

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEES ON ENVIRONMENTAL PROTECTION, CONTRACTS,  
CIVIL SERVICE AND LABOR

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March 5, 2009  
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HELD AT: Council Chambers  
City Hall

B E F O R E:

MIGUEL MARTINEZ,  
JAMES F. GENNARO  
LETITIA JAMES  
Chairperson

COUNCIL MEMBERS:

Bill de Blasio  
Elizabeth Crowley  
Mathieu Eugene  
G. Oliver Koppell  
John C. Liu  
Melissa Mark-Viverito  
Michael C. Nelson  
Larry B. Seabrook  
Kendall Stewart  
Peter F. Vallone, Jr.  
David I. Weprin  
Thomas White, Jr.

## A P P E A R A N C E S (CONTINUED)

Steven Lawitts  
Acting Commissioner  
Department of Environmental Protection

James Tucciarelli  
President  
DC 37 local 1320

Claude Fort  
President  
DC 37, Local 375.

John Forster  
First Vice President  
DC 37, Local 375

CHAIRPERSON GENNARO: --I'm, welcome to today's hearing. I'm New York City Councilman Jim Gennaro, Chairman of the Committee on Environmental Protection. This is a three part, three--a three committee hearing. The committee that I chair, the Contracts Committee chaired by Council member James, and the Civil Service and Labor Committee chaired by Council member Martinez. And Council member James has a, has a time commitment and wishes to start the hearing by making her opening statement, and we're happy and proud to have Chairperson James start our hearing.

CHAIRPERSON JAMES: Thank you. My name is Letitia James and Chair of the New York City's Council's Committee on Contracts. It is my privilege to participate in this joint hearing today, with the Committees on Environmental Protection and Civil Service and Labor. I'd like to thank all of you for attending. Before we proceed, I want to thank chairs Gennaro and Council member Martinez, who's on his way, for letting us join this hearing. I'd also like the thank the staff for, of all of the committees

who've worked to prepare today's hearings. As there are a number of committees today, I will keep my remarks brief and unfortunately I'm going to have to leave early. I'd noticed that on Sunday, February 1<sup>st</sup> 2009, the Daily News reported that the New York City Department of Environmental Protection was planning to outsource operation of the Croton Border Filtration Plan currently being construction under Van Partland--under Van--under Van Cortland Park in The Bronx. The newspaper also reported that DEP might ask a private company to operate the ultraviolet light disinfection plant, also currently under construction.

Currently and traditionally, New York City water and waste water services are performed by the able employees of DEP. The decision to outsource the operation of these facilities is opposed by many, including the unions, and the employees best suited to operate these plants, and they're represented by Local 3 service, 375 and Local 1320, and DC 37. This hearing today will explore outsourcing, including the rationale and public policy issues, both supporting and against outsourcing government positions and the

provisions of the charter that address these issues. As has already been mentioned today, the City's contracts, the outsourcing of contracts to private companies, it is really critically important that the Council holds hearings such as this, in order to make sure that outsourcing is in the best interests of the City. Will it be more effective for us to contract out the operations of the Croton Water Treatment Center? Will private employees be able to perform their duties as well as our city employees? Will the employees at a private company be screened as well as those that are employed by the City? Will the City have the same oversight of the performance of these functions if the work is performed by non-city employees? Just recently, the President of these United States, President Barack Obama, made some statements with regards to the privatization of outsourcing, and put forward some reforms in contracting, not only in the federal government, but all contracts. I would hope that we would replicate his position in the City of New York, and engage in a more proactive and cost saving plan, particularly given these austere times.

2 Today's hearing again hopes to shed lights on  
3 these and other questions about outsourcing  
4 operations at the Croton water treatment plant,  
5 and would help the exercise effective oversight of  
6 this issue. At this time, I'm going to leave this  
7 wonderful committee in the great hands of Council  
8 member Gennaro, and I apologize, and I thank all  
9 of you who have attended.

10 CHAIRPERSON GENNARO: Thank you  
11 very much, Chairperson James. We certainly agree,  
12 certainly deeply appreciate your interest in this  
13 issue, and as a Chair of Contracts, I'm sure that  
14 you do. And we look forward to working with you  
15 as we follow this important issue. [pause]

16 COUNCIL MEMBER KOPPELL: Mr.  
17 Chairman? Could I make a brief comment?

18 CHAIRPERSON GENNARO: Oh, sure,  
19 sure, I was just, just doing some housekeeping in  
20 terms of finding out where Chairman Martinez--Are  
21 you going to be--Okay, great, okay, so we've--I  
22 have finished my housekeeping, I'm just about to  
23 make my opening statement. But, please Council  
24 member Koppell, if you have something for, a  
25 statement to make.

COUNCIL MEMBER KOPPELL: I'd, I would like to comment after you, Mr. Chairman.

CHAIRPERSON GENNARO: Oh, sure. Certainly. That'd be fine. Right, so we've already heard from Chairperson James. Council member, Chairman Martinez, we're going to have the Civil Service and Labor Committee be in the capable hands of Chairman Seabrook. I'm happy to have Larry with us here today. And I'll make my statement, then call upon Chairman Seabrook to make a statement. Good afternoon, I'm New York City Councilman Jim Gennaro, Chair of the City's, Chair of the City Council's Committee on Environmental Protection. Today as you know, we're holding an oversight hearing, joining with the Committee on Contracts and Civil Service and Labor, regarding the proposal to outsource the operation of the DEP Croton Water Filtration Plant, and possibly also the DEP Ultraviolet Light Disinfection Plant. As Tish had mentioned, on January, on February 1<sup>st</sup> 2009, the Daily News reported that the DEP was planning to outsource operation of the Croton Water Plant currently being constructed, and might also ask a private

company to operate the UV plant as well. And also as Chairman James stated, usually New York City water and waste water services are usually delivered by the good people who work for the City of New York, and including Local 375 and Local 1320, both of whom are represented today. We're certainly very, very glad to have them. And the only rationale that was offered in the newspaper story for the decision to, to outsource this operation, was that DEP had not run these kinds of water filtration plants in the past, 'cause currently we do not have them. The Croton Water Filtration Plant is being constructed in response to a 1989 consent order, issued by the federal EPA, and the plant will filter the drinking water for one million New York City residents. While DEP has not run water filtration plants in the past, it does not necessarily follow that DEP employees should never run facilities that filter New York City drinking water. We'll hear a lot of testimony as to, to support that statement. Instead it would seem prudent that at least some of the DEP employees are trained to operate these facilities. In an emergency, DEP should not be



depending on private sector to tell them how to deliver clean drinking water, to, to one out of nine New Yorkers. Current laws should require that a determination be made that the outsourcing of the operation of these facilities, will save money and will result in equal or better quality performance before a decision to outsource is made. And based on the track record of the good people who work for DEP now, and at 375 and 1320, I think that would be a very hard case to be made. Today's hearing will examine outsourcing of the operation of these facilities, in light of the current law, and the many new technological developments currently taking place or anticipated. And with that said, I'd like to thank people for being here. I'm going to call on Chairman Seabrook in a moment, but I'd like to recognize the presence of Council member Vallone, from Queens; Council member Liu from Queens; Council member Stewart from Brooklyn; Council member Koppell from The Bronx, who we've already heard from; Chairman Seabrook who is sitting in as chair of the Committee on Civil Service and Labor for Chairman Martinez. I'd like to thank the

staff that's put this, put this hearing together, and with that said, it is my honor and privilege to call upon Chairman Seabrook for a statement. Chairman Seabrook.

CHAIRMAN SEABROOK: Thank you very much Mr. Chairman, and good afternoon. I'm Council member Larry B. Seabrook, and today I will chair the Civil Service and Labor Committee, on behalf of Council member Miguel Martinez. The contracting out of traditional government service is a popular form of privatization, that is growing at a remarkable pace in cities and counties throughout the United States.

Traditionally, contracting out has involved routine commercial activities such as garbage collection, data processing, janitorial service, and street cleaning. However, as we see today, the City is also considering turning to the private sector to perform highly specialized tasks such as water filtration. Though governments often offer two primary reasons for contracting out public service to private companies: first to cut the cost of providing services to taxpayer residents; and second to employ specialized skills

2 and resources that may, for a variety of reasons,  
3 be unavailable within the city government.

4 However, public sector unions vehemently disagree  
5 with this reasoning and has resisted contracting  
6 out initiatives. Municipal unions in New York  
7 City argue that city employees are better trained  
8 as private sector employees are hired without the  
9 merit, and fitness examination, and background  
10 checks that the City requires for civil service  
11 workers. The unions also argue that city  
12 employees are more effective; additionally,  
13 opponents of outsourcing are concerned that as  
14 private firms begin to perform government  
15 functions, public sector workers will lose their  
16 jobs or suffer reduced wages. It is vital that  
17 all city policies and contracts encourage  
18 transparency and openness in contractual  
19 relationships, and allow for appropriate public  
20 scrutiny. Today the committees look forward to  
21 hearing testimony regarding the possible  
22 outsourcing of services at the Croton Water  
23 Filtration Plant. Thank you very much, Mr.  
24 Chairman.

25 CHAIRPERSON GENNARO: Thank you,

Mr. Chairman. And I heard your statement and I don't say this very often with other opening statements, but I wish to be associated with your remarks, and I thank you for making them. And with that said, Council member Koppell had asked for an opportunity to be recognized for a statement, and I recognize Council member Koppell.

COUNCIL MEMBER KOPPELL: Thank you, Mr. Chairman. As you know, the filtration plant is located in my district. And I serve on the filtration plant oversight committee. And we've discussed this matter in the committee, with the DEP, and been assured that no final decision has been made with respect to how the plant will be operated. I share the sentiments expressed by Councilman Seabrook, and that is that all things being equal, I prefer that city employees be the people who provide the public functions. There are some specialized areas of expertise that may be required here. Whether that requires a full operation by the private sector, or whether to the extent that there is knowledge that city employees don't have, we could get that information from the private sector for purposes of training and

2 development of an experienced core of city  
3 employees, that's something I would like to look  
4 into. Because it seems to me that, that that  
5 ought to be possible, probably you need some  
6 outside expertise to get the plant up and running.  
7 But once it's up and running, it seems to me that  
8 city employees can well run it, as they now run  
9 waste water treatment plants. Which can't be all  
10 that different in concept, anyway, from the  
11 filtration plant. So, I want to thank you, Mr.  
12 Chairman, for holding this prompt hearing after  
13 notice of the outsourcing was published. I  
14 frankly did not have any advance notice of this  
15 taking place, which disturbs me some, but once  
16 notice was given, I'm glad we're going to take a  
17 close look at it. And I think, you know, we  
18 should put the DEP on notice that before a final  
19 decision is made, they really need to consult with  
20 us. I look forward to the testimony, I apologize  
21 I'm not going to be able to stay for the whole  
22 time, 'cause another hearing across the street  
23 that also involves issues in my district. But  
24 again, thank you for holding the hearing.

25 CHAIRPERSON GENNARO: Thank you

2 Council member Koppell. And I'm happy to have you  
3 here for as long as you can stay, and I do  
4 understand that you have a conflict. And now  
5 we'll begin to take testimony. The first witness  
6 is Steven Lawitts, the Acting Commissioner of the  
7 DEP. I'm very happy to have you here, Steve. As  
8 always, I see we have members of your good team,  
9 including Deputy Commissioner Jim Roberts, who  
10 I've had a lot of dealing withs, dealings with,  
11 all good. And Ann Canty and other members of  
12 your, of your good team. We'll do what we always  
13 do, we'll ask the counsel to the committee to  
14 swear in the witness, as is our practice, and then  
15 Commissioner, you can state your name for the  
16 record and commence with your good testimony. I  
17 would just ask the Sergeant to deliver to a copy  
18 of the testimony. Do you have a, do we have a  
19 statement from the Commissioner? Okay, fine.  
20 Okay. I have it now. And--

21 COUNSEL TO THE COMMITTEE: Sir,  
22 would you please raise your right hand? Do you  
23 swear affirm to tell the truth, the whole truth  
24 and nothing but the truth today?

25 STEVEN LAWITTS: I do.

2 CHAIRPERSON GENNARO: Thank you,  
3 Commissioner Lawitts, always a pleasure to have  
4 you here.

5 STEVEN LAWITTS: Thank you, Mr.  
6 Chair.

7 CHAIRPERSON GENNARO: We look  
8 forward to you, we look forward to your, to your  
9 testimony.

10 STEVEN LAWITTS: Thank you, thank  
11 you, Chairman Gennaro and Chairman Seabrook, and  
12 in her absence, Chairwoman James, and members of  
13 the three committees. I'm Steven Lawitts, Acting  
14 Commissioner of the New York City Department of  
15 Environmental Protection. Thank you for the  
16 opportunity to present testimony on the staffing  
17 of the water filtration facility that DEP is  
18 currently constructing in Van Cortland Park in The  
19 Bronx. When constructed, that facility will be  
20 New York City's first ever filtration plant. It  
21 will filter the Croton water supply, the oldest  
22 and smallest of the city's three water supplies.  
23 The city's remaining two water supply systems  
24 operate under a filtration avoidance  
25 determination, also known as a FAD, making New

York City one of only five large cities in the country that are not required to filter the majority of its drinking water. Launching a significant new facility, particularly one involving processes that the City has not operated before, requires careful consideration, planning, and a rigorous analysis of how it will be run, including how it will be staffed. In this case, the decision is particularly complex because of the highly specialized nature of filtration, as some of you have mentioned in your opening remarks. The extensive experience, education, training and examinations required to obtain the necessary certifications, and the fact that some of the certifications are not currently required by civil service titles. For example, operation of the Croton facility will require individuals who pro--who possess New York State Department of Health grade 1A and 2A certifications, as defined under the State's Sanitary Code. There are currently no civil service titles requiring that particular certification as part of the job specifications. Similarly, although there are DEP titles that require experience in the operation



2 and maintenance of a waste water treatment plant,  
3 or experience in establishing waste water  
4 treatment performance standards, schedules and  
5 methods for water treatment, there are no titles  
6 that require experience with respect to drinking  
7 water treatment plants. As I will explain in my  
8 testimony, DEP is exploring the pros and cons of  
9 different options for operating the plant. I will  
10 also explain where we are in the process of making  
11 this analysis, and what our projected timeframe is  
12 for completing it. I emphasize that we have not  
13 made a decision on how the agency will staff this  
14 plant. But because of the complexities mentioned  
15 earlier by several council members, as well as  
16 myself, we must explore our practical operations  
17 for staffing. Before I speak in more detail about  
18 options for staffing the Croton facility, I think  
19 it would be useful to review briefly what the  
20 filtration plant will do, and why New York City is  
21 building it. The Croton filtration plant is both  
22 integral to the long term dependability of the  
23 City's water supply system, and mandated under a  
24 consent decree with the United States  
25 Environmental Protection Agency or EPA, and the

New York State Department of Health. The main structure is being constructed under Van Cortland Park. When completed, the facility will be underground, and the roof of the facility will be restored as a substantially enhanced version of the driving range that occupied the site before construction. The plant itself will have the capacity to filter up to 290 million gallons of drinking water per day. New York City is filtering the Croton supply, even though the Croton watershed has provided high quality, unfiltered water to consumers for many years.

Although Croton water meets current health based water quality regulations, the Croton watershed features soil and geology that contributes to high levels of organic material that, at certain times of the year, violate standards that are referred to as aesthetic standards. For this reason, when the Croton system has suffered from these impacts, we have taken it out of service. This occurs typically in the summer and fall months.

