDAU: Fantastic.

COUNCIL MEMBER ULRICH: The second issue that I want to bring to your attention, I—I looked through the briefing papers in the testimony, but an area that you certainly have a lot control over is enforcing the Noise Code. And one of the number one complaints to 311 and to my office as the weather gets warmer is intrusive or chronic noise complaints coming from loud bars, establishments, but more often than not homes. There's one home on the block where people just, you know, they party like into the wee hours of the morning. They're blasting music. You call 311. It goes—it gets routed to the local precinct. The Cop car pulls up. He doesn't even get out of the car. Sometimes he doesn't hear any noise because they're in the back yard. They're not in the front, and they drive away. They close out the complaint. My constituents still can't sleep, right. So a couple of years ago we worked with—I don't know if you still work with your agency. I think it was—was it Joe Singleton who was head of Enforcement or Scaffidi. I'm sorry. Thank you. Scaffidi and we

said you know what we're going to do? We're doing to take the top ten chronic 311 complaint locations related to noise. We're going to have the Police Department the local Captain and the Summons Officer actually escort your enforcement agents to visit these top ten chronic, you know, reported locations, and while we did it, they actually had to put overtime I think because sometimes Enforcement doesn't work on weekends or late, that late at night past 10 o'clock, and the Police Department wen with your inspector to the top ten in the 102 Precinct, and lo and behold 6 out of 10. There was this wild loud party going on and they were able issue a violation, a summons, and the DEP violation, as I understand it is a heftier fine than the-what the Police Department is able to give to the offender, if you will. So that was very helpful because we're finding that a lot of these complaints are the same complaints. It's the same people, and so I'm wondering if DEP has taken that pilot or taken that initiative that we started a couple of years ago and expanded to other precincts and other areas where you're seeing like the same number of complaints, and it's coming from the same bars and restaurants o the

same houses or the same locations. Noise pollution is very, very intrusive, and they call New York City the city that never sleeps, but it really—that should only be a metaphor. I mean people very hard. They have a right to be in their homes, and have—feel secure and safe in their homes and not be, you know, kept up all night because of inconsiderate individuals or businesses so--

ERIC LANDAU: So, Councilman, I'd like to introduce Gerry Kelpin who is the Director of our Air and Noise Division—

COUNCIL MEMBER ULRICH: [interposing]
Okay.

COUNCIL MEMBER ULRICH: --at the Bureau of Environmental Compliance

ERIC LANDAU: of Environmental Compliance.

COUNCIL MEMBER ULRICH: Thank you.

GERRY KELPIN: Good afternoon or good morning. It's still morning. [coughs] So there's two prongs that we address noise from—related to music. Commercial bars and—and restaurants are—are a much easier task in a way for us. [coughs] We're to a—an entity and not needing to get access to

residence. We have a number of programs that end up helping the business resolve their music issue. They can [coughs] mitigate their music system or they can insulate. They can change a number of things, and if they do it after the first violation, they can use the penalty that we would charge—that we would impose to actually do the—the mitigation. We've seen—since that's been in place, we've seen a number of—of businesses take advantage of that actually solve the problem on first violation. For private homes, though in--

COUNCIL MEMBER ULRICH: [interposing] How much is the first violation? I'm sorry. It is based on the decibel level?

GERRY KELPIN: [interposing] For commercial--

COUNCIL MEMBER ULRICH: Is it—it is graded? I don't know. Maybe you can--

GERRY KELPIN: So, for a commercial establishment [coughs] there's two different types of violations that we can issue. The one that we would prefer to use because it's more effective is we need to take noise readings within a person's home and capture the sound from the [coughs] business. That's

2 fine and it's decibel based. Do you want the
3 numbers? Do you--

4 COUNCIL MEMBER ULRICH: Yes, the range
5 about. How much do you give them?

6 GERRY KELPIN: So the--the fine itself,
7 the first penalty is \$3,200.

8 COUNCIL MEMBER ULRICH: \$3,200?

9 GERRY KELPIN: Uh-huh.

10 COUNCIL MEMBER ULRICH: So they are going
11 to fix the problem? They don't want to pay another
12 \$3,000.

13 GERRY KELPIN: Correct. We are seeing
14 now that the--and again this was something that was
15 put into our mitigation penalty schedule a couple of
16 years ago, and like I said we found that it's--it's
17 very effective. [coughs] For our residents, though,
18 for a private dwelling, and we would--the provision
19 that is used is unreasonable noise. That provision
20 has just recently been modified so that [coughs] and
21 it's effective like two weeks ago now. Where if a
22 violation is issued for unreasonable noise to a
23 person the penalty is I believe between \$50 and \$100
24 now. If we use unreasonable noise and there are
25 certain cases where we can for a commercial

establishment. The penalty range is—the current penalty is \$350 [coughs] but it so in the case that you're talking about there's no longer a difference between the DEP penalty and the PD penalty for unreasonable noise. I can't speak if they do it under disorderly conduct. That's a whole different sort of ballgame for us. In terms of our working with any other precinct to do that, occasionally we do get requests from the precincts to do that. Controlling individual's habits are much, much more difficult obviously than business, and I think that's the problem that people— How do I put this delicately? Don't care.

COUNCIL MEMBER ULRICH: Right. I think they care if you will issue a summons though.

GERRY KELPIN: I don't think so.

COUNCIL MEMBER ULRICH: I don't know. I mean we—we have been somewhat effective in curtailing some of the chronic folks who are being inconsiderate. In residential communities primarily we see a large spike in these complaints. It's the number one complaint. Why is it only when the—why is it only referred to or channeled through NYPD when people call 911 and not to DEP as well? Does DEP

track the number of noise complaints even though you many not be receiving all of them. I mean that's something to know.

