

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON WATERFRONTS

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January 26, 2012
Start: 1:15 p.m.
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HELD AT: Committee Room - 16th Floor
250 Broadway

B E F O R E:

MICHAEL C. NELSON
Chairperson

COUNCIL MEMBERS:

Gale A. Brewer
Brad S. Lander
Eric A. Ulrich
Peter F. Vallone, Jr.

A P P E A R A N C E S

Angela Licata
Deputy Commissioner of Sustainability
Department of Environmental Protection

Andrew Schwartz
First Deputy Commissioner
Department of Small Business Services

John McLaughlin
Director of Ecological Services
Department of Environmental Protection

Rob Buchanan
Co-Founder
New York City Water Trail Association

Edward Kelly
Executive Director
Maritime Assn. of the Port of New York & New Jersey

CHAIRPERSON NELSON: Good

afternoon, welcome to this hearing on Intro 740, which prohibits the dumping of vessel waste in designated no-charge zones in and around New York City. The Clean Water Act of 1972 and other water pollution statutes have done an extraordinary job in cleaning up the waters in and around New York City for over the last 40 years. One important provision of the Clean Water Act requires boats with toilets to have devices that disinfect and break down solid waste before it's released into the water. In most bodies of water, this discharge is clean enough to make only a small impact on the cleanliness of the water as a whole. However, some bodies of water are particularly sensitive, which is why the Clean Water Act empowers states to designate these waters as "no-discharge zones". While most bodies of water permit the discharge of treated sewage, in a no-discharge zone no sewage may be released at all. Instead, it must be held and pumped out at a station onshore, where it can be dealt with properly. New York State has designated much of the Hudson River, the Long Island Sound and

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2 Jamaica Bay as no-discharge zones, where sewage
3 may not be dumped. The state has also empowered
4 New York City to regulate dumping in these
5 sensitive waters, which is the purpose of our
6 hearing today. We will hear testimony on Intro
7 740, which would regulate the dumping of vessel
8 waters ... waste, rather, into no-discharge zones.
9 I look forward to hearing from our witnesses about
10 how this law would help us continue to improve the
11 cleanliness of the waters in and around our city,
12 so I would like to see a penalty of a minimum from
13 the city from \$1,500 up to \$10,000, something with
14 teeth, otherwise if you're the captain of the
15 ship, you know, why not just do it that way. They
16 have to have something that really keeps them from
17 being so bold as to discharge. Thank you. And
18 our first panelist will be, please, Angela Licata,
19 thank you, and we have two for you, Angela, and
20 Deputy Commissioner for Sustainability with DEP,
21 and any ... okay, that's okay, thank you. Thanks.
22 And of course Andrew Schwartz from New York City
23 Small Business Services together. Thank you and
24 welcome. And also I want to thank David Seltzer,
25 the law clerk for the Committee, and Crystal Gold

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2 Pond, the policy analyst, for their terrific work.
3 Thank you.

4 MS. LICATA: Good afternoon,
5 Chairman Nelson and Committee, I am Angela Licata,
6 Deputy Commissioner of Sustainability for New York
7 City's Department of Environmental Protection, and
8 I am joined by Assistant Commissioner Andrew
9 Schwartz, of the Department of Small Business
10 Services. Thank you for the opportunity to
11 testify on Intro 740 regarding discharges from
12 vessels in New York City's newly-designated no-
13 discharge zone, particularly for Jamaica Bay.
14 Last June, then-Commissioner Cas Holloway
15 announced that DEP was seeking a no-discharge zone
16 designation in the open waters and tributaries of
17 Jamaica Bay, the designation made possible because
18 DEP had developed sufficient sewage pump-out
19 locations where vessels are able to unload waste,
20 and it was confirmed by U.S. EPA in October, when
21 Mayor Bloomberg and U.S. Department of Interior
22 Secretary Ken Salazar also signed an agreement
23 committing to a joint planning process that will
24 devise a new unified governing model and new
25 common objectives for the 10,000 acres of

1 publicly-owned land in South Brooklyn and Queens.
2 At the request of the city and the New York State
3 DEC, EPA's designation bans boats from discharging
4 sewage into the bay, which now joins no-discharge
5 zones of Long Island Sound and the Hudson River to
6 the New Jersey boundary and the Battery. Under
7 Federal regulations, boats are not permitted to
8 discharge untreated sewage within three miles of
9 the coast, but the new designation expands the
10 discharge prohibition to include treated sewage as
11 well. The no-discharge zone designation will
12 eliminate discharges from approximately 1,200
13 registered boats that use Jamaica Bay for
14 recreational purposes. Each of the four pump-outs
15 serves roughly 300 to 600 boaters, the EPA minimum
16 requirement to grant the no-discharge zone permit.
17 And roughly there are about 1,200 recreational
18 boats, maybe 1,200 to 1,600, existing in Jamaica
19 Bay, so that's roughly one boat pump-out facility
20 per 375 boats. These three inland pump-outs,
21 located at Coney Island Wastewater Treatment Plant
22 since 2000, the Hudson River Yacht Club and
23 Paerdegat Basin since 2005, the Rockaway Treatment
24 Plant since 2008. The mobile station is the New
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2 York/New Jersey Baykeeper's 24-foot sewage pump-
3 out vessel that since 1994 has provided service to
4 boat owners anchored in Jamaica Bay from April
5 through October. These pump-out stations are made
6 possible in part by the state's Clean Vessel
7 Assistance program that was established to protect
8 and improve water quality in New York's navigable
9 waterways. As the Committee well knows, Jamaica
10 Bay is the largest estuary water body in the New
11 York City metropolitan area, covering an area of
12 approximately 20,000 acres. The bay is a diverse
13 ecological resource that supports multiple
14 habitats, including open-water salt marshes,
15 grasslands, coastal woodlands, maritime
16 shrublands, brackish and freshwater wetlands, and
17 Jamaica Bay is known for its wildlife refuge and
18 excellent fishing. And these habitats support 91
19 fish species, 325 species of birds and many
20 reptile and amphibian and small-mammal species.
21 Intro 740 would grant enforcement power to SBS,
22 DEP and the Department of Sanitation against
23 discharges within 1,500 feet from the New York
24 City shoreline within this no-discharge zone.
25 While we appreciate this effort to keep the bay

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2 and sound clean, as well as the potential for
3 added revenue that would accrue to the city, given
4 operational and fiscal constraints, these agencies
5 are unlikely to take an active role in enforcing
6 the provisions. Enforcement agents would need to
7 be onboard a vessel from which the waste is
8 discharged in order to issue a violation, and this
9 is operationally infeasible for the agencies
10 authorized by the bill. DEP owns and operates a
11 fleet of vessels, however, they haul sludge and
12 perform other essential tasks, such as monitoring
13 water quality, through the use of scientists and
14 laboratories, on-board laboratories, and are not
15 available to regulate or control maritime
16 commerce. Nor would DEP's staff board other
17 vessels to enforce the no-discharge zone. As a
18 successor agency to some of the functions of the
19 former Department of Ports and Trade, the Small
20 Business Services has regulatory jurisdiction for
21 waterfront permitting and inspection of certain
22 waterfront property, but Small Business Services
23 and the Department of Sanitation do not have
24 boats, and do not perform inspections on the
25 water. The Police Department advises that it has

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2 not received any complaints of the unlawful
3 discharges contemplated by the bill, and that it
4 focuses on unsafe vessel operation, safety
5 equipment and vessel-operated training issues
6 during its inspections of recreational vessels on
7 New York City's waterways. The issue of no-
8 discharge zone enforcement, among many others,
9 will be discussed as work proceeds on the creation
10 of the Clean Waterfront Plan required by local law
11 55 of 2011. Perhaps this issue can be revisited
12 in that plan, which is to be released next
13 January. And thank you for the opportunity to
14 testify, and I'm glad to answer any questions.