Filtration will eliminate these problems. In addition, under the federal Safe Drinking Water Act, as more strict standards are adopted, Croton

water will likely be unable to meet future water quality regulations without filtration. As a result, DEP is under a federal court ordered consent decree that mandates the construction of the plant. The filtration plan will minimize seasonal variability and ultimately result in the Croton system being able to supply 30 percent rather than ten percent of the City's current water need. This capacity will be critical as we take other essential water infrastructure, such as the Delaware aqueduct, out of service for repair or upgrading. The plant will also ensure that we can meet the requirements of existing and future regulations, and augment the capacity and operational flexibility of the City's overall water supply system. DEP began construction of the treatment plan in 2004, and work has continued since that time. We expect construction to be completed in 2011, and plant operations to begin in 2012. Now let me explain where we are in the process of determining operational staffing for the plant. Though DEP has had discussions about potential plant operations with several city agencies over the past few years, now is the time

when we need to establish operational plans and protocols so that the facility can begin operation in 2012, as currently scheduled. Based on the plant design and preliminary operating plan, an estimated 100 people would be required to operate the plant on a 24 hour, seven day per week basis. Certain operating staff would need to possess the New York State Department of Health certification, specific to filtration plant operations. In addition, plant operations would be governed by strict environmental, health and safety regulations, as well as an aggressive DEP internal environmental health and safety protocol. Because the City has never operated this type of facility before, DEP must consider multiple staffing options for the facility, including the possibility of using an outside contractor, or relying on in-house staff, or a combination of both. As a necessary step in exploring the option to have a private firm operate the Croton facility, which I want to emphasize is common at water utilities throughout the country, on January 15<sup>th</sup> of this year, DEP published a request for qualifications, or RFQ, in the City Record. In

addition, DEP's consultant distributed the RFQ to nine firms in this industry that are known to provide filtration operation services. In the RFQ, DEP announced that it is establishing a pre-qualified list of firms who will be allowed to compete in a competitive request for proposal, or RFP, process, for a contract to operate the Croton plant. The request for qualifications invited firms interested in submitting qualifications, to provide by March 12<sup>th</sup> of 2009, a submission consisting of three basic parts: company information, relevant project experiences and references, and financial qualifications. On February 5<sup>th</sup>, DEP hosted a non-mandatory pre-submission conference, at which interested firms that registered in advance were allowed to ask questions about the design and construction of the plant, as well as the procurement process. Ten individuals representing five firms were present at the conference. Those firms were Black and Veatch, CH2M Hill, United Water, Camp Dress - - and Theolia North America. As indicated in the RFQ, DEP will convene a selection committee to evaluate the submissions based on the following

general criteria: background and capabilities, experience and strategies in the area of operations and maintenance, references, financial capabilities, and interviews should DEP choose to conduct them. In the RFQ, DEP indicated that we are scheduled to make selections for the list of pre-qualified firms in May of 2009. DEP's investigation of contract operations for the Croton filtration plant is in no way a reflection of any change in sentiment towards the thousands of valued and dedicated City employees, who work very hard and very well, as several of you, as, have observed, to keep our water and waste water systems running each day. I, I say this from personal experience, as I've been fortunate enough to lead this organization, and the more than 5,000 DEP dedicated employees that I'm proud to lead them, and I appreciate all that they have been doing for us, and all that they'll continue to do. I've nothing but the highest regard. And there are thousands of civil servants who have dedicated their entire careers to DEP, and are responsible for operating very critical water and waste water infrastructure. So, as I had said before, as we

investigate the potential for contract operations, we are also in parallel pursuing the option of in-house staffing. As DEP reviews responses from the RFQ, and the request for proposal process, and further establishes the requirements associated with in-house staffing, we'll be able to make a fully informed decision about which staffing option best meets the needs of the Croton filtration plant. DEP is committed to operating the Croton plant efficiently and cost effectively, and to exploring all means of doing that, including hiring a contract operator. Our highest priority as always is to continue providing world class drinking water to New York's eight million residents, as well as to the millions of visitors and workers who are in our city every day. But we must also do so in the most efficient way possible, and particularly, in these times of fiscal constraint, we must continue to seek the most cost effective solutions that meet our water quality goals. I want to thank you, and that concludes my prepared testimony. And I would be happy to answer questions.

CHAIRPERSON GENNARO: Thank you,

2 Commissioner Lawitts, we appreciate your being  
3 here, and your team being here, and providing  
4 testimony and to get testimony from the highest  
5 level of the agency certainly speaks to how--how  
6 serious you're taking this issue, and we do  
7 appreciate that. Let me recognize some other  
8 council member who have come in since you began  
9 your testimony. We have, we have Council member  
10 Nelson, from Brooklyn, pleasure to have you; Mike  
11 and, Councilman Dr. Eugene is also here, as well.  
12 Thank you, Councilman Dr. Like that, huh? Oh,  
13 I'm sorry, I didn't see Council member Mark-  
14 Viverito from Manhattan. Thank you for being  
15 here, Melissa. And I have some questions, I'll  
16 start, but just before I start, we have a little,  
17 little housekeeping. The Sergeant had approached  
18 the chair before regarding an issue. Perhaps you  
19 could approach the chair again and give us a  
20 status on--Okay, fine. Okay, there is a, we may  
21 be, we may be transferred, this is what I'm, is  
22 what I'm hearing. They may take us out of this  
23 beautiful room and put us someplace else. If that  
24 happens, they would have to provide refreshments.  
25 I want to put that on the record. And so, trying



to bargain, you know, we have some union people in the house, too, that might know a little bit about bargaining. And, so let me, I have some questions, we have some prepared questions from staff, but--staff to the committee put together a, you know, very good briefing paper, that has issues that I wish to explore. Now, Commissioner, you, you talked in your statement about trying to come up with options on how the facility might be staffed, and you know, with regard to the, to the private sector outsourcing option, you've done this RFQ, you have perhaps visions of an RFP, which is what you would need to execute that, if you, if the agency ends up going that way. So you're reaching out. So you did the RFQ to do the outsource method. With regard to the options that you may wish to pursue to keep it in the hands of public employees, has there been outreach to the unions that may provide these employees? Or outreach to figure out how you would create the titles that would be necessary to do this kind of work, or exams or ways that current titles might be able to be modified to have these new characteristics? So, my question is has there

2 been kind of a parallel rack--

3 STEVEN LAWITTS: Yes.

4 CHAIRPERSON GENNARO: --with--And,  
5 if you could speak to that, I'd be grateful to  
6 hear that.

7 STEVEN LAWITTS: Certainly, Mr.  
8 Chair. As I had indicated, we are proceeding down  
9 two parallel tracks. One which is the RFQ, which  
10 could lead to an RFP, which could lead to a  
11 contract operation; and the other is an in-city  
12 staffing operation where the plant would be  
13 operated by City employees. As, as part of  
14 preparing to go down both of those options, we  
15 have met, we've, we held a meeting, I want to say  
16 approximately nine months ago, with the unions  
17 that would most likely be involved in an in-city  
18 operation, and in-house operation. That was a  
19 meeting in which we announced our intention to  
20 look at the alternate path of a contract  
21 operation, and we have also been meeting with the  
22 other city agencies that would be involved in any  
23 operation of Croton, whether it's in-house  
24 staffing or a contract operation. There are a  
25 number of other city agencies that would have to

be involved. For example, to create the new titles that may be necessary in order to have city titles that fit the jobs that are described in the preliminary operating plant, we would have to work with the City's Department of Citywide Administrative Services, which houses the City's centralized personnel department. And it is responsible for position definitions and classifications, and, and is, is responsible for the overall city hiring process. We, we have been and will continue to work with the City's Office of Labor Relations. We have been and would continue to work with the City's Office of Management and Budget, the City Law Department, and to the extent that we pursue a contract operation, in addition to those agencies, we would be working with Mayor's Office of contracts. And, and so we, it's, it's important that we keep all of those discussion going, as we prepare to operate the plant under either of those scenarios, approximately three years from now. And, as I had mentioned in my testimony, we're also looking at as many other water utilities have done, an operation that can involve a combination of in-

house and contract services. For example, there may be a combination that involves city employees doing some of the day-to-day operations in the plant, but we may contract out certain maintenance functions in the plant. With, we're looking at essentially three broad avenues that we can go down.

CHAIRPERSON GENNARO: And, and those three would be a full contract operation, a full public operation, and the mixing.

STEVEN LAWITTS: And, and a mix, yes.

CHAIRPERSON GENNARO: Now, when you meet with the, the, the unions, and like the act of creating new titles or new specifications for current titles, is that like a negotiated process, or how does that, how does that work?

STEVEN LAWITTS: Well, the--

CHAIRPERSON GENNARO: And when you met with them, what were there discussions like that? Like, to, to enlist their coop--And I have not had any contacts with unions prior to this hearing. I didn't have, you know, actual conversations with, you know, 375 or 1320 or any

other unions, so I don't, I don't know the answer. I'm, I'm asking you a question that I don't know the answer to, which is not always the case. A lot of times I know the answer before I ask the question, but not in this case. But so, what was the nature of the discussion? Was it to talk to them about how we might be able to move forward with this, or--I just want to get a sense of that.

STEVEN LAWITTS: Yes, and I think, Mr. Chair, in the, in the sequence of events in a situation like this, if, if we're looking at a set of job functions that may not be covered by existing city titles, then the, in my view the sequence of events is first to work with the City's central personnel department to, first as best we can, through as broadly interpreting existing city position descriptions, and the specifications that are contained in those existing city titles, to make our best effort to see if the existing titles cover the functions that need to be performed in the Croton plant. To the extent that there are a set of functions, or there is a set of functions that don't appear to be covered by existing city titles, then we need

2 to work with DECAS [phonetic], again the central  
3 personnel department, to come up with new position  
4 specifications. And we have to work with both  
5 DECAS and the Office of Labor Relations, and the  
6 unions, because if it is truly a new function,  
7 that a new title would cover, there may be some  
8 question as to which union or which local within  
9 DC 37, for example, this particular set of job  
10 functions should be covered by. Excuse the  
11 difficult sentence construction.

12 CHAIRPERSON GENNARO: Sure, no.

13 And, now the, the--some of what was put forward in  
14 your testimony, you indicated in your closing  
15 paragraph, you mentioned that you're looking for  
16 the most cost effective solutions, so cost is  
17 clearly something that you have an interest in.  
18 And making sure that you have the, you know,  
19 expertise to get this done with the, you know,  
20 various certifications from the New York State  
21 Health Department, and--Is it really sort of a  
22 cost things, and a, and a function thing, that's,  
23 that's, you know, leading you to sort of look in  
24 this direction of contracting?

25 STEVEN LAWITTS: I think, Mr.

2 Chair, and if you'll indulge me for a minute or  
3 so--

4 CHAIRPERSON GENNARO: Happily,  
5 happily.

6 STEVEN LAWITTS: Just, if I could,  
7 just emphasize a point I hope I covered in the  
8 prepared statement, which is, and I know you  
9 appreciate this, because your concern is, is  
10 primarily over, among other environmental issues,  
11 the quality of New York City's drinking water, and  
12 that that's always our number one concern. When  
13 we look at the drinking water, half of what of we  
14 do, is maintaining New York City's very high  
15 quality drinking water. So, in order to maintain  
16 the high quality drinking water for the eight  
17 million city residents, we, we have to look at all  
18 the practical options available to us, to achieve  
19 that. And that, that part of the drinking water  
20 that's going to come from the Croton reservoir  
21 system, through the Croton filtration plant. And,  
22 and so maintaining water quality to us, if we were  
23 to look at a, either operation, a contract  
24 operation, an in-house operation, or a combination  
25 of both, is what protections do we need in place

2 to give us proper control over the operation of  
3 the plant, so that all of our criteria for  
4 achieving high water quality and maintaining that,  
5 continue to be achieved. And, and so, it is, cost  
6 is only one concern for us. Obviously in, in  
7 these financial times, it's a significant concern,  
8 but it is only one. The, the primary concern is  
9 our being able to assure ourselves and you and all  
10 eight million of our customers that the water  
11 quality is, is the very highest possible.

12 CHAIRPERSON GENNARO: Thank you.

13 Thank you for the answer. And it's actually  
14 taking me a little bit where I wanted to go,  
15 because as I look at, as I look at the excellent  
16 briefing paper that was prepared by staff, you  
17 know, with regard to the, you know, pros and cons  
18 of outsourcing, you know, one of the things that  
19 we are concerned about, at least from the  
20 legislature, and we do oversight, and we call  
21 people in, there, there are transparency issues  
22 such as the Freedom of Information laws, open  
23 meetings laws, you know, meetings with, you know,  
24 local advisory committee, you know, whistle blower  
25 rights, these kinds of things that we're, you



2 know, very used to, with regard to other aspects  
3 of DEP operations, that we may not be able to  
4 exercise. And you know, individual employees, you  
5 know, may not be able to exercise if it's a, you  
6 know, contract, it's an employee of the contract  
7 entity, that person presumably would not enjoy  
8 things like, you know, whistle blower rights if,  
9 you know, he or she was to see something that's,  
10 that might be awry. So, you know, these are the  
11 kinds of concerns that myself and others may  
12 express. And I'm wondering how, you know, we  
13 could have that, you know, transparency that we  
14 rely on from an entity such as ours, that when we  
15 want to do oversight, and from the perspective of  
16 people in the community that want some window into  
17 the operations of the plant, how would, how would  
18 those kinds of concerns be treated with respect to  
19 a, an operation that was in whole or in part a  
20 contract operation?

21 STEVEN LAWITTS: No, thank you for  
22 raising those concerns, Mr. Chair, those are some  
23 of the concerns that we will be evaluating as we  
24 go forward. And as, as I said a couple of times  
25 in my prepared statement, that several of you in

your opening remarks raised, I think, the right set of issues. It's, it's what we're going to evaluate under both scenarios. But to more directly address your point, first it, it's, I want to make absolutely clear that we're accountable, DEP. DEP management is accountable for providing the water to New York, and if we were to go to a contract operation, or a mixed contract/in-house operation, there would be several levels of DEP in-house supervision overseeing that contract. And, and so, we would, we would have a contract management structure in place where there clearly identified and accountable DEP personnel ensuring that all of the provisions of the contract are adhered to, all of the standards are being achieved, and for some of the concerns that you raised about openness and employee protection, those, those are some of the requirements that we would build in, if we proceed with our request for proposals, and if that results in a contract document, those are some of the provisions we would build in. For example, under contracts that we currently have with our construction contractors, for example, as we've

2 testified many times before, we have a very robust  
3 environmental health and safety program, and we  
4 ensure that all of our contractors adhere to our  
5 environmental health and safety standards. So,  
6 with a construction contractor, for example, they,  
7 they have to comply with all of the safety  
8 standards; we have in-house inspectors enforcing  
9 that. We enforce DEP's and the City's equal  
10 employment opportunity standards on our  
11 contractors, including any allegations of  
12 discrimination, including any allegations of  
13 retaliation for, you mentioned, whistle-blowing.  
14 And, and so like any other contractor we currently  
15 have, we would enforce all those provisions.