GERRY KELPIN: We-we can see the total number from the 311 statistics what are considered to the person-to-person types of complaints are directed to PD. [coughs] My staff does not have peace officer status. It puts them in a dangerous situation for them to go and knock on a homeowner's door. They are not in uniform. So all of these factors, and-and this is-we would not even if we had peace officer status. [coughs] We're just-we're not the police to go and knock on a-on a person's door.

COUNCIL MEMBER ULRICH: [interposing]
Alright, alright and I don't want to put any city employees in harm's way. That's why we arranged them to with the Police Department--

GERRY KELPIN: Right, uh-huh.

COUNCIL MEMBER ULRICH: --just to randomly visit these top 10 and 6 out of the 10, you know, there were these wild parties going on and lo and behold they were able to get summonses issued there, and it didn't make a difference for those neighbors and the people on the block. And it is a

very important issue that I think—I know we talk about water and sewers and that's primarily the focus of your work, but the enforcement of the Noise Code from a quality of life perspective and point of view is—is extremely important especially as we go into the summer months. So maybe we can work more closely together with the local precincts and--

GERRY KELPIN: [interposing] It would have to be with the local precincts.

COUNCIL MEMBER ULRICH: Of course.

GERRY KELPIN: But—and—and understand the—the precincts are also capable of issuing the summons. The [coughs] provision that they use they don't actually have to use the sound needle. There is a mechanism that they can use to judge that the sound is unreasonable. You know, but it's something that we can certainly work with.

COUNCIL MEMBER ULRICH: Okay, well, we'll talk about it, but I want to thank the Chair for your indulgence and again I want to thank all of you for your terrific work in my district, and you have a—a big city to take care of but I think that DEP does an extraordinary job and again I always make it a point to thank all the workers especially those who manage

all the sewer maintenance facilities. It's definitely a dirty job and I think a lot—you know, I know some of them. They live in my district. I think they feel unappreciated at times because people don't see them all the time because they're not, you know, driving around in a city vehicle or, you know, totally visible all the time, but they—they do such important for the city for public health, for our environment, for our community for our quality of life, and I certainly appreciate their hard work, and I know that you do as well and I just want to say thank you. So thank you, Mr. Chair. Thank you.

CHAIRPERSON CONSTANTINIDES: Thank you, Council Member Ulrich, and to just covering some last points before I let you guys go and we'll take some public testimony. Magnesium hydroxide can you provide the committee with an update on the—the pilot program that was performed at Hunts Point, and how do you look to—to the future on the oil chemical?

COMMISSIONER SAPIENZA: So, Mr. Chairman, for the nitrogen removal processes at these plants that we've been---we've—we've upgraded, it—it requires the addition of—of alkalinity. Basically, the—the process to remove nitrogen that uses

alkalinity, and so we have to add it back, and we've been using caustic sodium, Sodium Hydroxide. It's the cheapest source of alkalinity. However it has down sides. It's—it's tough to handle. It's like Drano, you don't want to get it on your hands--

CHAIRPERSON CONSTANTINIDES: Uh-huh.

COMMISSIONER SAPIENZA: --and it-it-the biological uptake is very quick. So we started looking at Magnesium Hydroxide, which is basically Milk of Magnesia. So handling is much easier, the biological uptake is slower, which is actually better. It costs a little bit more, but on a life cycle basis it-it-it pan out. So we've been doing a pilot at Hunts Point. We expect to have the report issued this summer and--and if that's the way to go, we will switch over from Caustic Soda to Magnesium Hydroxide.

CHAIRPERSON CONSTANTINIDES: Okay. I just had some curiosity there to know that the--our current as you--as you talked about the current chemical you're using is a little bit tough to handle and it creates a little bit of an issue. Looking at the--our--our control plans and our CSOs, I was just with our Attorney General on Tuesday. The days of

the week kind of get mixed up, and I was with him at the Gowanus Canal, and I just want to talk quickly. Can you provide us with an update in terms of recent conversations, site visits you may have had with EDC, regarding site acquisitions there at the Gowanus Canal.

COMMISSIONER SAPIENZA: Do you want to talk to that.

ERIC LANDAU: Thank you, Mr. Chairman. So, as you know, we are actively engaged in the Gowanus Project where we are building to combined sewer-sewer combined sewer overflow storage tanks, an eight million gallon tank at the north end and four million gallon tank at the south end, and the eight million gallon tank requires property acquisition and the Consent Order that we have at EPA requires that that acquisition is completed by the spring of 2020. We believe we are on schedule for that, and we have been very working very, very closely with EDC and are actively engaged with negotiations with both property owners in that process.

CHAIRPERSON CONSTANTINIDES: And how—how is the cuts to the EPA or anything about that

affecting our potential work on these Super Fund sites?

ERIC LANDAU: So, as—you know as we—as we talked about before, our projects are funded by the water and sewer rate and specific to super—the way Super Fund works is that the responsible parties are responsible for paying of the cleanup costs so DEP is responsible for paying the cost of the storage tank. National Grid obviously has some responsibilities in the clean up. National Grid is not yet under a Consent Order with EPA the way the city is, and so that order needs to be finalized because there needs to be coordination between both the city's work and National Grid's work. But the city's portion of the project is fully funded. You said in the Ten-year Capital Budget there's \$735 million. Furthermore, the city as par of our Consent Order on the eight million gallon tank we are also required to pay for EPA's Administrative costs, staff, consultants, et cetera.

CHAIRPERSON CONSTANTINIDES: So, again, we're—we're going to be able to continue to do that good work there and not have anything that's happening in the national level affect that?

2 ERIC LANDAU: Yeah, obviously the next
3 key step is for EPA and National Grid to get into a
4 Consent Order the way the EPA and City have.

5 CHAIRPERSON CONSTANTINIDES: Alright and
6 looking at the control orders and long-term control
7 plans, DEP is still in negotiations with the New York
8 State DEC on a new CSO Consent Order?

