

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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February 22, 2016

Start: 1:09 p.m.

Recess: 3:38 p.m.

HELD AT: 250 Broadway - Committee Rm.  
16th Fl

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

COUNCIL MEMBERS: Stephen T. Levin  
Rory I. Lancman  
Donovan J. Richards  
Eric A. Ulrich

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

Vincent Sapienza, Deputy Commissioner  
Bureau of Engineering Design and Construction  
NYC Department of Environmental Protection. EPA

Eric Landau, Acting Deputy Commissioner  
Bureau of Public Affairs  
Department of Environmental Protection or DEP

Tara Klein, Deputy Policy Director  
New York State Senator Brad Hoylman

Misti Duvall, Staff Attorney  
Riverkeeper

Ling Su (sp?)  
United for Action

Dan Rachel, Attorney  
Natural Resources Defense Council

Marjorie Sharp (sic)  
Member, Board of Directors  
Damascus Citizens for Sustainability

Edie Kantrowitz, President  
New York City Friends of Clearwater  
Also appearing for Manna Jo Greene  
Environmental Director  
Hudson River Sloop Clearwater

Eric Weltman, Senior Organizer  
Food and Water Watch

Mary Anne Sullivan  
League of Women Voters of City of New York

Ellen Weininger, Director  
Educational Outreach

Audrey Friedrichsen, Attorney  
Land Use and Environmental Advocacy  
Scenic Hudson, Inc.

Carl Arnold, Chair  
New York State/Atlantic Chapter Sierra Club

O.B. Hunt Appearing for Kathryn Scopic

Sheila Geist, Rights Activist  
Appearing for Edie Kantrowitz

Jessica Roth, Manager  
Catskill Mountainkeeper Programs

Bruce Rosen

Marilyn Stern  
United for Action

Rena Condo  
Appearing for Edie Kantrowitz, President  
New York City Friends of Clearwater

Ellen Durant  
United for Action

Hilary Baum  
New York State Sustainable Business Council



2 [sound check, pause]

3 [gavel]

4 CHAIRPERSON CONSTANTINIDES: All right,  
5 good--good afternoon. So we have two topics today.  
6 One, we're going to have opening remarks for Intro  
7 478, a Local Law to amend the Administrative Code of  
8 the city of New York in relation to requiring  
9 photovoltaic systems on city-owned buildings. Good  
10 afternoon and welcome. I am Council Member Costa  
11 Constantinides, Chairperson of the Committee on  
12 Environmental Protection. Today, we'll hear and vote  
13 on Intro 478, a Local Law in relation to requiring  
14 photovoltaic systems for city-owned buildings. We're  
15 joined today by my colleagues from Queens, Council  
16 Member Eric Ulrich, and from Brooklyn Council Member  
17 Steve Levin. In December of 2014, Local Law 66 of  
18 2014 was enacted requiring New York City to reduce  
19 citywide greenhouse gas emissions by 80% relative to  
20 2005 levels by the year 2050. According to the  
21 City's most recent inventory of New York City  
22 greenhouse gas emissions, 2014 greenhouse gas  
23 emissions inventory buildings through the use of  
24 heating fuel, natural gas, electricity, steam and  
25 bio-fuel are responsible for over 70% of citywide

emissions. Given the fact the majority of existing buildings are expected to remain beyond the year 2050, the city's base of more than one million buildings represents the greatest potential for emissions reductions in the city. For this reason, Mayor de Blasio assembled a 40-member working group, which met for the first time on February 13, 2015 consisting of representatives of real estate, labor, energy organizations for the purpose of forming a plan to cut emissions from buildings. Of total emissions from the building sector, residential buildings account for 48%, commercial buildings for 29%; and industrial and institutional buildings account for 23%. Of total emissions generated by buildings, roughly 55% are due to on-site combustion of natural gas and liquefied fuel to produce hot water, heat and to cook, and the remaining 45% are attributable to electricity consumption. The Administration has indicated that it intends to lead the way in reducing emissions in the city's building sector by implementing emissions reducing measures in city-owned buildings at an accelerated pace. City-owned buildings account for 64.8% of the carbon footprint of the city government operations.

2 From city-owned buildings, electricity use accounts  
3 for 31.4% of emissions. Natural gas accounts for  
4 17.7% of emissions. Heating oil accounts for 12.3%  
5 of emissions, and the remainder of emissions are  
6 related to steam and propane use. According to the  
7 2014 Greenhouse Gas Emissions Inventory, city  
8 government is targeting a 35% reduction in emissions  
9 from city-owned government buildings by 2025.  
10 According to the Administration's Green Building  
11 Plan, One City Built to Last, which generally  
12 outlines the strategy for reducing emissions from the  
13 city's building sector, the city has more than 4,000  
14 buildings in its portfolio across a variety of  
15 buildings types including schools, public hospitals,  
16 libraries, courthouses, wastewater treatment  
17 facilities, firehouses, offices, police precincts,  
18 and park recreation centers. On April 21st of 2015,  
19 Mayor de Blasio announced the completion of three  
20 solar installations located at City Hall, the Port  
21 Richmond Wastewater Treatment Plant, and the Daniel  
22 D. Thompkins Elementary School in Staten Island.  
23 The--the city's solar PV installation was operational  
24 as of April 17, 2015, and it demonstrates how  
25 landmark buildings are possible candidates for solar

2 installations. The Port Water--Port Richmond  
3 Wastewater Treatment Installation is the largest on  
4 any city building. At 1.26 megawatts, it's expected  
5 to offset 10% of the city's electric plan load.

6 Intro 478 will require the Department of  
7 Citywide Administrative Services or DCAS by December  
8 31st, 2016 and every second year after--thereafter to  
9 submit to the Speaker and to the Mayor a report  
10 containing the following information for each city-  
11 owned building: The building address; the age of the  
12 building's roof, and whether roof is in good  
13 condition. Where the roof is 10 years old or less  
14 and is in good condition, the report must specify the  
15 potential size of a solar PV system that could be  
16 installed; the potential energy that could be  
17 generated if a solar PV system is installed. The  
18 greenhouse gas emissions that will be reduced if a  
19 solar PV system is installed; whether a solar PV  
20 system has been installed on those buildings; the  
21 size of the solar PV system installed; and  
22 description of what portion of the building's power  
23 needs can be filled by the solar PV system. The  
24 energy generated by the solar PV system annually, and  
25 the date the solar PV system was installed.

2 Additionally, the cost of installing the solar PV  
3 system including a description of how it was  
4 financed; the energy cost savings realized by the  
5 city as a result of installing that PV--solar PV  
6 system; and the greenhouse gas emissions reduced due  
7 to the installing of the solar PV system. Where a  
8 solar PV system has not been installed on the  
9 building, the reasons why, and where appropriate the  
10 reason why an alternative sustainability project,  
11 such as a green roof or a white roof was selected for  
12 installation on the building, including the  
13 alternative sustainability's project benefits. Any  
14 energy cost savings, and any greenhouse gas emissions  
15 reduced or avoided. Given the benefits of this  
16 legislation for New York City now and for posterity,  
17 I recommend a yes vote on this legis--legislation.

18 Bill Martin, would you please call the roll?

19 CLERK: William Martin, Committee Clerk,  
20 roll call vote in the Committee on Environmental  
21 Protection, Introduction 478-A. Chair  
22 Constantinides.

23 CHAIRPERSON CONSTANTINIDES: I vote aye.

24 CLERK: Levin.

2 COUNCIL MEMBER LEVIN: [off mic] I vote  
3 ayes.

4 CLERK: Ulrich.

5 COUNCIL MEMBER ULRICH: I vote aye.

6 CLERK: By a vote of 3 in the  
7 affirmative, 0 in the negative and no abstentions,  
8 the item has been adopted. [pause]

9 LEGAL COUNSEL: [off mic] That's very  
10 good. There is two hearings.

11 CHAIRPERSON CONSTANTINIDES: Yeah, it's  
12 two hearings. All right, so we're going to move onto  
13 our second part of our hearing today. Today, the  
14 committee will hear--hold a hearing on Intro 446, a  
15 Local Law to amend the Administrative Code of the  
16 city of New York in relation to banning the  
17 discharge, disposal, sale or use within the city of  
18 New York of any wastewater or natural gas waste  
19 produced from the process of hydraulic fracturing.  
20 And Resolution No. 791 a resolution calling upon  
21 General Electric Corporation and the United States  
22 Environmental Protection Agency to enter into an  
23 agreement that expands the scope of the Hudson River  
24 PCB's Remediation Plan in order to address the issues  
25 and concerns. In the past, it's been largely free to

pollute the environment, but remediating pollution is not free. Today's hearing will examine environmental pollution and ways to avoid or address pollution of surface waters. The New York State Environmental Conservation Law gives authority to the New York State Department of Environmental Conservation to promulgate regulations setting forth the criteria and characteristics for what constitutes hazardous waste. Currently, DEC regulations specifically exempt drilling fluids, produce--produced waters and other wastes associated with the exploration, development, or production of crude oil, or natural gas from being classified as hazardous. Due to this exemption, waste associated with natural gas production including the method known as high volume hydraulic fracturing are not classified as hazardous in New York, and are not subject to relevant state laws and regulations governing hazardous waste generation, transportation, treatment, storage and disposal. Production brine is mostly a combination of naturally occurring salty water from geological formations and fracturing fluid, which moves along with natural gas through the well head to the earth's surface. A 2015 United States Environmental Protection Agency EPA

assessment identified a list of 1,076 chemicals used in hydraulic fracturing fluids including acids, alcohols, aromatic hydrocarbons, bases, hydrocarbon mixtures, polysaccharide and surfac--surfactant.

With a name like Constantinides I should be better at pronouncing this stuff. [laughter] Of these chemicals, a small fraction have--have been assigned reference values by federal, state and international sources to help assess the risk they pose to human health. Some of the risks these chemical pose include potential for cardio genesis, system--immune system effects, changes in body weight, changes in blood chemistry, cardio toxicity, neurotoxicity, liver and kidney toxicity, and reproductive and developmental toxicity. New York State officially banned HVHF in 2015 citing public health and environmental concerns. Prior to this, the state implemented a moratorium on this method of natural gas extraction. However, HVHF has been used extensively in the neighboring state of Pennsylvania, and New York does permit the use of other conventional techniques to produce natural gas and oil within the state. In 2014, New York well owners reported 14,863 wells, most of which were drilled to

2 explore for and/or produce oil or natural gas. New  
3 York State natural gas production in 2014 was 20.4  
4 billion cubic feet, and oil and gas produced in the  
5 state that year was valued and estimated at \$100.15  
6 million. Additionally, DEC has issued Beneficial Use  
7 Determinations or BUDs permitting the use of  
8 production brine from an oil or gas well source or a  
9 liquefied petroleum gas storage facility for on-road  
10 treatments. Obviously, use of decisors can result in  
11 surface water production. Applications for such BUDs  
12 among other things, must include a chemical analysis  
13 by a New York State Department of Health approved  
14 laboratory of a representative sample of the brine  
15 that is proposed for beneficial use. DEC has granted  
16 BUDs for the use of brine associated with non-HVHF  
17 gas oil wells and LPG storage in 66 instances.

18 Intro 446 prohibits on--prohibits on any  
19 person from discharging or causing to be discharged  
20 any natural gas waste to any surface water bodies  
21 located within the city or to any wastewater  
22 treatment plant located within the city. As well as  
23 it prohibits any person from disposing or causing to  
24 be disposed any natural gas waste into any landfill  
25 within the city. Any person from selling or offering

2 for sale any natural gas waste or natural gas waste  
3 byproduct within the city. And, any person from  
4 applying or causing to be applied any natural gas  
5 waste or natural gas waste byproduct on any road or  
6 real property located within the city. The bill will  
7 also require bid--all bids or contracts related to  
8 the purchase or acquisition of materials to construct  
9 or maintain a city road to include a provision saying  
10 that no materials containing or manufactured from  
11 natural gas waste will be utilized in producing such  
12 a service. This bill is--is--lead--lead--our lead  
13 sponsor is here today, and Council Member Steve  
14 Levin. I'll give him the opportunity at that time to  
15 say a few words, and thank you, Steve, for your great  
16 leadership on this issue and all of our mentors to  
17 the city.

18 COUNCIL MEMBER LEVIN: [off mic] Thank  
19 you very much. [pause] Thank you very much, Mr.  
20 Chairman. I just want to thank you very much for  
21 conducting hearing on this very vital and important  
22 issue. I want to first acknowledge advocates that  
23 have--have been advocating for this legislation for  
24 time, and they have made this issue front and center  
25 for me. So, I just want to acknowledge them. Lon

2 Sal (sp?); Ann Sullivan; Misti Duvall, our  
3 Riverkeeper; Mary Ann Sullivan and Ellen Wine--  
4 Weininger (sp?) and Seth Gladstone from the Food and  
5 Water Watchers. I want to just say that, you know,  
6 we have made great strides in the last several year  
7 when it comes to New York State banning fracking, and  
8 taking a clear position, and I think was the right  
9 decision for the Governor and the State Department of  
10 Health to take and-- But we also need to keep--to  
11 keep a clear eye out for the harmful byproducts that  
12 could be coming into our state and into our city from  
13 the--from the--the production not only of natural gas  
14 extraction through fracking outside of our state in  
15 sates like Pennsylvania and beyond. But also for  
16 natural gas and oil production here in New York  
17 state. And as you said in your opening statement,  
18 there are circumstances in which that type of--of  
19 quote, unquote, beneficial use is allowed and that  
20 carries with it a significant risk to the citizens of  
21 New York City and New York State in terms of their  
22 contact this--these byproducts, which themselves  
23 contain or have come into contact with hundreds of--  
24 of chemicals of various toxicity. You know, one of  
25 the issues around--one of the things about

1 environmental hazards, as it relates to human health,  
2 is that often we don't know the impact until--until  
3 years later. And we don't know the impact of various  
4 combinations of chemicals, and we don't know the--we  
5 don't--we don't know until it's--it's too late.

6 There's some--there's some research and data that can  
7 show what certain exposures--what can be produced  
8 from certain exposures, but there are many where we  
9 can't. I think of first responders at 9-1-1, and the  
10 type of exposure that they saw, and at the time you  
11 had to have a VPA and other various authority figures  
12 saying that the exposure was safe. And, as we all  
13 know now, it was very, very unsafe, and there are  
14 many people that--that paid with their lives, and  
15 developed cancers and autoimmune disorders, and other  
16 types of respiratory and pulmonary and heart diseases  
17 as a result. And, um, um, we need to be proactive in  
18 protecting the health of New York City residents and  
19 our state residents, and this bill will do that in--  
20 in--in some measure. It's not going to protect us  
21 from all environmental hazards and environmental  
22 health hazards that we face, but we'll be confronting  
23 some issues that we have seen come up, and that need  
24 to be addressed forthwith. So thank you very much,  
25

2 Mr. Chairman, for holding this hearing. I look  
3 forward to the public's testimony and to the  
4 testimony of the DP. Thank you.

5 CHAIRPERSON CONSTANTINIDES: Thank you,  
6 Council Member Levin, and I--I have a little bit more  
7 to read about our other topic today and we'll get--  
8 hear from our--the Administration and their  
9 testimony. I'm looking forward to hearing your good  
10 testimony. Let me get through this last part of our  
11 opening statement. Today, we're also hearing  
12 Resolution 791. PCBs are synthetic chemicals that  
13 were first commercially manufactured and began to be  
14 widely used in the 1920s. Because of their strong,  
15 insulating and final--fire retardant properties PCBs  
16 were used extensively for decades in industrial  
17 products and processes, including insulating  
18 materials, coolants and lubricants in transformers,  
19 capacitors, and other electrical equipment. In  
20 fluorescent light ballasts, inks, adhesives, and  
21 carbonless--carbonless copy paper. As electricity  
22 infrastructure came into wide use during the first  
23 half of the 20th Century, equipment suppliers such as  
24 the General Electric Corporation, GE and Westinghouse  
25 became major users of PCBs. In the 1960s, some of

1 the characteristics that made PCBs attractive in  
2 industrial applications, their stability, persistency  
3 and resilience to degrading began to raise concerns  
4 regarding their potential environmental and health  
5 impacts. In response to concerns, the Environment--  
6 the United States Environmental Protection Agency,  
7 EPA, began regulating PCBs in the 1970s. It was  
8 culminated in 1979 in a ban on the manufacturing,  
9 processing, distribution and use of PCBs in the  
10 United States under the Toxic Substances Control Act.  
11 Prior to 1979, PCBs entered the environment during  
12 their manufacture and use. Today, PCBs continue to  
13 be released into the environment from hazardous waste  
14 sites, illegal or improper waste dumping, leaks, or  
15 releases from electrical equipment, disposal of  
16 consumer products into landfills and by other means.  
17 As a result, from 1947 to 1977 GE discharged and  
18 estimated 1.3 million pounds of PCBs in its Capacitor  
19 manufacturing plants at the Hudson Falls and Fort  
20 Edward into the Hudson River. During this period,  
21 oils containing PCBs were discharged from the two GE  
22 facilities into the river. Adhering to the sediments  
23 behind the Edward Fort Dam and to sediments deposited  
24 on the bottom of the rivers, long sections of the  
25

1 rivers farther down stream and into the flood plain.