15 CHAIRPERSON NELSON: Thanks, Ms.
16 Licata. Andrew?

17 MR. SCHWARTZ: Mr. Chairman, I
18 don't have prepared testimony.

19 CHAIRPERSON NELSON: Enforcement,
20 obviously, is going to be a prime issue here. The
21 police don't want to be involved with this, and
22 neither do they have the authority at the moment.
23 What do you think the possibility of the Coast
24 Guard?

25 MS. LICATA: Frankly, I was

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wondering about that possibility myself.

CHAIRPERSON NELSON: Okay.

MS. LICATA: And I apologize that we didn't have the time to research that.

CHAIRPERSON NELSON: Well, that's okay because we can't tell the Feds what to do. We could take care of fines, then how are you going to collect those fines? That's one of the problems. We're joined by Council Member Eric Ulrich. I don't imagine you have any questions at the moment, Eric? Okay. Well, how does the sewage affect, the discharge of sewage affect our waterways and nearby communities? What do you think about it?

MS. LICATA: Well, you know, frankly, the largest issue that the city faces with respect to water quality is obviously the large job of treating all the effluent, which the city's 14 wastewater treatment plants do an excellent job of, especially during dry weather, right? So what happens is, we, during wet weather, those 14 treatment plants are designed to treat two times their dry-weather flow, and what is remaining in the combined sewer areas

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2 basically then overflows, and that's known as the
3 combined-sewer overflow. So I would suggest that
4 that is our priority problem at this moment, you
5 know, that is really where the Department is
6 focusing its efforts, to do its best to abate
7 CSO's to the maximum extent practicable, and to
8 really look at the cost effectiveness of
9 additional CSO abatement. And that's what's going
10 to drive your water-quality issues in most of the
11 tributaries. And it's a very complex problem,
12 because in some tributaries, you know, we are also
13 facing some constraints with respect to the
14 physical conditions, so some of those tributaries
15 were never really meant to function well from an
16 ecological standpoint, they were done historically
17 for commercial purposes. But I would suggest that
18 this issue associated with vessel discharge is
19 important, we want to make sure that the
20 facilities are there. We assume people are being
21 good operators. We know that these facilities are
22 well-used, because from time to time a pump may go
23 down, we'll get a call right away, that the
24 facility isn't operating, so we'll come out, we'll
25 make that repair.

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2 CHAIRPERSON NELSON: Do you have a
3 flowchart or any numbers done quarterly or
4 biannually or yearly, as far as the quality of the
5 water on at least the New York City side?

6 MS. LICATA: Absolutely. The
7 Department has been keeping annual records of
8 water quality that's done on generally a monthly
9 basis, but on certain locations it's done much
10 more often than that, and especially during the
11 seasonal, the height of the summer season. And
12 that report is ... and a harbor water quality
13 report, it's called the "harbor survey water
14 quality report", it's been done, we just
15 celebrated about two years ago the 100th
16 anniversary of that report.

17 CHAIRPERSON NELSON: Really?

18 MS. LICATA: So it gives us a great
19 sense of the water quality in the receiving waters
20 around the city, and you can certainly see that
21 that trend line is moving in the right direction.
22 We've made remarkable improvement.

23 CHAIRPERSON NELSON: You have,
24 because that's my next question.

25 MS. LICATA: Uh huh.

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2 CHAIRPERSON NELSON: And what do
3 they check for? What type of contaminants? E-
4 coli, etc?

5 MS. LICATA: Yes, we're looking for
6 fecal coliform, which is absolutely a measure of
7 bacteria. And then we're also looking at
8 dissolved oxygen levels, and from time to time
9 there are other parameters included, but those are
10 our essential monitoring parameters.

11 CHAIRPERSON NELSON: I don't know
12 if you know off the top of your head, but do you
13 have any idea what it looked like, say, from ten
14 years ago to today, as far as percentages
15 dropping, or anything increasing, in the form of
16 undesirable things in the water?

17 MS. LICATA: Yeah, I can't pull any
18 numbers out, I would definitely hesitate to pull
19 any numbers out of my head, but you know, we study
20 these trends all the time, and we know that many
21 of the water bodies are currently in compliance
22 with their best-use designations.

23 CHAIRPERSON NELSON: From the EPA
24 and DEP?

25 MS. LICATA: And DEC, yes,

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2 according to the EPA, the New York State DEC, and
3 in some of the water bodies, where we're still
4 challenged and still trying to come up, you know,
5 to meet the water quality requirements- -

6 CHAIRPERSON NELSON: (Interposing)
7 Which areas would those be?

8 MS. LICATA: Well, for instance, we
9 have a long-term control plan process with the New
10 York State DEC, where we'll be looking at ten
11 priority water bodies, and we'll be looking to see
12 what types of strategies might help to further
13 control CSO's to further meet the goals of the
14 Clean Water Act, and we'll be looking at not only
15 just the current standards, but also looking at,
16 really reaching and seeing what it would take to
17 get to fishable, swimmable waters, which in many
18 cases I don't believe would be possible, but we'll
19 at least look at what that plan might be and how
20 much that might cost.

21 CHAIRPERSON NELSON: Would the
22 fishing be healthier, for lack of a better word,
23 in say the middle of the sound, as opposed to
24 along the shore lines?

25 MS. LICATA: I think the fish

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2 themselves are not really affected by the
3 bacteria, and then our consumption of those fish,
4 if they're cooked properly, it's my understanding
5 from the Health Department that this does not pose
6 a health risk.

7 CHAIRPERSON NELSON: Okay, we've
8 been joined by Council Member Gale Brewer. Let's
9 see, is the discharge of gray water from boats a
10 problem?