9 COMMISSIONER SAPIENZA: That's right. So
10 we've had previous iterations of the Consent Order to
11 do work, and, you know, as part of that we've—we've
12 done a lot of gray infrastructure a lot of green
13 infrastructure, but we're now negotiating a—a Consent
14 Order going forward that will cover as much as 25
15 years of future work, and that's going to cover about
16 a dozen different water bodies around the city, and
17 will require the-the city to perform a number of
18 different upgrades to reduce the amount of overflows
19 into those water bodies.

20 CHAIRPERSON CONSTANTINIDES: And how-how
21 much was that looking at? You're saying up to 25
22 years. So, have-have we determined how long that
23 would be?

24 COMMISSIONER SAPIENZA: No, we're—we're
25 still negotiating that with the state as-as well as,

you know, what the--the financial considerations maybe. We'll--we--as the city have been looking to try to cap our financial commitments and--and so we've been having some discussions with the state about that.

CHAIRPERSON CONSTANTINIDES: Are--are we looking at putting in something for inflation because I know that, you know, last year a sort of renovated park in my district would have cost me a million and a half dollars, but I go back to Parks Department and based on construction costs it's now \$3 million to renovate that park because the costs of construction continues to go up. Are building in this--because, you know, \$3 bill or \$4 billion it's not going to buy us the same amount in 10 years or 20 years that it buys us today.

COMMISSIONER SAPIENZA: So--so Mr. Chairman, we've absolutely talking--been talking to the state about inflation. It gets a little tough when we put together 10-year capital plans to know what inflation may be in any particular year or how costs may be escalated for any particular project the same year 7 or 8 or 9, but we have been looking at

just in concept adding addition funds to—to certain projects to assume some level of inflation.

CHAIRPERSON CONSTANTINIDES: Alright, because let me add as—as—like I said before, in 10 years or 20 years the—what—whatever how much we do set it at is—is not going to buys us the same amount of stuff, right, and that's just the realities of inflation. I'm staring to sound like my father a little like that way. I'm going to start talking about how a candy bar was fifty cents. [laugh] But with that—that is a real factor that we have to consider just we're not going to get as much bang for our buck moving forward. And looking at some of these in particular water bodies, we look at Alley Pond and Flushing Creek. I know there's some concern there. We're going—I know we're going to hear about that in a little bit as well. Do you feel that we can—are we spending enough, are we doing enough there or can we spend more?

COMMISSIONER SAPIENZA: Alright, the—the—the ultimate goal of—of the Combined Sewer Overflow Program is—is to eliminate combined sewer overflows.

CHAIRPERSON CONSTANTINIDES: Uh-huh.

COMMISSIONER SAPIENZA: We've looked at that. That's like \$100 billion program to separate all sewers in the city. It's not going to happen in over lifetime. So under the-the Consent Order with that state that we're looking to-to have signed soon, is to reduce overflows into very sensitive water bodies, to-to improve the water quality there. We'll-we'll eliminate all overflows in certain water bodies like the Alley Creek of Flushing Creek. These plans won't but we think we'll get significant reductions and-and improvements in the water quality.

CHAIRPERSON CONSTANTINIDES: Alright, and-and looking at the green infrastructure and how that plays into that, that's going to be a huge part of this as well, correct?

COMMISSIONER SAPIENZA: Absolutely. We're-we're seeing good success already with the green infrastructure. In-in most neighborhood folks like them, and-and so we want to continue pushing those forward.

CHAIRPERSON CONSTANTINIDES: And we're-and we're installing them on-in areas that we own. You talked earlier about on city property, in front of schools, libraries, parks and we-we-because we're

2 really maximizing our potential to do the things that
3 we can do on our property and--and in these particular
4 areas?

5 COMMISSIONER SAPIENZA: That's right so
6 we've looked at all of the public spaces that you
7 mentioned, Mr. Chairman, city right-of-ways, and--and
8 now we're trying to work with--with private owners to--
9 to improve their facilities, too, to incorporate
10 green infrastructure.

11 CHAIRPERSON CONSTANTINIDES: So now
12 there's like Bowery Bay. We'd be looking at this,
13 you know, water treatment plant in there as well. We
14 would look to have more green infrastructure in--in
15 areas like that as well, right?

16 COMMISSIONER SAPIENZA: And we have--
17 actually have contracts coming up that we can share
18 with you when--when those are going to be effectuated
19 in--in your district.

20 CHAIRPERSON CONSTANTINIDES: And as--as
21 this Consent Order as we negotiate you'll be in
22 contact with the Council and--and there's a role for
23 us to play in partnership to--to go back and forth and
24 make sure we--we can get to a--a good place right?

2 COMMISSIONER SAPIENZA: Absolutely.
3 We'll share that with you.

4 CHAIRPERSON CONSTANTINIDES: I appreciate
5 that. I want, Commissioner—I want to recognize
6 Council Member Levin who is here joining us from
7 Brooklyn who's a member of the committee. Steve, do
8 you have any questions before I let the panel go?
9 You're good?

10 COUNCIL MEMBER LEVIN: [off mic] I think
11 I do.

12 CHAIRPERSON CONSTANTINIDES: Oh, yeah,
13 okay. I'm about to let them go. So this was—this
14 was round 2 for me. So, alright, so I'll turn it
15 over to Council Member for questions.

16 COUNCIL MEMBER LEVIN: Thank you very
17 much, Mr. Chairman. Hi, Commissioner. Hi, gentlemen.
18 I wanted to ask just about how and you might have
19 addressed this before my arrival, but in looking
20 ahead to potential federal—federal cuts at the EPA to
21 their Super Fund Program in—in my Council District
22 there are two Super Fund programs that are now 8, 10
23 years underway or 6 or 8 years underway. How is—how
24 is DEP looking at troubleshooting that process and—
25 and if there are major cuts where in terms of

supervision, implementation at-at the EPA and-and they could have a serous impact of Gowanus Canal and New Town Creek. Howe are you looking at that.