16 CHAIRPERSON GENNARO: Thank you.

17 And right--currently, in the City of New York, we  
18 have a section of the charter that deals with  
19 outsourcing, and the--I'm looking for the section  
20 of the briefing paper that--right now, we have  
21 charter section 312 that outlines the process by  
22 which an agency can contract out services. And  
23 that is triggered by a contracting out that would  
24 displace public employees. And, and it's my  
25 presumption that because that there are no public

2 employees, you know, doing this function now, it  
3 would be DEP's posture that there is no  
4 displacement of employees, and thereby no trigger  
5 to, that would invoke charter section 312. Is  
6 that a, is that a fair assessment on my part?

7 STEVEN LAWITTS: Yes, Mr. Chair,  
8 and I, I think those provisions you're referring  
9 to are also known as local law 35, which relates  
10 to the process you described for outsourcing  
11 function that is currently provided by the City.  
12 But as you indicated, Mr. Chair, this is not a  
13 function that's currently provided by the City,  
14 and if we choose to contract out, there would be  
15 no displacement of city employees, and so this is  
16 not a local law 35 issue. And in one of our, in  
17 the meeting to which I referred earlier with the  
18 unions last year when we informed them of our  
19 intent to go down this parallel path, it, the  
20 union also, or a spokesperson for the union also  
21 acknowledge that from their perspective this is  
22 not a displacement issue.

23 CHAIRPERSON GENNARO: But my, my  
24 point that I'm going to make now, is that the,  
25 what, what charter 312, if triggered, which seems

like it's not triggered in this case, but it kind of sets out, sets out a process which I don't have right in front of me now, but it makes, it obligates the City to do certain things to basically, you know, make the case why, you know, notwithstanding the fact that employees are going to be displaced, the City's called upon to make the case for, you know, why it's necessary to, to do it. It's going to, you know, and you know, whatever the criteria are, it, it saves money, you know, it enhances safety, it does this, it, you know, ensures reliability, it--Whatever they would be. And, and that it would, and it would seem that it might be a good faith exercise on the, on the part of the City to, notwithstanding the fact that there's technically not a displacement, but what it would do, it would, you know, call upon the City to essentially, you know, make the case, why, in very formal fashion, you know, why, you know, this would be the, you know, better way to go, either, you know, a full contract operation, or a, you know, hybrid kind of mixing of public and private. That way, you know, notwithstanding the fact that, you know, this is a, well, would be

that, this is a departure from, from what we ordinarily do. And it seems that such a departure should be, you know, justified in some, in some formal way, whether through the process outlined in section 312, or some other way of justification that, you know, could be agreed upon, because this is a departure from, you know, how we do things. And so, that would be, so I guess my question, would be whether or not the City would be willing to provide a sort of formal justification for the decision that it, that it makes in this case. How does that, how does that sound?

STEVEN LAWITTS: Yes, Mr. Chair, I think that's a, a very good point, and even though this is not a displacement issue, and it's not something that we're required to do under local law 35 or the section of the charter that you referred to, I think for the reasons we've talked about earlier in this hearing about the importance of the drinking water quality, and that this is an operation that's never been performed by the City before, the filtration of drinking water, that it would be incumbent on us to, as we proceed, and as we get closer to a decision point on this, to be

2 able to articulate those factors that are going  
3 into our decision.

4 CHAIRPERSON GENNARO: Okay. Thank  
5 you for that, for that, for that commitment. And  
6 let's just talk a little bit about the process.  
7 And I'll ask this question, then I'll yield to  
8 Chairman Seabrook and other people that have  
9 questions, and reserve the right to come back on a  
10 second round. But as you currently envision this  
11 process going forward over the next, you know,  
12 weeks and months, and years, if you could describe  
13 the collaboration that you envision between, I  
14 guess, the, all the entities that would be  
15 involved. You've got, and you know that there's a  
16 lot of sort of, you know, intra-you know, City  
17 collaboration with the Office of Labor Relations,  
18 and other city agencies, but I'm talking about the  
19 main entities being the City and all of its  
20 various units, and this body, the Council, and  
21 the, and labor. And how would that, how would  
22 that collaboration look like, if you were to  
23 describe it, what would that, what would that  
24 process be?

25 STEVEN LAWITTS: Okay--

2 CHAIRPERSON GENNARO: By which we  
3 result in a, you know, decision, which presumably  
4 is a decision that's within the purview of the  
5 executive to, to make.

6 STEVEN LAWITTS: Yes. So, if, if,  
7 perhaps it'd be easy if I go down one track at a  
8 time.

9 CHAIRPERSON GENNARO: Okay.

10 STEVEN LAWITTS: Until the two  
11 converge. So, as, as I indicated before, if the  
12 track that would have city employee operation, we  
13 are continuing to work with the city personnel  
14 department to best fit the job functions that have  
15 to be performed in the Croton plant, into existing  
16 city titles. To the extent that we can't find a  
17 fit in every case, then we need to define those  
18 jobs and classify them and work with the  
19 combination of ECAS, the Office of Labor  
20 Relations, and the unions to be, for those, for  
21 those positions that would be represented city  
22 positions, where they fit under, under which of  
23 the several unions or locals. And then, in  
24 parallel with that, through the potential  
25 contracting process, we are going to, as I



indicated earlier, receive response to the request for qualifications a week from today, March 12<sup>th</sup>.

We will evaluate those. While we're evaluating those, we are also pulling together the scope of a request for proposals. We're, we're doing many things in parallel because even though the plant isn't going to be fully operational for three years and one month, as I hope I have described adequately, it's a very complex process to get there. So, we're putting together the specifications for a request for proposals. We would issue that request for proposals and that would likely be out on the street, so to speak, for a period of at least two months. We would get the proposals back and then we would do, as we, as we do for any request for proposals, there's usually a several part evaluation process. One is to look at the technical merits of the proposals, and the other is to look at the costs. And so, at the end of this, and, and we would expect the evaluation of responses to the RFP to take place approximately or a little longer from now. And at that point, where we, we have a set of responses to the RFP--

2 CHAIRPERSON GENNARO: Also, so just  
3 to--

4 STEVEN LAWITTS: Yes.

5 CHAIRPERSON GENNARO: --so, so, it  
6 would just, pardon my--

7 STEVEN LAWITTS: Yeah.

8 CHAIRPERSON GENNARO: --  
9 interrupting. So, a, so the RFP for the, to get a  
10 contractor to run it, would the issuance of the  
11 RFP and the receipt of the RFP responses, that  
12 would come before, like a final decision is made?

13 STEVEN LAWITTS: Yes.

14 CHAIRPERSON GENNARO: Okay, so--

15 STEVEN LAWITTS: Yes, because we,  
16 we need the information that comes back to us,  
17 through the responses to the RFP.

18 CHAIRPERSON GENNARO: Right. So  
19 the people will be responding to a proposal that--

20 STEVEN LAWITTS: Right.

21 CHAIRPERSON GENNARO: --that you,  
22 for services that you may or may not ultimately  
23 require.

24 STEVEN LAWITTS: That's, that's  
25 correct, and that, that certainly will be made

2 clear.

3 CHAIRPERSON GENNARO: Right.

4 STEVEN LAWITTS: All throughout the  
5 process. I--

6 CHAIRPERSON GENNARO: Forgive me,  
7 my interruption, you can continue.

8 STEVEN LAWITTS: That's okay. And,  
9 no that's a good point that you raised, Mr. Chair,  
10 and that is, I think also, a risk, if you will,  
11 that is inherent in almost any RFP process, that  
12 we or other city agencies conduct, is that it's a  
13 risk to the proposer that they may invest some  
14 time and resources in developing and submitting a  
15 proposal, and in the end the contracting agency  
16 may, may decide not to award the contract for a  
17 number of reasons. So we would, once we receive  
18 the proposals and have had sufficient time to  
19 evaluate them, then for all of the criteria that I  
20 mentioned before, about our concerns about  
21 maintaining water quality and sufficient control  
22 over the process, as well as cost, we would have  
23 to evaluate the response we receive against the  
24 in-house operation.

25 CHAIRPERSON GENNARO: Thank you.

Thank you, Commissioner. I'd like to open to questioning to, from Chairman Seabrook, who has been most patient. I'm very grateful for that. And I know he has a lot of good questions for you, so happy to recognize Chairman Seabrook.

CHAIRMAN SEABROOK: Thank you very much, Mr. Chairman, and I appreciate your patience. Just a couple of questions, Commissioner, that perhaps you can enlighten me, in reference to this, it's somewhat new for the City doing this. In your research about finding out about this, running a facility like this, and putting out this RFQ, is there anywhere in, in America, that there's in existence now, that public employees are running a facility now?

STEVEN LAWITTS: Where public employees are running a facility?

CHAIRMAN SEABROOK: Yeah.

STEVEN LAWITTS: Yes. Yes. I mean, there, there are many cities where public facilities run, where public employees run a facility. There are many cities where these facilities are operated under a contract.

CHAIRMAN SEABROOK: They're,

they're operated under a contract, but are public employees, municipal employees, are state employees running these facilities.

STEVEN LAWITTS: Yes.

CHAIRMAN SEABROOK: And they are part of, I guess, in most cases, unions, that these public employees are affiliated with.

STEVEN LAWITTS: It, it's likely, especially in the larger utilities that the employees are members of unions.

CHAIRMAN SEABROOK: And they're, they're member of unions. Do they meet all the qualifications in terms of, that would be necessary for having pure and good drinking water? That you would say that what we're looking for in this city?

STEVEN LAWITTS: Right, the--there, there are federal regulations for drinking water, which apply all across the country, and typically in each state, the, the appropriate state agency that regulates drinking water, applies similar or identical standards. And whether it's a municipally operated plant or a plant operated under contract, the, the water coming out of that

2 plant and going into drinking water distribution  
3 has to meet those standards.

4 CHAIRMAN SEABROOK: And so in most  
5 cases--

6 STEVEN LAWITTS: No matter who  
7 operates it.

8 CHAIRMAN SEABROOK: Right, so in  
9 most cases they meet the standard.

10 STEVEN LAWITTS: Yes.

11 CHAIRMAN SEABROOK: Public or  
12 private. Are the majority of these plants that,  
13 in your research, are they operated by public  
14 workers, municipal workers?

15 STEVEN LAWITTS: I don't know if I  
16 can say whether the majority is operated publicly  
17 or privately. There are many large systems that  
18 are operated privately. Large drinking water  
19 treatment plants, including filtration plants.  
20 Again, there are also those that are operated  
21 publicly.

22 CHAIRMAN SEABROOK: And, and in  
23 some of our larger municipalities in this state,  
24 how, how is it functioning?

25 STEVEN LAWITTS: I don't know. In

2 this state? Well, there's, I don't know, but I  
3 would, I would say, just in terms of scale, there,  
4 there is nothing in this state that approaches the  
5 size of the Croton filtration plant; which, again,  
6 is, when used to full capacity, would be  
7 processing 290 million gallons of water a day.

8 CHAIRMAN SEABROOK: Well, what  
9 about Delaware?

10 STEVEN LAWITTS: I'm sorry,  
11 Delaware?

12 CHAIRMAN SEABROOK: What about  
13 Delaware?

14 STEVEN LAWITTS: The State of  
15 Delaware?

16 CHAIRMAN SEABROOK: Yeah.

17 STEVEN LAWITTS: I'm sorry, I don't  
18 know about Delaware.

19 CHAIRMAN SEABROOK: Okay. The  
20 other thing is, in reference to the, the--the RFQ.  
21 You sent out a request, five companies  
22 participated in this request. How many of these  
23 companies are New York State companies?

24 STEVEN LAWITTS: Just to be clear,  
25 Mr. Chair, there were five companies who attended

2 the February 5<sup>th</sup>--

3 CHAIRMAN SEABROOK: Right.

4 STEVEN LAWITTS: --pre-submission  
5 conference. I don't know, I'm looking at the list  
6 now of the companies that attended are Theolia,  
7 CH2M Hill, United Water, Camp Dresser - - and  
8 Black and Veatch. I don't, I don't recall offhand  
9 where their corporate addresses are.

10 CHAIRMAN SEABROOK: Could you  
11 provide us with that, if possible.

12 STEVEN LAWITTS: Certainly, Mr.  
13 Chair.

14 CHAIRMAN SEABROOK: Okay. And  
15 then, what is the, in this RFQ that will become a  
16 RFP, is this then for a low bid contract, the  
17 lowest bid contract, to participate in this?

18 STEVEN LAWITTS: No, Mr. Chair,  
19 it's, it's a request for proposal's, by its  
20 nature, is--it's, we, we go down the request for  
21 proposals route as opposed to a bid route--

22 CHAIRMAN SEABROOK: So there is no  
23 bidding.

24 STEVEN LAWITTS: It's not, it's not  
25 a bid, it's not like a construction contract.



2 CHAIRMAN SEABROOK: Hm, okay.

3 STEVEN LAWITTS: Where, where it's  
4 a hard bid, and you go by the low price only among  
5 the set of responsive and responsible bidders.  
6 For an operating contract like this, where it  
7 would be impractical for us, as in a construction  
8 contract, to precisely define every single aspect  
9 of the operation in advance, we, we structure it  
10 as a request for proposals, so that we get,  
11 hopefully a range of proposals from interested  
12 operators, and different operators may have  
13 different approaches to operating the plant, to  
14 maintaining the plant, if that's part of the scope  
15 of work. And that way we get to evaluate their  
16 proposals, their specific methods of operation, as  
17 well as the costs, and make an informed decision,  
18 if we elect to go the contract route at all.

19 CHAIRMAN SEABROOK: Right. And  
20 just a, I know you can't stick to them, what, what  
21 would the cost of this be? If this RFP went out  
22 and you decided that "Yes, we're going this  
23 route," what's the cost of that?

24 STEVEN LAWITTS: Well, I--the cost  
25 will be, if, if we are proceeding down a contract

2 operator route.

3 CHAIRMAN SEABROOK: Yeah, yeah, I  
4 got you.

5 STEVEN LAWITTS: That would be  
6 determined by the submissions that we see,  
7 receive. We have, as part of our planning to go  
8 in either direction, working with the designers of  
9 the plant, as well as our water and sewer  
10 operations management, who will have to oversee  
11 the operation of the plant under any scenario, to  
12 come up with a, a working number for what the  
13 plant's annual operating cost would be. And it  
14 would, it would be on the order of \$22 million a  
15 year.

16 CHAIRMAN SEABROOK: \$22, \$22  
17 million a year.

18 STEVEN LAWITTS: Yes.

19 CHAIRMAN SEABROOK: If you was to  
20 do it. And if you was to use city employees, how  
21 much would it be?

22 STEVEN LAWITTS: Well, that's--

23 CHAIRMAN SEABROOK: I'm just  
24 asking.

25 STEVEN LAWITTS: That, that's a

2 number which is, again, at this point, three years  
3 before the plant is supposed to go into operation,  
4 and based on what we can forecast now about the  
5 approximate number of positions needed to staff  
6 the plant and such factors as electric power and  
7 chemicals and--we, we are--

8 CHAIRMAN SEABROOK: No, the staff--

9 STEVEN LAWITTS: Forecasting in the  
10 order of magnitude of \$22 million.

11 CHAIRMAN SEABROOK: No, no I  
12 understand the \$22 million has to do with  
13 operational--

14 STEVEN LAWITTS: That could apply  
15 to--

16 CHAIRMAN SEABROOK: --and other  
17 things.

18 STEVEN LAWITTS: It could apply in  
19 the - - area.

20 CHAIRMAN SEABROOK: So out of that,  
21 what would, so what would personnel be? You said  
22 100 employees, that's probably going to do this.  
23 Isn't that right?