11 MS. LICATA: Well, we've been
12 talking about that a bit lately, and I don't know
13 of any specific studies that have been done on
14 that, but I would suggest that, based on the water
15 quality response that we see to some of the CSO
16 loadings and some of the other types of effluents,
17 let's just say from a storm sewer or a particular
18 private site that might have discharges over land
19 runoff, the water bodies are vast enough that
20 you're really not going to be able to measure
21 something like that, because of the dilution.

22 CHAIRPERSON NELSON: Thank you,
23 we've been joined also by Council Member Peter
24 Vallone, Jr. What was I going to ask? Oh, okay,
25 I was going to ask Ed Kelly this too, but do you

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2 think the fines ... of course, dealing with
3 enforcement prior to, I guess, of \$1,500 to
4 \$10,000 is in the ballpark, of what should be
5 meted out?

6 MS. LICATA: I think for- -

7 CHAIRPERSON NELSON: (Interposing)
8 For a violation.

9 MS. LICATA: Is that for a
10 recreational user?

11 CHAIRPERSON NELSON: I don't know
12 if we actually had it, if it was going to be
13 broken down, but I see what you mean, as opposed
14 to a major corporation or individual user. It
15 really should be, actually, you're right. I mean,
16 \$10,000 for somebody, that's quite a lot of money.
17 For an industry it's a lot of money.

18 MS. LICATA: And then my other
19 point would be, we tried to get some information
20 from the state DEC to determine what exactly is
21 their fine scale.

22 CHAIRPERSON NELSON: Oh, okay. Do
23 any of my colleagues have any questions at this
24 point? Okay. Do you advocate with DEC for no-
25 discharge designation for the entire harbor?

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2 MS. LICATA: We can't get to the
3 entire harbor at this point by matter of EPA,
4 where they're laying out you have to have a
5 certain number of facilities per boat, so we felt
6 that we met that in Jamaica Bay. And you would
7 need to provide many more pump-out facilities in
8 order to come to that, you know, minimum criteria
9 for the no-discharge zone to be declared.

10 CHAIRPERSON NELSON: Because right
11 now it's 350 boats per unit, right?

12 MS. LICATA: It's between one unit
13 for 300 to 600 boats.

14 CHAIRPERSON NELSON: Oh, okay.
15 There's a ballpark figure, about 400, give or
16 take. What role do you play in setting up pump-
17 outs for boats or encouraging others to do so?
18 You provide, of course.

19 MS. LICATA: Right, I'm joined
20 here, I'd like to recognize my colleague, John
21 McLaughlin, who has played- -

22 CHAIRPERSON NELSON: (Interposing)
23 John.

24 MS. LICATA: ... a really, really
25 active role in this for approximately the last ten

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2 years. So he's sought out these grants from the
3 Clean Vessel Program, I believe they are
4 ultimately administered through the State
5 Revolving Fund, and we had to work really closely
6 in-house with some plumbers and electricians. And
7 the city really did a very sort of on a voluntary
8 basis, you know, worked with its own crew to set
9 up these facilities, and we also worked with the
10 Parks Department to enable us to locate them at
11 some of their concessionaire sites. And so we
12 hope to continue to introduce these facilities
13 throughout the harbor, and they definitely are a
14 bit of a nuisance with respect to maintenance. We
15 don't necessarily have a dedicated budget for
16 maintenance, but I think we're doing a fairly good
17 job of making sure that they're always up and
18 running, even if there is just a week or two of
19 down time.

20 CHAIRPERSON NELSON: I don't recall
21 the amount of pump-out stations you mentioned. In
22 2009, there were 29 in New York harbor, 12 in the
23 city itself, that's according to the information
24 I've been given. How many pump-out stations are
25 there again today, overall in the city? There

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were 29 and 12, according to this information I have.

MS. LICATA: I'm not sure.

MR. McLAUGHLIN: We installed seven.

CHAIRPERSON NELSON: Seven? Oh, I'm sorry, you have to go to the mic.

MS. LICATA: You're not sworn in.

CHAIRPERSON NELSON: Yeah, you want to just, yeah, for a second, I'm sorry, John. And how many serve Long Island Sound? How many serve Jamaica Bay? If there's a breakdown, if you could give me that. So there were 29 and 12 in the city, how is that going now, Mr. McLaughlin?

MR. McLAUGHLIN: Okay, I don't know about the 12.

CHAIRPERSON NELSON: All right.

MR. McLAUGHLIN: I can speak to the seven that DEP operates. Three are in Jamaica Bay, there are two in the Bronx, and two on Staten Island.

CHAIRPERSON NELSON: And is there one in Coney Island?

MR. McLAUGHLIN: That's the Coney

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Island Wastewater Treatment Plant.

CHAIRPERSON NELSON: Oh, you call it what? What place do you call it? Gravesend Bay?

MR. McLAUGHLIN: Yeah, I guess.

CHAIRPERSON NELSON: Sort of is, yeah.

MR. McLAUGHLIN: Shellbank Creek, I believe.

CHAIRPERSON NELSON: Yeah, it has a few names, Norton's Point, also, Seagate.

MR. McLAUGHLIN: Norton's Point actually has a- -

CHAIRPERSON NELSON: (Interposing) It's confusing.

MR. McLAUGHLIN: That's the one in the Bronx.

CHAIRPERSON NELSON: Yeah, Norton's Point is funny, because that was the name of Seagate, actually, many years ago, hundred something years ago. This guy Norton was all over the place. Head Norton, what? Oh Peter was here. Oh, and Brad Lander, we've been joined by Council Member Brad Lander. Who's that? Oh, Peter

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2 Norton, was it? Did you Google that already? Or
3 you just knew it. This Gale Brewer is a font of
4 information, believe me. It's Googled right in
5 her brain itself. Do any of my colleagues have
6 any questions for the panel? Well, I'll tell you,
7 we're going to move ahead with this, but again, of
8 course, it really weighs on me, as far as again,
9 like in many areas, enforcement, in anything in
10 New York City, that's probably the most important
11 thing, and we don't have enough of it, leave alone
12 on the high seas. This is going to be
13 interesting, that's why I like this, okay. Well,
14 thank you so much, I appreciate your time. Panel
15 two, please. Mr. Buchanan and Mr. Kelly. Ed
16 Kelly and Bob Buchanan. That sounds like a good
17 law firm, Buchanan & Kelly. Actually, knowing Ed,
18 it would be Kelly & Buchanan. Yeah, I guess Ed,
19 oh, do you want to be leadoff batter? Mr.
20 Buchanan, fine. Thank you.