2  
3 In 1984, a 200-mile long section of the Hudson River  
4 from Hudson Falls to New York City was declared a  
5 Superfund site, and placed on the EPA's list of the  
6 country's most contaminated, hazardous waste sites.

7 In 2002, EPA issued a Record of Decision for the  
8 Hudson River Superfund Site that called for a

9 targeted two-phase remediation plan to address the  
10 risk posed by PCBs in the Upper Hudson River to

11 humans and the environment, which involved the

12 dredging, off-site disposal of approximately 2.65

13 million cubic feet of PCB contaminated sediment from

14 a 40 mile long section of the river, and which GE

15 subsequently agreed to implement. Phase 1 of the

16 dredging of the bottom--of the river bottom sediment

17 began in 2009, and was completed in 2015 during which

18 time approximately 2--283,000 cubic yards of PCB

19 contaminated sediment was removed from the Upper

20 Hudson River near Fort Edward, New York. Phase 2 of

21 the cleanup began in 2011 to remove the remainder of

22 the contaminated river sediment. In phase 2 about

23 2.5 million cubic yards of sediment have been--have

24 been dredged. GE contracted crews--be--contracted

25 crews began the final season of phase 2 dredging in

2 2015, May. The dredging is now complete, and GE will  
3 proceed to dismantle its dredging. However, in  
4 November of 2015, the Federal Hudson River Trustees,  
5 the Fish and Wildlife Service and National Oceanic  
6 and Atmospheric Administration released a statement  
7 asserting that the Hudson River Dredging and  
8 Remediation Plan had not addressed nor compensated  
9 the public for injuries to natural resources. The  
10 EPA in it's 2012 Five-Year Review acknowledged that  
11 the Trustees and environmental organizations--and the  
12 environmental organizations have noted issues with  
13 the Remediation Plans, and stated that the EPA  
14 supports efforts by the trustees to address such  
15 greater potential injury through the National  
16 Resource Damage Assessment and Claims Process. As  
17 this remediation was not adequate and no natural  
18 resource damage claim has been brought, clearly more  
19 work needs to be done to restore important--  
20 important natural resource. Now, we will hear from  
21 our Administration. Thank you.

22 COUNCIL MEMBER LEVIN: Mr. Chair, just if  
23 I may correct for the record, Ling Su, not, um, that  
24 I mispronounced it. It was a typo in my--my notes.  
25 So Ling.

2 CHAIRPERSON CONSTANTINIDES: Okay. So  
3 now if you'd swear in the witnesses.

4 LEGAL COUNSEL: Would you please raise  
5 your right hands. Do you swear or affirm to tell the  
6 truth, the whole truth, and nothing but the truth  
7 today?

8 DEPUTY COMMISSIONER SAPIENZA: I do.  
9 Okay. Good afternoon, Chairman Constantinides and  
10 members. I am Vincent Sapienza, the Deputy  
11 Commissioner of the Bureau of Engineering Design and  
12 Construction in the New York City Department of  
13 Environmental Protection or DEP. I'm joined today by  
14 Eric Landau, Acting Deputy Commissioner for DEP's  
15 Bureau of Public Affairs. Thank you for the  
16 opportunity to present testimony on banning  
17 wastewater or natural gas waste from New York City.  
18 As you know, DEP has the overall responsibility for  
19 the City's water supply and sewer system including  
20 providing drinking water to 8.5 million residents in  
21 New York City and one million Upstate residents for  
22 maintaining pressure in fire hydrants, managing storm  
23 water and treating wastewater. In addition, DEP also  
24 regulates air quality, hazardous waste and critical  
25 quality of life issues including noise.

2 Approximately, 6,800 miles of water mains, tunnels  
3 and aqueducts bring water to homes and business  
4 throughout the five boroughs, and 7,500 miles of  
5 sewer miles and 96 pumping stations take water to 14  
6 in-city wastewater treatment plants where we treat  
7 approximately 1.2 billion gallons daily. Largely  
8 through our efforts, New York City's harbor water  
9 bodies are the cleanest they've been in over 100  
10 years of monitoring. DEP has nearly 6,000 employees  
11 including almost 1,000 in the Upstate watershed, and  
12 we have a robust capital program with a planned \$14.7  
13 billion in investments over the next ten years. The  
14 interest of energy companies in utilizing high volume  
15 hydraulic fracturing or hydrofracking to exploit the  
16 natural gas found in the Marcellus shale in  
17 Southeastern New York State, including New York  
18 City's watershed, created a concern several years ago  
19 about the potential impacts of this activity on New  
20 York City's water supply. In order to fully  
21 understand the potential risk, DEP commissioned an  
22 independent scientific assessment, which concluded  
23 that current technologies and practices used in the  
24 natural gas drilling and exploration were  
25 incompatible with the operation of New York City's

2 Catskill, Delaware unfiltered water supply system  
3 and, therefore, posed unacceptable risks for millions  
4 of New Yorkers who rely on the city's water supply  
5 system. DEP is therefore welcomed the news in June  
6 2011 that the New York State Department of  
7 Environmental Conservation, DEC, would prohibit the  
8 extraction of natural gas utilizing hydrofracking  
9 within the watersheds of the two large cities in the  
10 state that have filtration avoidance determinations  
11 into New York City and Syracuse. While that then  
12 reduced many of the previously identified risks to  
13 water supply quality, some potential impacts remained  
14 of concern, particularly risks to our water supply  
15 infrastructure, the reservoirs, dams, and aqueducts  
16 that store and transport drinking water. Governor  
17 Cuomo's decision in December 2014 to prohibit  
18 hydrofracking in the state alleviated DEP's concerns,  
19 and there was a necessary step to maintaining and  
20 protecting the city's water quality and the integrity  
21 of its infrastructure. And, as you know Mayor de  
22 Blasio has also expressed his support for the ban on  
23 hydrofracking.

24 Intro 446 proposes to protect New York  
25 City's Harbor waters by keeping hydrofracking

2 wastewater and waste from being brought in or used  
3 within the city. The Administration fully supports  
4 the intent of the bill. We believe it will add  
5 another layer of protection from such byproducts to  
6 those already in place. Intro 446 will further  
7 prohibit the sale or use of brine for the icing of  
8 roads. The Administration fully supports this  
9 prohibitions and sees this type of use as harmful to  
10 the environment. During a snow or frozen  
11 precipitation event, the City's Department of  
12 Sanitation, DSNY, utilizes salt and liquid calcium  
13 chloride for pre-wetting the salt to enable the  
14 melting of snow and ice at low temperatures. DSNY  
15 does not utilize any natural gas waste on the roads  
16 for any purpose including the purpose of snow removal  
17 or de-icing. Furthermore, many Upstate towns have  
18 already enacted bans on road spreading a fracking  
19 brine, and DEC has stated that it would not permit it  
20 to be used in our watershed. While the  
21 Administration fully supports the intent of Intro  
22 446, we are concerned that there is an unintended  
23 consequence of this legislation within the proposed  
24 definitions of natural gas extraction and natural gas  
25 waste, which could adversely impact one of DEP's

2 energy projects. As the Council knows, DEP is  
3 currently working with National Grid to use methane  
4 recovered from the sewage sludge digestion process at  
5 the Newtown Creek Waster Water Treatment Plant as  
6 renewable fuel. That--that process involves  
7 extracting pipeline grade natural gas from our  
8 digester gas by cryogenically separating the methane  
9 carbon dioxide and--and water. And, we intend to  
10 send that water byproduct into the treat process and  
11 Newtown Creek, and we, therefore, hope that the  
12 definitions in this bill will not prohibit this  
13 important sustainability project. Thank you again  
14 for the opportunity to present testimony, and Deputy  
15 Commissioner Landau and I would be happy to answer  
16 questions.

17 CLERK: Continuation of roll call,  
18 Committee on Environmental Protection, Introduction  
19 478-A. Council Member Lancman.

20 COUNCIL MEMBER LANCMAN: [off mic] Aye.

21 CLERK: The vote now stands at 4.

22 CHAIRPERSON CONSTANTINIDES: [off mic]  
23 Thank you, sir. [pause] [on mic] All right, so I  
24 have a few questions and I'll--I'll turn it over to  
25 my colleague Council Member Levin. Have any of the

2 city's wastewater treatment plants ever received  
3 wastewater from oil or natural gas activities?

4 DEPUTY COMMISSIONER SAPIENZA: No, Mr.  
5 Chairman.

6 CHAIRPERSON CONSTANTINIDES: No. That's  
7 great to hear. I mean, but there's nothing--there's  
8 no law currently that prohibits that, correct? It's  
9 just a policy that we have that's--

10 DEPUTY COMMISSIONER SAPIENZA:  
11 [interposing] Yeah, well--

12 CHAIRPERSON CONSTANTINIDES: --through  
13 this administration and your good work, right?

14 DEPUTY COMMISSIONER SAPIENZA: And so--  
15 well, each--each of our wastewater treatment plants  
16 has a permit issued by the New York State DEC. It's  
17 call a State Pollution Discharge Elimination System  
18 Permit. Um, and the permit actually prohibits the  
19 import of any types of industrial waste to our  
20 plants. The--there are provisions in there for--for  
21 us to seek approval, but we have never done that,  
22 and--and we do not accept industrial waste.

23 CHAIRPERSON CONSTANTINIDES: Okay, but if  
24 we weren't--if we didn't have this administration  
25 there would--could potentially be another

2 administration that maybe wasn't as--as good as this  
3 one, correct?

4 DEPUTY COMMISSIONER SAPIENZA: [laughs]

5 That's fair to say.

6 CHAIRPERSON CONSTANTINIDES: Okay.

7 DEPUTY COMMISSIONER LANDAU: No, Mr.

8 Chairman, if I may add to that, it would also require  
9 a different permit from the state.

10 CHAIRPERSON CONSTANTINIDES:

11 [interposing] Okay.

12 DEPUTY COMMISSIONER LANDAU: But

13 currently ,the state prohibits it.

14 CHAIRPERSON CONSTANTINIDES: Got it. I

15 was trying to give you guys credits. You know,

16 you're--[laughs]

17 DEPUTY COMMISSIONER LANDAU: Thank you.

18 CHAIRPERSON CONSTANTINIDES: Okay. So I

19 mean would it be possible for the city--you talked

20 about this a little bit in your testimony, but would

21 it be possible for the city to ever spread production

22 brine on city roads?

23 DEPUTY COMMISSIONER SAPIENZA: Currently,

24 that's not the City's policy and--and again, the, um,

2 as--as you read in our testimony, Mayor de Blasio  
3 does not favor that use.

4 CHAIRPERSON CONSTANTINIDES: Okay. All  
5 right, so I'm--I'm going to--it sounds like we're on  
6 the same page here.

7 DEPUTY COMMISSIONER LANDAU: Very much  
8 so.

9 CHAIRPERSON CONSTANTINIDES: Okay, good.  
10 It's good to--to have that. Um, I'm going to pass  
11 that over now to my colleague Steve Levin, the  
12 sponsor of the bill. He has a few questions as well.  
13 I might come back for some more but--

14 CHAIRPERSON LEVIN: Thank you, Mr.  
15 Chairman. Thank you very much for your testimony.  
16 In terms of--of produced brine in terms--as a--as a  
17 potential for spreading on city roads, there's--it's  
18 currently not--who--who gives the--the permit to--to  
19 spread whatever is spread on city streets? Is that a  
20 DEP permit?

21 DEPUTY COMMISSIONER SAPIENZA: I don't  
22 think so.

23 CHAIRPERSON LEVIN: So like DSNY they--  
24 they have--right, they have their salt. That's not a  
25 D--DEP doesn't give the permit for that salt, right?

2 DEPUTY COMMISSIONER LANDAU: No, but we  
3 will--we'll follow up with DSNY and get back to you  
4 specifically with who permits them.

5 CHAIRPERSON LEVIN: Okay, but they would--  
6 --they, um, they--there's--they could--under current  
7 law or current Administrative Code, they could go to  
8 a--either to an out of state producer or an in state  
9 producer that doesn't use fracking for that  
10 byproduct? Like under current law there's nothing to  
11 prohibit them legally from doing that. I understand  
12 there's a policy of this administration but, you  
13 know, that doesn't--I mean there's--there's also--  
14 there's times, you know, we didn't have a  
15 particularly bad winter, but there's times when we  
16 would be, you know, could potentially face a--a  
17 shortage of--of--of salt to spread on--on the  
18 streets.

19 DEPUTY COMMISSIONER SAPIENZA: [off mic]  
20 Do you want that? (sic)

21 DEPUTY COMMISSIONER LANDAU: Yeah, not--  
22 not that we're aware of certainly, but we'll--we'll  
23 be happy to follow up with DSNY and get back to you.

24 CHAIRPERSON LEVIN: And under--and I  
25 know--I know you don't have any evidence that that

2 has ever happened in the past for any type of--of  
3 byproducts from extraction whether it's fracking or  
4 not fracking?

5 DEPUTY COMMISSIONER SAPIENZA: You know,  
6 we--we take samples everyday in our wastewater  
7 treatment plants, both what comes into the plant and  
8 what leaves, and well, we don't sample obviously for  
9 the, you know, potentially hundreds of different  
10 compounds that could be in fracking wise. From what  
11 we do sample, which is a pretty--pretty robust, um,  
12 group of--of pollutants, we--we haven't seen anything  
13 like that.

14 CHAIRPERSON LEVIN: Do you know what the  
15 closest oil and natural gas production rules are to  
16 the New York City watershed or the city itself?

17 DEPUTY COMMISSIONER SAPIENZA: Where is  
18 it?

19 DEPUTY COMMISSIONER LANDAU: I don't have  
20 it.

21 DEPUTY COMMISSIONER SAPIENZA: No, we  
22 don't have that.

23 CHAIRPERSON LEVIN: Well, do you know  
24 where the--the wastes for production wells in the  
25 state of New York where that goes to? I mean it--one

2 of the concerns--I mean one of the reasons why I--I  
3 feel this--this bill is necessary or that it's  
4 necessary to address the issue is that obviously  
5 there's byproduct. That byproduct has to go  
6 somewhere and--and so I'm just trying to get a sense  
7 of where--where that byproduct is currently going  
8 both from the out-of-state fracking, but also in-  
9 state production.

10 DEPUTY COMMISSIONER LANDAU: Yeah, we're  
11 not aware of any wells that are within--obviously  
12 within the city or within the--the city's own land up  
13 in the watershed.

14 CHAIRPERSON LEVIN: Okay, but there's--  
15 it's certainly possible that it's within, you know, a  
16 certain distance of the city land and watershed,  
17 right? Because they're, you know, the city doesn't  
18 own it all. It doesn't own all the land Upstate so--

19 DEPUTY COMMISSIONER LANDAU: We do not  
20 own all the land Upstate. That's true.

21 [background comments]

22 CHAIRPERSON LEVIN: Maybe, but there's--  
23 there's--these are--I mean at certain--at some point  
24 there's--there's production wells, right. There's  
25 thousands of production wells in New York State. You

2 know, I'm curious how close it gets to our--to our  
3 watershed, um, which we could look, you know.

4 DEPUTY COMMISSIONER LANDAU: Yeah, we can  
5 certainly look at that. You know, we're not aware  
6 of--obviously of there being an issue in proximity to  
7 the watershed, but certainly our jurisdiction line  
8 runs to the watershed itself. And we can't speak  
9 with great full authority outside of that.

10 CHAIRPERSON LEVIN: Um, is there anything  
11 right now that prohibits--Um, what--what would--what  
12 would the scenario be if DEP recognized that there  
13 was byproduct coming into a wastewater treatment  
14 facility? What would--how would--what would the--  
15 what would you do if that were--in that scenario as a  
16 hypothetical?

17 DEPUTY COMMISSIONER SAPIENZA: Yeah, so  
18 New York City DEP has a--what's called an industrial  
19 pre-treatment program, and we have a unit of folks  
20 who actually from time to time if we do detect  
21 something like a fuel oil release that comes into our  
22 wastewater treatment plants, the--the team from the  
23 pretreatment program will trace back in the sewer  
24 system and try to find the source. So we do have a  
25

2 group of folks who are--who are dedicated to deal  
3 with those types of things.