24 STEVEN LAWITTS: We, we would  
25 expect personnel to be approximately half of the

2 operating cost.

3 CHAIRMAN SEABROOK: Half, half of  
4 the operating. Okay. And so if personnel's half,  
5 half of the operation. So that's about \$11-12  
6 million.

7 STEVEN LAWITTS: Yes.

8 CHAIRMAN SEABROOK: Okay. For this  
9 operation. Out of the 100 personnel that you, you  
10 looked at, categories, titles, how many of those  
11 titles actually fit union municipal employees  
12 right now?

13 STEVEN LAWITTS: Well, as I said,  
14 we're still going through that process in order  
15 to--

16 CHAIRMAN SEABROOK: I understand.

17 STEVEN LAWITTS: --try and fit as  
18 many as we possibly can. But I would--it, it  
19 looks like approximately, approximately 60 percent  
20 of the titles, 60 percent of the positions clearly  
21 fit an existing city title.

22 CHAIRMAN SEABROOK: Mmhm.

23 STEVEN LAWITTS: And approximately  
24 40 percent to us, so far, don't clearly fit an  
25 existing city title. They may. Again, as we go

2 through this further analysis. But that's, that's  
3 the approximate breakout, for now.

4 CHAIRMAN SEABROOK: And in this RFQ  
5 that could possibly become a RFP, are there  
6 standards, goals, as it relates to local  
7 participation, minority, women, is that a part of  
8 this RFP?

9 STEVEN LAWITTS: Well, Mr. Chair,  
10 that's--

11 CHAIRMAN SEABROOK: Or would be, I  
12 don't know.

13 STEVEN LAWITTS: That's a good  
14 point, that, that would be something that we would  
15 seek to build into the RFP. The RFQ, which is  
16 this first step, for which we are expecting  
17 submissions next week, is simply to establish a  
18 set of firms that are experienced, currently  
19 experienced and qualified in the contract  
20 operation of water filtration plants. And, and  
21 so, once we have a set of qualified firms, that  
22 would be the universe of firms that, to which we  
23 would send an RFP. In the RFP, among the many  
24 specifications and requirements that we would  
25 build in, we would want to, that's where we would

want to establish goals for local hiring, minority and women business subcontractors, and so on. So it would be in the RFP, not in the RFQ. The RFQ is simply to establish a universe of currently qualified firms.

CHAIRMAN SEABROOK: Right. In, in this RFQ, now I just have two more questions. In this RFQ, is there any question or a response that these individual firms have to relate to, as it relates to minority and women owned business? In their practice now that they are actually running or doing some of these things?

STEVEN LAWITTS: No, I--again, our screening in this request for qualifications is to find a set of companies that have the technical expertise, and the experience, to run large water filtration plants. With, then among the firms that are technically qualified to provide this service, it's up to us to specify in a request for proposals, those conditions that we want them to achieve. In addition to all the water quality requirements that they have to meet, again, if we, if we want to set goals for hiring, for local hiring, for MWBE participation, that, that's where

2 we would set it, and that's where we will set it.

3 CHAIRMAN SEABROOK: And the, the  
4 last question is, as, as it relates to the concern  
5 of, of the level of unemployment that we have in  
6 this city, and, and trying to keep and maintain  
7 individuals in jobs and on jobs. And talking  
8 about contracting out, the qualifications that,  
9 and the standards in which a municipal worker has  
10 to go through in the level of certification, how  
11 is that assured that if you contract out, that  
12 these individuals that's going to be working, meet  
13 these same qualifications. Who, who monitors and  
14 have oversight over, once this contract is given  
15 out? And can this contract be subcontracted? And  
16 who oversight the subcontractor?

17 STEVEN LAWITTS: Well, as I said  
18 before, Mr. Chair, we're accountable for the  
19 operation of the filtration plant. Whether it's  
20 an in-house operation, or a contract operation, or  
21 a hybrid, we're accountable. And we would hold  
22 ourselves accountable for monitoring the contract  
23 if we choose to go that way, and/or monitoring the  
24 contractor's performance under that contract.  
25 One, one of the reasons water utilities go with

2 contract operators of filtration plants, is  
3 because that's the business that these firms are  
4 in, that, that, as I said before, the federal  
5 regulations are standard across the country, and  
6 the state regulations typically mirror the federal  
7 regulations. And so, the, the contractors are in  
8 the business of hiring, training, and maintaining  
9 the proper licensing and certification of a large  
10 number of employees. And, and that's often a  
11 reason that water utilities choose to go with a  
12 contractor because often it is easier and faster  
13 for that contractor to provide the necessarily  
14 certified people to run those plants. Having said  
15 that, and, and having--it would, it would be our  
16 responsibility and accountability to ensure that  
17 those licensing requirements are met, that the  
18 plant operators not only have the, the right  
19 certifications, but that a thorough background  
20 check has been done on all the employees working  
21 in the filtration plant. As well as other  
22 protections that we would put into the RFP.

23 CHAIRMAN SEABROOK: Well, I would  
24 hope that, that when this, if you decide to do  
25 this, the level of concerns that we have is that



part of what allowed my support of allowing this to happen was the level of participation of local and minorities would participate in the involvement. I don't know these companies, but now that you've listed them, I will find out about these companies and see their level of minority and women owned participation in any and everything in which they do in the work and which they do in other cities and states, and find out. But part of what the assurance that I was under, that, that the level of participation would be local participation, minority and women owned businesses, and keeping people in jobs that, that's here. But if we're in the business of providing contractors who might not even be from this state, who are providing people who are going to be working and might not even be from this state, and not even this city, and to assuring that these people--And I understand the level of, of qualifications and all of the things that, federal regulations, that can be done, but I'm certain that we can use some of that money that the mayor said that he has to retrain the people on, from Wall Street and everywhere else, that we

2 can train some of these same workers, to do some  
3 of this same work to keep them in some of these  
4 same jobs, and doing some of these things here.

5 So, I would hope, that serious consideration,  
6 'cause I have some real concerns about when we do  
7 this, although I understand what you are doing.

8 And I understand why you have to do what you're  
9 doing. But I would hope that the level of  
10 consideration is met as to how we, we deal with  
11 this fairly. And the purpose of why I voted to  
12 have this filtration plant, and, and I'm going to  
13 continue to say that, because I think that that's,  
14 that's the importance of where I stand on this  
15 issue. Thank you very much, Mr. Chairman.

16 STEVEN LAWITTS: Thank you, Mr.  
17 Chair.

18 CHAIRPERSON GENNARO: Thank you.  
19 Thank you, Chairman Seabrook. And we were, were  
20 joined and have been joined for quite a while, by  
21 Council member Crowley, pleasure to have you with  
22 us, Liz. Just have some additional questions,  
23 Commissioner. And one of the, one of the  
24 protections before, I talked about transparency  
25 and open meetings and whistle blower and that kind

of thing. Also, public employees have to abide by the Taylor Law, they can't, you know, strike for, if they're providing some kind of essential service. And, and what is the protection that the City would have in the case of a strike or walkout or whatever by these private sector employees that may have some big issue with their, with their employer? Is this among the, among the issues that, that are under consideration by DEP?

STEVEN LAWITTS: Yes, Mr. Chair, that, if I didn't indicate clearly before, part of continuing to deliver high quality drinking water is continuing to deliver it. And so, we would build into the RFP, as, as much as we can, protections of that continuity. I, I can't address specifically right now how we would phrase that and, and--

CHAIRPERSON GENNARO: Right.

STEVEN LAWITTS: --word that, in provision in the RFP or provision in the contract document, that, that is one of the concerns we have to weigh, as we proceed further down these two parallel avenues.

CHAIRPERSON GENNARO: Thank you,

thank you. And Chairman Seabrook's questioning regarding the percentage of, of folks who, that occupy titles now that would be, the, I believe it was 60 percent of the, of the, 60 percent of the people needed to run the plant would currently fall into current city titles; the other 40 percent don't look like they're, but we're still having a process on those other 40 percent. The casual observer looking in at this process might say, "Well, what would be the argument against starting with a baseline of having 60 percent of the people be city employees, because they're, we already have the title, and we just figure out how to work the management of them by this sector, by this private sector entity, or melding" or whatever. But it would almost seem like if we have 60 percent of the people, you know, needed to run this facility, currently occupy city titles that are in effect right now, why would the starting point kind of like not be 60 percent? That would be a question that someone might ask. You know what? I'll ask that question. How's that? [laughter]

STEVEN LAWITTS: Okay, okay. Go

2 ahead.

3 CHAIRPERSON GENNARO: Okay. I--

4 [laughter]

5 STEVEN LAWITTS: No.

6 CHAIRPERSON GENNARO: Touché,  
7 touché.

8 STEVEN LAWITTS: No.

9 CHAIRPERSON GENNARO: Okay. Why  
10 don't we start at, you know, 60 percent as a  
11 baseline?

12 STEVEN LAWITTS: As part of looking  
13 at that more detail, we, we would have to look at  
14 how the, how the titles that currently fit,  
15 clearly fit, what their organizational  
16 relationship would be to the titles that may not  
17 fit. In other words, in, in a single chain of  
18 command, for a set of functions to be performed in  
19 the plant, would you end up in a situation where  
20 you have a city employee reporting to a contractor  
21 employee, who in turn reports to a city employee.  
22 So, that's, that's part of this analysis that's  
23 going into the city operation model, as well as  
24 the hybrid model.

25 CHAIRPERSON GENNARO: I see, I see.

2 And, now, staff prepared a question that, that's  
3 of interest, and I think bears on this, that DEP,  
4 when we went into the sludge dewatering business,  
5 so to speak, that was a function that the City  
6 didn't previously do, and, and now we're doing it,  
7 and it's my understanding that it's, DEP employees  
8 that are, that are doing this, and they've, you  
9 know, mastered it. And how did that, doesn't that  
10 process kind of parallel what we're doing now?  
11 Brand new function, new technology, and, and we  
12 stay with public service employees in that, in  
13 that. And why don't we, you know, use that same  
14 model here?

15 STEVEN LAWITTS: Yes, that was a  
16 function that wasn't performed previously. And we  
17 certainly will take that into account as we go  
18 ahead while recognizing that to operate the  
19 filtration plant, there are many different  
20 functions to be performed.

21 CHAIRPERSON GENNARO: Okay. Thank  
22 you. And--and the--this doesn't bear directly on  
23 the topic of today's hearing, and so I'll make a  
24 brief question, I won't then, I won't belabor  
25 because it's off topic. But, you know, many folks

know that when this facility was, you know, first proposed, it was a \$1.3 billion estimate, that was attached to it. We're at about, best I understand, you know, \$3.1 now. And, and so the question is, does, does \$3.1 look like it's going to be the number, or what are we looking at in terms of a final price tag on the, on the completion of this facility?

STEVEN LAWITTS: Well, as, as more and more contracts get awarded, then the final costs of the plant becomes more certain to us. So, with the recent award of the, it's called the offsite contract to construct metering chamber at Jerome Park, and it's the, the \$3.1 is the number, \$3.1 billion, is the number I believe that the independent budget office had recently estimated.

CHAIRPERSON GENNARO: Oh, okay, I-- that number was--

STEVEN LAWITTS: Yeah.

CHAIRPERSON GENNARO: I'm not quite sure the origin, on that--

STEVEN LAWITTS: But that, yeah, and that, but that's, that's still, that's a number that includes, it includes the

rehabilitation of the 100 plus year old, the so-called New Croton aqueduct. That is approximately \$130 million of that \$3.1 billion. The Independent Budget Office includes that cost because the New Croton aqueduct rehabilitation is funded out of the same overall budget line as the filtration plant.

CHAIRPERSON GENNARO: Oh, I see.

STEVEN LAWITTS: But the aqueduct was constructed in 1890, and whether we built a filtration plant or not, we would have to rehabilitate a 110 year old aqueduct, close to 120 year old aqueduct, in order to ensure that we get, continue to get full utility out of it. And, and that it provides its full design capacity of water. So, if, if you take that out, then, if you take that out, and, and if you take out the in-house support staff that are associated with managing the Croton project, it's, it's \$2.8 billion, approximately, which is--And that's the number we've been talking about for the last year or so.

CHAIRPERSON GENNARO: Oh, okay.

Thank you.



2 STEVEN LAWITTS: You're welcome.

3 CHAIRPERSON GENNARO: And this is  
 4 another, I'm giving myself just a little bit of  
 5 latitude here, another, even more off topic. And  
 6 that has to do with a cost estimate of something  
 7 that, that DEP doesn't want to build. And which  
 8 is, which is great, and I don't want it built  
 9 either, which is a filtration plant for the  
 10 Catskill Delaware water system. As you know,  
 11 there have been a lot of concerns expressed  
 12 regarding gas drilling in the, inside, New York  
 13 City's watershed, that's why those other places  
 14 upstate. And I'm, you know, grateful that, you  
 15 know, DEP is very concerned about that, and is  
 16 talking to the State and trying to get the maximum  
 17 protection for the, for our water supply. And one  
 18 of the things that I use in my statements that I  
 19 make when I voice concern about the specter of,  
 20 you know, pollution in the Catskill water supply,  
 21 whether it's from a proposed gas drilling or, you  
 22 know, other kinds of threats, is, you know, what  
 23 it would cost us to build a, you know, facility,  
 24 to filter the, the you know, 90 percent of our  
 25 supply that is, as yet, unfiltered. And I know it

was estimated in, in the mid-'90s, the numbers we heard back then was like \$6 billion, \$8 billion, or whatever, and presumably by now, almost 15 years later, we would be sort of north of that figure. Is there any kind of operating figure that's sort of, you know, within DEP that DEP thinks it would cost to build a filtration plant for the Catskill Delaware aque--Is there any sort of like working number that is kind of like in the agency? You know, a number that you never want to spend, and I know you don't, and I appreciate that. And I don't either. But, it's a good number to kind of trot out there, as like, as a boogeyman, so to speak. And so, is there a number that we think it would, it would take to do that, if it came to--

STEVEN LAWITTS: And I appreciate your concern, too, Mr. Chair, about the continued protection of the Catskill Delaware Watershed. The, I think the figures we were discussing last year at this time, were somewhere in the \$8-10 billion range. I think, and I would, I don't have--

CHAIRPERSON GENNARO: Right.

2 STEVEN LAWITTS: --a more current  
3 estimate than that. It, it, what, what--

4 CHAIRPERSON GENNARO: My question  
5 is just like--

6 STEVEN LAWITTS: An order of  
7 magnitude.

8 CHAIRPERSON GENNARO: Yeah, order  
9 of magnitude, and kind of the number that's kind  
10 of like in the department that people, you know,  
11 were they to be, where they have to make a  
12 guesstimate, like what are we looking at?

13 STEVEN LAWITTS: Well, that's, I, I  
14 think that's a reasonable order of magnitude to be  
15 discussing.

16 CHAIRPERSON GENNARO: Okay. Yeah,  
17 I just--that's a number that I, that I do use in  
18 my, in my advocate against things that are going  
19 to, you know, harm the upstate water supply.  
20 It's, it's good to have a number like that, to  
21 tell people what they'd be looking at.

22 STEVEN LAWITTS: I would just, Mr.  
23 Chair, if I could.

24 CHAIRPERSON GENNARO: Sure.

25 STEVEN LAWITTS: Just, as with many

other large construction projects, timing is a significant factor, and it, I certainly share your hope that we never have to build a filtration plant for the West of Hudson water supply. Where, where the cost estimate would fall within that \$8-10 billion range, or something higher or something lower--

CHAIRPERSON GENNARO: Right.

