

BEFORE THE NEW YORK STATE SENATE FINANCE
AND ASSEMBLY WAYS AND MEANS COMMITTEES

JOINT LEGISLATIVE HEARING

In the Matter of the
2014-2015 EXECUTIVE BUDGET ON
ENVIRONMENTAL CONSERVATION

Hearing Room B
Legislative Office Building
Albany, New York

January 29, 2014
10:01 a.m.

PRESIDING:

Senator John A. DeFrancisco
Chair, Senate Finance Committee

Assemblyman Herman D. Farrell, Jr.
Chair, Assembly Ways & Means Committee

PRESENT:

Senator Liz Krueger
Senate Finance Committee (RM)

Assemblyman Robert Oaks
Assembly Ways & Means Committee (RM)

Senator Mark J. Grisanti
Chair, Senate Committee on
Environmental Conservation

Assemblyman Robert K. Sweeney
Chair, Assembly Committee on
Environmental Conservation

Senator Patricia A. Ritchie
Chair, Senate Committee on Agriculture

2014-2015 Executive Budget
Environmental Conservation
1-29-14

PRESENT: (Continued)

Assemblyman William Magee
Chair, Assembly Agriculture Committee

Senator Catharine M. Young

Assemblyman Carl E. Heastie

Senator Malcolm Smith

Assemblywoman Patricia Fahy

Assemblywoman Ellen C. Jaffee

Assemblywoman Barbara S. Lifton

Assemblyman Clifford Crouch

Assemblyman Michael J. Cusick

Senator Cecilia Tkaczyk

Assemblywoman Deborah J. Glick

Assemblyman Dan Stec

Senator Philip M. Boyle

Assemblywoman Aileen M. Gunther

Assemblyman Steve Englebright

Assemblywoman Donna A. Lupardo

Assemblywoman Vivian E. Cook

Assemblyman Joseph D. Morelle

Assemblyman Peter D. Lopez

Assemblyman Steven Otis

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PRESENT: (Continued)

Assemblyman Thomas J. Abinanti

Assemblyman Raymond W. Walter

Assemblywoman Earlene Hooper

Assemblyman N. Nick Perry

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1 CHAIRMAN DeFRANCISCO: It's time to
2 begin the third in the series of budget
3 hearings by the Senate Finance Committee and
4 the Ways and Means Committee of the Assembly.
5 These hearings are conducted pursuant to the
6 State Constitution and Legislative Law, and
7 they're relating to the Executive's budget.

8 Today's hearing will be limited to a
9 discussion of the Governor's proposed budget
10 concerning issues affecting the public
11 interest in the areas of the environment,
12 parks, agriculture and energy.

13 Following each presentation there
14 will be some time allowed for questions from
15 the chairs of the committees as well as other
16 legislators. And as Ways and Means Chair
17 Denny Farrell will explain, there's some time
18 limits that we deal with.

19 From the Senate side, we have the
20 chair of the Environmental Conservation
21 Committee, Mark Grisanti. We have Senator
22 Patty Ritchie, we have Senator Malcolm Smith,
23 and the ranking member, Senator Liz Krueger,
24 with whom I have been spending a lot of

1 quality time here lately.

2 Assemblyman Farrell.

3 CHAIRMAN FARRELL: Oh, thank you.

4 We've been joined by Assemblyman Carl
5 Heastie, Assemblyman Steve Englebright,
6 Assemblyman Michael Cusick, Assemblyman
7 Robert Sweeney, Assemblywoman Earlene Hooper,
8 Assemblyman Bill Magee, Assemblywoman Glick,
9 Assemblywoman Jaffee and Assemblywoman
10 Lifton.

11 And Mr. Oaks is right here, and he
12 will tell you who's here for the Republicans.

13 ASSEMBLYMAN OAKS: Thank you,
14 Mr. Chairman. We're joined by Mr. Crouch,
15 Mr. Walter, Mr. Lopez, and Mr. Stec.

16 CHAIRMAN FARRELL: As the Senator
17 said, we're going to talk about the time. I
18 heard last night -- I wasn't here -- you went
19 until 7 o'clock, which is ridiculous. Part
20 of it is because of the timing.

21 The chair people will be allowed to
22 do half an hour in their presentations.
23 That's to the audience. And then there is a
24 10-minute in between. Every person, we'd

1 like very much that we keep to that
2 10 minutes. That includes our colleagues on
3 the dais.

4 CHAIRMAN DeFRANCISCO: I think it was
5 seven. Let's not get carried away, Denny.
6 You weren't here till 7 o'clock.

7 CHAIRMAN FARRELL: No, I was not.
8 (Laughter.)

9 CHAIRMAN DeFRANCISCO: All right, the
10 first speaker is the New York State
11 Department of Environmental Conservation
12 Commissioner Joe Martens.

13 COMMISSIONER MARTENS: Thank you.
14 Good morning. Chairman DeFrancisco, Chairman
15 Farrell, Senator Grisanti, Assemblyman
16 Sweeney, members of the legislative fiscal
17 and environmental committees, thank you for
18 the opportunity to discuss Governor Cuomo's
19 Executive Budget as it pertains to the
20 Department of Environmental Conservation for
21 the state fiscal year 2014-2015.

22 Under the Governor's leadership, DEC
23 is working to make New York more
24 business-friendly, more resilient and

1 prepared for emergencies, more welcoming to
2 outdoorsmen and -women, and even more
3 protective of our extraordinary natural
4 resources. We have made good progress, and I
5 appreciate the support I have received from
6 the Legislature and from many of you
7 individually.

8 We have a list of accomplishments
9 ranging from the largest land conservation
10 and public access project in the state's
11 history -- the Finch Pruyn purchase in the
12 Adirondacks -- and two historical
13 constitutional amendments, to streamlined
14 permitting for key economic development
15 projects and innovative voluntary programs
16 like DEC's new environmental audit policy.

17 On climate, extreme weather is a
18 source of significant concern, obviously, and
19 DEC, working with NYSERDA and others, is
20 aggressively pursuing policies to reduce
21 emissions that cause climate change. Last
22 year, working with our partner states,
23 Governor Cuomo called for a lower cap on
24 greenhouse gas emissions and inspired a

1 nine-state agreement to reduce the cap by
2 45 percent this year, increasing to more than
3 50 percent by 2020. We project that
4 New York's investment in the Regional
5 Greenhouse Gas Initiative auction proceeds
6 through 2020 will yield an estimated
7 \$5.8 billion benefit to New York's economy,
8 create nearly 3,000 new jobs, and reduce
9 consumers energy bills.

10 Outdoor sporting activities generate
11 over \$9 billion in economic activity in
12 New York. In 2013, the Governor launched
13 New York Open for Fishing and Hunting, an
14 initiative to improve recreational activities
15 for sportsmen and sportswomen and to boost
16 tourism opportunities throughout the state.
17 The initiative reduced fees for most sporting
18 licenses and simplified the number and types
19 of licenses available.

20 In addition to the Adventure License,
21 which the Governor announced in his State of
22 the State, the Executive Budget builds on
23 New York Open for Fishing and Hunting by
24 proposing promotional license sale days, up

1 to eight free fishing days, and three- and
2 five-year licenses at discounted prices as
3 well as reducing the cost of seven-day
4 fishing licenses and authorizing DEC to
5 promulgate regulations allowing the use of
6 crossbows for hunting. We expect this
7 initiative to increase participation in
8 fishing and hunting and make New York even
9 more attractive as an outdoor sports
10 destination.

11 Invasive species are a huge challenge
12 negatively affecting both our economy and the
13 environment. Working with the Department of
14 Ag & Markets, we have proposed regulations
15 that identify if it's a species that may
16 significantly harm native flora and fauna and
17 prohibit or regulate their sale. DEC is
18 working on a statewide Aquatic Invasive
19 Species Plan to further mitigate the impact
20 of this serious problem, and recently
21 proposed regulations that would require the
22 removal of visible plants and animals from
23 boats and trailers before launching them at
24 DEC facilities. And DEC's new prohibitions

1 on selling or possessing Eurasian boar will
2 curtail their destructive impacts. And I
3 thank you again for passing legislation on
4 that last year.

5 Working with the Legislature, we have
6 made significant investments through the
7 NY Works program in critical environmental
8 infrastructure projects. The coastal dam and
9 flood control investments are mitigating the
10 risks posed by the forces of nature while
11 putting New Yorkers to work. Last year
12 NY Works II allowed us to invest in
13 improvements to recreational facilities,
14 cleanup of municipal brownfields, and
15 upgrades to wastewater treatment systems.

16 This year the Executive Budget
17 proposes \$40 million in NY Works III for the
18 Department of Environmental Conservation. We
19 plan to use these funds to invest \$6 million
20 for 50 new public access projects and
21 \$4 million for fish hatcheries, as the
22 Governor announced in his State of the State.
23 Funds will be used for repairs and
24 improvements to existing DEC facilities,

1 including campgrounds, education centers,
2 dams, and a shellfish lab on Long Island.
3 Funds will also be dedicated to plugging
4 orphaned oil and gas wells, replacing air
5 monitoring equipment, and investing in IT for
6 the next phase of DEC's eBusiness strategy.

7 It's been over a year since
8 Superstorm Sandy, but we continue to work on
9 recovery and rebuilding in keeping with the
10 recommendations of the 2100 Commission. In
11 partnership with the Army Corps, DEC is
12 working on large-scale efforts to repair and
13 rebuild coastal protection projects.

14 DEC will continue to be thoroughly
15 involved in all aspects of these projects,
16 which literally go from one end of the coast
17 to the other, from environmental reviews to
18 design and construction, and will seek to
19 expedite these projects on every front.

20 Another DEC accomplishment is our
21 focus on efficient permitting by issuing
22 timely permits for economic development
23 projects, especially priorities of the
24 Regional Economic Development Councils.

1 We've succeeded in expediting project reviews
2 and permitting all across New York. We also
3 formed a special team in New York City to
4 focus on dredging to allow important harbor-
5 deepening projects to proceed, fostering the
6 success of the largest port on the East Coast
7 while ensuring that contaminated sediment is
8 safely managed.