4 CHAIRPERSON LEVIN: At the same time the--  
5 -the--that waste is still going through the  
6 wastewater treatment plant, right?

7 DEPUTY COMMISSIONER SAPIENZA: That's  
8 right. If it's a one-time dump of--of the material  
9 it's tough to go--to go back and find the source.

10 CHAIRPERSON LEVIN: And obviously then---  
11 the--the wastewater treatment facilities they're not--  
12 -they're only there--they're there to extract, um,  
13 both physical stuff and--and--and--and biological  
14 matter, right? They're not necessarily equipped to  
15 extract, you know, the potentially hundreds of  
16 different types of chemicals that could be a  
17 byproducts of--of oil and gas extraction?

18 DEPUTY COMMISSIONER SAPIENZA: That's  
19 correct. They were built and they're specifically  
20 tuned to remove sanitary wastewater.

21 CHAIRPERSON LEVIN: Right, and so--so  
22 obviously if--if it were to--if--if that type of  
23 material were to come into our wastewater treatment  
24 plants, it would--it would likely go out into our  
25 ambient water, right?

2 DEPUTY COMMISSIONER SAPIENZA: Well,  
3 there's--there's two ways it can go. It could just  
4 pass through the plants, and go into the receiving  
5 waters, or it can end up in our sewage sludge, which  
6 then ends up, you know, on--on the land somewhere.  
7 Um, we're also concerned that that--those types of  
8 materials could impact, um, the biological processes  
9 at our plant and then render the microbes useless.

10 CHAIRPERSON LEVIN: Right because it  
11 could--it could kill the--the bacteria basically?

12 DEPUTY COMMISSIONER SAPIENZA: Yeah.

13 CHAIRPERSON LEVIN: And could it  
14 contaminate--I mean could it contaminate the--the  
15 equipment? I mean obviously this--

16 DEPUTY COMMISSIONER SAPIENZA:  
17 [interposing] Yeah, we--we don't know what's really  
18 in that--that--that, you know, brew of proprietary  
19 chemicals.

20 CHAIRPERSON LEVIN: Right and that's--  
21 just actually can you speak to that for a second just  
22 so that it's for the record. So--so the chemicals  
23 that are--that are part of this byproduct are--are  
24 proprietary to each company that--that uses the, is  
25 that right?

2 DEPUTY COMMISSIONER SAPIENZA: That's  
3 right. It's their own trade formula.

4 CHAIRPERSON LEVIN: So you as a--as a--as  
5 a regulating governmental agency don't--don't know  
6 what's in--what in that byproduct exactly?

7 DEPUTY COMMISSIONER SAPIENZA: That's  
8 right.

9 CHAIRPERSON LEVIN: And no governmental  
10 agency knows what's in it?

11 DEPUTY COMMISSIONER SAPIENZA: Um, I  
12 don't know if any--if anyone does.

13 DEPUTY COMMISSIONER LANDAU: Councilman  
14 it's--it's worth mentioning as I think part of what  
15 the heart of your question is getting at is that New  
16 York Code it's illegal for anyone to dump a substance  
17 into the catch basin, which would make its way into--  
18 the internal process.

19 CHAIRPERSON LEVIN: Okay, right.

20 DEPUTY COMMISSIONER LANDAU: And so, if--  
21 if we become aware of anyone that has done so, we  
22 certainly--obviously we need the evidence that they  
23 have done so, but we do have authority to give, um,  
24 violations.

2 CHAIRPERSON LEVIN: Okay. If somebody is  
3 intentionally dumping something into the catch basin?

4 DEPUTY COMMISSIONER LANDAU: If someone  
5 dumps something into the catch basin, that's correct.

6 CHAIRPERSON LEVIN: If it were to be  
7 spread on the streets as part of the, um, sanitize--  
8 you know, as a--as a salinator, then it's--

9 DEPUTY COMMISSIONER LANDAU: So, like--so  
10 for example if a truck were release something onto  
11 the street even something like cement for example and  
12 it make its way to a catch basin, we do have the  
13 authority if again we've observed that or if we have  
14 evidence, um, of--of who was responsible, then yes we  
15 do have the authority to issue a violation.

16 CHAIRPERSON LEVIN: Right. If--if  
17 obviously--if--if we--I'm just--I'm--I'm--I'm  
18 thinking ahead in terms of, you know if we were to  
19 have a very bad winter and we were to run out of salt  
20 and the city is looking around and every city and  
21 every municipality is, you know, on--on the East  
22 Coast is in the situation, they'd start to look for  
23 all, you know, additional sources of--of salt, and,  
24 um, so under that scenario, you know if the city were  
25 to sanction-- If it's legal, and the city were to

2 sanction, um, um, the spreading of--of byproduct on  
3 the streets to de-ice them, you know, then it's fully  
4 legal. There's nobody to, you know, if the city  
5 itself that's doing it, or the city itself that's  
6 allowing it to happen so there's nobody to go after.  
7 For that type of-- Salt as a byproduct itself is not--  
8 --is that a--it's not a banned substance right now.  
9 So, you know, there's--there's no--it's not a--you  
10 can't really go after somebody for dumping a  
11 substance that's not illegal, right?

12 DEPUTY COMMISSIONER SAPIENZA: Right, um,  
13 [coughs] so not--not speaking fully for a--another  
14 agency, but Sanitation utilizes salt and liquid  
15 calcium chloride for pre-wetting salt to enable the  
16 melting of snow and ice at lower temperatures. They  
17 do not utilize any natural gas waste on the roads for  
18 the purpose of snow removal or de-icing or for any  
19 other purpose. They have not. They have no plans,  
20 and I think it's safe to say or fair to say that  
21 we've had some really, really harsh winters and this  
22 has not--not been an issue.

23 CHAIRPERSON LEVIN: Uh-huh. Have they  
24 ever used--they've never used produced brine in  
25 anyway. So liquid--liquid brine?

2 DEPUTY COMMISSIONER LANDAU: Again, not--  
3 not that we're aware of, no.

4 CHAIRPERSON LEVIN: In terms of--so just--  
5 -I'm sorry. What permits would a wastewater  
6 treatment plant need to obtain in order to receive  
7 entry wastewater from our gas activities? Is there  
8 something that you would need then from DEC or, um,  
9 in--in order to--to be able to receive that that you  
10 don't currently have?

11 DEPUTY COMMISSIONER SAPIENZA: Right. So  
12 our existing permits for our wastewater treatment  
13 plants prohibit industrial waste--

14 CHAIRPERSON LEVIN: [interposing] Okay,  
15 all right.

16 DEPUTY COMMISSIONER SAPIENZA: --from  
17 being trucked in, and--and we would need DEC approval  
18 if we decided to ask for a modification to those  
19 permits.

20 CHAIRPERSON LEVIN: Okay. Do you know  
21 anything about whether other municipalities are--do  
22 permits. I know that--that there's been a, you know,  
23 local ordinances that have--have prohibited--  
24 prohibited what we--basically what we're doing here.

2 Are there any Upstate that you know of or anywhere  
3 else in--in the State of New York that allow it?

4 DEPUTY COMMISSIONER SAPIENZA: Yeah, most  
5 of our colleagues in Upstate municipalities who run  
6 wastewater treatment plants feel the same way that we  
7 do that, you know, the biological processes that are  
8 used in our facilities may be detrimentally impacted  
9 by such waste. And so that--that they are all of the  
10 same opinion as we are.

11 CHAIRPERSON LEVIN: Okay, and then is  
12 there any body of evidence about what the impact  
13 could be the ecological systems in, you know, in our  
14 waterways of what the--the impact of--of byproduct  
15 could be?

16 DEPUTY COMMISSIONER SAPIENZA: You know,  
17 again, Council Member, not knowing what's in that  
18 material we--we can't really comment on that.

19 CHAIRPERSON LEVIN: Okay, okay. Thank  
20 you very much for--for answering my questions and  
21 for--for your testimony. Um, I look forward to  
22 working with you. On--on the, um, the issue of the  
23 National Grid Project we can--I'm certainly willing  
24 to--to work DEP to figure out how to, you know, allow  
25 that project to move forward. It is in my district,

2 and the community has kind of been very--DEP has been  
3 very up front about it for a number of years, and--  
4 and actually there's been a lot of infrastructure  
5 already built and communities-- You've--you've  
6 engaged obviously with the community and the Town  
7 Creek Monitoring Committee for a number of years on  
8 it. So, I look forward to--

9 DEPUTY COMMISSIONER SAPIENZA:

10 [interposing] We look forward to working with you on  
11 that.

12 CHAIRPERSON LEVIN: Great.

13 [pause]

14 CLERK: Continuation roll call vote in  
15 Committee of Environmental Protection, Introduction  
16 478-A. Council Member Richards.

17 COUNCIL MEMBER RICHARDS:

18 Congratulations, Council Member Constantinides on a  
19 great bill, and I vote aye. Let's get this solar  
20 going in New York City, and Eric--

21 DEPUTY COMMISSIONER LANDAU: Yes, sir.

22 COUNCIL MEMBER RICHARDS: You know, I--I  
23 pray your supporting the ban on fracking waste in New  
24 York City?

25

2 DEPUTY COMMISSIONER LANDAU: I'm sorry  
3 you missed our testimony where we said that yes we  
4 were.

5 COUNCIL MEMBER RICHARDS: [interposing]  
6 [laughs]

7 COUNCIL MEMBER RICHARDS: I heard the  
8 good news obviously, you know.

9 COUNCIL MEMBER LANDAU: Can I take this  
10 moment to public congratulate you on the birth of  
11 your child.

12 COUNCIL MEMBER RICHARDS: Oh, thank you.  
13 [applause/cheers] Thank you. And now he will be  
14 born into a frack-free city [laughter] God willing,  
15 which is more importance. All righty. Thank you. I  
16 vote aye.

17 CLERK: The final vote is now 5 in the  
18 affirmative.

19 [pause]

20 CHAIRPERSON CONSTANTINIDES: Thank you  
21 for your testimony.

22 DEPUTY COMMISSIONER SAPIENZA: Thank you.

23 CHAIRPERSON CONSTANTINIDES: Appreciate  
24 it. [background noise, pause] Our--our next panel  
25 is Tara Klein from the--from Senator Brad Hoylman's

2 Office. Misti Duvall from Riverkeeper. Ling Su from  
3 United for Action, and Daniel Rykile (sp?) from the  
4 National Resources Defense Council

5 [background comments, pause]

6 CHAIRPERSON LEVIN: Samara, can you swear  
7 them in.

8 LEGAL COUNSEL: Can you please raise your  
9 right hands? Do you swear or affirm to tell the  
10 truth, the whole truth and nothing but the truth  
11 today?

12 TARA KLEIN: [off mic] I do. [pause]  
13 Thank you. My name is Tara Klein, and I am the  
14 Deputy Policy Director for New York State Senator  
15 Brad Hoylman. I'd like to read some testimony on his  
16 behalf today on both of the issues we've been  
17 discussing the fracking waste and the--the Hudson  
18 River issues, and I will be reading an abridged  
19 version. I believe you should have copies of the  
20 full testimony. Sorry. Okay, I'll begin with the--  
21 the fracking waste testimony on Intro 446. Thank you  
22 for the opportunity to submit testimony to the City  
23 Council Committee on Environmental Protection  
24 regarding Intro 446 to ban the discharge, disposal,  
25 sale or use within the City of New York of any

1 wastewater or natural gas waste produced from the  
2 process of hydraulic fracturing. As a ranking member  
3 of the New York State Senate's Environmental  
4 Conservation Committee, I fully support this  
5 legislation and encourage the Council to vote in its  
6 favor. So despite New York's fracking ban, fracking  
7 waste from other states continues to be dumped and  
8 used in New York. Much of this waste comes from  
9 fracking operations in Pennsylvania where concerns  
10 about water contamination and the ability of  
11 treatment plants to properly handle fracking waste  
12 led the state to prohibit its treatment facilities  
13 from accepting such waste. A report by Environmental  
14 Advocates of New York found that since 2010 the  
15 Pennsylvania Department of Environmental Protection  
16 has sent over 26,000 barrels of liquid fracking  
17 waste, and 460,000 tons of solid fracking waste to be  
18 treated in New York where there is no such ban.  
19 Alarmingly, we know that these figures are likely  
20 under-reported. Further, at least landfills in New  
21 York State have accepted harmful fracking waste at  
22 some point since 2010 according to the study. If  
23 fracking waste is not treated properly, dangerous  
24 chemicals could enter our water supply and cause  
25

significant public health and environmental risks.

However, most of our state's treatment facilities are not currently equipped to handle these chemicals and

radioactive materials. While loopholes in federal

and state laws continue to permit their unregulated

transport and disposal in New York's wastewater

treatment facilities and landfills. Fracking waste

has also found its way onto many of New York's

roadways. State documents obtained by the advocacy

organization Riverkeeper may clear that since 2011,

quote "Road spreading of oil and natural gas

production brine and natural gas storage brine has

been approved for use in portions of at least 41

municipalities in nine New York counties, and for use

on state roads in portions of at least ten counties.

Spreading radioactive waste on roads exposes drivers,

passengers, and pedestrians to dangerous pollutants

while passing vehicles can cause the waste to become

airborne and contaminate nearby service waters,

residential areas, and other populated areas. I

sponsor several bill at the state level that would

ban fracking waste in New York, including S45A to

prohibit wastewater treatment facilities wastewater

treatment facilities from accepting fracking waste

1 unless the facilities meet strict performance  
2 requirements. S47 to prohibit the transportation of  
3 fracking waste throughout the state. S48 to prohibit  
4 the use of fracking waste on highways for activities  
5 such as melting ice, and S340 to bank fracking waste  
6 from wastewater treatment facilities and landfills.  
7 Banning fracking waste has widespread local support  
8 in New York. According to Riverkeeper, to date 15  
9 counties in New York have banned fracking waste from  
10 wastewater treatment plants, landfills and roads  
11 including neighboring Nassau and Westchester  
12 Counties. In December 2015, Manhattan Community  
13 Board 6 passed a resolution in support of fracking  
14 waste ban at the state and city levels. While we  
15 wait for New York State to act, the New York City  
16 Council is coming forward by implementing a local ban  
17 on fracking waste to protect the city's environment  
18 and public health. Thank you.

19  
20 Okay, and I can proceed straight ahead  
21 into our second testimony, if that's all right about  
22 GE. Great. Thank you. So thank you again for the  
23 opportunity to submit testimony regarding Resolution  
24 791 calling on the General Electric Corporation and  
25 the U.S. EPA to enter into an agreement that expands

1 the scope of the Hudson River PCB's Remediation Plan,  
2 and to implement and expand the remediation plan  
3 immediately. As a ranking member of the Senate's  
4 Environmental Conservation Committee and as a  
5 representative of a district in Manhattan, that abuts  
6 the Hudson River, I fully support this resolution and  
7 encourage the Council to vote in favor. Under a 2005  
8 settlement agreement with the EPA, General Electric  
9 has used the dredging facility Fort Edward to clean  
10 up millions of pounds of PCBs. Toxic chemicals the  
11 company was responsible for dumping into the Hudson  
12 River for over three decades. After completing the  
13 terms of the 2005 agreement, the EPA allowed GE to  
14 begin dismantling its dredging equipment in November  
15 2015. Unfortunately, the Hudson River is far from  
16 being remediated and I have deep concerns with  
17 allowing the dismantling of the PCB processing  
18 facility to proceed. Recent studies call into  
19 question the efficacy of this 2005 agreement's  
20 remedy. In May 2015, NOAA issued a report examining  
21 the model projections used as the basis of the 2005  
22 agreement finding that the original models used were  
23 overly optimistic and over estimated the rate of  
24 natural recovery in the Hudson River. As a result,  
25

1 achieving the EPA's remedial objectives will take  
2 longer than projected--predicted. Excuse me.

3  
4 Ultimately, NOAA concluded additional removal of the  
5 PCB contaminated sediment in the upper Hudson River  
6 is needed to achieve the reductions in lower Hudson  
7 River fish PCBs that were initially anticipated by  
8 the EPA. Allowing the dredging of the Hudson to fall  
9 short puts the health of millions of New Yorkers at  
10 risk. The PCB contaminants left behind are probable  
11 human carcinogens that have been linked to adverse  
12 health effects such as low birth weight, thyroid  
13 disease and immune system disorders. Furthermore.