COMMISSIONER SAPIENZA: So, Council Member we-we addressed the Gowanus Canal before you arrived and DEP is currently under an order from EPA where we both need to build projects, which are funded in the Ten-Year Plan, as well as paid administrative costs for EPA staff to oversee that. So the Gowanus Canal we see they're moving forward unimpeded. Newtown Creek is still a little bit further out in the process and we're-we're waiting on records of decision as-as to what exactly needs to be done, but needless to say whatever, you know, DEP is required to do, that will be-that will be done.

COUNCIL MEMBER LEVIN: So currently with Gowanus DEP is required to be paying to the EPA and that won't-that won't be altered at all by any particular budget cuts because of that?

COMMISSIONER SAPIENZA: Well, you know, we have the-the funding in place and our budget's abilities to CSO storage tanks and I think with \$650,000 a year we pay the EPA for administrative

2 costs. It's about a little under a million dollars
3 to—to fund their staff to oversee the project.

4 COUNCIL MEMBER LEVIN: Okay. Thank you.
5 Thank you, Mr. Chair.

6 CHAIRPERSON CONSTANTINIDES: Thank you,
7 Council Member Levin and Commissioner and Joe and
8 Eric thank you all for your testimony today. We
9 appreciate your partnership as well and—and than you
10 and—and all the staff a DEP for their great work and
11 look forward to having you back here in May for the
12 Executive Budget hearings. So thank you.

13 COMMISSIONER SAPIENZA: Thank you so
14 much.

15 CHAIRPERSON CONSTANTINIDES: Alright, so
16 then our next panel if you can step forward would be
17 Lawrence Levine from the Natural Resources Defense
18 Council; George Penasis (sp?) from ACEC, and
19 [background comments, pause] Shino Tanikawa if you
20 can step forward from the Spring Coalition as well.
21 [pause] Alright, alright so Mr. Levine if you want to
22 start on your end. [pause]

23 Okay. Thank you, Mr. Chairman. My name
24 is—do I need to swear or--?

CHAIRPERSON CONSTANTINIDES: No, we're—we're—we're—I'm without an attorney at the moment so you'll be on the honor system.

LARRY LEVINE: Okay. [laughter] I—I hope I'm earn that honor. Mr. Chairman and members of the committee. My name is Larry Levine. I'm a Senior Attorney with Natural Resources Defense Council, and I appreciate the opportunity to testify today. I also serve on the steering committee of the Storm Water Infrastructure Matters Coalition, which represents over 70 organizations dedicated to ensuring swimmable and fishable waters around New York City through natural sustainable swim water management practices in our neighborhoods. So that the minor questions towards the end of the last section of the hearing about CSO, Combined Sewer Overflows, is—is very important to—to us, and that's what I'd like to focus my testimony on. And as—as part of that the green infrastructure discussion sort of a subset of dealing with combined sewer overflows and also dealing with polluted runoff in the separately sewered portions of the—of the city referred to as the MS4 area, Municipal Separate Storm Sewer System, and related to both of these things,

too, which I'll touch is the issue of water rates, of course. That's where the funding for these programs, these water body improvement programs come from, and it's important to make sure that that funding is generated in a fair and equitable way, in a sustainable way, and in a way that can provide the proper incentives for—for good storm water management by private property owners who are the—the rate payers. So NRDC comments DEP for the substantial progress it has made in the last few decades in reducing combined sewer overflows, but we emphasize that the problem is far from solved. The city still has over 20 billion gallons—20 billion gallons per year of sewer overflow, and that occurs scores of times per year whenever it rains as little as a tenth of an inch, and the individual water bodies sometimes have billions of gallons annually into—into a single water body. We ask that the committee exercise vigorously its oversight responsibility to ensure that DEP's efforts are directed towards effective and sustainable solutions that protect our waters for both human recreation and ecosystem protection. And we also ask the committee and the City Council as a whole to use their authorities to both support and

enable DEP's success. In brief, there are three main concerns that we have and I detailed them much further in--in written testimony, but I'll try give a brief overview. First we remain very concerned that DEP is seeking approval, state approval through what are essentially back room negotiations of CSO cleanup plans that will not meet federal health standards, that will continue to leave hundreds of millions or billions of gallons of overflows in each water body annually, dozens of times per year or, as you heard, decades to come that will be covered by this order. Secondly, we're concerned that DEP has not met it's green infrastructure goals to date. Despite the 3,000 or so bioswales in the ground, which are fantastic, DEP reported to the State that it achieved less than half of its target for the amount of green infrastructure built by 2015. And we're concerned similarly that the plan going forward will not be up to the task of both catching and meeting future targets that are even more ambitious with each five-year incremented time under the order. We're concerned as result of that that DEP is actually considering pulling back on those commitments as part of the Consent Order negotiations, and third, as I

mentioned, we're concerned that the great structure does not provide a fair and equitable means of generating sufficient and sustainable funding for these efforts. The City's Storm Water management costs including the cost of managing storm water in the combined sewer system that cause overflows those costs are paid for by revenues from the sewer portion of the water and sewer rate. As you all well know, the sewer charge is based on a percentage of the water charge, which in turn is based on metered water usage for nearly all customers. So if you connect the dots there, we're paying for storm water based on how much drinking water we use, and that really makes no sense at all. Cities around the country have realized this. You know, 2,000 cities have separate charges for storm water fees. Many large cities that previously had a system like this had shifted away from it in order to separate out the storm water charge and calculate it equitably according to what the contribution is of an individual customer or an individual property to the runoff that's discharged into the sewer system and, therefore, the costs that they impose on the sewer system for operations, maintenance and--and capital. It's been a long time