STEVEN LAWITTS: --would be largely a function of the construction market at that time.

CHAIRPERSON GENNARO: But it's certainly good to, to just have like a, a working number, because when I, when I speak, you know, sometimes I try to be accurate. Sometimes, you know. But, and we were, we were joined briefly by Council member Bill de Blasio, who is chairing a hearing in 250 Broadway. And that is, is all of the questions that I had for you, Commissioner. Okay, Chairman Seabrook has a, has a, has another question.

CHAIRMAN SEABROOK: Just a short question. Commissioner, is any of the stimulus package going to be a part of this filtration

2 plant? Had there been discussion about that?

3 STEVEN LAWITTS: I--Well, the, the  
4 stimulus package, we're looking primarily at  
5 projects that will be ready for construction soon.  
6 But new projects, as opposed to projects currently  
7 under construction. So, I don't, I don't think  
8 we've been looking to this filtration plant to be  
9 a recipient of stimulus funds.

10 CHAIRMAN SEABROOK: Okay, that's  
11 it.

12 CHAIRPERSON GENNARO: Thank you,  
13 Chairman Seabrook, and Commissioner, as always,  
14 very good to have you here. Appreciate that you  
15 came yourself to present this testimony on this  
16 important issue. That is duly noted and, you  
17 know, greatly appreciated. All of your good team,  
18 with whom myself and members of the Council work  
19 so frequently with. I appreciate that you brought  
20 your best people here. I didn't see Mark Lanigan  
21 before, he was, he was, he was behind someone, but  
22 want to give a special shout out to Mark who's  
23 been very helpful to me and members of my  
24 constituency. So, thank you, thank you,  
25 Commissioner.

2 STEVEN LAWITTS: Thank you, Mr.  
3 Chair, Mr. Chair.

4 CHAIRPERSON GENNARO: Okay. And  
5 appreciated having you.

6 STEVEN LAWITTS: And I would, I  
7 would also like to echo your appreciation of the  
8 DEP staff.

9 CHAIRMAN SEABROOK: They do a good  
10 job.

11 CHAIRPERSON GENNARO: Yeah.

12 STEVEN LAWITTS: Thank you. Thank  
13 you.

14 CHAIRPERSON GENNARO: And, okay.  
15 You bet, you bet. Thank you. And with that,  
16 we're going to call up James Tucciarelli  
17 [phonetic].

18 CHAIRMAN SEABROOK: Got to be  
19 separate.

20 STEVEN LAWITTS: Oh, yes, yes, yes,  
21 yes. President of DC 37 local 1320. [pause,  
22 background noise] Thank you, Mr. President for  
23 being here. We'll ask the Counsel to the  
24 Committee to give the oath, as we do with all  
25 witnesses. Then I'll greet your further, and then

2 you can commence your testimony.

3 COUNSEL TO THE COMMITTEE: Please  
4 raise your right hand. Do you swear affirm to  
5 tell the truth, the whole truth and nothing but  
6 the truth today?

7 JAMES TUCCIARELLI: I do.

8 CHAIRPERSON GENNARO: Thank you,  
9 Mr. Tucciarelli, we're happy to have you here.  
10 Want to, you know, recognize in a special way the  
11 members of your local, who, you know, do so much  
12 to provide a vital service to the people of the  
13 City of New York. And as we found out all too  
14 well, recently, what your people do is not only  
15 vital, it can be dangerous. We were all saddened  
16 by the loss of one of your members recently, and  
17 we continue to be sorry for that loss, and here at  
18 the Council we were able to do a little something  
19 for the family, and we were certainly happy to do  
20 that. And I just want to give recognition to, you  
21 know, the hard and vital and dangerous work that  
22 your people do on behalf of the people of the City  
23 of New York, day in, day out.

24 JAMES TUCCIARELLI: Thank you. And  
25 on behalf of my members, I'd like to thank you.

2 It's nice to know that if something unfortunate  
3 does happen to us, that you guys'll step up to the  
4 plate and make sure that our families are taken  
5 care of. And it's really important, the Montello  
6 Family really appreciates it.

7 CHAIRPERSON GENNARO: Sure.

8 JAMES TUCCIARELLI: Good afternoon.

9 I said hello to Chair James before she left, and  
10 I'll say hello to you, Chairman Gennaro, and  
11 Chairman Seabrook and fellow council member that  
12 are here. I'd like to thank you for the  
13 opportunity to testify before you today, to speak  
14 about the request for proposal or the RFQ or  
15 whatever they're calling it nowadays. I mean, I  
16 really don't know what it is, I was trying to  
17 follow the bouncing ball with the different  
18 letters there. But we're all talking about the  
19 same thing, the Croton Water Filtration Plant in  
20 The Bronx. Again, my name is Jim Tucciarelli, and  
21 I'm President of Local 1320, representing New York  
22 City sewage workers and senior sewage workers, and  
23 our local, as well as District Council 37, Lillian  
24 Roberts has authorized me to come over here and  
25 speak on her behalf today. Believes that the



issue of contracting out services for this water treatment facility undermines the civil service system, it compromises security, it fails to save the city money, it puts the water supply at risk, and allows a foreign company, a foreign company, with profits as their only goal, with the ability to hold the city hostage to contract renewals. I will point out that over the past century, the water supply system in New York has been considered one of the best in the world. But the actions of the Department of Environmental Protection, DEP, are putting that reputation, as well as our supply, as our supply of drinking water, at risk. The overriding reason the DEP gives for formulating this scheme to privatize The Bronx water filtration plant is that our present workers cannot be certified as operators on such a plant. I would argue that point by reminding the City that 20 years ago when the City was forced through court, a court order, to stop deported dumping of sludge, and start dewatering waste sludge for shipmen and land disposal, my members were certified by New York State Department of Environmental Conservation, to operate these

dewatering facilities, and have been doing so successfully since then. Back in 1995, the City again, under court order, had to build and operate waste water treatment plants in the watershed areas, as part of the filtration avoidance program that Councilman Gennaro was speaking about just a little while ago. And they're doing that successfully because we don't have to build those filtration plants up there. Again, the City needed to train and had certified operators for these upstate waste water treatment facilities. Without much fanfare, the City had new employees trained and certified and they're running these facilities. They never operated or ran any of that type of facility at all before. Huge water treatment plants. They took over, they're operating them, and they're doing a great job up there. And that's why we're not having to put filtration plants. Okay.

CHAIRPERSON GENNARO: And just to supplement that statement, I think it's fair to point out that those facilities have different technology than the ones we have, than the 14 plants here that are in the City, 'cause the ones

2 upstate have advanced tertiary treatment.

3 JAMES TUCCIARELLI: Exactly.

4 CHAIRPERSON GENNARO: So these are,  
5 'cause so from the outside observer, they say,  
6 "Well, you know, running a plant in the City  
7 versus up in the watershed, it should be noted  
8 that those are different plants with different  
9 technologies that is employed, because you're  
10 discharging it to a drinking water supply."

11 JAMES TUCCIARELLI: Correct.

12 CHAIRPERSON GENNARO: So, there is  
13 a difference, and I just wanted to--

14 JAMES TUCCIARELLI: Much more  
15 advanced. Besides the tertiary treatment, they  
16 have nitrification, de-nitrification, they  
17 actually control the temperature of what's going  
18 in, too, from the outfall, going into those  
19 plants. So they're much more advanced. So  
20 they're highly technical facilities that they  
21 never saw before, and we went in there, DC 37  
22 members, we were certified, we were trained and  
23 we're operating those facilities. During both  
24 World Wars, soldiers were posted at all  
25 reservoirs, and at point, at important points

along the aqueduct to prevent sabotage. Since 9/11, DEP has trained and deployed hundreds of security personnel to guarantee the safety of the water system, and work with Homeland Security to protect any interruption of the flow of our precious water supply, to resident of this fine City. Now, DEP in its infinite wisdom has decided to turn over one of the main junction points of the entire water system, to a private, foreign owned company. Remember, ten percent now, possibility of 40 percent of the water supply, as stated by the commissioner later on, when they have to take down the aqueduct to work on it, is going to be coming through that point. 40 percent of our water, if something happens to that plant, can we live without it? We have to think about that. The City recently contracted with Severn Trent [phonetic] to manage and operate the Flushing Bay combined sewer overflow facility. Councilman Gennaro, I know you're familiar with that facility.

CHAIRPERSON GENNARO: Yes, yes I am.

JAMES TUCCIARELLI: As a matter of

fact, this Saturday, I believe, the Mayor's going to go cut the ribbon on the beautiful parks and soccer fields that we built above it. We'll - - , we build great parks. We have done too good with this facility. This two con--this two year contract with Severn Trent, is under the premise that the facility needed to have all the final kinks worked out, and have the operation up and running before they hand it over to City employees. So for two years a privateer has been operating this facility and supposedly maintaining it. Two years. What's happened over those two years has been nothing but mismanagement of the facility, no regard to safety standards, little maintenance performed, leaving a multimillion dollar facility run down, in need of immediate repair. Failure of this facility could result in sewage run off being dumped into the Long Island Sound. Failure of The Bronx filtration plant could, at a minimum, leave the water supply at risk for pollutants and bacteria, could endanger, and could endanger the supply of water to the City. Other jurisdictions entrusting the water supply to private contractors have had negative

consequences for the local communities. New Jersey American Waterworks, another foreign owned operator of water systems, they love to throw "American Waterworks" in there, they love to throw in all of these names, like they're here, they're American. German, U.K., France, they're the ones that are operating these, and I provided you with some documentation, and could provide you with other documentation on these companies. Be interesting to see who responds to these RFPs. And we'll see, as the Council member said, they're not going to be homegrown folks. These are people out of this country that are going to be making the bucks. American, New Jersey American Waterworks, another foreign owned operator of water systems, was put in charge of the water supply of five New Jersey counties. In January of this year, when the current contract with its employees expired, these counties were faced with the threat of interruption of their water supply. Unlike city employees, private contract employees do not fall under the Taylor law, which restricts city employees from striking. The main reason for Taylor law was the services provided by city

2 employees were considered essential, and any  
3 interruptions of services would endanger the  
4 health and welfare of the City. But the DEP is  
5 willing to bypass this important protection, that  
6 New York City has guarded for itself, in order to  
7 hire a private contractor. The whole action puts  
8 the City at risk to blackmail by either the owners  
9 of private companies, or by their employees. Why  
10 do I say blackmail? The Commissioner said, right  
11 in his RFP, that they would make sure that would  
12 be language in there that services would continue.  
13 What are you going to do, hold a gun to these  
14 employees' heads? They have a right to, if they  
15 don't have a contract, go on strike. So either  
16 you're going to settle a strike, settle a  
17 contract, at exorbitant fees, and who's going to  
18 pay for it ultimately? We are, the rate payers,  
19 everybody in this city. That's why I call it  
20 blackmail. Either the company is going to be  
21 blackmailing the City, or the employees are going  
22 to know, without that water coming in here, we've  
23 got a gun to their head, a loaded gun to their  
24 head. Again, as I said, in either scenario, the  
25 citizens of New York City lose. The final set of

reasons against privatizing any services of the City holds true in this case, and in almost any other situation. A private sector contractor is put in charge of public services. The lack of vetting of employees, including federal background checks and monitoring of any future criminal activity, are allowing questionable workers at crucial facilities. It has been shown that some contractors have had corrupt employees or corrupt subcontractors. When someone sues based on actions of these corrupt employees, the City is on the hook, for some, if not all, of the cost attributed to litigation. Contractors tend to provide shoddy repairs, less oversight, and leave facilities with more deterioration than those managed by the city employees. Again, I have attached and provided ten good reasons why a municipality should not privatize, and you can look into those items there, and there's other interesting items in our website, why it's a proven fact. It's going to cost you more, and you're going to get less for it. Since we're in the state of New York, and since contractors are required to pay prevailing wages under our laws,



with health benefits and a retirement system, the proposed savings are really a fiction, pushed by DEP, since all contractors are allowed a 15 percent profit margin. I guess basically what I'm saying is, that you're going to have to pay a prevailing wage which city employees are equal to get, and in some cases private contractors get more than city employees. Their benefits have to be paid, because it's wages and supplemental benefits, so they're going to be there also. And there's up a 15 percent profit margin that when it's run by the City, you don't have that profit factor there. The Commissioner also placed an interesting part, that they were going to be this oversight by the agency in this plant, at all times. That's an additional cost on top of all of that. Well, how can they do it cheaper? It's not going to happen. And, and if it ever does come to that point, when it comes down to crunching numbers, we'll prove that. We're pretty good at that. Our Local, along with District Council 37, believes granting this RFP is a bad policy for the City. It will cost more in the short and long haul, takes accountability out of the hands of our

1  
2 elected officials, and gives it to private  
3 contractors who only care about the bottom line,  
4 and prevents the City from having control over the  
5 essential services, putting all New York City  
6 residents at risk. Please reject this RFP and  
7 start, start putting the people of New York City  
8 first over the profit driven motives of private,  
9 foreign owned companies, who will cost the City  
10 more and deliver yet the less. Attached are some  
11 of the articles that refer to the strike that was  
12 averted in New Jersey, which I previously  
13 mentioned in my testimony, as well as a list of  
14 the top ten ways that private control of water  
15 wastes public resources. Thank you again for the  
16 opportunity to testify before you today. And I  
17 would be happy to take any questions you might  
18 have.

19 CHAIRPERSON GENNARO: Thank you,  
20 Mr. Tucciarelli. And certainly appreciate you  
21 being here. And I'd asked the commissioner about  
22 the--any kind of outreach he had done, or any kind  
23 of outreach that DEP and/or entities within the  
24 administration had done to, to the unions. And he  
25 described a, you know, meeting that had taken

place. And, and the, you know, promise of more collaboration to, to you know, sort through these, to sort through these issues. Could you, could you describe what your, what your perception of the meeting was? And--

JAMES TUCCIARELLI: I was not invited to that meeting.

CHAIRPERSON GENNARO: Okay.

JAMES TUCCIARELLI: And I don't know who was invited to that meeting. Again, just to try to give you a little brief overview. I represent the waste water treatment workers in New York City, the 14 plants, the collections guys, you know, the pumping stations, and, and even the new CSOs that are coming online. Basically, that's my jurisdiction. When the waste water treatment plants were put online, upstate New York, technically since it is New York City, there was a jurisdictional decision made, and through District Council 37, which is our right, in our international union AFSCME--

CHAIRPERSON GENNARO: Right.

JAMES TUCCIARELLI: They had that covered by Local 376, the construction laborers

2 and water shed maintainers.

3 CHAIRPERSON GENNARO: Oh, I see,  
4 okay. To have those plants--

5 JAMES TUCCIARELLI: Alright, so  
6 they're operating waste water treatment facilities  
7 up there, and they operate the watersheds  
8 facilities as the watershed maintainers up there.

9 CHAIRPERSON GENNARO: Okay.

10 JAMES TUCCIARELLI: They clear the  
11 dams, they work all of the properties, they do  
12 what they have to do up on the watershed.