14 New York State's future is tied to the restoration of  
15 the Hudson River and the return of the once vibrant  
16 commercial fishing industry, and lucrative cargo  
17 shipping on the Champlain Canal that existed prior to  
18 1976. Committing to a more comprehensive cleanup now  
19 will lead to significant environmental and economic  
20 recovery of the Hudson River and better the lives of  
21 the 15 million Americans who live nearby. A growing  
22 roster of environmental advocacy organizations,  
23 community groups and municipalities has united behind  
24 the this vision and called for the removal of  
25 residual PCB contamination immediately. Further, the

2 EPA recently agreed to expedite its next five-year  
3 review of the Hudson, which will determine whether  
4 GE's dredging efforts were ultimately sufficient. It  
5 is incumbent upon the EPA to ensure that the dredging  
6 of the Hudson River by GE actually meets the  
7 remediation goals it set out to achieve in the 2005  
8 agreement. And it is incumbent upon GE to take full  
9 responsibility for its legacy of pollution. Failure  
10 to complete the cleanup effort will result in severe  
11 economic, environmental and public health impacts.  
12 For these reasons, I strongly urge the Council to  
13 pass this resolution. Thank you.

14 CHAIRPERSON CONSTANTINIDES: Next. Thank  
15 you.

16 MISTI DUVAL: Good afternoon. My name  
17 is Misti Duvall and I'm a staff attorney with  
18 Riverkeeper. We're a member supported watch dog  
19 organization dedicated to defending the Hudson River  
20 and its tributaries, and protecting the drinking  
21 water supply of nine million New York City and Hudson  
22 Valley residents. I'm also going to be reading an  
23 abridge version of my testimony, but you should have  
24 a copy of the full testimony along with attachments.  
25 So Riverkeeper strong supports both Intro 446 and

2 Resolution 791. I want to thank Chairman  
3 Constantinides for holding this hearing today, and  
4 for introducing Resolution 791. And Council Member  
5 Levin for his excellent leadership on Intro 446.  
6 While Riverkeeper shares the concerns of many of our  
7 colleagues here today who are going to talk about the  
8 disposal of oil and natural gas waste at landfills  
9 and wastewater treatment facilities, I'm going to  
10 focus my testimony on Intro 446 on the use of oil and  
11 natural gas waste for road spreading. And two  
12 amendments that we strongly suggest to make sure that  
13 this bill is as strong and comprehensible as  
14 possible. So, I have attached to the written  
15 testimony that you have specific suggested amendments  
16 to Intro 446. Some recent information from the New  
17 York State Department of Environmental Conservation  
18 about approvals of oil--oil and natural gas waste for  
19 road spreading. As well as two Riverkeeper fact  
20 sheets on some of the information that we received  
21 from DEC, and similar bans in other counties in New  
22 York State.

23                   So as you've heard, the process of  
24 extracting oil and natural gas produces large amounts  
25 of liquid and solid waste. So this is true of both

1 high volume hydraulic fracturing, which is banned in  
2 New York State, but continues in neighboring  
3 Pennsylvania. It's also true of conventional low  
4 volume fracking in and gas extraction that does  
5 continue in Western New York. So I'm going to focus  
6 today on what I call--what we call production buying,  
7 which is a kind of wastewater from the extraction of  
8 oil and natural gas that flows to the surface during  
9 well production. So production buying can contain a  
10 number of pollutants such as chemicals, metals excess  
11 salt and carcinogens like Benzene and naturally  
12 occurring radioactive materials. As you've heard,  
13 due to a loophole in state law this waste is exempt  
14 from hazardous waste requirements no matter what it  
15 contains. So, DEC currently allows the use of  
16 production buying from conventional low volume oil  
17 and natural gas wells in gas storage facilities to be  
18 spread on roads for de-icing, dust control and road  
19 stabilization. Riverkeeper obtained records from DEC  
20 regarding this practice and found that between 2011  
21 and 2014 the use of this wastes was approved in  
22 portions of 41 municipalities and nine Western New  
23 York counties. The New York State Department of  
24 Transportation also uses this waste in portions of  
25

1 ten counties meaning in all, this waste has been  
2 approved for use in portions of at least 15 New York  
3 counties, which are mainly located in Western and  
4 Central New York. So along with the information  
5 about where this buying has been approved, we also  
6 received some of the testing results that showed  
7 excessive level of chlorides. So that basically  
8 means excessive salt in both natural gas production  
9 wells and storage facility buying. Sample results  
10 also revealed the presence of Benzene, which is a  
11 carcinogen and Toluene, which has been linked to  
12 nervous system, kidney and liver problems in both oil  
13 production wells and gas storage facilities. And I'm  
14 going to touch on this a little bit later, but I just  
15 want to mention it right now.

17 So despite these and other concerns, DEC  
18 continues to allow the use of the oil and natural gas  
19 going on roads. According to a list of BUDs compiled  
20 by the agency just last month in January 2016, it's  
21 currently authorizing 66 beneficial use  
22 determinations for the use of oil and natural gas  
23 waste for road de-icing, dust control and  
24 stabilization, and these a list of those attached to  
25 my testimony. So, by enacting Intro 446, New York

2 City would join numerous communities across the state  
3 with similar bans. At last 15 counties and dozens of  
4 municipalities have prohibited the use of oil and our  
5 natural gas waste for roads spreading, disposal at  
6 landfills and/or its presence (sic) at wastewater  
7 treatment facilities. And the addition of the five  
8 counties of New York City to that list is going to  
9 create I think a lot of attention, and show a lot of  
10 city solidar--solidarity with all of those other  
11 counties. And legislators like Senator Hoylman that  
12 are working to make sure that we have some kind of  
13 action on the state level as well. So in order to  
14 ensure that Intro 446 is as strong as possible, and  
15 protects the environment and public health of New  
16 Yorkers, Riverkeeper strongly urges the Environmental  
17 Protection Committee to make some critical  
18 amendments, and I'm going to talk about two  
19 categories of amendments, which again are attached to  
20 my testimony. So first, the definition of waste  
21 should not be limited to waste from natural gas  
22 extraction activities. It needs to include all  
23 relevant forms of oil and natural gas waste,  
24 including waste from oil production wells and gas  
25 storage facilities. So, as I mentioned earlier, the

2 test results that we received from DEC showed the  
3 presence of Benzene and Toluene in brine from oil  
4 production wells and gas storage facilities. So we  
5 want to make sure that those are included as well.  
6 And I think that my edits to the definition of  
7 natural gas extraction activities would address the  
8 concern that DEP has raised about the Nation Grid  
9 Project. But if not, I'm happy to look over that as  
10 well, and try to come up with something that--that  
11 would work for them because it's not our intention to  
12 capture projects like that.

13           Second, we're asking that the bill be  
14 amended to include a penalty provision that increases  
15 the penalty for non-compliance to at least \$25,000  
16 per violation. So right now, it looks like that only  
17 \$100 fine would apply for--per violation, which is  
18 less than the fine for failing to pick up after your  
19 dog. And a higher stake--so a higher penalty is also  
20 in line with other county bans in the New York State.  
21 So there are 11 other counties with similar  
22 legislation that have included penalty provisions  
23 that provide for a fine up to \$25,000 per violation.  
24 This includes Albany and Westchester Counties. So  
25 Riverkeeper strongly supports Intro 446, and we

2 encourage New York City to join a growing number of  
3 communities across New York State to ensure that  
4 toxic waste is never used on city roads or allowed to  
5 pollute our environment.

6 I'm going to spend just a few minutes  
7 talking about Resolution 791 as well, because that's  
8 something that we also strongly support, and want to  
9 see the Council pass as quickly as possible. So as  
10 you've heard, between 1947 and 1977, General Electric  
11 dumped millions of pounds of PCBs, Polychlorinated  
12 Biphenyl into the Hudson River. So while the source  
13 of these PBCs discharges was located Upstate,  
14 approximately 50 miles north of Albany, the PCBs are  
15 now found in sediment, water, and wildlife throughout  
16 the Hudson River ecosystem as far as New York City,  
17 and that will continue until they are cleaned up if  
18 PCBs from sources up river continue to flow south and  
19 contaminate New York Harbor. So PCBs are classified  
20 by the U.S. Environmental Protection Agency as  
21 probable human carcinogens. When people eat fish  
22 contaminated with PCBs, they face greater threats  
23 from kidney, liver and nervous system disorders, and  
24 developmental and reproductive abnormalities. And  
25 unfortunately, PCBs become more concentrated as they

2 move up the food chain. So they're at their highest  
3 levels in contaminated fish. The reality of PCB  
4 contamination in the Hudson not only decimates  
5 commercial fishing, it harms recreational fishing and  
6 risks the health of any likely lower income fishermen  
7 who may eat contaminated fish. There are also  
8 significant concerns about the health impacts of  
9 breathing PCBs that have volatilized. Basically  
10 meaning that the PCBs have moved from the river into  
11 the air, which could affect millions of New Yorkers  
12 living and recreating near the Hudson. So as you've  
13 heard, more than 30 years ago, EPA declared a 200-  
14 mile stretch of the Hudson River from Hudson Falls to  
15 the tip of New York City the Superfund Hazardous  
16 Waste Sites. GE has spent the past several years  
17 removing contaminated sediment from the Hudson  
18 pursuant to an agreement with EPA. They're now  
19 calling their remediation complete. EPA has kind of  
20 agreed, and put the cart before the horse we think,  
21 giving the company permission to begin dismantling a  
22 key piece of clinic--cleanup infrastructure late last  
23 year. However, information from the Federal Trustees  
24 for the Hudson River, the U.S. Fish and Wildlife  
25 Service and the National Oceanic and Atmospheric

Administration have made clear that the original cleanup plan was inadequate. An additional re-remediation is needed. A NOAA Analysis released last year found that concentrations of PCBs will be three to five times higher after the cleanup than EPA originally predicted, and that some fish will remain dangerously contaminated for 40 to 50 years longer than anticipated. So because of this, Riverkeeper and our partners in Campaign for a Cleaner Hudson have called on EPA to immediately begin a legally mandated review of the cleanup, and to ensure that GE lives up to its responsibility to the Hudson River and the millions of New Yorkers who use and enjoy it. Silva (sp?) Coalition and New York State senators and assembly members, dozens of municipalities up and down the river and thousands of New Yorkers. We cannot afford to let GE and EPA declare victory and go home. GE is liable for restoring the health of the Hudson River and the economic vitality of its communities. Riverkeeper strong supports Resolution 791, and urges New York City to add its voice to a growing chorus of New Yorkers who are demanding the EPA or that GE finish the job, and clean up the Hudson River. Thank you.

2 CHAIRPERSON CONSTANTINIDES: Thank you.

3 Next up.

4 LING SU: I'm Ling Su from United for  
5 Action, a grassroots advocacy group in New York City.  
6 Chairman Constantinides, thank you very, very much  
7 for holding this hearing on Intro 446 and Reso 791,  
8 and thank you Council Member Levin for introducing  
9 Intro 446 and for continuing to work with us on this  
10 important bill. While New York State banned High  
11 Volume Horizontal Hydraulic Fracturing in November  
12 2014, there are still thousands of vertical drilling  
13 wells in New York State producing radioactive toxics  
14 fracking waste. Pennsylvania has continued to frack  
15 tens of thousands of wells. Fracking waste contains  
16 a toxic mixture of chemicals and naturally occurring  
17 radioactive material, which are known carcinogens and  
18 detrimental to our health. New York State DEC is  
19 permitting certain kinds of frack waste to be spread  
20 on roads for de-icing and to suppress dust. DEC is  
21 also permitting acceptance of waste from Pennsylvania  
22 to landfills and solid and liquid treatment  
23 facilities for disposal. Since there is no federal  
24 and state laws regulating the disposal of fracking  
25 waste, New York City needs to join 15 other counties

2 in New York State to pass Intro 446 to ensure toxic  
3 oil and gas fracking waste is never used on New York  
4 City roads. In order to make this bill as strong as  
5 possible, we wish to request the following two  
6 crucial changes to Intro 446.

7           1. Increase the penalty for violating the  
8 law from the current \$100 per violation to at least  
9 \$25,000 per violations. A \$100 fine is not a  
10 deterrent. The fines for certain parking violation  
11 or not picking up after--after dogs are more than  
12 \$100. At least 11 counties in New York State such as  
13 Westchester, Albany, Rockland and Putnam and others  
14 have included a penalty provision in their fracking  
15 waste bans that provide for a fine up to \$25,000 per  
16 violation.

17           2. The definition of waste should not be  
18 limited to only waste from natural gas extraction  
19 activities. It should include all relevant forms of  
20 oil and natural gas waste including waste from  
21 storage of oil and natural gas or liquefied petroleum  
22 gas. I have attached and submitted with my testimony  
23 a copy of the suggested changes to Intro 446 drafted  
24 by Mr. Duvall, attorney of Riverkeeper who has helped  
25 drive model fracking waste ban legislation in many

2 counties in New York State. I urge that we all work  
3 together to make Intro 446 as strong a bill as  
4 possible and to pass this bill, and have it signed  
5 into law as soon as possible to protect all who live  
6 and work in New York City. I also wish to urge the  
7 passage of Resolution 791 to call out GE to continue  
8 cleaning up its PCB contamination of the Hudson River  
9 until the job is truly done. Thank you very much for  
10 your effort and support.

11 DAN RACHEL: Good afternoon, Councilman  
12 Constantinides and members. My name is Dan Rachel,  
13 and I'm an attorney for the Natural Resources Defense  
14 Council, an organization that for more than the last  
15 40 years has pushed the General Electric Corporation  
16 to address its responsibility for contaminating the  
17 Hudson River with toxic PCBs. I'm here today because  
18 of an oops moment, one that is of great consequence  
19 to the health of New Yorkers. It happened about 10  
20 years ago just after EPA determined that the only  
21 remedy for the millions of pounds of PCBs that GE  
22 dumped in the Hudson River would be to dig them up  
23 and to just send them to a hazardous waste landfill.  
24 Because PCBs are extremely toxic causing cancer and  
25 linked with neurological and hormonal disorders and

2 impaired cognitive development in children, this was  
3 good news. The bad news, however, was that the  
4 cleanup was limited with EPA only ordering GE to  
5 dredge and remove what was then believed to be 65% of  
6 the PCBs in just the upper 40 miles of the Hudson  
7 River Superfund Site. But, that isn't the oops  
8 moment. The oops moment came when EPA began  
9 extensive testing after the remedial decision, and  
10 discovered that the Upper Hudson was actually two to  
11 three times more contaminated than ever thought. And  
12 not naturally remediating anywhere--at anywhere near  
13 the levels anticipated. Now, this is already  
14 unfortunate news, but EPA made matters worse by  
15 failing to respond appropriately. Instead of  
16 evaluating how this new abundance of PCBs would  
17 affect computer predictions of how PCB levels in fish  
18 and in the river would or would not rather come down  
19 as a result of the cleanup. EPA failed to thoroughly  
20 analyze the new data, or update the remedy  
21 accordingly choosing instead to plod ahead with its  
22 original cleanup plan. However, in 2015, another  
23 federal agency NOAA did do updated computer analysis  
24 based on this new data, and that analysis concluded  
25 plainly that the current cleanup plan would fail to

1 meet critical health and safety targets in the  
2 Hudson. So what does all this mean to New Yorkers  
3 and in particular New York City residents? First, it  
4 means that there will be--there will continue to be a  
5 very large amount of PCBs up river described by NOAA  
6 and the U.S. Fish and Wildlife Service as series of  
7 Superfund caliber sites flowing down river everyday  
8 to the city. And indeed, the vast majorities of the  
9 PCBs in the New York Harbor area are from GE. These  
10 PCBs come with direct economic costs as the harbor  
11 requires annual maintenance dredging, and dredging  
12 heavily contaminated sediments is very expensive.  
13 For this reason, the Hudson River Foundation called  
14 legacy contaminants in the Hudson an economic ball  
15 and chain for the city. Second, it means the Hudson  
16 River fish are still dangerous to eat, and will  
17 remain so for another 40 or 50 years longer than  
18 expected. Which is of particular concern because we  
19 know that low-income and foreign born residents are  
20 less likely to be aware of or have the means to  
21 follow longstanding Department of Health advisories  
22 not to eat Hudson River fish.

23  
24 Third and perhaps most distressing  
25 research in the last decade has demonstrated the

2 potential harms of airborne PCBs along the Hudson.

3 In particular, research SUNY Albany shows that

4 residents who live along the Hudson may be at higher

5 risk of--or risk of higher rates of heart disease,

6 diabetes and cancer as a result of chronic exposure

7 to lower chlorinated forms of airborne PCBs along the

8 river. This means that especially for those who take

9 a morning jog along the Hudson everyday, it may not

10 be enough to simply avoid eating Hudson River fish.