this has been talked about in New York City and we've seen no genuine action on it. DEP did a rate study nearly 10 years ago now that—that took a look at this, and it's—as we can tell it sat there on a shelf since then. We believe it's well past time for DEP and the Water Board to move us into the 21st Century on the rate structure with regard to storm water, and that's going to go down to the benefit of these environment—environmental goals. It's going to go down to the benefit of the city's goals for social and economic equity because one thing that it—it will do by allocating those costs proportionately to where the runoff is coming from that will tend to benefit for example multi-family housing, much of which is—which most of the affordable housing stock in New York city for example is going to be in that multi-family housing sector where you've got a high density, a high density of water usage. There's lots of people living stacked up on top of each other, but in a small physical footprint again because they're stacked up on top of each other. And so right now, buildings such as that are paying—overpaying substantially for storm water because they're paying for it based on how much drinking water they use even

though they have comparatively little runoff from their smaller impervious area on their properties. As compared to on the flip side of things say a large big box store that has a tremendous amount of impervious area, but uses little potable water because no one is living there. And so you—you get the burdens placed in the wrong place, and by correcting that, we can further support the Mayor's goals and City Council's goals toward the affordable housing and—and towards fairness and equity in our water rate structure. So I know that the—that changing the water rate is itself beyond the power of City Council, but we do believe City Council has a role to play here both in terms of bully pulpit, but also and—and, you know, you all are not shy about speaking up when it comes to water rates, and—and also potentially in terms of legislation, the Council I believe could certainly direct DEP to revisit that study from nearly a decade ago and to come with specific proposals and recommendations on how to make this happen in New York City. If not, they're going to be able to do that study by April or May for this year's rate setting process, but they certainly do it for next year's, but there's—and there's no evidence,

though, that that's in process and-and from experience we have no reason to think that it will be in process absent a-a real push from City Council.

I'd like to address DEP's Capital Budget for green infrastructure that's reflected in the January 2017 Capital Commitment Plan. There's a recent IBO Report that shows that DEP's Capital Program includes \$787 million in spending on green infrastructure from Fiscal Years 2017 to 2020. There's also a bar graph in the report indicating that from the inception of the Green Infrastructure Program through 2016 total capital spending was about \$350 million. The Capital Commitment that also includes the number of green infrastructure layout and that's to go beyond 2020 up through 2027, in fact, which by my count add up to another \$230 million. When you add all of those up, it appears that there is about \$1.1 billion of spending projected through 2027 with the vast bulk of that coming prior to 2020 or through 2020. And while it's highly commendable for DEP to be committing this level of funding to the Green Infrastructure Program, it raise for me some interesting questions that I think are worth exploring with DEP. As Acting

Commissioner Sapienza noted, DEP's Green Infrastructure plan proposed spending \$1.5 billion of the life of the program through 2030, and the target's milestone that the DEP is required to hit under the current CSO Consent Order are increasing each five-year increment through 2030. It has an increasing amount of green infrastructure that has to be built. And so when—when putting the pieces together we're looking at the fact that they've missed the first five-year target despite spending quite a lot of money, and that the bulk of the remaining spending seems concentrated in FY17 to 20 with a significant tail up after that. It—it opens up a question of does DEP believe that spending this money is actually going to achieve the goals that are set out in the order. There seems to be a mismatch. How—how is that by spending most of the money up through 2020, even though only 40% of the total target under the Consent Order has to be met by 2020. How is it that that in combination with the fact that they're already behind and need to spend money just to catch to a target they should have already hit. In light of all that, how is that they're—that spending this money in this way is going to lead them to

meeting those bigger long-term targets down the road?
Are they planning to spend more than the \$1.5 billion
totals? That may be good thing, but we haven't heard
from them that that's what they're going to do. If
that's the target is \$1.5 billion in spending and
it's being allocated in this way, it calls into
question how they're and whether they're actually
directing it in ways that will get them to the
target. So paradoxically, while-while it's a good
thing to see these increases in here in-in spending,
it's puzzling how to line that up with the stated
policy goals and the requirements of the current
Consent Order. And so, that leads me back. I just
wanted to-to circle back for a moment to the bigger
picture question then of the CSO Consent Order, the
COS Long-Term Control Plans, the effectiveness of the
city's overall green infrastructure program as well.
Acting Commissioner Sapienza said in-in response to
your questions, Mr. Chairman, that he would be-DEP
would be keeping City Council in the loop on the
negotiation of-of that order. I think it's important
to pin DEP on what they mean by that. In past
practice, since this order has been around in various
forms for years, and renegotiated in 2005 and 2012,

they're renegotiating again now, and the practice has been for those negotiations to take place behind closed doors between DEP and DEC, State DEC, and then for opening that up for review by others, by the public and by elected, local elected officials. Opening that up only after DEP has already signed the agreement. The State will put-put it out for- formally for public comment before the state signs, and in theory that public comment period is meant to give an opportunity to raise questions for the State, but the State might reconsider whether the agreement is sufficient. In practice, after the state and the city have negotiate for multiple years, and hammered out something that they think makes sense and the city has already signed its name to it, the likelihood of those-that public comment period effecting any change is meaningfully small. And so when we talk about opportunity for public input, opportunity for input from the Council, for all the Council Members whose constituents and whose neighborhoods and communities will be affected for the next 25 years by this critical agreement. We talk about engagement and opportunity to-to-to influence the result. If what we're talking about is

a public comment period that happens after DEP has signed the order that's not a meaningful opportunity to engage. So I think it's really important to pin down DEP is that what they mean, or will they be in a more open way engaging with you and engaging with the public on the details of what they're considering in this negotiation with DEC. There's one specific of what the Commissioner said they are trying to do in the order that is great concern. He said that—that DEP, and this in concept, of course, is good idea we'd all agree to, DEP wants to have some limit on how much it will spend, right? We—we agree \$100 billion to completely eliminate CSOs does not make sense to commit to spending that now. Right, but what has trans—that—that goal that desire at DEP, what that is—seems to be translating into in the context of the Consent Order negotiation is a desire to have a hard cap on dollars spent within the 25-year term of the order rather than have performance goals of the amount of pollution reduced and the cleanliness of our water that are the benchmark for compliance with an order. And when you—when you substitute dollars spent for achieving results, that's the sort of scenario that—that I know none of