21 MR. BUCHANAN: Is that better?
22 Good afternoon, and thank you for the opportunity
23 to testify, my name is Rob Buchanan, and I am part
24 of a group called the New York City Water Trail
25 Association. We're an umbrella group, we're

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2 trying to represent the interests of human-powered
3 boaters in the harbor. We have about more than 20
4 community boating groups that make up our umbrella
5 group. I'm also personally on the board of two
6 boathouses, one on pier 40, the Village Community
7 Boathouse, and the Brooklyn Bridge Park Boathouse,
8 so I'm personally responsible for putting a lot of
9 people on the water, and think a lot about water
10 quality. The mission of the Water Trail
11 Association is to promote the use of the water
12 trail, which the Parks Department established in
13 2007, to promote the environmental stewardship of
14 the harbor and the estuary, and to advance
15 awareness of the public ownership of the urban
16 waterway. So that's something that people forget,
17 that these waters are public and that this harbor
18 really is our biggest commons. Two years ago we
19 did a survey to find out how many people or
20 various groups are actually putting on the water,
21 and the number we came up with for 2009 was more
22 than 40,000, and that's individuals, it is not
23 people taking repeat trips, but 40,000 different
24 individuals went out under the aegis of our
25 various boathouses. So we think that that's a

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2 significant number, and that that qualifies us for
3 primary stakeholder status in these kinds of
4 discussions. Okay, we're doing another survey
5 this winter, so we'll have some updated numbers
6 coming soon. One thing that may impact our
7 numbers was what happened last summer at the North
8 River Treatment Plant, that fire and the overflows
9 that it caused put a big dent in our numbers,
10 because that was the hottest weekend of the
11 summer. So just for that reason alone, a lot of
12 people didn't go out who would have gone out, but
13 we also think that the aftermath of that spill was
14 present in people's minds and that may have caused
15 other people not to go out later in the season
16 because they were remembering that episode. So we
17 expect that our numbers will be higher, we don't
18 really know. we know that they won't be as high
19 as they might have been. Okay, I mention all of
20 this because I think it relates to what we're
21 talking about today. Water quality in the harbor
22 remains one of our biggest concerns. The chief
23 culprit, as Angela just mentioned, is our outdated
24 sewage system, which overflows not just when
25 there's an accident, but anytime it rains, and

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2 that figure, that figure for New York City, and
3 I'm talking about the Jersey side of the harbor,
4 for New York City that figure is 30 billion
5 gallons a year, roughly. So that's not raw
6 sewage, that's a combination of storm water and
7 human sewage, but it's still a very significant
8 number. Okay, I think the key here in this
9 discussion is in comparison to that gray water and
10 black water discharges from marine vessels of any
11 kind, recreational and commercial, may not seem to
12 be a major problem. And I don't think anybody has
13 the gallonage figure on that, so it would be hard
14 to put a number up against that 30 billion gallon
15 number, but certainly it's very much smaller. So
16 that might not seem to be a major problem, but as
17 our numbers, and the numbers of other people who
18 are using the harbor recreationally, I'm talking
19 about swimmers and fishermen and other kinds of
20 boaters, jet skiers, for instance, they're not
21 represented by us, we are human-powered, but as
22 those numbers increase, and they certainly are
23 going to increase, I don't think there's any
24 turning back on this, as those numbers increase,
25 and as the upper harbor, and I'm talking about the

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2 area south of the Battery down to the Verrazano,
3 as this whole part of the harbor starts to be
4 used, and already is being used by a lot of
5 people, in the way that our beaches, our city
6 beaches, our official beaches, are used, then the
7 picture is really going to change, and we think
8 that the time has come to ask all of the users of
9 the harbor to do their part to protect its waters.
10 So that's why we're testifying today. Okay, and
11 this paragraph is meant for you, and we understand
12 that complying with no-discharge regulations can
13 require expensive retrofits and operational
14 inconvenience, I know it's a hassle to even find
15 one of these places, and they're always broken.
16 We understand that. We're sensitive to the
17 economic impacts of such regulations, particularly
18 on small businesses. Okay, we realize that we've
19 got a working harbor and that there people's jobs
20 at stake, and we keep throwing up regulations and
21 make it more expensive to do business, it's
22 harder. At the same time, we think it's equally
23 important to recognize that a clean harbor and a
24 productive estuary can in themselves be powerful
25 engines of economic development. Okay, and this

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2 is something that I think the city really needs to
3 spend some money looking into, or at least some ...
4 give some thought to. Last year 50 million
5 tourists, 50 million tourists came to New York
6 City, or I don't know, 49 million. A lot of those
7 tourists were out on the harbor in one way or
8 another, and as that harbor gets cleaner, and as
9 our uses expand, there will be more and more of
10 those tourists come to New York for that, or that
11 will be part of their experience here. That's
12 economic development, that's jobs. So we think
13 that that really has to be part of this
14 calculation. Okay, that said, for us the bottom
15 line in all of this is that the harbor is a public
16 space, the water is public, and thus dumping
17 anything, whether it's gray water, your dishwater,
18 whatever, dumping anything into the harbor is a
19 violation of the public trust, on some level it's
20 really an abuse of the public trust. And I think
21 if everybody looked at the harbor that way, this
22 is our commons, we've got to take care of it,
23 you'll be much less eager to be putting stuff into
24 it. Okay, to sum up, we're very happy that the
25 state designated Long Island Sound and Jamaica Bay

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2 as no-discharge zones, and we applaud the city for
3 supporting those designations with this proposed
4 legislation. We urge the Committee to work with
5 state officials in both New York and New Jersey to
6 see that the entirety of the harbor, so I'm
7 talking about the whole upper harbor, is someday
8 declared a no-discharge zone, and we hope that
9 that someday is someday soon. Thank you.

10 CHAIRPERSON NELSON: Thank you. ...
11 this discussion in the Council of the entirety of
12 the harbor aspect, and see what we can do with
13 that. Thank you. Mr. Kelly?

14 MR. BUCHANAN: Good afternoon, my
15 name is Edward Kelly, I'm the Executive Director
16 of Maritime Association of the Port of New York
17 and New Jersey, we're a trade association with
18 more than 500 paid members representing commercial
19 maritime interests, deep-sea terminals,
20 international shipping, tugs, barges, ferries,
21 organized labor, admiralty attorneys, marine
22 underwriters, etc. We're here today to give our
23 opinion on a rather broader basis than this
24 particular no-discharge zone in Jamaica Bay. We
25 would like to just be on record that there is a

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2 significant and vibrant economic engine in a
3 working maritime that is in this port, over
4 292,000 jobs, direct full-time equivalents in our
5 marine support services, which are mostly local
6 harbor operations, shipyards, tugs, barges,
7 ferries, well over 11,000 direct full-time jobs.
8 We do generate billions of dollars in income,
9 taxes, etc. And I think this is a vibrant and
10 longstanding historical aspect of this valuable
11 city and port. First and foremost, we would like
12 to be on the record that we are in favor of
13 cleaner water, we are in favor of having the water
14 that we live, work and operate on on a daily basis
15 reach its optimal use. Much the same as over the
16 decades there has been a vast improvement in air
17 quality, we also believe that there has been a
18 vast improvement in water quality. The water is
19 cleaner now than it was a hundred years ago. With
20 mixed emotions, we have welcomed the return of the
21 wood-boring worm, that is now destroying our
22 wooden piers and our footings, because the water
23 is once again clean enough for that destructive
24 little pest to be back here. Several comments
25 specifically regarding no-discharge zones that we