11 For these reasons and more, it is critical for the

12 Council to act now. While GE has completed a limited

13 cleanup plan in October, EPA has now promised to

14 thoroughly study the cleanup in what's known as a

15 five-year review. If done correctly, the results of

16 this review could lead to more cleanup. The first

17 year--five-year review, however, was not done

18 correctly, and if history repeats itself with another

19 slap dash review, New Yorkers will be left holding

20 the bag with their health and the pocketbook. That's

21 why we ask the Council today on behalf of its

22 millions of residents that it represents that are--

23 the millions of residents that GE's PCBs have put at

24 risk to add its strong voice to the more than 70

25 communities up and down the river calling for more

2 cleanup by passing Resolution 791. Also, I'd like to  
3 add that for the reasons outlined by my colleagues,  
4 Misti Duvall at Riverkeeper, NRDC strongly supports  
5 Intro 446 banning fracking waste in New York City  
6 with the suggested changes. Thank you, Chairman  
7 Constantinides and the committee for addressing these  
8 two very important issues.

9 CHAIRPERSON CONSTANTINIDES: Well, I  
10 thank you all for your testimony and, you know, New  
11 York Harbor is in desperate need of a plan [laughs]  
12 overall, but especially when it comes to the  
13 remediation of the PCBs here by GE. We just can't  
14 let them walk away. Yeah, I think that's the gist  
15 of the testimony that my colleague Brad Hoylman in  
16 the State Senate has been doing a great job on the  
17 state level. You know, we--his voice we need to  
18 amplify that much more thoroughly and ensure that as  
19 we move forward as a state that this is a priority  
20 for city government and a priority for state  
21 government. And I--I definitely appreciate his work,  
22 and all of your works as well, and Lin Su on the--the  
23 frack waste bill, we talked--I told you we'd get  
24 there. [laughs] You know, we--we have the hearings  
25 today. We look forward to doing the things necessary

2 to get this bill done. So I want to thank you all  
3 for your advocacy, and we're going to continue to  
4 work with all of you on both 446 and Resolution 791.  
5 Thank you.

6 DAN RACHEL: Thank you. [background  
7 noise, pause] Our next panel is Marjorie Sharp from  
8 Damascus Citizens for Sustainability; Eric Weltman  
9 for Food and Water Watch; Edith Kantrowtz (sp?) from  
10 New York City Friends--Friends of Clean Water; and  
11 Mary Anne Sullivan from the League of Women Voters,  
12 New York City. Samara will be swearing you all in.  
13 [pause]

14 LEGAL COUNSEL: Can you please raise you  
15 right hands. Do you swear or affirm to tell the  
16 truth, the whole truth, and nothing but the truth  
17 today?

18 PANEL MEMBERS: [off mic] I do.

19 CHAIRPERSON CONSTANTINIDES: I would say  
20 we'll begin on the left side of the table there.  
21 [pause]

22 MARJORIE SHARP: Okay, you--okay, I can  
23 hear people. Can you hear me? First, I want to  
24 thank you, Councilman Constantinides for finally  
25 having this hearing. We've been working on this

2 issue for a long time. We started it in 2000--

3 January 2012, Damascus Citizens with our executive

4 director, and I really appreciate what you have done

5 and that they are going this far, and that we will go

6 further together. And I also want to thank all the

7 environmental groups that are here that have been

8 working on this with you. Because this is something

9 that we've done as a community to--to make New York

10 City better. My name is Marjorie Sharp (sic) and I

11 am a board member of Damascus Citizens for

12 Sustainability. Our organizations have been doing

13 methane study leaks in New York City and also studies

14 from the harm regarding fracking and trying to

15 protect the New York Watershed and the Delaware

16 Watershed, and I'm delivering this statement asking

17 New York City, of course, the Council to approve the

18 frack waste bill Intro 446 with the following

19 important changes that you heard before. The penalty

20 for violations for this bill should be raised, and

21 I'm going to say this, I believe \$100,000 per

22 violation. I did not come to this figure lightly.

23 Clinton County in New York State with a population of

24 81,000 people have banned fracked waste from their

25 county, and their penalty is \$25,000 per violation.

2 Given that New York City has a population of 8-1/2  
3 million and its real estate value, culture and  
4 financial sectors, such an increase for--to me for  
5 New York City is not unreasonable. So I--that's what  
6 I'm asking you. Of course, as said before, I hope  
7 that you will make the change that the frack waste  
8 will also come from operations that frack for oil. I  
9 live in Williamsburg, New York, which is part of  
10 Southampton Town. Before Suffolk County passed its--  
11 its frack waste ban, the town of Southampton was so  
12 disturbed that such waste should find its way on its  
13 road for de-icing or threaten the pressures (sic),  
14 extremely fragile and stressed estuaries that it  
15 passed a zone ban in 2014. I have submitted to you  
16 DCS comments focusing on the possible harm to the 14  
17 sewage plants in New York City, which cannot intake  
18 frack waste, and the testimony of Professor Lawrence  
19 Swanson of the Waste Reduction and Management  
20 Institute of Stony Brook University, which--where he  
21 expressed his concern regarding the waste and was  
22 submitted to the Southampton Town board in April of  
23 2014. After all, New York City is New York City.  
24 Therefore, passing Intro 446 would be extremely  
25 important, and perhaps will make possible a statewide

2 ban on frack waste. Water is a sacred and necessary  
3 treasure. All our futures--for all our futures we  
4 cannot risk its further degradation. So thank you  
5 for this hearing, and for hearing all of us today.

6 EDIE KANTROWITZ: Hi. I'd like to thank  
7 the City Council for holding this hearing, and for  
8 moving forward on both of these measures. I'm Edie  
9 Kantrowitz, President of the New York City Friends of  
10 Clearwater. Some other folks will actually be  
11 reading my testimony later, but right now, I'm  
12 reading a statement from Manna Jo Greene who is the  
13 Environmental Director of Hudson River Sloop  
14 Clearwater, and she says: On behalf of Hudson River  
15 Sloop Clearwater and its members, we ask your support  
16 for Resolution 791-2015 calling on General Electric  
17 Corporation and the United States EPA to enter into  
18 an agreement that expands the scope of the Hudson  
19 River PCB Remediation Plan. In 1993, Clearwater  
20 Published the first angler survey demonstrating the  
21 nexus between Hudson River PCB contamination and  
22 human consumption of fish especially by communities  
23 of color, ethnicity and low income who were eating  
24 Hudson River fish as an important source of protein  
25 for their basic sustenance. This pattern was again

2 confirmed in 2010 when Clearwater undertook a  
3 community based Environmental Justice inventory as  
4 Angler Survey in Peekskill and found the community  
5 members were still eating Hudson River fish and crabs  
6 despite New York State Department of Health  
7 Advisories. Clearwater also submitted comments as  
8 far back as 2001 detailing potential health impacts  
9 of inhalation of PCBs, which volatilized into the air  
10 from the river and from PCB containing sediments and  
11 represents an unavoidable root of exposure. We've  
12 been monitoring the cleanup on an ongoing basis to  
13 ensure the air exceedancies are minimized. In 2015,  
14 NOAA released the results of the first publicly  
15 available model and conducted since 2002, which  
16 demonstrated that because the Hudson is substantially  
17 more contaminated than originally anticipated, EPA's  
18 remediation plan will not achieve key health and  
19 safety cleanup targets for the river. Specifically,  
20 the NOAA analysis predicted the surface  
21 concentrations of PCBs would be three to five times  
22 higher than expected after the cleanup, and that many  
23 fish would be contaminated with unsafe levels of PCBs  
24 for 40 to 50 years longer than anticipated. In  
25 December 2015, Hudson Rivers of Clearwater joined the

1 Natural Resources Defense Council, Riverkeeper,  
2 Scenic Hudson and the Atlantic Chapter of the Sierra  
3 Club in a petition to EPA urging that it take a hard  
4 look at the impact of the hundreds of thousands of  
5 pounds of toxic PCBs that the agency is allowing GE  
6 to leave in the Hudson River. There are three things  
7 that they are asking for as part of the review.  
8

9           1. New modeling or analysis that  
10 addresses the findings of the NOAA study and  
11 accurately assesses the impact of the massive amounts  
12 of contamination EPA discovered after developing its  
13 cleanup plan.

14           2. An analysis of the threat of airborne  
15 PCBs that EPA ignored in 2002 because much less was  
16 known about the harms of these volatiles at that  
17 time.

18           3. A comprehensive Angler's study to  
19 understand who is eating Hudson River fish despite  
20 the advisories.

21           In spite of dozens of editorials and more  
22 than 70 municipal resolutions calling for mutually  
23 beneficial voluntary settlement agreements to ensure  
24 a more robust cleanup of Hudson River PCBs, General  
25 Electric has failed to come to the table. By not

2 agreeing to participate in a more comprehensive  
3 remediation, GE is seriously delaying the recovery of  
4 the river and causing further health and  
5 environmental impact, which can and should be  
6 prevented by a more proactive approach. If GE were  
7 to renegotiate--were to negotiate with the Natural  
8 Resource Trustees, they could well reduce their  
9 damage assessments by agreeing to undertake the  
10 additional restoration dredging that the NOAA and the  
11 U.S. Fish and Wildlife Service have consistently  
12 requested. However, GE continues to put short-term  
13 profits ahead of the wellbeing of the river and its  
14 people in the watershed, and they're all in the long  
15 term financial wellbeing since this delayed  
16 remediation can result in greater damages.  
17 Sincerely, Mana Jo Greene.

18 CHAIRPERSON CONSTANTINIDES: Thank you.

19 Next up.

20 ERIC WELTMAN: [off mic] Thank you, Mr.  
21 Chairman. [pause] Thank you, Mr. Chairman, for the  
22 opportunity to testify this afternoon in favor of  
23 Intro 446. My name is Eric Weltman, and I'm a Senior  
24 Organizer with Food and Water Watch, a non-profit  
25 environmental organization based in our Brooklyn

1 office. We're working to label GMOs, ban the misuse  
2 of antibiotics and factory farms, and stop the  
3 Transpacific Partnership. Like many of the  
4 organizations here today, we were involved in the  
5 campaign to ban fracking in New York. Over a year  
6 ago, Governor Cuomo boldly defied the oil and gas  
7 industry announcing a ban on the this devastating  
8 practice. Yet, New York continues to bear a  
9 tremendous burden, a tremendous burden from fracking  
10 from the pipelines that threaten to snake across our  
11 state to exposures of the radon filled gas from the  
12 Marcellus shale, to the climate change induced by  
13 fracking's massive emissions of methane. But today,  
14 the Council has the opportunity to strike an  
15 important blow against one of fracking's major harms  
16 the large quantity of toxic waste it produces. We  
17 urge the Committee on Environmental Protection to  
18 support this legislation to ban the discharge,  
19 disposal, sale, the use of fracking waste in New York  
20 City. Like many counties across the state, New York  
21 City has the obligation and the authority to fill the  
22 gap in state law to protect public health and the  
23 environment from exposure to this toxic waste. New  
24 York City must lead the nation in transitioning from  
25

2 dirty fossil fuels to clean renewable energy. This  
3 includes mandates, procurement practices, and other  
4 policies to promote wind and solar, but it also  
5 includes rejecting--rejecting the poisonous  
6 manifestations of fracking that threaten our  
7 communities. Finally, I will note that Food and  
8 Water Watch joins our colleagues in supporting  
9 amendments to strengthen the bill particularly  
10 increasing the penalties, and including all relevant  
11 forms of oil and gas based. Thank you. [pause]

12 MARY ANNE SULLIVAN: I'm Mary Anne  
13 Sullivan speaking on behalf of the League of Women  
14 Voters of the City of New York. We support INT 446  
15 with a few needed changes you've already heard about.  
16 The League of Women Voters is a multi-issue non-  
17 partisan political organization. We encourage  
18 informed and active participation in government to  
19 increase understanding of major policy issues, and  
20 influence public policy through advocacy and  
21 education. Thank you, Steve Levin and the City  
22 Council sponsors for introducing this important bill  
23 to ban gas fracking waste from use within New York  
24 City. This bill aims to protect those who live, work  
25 and visit the city now and into the future from

possible exposure to the unhealthy chemicals, metals and radioactive waste produced by the hydraulic fracturing process. The Governor's ban on high volume hydraulic fracturing does not protect the State from exposure to fracking waste. In fact, the State DEC has permitted solid and liquid treatment facilities and landfills to accept Pennsylvania's waste. It is also permitting conventional fracking waste from New York State vertical drilling to be used for road spreading, to suppress dust, stabilize and de-ice roads. Pennsylvania seeks to get rid of the hundreds of millions of gallons of liquid fracking wastewater and hundreds of tons of fracking solid waste it has generated. Fifteen New York counties have banned this waste, and New York City should as well. The League of Women Voters informed Council members of the need for this bill several years ago, and thanks to Costa Constantinides for bringing this bill to a hearing. While the city owns no landfills at this time, older new ones could be approved in the future. Further, while wastewater treatment facilities may not currently be trucking in fracking wastewater, they could in the future. These centers are not capable of processing the hazardous

2 chemicals and radioactive materials produced by  
3 drilling activities. The League believe the great--  
4 the city's greatest exposure to frack waste at this  
5 time is from the purchase of road salt even from  
6 Chile, a country permits fracking or from the road  
7 salt from other sources which could contain brine  
8 and/or byproducts from fracking. Three hundred  
9 thousand tons of road salt already for our last  
10 blizzard. We must monitor purchase of our road salt  
11 to ensure that it does not contain fracking waste to  
12 pollute our air and groundwater because once inhaled  
13 and ingested by people an animals, there is an  
14 increased risk of exposure to carcinogenic and  
15 endocrine disrupting chemicals. The League strongly  
16 believes our city's people need to be protected from  
17 unhealthy exposure to frack waste into the future,  
18 and this bill should be passed with these amendments  
19 that you've heard today from Misti Duvall, and our  
20 testimony also includes her--her recommendations. It  
21 is attached to our testimony. That is including a  
22 \$25,000 penalty or jail time for each infraction  
23 including oil as well as gas waste, stored waste. A  
24 \$100 penalty for infraction in the present bill does  
25 not suffice. At least 11 counties in New York City

2 have included a penalty in their frack waste bans  
3 with a fine up to \$25,000 per violation. We ask the  
4 members of the City Council to pass the amended  
5 version of the bill in order to protect the health of  
6 the people of this great city. Thank you very much  
7 for this opportunity to testify, and we request  
8 future collaboration with Good Government Groups and  
9 the Council in a matter of public safety.

10 CHAIRPERSON CONSTANTINIDES: Thank you  
11 all for your advocacy, and the issue of fracking is  
12 one that I--I've been working on. Prior to my life  
13 as a City Councilman, I was a staff member for former  
14 Chairman Jim Genaro (sp?). So I think we agree with  
15 all of you, and you have a keeper (sic) in--in RDC.  
16 So thank you all for your continued advocacy relating  
17 to fracking, and to keeping our waterways clean. So  
18 thank you all.