13 CHAIRPERSON GENNARO: And, so 376  
14 would be Gene D. Martino [phonetic].

15 JAMES TUCCIARELLI: Exactly.

16 CHAIRPERSON GENNARO: Right, okay.

17 JAMES TUCCIARELLI: Exactly. At  
18 this point right now, I can't say if they met with  
19 Gene or not. I can't say if they decided that  
20 Gene's people would be the people that would be  
21 operating this facility under the title of  
22 watershed maintainer. I can say that there are  
23 other locals, myself, the position of District  
24 Council 37, and my brother Claude Fort, who will  
25 give further testimony here today, that the people

that we represent, if there's going to be a problem with in a jurisdictional issue, if the watershed maintainers in Local 376, and Gene decides that he doesn't want to have involvement with this and have his people there, we're certainly willing to step, you know, step in, same way as his people operate in waste water treatment facilities up there. My people can be trained, they were already certified as waste water treatment plant operators, so we can get the certifications necessary to operate water filtration plants. In a lot of the municipalities, smaller municipalities around the country down in Florida, with the different counties and stuff, you will see the cross of waste water treatment and water treatment licenses blended, and you will see cross operations being performed. So, we're not giving up hope that--and again, they have never announced what titles they were looking at. And I, I kind of take a little bit of exception to the Commissioner's remarks about the fact that, "Well, there's titles that--" We never did this before, so we don't have titles and we don't have classifications to do that.

2 Think about how this City has changed, and the  
3 classifications have changed on so many other  
4 different titles. Sit down with us, talk with us,  
5 we'll work it out with OLR, we go to DECAS  
6 [phonetic] and we'll work out what the different  
7 classifications are. We broadband the titles, we  
8 do what we have to do. Or we create different  
9 titles to go in there. But don't turn around and  
10 say because we don't have them, and we only have  
11 three years to get it online, well you know, three  
12 years is a plenty good start as far as I'm  
13 concerned to get us in there, let us know that  
14 we're operating them, and get us certified to do  
15 what we've got to do. I think the mentality of  
16 the workers in the City of New York is no job, no  
17 job is too big or too small. And we're there to  
18 get the job done. And we want to continue that.

19 CHAIRPERSON GENNARO: Thank you.

20 We're just, when, when the City did the court  
21 order with the, with the sludge dumping, which  
22 gave rise to the dewatering facilities, what was  
23 the time scale involved there, in getting the new  
24 facility built and starting this new process, and  
25 making that all happen? How long of a process was

2 that?

3 JAMES TUCCIARELLI: Basically what  
4 we did was we put eight new facilities online, we  
5 got our people cross-trained, brand new  
6 facilities, brand new equipment, a lot of  
7 different chemical processes to have to go  
8 through, a lot of different lab certifications  
9 that you have to do. We were able, from start to  
10 finish, within a two year period of time, in  
11 there, trained, had all our people trained, up and  
12 running. And have been operating those facilities  
13 every since.

14 CHAIRPERSON GENNARO: And, and were  
15 there, were there new titles that were created as  
16 a result of this change? Or titles being  
17 broadbanded, or there was some--Was there work  
18 with regard to titles?

19 JAMES TUCCIARELLI: No, basically  
20 what the unions did again, most of our jobs  
21 specifications are so broad, mine, "Operates and  
22 maintains waste water treatment facilities."  
23 Dewatering is a new portion of a waste water  
24 treatment facility.

25 CHAIRPERSON GENNARO: Right.

2 JAMES TUCCIARELLI: We had no  
3 problem with jurisdiction, we worked out some  
4 contractual language as far as their staffing,  
5 make sure the staffing was proper. What, what the  
6 chain of communication would be, who would we  
7 report to, because these facilities are separate  
8 from the main building, so will we have proper  
9 supervision or do we have to rely on the  
10 supervision back in the main plant controlling  
11 these operations over there? All of that was  
12 worked out and the, I guess the most important  
13 thing was the City agreed from day one that they  
14 were going in and they were going to operate, we  
15 were going to operate. So they designed and they  
16 built the contracts around. We were there during  
17 the entire period of time, while the place was  
18 being built, learning on the equipment as it was  
19 being installed, learning what the equipment was,  
20 learning what the process was, so it was a quick  
21 turnover. We're losing valuable time if they're  
22 going to start messing around and saying, "Well,  
23 maybe we're going both with a hybrid, maybe we're  
24 going with a private contractor." If they put  
25 they put their mind together that this is the way



2 we're going, we're putting our people in there,  
3 work with the unions on getting the  
4 classifications changed over, get the proper  
5 titles in there, get us our certifications through  
6 the Department of Health, DEC, wherever you can  
7 get it, you're going to pick up a lot more speed  
8 and get the thing moving a lot faster.

9 CHAIRPERSON GENNARO: Well, well,  
10 thank you, Mr. Tucciarelli, you provided a  
11 valuable insight into how this kind of thing has  
12 been worked out in the past. You do us a real  
13 service by being here today, and giving us the  
14 benefit of your views. And I greatly appreciate  
15 your testimony before us, and rest assured that at  
16 every step along the way, as the Council considers  
17 this, this proposal on this action by DEP and the  
18 City, that we will keep you informed and get the  
19 benefit of your views throughout this entire  
20 process. And I thank you for being here, and I  
21 also thank you for all the good work you do on  
22 behalf of your members, who I stated at the outset  
23 do so much for so many. Thank you.

24 JAMES TUCCIARELLI: I thank you, I  
25 thank all three committees that are working on

2 this. It's important that we explore this, it  
3 really is. Just in closing I want to remind  
4 everybody that in the '80s, when they were looking  
5 to privatize the waste water treatment facilities,  
6 it came under the same auspices, and through the  
7 City Council we were able to prove that's cheaper  
8 to keep 'em.

9 CHAIRPERSON GENNARO: Hear, hear.  
10 Thank you, thank you again, Mr. President, and we  
11 appreciate you being here today.

12 JAMES TUCCIARELLI: Thank you. And  
13 I want to thank the Council, we've been working  
14 closely together to try to get these hearings  
15 together, and I appreciate their hard work that  
16 they put together on getting this out there.  
17 Thank you.

18 CHAIRPERSON GENNARO: All good  
19 people, and, and I think they're public employees,  
20 as well. Yeah, that's right. Okay.

21 JAMES TUCCIARELLI: Hear, hear.

22 CHAIRPERSON GENNARO: Okay. Thank  
23 you. Thank you, Mr. Tucciarelli. And thank you  
24 for this information that you provided as an  
25 appendix to your testimony. That will get due

2 consideration, appreciate it. And the next  
3 witness, Mr. Claude Fort, who will be representing  
4 DC 37, Local 375.

5 CLAUDE FORT: Thank you.

6 CHAIRPERSON GENNARO: Mr.  
7 President, it's, it's a pleasure to have you with  
8 us here today. We appreciate, as I said, with  
9 Local 1320, we appreciate what Local 375 does for  
10 us, and the, all of the technical processes that  
11 they're able to provide on behalf of the people of  
12 the City of New York. You do us a valuable  
13 service by being here today, we thank you for  
14 participating. The Counsel to the Committee will  
15 swear, swear you in. Afterwards, you can state  
16 your name for the record and proceed with your  
17 testimony.

18 COUNSEL TO THE COMMITTEE: Do you  
19 swear affirm to tell the truth, the whole truth  
20 and nothing but the truth today?

21 CLAUDE FORT: I do.

22 CHAIRPERSON GENNARO: Thank you.  
23 Thank you, Mr. Fort. I have your, I have your  
24 statement, and I look forward to your testimony.

25 CLAUDE FORT: [off mic] bottom.

2 CHAIRPERSON GENNARO: Okay.

3 CLAUDE FORT: Okay? Alright.

4 Thank you very much, Chair Gennaro, thank all the  
5 members of the Council. Thank you for holding  
6 this hearing. It's, it's very important that we  
7 talk about this issue and, and we make sure that  
8 whatever is done in the City of New York is done  
9 in the best interests of the, of the residents of  
10 the City of New York, especially with regard to  
11 this major infrastructure, infrastructure piece.  
12 Thank you for having me today, to testify. My  
13 name is Claude Fort, I'm the President of Local  
14 375 of District Council 37, a civil service  
15 technical guild. Again, I would like to thank  
16 you, and I thank also City Councilperson Letitia  
17 James, who is not here now. I would like to thank  
18 you for this opportunity to testify, regarding the  
19 plans of the City of New York to privatize city  
20 jobs in hiring an outside contractor to staff and  
21 supervise operations at the, at the, at Croton  
22 Water Filtration Plant, which is now under  
23 construction. It is a well established principal  
24 in municipal government that ongoing city  
25 infrastructure projects that are expected to serve

our citizens for generation should be maintained and supervised by workers who are employed by and strictly accountable to the City. As a rule, contractors hired to staff or supervise infrastructure projects are only used in the construction phase. Usually we do the design and we do the construction management. Of course we've got to use contractors to do the, to do the, you know, the work--

CHAIRPERSON GENNARO: Of course.

CLAUDE FORT: --of, of building the actual building of the project. Once the work is completed, the infrastructure is maintained by city workers. The only exception to this rule could be situations where an emergency contract is warranted because the City lacks available expertise. But in this case, it is hard to understand how an emergency exists, with regard to the staffing of the, of the water filtration plant in The Bronx with private contractors, given the fact that this facility will open only in 2012, three years from now. The three years is more than enough time to train existing department, to train existing - - protection personnel to obtain

the certification that they need before the plant starts to be operational. Staffing at the new filtration plant, broadly speaking, is concentrated in four areas: administration and management, maintenance, operations and quality assurance. Our members, member of Local 375, work in the, in the quality assurance aspect. We represent chemists, research scientists, and scientists who are the ecologists. And also lab technicians, working in, in DEP, in addition to other titles, like engineers and mechanical engineers, all type of, all the technical titles. These professionals sample water and ensure its purity. Many have doctorates and degrees, and decades of city service. There is no reason to consider hiring anyone else apart from civil servants who are properly credentialed. This will be the first water filtration plant in New York City, providing clean water to, to our residents, and will use ultraviolet light as a disinfecting agent, in addition to other technologies. But it is by no means unique. In the DEP's own white paper on the new filtration plant, written a few years ago, the plant is described as incorporating

standard treatment processes that are already in use in similar facilities around the country. We are talking about coagulation, flocculation, no, and dissolved air flotation. I mean, other means of, of doing the same thing. While there has been extended discussion about the type of filtration they plan to use, these are by no means untried or untested technologies, and the yare well known to the unionized professionals who currently have operational and maintenance responsibilities at DEP water facilities, including the sewage treatment plants at Horse Head and Newton Creek. And there is no reason why city workers cannot undertake the operational and maintenance aspects of running this plant, as well, and do it with distinction. I speak here not only on behalf of Local 375 members, but for all the workers represented by CDC 37, also. And again, there is plenty of time for training and certification before the plant opens. What is the reason behind this backdoor privatization of city services? It's not about cost, expertise or any emergency situation. It's about short-sided deals done to serve private interests. This is a mission

2 critical installation for the City of New York,  
3 and it's something that must be entirely within  
4 the City's control. The idea that a private  
5 company could have even partial control over the  
6 City's water system, is almost too frightening to  
7 contemplate. The City must use workers, properly  
8 credentialed civil servants, for maintenance,  
9 operations and quality assurance at the water  
10 filtration plant. This plant will supply ten  
11 percent of all drinking water, and up to 30  
12 percent in times of severe need. It's hard to  
13 imagine anything more vital to our future. So  
14 let's do it right. Thank you very much.

15 CHAIRPERSON GENNARO: Well, thank  
16 you President Fort. I appreciate, as I did with  
17 the previous witness, all the good work that your  
18 people do on behalf of the City. And I just, I  
19 just, I know I know the other person at the panel,  
20 we've met, we've spoken, if you could just  
21 identify yourself for the record.

22 JOHN FORSTER: First vice president  
23 John Forster for Local 375, as well.

24 CHAIRPERSON GENNARO: John, okay,  
25 here you are, right on the letterhead. Okay.



2 Sure, why don't we swear you in, John?

3 COUNSEL TO THE COMMITTEE: Sir,  
4 would you raise your right hand? Do you swear  
5 affirm to tell the truth, the whole truth and  
6 nothing but the truth today?

7 JOHN FORSTER: I do.

8 CHAIRPERSON GENNARO: And, now,  
9 like I asked the previous witness, when I had  
10 asked DEP about their outreach to the labor  
11 community, I indicated that they were going down a  
12 track and doing outreach through this, through  
13 this instrument that they put out there, this  
14 request for whatever it is, I forgot.

15 CLAUDE FORT: Proposal,  
16 qualification.

17 CHAIRPERSON GENNARO: Yes. And you  
18 know, were they pursuing a parallel track, and  
19 the, and the acting commissioner indicated that  
20 there were outreach to some folks in labor and was  
21 Local 375 part of that?

22 CLAUDE FORT: Well, we, we have  
23 very good relationship with the current DEP  
24 leadership, and--

25 CHAIRPERSON GENNARO: No, but, but,

but, my question is when the, when acting commissioner made a reference to an overture or a meeting that, an overture that he had made, a meeting that he had had, with representatives of the labor community to talk specifically about the Croton Water Filtration Plant, was 375 sort of part of that?

CLAUDE FORT: Let me put it this way, I don't recall having a formal meeting with the commissioner on that.

CHAIRPERSON GENNARO: Okay.

CLAUDE FORT: He might have mentioned it among, you know, in a meeting about something else. But we were not invited, if there was a formal meeting, we were not invited to that meeting. Yes.

CHAIRPERSON GENNARO: And just a note to staff, we should sort of find out what representatives of the labor community were met with by DEP as, as part of this process. Presumably it could've been 370, you know, 376 or something. I don't know. But we should, we should endeavor to find out. And has 375 made any attempts to have discussions with DEP or other

2 entities within City government about this,  
 3 whether it's the Office of Labor Relations, or has  
 4 this been an issue for 375, since it became known  
 5 that the City was going to look at privatization?  
 6 Have you reached out to entities either within DEP  
 7 or within the City? And if so, what has the  
 8 response been?

9 CLAUDE FORT: We, we talked to our  
 10 members first, that's, that's how we start, you  
 11 know, get information from members who are  
 12 currently over there, working at, you know, in the  
 13 current operation. I mean, current construction  
 14 phase of the, of the plant. And we gather  
 15 information. And then our next step of courses  
 16 was going to be having the formal meeting with DEP  
 17 just to find what the plan is concerning this, but  
 18 we didn't have the opportunity to meet with them  
 19 formally on that, on that issue. Yeah.

20 CHAIRPERSON GENNARO: But, but you  
 21 will be reaching out to them, to, to have a  
 22 discussion of, of this matter.

23 CLAUDE FORT: Oh, absolutely, I  
 24 mean, yes.

25 CHAIRPERSON GENNARO: When you've

2 tried to reach out to DEP before, on, on other  
3 issues that related to, you know, labor management  
4 or whatever, what is your experience like? How's  
5 that? How've you been received when you want to  
6 work out things with DEP? How does that, how's  
7 that worked?

8 CLAUDE FORT: Yeah. Our, I'm  
9 pleased with the relationship that we have. In  
10 the past, we are, a few years ago, we had an issue  
11 of the third water tunnel, the third water tunnel,  
12 because our members designed that, that major,  
13 this is a major project, the, the largest capital  
14 project in New York City history. And we design,  
15 we have a group of good designers, 40-45 engineers  
16 who design it. And, and we are doing the  
17 construction management of that, of that mega  
18 project. So at some point, I think it was three  
19 or four years ago, they wanted to remove our  
20 people completely, from the site, and give it to a  
21 private consultant.