9 Over the past 20 years the EPF has
10 provided more than \$2.7 billion for a variety
11 of key programs. Much of that total has
12 flowed to New York cities and towns via
13 grants for recycling, landfill closure,
14 municipal parks, or water quality projects.
15 As you know, the EPF supports the acquisition
16 and stewardship of state lands and important
17 agricultural programs.

18 The Executive Budget for 2014-2015
19 increases the EPF to \$157 million. The EPF
20 categories are generally unchanged, with the
21 notable addition of a subcategory under Water
22 Quality Improvement Projects to dedicate
23 \$2 million to research, assess and address
24 the issues of elevated levels of nitrogen in

1 the Long Island groundwater. These funds
2 will be matched by our partner Suffolk
3 County. DEC will work closely with SUNY
4 Stony Brook and towns like Southampton that
5 are eager to clean up Long Island's
6 groundwater resources.

7 Since it was adopted in 2003, the
8 Brownfield Cleanup Program has resulted in
9 the successful cleanup of more than 150 sites
10 by offering liability relief and refundable
11 tax credits. The Executive Budget extends
12 the program for 10 years while instituting
13 necessary reforms, targeting redevelopment
14 credits to priority economic development
15 projects and sites that need incentives to
16 get cleanups underway, and spur
17 redevelopment.

18 This proposal also includes a
19 streamlined program for lightly contaminated
20 sites where the developer waives the rights
21 to the tax credits. This voluntary program
22 will ensure that cleanups are completed to
23 state standards and subject to DEC oversight
24 while providing critical liability relief to

1 enable sites to obtain financing and save the
2 state millions of dollars in tax credits in
3 the process.

4 The budget also includes \$100 million
5 for the State Superfund to ensure that site
6 investigations and construction projects can
7 continue to move forward to address the
8 state's most contaminated sites. This
9 includes a \$10 million carve-out for the
10 environmental restoration program, which is a
11 very popular program to clean up municipally
12 owned sites.

13 Recently several catastrophic train
14 derailments involving crude oil have
15 heightened awareness and concern about the
16 transportation of crude oil across the
17 country. In response, Governor Cuomo issued
18 an Executive Order last night, which I've
19 attached to my testimony, directing DEC and
20 our sister agencies to petition our federal
21 partners regarding the shipment of petroleum
22 products to ensure New Yorkers are safe and
23 the state's irreplaceable natural
24 resources are protected.

1 The order also directs the agencies
2 to evaluate the state's spill prevention,
3 response and inspection programs, governing
4 the rail, ship and barge transportation of
5 crude oil and other petroleum products. We
6 will report our recommendations to the
7 Governor on or about April 30th for program
8 improvements and enhanced coordination
9 between state, federal and local governments.

10 Following the Governor's Executive
11 Order, the commissioners of Transportation,
12 Health, Homeland Security and I sent a letter
13 calling on the federal government to expedite
14 adoption of enhanced requirements governing
15 the transport of crude oil by rail and water,
16 to reduce the potential for spills and
17 accidents and to predeploy appropriate spill
18 response equipment and resources to protect
19 New York State's communities, residents, land
20 and waterways.

21 By reforming the Brownfield Cleanup
22 Program, increasing EPF funding, investing in
23 environmental infrastructure, and maintaining
24 staff and funding for DEC, the Executive

1 Budget demonstrates Governor Cuomo's
2 continued commitment to the environment.

3 Thank you for inviting me to testify.
4 I look forward to working with you each and
5 every one of you so that we can continue our
6 forward progress.

7 Thanks again for your support, and
8 I'd happy to answer any questions you may
9 have.

10 CHAIRMAN FARRELL: Thank you.

11 CHAIRMAN DeFRANCISCO: Thank you.

12 And with respect to the legislators'
13 questions, no one is limited to seven minutes
14 except in the first round. If you've got
15 more questions, we want to give everyone else
16 the opportunity to at least get one round in,
17 and then you can be asking more questions
18 later on.

19 The first questioner will be the
20 chairman of the Senate Environmental
21 Conservation Committee, Mark Grisanti.

22 CHAIRMAN FARRELL: Before that, I'd
23 like to mention that we have been joined by
24 Assemblywoman Fahy and Assemblywoman Lupardo.

1 Thank you. Senator?

2 SENATOR GRISANTI: Okay, thank you.

3 Thank you, Senator DeFrancisco.

4 Commissioner, thank you for being
5 here today and thanks to your staff for all
6 the hard work that you do.

7 I have a number of questions. Really
8 right off the bat, for those that don't have
9 the opportunity to actually see what's in the
10 budget or haven't had the opportunity to look
11 to see what some of the numbers are, and to
12 be clear, again, there are no appropriations
13 authorizing language or anything to fund
14 anything to do with staffing or oversight of
15 any high-volume hydraulic fracking in this
16 state. Is that correct?

17 COMMISSIONER MARTENS: That's
18 correct.

19 SENATOR GRISANTI: Okay. And turning
20 to a different area, there was a 1996
21 Environmental Bond Act, and there was a
22 change in payments. How much less is the
23 DEC's debt with regards to the payment of
24 that 1996 Environmental Bond Act?

1 COMMISSIONER MARTENS: I'm sorry, I
2 didn't quite catch the question.

3 SENATOR GRISANTI: How much less is
4 the annual debt payment that the DEC has to
5 pay for the Environmental Bond Act?

6 COMMISSIONER MARTENS: Can I --
7 before I answer the question, I neglected to
8 introduce the people at the table with me
9 from DEC. If you wouldn't mind.

10 SENATOR GRISANTI: No, go ahead.

11 COMMISSIONER MARTENS: To my right,
12 Marc Gerstman, my executive deputy. Anne
13 Reynolds, who is my deputy commissioner for
14 administration and finance. And I think you
15 all know Julie Tighe, legislative director
16 for DEC.

17 Anne just slipped me a note saying
18 that it's about a \$12 million decrease in
19 payments. Which I don't believe, but I
20 will -- the staff is here to correct me when
21 I misstate something, but I don't think that
22 comes right out of the DEC budget. I think
23 that the decline in payments for the debt
24 service on the bond is \$12 million this year,

1 and it continues to decline, but it doesn't
2 come out of DEC's budget. I think that is
3 paid out of another appropriation in the
4 Executive Budget.

5 SENATOR GRISANTI: But I think you'll
6 agree that the \$12 million, that it goes for
7 that debt payment. And if it started to be
8 lowered and it's being saved, it's not being
9 reinvested then into DEC, it's going back
10 into the General Fund. Is that correct?

11 COMMISSIONER MARTENS: That's
12 correct. I believe that's always been the
13 case.

14 SENATOR GRISANTI: Okay. And it
15 would appear that -- to me, anyways, we know
16 that the state has the obligation of funding
17 the EPF and paying debt services on that
18 bond. And now that the payments on the bond
19 have dropped substantially, I'd like to --
20 and I don't know what your opinion is on
21 it -- but put it back into the EPF rather
22 than diverting it to nonenvironmental
23 purposes such as tax relief programs.

24 I can understand the \$12 million, you

1 know, if we were in a time of fiscal
2 crisis -- but when you have a budget surplus,
3 that \$12 million could actually go back into
4 the EPF or back to the DEC for other things
5 that we're going to talk about in the future,
6 and that's something that I'm going to try to
7 push to have that done in changes to the
8 budget.

9 You also have an issue that that
10 impact that the federal sequestration is
11 having on your agency's budget and
12 programming in the coming year, if you know.
13 And are these impacts realized in that
14 budget?

15 COMMISSIONER MARTENS: It's hard to
16 anticipate what the impact of sequestration
17 will be in the current year, because we
18 basically front the money for the federal
19 government and we repay them, we square up,
20 if you will, either late in the fiscal year,
21 late in our fiscal year -- so we don't know
22 the precise impact.

23 In the current year we know that
24 there will be some reduced federal funds

1 available to the department, and we've been
2 working very closely with the Division of
3 Budget to make sure that there's no impact to
4 DEC in the current year. And for future
5 years it's just impossible to say right now,
6 until the federal government acts in
7 September and does appropriation bills, to
8 determine what those impacts will be.

9 SENATOR GRISANTI: Okay. It's
10 something, though, that your agency, you're
11 aware of, and it's something coming down the
12 pike to see whether it's going to be positive
13 or negative.

14 COMMISSIONER MARTENS: We watch it
15 very carefully. And obviously we've been
16 getting assistance from the Division of
17 Budget where we anticipate problems. But we
18 don't expect it to be large numbers in the
19 current fiscal year.

20 SENATOR GRISANTI: I appreciate that.
21 On another note, and I'm going to ask
22 this to Commissioner Rose Harvey when she's
23 on after you, but it seems that -- and it
24 happens sometimes with the DEC as well --

1 there's an issue that exists with regards to
2 late or slow in paying bills on any contracts
3 or large contracts. And it's stressful not
4 only for the not-for-profit agencies
5 partnering with the state through programs.

6 What do you know of is the average
7 time or wait time for payments on certain
8 things that are requested for in the EPF
9 program and until that organization actually
10 gets paid? Because they may rely on that
11 money that comes out of the EPF, let's say,
12 in one budget year, and sometimes it's taken
13 a lot longer to get out. Are you working on
14 streamlining that process so they get paid
15 more quickly?

16 COMMISSIONER MARTENS: Contracting
17 generally in New York, and I'm sure I'm not
18 the only agency that has contractor problems,
19 is a time-consuming process. We do have an
20 internal work group that's chaired by Anne
21 that is looking at our contracting procedures
22 to see how we can process contracts more
23 quickly. I don't think we're certainly any
24 better or worse than other state agencies in

1 that regard.

2 I don't know, Chairman, whether
3 there's specific issues with not-for-profits
4 where we've had trouble getting payments out
5 the door. We try to do it very promptly.
6 There is always the late-payment provision
7 that's in law that I don't believe we've been
8 penalized for in the past. And I think -- as
9 far as I know, Anne tells me we are
10 up-to-date on all of our payments under the
11 EPF. So I think we're doing pretty well.
12 But we'd always like to be able to execute
13 contracts more quickly, with not-for-profits
14 or anyone, for that matter.