you would be glad to see and any more glad that we would be see it. City agencies and-and-and government agencies in general certainly know how to get money out the door, and if the metric for compliance is getting money out the door, rather than achieving results, we really fear that the money will be spent in a way that does not achieve the results that we want to see. So in my testimony, my written testimony I offer a series of questions that I encourage the-the Council to really ask of DEP to try to pin them down on this question both the process on the question of what their objectives are that they will-that they are trying to get in the order, and how they are carrying out various aspects of their Green Infrastructure Plan where we see significant need for improvement if they are to meet those goals. So I'll-I appreciate the-the time speak. I'd be more than happy to answer questions now or afterwards and I hope you'll consider the-the more specific comments and questions in the written testimony as well.

CHAIRPERSON CONSTANTINIDES: Thank you.

[background comments] Next, please.

GEORGE PANESIS: Good morning, Mr.

Chairman and members of the committee. My name is

name is George Panesis. I'm a--I'm a partner at the Engineering firm AKS in New York City--

CHAIRPERSON CONSTANTINIDES:

[interposing] Okay.

GEORGE PANESIS: --and a member of ACEC.

So I'm happy to provide testimony on behalf of the American Council of Engineering Companies, ACEC.

Since its founding in 1921, ACEC--it's a very short statement so don't worry. ACEC New York has served

as a source of ideas, a sounding board and a

professional resource for state and leaders including

DEP. ACEC is the voice of the professional

engineering community, and we represent over 280

member firms throughout New York State collectively

employing close to two--24,000 people statewide with a

concentrated presence of firms in New York City and

the five boroughs. Of our total member firms 50, are

Minority and Women Owned Businesses with the

Department of Small Business. Our members are

involved in all aspects of engineering for the public

sector. We plan and design the structural,

mechanical, electrical, civil, environmental,

plumbing, fire protection and technology systems for

the city's infrastructure including transportation,

energy, water supply and wastewater treatment. Our members are also involved in a host of planning, resiliency and environmental issues. ACEC weighs in on many important issues of the day from infrastructure investment and energy efficiency policy to alternative project delivery systems and improved procurement practices. We have a volunteer DEP liaison Committee made up of licensed engineers who work with the agency providing expertise and support of developing policy for the city.

Increasingly severely weather has put a strain not only on New York City's transportation systems and electrical grid, but also its water and sewer infrastructure. By way of example the Comptroller's officer, the State Comptroller, has estimate the state will need to invest approximate \$80 billion over the next 20 years in water and sewer systems. Part of this is what you heard about wastewater treatment plants being—having to be hardened and so on against storms. The changes in weather patterns affect all facets of environmental energy infrastructure especially along the coastline like where the plants are located. As a consequence, New York needs to improve and harden its infrastructure.

Innovative—innovative designs to accomplish this can make New Yorkers safer and enhance their life, quality of life with projects of this type take time and the more resources available to DEP the sooner they can begin. We appreciate the work that you and the members of the Council do to improve our city everyday, and look forward to continuing to work with you on these important issues. Thanks and if you have any questions.

CHAIRPERSON CONSTANTINIDES: Thank you very much. I appreciate your testimony.

SHINO TANIKAWA: Good afternoon. My name is Shino Tanikawa. I am representing the Steering Committee of Stormwater Infrastructure Matters Coalition today. I'm also the Executive Director of the New York City Soil and Water Conservation District. Luckily for all of us, Larry covered almost everything that I was going to share with you [laughter] so I'm going to make it a short, just a reinforcement statement. We do have concerns over the long-term control planning process as well MS4 Green Infrastructure Plan, and particularly the water rate restricting. Those are our major concerns at the moment. I do have to start with giving credit to

the DEP. Their task is enormous. We have so many people, 8.5 million plus the resident commuters, and tourists. That's a lot of wastewater that they have to manage not to manage the world's best drinking water that we have in city. So I do want to acknowledge the work that DEP does and the tremendous responsibility that they deliver on, and part of that is that we have cleaned up our waterways a great deal. I do tell people especially small children that you actually can swim in the Hudson River these days, but then I have to follow that statement up with but right after a rain you cannot go to into the water. So while we've made great strides in the last century we still have a long way to go, and it is heartening that we are engaged in the CSO Long-Term Control Planning and the MS4 process right now. One of the issues that we have is there seems to be two relatively separate efforts going on under the CSO LTCP and the MS4 process. The DEP recently realized that they really need to integrate these efforts at watershed level. So they are starting to think along those ways, but we see there could be better integration between the MS4 program and the CSO LTCP particularly on the timing issues. Some of the plans

are coming out already before the MS4 Stormwater Management Plan is due next year. We see that as a problem. LTCP planning goes ahead without really considering the impact of stormwater in some of these waterways. So we'd like to see better coordination between those programs. We also would like to urge the City Council to get more involved in the CSO issues. Beyond the Environmental Protection Committee, this is an issue that concerns everybody. Even if you don't have a waterfront in your district, we all use water. We all create wastewater. As such, I think this is an issue that concerns all of us. We would love the City Council to have better and tighter oversight from these programs that the GEP is engaged in right now. And we urge you to sign up for Sewage Right to Know Alert System so that you actually get a text—a text from the DEC when there is something just resident to your neighborhood water body, and we would like to urge your constituents to sign up for it as well. I think we need to start realizing that while water bodies have become cleaner, there are times when you get these messages even without a torrential rainstorm, and that kind of awareness I think would be a—a very useful thing.