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2 would like to make. First of all, far and away as
3 you have heard, the biggest culprit by magnitudes
4 of not just multiples but virtually exponential,
5 are the combined sewer overflows that put raw
6 waste into this water. In a single CSO there is
7 more destructive sewage effluent put into the
8 harbor than all commercial vessels combined would
9 put into this harbor in approximately 15 years.
10 And these CSO's happen on a regular basis, as Ray
11 has mentioned, and as Angela has mentioned,
12 virtually every time we get a heavy rain. So I
13 think that should be the first point of reference.
14 Another thing that I think needs to be clarified,
15 the many pump-out stations that were referred to
16 are not available and cannot be used by commercial
17 vessels. This is something that is very
18 misleading by saying that there are pump-out
19 stations to accommodate these pump-outs. These
20 discharges are not able to be put into any of
21 these DEP or the other pump-out stations that are,
22 you know, let's put it this way, first of all are
23 designed and restricted to recreational vessels
24 only, and secondly, are operated on a seasonal
25 basis in most locations. We operate 12 months of

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2 the year, and we cannot use any of these. We need
3 the city, the state, to work to provide public
4 pump-out stations that are available for
5 commercial operations. You put them there, we'll
6 use them. We have a problem when we cannot pump
7 out these effluents. One comment to be made on
8 effluents, virtually all of the commercial vessels
9 that I represent have on-board marine sanitation
10 devices, MSD's. We are not putting raw sewage
11 into the water, we have oily water separators, we
12 are not creating black water. We do have gray
13 water, and that's also looked to be restricted.
14 Gray water consists of shower water from a
15 tugboat, say there are a crew of four or five men,
16 he takes a shower, we use biodegradable soaps,
17 trust me, if you've met the tugboat guys, they
18 don't take a hell of a lot of showers, but
19 nonetheless, that's not a lot of water. Also,
20 galley runoff, the water that's used to rinse
21 vegetables as they're cut, there are strainers,
22 there are no solid particles put into the water,
23 but that water will be restricted from moving into
24 the harbors. Currently, as I say, sewage is
25 already regulated and restricted. But I'd also

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2 like to take a look on effluents discharged from
3 vessels on a basis of science and not emotion. In
4 many of the marine sanitation devices, the
5 effluent that results at the end of the cycle,
6 which is treated by bacteria and not chemicals,
7 like many of the recreational boats use, comes out
8 cleaner than 90% of many of the municipality
9 drinking waters that are actually provided
10 upstream. Do we have a problem with that going
11 into the harbors? I think we need to evaluate
12 some of these discussions on science. There's a
13 big difference between dumping raw sewage in the
14 water and putting processed clean water back into
15 the water. We need to differentiate among
16 discharges. Raw sewage, untreated sewage,
17 definitely not. Oily water, black water,
18 definitely not. Gray water? There have been some
19 proponents that have said that rainwater that
20 accumulates on the deck can be considered a
21 discharge. I mean, we're getting a little bit
22 ridiculous at this point, where rainwater on the
23 deck of a barge that just rolls off the side is
24 now considered a discharge from a vessel, subject
25 to fines. Well, we shake our heads, but the

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2 lawyers will tell us it is. We're now also
3 talking about cooling water, water that's taken in
4 in pipes from the water brought in to cool engines
5 and without ever going inside or having any
6 effect, it's pumped out. It's just, it's a couple
7 of degrees warmer, it's cooling water. That's
8 also considered in many circles to be a discharge
9 of a vessel. Are we now concerned that the water
10 might be two or three or five degrees warmer
11 initially when it pumps back after cooling an
12 engine? I think we need a much deeper discussion
13 on the science of some of these discharges.
14 Certainly, people, you know, doing whatever they
15 do in a garbage can or a chemical toilet on a
16 recreational boat, and then dumping it over the
17 side is a problem. The systems that are employed
18 in many of these commercial vessels are not a
19 problem, and if there needs to be adjustments
20 made, we should look at the science. In the
21 meantime, water in the City of New York that is
22 taken onboard our commercial vessels pays a sewage
23 tax, but we're not allowed to put that same sewage
24 water back into the sewers. We would like to
25 either stop paying the tax, or let us use the

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2 sewer lines that we've already paid for. I think
3 that's an abomination. There was a whole thing
4 with guys in tri-corner hats about taxation
5 without representation, and I think taxation
6 without sewage is also pretty ridiculous. We also
7 have issues regarding the design and operation of
8 vessels. As Ray had said, it's very expensive to
9 retrofit, these vessels are not designed at this
10 point to contain gray water. That creates
11 stability problems, these are harbor vessels, the
12 deep international water vessels go outside the
13 three-mile limit and they do their work outside in
14 the deep international waters. We're not worried
15 about them. There's over 5,000 of those that
16 arrive in this port every year, but they're not
17 conducting those types of discharge operations in
18 the port. We are concerned about the smaller
19 tugboats, ferries, etc., that move in this port,
20 that are not designed to go out into deep water to
21 discharge. They find there are no pump-out
22 stations that are available for commercial vessels
23 in this port, and we also are prohibited from
24 putting it back into the sewers. When they say
25 there are adequate pump-out facilities in Jamaica

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2 Bay, for commercial vessels they have decided that
3 an adequate facility is that we can call up, and
4 maybe we can, maybe we can't, arrange to have a
5 pump-out truck brought to the site. Now, brought
6 to the site, commercial vessels need an adequate
7 draft and a berthing capability to come up
8 alongshore. The truck sure as hell is not coming
9 out to meet us out on the water, so we have a real
10 problem. They're not available, they're extremely
11 expensive, and there is no way to create an
12 effective land-water interface where we can
13 operate with these pump-out trucks. But DEP says
14 there's plenty of pump-out stations, I'd like them
15 to identify one that is open for commercial usage.
16 The next thing that we have a problem with is ...
17 well, CSO's, I think I've run a few of these
18 things. So basically, we have a problem. We
19 believe that the commercial maritime fleet that
20 operates in this port is operating efficiently and
21 conscientiously. We certainly go on to be on the
22 record as objecting to the characterization of our
23 industry or our captains as people who would
24 willingly look the other way and pollute this
25 harbor. We have a manner of enforcement, we