15 SENATOR GRISANTI: And that was going
16 to be a follow-up question. So the fiscal
17 year of last year, you're up-to-date on
18 pretty much what's been happening last year
19 on those payments?

20 COMMISSIONER MARTENS: Yes. And if
21 you hear of specific problems, obviously I'd
22 like to hear about them. Because I have not
23 heard specific problems about payments coming
24 out of the EPF.

1 SENATOR GRISANTI: Okay. Now, can
2 you tell me what is the total operating
3 capital and staffing cuts, if any, to the
4 agency this year?

5 COMMISSIONER MARTENS: There were no
6 staffing cuts, no operating cuts. I believe,
7 you know, the budget narrative talks about a
8 \$47 million reduction that was due to ARRA
9 funds that came to the State of New York.
10 Some '96 Bond Act money, obviously, that is
11 not a recurring expense, and that was capital
12 money. But there has been no cut to DEC on
13 the state operating side.

14 SENATOR GRISANTI: All right. But
15 the DEC, and you touched on this, it could
16 lose federal funding due to sequestration.
17 Is that loss a loss that's in addition to the
18 43 million that -- and maybe you could
19 explain this -- that the Governor is pulling
20 out of the agency?

21 COMMISSIONER MARTENS: The Governor
22 is not -- hasn't pulled anything out of the
23 agency by way of operating funds.

24 Again, that \$43 million number that

1 has popped up and I think has appeared in the
2 press several times is ARRA funds that came
3 to the state. They were pass-through funds
4 went mostly for waste water treatment
5 projects around the state. We spent that
6 money very efficiently and effectively and
7 assisted a lot of municipalities in the
8 process. So those were not operating funds
9 but -- it looks like a \$43 million cut in the
10 budget, but it's just funds that passed
11 through DEC and were not recurring.

12 On the state operations side, there
13 were -- I believe the budget may appear to
14 have a reduction because some of our staff
15 was transferred to centralized IT services.
16 IT services statewide have been consolidated.
17 IT staff has been moved into ITS. So it
18 looks like a cut to the agency, again, but
19 those people have just been centralized and
20 they're still doing and working on projects
21 with DEC and Parks and other agencies.

22 SENATOR GRISANTI: And I'm glad you
23 clarified that, because the reports out there
24 is that the DEC took a \$43 million cut. And,

1 you know, looking at it, that's wrong, it's
2 not a cut --

3 COMMISSIONER MARTENS: That's
4 incorrect. We actually got a one-person bump
5 in our full target, so it's basically a flat
6 budget staffwise.

7 SENATOR GRISANTI: Okay. I have
8 other follow-up questions, but due to
9 constraints of time I'll pass the microphone
10 off to the next set of questions and come
11 back in the second round.

12 CHAIRMAN FARRELL: Thank you. We've
13 been joined by Assemblywoman Vivian Cook,
14 Assemblyman Steve Otis and Assemblywoman
15 Gunther.

16 CHAIRMAN DeFRANCISCO: As well
17 Senator Phil Boyle.

18 CHAIRMAN FARRELL: First to question
19 from the Assembly is Assemblyman Sweeney.

20 ASSEMBLYMAN SWEENEY: Thank you,
21 Mr. Chairman. Welcome, Commissioner. Thank
22 you for your testimony.

23 A few questions. Let's start with
24 one of the old favorites, so let me ask you

1 if the proposed budget includes any funding
2 relating to the authorization of
3 hydrofracking in New York State. Increased
4 staffing levels, permit revenue, anything?

5 COMMISSIONER MARTENS: None
6 whatsoever.

7 ASSEMBLYMAN SWEENEY: So does the
8 absence of either revenue or appropriations
9 mean that the department does not plan to
10 finalize the Supplemental Generic
11 Environmental Impact Statement or issue
12 permits during the fiscal year?

13 COMMISSIONER MARTENS: We have
14 absolutely no plans to do so.

15 ASSEMBLYMAN SWEENEY: Could you send
16 us details -- I know you wouldn't have them
17 with you now -- about the Conservation Fund,
18 the projected funding levels, how much money
19 you think will be spent from the Conservation
20 Fund, what projects will receive funding?
21 That kind of general information, could
22 you --

23 COMMISSIONER MARTENS: For the
24 Conservation Fund?

1 ASSEMBLYMAN SWEENEY: For the
2 Conservation Fund.

3 COMMISSIONER MARTENS: Yes, we'd be
4 happy to.

5 ASSEMBLYMAN SWEENEY: Thank you. And
6 as you certainly know, in previous years the
7 federal Fish and Wildlife Service has raised
8 some questions about language in the budget.
9 Does this budget satisfy their concerns?

10 COMMISSIONER MARTENS: Yes, it does.
11 Specific language is included in the budget
12 to address the sweep issue.

13 ASSEMBLYMAN SWEENEY: Okay. You
14 talked in general terms about where some of
15 the NY Works will be spent. Can you provide
16 us a more specific list of projects that will
17 be funded?

18 COMMISSIONER MARTENS: We can provide
19 you with a list of the type of projects.
20 Some of them are generic -- for example,
21 Assemblyman, there is funds in the NY Works
22 III appropriation for a new laboratory on
23 Long Island, a shellfish lab, which is -- our
24 lab is a workhorse, as you know. It is out

1 of date, and we are desperate to refurbish
2 and have a new lab. So there's funds in
3 NY Works for that.

4 There's funds for the access projects
5 that the Governor talked about, 50 access
6 projects across the state, for state fish
7 hatcheries, another slug of money for IT
8 upgrades at DEC, which is a very important
9 initiative to me. There was funds last year;
10 it is a long-term process to update the
11 department's IT systems.

12 There is, as I mentioned in my
13 testimony, funds for plugging abandoned oil
14 and gas wells. We have lots of legacy wells
15 throughout New York State that you were
16 helpful in providing funds last year for.
17 We're going to continue that process and
18 hopefully plug a lot more wells this year.
19 But we can get you a complete list.

20 ASSEMBLYMAN SWEENEY: Thank you.

21 Let me ask you, in 2008 DEC did a
22 study and issued a report that estimated that
23 the cost of updating New York State's
24 wastewater infrastructure would be more than

1 \$36 billion over a period of 20 years. Which
2 obviously presents, as you well know -- we've
3 talked about this before -- a tremendous
4 financial burden to municipalities who
5 without some sort of assistance just can't
6 afford to do what needs to be done.

7 Could you tell me what there might be
8 in this budget, other than through EFC's
9 revolving loan fund, what there might be in
10 the Executive Budget that helps to address
11 this need?

12 COMMISSIONER MARTENS: Well, you
13 mentioned EFC, so I have to restate that EFC
14 does provide literally hundreds of millions
15 of dollars in loans, either low- or
16 no-interest loans to municipalities across
17 the state. It is probably the flagship
18 revolving loan program in the country for
19 financing wastewater projects, and it
20 functions very, very well under Matt
21 Driscoll's leadership.

22 The EPF also includes a Water Quality
23 Improvement Program line which has been
24 grants to municipalities. In the current

1 year we made a round of grants available for
2 resiliency projects at wastewater treatment
3 plants.

4 The other big item is obviously Sandy
5 funds. If there was any silver lining to a
6 very terrible and tragic storm, it was that
7 New York secured billions of dollars of
8 federal money. A large piece of that will go
9 to wastewater treatment plants, several --
10 like Bergen Point and Bay Park on Long
11 Island -- that really need to be completely
12 overhauled. But wastewater treatment plants
13 in affected areas, particularly in
14 Binghamton, will have federal funds made
15 available to them for very badly needed
16 upgrades.

17 But as you point out, wastewater
18 infrastructure, water infrastructure, the
19 bill is very large. We work very closely
20 with municipalities. When they're
21 experiencing trouble, we provide them
22 technical assistance, as does EFC. And we
23 work very closely with them on things like
24 consent orders to bring them into compliance.

1 But it is -- you know, it's a national issue,
2 and --

3 ASSEMBLYMAN SWEENEY: Consent orders
4 are part of the reason why some of the
5 municipalities need the money to fix the
6 infrastructure. You know, which is entirely
7 appropriate.

8 But I think the point here is the
9 feds once upon a time used to fund, not
10 through loans but grants, 80 percent or more
11 of wastewater infrastructure projects. If
12 they provide 5 percent now, that would be a
13 lot. We don't have a program that replaces
14 that money.

15 And EFC does a great job, I
16 appreciate everything they do, but a
17 low-interest or even a no-interest loan isn't
18 the same thing as a grant.

19 And a small municipality -- I mean, I
20 did a hearing in Buffalo, we had several
21 small municipalities. Some of the sewer
22 systems there are a hundred years old or
23 older. Some of them are still made out of
24 wood. You know, they don't have the

1 population base, or the revenue sources to
2 substitute, to pay for that kind of
3 infrastructure work. And with a need of over
4 \$36 billion, there isn't anything that I see
5 through the regular budget process that
6 New York State can do to be of significant
7 assistance to them other than loaning them
8 money which they couldn't afford to pay us
9 back anyway.

10 So the whole point, obviously, that
11 I'm getting at here is we need something more
12 than what exists now through the regular
13 budget process. And again, as much as I
14 appreciate -- EFC does a wonderful job; I
15 appreciate what they do. It's very
16 important. But it's not a replacement for
17 the federal funding. And it doesn't provide
18 the kind of assistance that these
19 municipalities need.

20 And that doesn't even include the
21 drinking water infrastructure, which you also
22 did a study -- or somebody did a study on,
23 maybe it was the Comptroller -- indicating
24 about the same amount of need. I mean,

1 between the two of them there's between
2 \$75 billion and \$80 billion of need over the
3 next 20 years and no source of money to pay
4 for it.

5 What we do through the state
6 budgetary process and the EPF and everything
7 else is just -- it's not that it's
8 unimportant, but it's nickels and dimes
9 compared to what the need is.

10 So I take it from your answer and
11 I'll just reiterate the point that through
12 the budget process, except for the normal
13 stuff that's out there that we usually do
14 that is not a replacement for the federal
15 funding, there isn't anything new in this
16 budget that's going to significantly step up
17 and provide the kind of funds that
18 municipalities need and are looking for.
19 Would that be a reasonable conclusion from
20 looking at this budget?