22 CHAIRPERSON GENNARO: I see.

23 CLAUDE FORT: And I had meetings  
24 with Commissioner Ward at the time, that was  
25 Commissioner Chris Ward.

2 CHAIRPERSON GENNARO: Right.

3 CLAUDE FORT: And we had meetings  
4 after meetings, and in the end I was able to  
5 convince him to keep my people there, to keep my  
6 members there, and that was the best decision, you  
7 know. The, the--

8 CHAIRPERSON GENNARO: Certainly.

9 CLAUDE FORT: Yes, it's, it's a  
10 major project, we design it, and we have been  
11 doing the construction management, and when it's  
12 finished, it will be the most advanced water  
13 delivery system in the world. And, and you know,  
14 city workers are doing it, that's the best, they  
15 know what they are doing. Like my, my brother  
16 said, they don't do it for any profit, we do it  
17 because this is our job, and, and we love to do  
18 it, and, and you know, with us you don't need any  
19 oversight, 'cause that's, you know, that's what we  
20 do.

21 CHAIRPERSON GENNARO: Right, and  
22 it's, and it's being dug by the Sand Hogs, right,  
23 that are--?

24 CLAUDE FORT: That's right.

25 CHAIRPERSON GENNARO: Okay.

2 CLAUDE FORT: Yes.

3 CHAIRPERSON GENNARO: And--Well,  
4 this is something that was, that was brought to my  
5 attention, and, and the attention of the other  
6 relevant chairs. We thought it was appropriate to  
7 have a full, you know, airing of this issue, and  
8 I'm going to ask you for advice. If you were, if  
9 you were me, what would you do? I'm, you know,  
10 chairman of the Committee on Environmental  
11 Protection, I want to make sure that, you know,  
12 water quality is everything that, that it needs to  
13 be. I'm not chairman of the Committee on Civil  
14 Service and Labor, but I'm a, but I'm a member of  
15 that Committee. And certainly I value our public  
16 employees. You know, this is kind of a new area  
17 for me, as well. If you were me, what would you  
18 do?

19 CLAUDE FORT: Well, there could be  
20 some aspects of the operation that, that you know,  
21 that will need, you know, some training. And, and  
22 the, but, members of Local 275 will be involved  
23 in, could be involved in that operation. Should  
24 they choose to keep this operation in house, our  
25 chemists and the lab technicians, research

2 scientists, that you know, currently do the same  
3 type of work, upstate. You know, they, they test  
4 the water, making sure that the water is  
5 drinkable, that the, they test it for its purity.  
6 So this will be the same type of operation we'll  
7 be doing there. Now, as far as the other titles,  
8 the other workers are concerned, if they need any  
9 training, that could be done pretty easily. You  
10 know, we have three years to do that, and this is,  
11 if this is what we need to do, if we do not have  
12 this expertise here, it can be easily obtained,  
13 you know, we can, we can, we can even start with a  
14 contract and provide the training to our people,  
15 and after that, you know, slowly move the  
16 contractor out. Or we can even do it beforehand,  
17 before the operation even starts. So, there is  
18 plenty of time to do that. So we can keep the  
19 work to, you know, under our control. Yeah.

20 CHAIRPERSON GENNARO: I see.

21 JOHN FORSTER: Mr. Chairman, if I  
22 may also just--

23 CHAIRPERSON GENNARO: Yeah, John, I  
24 was just going to ask you to weigh in on that,  
25 John.

2 JOHN FORSTER: Yeah, I mean, I, I  
3 think that at this point, what we have to do, and  
4 I have some prepared remarks that I'd like to  
5 share with you, as well.

6 CHAIRPERSON GENNARO: Sure.

7 JOHN FORSTER: But what we have to  
8 do, is we've got to keep the water systems of New  
9 York City under public control. To begin to  
10 divide these up, to begin to have a private entity  
11 here, and a private entity there, controlling bits  
12 and pieces of the water system, makes absolutely  
13 no sense whatsoever for the City of New York. And  
14 this system has worked well, it's worked  
15 excellently for over 100 years. This is not a  
16 system that's broken. And to, to start to go down  
17 the road now, where you're going to start spinning  
18 off pieces of the system, and making them private,  
19 makes absolutely no sense within the, within the  
20 history of the City, or within our ability to work  
21 and oversee and a vitally important service that's  
22 provided to this City. I mean, that's the short  
23 answer. I have a few other remarks I'd like to  
24 make when, when you wish.

25 CHAIRPERSON GENNARO: Sure, sure.



2 And, well you know what, why don't you make those  
3 remarks now, because those remarks may, you know,  
4 inform some of the, you know, questions that I  
5 have in my mind. So maybe the question that I'm  
6 about to ask will be answered by your statement.

7 JOHN FORSTER: Alright. Thank you,  
8 thank you, Mr. Chairman.

9 CHAIRPERSON GENNARO: So I would,  
10 so Mr. President, I'm sure you have no objection  
11 to your first vice president making his statement.

12 CLAUDE FORT: Oh [laughs] no  
13 absolutely not, - -

14 CHAIRPERSON GENNARO: And so, so  
15 John, please continue.

16 JOHN FORSTER: Alright. Thank you,  
17 Mr. Chairman. We talked about some very different  
18 salient points today, in terms of determining  
19 whether or not this should in fact go private or  
20 stay within the public domain. And one of them is  
21 around cost. We have actually provided to counsel  
22 a whole series of comparative cost analyses that  
23 show consistently that when how, when the work is  
24 kept in house, it is, it is less expensive, it's  
25 less expensive for the taxpayers of the City of

2 New York. It makes sense economically to do that.  
3 But in addition to that, the consultants  
4 consistently were talking about higher salary  
5 rates, we're talking about higher overhead, and  
6 we're talking about profit margins, that have to  
7 built into consultant costs; again, making that  
8 more expensive. In fact, there's a whole  
9 different orientation between what consultants  
10 want to do and what public servants want to do.  
11 Consultants, it's in their interest as  
12 consultants, to drive costs up. When they drive  
13 costs up, they make more money. We as civil  
14 servants are absolutely committed to keeping costs  
15 down. That's what we do. We reject change  
16 orders, we reject cost overruns, that's what we  
17 do, that's what we get our recognition for. So we  
18 have two very diverse and really oppositely  
19 opposed interests in terms of costs. When it  
20 comes to the skill levels, I think it's important  
21 to actually look at who we're talking about in  
22 this plan. Of those hundred people, we're talking  
23 about approximately eight to ten people who will  
24 be in the lab. Those are going to be senior  
25 chemists, those are going to be lab technicians,

2 other techs, other technicians, supervisors and  
3 chemists themselves. These people will be  
4 sampling water the same way they do now in Lefrak  
5 City. There's nothing new about that skill set.  
6 And we're not talking about a new skill set, we're  
7 talking about approximately 42 people in  
8 maintenance. We're talking about electricians,  
9 we're talking about plumbers, we're talking about  
10 laborers. Again, these are the very skills, the  
11 very jobs that our people, these are not Local  
12 375, these are DC 37 brothers and sisters. Those  
13 are the jobs that they would do now, in other  
14 plants. And they can do them in this plant. And  
15 finally, we're talking about, about 35 people in  
16 operations, which will be the water treatment  
17 plant operators. And that's where the DOH  
18 certificates will be important, and once again, as  
19 Brother Tucciarelli stated, we have had the  
20 ability to get the training in this, there is not,  
21 this is not some kind of ultimate new rocket  
22 science that is beyond our capability. This is  
23 training that our people have to do; in fact, you  
24 are going to want to have an in-house staff that  
25 knows this stuff regardless, because if you don't,

2 you can't provide proper and adequate public  
3 oversight anyhow. So you're going to have to  
4 train people. And there's absolutely no problem  
5 with in fact the acquisition of those kinds of  
6 skills. And then, finally we had the  
7 philosophical issue. I mean, as I said earlier,  
8 the idea of taking a watershed and starting to  
9 break it up into pieces, so that pieces here and  
10 there are owned by private entities, makes  
11 absolutely no sense. When it's, when it's run by  
12 the City of New York for the City of New York,  
13 they have the capability that they can shift staff  
14 as needed. If they, you know, we have actually  
15 had to rescind contracts before. I mean, what are  
16 we going to do if we end up finding that the guy  
17 who runs Croton Filtration Plant isn't doing it  
18 right, and we have to rescind the contract. And  
19 now we're left with what, scrambling to find maybe  
20 there's some other people around the country that  
21 might have, no how to do this? It doesn't make  
22 any sense. We have to in fact have an in-house  
23 trained staff. And, and also I'd like to just  
24 address an issue that I thought Chairman Seabrook  
25 brought up, which was really important. Our

2 Local, Local 375, all of DC 37, we are an  
3 incredibly diverse organization already. And we  
4 in fact provide a testing manner, which is a fair  
5 testing manner that gives everybody an equal  
6 opportunity to get jobs and get work, and that's  
7 called the civil service system. And that is the  
8 system that would be in place and should be in  
9 place, when we're talking about hiring people to  
10 run this plant. Not some firm from Iowa or from  
11 England, or wherever it is, where they may or they  
12 may not in fact provide that kind of equal  
13 opportunity. We do that. That's what we do in  
14 the City of New York, and that's why we have the  
15 civil service group and effectiveness and  
16 efficiency that we have. And, and I just think,  
17 we're going really down the wrong path to even, to  
18 even consider privatization of this kind of a  
19 facility. Thank you.

20 CHAIRPERSON GENNARO: Sure. Now,  
21 do, do entities within labor kind of, you know,  
22 get together and talk about, "Okay, these looks  
23 like, you know, the kind of jobs that we're going  
24 to--that--or these are the functions that are, you  
25 know, going to be, you know, needed to operate a

2 facility like this? And it looks like, you know,  
3 these kinds of titles or whatever, or these kinds  
4 of functions, might be this local. And these  
5 kinds of functions might be this local, and these  
6 kind of functions might be this local. Let's kind  
7 of like get together, work together," and, and  
8 present a united front to, to the administration,  
9 to sort of push back a little. Because I'm only,  
10 and I don't know whether this is true, but it  
11 almost seems like--this wasn't stated by the, by  
12 the administration, but it almost seems like,  
13 "Okay, you know, there's like new--we'll have to,  
14 if we're going to keep this a publicly run  
15 facility, there are going to be new functions, and  
16 we'll have to deal with like this union, and we  
17 give this title to this union; then that union's  
18 going to be mad at us. And if we do this, that--"  
19 and like wouldn't it--And maybe part of the whole  
20 thing is like, "We just want to deal with this  
21 whole, with this whole thing." And I may be  
22 completely off base, but--And I'm wondering  
23 whether that, that that really is an issue on  
24 their part, that they don't want to deal with  
25 different unions that are going to be claiming the

2 ability to do this or that. And, and wouldn't it  
3 be better for, you know, the unions to kind of  
4 work together, and you know, prevent--and present  
5 a, a united front on, on you know, what this would  
6 look like under public operation, and then there's  
7 not going to be squabbling over like who does  
8 what.

9 CLAUDE FORT: Mhm. First of all,  
10 this is not the first time we face this type of  
11 issue, where we have to talk about creating titles  
12 that will fit the, the work, you know, the job  
13 description. And as a matter of fact, right now  
14 we are doing that with the HAZMAT unit in DEP.  
15 You know, we are talking to DECAS and to DEP, and  
16 together we are coming up with the right title for  
17 these type of functions. Also, the issue of, of  
18 unions getting together and, and do the same work,  
19 we have that at DEP, we have our chemists, and who  
20 belongs to 375, and microbiology who belongs to  
21 1199, who do basically the same type of work. So  
22 there is no conflict, and there is no fight. So,  
23 this issue could be easily resolved among unions,  
24 and, and with the, with the agency. Of course,  
25 you know, we would like to, we'd like to, if we

2 identify the title, if we identify function that  
3 is being done by our members, and also members of  
4 different unions, you know, we can, we can  
5 certainly talk about resolving if there is an  
6 issue. But, but this is something that currently  
7 exists at DEP. And, and it's, I don't, it's not a  
8 problem at all.

9 CHAIRPERSON GENNARO: Okay, I was  
10 just wondering if that was an issue that wasn't  
11 stated overtly. But it just, you know, seemed  
12 like they might be stepping into some kind of a  
13 conflicted, contentious situation, but it's your  
14 belief that that's not the case.

15 CLAUDE FORT: No, not at all.

16 CHAIRPERSON GENNARO: Okay. So  
17 that is--good to know. Good to know that, and  
18 actually I don't have any further questions for  
19 you, but I would like to state that, as I've told  
20 the other witnesses, you provided a real service  
21 by coming forward. Good to see you again, John,  
22 good to meet you, President Fort.

23 CLAUDE FORT: Thank you, same here.

24 CHAIRPERSON GENNARO: And I thank  
25 you for sharing with us the benefit of your views,



2 and it certainly will inform all of our, you know,  
3 future deliberations on this, and will help to  
4 guide some of our activities as we figure out what  
5 we're going to do. [laughs]

6 CLAUDE FORT: Mhm.

7 CHAIRPERSON GENNARO: So, thank you  
8 for being here, I greatly appreciate it.

9 JOHN FORSTER: Thank you for the  
10 opportunity.

11 CLAUDE FORT: Thank you very much,  
12 Mr. Chair. Thank you.

13 CHAIRPERSON GENNARO: Sure thing,  
14 sure thing. And we have, oh let me just, let me  
15 just call staff to the, the, counsel to the--  
16 [pause] We're going to call our last witness,  
17 Father Richard Gorman. Father, I ask that you  
18 just bring yourself forward. I have to excuse  
19 myself for literally 60 seconds, and I'll, please  
20 don't commence your testimony until I return. And  
21 for the purposes of this witness, we will dispense  
22 with the taking of the oath, so we don't, we don't  
23 have to do that. [pause, background noise] Okay,  
24 Father Richard Gorman, thank you for being here.  
25 You represent Community Board 12, from The Bronx.

2 We appreciate you being here today, we thank you  
3 for your patience. We look forward to you, to  
4 your good testimony.

5 FATHER GORMAN: Thank you. Mr.  
6 Chairman, first of all I, even though you said you  
7 will dispense with the oath, I do promise you to  
8 tell the truth. I will do my best to do that.

9 CHAIRPERSON GENNARO: I wasn't  
10 worried.

11 FATHER GORMAN: [laughs] Okay. I  
12 also wanted to just say that I find myself in the  
13 unenviable position of being between you and your  
14 dinner, so I will try to be brief and to the  
15 point.

16 CHAIRPERSON GENNARO: Oh, no, I've  
17 got--

18 FATHER GORMAN: [laughs]

19 CHAIRPERSON GENNARO: My job is  
20 like yours, Father, I'm always, always on the go.

21 FATHER GORMAN: That's great.

22 CHAIRPERSON GENNARO: Always people  
23 to minister to, okay?

24 FATHER GORMAN: Okay.

25 CHAIRPERSON GENNARO: There you go.

2 FATHER GORMAN: You go for that. I  
3 only found out about this hearing recently, so if  
4 it's okay with you, Mr. Chairman, and your, your  
5 fellow Chairs, I would like to submit some written  
6 testimony to you in a, in a letter in the near  
7 future.

8 CHAIRPERSON GENNARO: That would be  
9 fine, and I'll ask the Counsel to the Committee to  
10 give you her contact information to facilitate  
11 that transfer of information.