19 MARY ANNE SULLIVAN: [off mic] Thank you.

20 CHAIRPERSON CONSTANTINIDES: [pause] All  
21 right, so our--our next panel will be Ellen Weininger  
22 from Grassroots Environmental Education; Audrey  
23 Friedrichsen from Scenic Hudson; Carl Arnold from the  
24 Sierra Club; and Kathryn Scopic. Kathryn are still--  
25 are you able to still stay? [background comments]

2 Okay, great. [pause] All right, Samara, please  
3 swear them in.

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

7 PANEL MEMBER: Yes, I do.

8 ELLEN WEININGER: Thank you. Good  
9 afternoon and thank you for the opportunity to  
10 address the committee today, and for bringing Intro  
11 446 to this point. My comments today are an abridged  
12 version of the Memo of Support that I'm submitting.  
13 My name is Ellen Weininger, and I'm Director of  
14 Educational Outreach at Grassroots Environmental  
15 Education, a science based environmental health non-  
16 profit serving local and state governments,  
17 healthcare providers, school systems and other  
18 organizations nationwide. We work directly with a  
19 network of leading medical and scientific experts in  
20 the field of environmental health to bridge the gap  
21 between enriching science and public understanding  
22 through evidence based tools and educational  
23 programs. We highly commend the Council for  
24 introducing 446 to ban the discharge, disposal, sale  
25 or use of fracking waste within New York City. And

1 strongly support its swift passage to protect public  
2 health and natural resources with the following  
3 edits. As have already been mentioned increasing  
4 the penalty to at least \$25,000 per violation as 11  
5 our of 15 New York counties have already done in  
6 their fracking waste ban, and that the definition  
7 should also include all forms of oil and gas  
8 extraction production and storage waste including  
9 waste from liquid petroleum gas storage. Although  
10 high volume fracking was banned in New York,  
11 radioactive fracking waste poses an urge public  
12 health threat due to its production by more than  
13 12,000 vertical and low volume oil and gas wells in  
14 New York, and the ongoing acceptance fracking waste  
15 from Pennsylvania. As you've heard, more than  
16 500,000 tons and 23,000 barrels of fracking waste  
17 from Pennsylvania have been accepted into New York  
18 thus far, and this disposal is occurring at  
19 landfills. There are road applications with de-  
20 icing, dust control and road maintenance, and  
21 disposal at wastewater treatment facilities.  
22 Fracking waste contains also organic compounds such  
23 as Benzene, a carcinogens linked with blood  
24 disorders; heavy metals; brine eight times saltier  
25

1 than seawater; radioactive elements including radium,  
2 a known carcinogen. Radium 226 has a half life of  
3 1,600 years and is linked to anemia, cataracts, bone,  
4 liver and breast cancers and death. It also emits  
5 gamma radiation that can travel fairly long distances  
6 through air raising risks for cancer in communities.  
7 State and federal laws exclude fracking rates from  
8 the definition of hazardous waste even though it  
9 exceeds criteria, thus eliminating tracking  
10 requirements for handling storage, treatment and  
11 disposal. New York reporting requirements, and  
12 oversight are lax and provide no information about  
13 actual quantity, material, disposal process, or  
14 specific destinations for disposal. Roads spreading  
15 applications of fracking brine received DEC approval  
16 via beneficial use determinations, and as heard by my  
17 colleague, Misti Duvall, as well as documents  
18 revealed that approvals for road spreading  
19 applications were granted to municipalities in nine  
20 New York Counties and to the New York State DOT for  
21 state roads in ten counties. There is limited  
22 testing of chemical contents and no testing of  
23 radionuclides. Due to the huge volume of fracking  
24 waste produced, industry is increasingly interested  
25

1 in repurposing waste byproducts by grinding and  
2 blending them with other materials for roads and  
3 construction. Other companies are processing or de-  
4 weathering the waste and using the salts for ice  
5 melt. Significant gaps and serious concerns remain  
6 regarding the safety of processing fracking waste  
7 resulting end products that could be even more  
8 hazardous containing exceedingly high levels of  
9 radioactive materials and other contaminants. Ivan  
10 White, a scientist at the National Council on  
11 Radiation Protection, expressed concern regarding the  
12 DEC's cavalier attitude toward human exposure to  
13 radioactive material, and stated in his report that  
14 radioactivity should never be released into the  
15 environment in an uncontrolled manner because of the  
16 potential for exposure from many potential pathways.  
17 He indicates radioactive materials can migrate  
18 through air, soil and water exposing food and water  
19 supplied to animals, livestock, irrigation systems,  
20 aquatic life and humans. He further states that the  
21 type radioactive material extracted from the  
22 Marcellus shale has a long half life and could easily  
23 bio-accumulate over time delivering a dangerous  
24 radiation does to potentially millions of people long  
25

1 after the drilling is over. Even the U.S. Geological  
2 Survey Study shows levels of total radium tested in  
3 the wastewater from 11 active New York vertical gas  
4 wells by--exceeded the EPA's maximum contaminant  
5 level for drinking water by more than 1,000 times.  
6 And the Pennsylvania--the recent study from the  
7 Pennsylvania DEP also significantly--it indicates  
8 significant radioactivity levels that exceed DEP  
9 maximum contaminant levels by more than several  
10 thousand times. Recent Peer Reviewed studies  
11 indicate that the EPA method for testing radium,  
12 which has been used, is an ineffective tool for  
13 analyzing oil and gas drilling waste byproducts.  
14 Which means that regulators and operators could be  
15 grossly underestimating radioactivity levels in  
16 fracking waste by using improper methods to detect  
17 radiation. Road spreading applications can expose  
18 drivers, passengers, pedestrians, animals to  
19 radioactive materials while contaminating nearby  
20 water supplies, sidewalks and properties.  
21 Radioactive particles may become airborne as trucks  
22 and passenger vehicles travel along roads and can be  
23 tracked on tires into driveways and garages, and  
24 ultimately tracked in on shoes into homes. Rain and  
25

1 snow melt carrying radioactive materials can run off  
2 road surfaces where it can migrate onto nearby  
3 property into waterways and leach into soil  
4 increasing risks of inhalation and ingestion of  
5 radioactive materials and carcinogenic and endocrine  
6 disrupting chemicals. Potential exposure to toxic  
7 chemicals and radioactive contaminants comes at a  
8 tremendous toll to human health and the economy. An  
9 update analysis of the nationwide costs of  
10 environmentally mediated diseases in children, our  
11 most vulnerable population, was conducted by Dr. Leo  
12 Trasande, Professor of Pediatric Environmental  
13 Medicine and Population Health at NYU Medical Center.  
14 Which found as a cause of childhood cancer, asthma  
15 and neurological disorders had escalated from 54.9  
16 billion in 2002 to 76.6 billion in 2008. Dr.  
17 Trasande states that the analysis we emphasize is for  
18 policymakers, the implications of failing to prevent  
19 toxic chemical exposures not only for the health of  
20 children, but also for the health of the economy.  
21 And finally, emphasis must be placed on primary  
22 prevention eliminating hazards before children and  
23 adults are exposed. Disease and dysfunction triggered  
24 by toxins can be prevented, and it is imperative that  
25

2 strong measures be taken to prevent harmful exposures  
3 to hazardous materials in oil and gas waste from  
4 extraction, production and storage operations. The  
5 potential for irreversible damage is far too great a  
6 socio-economic burden for any region to withstand.  
7 The mere perception of contamination could have far  
8 reaching consequences. Grassroots environmental  
9 education strongly urges the swift passage of Intro  
10 446 with full inclusion of before mentioned edits to  
11 protect public health and resources. And we also  
12 join our colleagues in support--in strong support and  
13 urging the passage of Resolution 791 for a full and  
14 completed PCB cleanup in the Hudson River. Thank  
15 you.

16 AUDREY FRIEDRICHSEN: Good afternoon, Mr.  
17 Chairman. My name is Audrey Friedrichsen, and I am  
18 the Land Use and Environmental Advocacy Attorney at  
19 Scenic Hudson, Inc. I will also address Resolution  
20 791 and Intro 446 today. What I have to say may  
21 sound familiar, but we believe it bears repeating.  
22 So, we do appreciate this opportunity to add our  
23 voice to those of our environmental organizations,  
24 Senator Hoylman and others in support of these  
25 measures. Scenic Hudson works to protect and restore

2 the Hudson River as an irreplaceable national  
3 treasure and a vital resources for residents and  
4 visitors of New York State and New York City. A  
5 crusader for the valley since 1963, we're the largest  
6 environmental group focused on the Hudson River  
7 Valley. We urge you to adopt Resolution 791, which  
8 calls upon GE and the EPA to expand remediation of  
9 the PCBs in the Hudson River to ensure a full cleanup  
10 of these toxic materials. Between 1947 and 1977, as  
11 we've heard, GE dumped millions of pounds of toxic  
12 PCBs into the river. Scenic Hudson and many of the  
13 other environmental organizations and citizen groups  
14 here today have worked for over 30 years to ensure  
15 that GE cleans up the contamination that has spoiled  
16 the majestic Hudson, which closed a once vibrant  
17 commercial fishery, created a Superfund Site that  
18 runs from Hudson Falls north of Albany all the way  
19 down here to the battery in New York City. At 200  
20 miles, as we know, the Hudson is the largest  
21 Superfund Site in the nation. While GE has spent the  
22 past several years removing contaminated sediment  
23 from the river pursuant to its agreement with EPA, as  
24 we've heard, recent data and modeling by NOAA shows  
25 that the extent of PCB contamination is three times

2 greater than previously thought. Natural recovery  
3 rates are slower than previously estimated, and the  
4 levels of PCBs in fish are declining much more slowly  
5 than were predicted and assumed back in 2002 when the  
6 Remediation Plan was adopted. Because the  
7 concentrations will be five times higher after the  
8 cleanup than were predicted in the plan, additional  
9 sediment removal is clearly needed to put the Hudson  
10 on the path to recovery and to be protective of human  
11 health and the environment. The city of New York, as  
12 you know, anchors the Surefund Site. It continues to  
13 be impacted by the PCBs that GE discharged. Over 70%  
14 of the PCBs dredged from the New Yorker/New Jersey  
15 Harbor originated from GE's plants on the Upper  
16 Hudson. The PCBs continue to pose a significant  
17 health threat to the people in New York City and all  
18 along the Hudson. The primary exposure pathway being  
19 eating contaminated fish. This disport--  
20 disproportionately impacts environmental justice  
21 communities where many Anglers depend on fish from  
22 the Hudson to feed their families. Further, new  
23 studies have shown that airborne PCBs from the Hudson  
24 River can accumulate in humans and cause detrimental  
25 health impacts. Therefore, it's important that we

2 act now. We must tell EPA and GE that New Yorker  
3 will not settle for a cleanup that's half done. GE  
4 has now pulled its equipment from the river and the  
5 EPA has basically unofficially declared that the  
6 dredging project is incomplete. This is  
7 unacceptable. EPA is now about to begin its required  
8 evaluation of whether the cleanup met its goals of  
9 protecting human health and the environment. Because  
10 as we have heard, that is now called into serious  
11 question. GE and EPA want to declare a victory and  
12 tell New Yorkers from Manhattan to Fort Edward that  
13 the PCB pollution that is still in the river is your  
14 problem to fix and pay for. That is not correct. GE  
15 is liable for restoring the Hudson River's health and  
16 the economy, and it is EPA's responsibility to ensure  
17 the cleanup is done right. So, again, we urge New  
18 York City to joint the more than 70 other communities  
19 up and down the Hudson that have already done so in  
20 telling EPA and GE that the job is not done, and they  
21 must implement and expand the dredging plan. And  
22 very briefly, in addition to the Resolution 791, we  
23 urge this committee to move forward with Intro 446  
24 and establish a ban on the discharge, disposal, sale,  
25 or use of fracking waste in New York City. Similar

2 to PCBs, fracking waste contains carcinogens like  
3 Benzene as well as pollutants such as metals, excess  
4 salts, and natural occurring radioactive materials.  
5 So far, 15 other New York counties have passed bans  
6 on road spreading and/or disposable fracking wastes,  
7 and in--in accordance with previous statements today,  
8 subject to those suggested amendments, we urge New  
9 York City to join those other communities in ensure  
10 that this toxic wastes is never used on city roads  
11 ore allowed to pollute our environment. Thank you.

12 O.B. HUNT: Thank you. My name is O.B.  
13 Hunt. Kathryn Scopic (sp?) had to leave early, and  
14 she asked me to read her testimony.

15 CHAIRPERSON CONSTANTINIDES: Uh-huh.

16 O.B. HUNT: Okay, regarding Intro 446 we  
17 are in the 21st Century with the development and  
18 installation of healthy and sustainable renewable  
19 energy. Continuation of this path will eventually  
20 stop and reverse the present, reverse global heating.  
21 There is no positive out come for oil or gas at this  
22 stage in our planet's history, and any action,  
23 manufacturing or process that supports it, is acting  
24 against life itself. Hydraulic oil or gas drilling  
25 uses thousands of gallons of water for drilling each

2 well. Of all the water on this planet, about two  
3 percent of it is potable, and drillers are using it  
4 to get fossil fuels, not for drinking or agriculture.  
5 This, in my opinion, is an obscene use of our  
6 resource. These drilling processes in deep water  
7 well infusions causes--cause earthquakes. Oklahoma  
8 has been experiencing hundreds of them caused by this  
9 industry. Just last evening the Weather Channel  
10 aired a program about this including geological  
11 studies data and extensive supporting evidence that  
12 drilling in deep water well infusions cause  
13 earthquakes as do dams. When water is forced below  
14 the surface of the earth, it fills up the cracks and  
15 spaces between rock. This weakens the substrata and  
16 causes rock shifts, producing earthquakes that are  
17 closer to the surface and more destructive than  
18 natural earthquakes. As the drilling wastes good  
19 water and causes earthquakes, when the now poisoned  
20 wastewater is injected into deep water wells, what  
21 does the industry do with the wastewater? The  
22 industry cannot be allowed to spread it on roads or  
23 use it in any other way when it--where it will come  
24 into contact with people, plants or animals. Using  
25 it on roads or for construction will do all three.

2 Runoff will end up in our rivers, lakes, streams and  
3 groundwater. This wastewater now filled with toxins  
4 cannot be filtered or treated by any water processing  
5 facility to make it safe for human consumption or  
6 agriculture. The only safe solution is to not  
7 produce it in the first place. Therefore, I fully  
8 support Intro 446 to ban the use of oil and gas  
9 wastewater for use on roads or real property. This  
10 legislation will both protect us here in New York  
11 City and send a clear message to the oil and gas  
12 industry that their wastewater is not acceptable or  
13 permitted within the city.

14 Now, regarding Resolution 791. Why  
15 didn't GE Corporation completely clean up their PCBs  
16 in the Hudson River before it left? We hold them  
17 accountable and responsible for restoring the health  
18 of the Hudson River. I am in full support of this  
19 resolution and will do what I can to see that it is  
20 enacted and that GE completes a 100% cleanup and  
21 removal of all PCBs they placed in the river. I  
22 suggest an addition of an amendment to follow up and  
23 monitor this cleanup in conjunc--in conjunction with  
24 and directly reporting to the related federal  
25 agencies. Present and future generations count on us

2 to leave Earth as good or as--as--or better than we  
3 found it. It's our responsibility to Mother Earth  
4 that supports us and all life. Thank you.

5 FEMALE SPEAKER: Carl Arnold had to leave  
6 so he asked me to read his testimony for him. Good  
7 afternoon, my name is Carl Arnold. Last year I was  
8 the Chair of the New York State Chapter of the Sierra  
9 Club, the Atlantic Chapter. My thanks to the  
10 sponsors of Intro 446 for the opportunity to speak in  
11 favor of this very timely and needed local law. In a  
12 rational world the impossibility of spreading frack  
13 waste on roads or anywhere, would be the provobe--  
14 proverbial no-brainer. Sadly, we're compelled to  
15 pass such resolutions to protect ourselves from harm  
16 that should be entirely preventable. But here we  
17 are. Regular salt became widely used as a de-icer on  
18 roads after World War II. Much of it ends up  
19 accumulating in waterways where it can do untold  
20 damage. James Creveling, formerly of the College of  
21 Forestry at Syracuse Universe--University has cited a  
22 1993 report by the DEC that salt sprayed on roads has  
23 traveled as far as 800 feet lit--laterally, and more  
24 than 50 feet high. On top of all this, fracking  
25 waste is a horror story in part because of its

2 wastewater. Part of that waste is brine, which is  
3 the con--concentrated remains of an ancient ocean and  
4 thus is about seven times more salty than the present  
5 day ocean, and cannot be filtered. That's why the  
6 frackers are so anxious to get rid of it. Naturally,  
7 when applied, it runs off the road. The Intensely  
8 salty water eventually harms the trees, bushes,  
9 streams and rivers that it runs into. Farm fields  
10 that it drains into, aquifers that it seeps into, and  
11 it's not just salt. Tucked away in the brine are  
12 some of the highly toxic chemicals used in the  
13 fracking process. Also present are some of the  
14 substances that get loosened by the process, and come  
15 up in the frack waste. Marcellus shale gives up the  
16 toxic heavy metals it contains, as well as its  
17 naturally occurring radioactive materials. The  
18 fracking industry desperately needs to get rid of  
19 this waste. So it's cheaper than conventional salt.  
20 Sometimes they'll even spread it for you. Others  
21 have already spoken of the immoralities that have  
22 permitted brine spreading despite the presence of  
23 carcinogenic and toxic substance. Others have also  
24 spoken of the counties that have prohibited brine  
25 spreading and acceptance of such waste into water

2 treatment facilities. If New York City does not pass  
3 446, it will only encourage the frackers who are  
4 wrecking havoc in Pennsylvania, Ohio and over 30  
5 other states to help-- Okay, I don't quite--all  
6 right, but the--the ending is passing 44--the Sierra  
7 Club fully supports passage of Intro 446 to help keep  
8 NYC safe and help make this a more rational world.  
9 Thank you.