21 COMMISSIONER MARTENS: It is a status
22 quo budget, if you will. But this is a
23 national problem. It's not unique to
24 New York State. When the federal government

1 abandoned the grants program, they
2 basically -- it was substituted with the
3 state revolving funds. And I think New York
4 has done a remarkable job in, one, drawing
5 maximum amount of federal dollars. We get
6 more than any other state in the country for
7 our state revolving fund. And you're right,
8 grants would be terrific if they were
9 available. But they're very expensive, and
10 low- and no-cost financing is the replacement
11 program for the grants program nationally.

12 ASSEMBLYMAN SWEENEY: Well, how have
13 we paid for that kind of work in the past?

14 COMMISSIONER MARTENS: What kind of
15 work?

16 ASSEMBLYMAN SWEENEY: Well, providing
17 funding for things like drinking water or
18 wastewater infrastructure.

19 COMMISSIONER MARTENS: Again, it was
20 a grants program up until it was replaced
21 years ago by the state revolving funds. And
22 municipalities are basically paying for it,
23 and they're paying for it by assessing sewer
24 and water charges on the users of the

1 systems.

2 And I realize that there's a lot of
3 communities that are struggling to keep up
4 with their obligations to keep these plants
5 in good repair, to keep up with increasing
6 water-quality standards. But I think we do
7 do a very admirable job in New York of
8 providing assistance to them, both technical
9 and financial.

10 ASSEMBLYMAN SWEENEY: Not a criticism
11 of what you do. I think there has been a
12 pattern in the past, following up, actually,
13 on Senator Grisanti's question, of putting
14 before the voters a bond act that might help
15 to assist with things like that, as well as
16 other environmental programs. Has that been
17 a more traditional way that New York State
18 has helped to provide that kind of
19 assistance?

20 COMMISSIONER MARTENS: We've had a
21 series of bond acts that have been helpful to
22 provide assistance to communities in the
23 past.

24 ASSEMBLYMAN SWEENEY: Thank you. I

1 know my time is up. But I'll come back later
2 if I could, Mr. Chairman. Thank you.

3 CHAIRMAN DeFRANCISCO: Senator
4 Ritchie, please.

5 SENATOR RITCHIE: Commissioner, I'd
6 like to start just by saying I appreciate the
7 call yesterday to talk about the hunting and
8 fishing cards, and I look forward to the time
9 that we can actually get them going and be
10 able to have those available.

11 As I'm sure you're aware, New York
12 has, especially in the three counties that I
13 represent, an ATV trail system. And you
14 spoke earlier about outdoor recreational
15 activities that are available in New York.
16 The problem that I have, not just in the
17 counties that I represent but in a number of
18 counties, especially in the North Country, is
19 that UTVs, which are side-by-sides, are not
20 allowed on the trails.

21 Many times senior citizens and maybe
22 those with disabilities are able to go out
23 and enjoy outdoor activities because of the
24 UTVs. And in New York we're not allowed to

1 register them, and that creates a problem.

2 The ATV trails generate an enormous
3 amount of economic activity in this state,
4 especially in areas that may have less to
5 offer in other ways for activities. And the
6 UTV issue is I think compounded by the fact
7 that if you're an out-of-state resident,
8 you're able to register your UTV in that
9 state, come back to New York and then drive
10 on the trails. But people who live here who
11 are riding on the trails are not allowed to
12 do that.

13 I understand in other parts of the
14 state there may be some issues with it. I'm
15 just looking for some way to allow, in
16 designated areas, UTVs that are safer, many
17 times, to be used on the designated trails.
18 Can you see of any way that there could be
19 some kind of compromise in the state to allow
20 side-by-sides on authorized trails so
21 New York residents who live here, who pay
22 taxes here are allowed to use those vehicles
23 on their trails when those from other states
24 can and we can't?

1 Can you see any kind of compromise
2 and try to open the way to allow that to
3 happen, at least in, say, the North Country?

4 COMMISSIONER MARTENS: I can tell
5 you, Senator, that we'd be happy to work with
6 you on it. I know it's a complicated issue.
7 There's issues with registration under the
8 Vehicle and Traffic Law that I believe you've
9 tried to change for the registration of
10 certain ATVs. That would require a change in
11 law.

12 But I'd be happy to work with you on
13 this. I know it's an issue and it's more
14 important in certain parts of the state than
15 others.

16 SENATOR RITCHIE: And then the other
17 issue, just as an aside, last year we had a
18 tire recycling event in Oswego. We have a
19 health issue there with EEE, which is a
20 mosquito-borne disease, and two years ago we
21 had I think a 5-year-old little girl who died
22 because of it. So we've been trying to find
23 ways to help with the mosquito issue.

24 And we tried to host a tire recycling

1 event, and when we contacted DEC there is
2 some money available for, apparently, bigger
3 tire events, and we weren't able to reach
4 that threshold. So when we held our first
5 one in Oswego, we had to limit the tires to
6 four tires per person because we didn't
7 really know what the response would be. And
8 just in a couple of hours, with not that much
9 publication, we collected over 2,000 tires.
10 Which is an environmental issue but also a
11 health issue.

12 So I would just ask, when you go
13 back, if you could maybe look at a way that
14 some places that may have a certain issue,
15 especially a health issue, your department
16 might be able to authorize some kind of
17 funding through the EPF to help with those
18 tire events instead of just having the money
19 available for just a huge redemption event
20 that for many of us we could never reach that
21 threshold.

22 COMMISSIONER MARTENS: I'd be happy
23 to look at it. I know that Anne is writing
24 down notes as we speak, so we will follow up

1 with you.

2 SENATOR RITCHIE: Okay, thank you.

3 CHAIRMAN FARRELL: Next, Assemblyman
4 Lopez.

5 ASSEMBLYMAN LOPEZ: Thank you,
6 Chairman.

7 Commissioner, thank you for joining
8 us. And I do want to thank you and your
9 team, I've found them very responsive on many
10 fronts, the regional offices up to the
11 commissioner's office, and particularly for
12 your continued efforts in helping us rebuild
13 and recover from natural disasters.

14 I do have a quick question in regard
15 to the EPF. And based on information I have
16 available, it's my understanding that --
17 there are two categories I wanted to ask you
18 about. One, the natural resources damage by
19 category, and then, secondly, apparently a
20 new category, Resiliency Planting Program.

21 And if I may, just in regard to the
22 natural resource damage, I see a proposed
23 increase from the Executive of about a
24 million dollars. And my first question is,

1 is this intended to be a long-term commitment
2 or is this just a one-time bump in that
3 program?

4 COMMISSIONER MARTENS: I hope it's a
5 long-term commitment. That partly depends on
6 all of you.

7 The natural resource damage
8 appropriation is important to the department
9 because I am the custodian of the natural
10 resources in the state by law. And in
11 several cases, like on the GE and the
12 Upper Hudson, we are pursuing natural
13 resource damage claims. And this happens in
14 a number of instances around the state. We
15 need the resources available to substantiate
16 those claims and negotiate agreements. So
17 it's a very important appropriation for us,
18 and I appreciate your support.

19 ASSEMBLYMAN LOPEZ: Secondly, in
20 regard to the Resiliency Planting Program,
21 apparently a new category, is that intended
22 to mirror riparian buffer programs, like
23 conservation preserve under USDA?

24 COMMISSIONER MARTENS: That's exactly

1 right. It's for planting along tributaries
2 that have been impacted by storms, primarily.

3 ASSEMBLYMAN LOPEZ: Thank you,
4 Commissioner.

5 COMMISSIONER MARTENS: You're
6 welcome.

7 CHAIRMAN DeFRANCISCO: Senator
8 Tkaczyk.

9 SENATOR TKACZYK: Thank you,
10 Commissioner, for being here. Thank you for
11 your patience.

12 I have a couple of questions, but
13 first of all I wanted to thank your
14 leadership and the department for taking an
15 active and proactive role in looking at our
16 wastewater treatment plant here in Albany and
17 making sure that we're doing all we can to
18 prevent pollution from going into the Hudson
19 River. As I have a district that is
20 downriver from that plant, I was really
21 thrilled to see your leadership there.

22 I wanted to ask you about water. And
23 one of the issues that I'm concerned with
24 with regard to my bill that I put in place,

1 it was a ban on accepting waste from other
2 states that might be engaged in fracking, the
3 fracking process. My concern was that it was
4 my understanding that there was water that
5 was the result of the fracking process coming
6 into the state or being disposed of, or the
7 waste product from the fracking process was
8 coming into New York and being disposed of in
9 New York State landfills.

10 I just wanted to give you an
11 opportunity to talk about if that, in your
12 opinion, is occurring, how does the agency
13 monitor that? How do you measure what might
14 be in those tanks that are coming into
15 New York? What do the local landfills have
16 in place to protect our residents from, you
17 know, unknown chemicals or things that we
18 frankly don't want going into our water? So
19 if you could respond to that, I'd appreciate
20 it.

21 COMMISSIONER MARTENS: Sure. The
22 only waste coming into New York from out of
23 state having to do with drilling is the
24 drilling waste. It's not produced water or

1 wastewater per se, it is drilling waste,
2 which is primarily the rock and the
3 subsurface material that is ground up when a
4 well drill does its thing.

5 SENATOR TKACZYK: So it's not liquid
6 form is what you're saying, it's solid?

7 COMMISSIONER MARTENS: It could be in
8 liquid form because water can be used in the
9 process. And depending on what is used,
10 whether it's water -- if it's water or air,
11 it's mostly rock and water. And that can go,
12 that can actually be buried or on-site. But
13 if they use oils or other petroleum products,
14 then it has to go to an MSW landfill, a 360
15 permitted landfill, if it's permitted in
16 New York.

17 The primary concern with that type of
18 waste is radiation, because drilling does
19 occur in formations where radiation occurs.
20 So all of the landfills that the waste -- the
21 four landfills in particular that that waste
22 is accepted at in New York all have radiation
23 detectors. And we have a very, very explicit
24 protocol that they have to do when they bring

1 those loads of waste to the landfill. And
2 the instrumentation has to be calibrated, the
3 levels are specified. Just above background,
4 they are triggered and go off. And I
5 understand at least one load that's come into
6 New York did trigger a detection device, and
7 the waste was rejected.