Again, as Larry mentioned, we are concerned about the Consent Order negotiations that are going on between the city and the DEC and I really do hope that the City Council will have a better—a bigger role in that negotiation process. We don't want to see the Consent Order become a dollar maximum target. We really strongly urge the DEP to consider having a performance based target for those consent orders. And finally, as Councilman Lancman mentioned, why do we have to keep raising the water rate every year if the DEP is not spending as much money. We understand the budget is complicated and water rate restructuring is complicated, but we are going to need a lot more money to get our water cleaner, and right now whose paying for what is not equitable. Think about a Home Depot with a parking lot with two toilets. That Home Depot is paying very little. We're talking about just two toilets and maybe a sink. They're not paying a lot of money in water-water fees, but all the rooftops and the parking lot that entity is generating gallons and gallons of stormwater. Yet, who pays for that stormwater is actually all of us. So right now the rate is structured as such. People who are polluting the

water through stormwater are not paying their fair share of the fee. We really do want the DEP to start looking at the water rate restructuring, and every time we bring this up they tell us oh, we have this antiquated billing system that we have to upgrade first. This is 2017. I think the billing system software issues should be the least of their challenges. That should be something that can be solved right away. We have to start thinking about an equitable water rate structure where people are not paying more than they have to, and the people who are polluting are paying to fix that pollution. Thank you for the opportunity to share our thoughts with today.

CHAIRPERSON CONSTANTINIDES: I want to thank you all for your commitment to keeping our water clean and to doing the work that we are doing in New York City. I know we've had lots of conversations. I will—I will continue those conversations as we move along, and I think in May when they come back with the Executive Budget I encourage you to come and—and testify as we see where they go next. I look forward to hearing from you and

having those conversations over the next month.

Thank you.

SHINO TANIKAWA: Thank you very much.

CHAIRPERSON CONSTANTINIDES: Thank you.

For our last panel, we have Matt Malina from NYC H2O and Joe Kupferman from the New York Law and Justice Project. [door slams, background comments, pause] Go ahead.

MATT MALINA: Is it morning or afternoon. Good afternoon. My name is Matt Malina. Thank you for allowing me to testify. I am the Director and Founder of NYC HO2O. We are a non-profit organization that provides education programs about New York City's water and environment. I'd like to start by echoing the NRDC's concern about setting goals to reduce CSOs in terms of dollar amount spend rather than actual measurable CSO reduction. Moving onto bio-solids, the DEP will be taking steps to start recycling bio-solids, which is huge because the city produces 1,200 tons of bio-solids a day, and if you compare that with the amount of trash that the city produces, which is about 10,000 tons. Just by reduce-by recycling the bio-solids, it will increase the City's recycling rate by 10%, which is

significant since the city's recycling rate now is only 15%. So, we're effectively doubling the city's recycling rate. So it's very exciting that the city will be doing that. I don't think they—they refer to it specifically, but I know Commissioner Elardo is here, and the city brought her on to do that. Moving on a specific CSO concern is with the Tibbetts Brook thrown into the Broadway sewer that's in Van Cortlandt Park. Since 1997, the City has been under a consent order to reduce dry weather flow to the Woods Island Sewage Plant, and one very effective way to do that would be to remove the Tibbetts Brook from flowing into the Broadway Sewer. It has a flow of four million gallons per day on a dry day, and so we're treating clean water at a sewage plant, which is very expensive, and as Commissioner Sapienza point out, the sewage plants are the third largest power consumer for the city. So it's expensive to treat sewage. So by removing that flow, right away the city will be saving money and so in addition to that there's a tremendous opportunity to create a beautiful greenway to daylight to Tibbetts Brook along what is now the railroad tracks owned by CSX, which are abandoned, and the-the catch now is that

the used to spend \$10 million approximately to buy this property from CSX to turn it into a daylighted stream and to divert the water of the Tibbetts Brook out of the sewer and into the Harlem River where it naturally wants to flow. So \$10 million seems like not a heavy lift especially since the City listed and Commissioner Sapienza's testimony talked about expanding the -the Blue Belt in Van Cortlandt Park. In the testimony I have a picture of some fresh water snails growing in the Broadway Sewer, which is very cool, but I would ask do we want to be encouraging wildlife to be growing in our sewers rather than in our streams? [laughs] So moving-moving along quickly to bioswales. In today's New York Times, there's an article title *To the City a Pollution Fighter. To some Residents and Eye Sore* and I-I think you're familiar with this problem of bioswales becoming garbage pits instead of rain gardens, which is that they should be. Did you want to say something?

CHAIRPERSON CONSTANTINIDES: [off mic]

No, I didn't. (sic)

MATT MALINA: Oh, okay, and so the-the city needs help in-in educating the public and

Council Member Costa you—you had spoken about this.

There—there needs to be better outreach to community

members on how to upkeep these—these what could be

potentially beautiful rain gardens, and our

organization NYC H2O and organizations like the

Gowanus Canal Conservancy we work with and the

Newtown Creek Alliance and Brooklyn Botanic Garden

already have robust programs to train students and—

and residents about bioswales. Okay, I'm going to

keep going. Last but not least, the DEP Summer

Intern Training Program. DEP has a robust intern

program where they have dozens of—of—of students that

are high school and college age that work at the DEP

in the summer time. These are bright and—and

interested students in the water system. We would

ask that the DEP has a more robust education program

to—to enlighten these—these interns so that they

realize the—the breadth and the scope of the DEP's

work and all the—the challenges and--and incredible

things that the DEP works on. And again, we

encourage the DEP to work with non-profits like—like

us and Gowanus Canal Conservancy and so on to—to

expand their—their Intern Training Program. That's

it. Thank you.