10 CHAIRPERSON CONSTANTINIDES: Thank you  
11 all for your testimony, and--and the time that you  
12 took to give the great detail that you did. So thank  
13 you all for your time and--and your advocacy.

14 FEMALE SPEAKER: Thank you.

15 CHAIRPERSON CONSTANTINIDES: So I have--  
16 the next panel is Sheila Geist, Jessica Roth from  
17 Catskill Mountainkeeper, Marilyn Stern from United  
18 for Action, Bruce Rosen, and Donna Susa. [background  
19 noise, pause. If you heard your name called, please  
20 step forward, please. [background comments] And  
21 also Rena Condo, United for Action. Sergeant, can  
22 you pull another chair up there? Yeah, that's  
23 great. Thank you. [background comments]

24 LEGAL COUNSEL: Can you please raise your  
25 right hands. Do you swear or affirm to tell the

2 truth, the whole truth, and nothing but the truth  
3 today?

4 PANEL MEMBER: We do.

5 PANEL MEMBER: Yes.

6 SHEILA GEIST: Hello, thank you for  
7 holding this hearing. I'm Sheila Geist. I'm an at  
8 large rights activist and a member of a number of a  
9 number of environmental groups. I'm here to both  
10 read the testimony of Edie Kantrowitz in regard to  
11 Resolution 791, and to make a few brief remarks in  
12 regard to Intro 446 on my own behalf. I've been  
13 active in the successful campaign to ban fracking in  
14 New York State and in the process learned of the  
15 dangers of fracking waste. The toxicity of the  
16 wastewater that you've all heard about, and I'm here  
17 to support the testimony of Riverkeeper, the UFA and  
18 for Water Watch, et cetera. My councilman is a co-  
19 sponsor of 446, and my assemblyman had a bill to  
20 prevent the use of fracking waste on the roads of New  
21 York State, that went nowhere. That's been I think  
22 around for four years already. Intro 446 is very  
23 important, and I'm here to support the warnings you  
24 have already heard, and to also support the  
25 amendments that are needed to make it an effective

2 bill to raise the fines at least up to \$25,000, and I  
3 agree with Marge that probably \$100,000 [laughs] is--  
4 would be effective. These fines are already included  
5 in the bans of the regulations, the regulatory bans  
6 passed in the 11 counties of New York State so it's a  
7 no-brainers if it's serious. I also want you to find  
8 out where the salt that we're using now, that the  
9 Sanitation Department is using now comes from.  
10 Because they said that the majority it comes from  
11 Chile, and if I remember correctly, when Hilary was  
12 Secretary of State she ran down to Chile to promote  
13 the sale of fracking technology. And I think Chile  
14 does frack at present, but I'd like you to find out  
15 where the other salt comes from because I think that  
16 we have a current problem here in the city at  
17 present. In any case, I'm very happy that you have  
18 this bill, and I want to see it passed sooner than  
19 later.

20 I'm also here to read the testimony of  
21 Edie Kantrowitz to Resolution 791. She says: I'm  
22 the President of New York City's Friends of  
23 Clearwater. Both New York City Friends of Clearwater  
24 and the Hudson River Sloop Clearwater strongly  
25 support Resolution 791. We all know that the cleanup

1 plan originally developed in 2002 has not completed  
2 all the necessary remediation in the river. The  
3 National Oceanic and Atmospheric Administration and  
4 the U.S. Fish and Wildlife Service have since found  
5 that the PCB concentrations will be more widespread,  
6 natural recovery rates slower, and declines in the  
7 PCB levels in fish slower than originally assumed.  
8 That PCB levels in river sections 2 and 3 will be  
9 five times higher post-remediation than originally  
10 predicted. That 136 additional acres of dredges will  
11 be required to bring sections 2 and 3 up to the same  
12 standard as section 1, and that if the cleanup plan  
13 is not expanded, restoration of effective habitats  
14 will be limited and there will be both short and  
15 long-term adverse impacts to the river. The EPA  
16 itself after the 2002 plan found that it is  
17 underestimated by a factor of two or three times the  
18 amounts of PCBs in the Upper Hudson River. It also  
19 soon became evident that the PCB pollution was not  
20 just confined to a few hot spots as originally  
21 thought, that some of the natural processes by which  
22 the river was expected to heal itself were not  
23 happening as predicted. By 2012, both NOAA and Fish  
24 and Wildlife Service had concluded unless the plan  
25

1 was modified, it would lead the equivalent of a  
2 series of Superfund caliber sites in the Hudson. In  
3 2015, NOAA also found that many fish would remain  
4 contaminated with unsafe levels of PCBs for 40 or 50  
5 years longer than originally anticipated. It is,  
6 therefore, abundantly clear that the original plan is  
7 not adequate, and we must call upon GE to enter into  
8 an agreement with EPA for an expanded and truly  
9 effective remediation plan. In addition to this  
10 incomplete cleanup continuing to expose New Yorkers  
11 to the PCBs that they're carcinogenic and other  
12 health effects, New York has already suffered  
13 economically from the loss of the river's fishing  
14 industry and from negative impacts to commercial  
15 navigation in tourism. If meaningful remediation is  
16 continued, the environmental and economic recovery  
17 could be delayed for decades. A cleanup must be  
18 achieved that is comprehensive, and GE must not be  
19 allowed to leave hundreds of thousands of pounds of  
20 toxic PCBs in the river. The original plan has so  
21 far cleaned up only 65% of the PCBs. In school, that  
22 would be considered a D, basically a failing grade.  
23 The EPA has recently agreed to accelerate its next  
24 five-year review of the cleanup operations, which is  
25

1 very good news. However, I would like to mention  
2 that there are several items that should be included  
3 in this review beyond what is already discussed in  
4 the resolution. As suggested by the Natural  
5 Resources Defense Council, the review should include  
6 one new modeling or analysis addressing the findings  
7 of the NOAA Study, and accurately assessing the  
8 impact of the massive amounts of contamination EPA  
9 discovered after developing it's cleanup plan. Two,  
10 the analysis of dread or airborne of volatile PCBs  
11 are not considered in 2002 because much less was  
12 known about the harms of these volatiles at that  
13 time. And three, a comprehensive Angler study to  
14 understand who was using the Hudson River fish  
15 despite the advisories. It is likely that there may  
16 be an environmental justice issue here with low-  
17 income people depending on fish from the river for  
18 part of their diet. The Hudson River is precious to  
19 New York, to the members of Clearwater and New York  
20 City Friends of Clearwater and to all New Yorkers.  
21 I'd like to thank the City Council and strongly  
22 encourage the passage of this resolution. With a  
23 truly robust and continued remediation we will look  
24 forward to seeing the day when the river that runs  
25

2 both ways can once again truly run clear. Thank you.  
3 We urge the passage of the resolution.

4 CHAIRPERSON CONSTANTINIDES: Thank you.

5 [background comments]

6 JESSICA ROTH: I want to thank Council  
7 Member Levin for moving this bill forward, and  
8 Chairperson Constantinides for having this hearing  
9 and allowing me the opportunity to testify today, and  
10 to the rest of the committee as well. My name is  
11 Jessica Roth. I'm Catskill Mountainkeeper Programs's  
12 Manager living in Brooklyn, but working across the  
13 state to stop fossil fuel and fossil fuel  
14 infrastructure and just transition to renewable  
15 energy. As everyone in this room knows, Governor  
16 Cuomo made history on December 17th when he banned  
17 high volume horizontal hydro fracking, and as everyone  
18 in this room knows, but many people throughout the  
19 state do not, the fracking growing ban only protected  
20 us from a fraction of the problems associated with  
21 extracting, processing, transporting, and using  
22 natural gas. Even without horizontal drilling in New  
23 York, fracking is very dangerous, and affects New  
24 Yorkers everyday from Pennsylvania's drilling effects  
25 on our shared food and water resources to toxic,

2 carcinogenic volatile organic compounds, exposure by  
3 compressor stations to exposure to fracking waste of  
4 brine used to de-ice roads in many New York counties  
5 to toxic carcinogenic VOC exposed in your fracking  
6 waste processing and storage sites. Everyone of  
7 these named exposure carries with it--everyone of  
8 these means of exposure carries with it the same  
9 exact dangers to public health and safety the  
10 Department of Health Commissioner Zucker's  
11 recommendation and Governor Cuomo's action to ban  
12 fracking were based on. So, we may have avoided one  
13 major category of the dangers, but there are so many  
14 more that we have to deal with. Many of my friends  
15 and colleagues have already talked about numerous  
16 contaminants of fracking waste, our inability to  
17 remove the containments through any treatment process  
18 and how many municipalities somehow think it's a  
19 smart idea to repurpose and re-use this waste as dust  
20 control and de-icer on our roads. The Department of  
21 Environment Protection already addressed the concern  
22 that there is still secrecy around chemicals used in  
23 fracking and, therefore, found in fracking waste. We  
24 should also be concerned about the death of  
25 scientific information about the chemicals that we do

2 know are found in fracking waste. For many of these  
3 chemicals there is little or no scientific  
4 information available, and there is even less  
5 information available about mixing these toxic  
6 chemicals and what effects these combinations might  
7 have on human beings. What we do know is that a  
8 large number of these chemicals are incredibly toxic,  
9 radioactive, carcinogenic, and endocrine disruptors.  
10 The Green Screen for Safe--Safer Chemicals Analysis  
11 is a method for comparing--comparative chemical  
12 hazard assessments. It can be used to identify  
13 chemicals of high concern as well as safer  
14 alternative and combine expert judgment with  
15 research, data collection and cat--in categories such  
16 as carcinogenicity, reproductive and developmental  
17 toxicity, endocrine activity and mute--mutagenicity  
18 and genotoxicity. You can tell this is not actually  
19 my area, but I've been working on this and another  
20 thing, another project that I'm working on, and it  
21 classifies end points ranging from very low to very  
22 high. The Green Screen assigns each chemical  
23 benchmark score from one to four. One is a void.  
24 It's a chemical of high concern and four is  
25 inherently low. In a list of 46 known fracking

2 chemicals, 19 were given benchmark one. The list  
3 doesn't even include the most dangerous chemicals  
4 including BTEX chemicals, but they'll be available  
5 soon, and I'll submit them to you all. They're going  
6 to come out in the next month or two, and it's also  
7 just a really good tool in general in dealing with  
8 chemicals and toxics if you all are not intimately  
9 familiar with them. Because I had never heard of  
10 them before.

11 In the interest of avoiding repetition, I  
12 want to talk a bit about water, and how it connects  
13 everything. We all lived through Super Storm Sandy,  
14 and I'm purpose--and I personally did relief and  
15 rebuilding work in the Rockaway Peninsula. So it's  
16 an area that I know about. On the peninsula, the  
17 ocean at the bay entire swaths of land were  
18 completely submerged by brackish flood. The sewage  
19 system flooded, and perhaps even worse, the sewage  
20 treatment plant. What if the plant had actually been  
21 processing fracking waste? The entire Rockaway  
22 Peninsula would have been inundated with radioactive  
23 carcinogenic toxic waste. As it is, recovery has  
24 been slow and painful, but it could have been far  
25 more dangerous. We keep hearing about hundred year

2 floods, and how they'll be coming more frequently  
3 than every hundred years. Using or treating this  
4 toxic and radioactive waste is dangerous enough. We  
5 cannot risk the cross-contamination that will  
6 inevitably come from heavy rains, flooding and other  
7 severe weather. Stopping fracking waste from  
8 entering New York City must be considered as part of  
9 our Climate Change Resiliency Plan. Further, the  
10 issue of water contamination connects us with our  
11 Upstate neighbors as we end the movement up and say  
12 we're all downstream, and dealing with fracking waste  
13 really underlines the sentiment. In order to protect  
14 our surface body waters, as this bill does, we  
15 actually need to engage our upstream neighbors on the  
16 issue as well. If we can effectively prevent  
17 discharge into our surface waters with Dutchess or  
18 Sullivan County and its fracking waste, and it gets  
19 into the Hudson River or our drinking supply  
20 respectively, then all of our downstream protections  
21 are useless. I encourage the City Council to  
22 consider this interconnectedness and to act to ensure  
23 that our water truly is safe. It's particularly  
24 relevant that today you're also address a resolution  
25 that we support for cleaning up the Hudson River that

2 touches and affects all of us. And finally, we want  
3 to urge you along with all of our other allies and  
4 colleagues here to expand the definition of the waste  
5 to include all oil and gas extraction to catch all  
6 problematic--all problematic waste, and to amend the  
7 bill to increase the non-compliance violations to at  
8 least \$25,000. If it's not an actual significant  
9 fine, then we all know that oil and gas industries  
10 and folks who use them just use this as the cost of  
11 doing business. So thank you.

12 CHAIRPERSON CONSTANTINIDES: Thank you.

13 BRUCE ROSEN: Bruce Rosen. I'm here  
14 today on my own, but--because I think everybody said  
15 organizations that I either belong to or support  
16 other than--because this is Essential  
17 Responsibilities, WE ACT and Sane Energy Project. So  
18 I've got a three. I've been involved in various  
19 environmental activities and perspectives as a  
20 professional and as a citizen for over four and a  
21 half decades since the eve of the first Earth Day,  
22 which included two undergraduate internships. Then  
23 the city Environmental Protection Administration,  
24 which is now EPA--DEP, and Sanitation, and the  
25 Department of City Planning whatever that is. I

2 commend the--this Committee, which it feels like I  
3 was here just a fortnight ago urging you on with  
4 your--two Environmental Justice bills. So the--the  
5 term has been raised, and obviously this is a  
6 consideration not of the Environmental Justice, but  
7 economic sanity. So that we are sustained as a city  
8 in a region, and--and a world. We have been hit  
9 recently with two things. It was raised to the issue  
10 of impacts that we never expected. We--we now have  
11 the profound tritium, strontium, thorium and other  
12 leaks coming out at--at amazing rates from Indian  
13 Point, which members of this Council have called for  
14 the closure as well as other people. If only the  
15 Mayor and the senior--senator would also join that  
16 one, and we have this horrible thing of Roundup in  
17 all of our green spaces. And that raise the need in  
18 your leadership for coordination and a full charge of  
19 all the counties and the municipalities in the state  
20 and the region. Fractivists got together. They not  
21 at the time that we were fighting for a ban--we not  
22 leave any part of the state out. That is--that is a  
23 term everybody and nobody out--a single--a single  
24 payer movement, which has been with us since the  
25 beginning of Social Security, has also had on its

2 agenda. So that's very important. As you probably  
3 know, there were--there are municipalities as large  
4 as the city of Buffalo that have found this material  
5 in your wastewater systems. Even though they--they  
6 say it's banned, it gets shipped in, and water is  
7 being taken from Upstate communities to be added to  
8 the fracking process across the state line in--in  
9 Pennsylvania. So, the coordination process is very,  
10 very, very important over here. I think it's very  
11 necessary that in your analysis, and in your  
12 requirements for the--the city agencies that you--  
13 what is it you mandate coordination? Just note that  
14 the co-location, the original co-location of the  
15 Health Department and the Sanitation Department that  
16 was the progressive era thinking. And, we need to  
17 return to that, and maybe we had some of that through  
18 bodies like this committee. But, also the  
19 requirement that in the purchasing and the  
20 investments of the city. And--and you probably all  
21 know about the \$135 million loss to the New York City  
22 Teachers Retirement System for its investments in oil  
23 and natural gas despite so many people including  
24 members of the Council urging to get out of that  
25 field. So, it's very important that you put it

2 together, and I thank you again for the opportunity  
3 to--to speak and for your leadership.