8 So we carefully check those. All four
9 landfills have radiation detection equipment
10 in operation.

11 SENATOR TKACZYK: How do you monitor
12 whether or not they're complying with
13 regulations? So the regulations stipulate
14 that they have to test?

15 COMMISSIONER MARTENS: Their permits
16 do.

17 SENATOR TKACZYK: Is it mandatory or
18 voluntary?

19 COMMISSIONER MARTENS: It is
20 mandatory. It is in their permits. They've
21 accepted this as a condition of their permit
22 to operate. So it's included in their
23 permits. We do inspections of these
24 facilities. So I believe we have a very good

1 handle on this.

2 SENATOR TKACZYK: How often do you
3 inspect? And do we know how much is coming
4 into the state from, say, Pennsylvania or
5 wherever it's coming from?

6 COMMISSIONER MARTENS: I'm sure we
7 can provide you with those numbers, but I
8 don't know them off the top of my head.

9 SENATOR TKACZYK: Okay, I would
10 appreciate that.

11 I'm also concerned about, because I'm
12 concerned about the water and making sure
13 we're not polluting our water, that we allow
14 the brine from the fracking process to come
15 into New York State and be spread on our
16 roads. That's my interpretation that that's
17 already occurring; is that correct? Is that
18 allowed?

19 COMMISSIONER MARTENS: Not from
20 high-volume hydraulically fracked wells.
21 From convention wells, we do allow brine to
22 be used, but only after we do a beneficial-
23 use determination where the brine is actually
24 tested for constituents. We do issue

1 beneficial-use determinations for the use of
2 brine when it is just a very salty product.
3 But we carefully look at it before we issue
4 those determinations, known as BUDs.

5 SENATOR TKACZYK: So the brine is
6 coming from the hydraulic fracturing wells in
7 the state or outside of the state?

8 COMMISSIONER MARTENS: There aren't
9 any wells that hydraulically -- well, there's
10 no high-volume hydraulically fracked wells
11 occurring in New York. So it's not coming
12 from those, because they don't happen in
13 New York.

14 SENATOR TKACZYK: Right. But it is
15 coming from the more traditional wells.

16 COMMISSIONER MARTENS: Conventional
17 wells.

18 SENATOR TKACZYK: And is it coming
19 from out of state where they are doing
20 hydraulic fracturing, high volume?

21 COMMISSIONER MARTENS: I'm not aware
22 that it's coming from out of state. I know
23 that in-state production wells, brine, people
24 do apply to DEC for beneficial-use

1 determinations.

2 SENATOR TKACZYK: Okay. And if that
3 were to occur, that they would come in from
4 out of state, would you be notified?

5 COMMISSIONER MARTENS: I think we
6 would -- yes, we would know where it's coming
7 from, yes.

8 SENATOR TKACZYK: Okay. Is there a
9 concern -- and I know we have not made the
10 decision yet in New York State to proceed
11 with high-volume hydraulic fracturing. Is
12 there a concern about water usage? I know in
13 Pennsylvania they use an enormous amount of
14 water in the process. And is there any water
15 being used or shipped from New York State for
16 that process occurring now?

17 COMMISSIONER MARTENS: I'm not aware
18 of any water being shipped to Pennsylvania.

19 SENATOR TKACZYK: Is that a concern?
20 It's just the amount of fresh water that it
21 takes to frack one well can be 3.5 million
22 gallons a day. Just a concern about -- is
23 there any concern that water is being taken
24 from New York State into Pennsylvania?

1 COMMISSIONER MARTENS: We have a new
2 water withdrawal law in New York. So if
3 anyone is -- what's the threshold, Marc? A
4 hundred thousand? If they have the capacity
5 to extract more than 100,000 gallons a day,
6 then it triggers the need for a water
7 withdrawal permit from us.

8 So we would know if someone is going
9 to withdraw those amounts and ship them to --
10 and we would know the use and the
11 destination. Thanks again to a relatively
12 new law on the books.

13 SENATOR TKACZYK: Great, thank you.

14 COMMISSIONER MARTENS: You're
15 welcome.

16 CHAIRMAN FARRELL: Assemblyman
17 Crouch.

18 ASSEMBLYMAN CROUCH: Thank you,
19 Commissioner, for your testimony.

20 A couple of questions. The Governor
21 has proposed a state-of-the-art weather
22 detection system. And one of the things that
23 I've been concerned about is loss of funding
24 for stream gauges in my district. What the

1 Governor is proposing, could that funding be
2 used to make sure that these stream gauges
3 are fully active?

4 COMMISSIONER MARTENS: The weather
5 detection system does not provide funds
6 specifically for stream gauges. We do have
7 funds as part of the NY-Works III program
8 that I mentioned to support the stream gauge
9 program in New York.

10 We are fairly selective because DEC
11 operates 106 flood-control devices. Certain
12 weather gauges are very important to us for
13 the operation of those systems. Then, you
14 know, there has been decreasing federal
15 support for stream gauges, and that's a
16 concern of ours as well.

17 ASSEMBLYMAN CROUCH: Also, just as a
18 comment, I do agree with the Governor's
19 proposal to reinstate the crossbow hunting.
20 I have been approached by a number of my
21 constituents that have spent \$1500 in getting
22 equipped when it was legal, and now they
23 can't use their equipment for crossbow.

24 Along with some handicapped

1 individuals that the adaptation devices for
2 regular compound bows just don't seem to work
3 for them. Especially if they're paralyzed
4 from the waist down, being able to control
5 themselves while they're drawing a bow just
6 doesn't work. So they've been a strong
7 advocate of renewing the crossbow licenses.

8 So I just want to put in a plug for
9 that, that I think it's a good thing.

10 And one of the questions I typically
11 ask every year is dealing with foresters,
12 marking trees for market on state lands. I
13 know you've done some improvements in the
14 last couple of years, and I just want to make
15 sure we're still on track. Especially with
16 the invasive pests destroying some of our
17 forests, I think it's imperative that we stay
18 on top of it, mark the trees, get them to
19 market before they're destroyed, just as a
20 general practice of good forest management.

21 And can you comment on where we are
22 with foresters? Have we been able to
23 increase over the last year or increase the
24 marketing of our timbers?

1 COMMISSIONER MARTENS: We have, but
2 not as quickly as I would like. It's
3 something that I have a lot of discussions
4 with my forestry staff about, about ways --
5 and mostly it's staffing constraints. But
6 it's a very active program. We do get a
7 significant amount of revenue off the state
8 lands. But people have to go out and mark
9 the trees and supervise the operations.

10 But I agree with you that it is an
11 important part of the state's responsibility
12 for managing its forests, and I'm going to
13 try to increase our activity in the woods.

14 ASSEMBLYMAN CROUCH: Can you comment
15 on whether the revenues from marketing of our
16 timber on our state forests have -- how it's
17 on the increase over the last few years?

18 COMMISSIONER MARTENS: I can get you
19 the numbers; I don't know them off the top of
20 my head. But we have been increasing slowly
21 over the last several years.

22 ASSEMBLYMAN CROUCH: Very good.
23 Thank you, Commissioner.

24 CHAIRMAN DeFRANCISCO: Senator Phil

1 Boyle.

2 SENATOR BOYLE: Thank you,
3 Mr. Chairman. And thank you, Commissioner,
4 for your testimony.

5 Just a quick comment and then a
6 question. We've spoken before; I want to
7 make another request for the four-poster
8 technology. I represent part of Fire Island.
9 It does a wonderful job for stopping deer
10 ticks or killing deer ticks and helping with
11 the Lyme disease situation on Fire Island and
12 throughout New York State.

13 My question, however, regards
14 Hurricane Sandy and the devastation that was
15 brought to the southern part of New York.
16 Tidal wetlands. Have you done anything on
17 the mapping of tidal wetlands at DEC? And if
18 you have, what kind of time frame are you
19 looking at to release them, or have they been
20 released? Or any mapping at all for the
21 tidal wetlands?

22 COMMISSIONER MARTENS: I confess I'm
23 stumped. I will look into it. I know that a
24 lot of mapping has been initiated in the

1 aftermath of Sandy, but specifically where
2 and how much on Long Island I'm going to have
3 to get back to you on.

4 SENATOR BOYLE: That would be great.
5 No problem. Thank you very much.

6 COMMISSIONER MARTENS: Thank you.

7 CHAIRMAN FARRELL: Assemblyman Otis.

8 ASSEMBLYMAN OTIS: Hello,
9 Commissioner. Thank you for being here.
10 Thank you for your good work.

11 I want to go in a little bit more
12 detail into an issue that Assemblyman Sweeney
13 touched on, which is the needs for
14 municipalities to comply with EPA Phase 2 as
15 MS4s in terms of stormwater cleaning. This
16 is in a sense a federal and state mandate
17 that hasn't really been fully implemented or
18 imposed on municipalities, so it represents a
19 cost that is going to continue to grow.

20 Has DEC done, specifically related to
21 stormwater, any kind of statewide estimate on
22 what the cost burden is going to be for
23 municipalities?

24 COMMISSIONER MARTENS: I'm not aware

1 of any statewide cost estimate.

2 ASSEMBLYMAN OTIS: Have you done any
3 kind of general estimating? I guess you hear
4 from municipalities who are applying for
5 grants or loans. But anything beyond that,
6 to try and give us the scope of the problem?

7 COMMISSIONER MARTENS: I can't give
8 you anything specific. I think the hope on
9 MS4 is that with the increase in acceptance
10 of green infrastructure projects, that the
11 cost is going to come down, that the
12 long-term costs can be reduced by successful
13 green infrastructure programs. In places
14 like New York City, Onondaga County, they've
15 been fairly aggressive and have been very
16 successful. So the more you can reduce
17 runoff into the system, hopefully the cost is
18 going to go down over time. But I can't give
19 you specifics.

20 ASSEMBLYMAN OTIS: The area that I
21 represent in Westchester County, certainly
22 it's a big Long Island Sound issue because
23 those municipalities flow into the sound.
24 And it is one of the contributors, along with

1 the sewage treatment plants, to nitrogen
2 loading in the sand.