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2 maintain logbooks for all vessel discharges, we
3 are inspected by Coast Guard. Recreational people
4 are not. People monitor us for oily-water
5 discharge, for sewage discharge, even for gray
6 water operations. The Coast Guard boards our
7 vessels to insure that these systems are
8 operating, that they operate safely and in
9 compliance with established Coast Guard
10 requirements and systems. You don't have a
11 problem with commercial shipping in these ports.
12 We have a problem, one of the most easily-mobile
13 assets is a boat in the water. It is not very
14 hard to turn left instead of right, and re-
15 position this maritime support system into the
16 State of New Jersey. We have marine fuel taxes in
17 New York that don't exist in New Jersey or
18 Connecticut. It often appears to us that the
19 State and City of New York is doing its damndest
20 to make us as uncomfortable as possible in this
21 area, with DEC problems to get permits, to repair
22 bulkheads, for consistent problems to do business
23 in this state. New York has a long and proud
24 maritime tradition, we are the headquarters in the
25 United States for tug operations. We have more

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2 tug headquarters and companies, and actual tugs,
3 in New York than anywhere else. Are they in New
4 Jersey? Not now. Will they be in New Jersey? If
5 we continue to squeeze our operations, they might
6 be. We're not threatening, we're just find it
7 increasingly difficult through just mindless
8 regulation that does not pay attention to science,
9 that does not pay attention to the realities, that
10 pump-out truck? I mean, how many of those even
11 exist? Never mind trying to make an appointment
12 to get one to coincide with the schedule when you
13 need it. And there is no land-water interface,
14 there's no public facilities for these things to
15 come up to. We have got a problem, we want the
16 water cleaner, we want the ability to be able to
17 use the sewers that we're already paying the taxes
18 for, or we want the city to provide pump-out
19 stations, or perhaps find some way to create
20 funding for a public/private venture that we could
21 work together with government to have people
22 manage these, but we have got a problem. We are
23 continuing to add, piece by piece by piece, no-
24 discharge zones, which restrict our operations and
25 the ability for us to do business in this state.

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2 We just want to be on record, we're in favor of
3 clean water, we want the city and the state of New
4 York to enable us to live with no-discharge zones
5 and we would like this done, God forbid we deal in
6 science and not in nonsense. Because MSD's work,
7 they're certified, they're tested. The water
8 coming out of this, as I said before, not in every
9 system, but in virtually all of them, cleaner than
10 the drinking water provided in 90% of the
11 municipalities in the watershed areas that feed
12 into this harbor. Do you really have a problem
13 with putting drinking-quality water into this
14 harbor? I would hope not. So we just want to
15 make a broader statement: we support no-discharge
16 zones, we support fragile marine environments, we
17 support that Ray and everybody else is able to get
18 out in good, clean water, we want to do it safely,
19 it's a congested waterway, we want to be safe when
20 we do it, but this is a tremendous resource for
21 the port and for the region. We want people in
22 the water, we want our business in the water, we
23 want the water clean, we want the city and state
24 to create the physical capabilities for us to
25 comply with the regulations they're imposing on

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our industry. Thank you.

CHAIRPERSON NELSON: Thank you, Ed, a lot, as usual. A lot of stuff there, the emotions from the science I was taking with me pretty much. We don't want to drive any more business out, I've usually been on that side of the argument, as a matter of fact. We've lost enough industry in New York City because of over-regulation, and over things like that. I think ... did Council Member Brewer? Sure.

COUNCIL MEMBER BREWER: The good thing about this Committee is we always learn a lot, and I appreciate it. Are there other ports in the world that have, as you suggest, a science in terms of either trucks or other kinds of facilities to do what you were suggesting would make sense, either paid for by government or a public/private partnership? Because I assume this is a problem across the world, it's not just in New York.

MR. KELLY: Yes, Councilwoman, there are quite a few ports, obviously ships go around the world, there are international standards, there are Coast Guard standards, that

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2 apply. Those commercial standards are in effect
3 by the Coast Guard for a national adaptation of
4 the international standards promulgated primarily
5 through the International Maritime Organization,
6 since these vessels routinely go through various
7 jurisdictions, both international and national,
8 they have to be compliant in essence with the
9 highest standards, they happen to be the EPA here
10 in the United States does maintain the higher
11 standard, followed very, very closely by Europe.
12 And I think the international ships are in
13 compliance with that. Certainly the domestic U.S.
14 flag vessels, tugboats, ferries, etc., that
15 operate in our waters, are in compliance with U.S.
16 law. There is regulation, supervision and
17 inspection criteria that is enforced with U.S.
18 flag vessels, primarily U.S. Coast Guard. These
19 vessels are on a regular inspection schedule.

20 COUNCIL MEMBER BREWER: No, I
21 understand that, but what I'm saying is, in other
22 ports are there- -

23 MR. KELLY: (Interposing) Yes,
24 there- -

25 COUNCIL MEMBER BREWER:

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2 (Interposing) That's what I'm trying to say, do
3 they have the ... because when I use the word
4 science, I mean the truck cannot go on the dock,
5 let's be clear. So I'm just saying, are there
6 other kinds of ways that the local vessels, which
7 don't go out into the sea in other ports, deal
8 with this problem?

9 MR. KELLY: Yes there are.

10 COUNCIL MEMBER BREWER: I'm sorry,
11 I wasn't clear in my question.

12 MR. KELLY: I'm sorry, there are
13 basically in most ports there are either
14 combinations for the effluents to be pumped back
15 into the sewer systems. Unlike New York, which
16 has, let's face it, an antiquated sewage system in
17 many places, mixing storm overflow with sewer, a
18 lot of cities don't have that, or they've
19 rectified that over the years. They don't have
20 those issues, so the sewers are an option, and in
21 many cases there are pump-out capabilities that
22 are publicly available for commercial vessels.

23 COUNCIL MEMBER BREWER: So that
24 would be how, if we were ... if the will was there
25 and the funding was there, that's how we should

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deal with this problem is what you're saying.

MR. KELLY: Yes.

COUNCIL MEMBER BREWER: Okay, thank you.

MR. KELLY: And we're already paying tax for the sewer, but we can't use them.

COUNCIL MEMBER BREWER: We know about those taxes. Thank you.

CHAIRPERSON NELSON: Thanks, Ed. Yeah, Brad Lander, please.

COUNCIL MEMBER LANDER: Nice to see you. So, what do you do, what currently happens with the sewage from the vessels? Like where and is that dealt with with one of these pump-out trucks, or I mean, what do operators currently do?

MR. KELLY: At the present time there's a combination of things that are done. Where it is still legal and applicable, they are discharged over the side, processed sewage, not raw sewage. These all have to be effluents at the tail end of the marine sanitation devices, which have very high standards for what the resultant effluent can be, and there currently are very few if any restrictions on gray water in any location,

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other than the specified no-discharge zones.

COUNCIL MEMBER LANDER: Right, but
I guess- -

MR. KELLY: (Interposing) Oily
water is actually brought ashore, the oily water
separators, you know, the oil and the water are
separated, the black water is actually brought
ashore, but that's a fairly minute amount of
water, it's nothing that affects holding tanks or
the stability of these vessels.