2 CHAIRPERSON CONSTANTINIDES: Thank you.
3 Mr. Kupferman.

4 JOEL KUPFERMAN: Joel Kupferman, New York
5 Environmental Law and Justice Project and
6 Environmental Justice Committee. I'm also an
7 attorney for the South Bronx Community Congress. I
8 sort of take a little umbrage at the rosy picture
9 that the DEP presented of the environmental
10 conditions in New York City in terms of water, in
11 terms of revenue and also in terms of enforcement.
12 In 2014, there was 531,000 ECB violations issues,
13 over half a million, and a lot of those concerned DEP
14 violations. In 2014, there was \$200 million of
15 uncollected fines. I don't know that the figures are
16 for 2015 and '16, but it hasn't been in the news or
17 even mentioned that their enforcement is there. As a
18 lawyer that does public policy and also that's in ECB
19 hearings, it's almost a joke that these people who
20 are getting violations they're just disregarding
21 them. The people that are paying them are the small
22 people, the small homeowners or whatever. So I think
23 it's really incumbent upon you to really look at why
24 this is happening and also increase the revenue, and
25 also the City has something called the Bad Actor

Policy, which means if someone owes money to the city they could deny giving a contract or a lease. I don't think this has been practiced enough. Way back and just to recall a little history, in 2000 when the city hired a spray company to fight the West Nile Virus over a million dollar contract, people came to us including the workers that worked for that company, and showed that the city's contractor was violating that contract. It was an OSHA violation of a big \$300, and the city went to hire that company the next year. Besides the million dollar DEC fine, the city said—read the Bad Actor Policy and said we're not hiring you, and—and the city picked up the spraying. So the city has that power, and has not been exercising it. In terms of water, last year there was Legionnaire's deaths in the Bronx, and I think DEP has some responsibility for that. That wasn't mentioned. It wasn't mentioned by the increased enforcement. We're still relying on self-certification for a lot of the DEP violations. We should be hiring more enforcement people. In some ways unfortunately it's what their revenue produces. They pay for their own. So we have a lot of bad enforcement that's there. The city is—the country is

very concerned about lead in the water, okay, and I believe there DEP showing that a school in the Bronx— in the Upper West Side, on Roosevelt Island has higher lead levels than in—thank in Flint. Okay, so water there's a problem there. A lot of the problem with those—with—with—that water is not Upstate. It's the pipes that are there. A lot of those pipes are being upset from undue construction that's going on, unfettered construction. The City DEP has some control over the construction that's going on including the—the vibrations, including all the air pollution that's being emitted from those sites. The City signed a contract with Queens College to do air monitoring. In that contract it allows for the mobilization of those monitors to focus on a building that is exceeding air pollution limits for their permits of whatever. The City is not using that mobilization. They're just basically leaving those monitors in place so we can never go after all these bad construction sites. It's even across the street right on Broadway that's happening. So DEP is not controlling the air as much as they can, and a lot of those problems has to do with idling trucks at those construction sites. So we got to look at uncollected

1 fines, and not only that a lot of those contracts are
2 actually done by the city. So we have a lot of power
3 and control that's not being exhibited. We're
4 talking about green infrastructure and making things
5 better. There's a little dispute going on now in New
6 York State budget that they're not paying for the
7 retrofitting of diesel engines on their trucks. I
8 don't know how many diesel operated trucks the city
9 has including fire trucks or whatever. The City
10 should be spending money to retrofit those trucks.
11 Up until two or three years ago, New York State led
12 the state in--led the country in diesel related
13 deaths. So there's a lot the city could do and act
14 as a model before we start talking about citizen
15 suits against idling, you know, idling cars or idling
16 trucks. We should be able to take care of our own
17 first, and then we have a question of bio-solids.
18 Besides representing the South Bronx Community
19 Congress, I represent people in Northern Alabama--West
20 Morgan, East Lawrence Water Authority Concerned
21 Citizens. Part of the problem that they faced was
22 four or five years ago New York City sent our bio-
23 solids down there, and it was sprayed over the crops
24 and they determined that was environmentally and
25

health-detrimental to the people living there. So I think one of the things that we want to do is really look and--and the city should really look into more of a study to make sure that whatever we do with the bio-solids, that we make sure that--that it's inert and we're not spreading the problem and sending it to other places that are out there. Stormwater Management. One of the cases that we did was representing people fighting they--the found a community garden in--on the boardwalk in Coney Island. City-owned property. The city came along in an area that was under-sewered, completely leveled the vegetation that was there. We documented that fact that the soil and the sand was going off the site into the street and down the sewers. The city didn't do anything no matter how many complaints that we gave. So I just urge you that we should take a hard look at what's going on, and the City Council has responsibility also. All of these projects that are going on in terms of large construction sites or whatever, the City Council approves, and I'm asking on behalf of all the people that I represent that you start taking a hard look, that--that whoever handles land use approvals should speak to the people

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2 including the staff of this committee and look at any
3 and all the environmental impacts that are there, and
4 actually take an active role in those approvals. All
5 the time that we did—we've—many of the cases that
6 we've gone on, we couldn't even find any
7 determination by the City except for an approval.
8 Thank you very much.

9 CHAIRPERSON CONSTANTINIDES: Thank you.

10 I want to thank you both your testimony and your
11 advocacy and I definitely appreciate all the
12 testimony today. I again want to thank the DEP and
13 their staff and as well thank our staff here Jonathan
14 Seltzer, our Finance Analyst. Thank you, John and
15 Samara Swanston who is not here today, but I thank
16 her for all her great work and Collin for—for filling
17 in for us. Thank you for stepping up to the plate.
18 We much appreciate it and Bill Murray our Policy
19 Analyst and, of course, my staff Nick Winzowski
20 (sp?), and John Benjamin. So with that, I will gave
21 this hearing of the Environmental Protection
22 Committee closed. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date April 13, 2017