3 I can just tell you, from talking to
4 municipal officials, it is a cost burden that
5 they're having a lot of trouble figuring out
6 how to fit into municipal budgets with the
7 limitations they have on what they can spend,
8 and yet this is something that we want them
9 to do. So I would underscore the need for
10 DEC to be more aggressive about trying to
11 figure out a game plan beyond EFC loans to
12 try and get a handle on this and help them,
13 because they need partners.

14 And when you add to that the fact
15 that a lot of these same municipalities all
16 around the state have a new infrastructure
17 cost related to flood mitigation projects,
18 which they also don't know how they're going
19 to have to pay for, the state really needs to
20 play a bigger role through EPF or other kinds
21 of funding streams. Some of the Sandy money
22 will help in terms of the flood mitigation
23 stuff, but this is a problem for the
24 communities that I represent and I'm sure

1 communities all over the state. So thank
2 you.

3 COMMISSIONER MARTENS: Thank you.

4 CHAIRMAN DeFRANCISCO: Senator
5 Krueger.

6 SENATOR KRUEGER: Good morning,
7 Commissioner.

8 COMMISSIONER MARTENS: Good morning,
9 Senator.

10 SENATOR KRUEGER: The budget
11 Article 7 bill has a significant reform for
12 the brownfields tax credit program. I find
13 myself very much in general support of the
14 proposal. Can you tell me how much the State
15 of New York has now already spent on tax
16 credits in the current program?

17 COMMISSIONER MARTENS: I think I read
18 in the paper this morning that it's over a
19 billion dollars.

20 SENATOR KRUEGER: The changes by and
21 large seem to do exactly what's needed to
22 address the concerns that I and many others
23 have had that this money has been spent
24 without successfully targeting real need in

1 underutilized areas that have brownfields.
2 But I am concerned that there's language that
3 would allow Class 2 Superfund sites to use
4 this program.

5 Can you explain how that would work
6 and why I shouldn't be concerned that this
7 would also skyrocket costs in this program?

8 COMMISSIONER MARTENS: I will let
9 Marc jump in, because Marc has been
10 instrumental in the brownfields reform. But
11 I think the idea is that we do want to
12 capture as many sites that will be cleaned up
13 privately as opposed to publicly.

14 If it's a Superfund site where we
15 have to use state Superfund dollars, we'd
16 rather have a private entity spend the money
17 than the state spend the money. And if the
18 cleanup, whether it's a Superfund site or a
19 conventional brownfield site, as long as it's
20 cleaned up to meet our standards -- and
21 again, it has to meet all the new triggers in
22 the brownfield reforms program, which we hope
23 will keep costs down, and again target the
24 tax credits to places that really need them.

1 I think we wanted to make it apply as broadly
2 as possible.

3 But I'll let Marc supplement my
4 answer, if you don't mind.

5 EX. DEP. CMR. GERSTMAN: The only
6 thing I would add is that the program would
7 not allow responsible parties, who are
8 otherwise obligated under law to clean up the
9 site, to be volunteers under the brownfields
10 program. Other than that, not every Class 2
11 site would be amenable for redevelopment. So
12 we have to go through the engineering. Some
13 might be possible, for redevelopment for
14 active or passive use. But that's going to
15 be based on the specifics of a site.

16 SENATOR KRUEGER: And as a follow-up
17 to that, there's been some concerns raised
18 that because this would also allow proposals
19 that had "regional significance" to be
20 included -- and usually when I hear the term
21 "regional significance" I assume that the
22 decisions are being made by the Regional
23 Economic Councils, not by DEC.

24 Could you just clarify for me how we

1 make sure that those outside of DEC are not
2 using criteria that don't meet the
3 environmental standards for what we hope this
4 brownfields tax credit to become versus what
5 it has been? Get overridden by -- I don't
6 know if I'm asking the question exactly
7 right.

8 How do we make sure that the
9 standards we want to have in place don't
10 somehow get overridden where environmental
11 concerns are not the significance versus some
12 other determination of significance?

13 EX. DEP. CMR. GERSTMAN: Any program
14 going through the brownfields program will be
15 required to meet the standards that we have
16 for cleanup, established standards that have
17 been promulgated and applied and are very
18 protective of public health and the
19 environment. The priority economic
20 development projects will be subject to
21 criteria that will be developed in
22 cooperation with the economic development
23 folks in ESDC.

24 SENATOR KRUEGER: So it won't be able

1 to override the private obligation criteria
2 to clean up?

3 EX. DEP. CMR. GERSTMAN: No.

4 SENATOR KRUEGER: Sort of tying in
5 the Superfund question and this question.

6 And then a further concern is that
7 there isn't funding for the BOA efforts that
8 poor communities have been so desperate for.
9 How do we fix that as well?

10 COMMISSIONER MARTENS: I don't have
11 an answer for how we fix that. There was I
12 believe \$10 million in the current-year
13 budget, and quite a number of projects have
14 been funded. I know at least 10 or a dozen
15 or so are getting near completion for
16 certification. And I'm not sure whether the
17 funding in the current-year budget is going
18 to actually bring them into becoming a
19 certified BOA.

20 The Department of State is the entity
21 responsible for the BOA program. I'd like to
22 hope that the appropriation in this year's
23 budget, the \$10 million that's out in grants
24 to applicants, is going to bring a number of

1 communities into the BOA program.

2 SENATOR KRUEGER: And switching
3 gears, about a year ago I sent you a letter
4 along with a couple of my colleagues --
5 Senator Tkaczyk, Senator Avella -- regarding
6 concerns about the risks from seismic
7 activity if fracking were to go forward in
8 New York State, and you haven't responded to
9 the letter yet. And yet there continue to be
10 studies published nationally about concerns
11 about correlations between seismic activity
12 and fracking activities.

13 Is there any chance we could expect a
14 response from DEC?

15 COMMISSIONER MARTENS: I'd like to
16 think the delay is because we're looking at
17 all of those places where it has occurred, to
18 give you the most up-to-date answer possible.
19 But I apologize that you haven't gotten a
20 response yet. I'll track it down and get you
21 a response.

22 SENATOR KRUEGER: We'll send you
23 another copy. Thank you.

24 COMMISSIONER MARTENS: You don't need

1 to. I will make sure I find it. How long
2 ago did you send it?

3 SENATOR KRUEGER: It was about a
4 year.

5 COMMISSIONER MARTENS: That's
6 embarrassing. I'm sorry.

7 CHAIRMAN DeFRANCISCO: How many
8 follow-up calls did you make?

9 SENATOR KRUEGER: I'm not sure.
10 Thank you.

11 COMMISSIONER MARTENS: Thank you.

12 CHAIRMAN FARRELL: Assemblyman
13 Englebright.

14 ASSEMBLYMAN ENGLEBRIGHT: Thank you,
15 Mr. Chairman.

16 Good morning, Commissioner.

17 COMMISSIONER MARTENS: Good morning.

18 ASSEMBLYMAN ENGLEBRIGHT: First I
19 just want to thank you for your appearance
20 here this morning and, as always, a very
21 professional response to our questions.

22 I have a couple of questions. The
23 Governor is proposing extensive changes in
24 the DEC pesticide regulatory authority,

1 eliminating significant provisions that
2 relate to pesticide use and category of
3 pesticide application, region of application.

4 Some of the features of this proposal
5 include eliminating the DEC's annual report
6 of pesticide sales and substituting reporting
7 of this information by county. That appears
8 to be a balkanization of information. And
9 further, there are limits in the amount and
10 type of pesticide information to be made
11 available for public information.

12 So I have a couple of questions about
13 this. First, how is balkanization of
14 information consistent with the Governor's
15 initiative to bring about consolidation for
16 efficiency generally? This seems to run
17 exactly counter to that. To find out what's
18 going on statewide, you'd have to go to
19 62 counties separately instead of just to
20 your agency.

21 So the first question is, how is that
22 consistent with the general theme of
23 consolidation that the Governor has made a
24 great deal of emphasis on? And secondly, how

1 is this in the public's interest?

2 COMMISSIONER MARTENS: The intent
3 here was to try to improve the data we
4 receive and the usability of the data.

5 We've had a lot of criticisms of the
6 data that we collect now, that it's not
7 really usable for the purpose that it was
8 intended for, which was to help researchers.
9 I know that concern, you know, originally was
10 because of the high incidence of breast
11 cancer on places like Long Island. So it was
12 supposed to be made available to researchers.

13 Despite the fact that we've been
14 collecting the data for years, I think almost
15 20 years, it hasn't been used. So we're
16 trying to find a way we can get data -- and
17 the other problem with it is that it's not
18 publicly accessible because it involved data
19 that came from specific -- that was applied
20 at specific addresses.

21 So it hasn't been used, as far as I
22 see, Assemblyman, and it hasn't been widely
23 made available publicly. And we hope that
24 the data that we collect now will cover a

1 broader universe of pesticides and it will be
2 more available to a wider audience.

3 Whether we've got it perfect, we're
4 obviously happy to talk about. But that was
5 the intent, was really to make the data, one,
6 more usable and more accessible.

7 ASSEMBLYMAN ENGLEBRIGHT: Well, I
8 appreciate that. It seems to me that some
9 researchers have had problems getting
10 responsiveness from the DEC.

11 But setting that aside, the premise
12 of the original law was to gather data over a
13 period of time of 20 or more years. So we're
14 just now getting into that period of time
15 where we would have enough data to make use
16 of it. So making access to this data going
17 forward, to have to go to each county really
18 doesn't seem to be consistent with the
19 legislative intent.

20 Anyhow, let me ask, in the limited
21 time I have here, about the status of the
22 SEQR permitting process, that you're planning
23 to make some substantial changes to that.
24 What exactly are you planning, and why is

1 this, again, in the public interest?

2 COMMISSIONER MARTENS: SEQR is one of
3 those laws that has been heralded and
4 criticized by many for many years. It's a
5 really important law. But I think the
6 primary criticism is that it's unnecessarily
7 used to delay projects.

8 So the types of things that we're
9 considering and we've been talking to
10 stakeholders about are putting stiffer time
11 frames on SEQR. Things like mandatory
12 scoping, which most people support. That you
13 have to go through a scoping process because
14 if you don't on the frond end of the SEQR
15 process, it can result in delays later on.
16 So you identify the issues up-front and, once
17 you've identified them, you move on and you
18 stick to these issues.