COUNCIL MEMBER LANDER: And what
about, I assume it's relatively small amounts just
sewage or other similar like, I mean, they're
commercial boats, so is there- -

MR. KELLY: (Interposing) They
operate on different bases. Again, the size of
the boat, the Staten Island Ferry as an example,
has a very large, because of all the public
restrooms onboard, they have a very large- -

COUNCIL MEMBER LANDER:
(Interposing) So what happens, I guess that's what
I'm asking.

MR. KELLY: Well, the Staten Island
Ferry- -

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COUNCIL MEMBER LANDER:

(Interposing) Where does the sewage from the Staten Island Ferry- -

MR. KELLY: (Interposing) The Staten Island Ferry has its own terminal, it only goes from here to there, and over on the Staten Island side they have a very extensive marine sanitation device ashore, and oily water separators ashore. So when they come, they pump into their own capability on their own facility and they have shoreside processors.

COUNCIL MEMBER LANDER: And so I mean, shouldn't we, I mean, I guess what are the ... I mean, I guess we have to know how much it costs, but what are the barriers to creating, you know, a facility like that, that a wider range of vessels at some ... I mean, I guess there's a cost question and how that relates to- -

MR. KELLY: (Interposing) It's a cost question, if that were produced, you know, for shared use among various commercial operators, very few commercial operators have, only are in those two locations, the ferry only goes from here to there, so they'd need multiple locations. But

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2 to create a facility such as what the people have
3 at the Staten Island Ferry is literally a multi-
4 million dollar situation, sorry, it's Coast Guard.

5 COUNCIL MEMBER LANDER: And then
6 just on the science, have you met with the folks
7 that are talking about the plus pool?

8 MR. KELLY: The plus pool?

9 COUNCIL MEMBER LANDER: The plus
10 pool.

11 MR. KELLY: No, I'm not aware of
12 the plus pool.

13 COUNCIL MEMBER LANDER: I don't
14 think it's a secret, so I met with some folks with
15 this very interesting idea, they've got a
16 competition, they're doing it both in Sydney and
17 they're trying to do it here, to have essentially
18 an in-harbor pool, they call it a plus pool,
19 because the one for whatever reason they've
20 designed is in the shape of a plus. And it would
21 have sort of a membrane, it would sit in the
22 harbor, and they say they've got a sort of
23 scientific process that filters in both directions
24 essentially, so that when it ... what comes in
25 they've got to make sure is swimmable, and then

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2 after people swim in it, when it goes back out, it
3 also needs to be acceptable to be discharged back
4 out into the water. So I can connect you to the ...
5 you know, they have some scientists, they're going
6 to ... I mean, I, you know the challenges they're
7 going to face from DEC getting a permit, put the
8 thing in the water, is going to be, or will be
9 significant, to be sure. But just on the science,
10 the scientific questions about what can be, you
11 know, put into the water, I mean, I think what
12 they are, what their claim is that the water will
13 be cleaner going back into the harbor than it was
14 originally. But I'm not, I can't obviously, I'm
15 not a scientist.

16 MR. KELLY: I'd appreciate the
17 contact number.

18 COUNCIL MEMBER LANDER: So anyway,
19 I'll at least connect you with that.

20 MR. KELLY: As far as, you know,
21 studies being done, there is a study being done by
22 New Jersey Institute of Technology, basically in
23 response to the fact that they are concerned that
24 a lot of people in New York will start to
25 discharge their effluence in New Jersey, so that's

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2 being sponsored by New Jersey Department of
3 Transportation Marine Resources Group. We have
4 had a group of people, including EPA to DEC from
5 Albany, and a whole host of other people, we've
6 brought them around to take a look at how gray
7 water and MSD's are currently operating. We've
8 brought them out to Vane Brothers out in Brooklyn,
9 which is a tug operation. We've brought them to
10 the Staten Island Ferry facilities, we've brought
11 them to a container ship over in the Port of New
12 Jersey, we've taken them to the Staten Island
13 Ferry, and we've brought them onto a passenger
14 ship, also over in New Jersey. And we've brought
15 them onboard and toured them, we've met with the
16 operating engineers, explained how the systems
17 worked, let anybody that wanted to actually climb
18 up and stick their head inside the sewage
19 sanitation facility, you know, so we're working on
20 that and there should be some findings coming out
21 on that in the not-too-distant future, which I'd
22 be more than happy to share with anybody who would
23 like to see that as well. But it's also based on,
24 you know, some information regarding what the Navy
25 standards are as far as sewage treatment and etc.

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as well.

COUNCIL MEMBER LANDER: Thank you.

Thank you, Mr. Chairman.

CHAIRPERSON NELSON: I was going to ask you a question prior to this actually. I don't really understand the cost of business itself, the industry, but how about if a ship is coming around from Connecticut, or coming around the horn going around Long Island into the Sound, but discharging about, you know, five, ten miles out into the open seas, are there some situations require that they can't do it there, and have to wait that extra 50 miles or 20 miles or whatever it is? Why don't they do it out there?

MR. KELLY: As I said, the deep-sea vessels we're not concerned about, they routinely go outside the three-mile limit. Once they're outside the three-mile limit, there is no restriction on discharges, there are international restrictions regarding untreated sewage, oily water, etc., but you know, as I'm saying, what we're really talking about discharging now is treated water, and black water or oily water separators, that have separated oil and other

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2 chemicals from the water prior to discharging.
3 Gray water is basically considered innocuous in
4 any case.

5 CHAIRPERSON NELSON: That's, yeah.

6 MR. KELLY: So they will conduct
7 their operations outside the three-mile limit.
8 It's the ones that operate inside the harbor, the
9 tugboats, the ferries, the excursion boats, that
10 will not routinely go three miles out on a
11 frequent basis, they're not designed to do that,
12 they don't have designs for holding tanks, and
13 their stability is not such that you would want to
14 ride one of those out into the open water on a
15 regular basis.

16 CHAIRPERSON NELSON: Okay. The
17 gray water I want to get back to in a minute,
18 remind me if I don't. Let's see, you oppose the
19 whole harbor being designated, but are there areas
20 that would be objectionable to you within the
21 harbor?

22 MR. KELLY: We basically have no
23 problem with moving toward no-discharge zones,
24 provided there are ... there is a realistic
25 capability for these commercial vessels to have

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2 pump-out capability. If we're going to be
3 restricted from doing it in the water, we need to
4 have land-based or other types of discharge
5 capabilities, i.e. pump-out stations, which as,
6 you know, DEP was saying, all these pump-out
7 stations and one per so many hundred, they're
8 recreational boats.

9 CHAIRPERSON NELSON: Right.

10 MR. KELLY: There is nothing for
11 commercial vessels.

12 CHAIRPERSON NELSON: Like you said.

13 MR. KELLY: Anywhere in this harbor
14 or port.

15 CHAIRPERSON NELSON: The truck
16 can't come out to you.

17 MR. KELLY: And the concept that we
18 can call up a truck.

19 CHAIRPERSON NELSON: Yeah.

20 MR. KELLY: To try to get some guy
21 who, you know, to drive down to some place and
22 then try to find a suitable land-water interface
23 and to find that the fittings on the hoses on ours
24 and the pressure restrictions are going to be
25 compatible with whatever truck happens to show up,

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is just unrealistic.