12 FATHER GORMAN: Thank you. Even  
13 though I listed myself as being the Chairman of  
14 Community Board 12 in The Bronx, the reason I'm  
15 here is that, as such, I was asked and empower by  
16 legislation passed by this body, to sit on the  
17 monitoring committee for this project up in Van  
18 Cortland Park in The Bronx.

19 CHAIRPERSON GENNARO: Oh, okay, and  
20 forgive me for not knowing that you're the  
21 Chairman of Board 12.

22 FATHER GORMAN: Well.

23 CHAIRPERSON GENNARO: Okay.

24 FATHER GORMAN: I'm one of, I'm one  
25 of a happy group.

2 CHAIRPERSON GENNARO: Okay.

3 FATHER GORMAN: But as the  
4 Chairman, I was asked, I was empowered by the  
5 legislation passed by this City Council, to sit on  
6 a monitoring body to oversee this project up in  
7 Van Cortland Park. I guess, I guess the word  
8 "monitoring" can be interpreted many ways. One  
9 thing I think, though, that monitoring includes  
10 under any definition, is an open sharing of  
11 information, and certainly all pertinent  
12 information that allows one to understand the  
13 project, the execution of the project, and the  
14 direction in which the project is going.  
15 Unfortunately, that has not been my experience,  
16 and the experience of my fellow monitoring  
17 committee members, with the Department of  
18 Environmental Protection. So, one of the reasons  
19 that I am here--

20 CHAIRPERSON GENNARO: What I will  
21 do, Father--I just, I just, just a note to my own  
22 legislative counsel, to pay, we've got the  
23 committee staff here, but the committee  
24 legislative counsel to pay close attention to  
25 Father's testimony, 'cause this sounds like an

2 avenue that we're going to go down here.

3 FATHER GORMAN: I, I would hope  
4 that, that maybe some good would come out of my  
5 being here today, along those lines. But in any  
6 event, the members of this committee found out  
7 about this proposal to privatize the operation of  
8 the Croton plant from the newspaper.

9 CHAIRPERSON GENNARO: Well, I did,  
10 too. I did, too.

11 FATHER GORMAN: And I think  
12 certainly that shows a deficiency in the  
13 relationship between the agency and the monitoring  
14 committee. I would certainly, as I said before,  
15 no matter how you want to interpret the word  
16 "monitor," it certainly means not having to rely  
17 on the newspaper for your source of information.  
18 We're concerned about this idea to privatize,  
19 because as, as you say, I am the Chairman of Board  
20 12, I've been in that position for a while; and as  
21 such, I've been involved in some form of  
22 monitoring this project since the first  
23 administration of, of Mayor Giuliani. I don't  
24 mean to be disrespectful and contradict you, but  
25 at that time, back in the first time of Rudolph

2 Giuliani, they were saying this plant would cost a  
3 total of \$700 million. We are now up to \$3  
4 billion, so we have certainly grown in size. But  
5 back then, if you recall, there was great deal of  
6 controversy on where to put the plant. And if you  
7 do some research, which I'm sure your committee  
8 is, is doing and has done very well, you will find  
9 that back in 1970, a enterprise, an enterprise by  
10 the name of Metcalf and Eddy did the siting study  
11 for this Croton Water Filtration Plant. 20 years  
12 later, when this plan was undergoing its  
13 environmental review and approval, this same firm  
14 was the chief consultant to the City of New York,  
15 on water infrastructure. And it was then that we  
16 first started hearing noise about privatizing the  
17 operation of our water supply system. Metcalf and  
18 Eddy was very heavily involved in that. Mayor  
19 Giuliani at one point, if my memory serves me  
20 correctly, agreed to that, or certainly was in  
21 favor of that. And he only dropped that because  
22 public opposition was so great. Metcalf and Eddy  
23 doesn't technically exist anymore, because they've  
24 been bought by a firm called AECOM. Now it's  
25 interesting, if you look at the information

2 concerning the water, the Croton Water Filtration  
 3 Plant, this same enterprise, AECOM, is the co-  
 4 designer and co-construction management firm for  
 5 the plant. Therefore, it's kind of not a surprise  
 6 to me, having done this research, that all of the  
 7 sudden out of nowhere, and never, since the time  
 8 of Mayor Giuliani have I heard one word about  
 9 privatizing the system. It's not surprise that  
 10 all of the sudden, as this plant is being built,  
 11 we again hear about the proposed privatization of  
 12 its operation. I'm not saying that anything  
 13 untoward happened, but it certainly shows a, well  
 14 shall we say, a set of convenient facts that I  
 15 hope the City Council will look into. I also  
 16 would like to ask the City Council--

17 CHAIRPERSON GENNARO: I just have a  
 18 question as to whether or not that firm would be  
 19 in the running for the, for this--are they one of  
 20 the firms discussed as the entity that we--

21 FATHER GORMAN: Well, I wish I  
 22 could answer that, council member.

23 CHAIRPERSON GENNARO: Yeah.

24 FATHER GORMAN: The reason I can't  
 25 is that when we had this discussion at our last

2 monitoring committee meeting, and by the way, this  
3 issue was only put on the agenda after I insisted  
4 that it be discussed, certain questions were asked  
5 and Mr. Lanahan was either unable or unwilling to  
6 answer them. One of the things that the members  
7 of the monitoring committee asked, is that when  
8 they had a public session, when they're in the  
9 process of preparing the RFP for distribution,  
10 could we be included in the public session? Even  
11 that proved to be problematic. And certainly I  
12 don't see any reason why we couldn't be part of  
13 the public. But I would be interested to see  
14 whether or not this firm is involved. I'd also be  
15 interested to see what the firms that do make an  
16 application under the RFP, how many of them have  
17 as their offices or employees, former  
18 commissioners and deputy commissioner of the  
19 Department of Environmental Protection. I think  
20 it just would be a very useful thing for the  
21 committee and for the members of the City Council  
22 to be aware of. Again, I'm not making any  
23 accusations of untoward behavior, I'm just saying  
24 that this is a rather convenient set of facts that  
25 should raise our concerns.



2 CHAIRPERSON GENNARO: Certainly, I  
3 just, I just want to, interrupt for one second to  
4 mention something, to, to my staff. [pause]  
5 Okay. Sorry about that, a little, little sidebar.

6 FATHER GORMAN: No problem.

7 CHAIRPERSON GENNARO: Okay.

8 FATHER GORMAN: I think the whole  
9 issue of privatization has to be carefully  
10 considered, and personally I would not be in favor  
11 of it. In case, I'm sure that you've heard like  
12 I've heard, the old, the new, one of the newer  
13 sayings, that really years from now, wars will not  
14 be fought over oil, but rather water. Water is a  
15 valuable commodity; fresh, clean water is one  
16 that's going to become increasingly more and more  
17 dear. And I think therefore, when we have a city  
18 such as New York, which has enjoyed such a  
19 tremendous water supply, and we have such a great  
20 reputation for our water supply, we should very  
21 carefully consider whether this is something that  
22 is broken that needs fixing. Just along the lines  
23 of Mr. Tucciarelli's work, I did some Googling the  
24 other day, too. And let me just read you some of  
25 the things that came up on Yahoo!, as a result of

2 Googling in this idea of the privatization of  
3 water.

4 CHAIRPERSON GENNARO: Well, then, I  
5 would say, not to correct you, but that would be  
6 Yahooing, rather than Googling.

7 FATHER GORMAN: Yahooing. Okay.

8 CHAIRPERSON GENNARO: I guess.

9 FATHER GORMAN: Well, let us give  
10 credit where--

11 CHAIRPERSON GENNARO: Can you  
12 Google on Yahoo!? I guess--

13 FATHER GORMAN: I guess so.

14 CHAIRPERSON GENNARO: I guess so.  
15 Okay.

16 FATHER GORMAN: But ones came up,  
17 "Cash Strapped Community Suffer As Corporations  
18 Target Water Systems." "New Food and Water Watch  
19 Reports--Report Reveals That Service Suffers While  
20 Costs Skyrocket on Water Privatization." "Money  
21 Down the Drain, How Private Control of Water  
22 Wastes Public Resources." "Maine Town Passes  
23 Ordinance Asserting Local Self Governance and  
24 Stripping Corporate Personhood." "Business Is  
25 Urged to Ax Risk By Curbing Water Use." This is a

2 very important topic that I think needs a lot more  
3 study than apparently DEP has put into it, or is  
4 willing to put into it, or at least allow public  
5 discussion of. And it would seem to me that  
6 having sat through many monitoring committee  
7 meetings, Mr. Chairman, and being told that many  
8 of my questions could not be answered because they  
9 would jeopardize security. How is it then that  
10 security is not compromised by having an outside  
11 firm, very possibly a firm from a foreign country,  
12 come on in and to run such a vital project as the  
13 Croton Water Filtration Plant. May I not also  
14 just remind everyone of two very simple facts:  
15 number one, some states privatize corrections, and  
16 we saw that in the jails as a result of that, in  
17 many cases, there were violations of human rights;  
18 number two, we have seen, in addition to the  
19 jails, with the privatizing, there was, there was  
20 something else that just slipped my mind. Again,  
21 along the lines of when things are privatized, are  
22 they really better off? I think it's a good  
23 question to be pursued, it certainly hasn't been  
24 given enough opportunity to be investigated by  
25 DEP. The other points that I'd like to make,

2 because I know time, you know, you're probably  
3 watching the time, is this: Council member  
4 Seabrook, my own personal council member, raised  
5 questions about equal opportunity employment. We  
6 in The Bronx are always told that we're going to  
7 get jobs, and that the people of The Bronx will be  
8 taken care of, and that they will get these jobs.  
9 I have to say, that the rhetoric has far exceeded  
10 the reality. And so I'm not impressed by this  
11 idea that, "Well, somehow we'll make sure that  
12 everyone gets a fair shake." I think if the City  
13 of New York is concerned about having a diverse  
14 and well trained workforce, then they should  
15 employ that workforce itself. I think, again,  
16 that also ensures I think a higher level of  
17 security than worrying about an outside firm. The  
18 issue today of profits was brought up. Outside  
19 corporations, private corporations, are about  
20 money. They exist to make money. Profit is the  
21 bottom line. Do we want to turn around and take a  
22 vital government resource, and a vital government  
23 function, and entrust that to the profit making  
24 motive? Well, I would just remind that it's the  
25 same folks involved in that same type of profit

2 making motive, who've been running our economy for  
3 the last several years, and aren't we in wonderful  
4 shape now? The only good thing about the economy  
5 as far as I can see it, is that in light of my  
6 exorbitant salary from the archdiocese of New  
7 York, I never thought that I would become a  
8 stockholder in any kind of firm, especially one as  
9 great as Citibank, and apparently now I am a big  
10 time holder of that. DEP needs, I think, to study  
11 this a lot more carefully. I also think that one  
12 of the things I would ask this Council, since I  
13 have the opportunity, is that you set up a  
14 monitoring committee. It is not being treated  
15 with respect, and it has become very much an  
16 adversarial relationship with DEP. You  
17 complimented certain members of the staff here.  
18 Maybe, Mr. Chairman, your relationship and your  
19 intervention and your good graces could allow that  
20 staff to maybe take a, make a reevaluation of what  
21 kind of relationship they have with the monitoring  
22 committee. We get no information or very often we  
23 get false information. For example, it says in  
24 the EIS for this plan that there would be no  
25 chlorine gas at a certain water house near a

2 reservoir, nearby reservoir at Jerome Park. It  
3 says that right in the EIS; and yet, one of the  
4 representative of DEP who was sitting right here a  
5 few minutes ago, denied up and down that such was  
6 the case. Now that either means one of two  
7 things: you're either not telling the truth, or  
8 you're able, you're not able to tell the truth,  
9 because you're not knowledgeable of the facts.  
10 Well, is that the kind of person who should be  
11 working with us? When we're disrespected like  
12 that, Council member, this Council, the City  
13 Council is disrespected, because we are empowered  
14 by you and we are there at your request, and by  
15 virtue of your legislation. So, again, I hope  
16 that this will be looked at rather carefully. I  
17 don't think it's a good idea, I really, truly do  
18 not. I think the City of New York is doing a  
19 great job making sure we have enough water. I  
20 think the City of New York should continue to do  
21 that job with the type of workers that we have. I  
22 think we do a fair job of employing people from  
23 diverse backgrounds, and giving everyone an equal  
24 shot to get a good paying job in this city,  
25 through our civil service. And last but not least

2 of all, I think that when the City Council asks  
3 members of the community, such as community board  
4 chairs, to be engaged in a process that allows for  
5 transparency in probably the biggest construction  
6 project ever, ever undertaken by the City of New  
7 York, I think we should be treated a little more  
8 respect and professionalism.

9 CHAIRPERSON GENNARO: Thank you,  
10 Father. Thank you for being here, and providing  
11 very compelling testimony that it's my hope will  
12 certainly be of some good. And here's what I'd  
13 like to do. I, right after the hearing, if you  
14 could just briefly meet with the Counsel to the  
15 Committee, and my own legislative counsel on my,  
16 on my personal staff, to do, I think we should do  
17 two things. One, that with regard to your  
18 testimony about the involvement and engagement of  
19 Metcalf and Eddy that's now this other company, or  
20 whatever, I mean, that, that was something that I  
21 think should form the basis of a letter from, from  
22 you know, myself to DEP for them to sort of  
23 formally answer or, at a minimum, speak to. And  
24 so, if, you know, staff could have that  
25 conversation with Father Gorman, get the

2 information, you know, vet it or whatever, compose  
3 a letter, just for me, to DEP, that this is based  
4 on testimony that was received at the hearing,  
5 testimony that was not heard by the  
6 administration, because they're no longer here.

7 Is anyone here from the Bloomberg Administration.

8 Anyone here representing the Bloomberg

9 Administration. Okay, so the Bloomberg

10 Administration is like no longer in the room. And

11 so, I will, you know, bring the questions brought

12 out in your testimony in the form of a letter,

13 from me to them, which they will have to answer.

14 And so, and then when we get that answer, we

15 should share that with Father Gorman. Two, so

16 that, that's like one thing we'll do. Next thing

17 will be if you could, you know, do us the favor of

18 chronicling some of the, you know, deficiencies

19 that you've encountered as a member of this

20 advisory committee. This is something that I as,

21 you know, Chairman of the Committee on

22 Environmental Protection should, would like to

23 bring to the direct attention of DEP and have them

24 speak to that, to me, in the hopes that that will

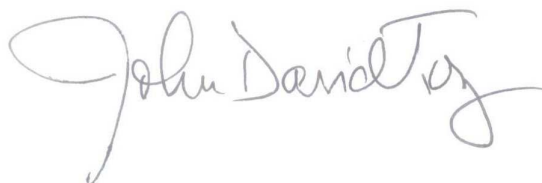
25 improve the situation, and if it doesn't, you will



2 continue to have access to me. And I'll give you  
3 my business card, and you'll have the information  
4 on my legislative counsel, and Counsel to the  
5 Committee. So you will have places to come to  
6 for, you know, redress, if they don't change the  
7 way they're doing business on that advisory  
8 committee. And hopefully, you know, these two  
9 actions will have made it worth your while to come  
10 here, and do everything that you did. And so, I  
11 thank you for that, Father, and, and with no one  
12 else wishing to be heard, this hearing on the  
13 Committee on Environmental Protection, Committee  
14 on Civil Service and Labor, and Committee on  
15 Contracts, is hereby adjourned. [gavel]

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned above a horizontal line.

Signature \_\_\_\_\_

Date MARCH 23, 2009