19 We're also considering, you know,
20 what I would consider modest changes to
21 things like the Type 2 list and the Type 1
22 list. Things that would encourage, things
23 like smart growth. We're trying to eliminate
24 review of things that are universally

1 accepted as not to have impacts on the
2 environment.

3 So I would not characterize this as a
4 major overhaul of SEQR in any way. What
5 we're trying to do is to improve it a bit,
6 encourage the right type of projects so they
7 don't have to go through SEQR. But we've had
8 two years of stakeholder meetings, and
9 there's a lot of disagreement about what is
10 the right way to reform SEQR. But we are
11 going to put a proposal out for public review
12 hopefully later this year.

13 ASSEMBLYMAN ENGLEBRIGHT: Well,
14 Mr. Chairman, I am cautious about changing
15 SEQR. And thank you for your response.
16 We'll look forward to more information.

17 And I'm sure, Mr. Sweeney, you will
18 also have interest in this as we go forward.

19 Thank you, Mr. Chairman.

20 CHAIRMAN FARRELL: Thank you.

21 CHAIRMAN DeFRANCISCO: The Remedial
22 Waste Tire Fund, how many positions at DEC
23 are funded by that fund? And you don't have
24 to give them to me now, because obviously I'm

1 trying to figure it out, because money is
2 being collected. And whether or not that
3 fund is really being used for waste tire
4 cleanup or other employees is important to
5 me.

6 So what I'm looking for is really how
7 many employees you have, what's the cost, and
8 how many are totally doing work for the
9 Waste Tire Remedial Fund.

10 COMMISSIONER MARTENS: The short
11 answer is both. I mean, it is cleaning up
12 tire waste sites and it funds employees that
13 work making sure that those sites are cleaned
14 up. But I'm happy to get you the numbers.

15 CHAIRMAN DeFRANCISCO: Yeah, I'm
16 trying to get the numbers as far as people
17 and the costs, which way they go.

18 Same thing with the Superfund.

19 And that's all I want to ask at this
20 time.

21 COMMISSIONER MARTENS: Be happy to
22 provide that for you.

23 CHAIRMAN DeFRANCISCO: Thank you.

24 CHAIRMAN FARRELL: Assemblywoman

1 Glick.

2 ASSEMBLYWOMAN GLICK: Good morning,
3 Commissioner. Thank you very much for your
4 testimony.

5 Just a couple of follow-up questions
6 on the issue of brine. We are getting water
7 that has brine in it. Is that, did you say,
8 from other states?

9 COMMISSIONER MARTENS: I don't
10 believe so from other states. I think the
11 brine that we have issued beneficial-use
12 determinations for has come from New York
13 wells.

14 ASSEMBLYWOMAN GLICK: Do we ever test
15 that for naturally occurring radioactive
16 materials?

17 COMMISSIONER MARTENS: I believe when
18 it goes through the beneficial-use
19 determination, the waste is tested.

20 ASSEMBLYWOMAN GLICK: And do we have
21 any testing that might follow up, after it's
22 been used, whether there is any change in the
23 water quality in the area around the roads
24 where it's used?

1 COMMISSIONER MARTENS: I'm not aware
2 of testing after the fact. Obviously if
3 someone reported a water quality problem, we
4 would pursue it.

5 You know, whenever salt or brine is
6 applied to roads generally, it can cause
7 water quality problems to surface water from
8 runoff. I mean, salt is a big issue, and
9 that's what brine is, is very salty water.

10 ASSEMBLYWOMAN GLICK: So just to be
11 clear, none of this is coming from other
12 states?

13 COMMISSIONER MARTENS: I will
14 double-check that to make sure that I'm
15 accurate.

16 ASSEMBLYWOMAN GLICK: Okay. One
17 quick question about -- you run campsites.
18 Not as many as State Parks, but do you
19 envision any of those being closed this year?

20 COMMISSIONER MARTENS: No, I do not.

21 ASSEMBLYWOMAN GLICK: And in the
22 areas where there is quarrying, it's a mining
23 operation, they're quarrying, they have a
24 permit, some operations, with the downturn in

1 the economy, went into bankruptcy. And
2 there's usually a reclamation afterwards.
3 Have you had any of the -- (a) do you inspect
4 them to make sure they have been reclaimed?

5 And if they have gone bankrupt and
6 don't have enough in the bond to cover that,
7 what happens with these sites in terms of
8 restoration of those sites?

9 COMMISSIONER MARTENS: We do require
10 financial security. And I'm not aware of any
11 situations where it's been, you know,
12 abandoned and there wasn't enough financial
13 security in place to do the reclamation.

14 But I'd have to talk to my mining
15 folks and find out if we have any current
16 problems in places. Maybe you're aware that
17 we do.

18 ASSEMBLYWOMAN GLICK: You might.

19 COMMISSIONER MARTENS: Okay. Well,
20 I'm happy to look into it.

21 ASSEMBLYWOMAN GLICK: Thank you.

22 COMMISSIONER MARTENS: You bet.

23 CHAIRMAN FARRELL: Thank you.

24 SENATOR KRUEGER: Senator Mark

1 Grisanti, second round.

2 SENATOR GRISANTI: Thank you. Thank
3 you, Senator.

4 Commissioner, just a couple of notes.
5 I agree with Assemblyman Sweeney on the issue
6 of infrastructure. As we know, combined
7 sewer overflows are a problem. Recently in
8 the Western New York area it resulted not
9 only in the flooding, with the combined
10 sewers overflow, but also damage to the water
11 treatment facility plants in Niagara Falls,
12 where it knocked out some generators, and
13 also in Lockport. And I agree with
14 Assemblyman Sweeney that we need to do
15 something as far as getting monies for help
16 to municipalities to resolve that problem.

17 On another note, what Senator Boyle
18 talked about, yesterday we had actually
19 started with Senator Kemp Hannon a task force
20 on Lyme and tick disease because we've seen
21 the migration going north and the problem
22 that it's causing. And that's something that
23 we are gathering materials from and will
24 share it with you and your staff with regards

1 to that problem.

2 You know, 20 years ago when the real
3 estate transfer tax was put in place by this
4 Governor's father, Mario Cuomo, it was a
5 funding source for EPF. And when we had a
6 decline in real estate, when we had a decline
7 in that transfer tax, EPF, you know, declined
8 and then sometimes it stayed the same.

9 But, you know, my whole thing with
10 the EPF is we need to get that figure way
11 above. I'm shooting for \$200 million.
12 Because as RETT is actually increasing, EPF
13 should be increasing with it. I don't want
14 to see funds being swept from a dedicated
15 funding source for EPF or money that should
16 go to the DEC for things that you need.

17 And, you know, Senator DeFrancisco
18 mentioned it with regards to the tire fund.
19 I mean, that was swept in the past. And
20 that's something that if it's a dedicated
21 source of revenue from when you buy a tire
22 and there's a fee involved, to have that
23 money in there to help other projects -- it
24 could probably help Senator Ritchie's

1 projects that she was talking about with
2 regards to collection of tires.

3 You had mentioned staffing cuts and
4 constraints, and I know -- and they come in
5 my office, the forest rangers, the
6 environmental conservation officers, they're
7 constantly responding to environmental
8 complaints, protecting the environment.
9 They're deployed 24 hours a day to manmade
10 and natural disasters, search-and-rescue
11 missions, fires and a lot more. And I know
12 that you care deeply about the individuals
13 that are in both of those groups.

14 Their numbers are shrinking. I know
15 you've talked about staffing cuts. You know,
16 wait times are increasing, rescue missions.
17 Are there plans in the works for a new
18 academy? Because there hasn't been an
19 academy in a while. Are there plans for an
20 academy, and can you talk a little bit about
21 the ability to address that situation with
22 the forest rangers and the environmental
23 conservation officers?

24 COMMISSIONER MARTENS: Senator, I

1 appreciate your comments and I do hold both
2 our environmental conservation officers and
3 forest rangers in very high regard. I don't
4 think there is any documented evidence that
5 there's been longer wait times for these
6 folks to respond. They have responded
7 immediately to every crisis that I'm aware
8 of, and then some.

9 We did graduate an academy this year.
10 I was very proud to speak at the commencement
11 ceremony for 48 new ECOs and rangers, which
12 brought back the level of ECOs and rangers
13 to -- not to historic levels, but it brought
14 it back to a level where I think we have a
15 good complement and a good geographic
16 distribution of our rangers and ECOs.

17 The problem obviously is to bring in
18 new rangers, they have to go through an
19 academy. And the academy is an expensive
20 proposition, it's a 10-week program or
21 longer. It's a long program. It's a
22 residential program. We put them up, we
23 train them extensively. It's very difficult.
24 Not every person that we brought into the

1 academy graduated because of the difficulty.

2 Ideally, we would probably need an
3 academy every other year. So that would mean
4 that in 2015, that would be my hopes, again,
5 for having another academy to account for
6 whatever attrition occurs in the forces
7 between now and then. Because we will lose
8 people to retirements and the ranks will be
9 depleted, if you will. So regular academies
10 is absolutely critical to keep up the level
11 of both the rangers and ECOs.

12 But I'd say, you know, the academy
13 graduating 48 individuals this year was a big
14 help to the department.

15 SENATOR GRISANTI: And on another
16 note, along with the new arrivals of some of
17 the academy members -- and you're right, with
18 retirement and attrition, that's a concern,
19 because you're going to want to have new
20 officers, especially with the additional land
21 in the Adirondacks that have been purchased
22 by the state, so on and so forth.

23 And vehicles as well. That's another
24 issue where, you know, I know you've received

1 funding for some new vehicles, but I can
2 imagine that you need more with regards to --
3 is there a pot of funding in the DEC that
4 allows the purchase of vehicles and updated
5 equipment for those two organizations?

6 COMMISSIONER MARTENS: We will be
7 dedicating capital, hard-dollar capital this
8 year to purchase another 250 vehicles on top
9 of the hundred or so that we purchased last
10 year. So vehicle replacement is obviously
11 critical to us. We have to keep them in good
12 running order. For years the vehicles were
13 not replaced in a timely way, so the fleet
14 has deteriorated some. And I'm working hard
15 to bring it back up to snuff.