CHAIRPERSON NELSON: Ludicrous.

This gray water business, I wanted to look into this in a future hearing too, as far as it is really astounding to hear you say that rainwater going on to a ship and then flowing into the sea is an offense. Do you know how that emanated? Where does this come from?

MR. KELLY: Well, there's been various discussions, again- -

CHAIRPERSON NELSON: (Interposing)
Is there oil on deck? Is that what it is?

MR. KELLY: Prior to ... well the concept is that there could be detritus on deck, it's similar to street runoff. Could there have been some gasoline or a spill of some dirt on the road, that then subsequently moves into the sewer, which then moves out as, you know, storm overflow. Is it possible that there could be some type of debris on deck that could be impacted? But there have been discussions, and bear in mind, this is all based on EPA that doesn't come into effect until 2013, and there have been groups that have said, well, that means ... and we have even had

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2 discussions regarding temperature gradient
3 differences, which would mean that basically we're
4 just using it as cooling, just to cycle the water,
5 suck it in, run it through the pipe, it absorbs a
6 little heat, it goes back out. Some people say
7 that that's not acceptable.

8 MR. BUCHANAN: But those aren't
9 proposed regulations at this point, those are just
10 speculation as to what might happen.

11 MR. KELLY: It's a matter of
12 determination. Yes, but nonetheless, you know,
13 since it restricts all discharge, there have been
14 some discussions, and where there are lawyers,
15 there will be lawsuits

16 CHAIRPERSON NELSON: Oh, no doubt.

17 MR. KELLY: Many companies have
18 gone out of business defending themselves
19 successfully. So we're concerned about it, there
20 have been no violations on this, and you know, but
21 there have been discussions, which lead us to say
22 there really needs to be better definition of gray
23 water, of the science of some of this.

24 CHAIRPERSON NELSON: It's not a
25 chargeable offense at the moment.

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MR. KELLY: Not at this point, no.

CHAIRPERSON NELSON: But they're looking into it.

MR. KELLY: But pending the implementation in 2013 of these, and small vessel general permits, there have been some people that have said, but that could mean, and you know, we're just concerned about what the logical illogical conclusion of some of this may lead to. Would that mean that a recreational boater with his sailboat cannot hose off, hose the salt off his sails when he's in a brackish or a freshwater environment? You know, it sounds crazy, but you know- -

CHAIRPERSON NELSON: (Interposing)
If the oil fits, you cannot acquit.

MR. KELLY: Yeah. Whatever.

CHAIRPERSON NELSON: Yeah, I know what you mean about lawyers.

MR. BUCHANAN: If I could just make a comment about ... I mean, I agree with Ed that some of this, you know, if true does seem to be too much, in terms of regulation. And I agree that we need to have more numbers and more real

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2 analysis. But you know, the shipping industry
3 depends in large part on the use of a public
4 resource, and not only use of that resource, but
5 our active development of that resource, through
6 dredging and port development. And billions and
7 billions of dollars of public money has gone to
8 that. And I don't quite understand the reluctance
9 of that same industry to say, we're going to spend
10 some of our own money investigating better pump-
11 out solutions. You know, you guys have the money,
12 you've got 292,000 jobs here, you've got the
13 history of innovation and development. You know,
14 it seems to me that some of these proposals with
15 these bills could come from the industry side, and
16 you know, instead I'm hearing, you've got to build
17 these pump-out stations and then maybe we'll use
18 them, but it's on you to build them and you to
19 finance them. Design, you know, our boats aren't
20 designed for that. Well, let's talk about the
21 next generation of boats, because boats wear out
22 and they need to be, you know, they need to be
23 redesigned for the future. So what kind of design
24 discussions is the shipping industry having now to
25 make sure that gray water and black water and

1
2 sewage removal is a simpler thing? Is that
3 something that, you know, it would be good to hear
4 if that was something the industry was pursuing
5 actively. And you know, it's really ... it comes
6 down to how you see this piece of water and what
7 it is, and I understand, and I think it's a
8 coherent world view, it's not ... you know, in many
9 ways I agree with you. But there is this other
10 view that this is an estuary, what was once a
11 fully-functioning estuary. It's severely impaired
12 now, and there are good reasons for people wanting
13 to move back towards more function and I think
14 that the shipping industry really ultimately it's
15 in their interests to help promote that in a more
16 active way than they are now.

17 CHAIRPERSON NELSON: I see the
18 figurative gauntlet on the table over there at the
19 moment. I'm sure Ed has some ideas about that,
20 but not for this discussion here with this
21 Committee.

22 MR. KELLY: No, I firmly believe in
23 the cleanliness of the water, it's good for our
24 business. We're totally in favor of that, but we
25 do seek that there are such ... you know, the

1
2 government should do that which individuals cannot
3 do for themselves, you know, much the same as the
4 city and public utilities sponsor the sewers, the
5 electrical grid, the roads, the bridges, mass
6 transportation, it's in the public good to create
7 clean water. All we're asking for is that we do
8 do our part. We have as an industry developed
9 exceptional marine sanitation devices that produce
10 drinking-quality water, and we're still prohibited
11 from discharging it. We have created oily water
12 separators, no one is putting any type of chemical
13 or oil into the water. We're just saying that if
14 there are going to be total restrictions on the
15 discharge of all effluents, irrespective if
16 they're cleaner than the water it is to be pumped
17 back into or not, there should be a public
18 capability, much the same as there are. We don't
19 ask people to build their own sewers, we don't ask
20 them to make their own electricity, we don't ask
21 them to build their own bridges, we don't ask them
22 to clean up their own air systems, so you know, I
23 think we're just saying, this should be part of a
24 public infrastructure that enables people,
25 industries, etc. to comply with the goal of

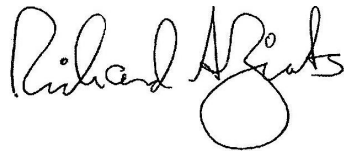
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2 creating clean water, clean air, safe roads,
3 whatever it is, it's a public, socio-economic
4 goal, and we think that certainly the city and the
5 state should have, if not direct responsibility
6 for creating infrastructure, then to provide a
7 clear way to provide public-private enterprise
8 that can accomplish the same thing. And that's
9 what we're seeking.

10 CHAIRPERSON NELSON: Thank you, Ed.

11 I think, seeing no further people to testify, I
12 think this meeting of the Committee on Waterfronts
13 is adjourned. Thank you so much.

C E R T I F I C A T E

I, Richard A. Ziats, 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.



Signature _____

Date February 9, 2012