4           MARILYN STERN: Hello, my Marilyn Stern.  
5 I'm here representing United for Action for which I  
6 volunteer. Okay, most people would be surprised to  
7 learn that despite New York's ban on high volume  
8 hydraulic fracking, our state still imports and  
9 generates high volumes of fracking waste. And  
10 because of New York's fracking waste loophole, this  
11 waste is not classified as hazardous. Despite it  
12 containing some 2,500 different chemicals, including  
13 roughly 600 known and possible carcinogens, salts,  
14 heavy metals, and radioactive isotopes. This toxic  
15 waste is dumped into landfills and wastewater  
16 treatment facilities not equipped to handle it while  
17 toxic brine is poured onto icy roads. And by the  
18 way, this is footnoted so with sources for all of  
19 this information, and website links. It is  
20 unconscionable that New York State allows this  
21 loophole. A hazardous waste--waste loophole bill is  
22 pending in Albany, and will hopefully be passed soon,  
23 but until it is, local governments must protect their  
24 citizens. At least 11 counties in New York have  
25 passed a fracking waste ban including the three

2 counties adjoining New York City: Rockland,  
3 Westchester and Nassau. I applaud and thank Council  
4 Member Levin and his ten colleagues who sponsored  
5 Intro 446. I strongly urge more council members to  
6 become sponsors, and for the Council to pass this  
7 vital legislation. However, this bill has a fatal  
8 flaw. It's missing the words penalty, violation, and  
9 non-compliance. I did a word search five times  
10 because it was--I was incredulous that these words  
11 did not appear at all in the bill that's posted on  
12 the Council website. I was told that penalties are  
13 set at \$100 per violation, though I could not find  
14 this in the text. Without teeth, this bill is  
15 useless. Penalties should be added following the  
16 model of Westchester, Nassau and most of the other  
17 counties. A \$25,000 penalty and/or imprisonment up  
18 to 30 days plus possible civil penalties. Also, I  
19 suggest adding an additional three strikes penalty such  
20 as barring offenders from getting city contracts.  
21 Also, the definition of fracking waste should be  
22 expanded as others have already said. So I won't  
23 elaborate on that. Also, I suggest adding storage--  
24 the word storage and transportation of hydraulic  
25 fracturing waste to the ban. It is not--it is--it is

2 not there at present, and we all know the trucks can  
3 have accidents. They have leaks. The  
4 transportation--this is not has not been mentioned as  
5 far as I know today. This has not been mentioned.  
6 How is all of that fracking waste going to get into  
7 New York City, okay? I mean would you want to be the  
8 car behind or in front of a giant truck transporting  
9 fracking waste? I would not even want to be on that  
10 highway. Okay, when the fracking waste ban became  
11 law in Westchester in 2013, Legislator Peter Hartman  
12 told the press this waste doesn't belong in our  
13 wastewater treatment plants, and it certainly doesn't  
14 belong on the street and roads that drain into our  
15 fragile drinking water supplies. I ask all of you  
16 council members, does New York City not deserve the  
17 same protection. In closing, I urge all council  
18 members to watch the five-minute video *No Second*  
19 *Chance: Legislators Talk About Fracking Waste* posted  
20 on the website [Grassrootsinfo.org/frackingwaste](http://Grassrootsinfo.org/frackingwaste).  
21 Please learn from your colleagues why a ban for our  
22 city is so important. Thank you.

23 [background comments]

24 RENA CONDO: Thank you. Okay. My name  
25 is Rena Condo (sp?). I am speaking for Edie

2 Kantrowitz, and she says, I am a board member of  
3 United for Action and also President of New York City  
4 Friends of Clearwater, but I'm speaking right now as  
5 an individual to give my strongest support for Intro  
6 446, and also to ask for two modifications to the  
7 bill, which will give it even more impact. I think  
8 some of these things you've heard before today, but  
9 considering the profound threats to everyone's  
10 health, it can be repeated. [laughs] Firstly, I  
11 believe the penalty for non-compliance should be  
12 increased from the current \$100 per violation to a  
13 penalty of at least \$25,000. In today's world a \$100  
14 fine if not a deterrent, and for many businesses or  
15 organizations it can be seen as merely the cost of  
16 doing business. At least 11 counties in New York  
17 State have included a penalty provision in their  
18 fracking waste bans that provide for fine up to  
19 \$25,000 per violation. New York City should also  
20 have a penalty provision that acts as a real  
21 deterrent. Secondly, the definition of waste should  
22 not be limited only to waste from fracking or natural  
23 gas extraction activities. It should be expanded to  
24 include all relevant forms of oil and natural gas  
25 waste including wastes resulting from oil and natural

2 gas storage. Governor Cuomo and New York State have  
3 taken a bold and extremely praiseworthy step by  
4 banning high volume horizontal hydro fracking in New  
5 York State, but unfortunately, that's not the whole  
6 story. In addition to concerns about pipelines,  
7 compressor stations, L&G shipments, fossil fuel  
8 storage facilities and conventional vertical drilling  
9 of oil and gas wells, we still have a situation where  
10 the New York State Department of Environmental  
11 Conservation is permitting solid and liquid waste  
12 treatment facilities in New York to accept waste from  
13 the fracking and drilling, which is going on so  
14 extensively in Pennsylvania. DEC is also permitting  
15 waste from conventional fracking in New York State to  
16 be used for road spreading to suppress dust and to  
17 act as a de-icer. This means that without this bill  
18 to protect New York City, we do not have any  
19 insurance--assurance that these toxic substances  
20 containing carcinogens and even radioactive elements  
21 will not be discharged into our surface waters and  
22 our landfills. Nor, do we have any assurance that  
23 they will not be spread on or city streets where they  
24 present a danger not only for adults, but especially  
25 for children and pets. We all know how children love

2 to play in the snow, and sometimes it gets in their  
3 mouths, too. I think in our most recent snowstorm we  
4 saw just how much rock salt and de-icer is used to  
5 keep the city streets and roadways clear and usable.  
6 We do not want these products to contain toxic and  
7 radioactive active brine from fracking. That is why  
8 it is so important for New York City to pass a  
9 fracking waste ban to ensure that its residents are  
10 protected from these toxic wastes both in our  
11 surrounding waters and on our city streets. I,  
12 therefore, want to give the City Council my greatest  
13 thanks, and appreciation for introducing and  
14 considering this bill, and for holding today's  
15 hearing. And I am hoping that this bill will be  
16 adopted with the proposed modifications so that we  
17 can have the strongest possible protection from these  
18 toxic threats to our public health.

19 CHAIRPERSON CONSTANTINIDES: Thank you  
20 all for your testimony again, and I think we're all  
21 in the same place here from the Administration the  
22 Council, and I think we--we're hearing all testimony  
23 that's pretty similar. So I appreciate your time  
24 today, and taking the time to put your testimony  
25 together. So, I appreciate your advocacy and please

2 continue to come back speak with us here at the  
3 Council. Thank you.

4 RENA CONDO: Thank you.

5 CHAIRPERSON CONSTANTINIDES: Our last  
6 panel, but certainly not our--our least panel, Ellen  
7 Durant from United for Action, Angela Mano, and--  
8 [pause]

9 LEGAL COUNSEL: [off mic] And that's  
10 Claire Bond.

11 CHAIRPERSON CONSTANTINIDES: Claire Bond-  
12 -Baum (sp?) New York State Sustainable Business  
13 Council. You can all step forward, please. [pause]

14 LEGAL COUNSEL: I only see two. Okay,  
15 can you please raise your right hands. Do you swear  
16 or affirm to tell the truth, the whole truth, and  
17 nothing but the truth today?

18 PANEL MEMBER: I do.

19 CHAIRPERSON CONSTANTINIDES: Please  
20 start.

21 ELLEN DURANT: Okay, first of all, I  
22 apologize for breaching protocol and addressing the  
23 Chair, but I was concerned since I had signed in  
24 early that I wanted to at least get my voice to echo  
25 as a body.

2 CHAIRPERSON CONSTANTINIDES: We're  
3 hearing your--your testimony. [laughs]

4 ELLEN DURANT: Thank you.

5 CHAIRPERSON CONSTANTINIDES: No problem  
6 at all.

7 ELLEN DURANT: Okay, good afternoon.

8 Thank you for holding this hearing. My name is Ellen  
9 Durant, and I'm here address the City Council to urge  
10 support and passage of Intro 446 banning the  
11 discharge, disposal, sale or use within New York City  
12 of any wastewater or natural gas produced from the  
13 process of hydraulic fracturing or fracking. Not in  
14 my testimony that I presented, as was announced, I am  
15 a proud member of United for Action, and worked  
16 tirelessly with everybody. I'm proud that we did get  
17 fracking bans, but it's only frack--ban, of course.  
18 So, while New York State has--has banned high volume  
19 horizontal fracking, as I'm sure that you're all  
20 aware, we still have conventional vertical drilling  
21 of oil and gas wells in the state. And the waste  
22 from more than these 12,000 conventional low volume  
23 wells must be disposed of. We don't want it here. I  
24 firmly believe that there are overwhelming public  
25 health concerns for New York City regarding this

2 drilling waste as it contains a toxic mixture of  
3 chemicals that are brought to the surface via  
4 drilling in the process of fracking. Therefore, I  
5 feel that New York City must disallow the collection  
6 of waste and/or its ingredients in byproducts--by  
7 products, its storage, handling, treatment,  
8 processing, application or discarding of any and all  
9 waste treated or untreated from oil and gas drilling.  
10 And I know a lot of this has already been addressed.  
11 So I may be echoing this, but it's okay I think  
12 Sheila said or Edie said, somebody said it's okay to  
13 repeat it. It's okay to repeat it because it's that  
14 important. Okay, so we really cannot bring this  
15 waste to our region as this will amongst other things  
16 jeopardize the safety of our drinking water aquifers.  
17 Because if things such as runoff, inadequate  
18 processing, containment, tank--tank erosion, leaks  
19 and ruptures, things like that. As you probably  
20 know, the technology of fracking used for oil and gas  
21 extraction involves the injection of millions of  
22 gallons of fresh water mixed with hundreds of  
23 chemicals and sand that are forced under high  
24 pressure into the well bores to break open the shale.  
25 And the fissures created by this fracturing are held

1 open by the sand particles so that oil or gas can be,  
2 and does get released up the drill shaft. While we  
3 know that fracking waste, which includes rock and  
4 lubricant that remains from drilling can contain a  
5 number of pollutants such as chemicals, metals,  
6 excess salts--this has already been addressed--and  
7 the carci--carcinogens like Benzene and naturally  
8 occurring radioactive materials. Due to a loophole  
9 in state law, oil and gas industry waste is exempt  
10 from hazardous waste requirements, and thus this  
11 waste is not classified as hazardous, and can, in  
12 fact, be disposed of with facilities unequipped to  
13 handle it, and in ways that can put our health and  
14 environment at risk. And frighteningly to me anyway,  
15 the waste from the produced water and semi-solids  
16 were very well contained fracking emitting high  
17 levels of types of radium that are known carcinogens.  
18 And that the gas can, in fact, contain elevated  
19 levels of radon. Yeah, radon that is a proven  
20 carcinogen, and that is the leading cause of lung  
21 cancer among non-smokers, and that just covers right  
22 over us and into us in the air and through the water.  
23 In summary, public and private wastewater treatment  
24 facilities are incapable of processing the unsafe  
25

2 chemicals and radioactive materials produced by  
3 drilling, extraction, production and storage  
4 activities. And, there is no safe disposal plan for  
5 the billions of gallons of wastewater in time with  
6 the sludge and so forth that are currently being  
7 crated--and will continue unless we pass this--  
8 created by oil and gas drilling, its extraction and  
9 storage operation. Oil and gas drilling waste is far  
10 too dangerous considering the presence of the  
11 potentially high radioactive materials and other  
12 contaminants that could be found in local food  
13 products, and that could cause severe damage, and  
14 grave impact to the health of our population and our  
15 economy as well. The risk of using wastewater from  
16 treatment plants due to processing of hazardous  
17 chemicals is one that is far too great, and we must  
18 safeguard New York City's health and environment from  
19 inappropriate reuse and disposal of fracking waste.  
20 In addition to the above, I feel that the current  
21 penalty paid for non-compliance is hardly a  
22 deterrent, and that we in New York City should join  
23 with at least 11 of other New York Counties that now  
24 impose a fine of a minimum of \$250. Okay. Thank you  
25 again for--Oh, also, there was another point, and I

2 can't remember the inclusion, but it's already been  
3 addressed. Thank you for the opportunity to speak  
4 with you and to deliver this testimony.

5 CHAIRPERSON CONSTANTINIDES: Thank you.

6 ELLEN DURANT: That's two of us. (sic)

7 HILARY BAUM: Hi. Thank you for this  
8 opportunity to provide this testimony today. My name  
9 is Hilary Baum. I'm a resident of New York City  
10 represented by Councilman Andrew Cohen, who to the  
11 best of my knowledge is not yet a co-sponsor of Intro  
12 446, but you can bet I'm going to be knocking on his  
13 door. [laughter] I work with the New York State  
14 Sustainable Business Council and shafts for the  
15 Marcellus, and I've helped educate and mobilize close  
16 to 5,000 small businesses statewide around the issues  
17 of fracking, fracking waste and transitioning to  
18 renewable energy. The New York State Sustainable  
19 Business Council has actively supported similar laws  
20 relating to fracking waste disposal specifically in  
21 Westchester, Rockland, Putnam and Albany Counties all  
22 of which passed, and have actively supported proposed  
23 state laws including Senate and Assembly versions of  
24 laws on the hazardous waste loophole, fracking waste  
25 disposal, and fracking waste road spreading. Our

2 support for these bills was grounded in part under  
3 potential environmental and economic consequences of  
4 the migration of this waste to agricultural  
5 operations and water resources. Since the New York  
6 State Legislature has not yet passed legislation  
7 protecting all New Yorkers from the highly toxic  
8 waste, it is imperative that the New York City  
9 Council act. A bold action by the New York City  
10 Council will send--send a signal to the industry as  
11 well to other local governments and New York State  
12 legislators that the use of this waste will not be  
13 tolerated. Thanks to New York City Councilman Steve  
14 Levin for introducing Intro 446. This critical issue  
15 obviously now is in full view of the Environmental  
16 Protection Committee. While it has already taken two  
17 years to get this bill to this hearing, you can be  
18 sure that concerned citizens including businesses  
19 will continue to work together with urgency to  
20 promote this important bill, and its necessary  
21 improvements, and will help keep this issue in public  
22 view. Many of us learned about the public health  
23 threats of fracking waste as we work together to keep  
24 fracking out of New York. We also learned that even  
25 with the State's ban on high volume hydraulic

2 fracturing, there are fracking waste byproducts from  
3 operations in Pennsylvania coming into New York, and  
4 now we understand that there are--sorry--and now we  
5 understand that there's toxic waste generated in New  
6 York itself from non-banned gas and oil activities  
7 including vertical and low volume hydraulic  
8 fracturing. While 15 counties in New York have  
9 prohibitions on waste disposal practices, the  
10 byproducts are used by many other municipalities and  
11 counties in different parts of the state for road  
12 spreading, for de-icing and dust control. This waste  
13 is known to contain harmful pollutants and high  
14 levels of naturally occurring radioactive material  
15 posing a serious public health threat. In New York  
16 City the use of these byproducts for de-icing city  
17 streets, highways and park roads, we create an  
18 unacceptable threat to drivers, road workers, traffic  
19 cops, pedestrians, pets, parklands and lakes, streams  
20 and water--waterways. New York City needs an  
21 absolute ban on the use of fracking waste and stiff  
22 penalties for non-compliance. We ask that the  
23 definition of fracking waste be expanded to include  
24 waste generated from all relevant forms of oil and  
25 gas extraction, production and storage. And that

2 penalties for non-compliance be raised from \$100 to  
3 at least \$25,000 per violation. Thank you.

4 CHAIRPERSON CONSTANTINIDES: Thank you  
5 all for your testimony, and for taking the time to--  
6 to do the research to put it together, and--and  
7 advocate here today, and we definitely appreciate  
8 your advocacy. So thank you.

9 HILARY BAUM: Thank you.

10 ELLEN DURANT: You're welcome. Thank  
11 you.

12 CHAIRPERSON CONSTANTINIDES: [coughs] I  
13 just want to thank everyone who testified today, and  
14 for all of your great work and--and advocacy, and we  
15 will definitely take it all into consideration as we  
16 work in partnership to deal both with frack waste,  
17 and to ensure that GE is held accountable for the  
18 damage they've done relating to PCBs in the Hudson  
19 River. So, I want to thank our--and also for Intro  
20 478 today. We passed it. The committee was  
21 unanimous in passing, and 5 to nothing. I want to  
22 thank our staff attorney, Samara Swanston, who always  
23 does an amazing job for all of her great work.  
24 [applause] And, Bill Murray our--our Policy Analyst,  
25 who also does amazing work as well. [applause] And

Jonathan Seitzer, our Finance staff member who is not in the room, but I--I said his name correctly today. So I want that on the record. [laughs] And also my Legislative Director, Nick Widzowski to my right, and John Benjamin, one of my legislative interns, who was here earlier and, of course, our Speaker Melissa Mark-Viverito for her strong commitment to our environment. So I'm looking forward to continuing to work with her as we do. We did geothermal in December. We're doing solar in February and we're going to continue moving on the myriad of bills that need to--to move forward, and thank our Mayor's Office and DEP for their work so far. I'm looking forward to working with them to get 446 done, and get this resolution done as well. So with that, I will close this hearing of the Environmental Protection Committee. Thank you. [gavel] [applause]

1 COMMITTEE ON ENVIRONMENTAL PROTECTION

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C E R T I F I C A T E

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



Date February 25, 2016