16 SENATOR GRISANTI: Okay. Then the
17 only other comments I've got is with regards
18 to brownfields, you know, significantly --
19 and I think Senator Krueger touched on
20 this -- BOA monies is something that I think
21 needs to be implemented in there as well.

22 The work plan, I'll comment that the
23 90 days of approval for the plan to start, I
24 think it might be too short. That's another

1 concern. And some remediation costs that may
2 be excluded under the new plan that weren't
3 excluded before, that can be an issue. But
4 that's something that I and my staff will put
5 something together addressing some of the
6 concerns. And, Marc, I'll share that with
7 you moving forward.

8 But I appreciate your testimony here
9 today and your candidness and your staff and
10 all your hard work and dedication. Thank
11 you.

12 COMMISSIONER MARTENS: Thank you,
13 Senator.

14 CHAIRMAN FARRELL: Thank you.
15 Assemblyman Stec.

16 ASSEMBLYMAN STEC: Thank you.

17 Good morning, Commissioner.

18 COMMISSIONER MARTENS: Good morning.

19 ASSEMBLYMAN STEC: First, before I
20 ask a few questions, I do want to thank you
21 and your staff for your tremendous efforts
22 last year in the Adirondacks, and
23 particularly the two constitutional
24 amendments that we worked on, the Finch land

1 classification -- which when I talked to
2 people, I'd say 98 percent of them thought it
3 was a very reasonable compromise and a good
4 outcome from every perspective.

5 And as was mentioned today, I also
6 know that you've had a few very high-profile
7 search-and-rescue efforts in the Adirondacks,
8 and employing a lot of manpower from your
9 rangers and your ECOs. And we certainly
10 appreciate everything that they do,
11 especially myself personally, because I'm one
12 of those guys trouncing around in the woods
13 up there. Hopefully I never have to call on
14 their services.

15 COMMISSIONER MARTENS: We'll be there
16 if you need us.

17 ASSEMBLYMAN STEC: Thanks.

18 A couple of quick questions. First,
19 I want to ask a little about some more detail
20 in your thoughts on aquatic invasive species.
21 As you know, I'm proud that Warren County
22 took a very proactive and leadership position
23 on this as it pertains mostly to Lake George
24 over the last few years, and I think we've

1 turned a corner there and we're heading in a
2 good direction there.

3 And I'm encouraged that the state and
4 your department is now looking at a statewide
5 perspective on aquatic invasive species. Of
6 course, just taking my Lake George
7 perspective and knowing the numbers involved
8 there for funding, this can be staggering.

9 So I was just curious if you could
10 share a little more detail on the plan. And
11 then, of course, the big question here today
12 is funding of the plan and where the
13 sources are likely to come from for aquatic
14 invasives.

15 COMMISSIONER MARTENS: Thank you,
16 Assemblyman. I will share the actual plan
17 with you hopefully in April. Staff has been
18 working on a statewide plan for probably over
19 a year now, and we hope to put it out in a
20 couple of months.

21 I think you're right, what you won't
22 find is that we're going to try to replicate
23 the experience in Lake George every place in
24 the state, because I don't think it is

1 possible financially. But it's also not
2 necessary. Not all lakes get the same kind
3 of traffic that Lake George does or have the
4 same type of aquatic environment that Lake
5 George does. So it is certainly not
6 one-size-fits-all.

7 We have dedicated resources to help
8 that effort in Lake George, and we're very
9 much regarding it as a two-year pilot because
10 we want to see if it works the way people
11 hope it works. And we certainly hope that
12 things like the Asian clam is arrested,
13 finally, and that it's successful.

14 But, you know, there's lots of
15 different ways to approach aquatic invasive
16 species. I mentioned that we've done two
17 separate rulemakings, one proposed and one
18 final, following up on legislation that you
19 all passed. The most recent is a state law
20 prohibiting people from putting boats and
21 trailers in water bodies at DEC facilities
22 where we have jurisdiction. It's just a
23 tool, it's an enforcement tool. It's really
24 meant to discourage people, create awareness.

1 In the end, I think public awareness
2 of the problem is half the battle. Because
3 if people don't recognize that when they have
4 plants and animals attached to their boats
5 and trailers that could cause a huge problem,
6 it is impossible to police everywhere kind of
7 all the time. It's a huge task.

8 But, one, creating laws that are
9 disincentives and enforcing them when
10 appropriate. I think is going to create a lot
11 of public awareness. So public education
12 will obviously be a big part of it.

13 We fund through the EPF these
14 regional partnerships and invasive species
15 management programs, PRISMs, as they're
16 known, throughout the state. Those are our,
17 you know, kind of feet on the ground where we
18 work with not-for-profits like The Nature
19 Conservancy and others to come up with
20 localized plans, and the EPF provides the
21 funds to them to actually implement specific
22 projects in different regions where there are
23 different pests that are problematic.

24 And it's not all about lakes, it's

1 also terrestrial problems as well. The ash
2 borer is a huge problem, and thanks to some
3 federal funds we've been successful in
4 addressing at least the slowing down, we
5 think, the spread of that across the state,
6 to stop ash mortality.

7 So it's a multiheaded beast, and we
8 hope the statewide plan again furthers the
9 cause. And we'll probably be talking to you
10 more about any additional legislation that we
11 feel we might need in the future.

12 ASSEMBLYMAN STEC: Well, I thank you
13 for that. Certainly my concern -- and I
14 agree with you that each lake and each need
15 is going to be tailored, which makes your job
16 a little more difficult. But I think you're
17 absolutely right, you couldn't treat every
18 lake the same. I don't think it's feasible.

19 But one of my concerns long-term for
20 the funding -- because while we've been
21 talking about plans, the debate on funding
22 hasn't really hit the front page yet. But
23 certainly a lot of local governments, a lot
24 of private property owners are concerned, you

1 know, what is the local share going to be,
2 should there be a significant local share on
3 state-owned waterways. And then of course,
4 you know, the impacts of dock fees, boat
5 fees, tax overlay districts. I mean, you
6 know, it's potentially very expensive.

7 The other question I had is regarding
8 UMPs, unit management plans, and the review
9 process really, you know, from a budgetary
10 perspective. I'm not familiar with the
11 number that are out there, but I know that
12 there's a goal to periodically review all of
13 them. And I was just -- my question is are
14 we keeping up, or is there a targeted review
15 shelf life for them, and what does our
16 current average perhaps stand at? And where
17 I'm going with that is, is your department
18 adequately staffed to keep up with these UMP
19 reviews?

20 COMMISSIONER MARTENS: Like with most
21 of our work, it's a bit of triage. We put
22 the highest-use public lands at the top of
23 the list for completion of UMPs. Where there
24 are issues with public use, we obviously want

1 get those done.

2 And I don't know, I'll have to get
3 you the specific numbers on how many we do
4 annually. Whether that's increased or
5 decreased, I'm not sure. They come across my
6 desk routinely; I just approved two in your
7 neck of the woods for Hurricane Mountain and
8 St. Regis, specifically for the fire towers
9 there. Those were areas that get a lot of
10 public use, there was a public interest, so
11 staff -- you know, those again went to the
12 top of the list.

13 So we try our best to keep up, but we
14 start with the ones that will have the most
15 impact on public use and where issues of
16 public use are the most significant.

17 ASSEMBLYMAN STEC: And I'll just
18 close by saying I know that these two
19 questions that I asked are really related to
20 a bigger theme that I know you get from a lot
21 of local government folks, like myself used
22 to be in the Adirondacks, about future land
23 acquisition and balancing your ability to
24 care for the land you currently have. And

1 those are not your decisions to make these
2 land purchases, they come at a higher level.

3 But moving forward, you know, the
4 idea that we need to make sure that we've
5 taken care of the land we currently own
6 before we volunteer to purchase more land.
7 Everyone wants to buy land, but we need to be
8 stewards of what we've already taken on. So
9 that's my perspective.

10 COMMISSIONER MARTENS: Appreciate it.
11 Got it.

12 ASSEMBLYMAN STEC: Thank you.

13 CHAIRMAN FARRELL: Thank you.

14 CHAIRMAN DeFRANCISCO: Senator
15 Krueger.

16 SENATOR KRUEGER: DEC certainly has a
17 diverse set of responsibilities. I noted in
18 the Article 7 bill relating to outdoor
19 sports -- and please understand, my views of
20 hunting often tie into my concerns about
21 child welfare, so I'm famously known as
22 Senator No Fun in the Senate when I argue
23 there are child-welfare issues involved with
24 young people and hunting.

1 So in this Article 7 bill it allows
2 crossbows to be used within 150 feet of
3 structures and homes when the current law is
4 500 feet. Now it would be treating crossbows
5 the same way as longbows, as opposed to guns.
6 And frankly I'm very concerned that
7 crossbows are a very powerful hunting item
8 and can be shot with enormous power and go a
9 very long way. Are you not concerned about
10 allowing these to be used within 150 feet of
11 where people and children live?

12 COMMISSIONER MARTENS: All I can tell
13 you, Senator, is that I have been reassured
14 by my staff, many of which are very
15 knowledgeable about crossbows and longbows,
16 that 150 feet is a safe distance, that the
17 arrows lose their force long before the
18 150 yards.

19 SENATOR KRUEGER: You said yards. I
20 think it was feet. Am I wrong?

21 COMMISSIONER MARTENS: Excuse me,
22 feet. Yes, I'm sorry, feet.

23 SENATOR KRUEGER: Okay. So it's
24 50 yards.

1 COMMISSIONER MARTENS: Yes, 150 feet.

2 SENATOR KRUEGER: And would your
3 staff argue that if there were -- I mean,
4 there's continual changes in the definitions
5 of and technology with crossbows. My
6 understanding is some of them are enormously
7 powerful and can go far farther than
8 50 yards. Perhaps you could get back to me
9 at another time with some kind of research
10 that the current era of crossbows would
11 assure us that we wouldn't be putting
12 children at risk.

13 COMMISSIONER MARTENS: Yes, I'd be
14 happy to. Obviously I would share your
15 concerns.

16 SENATOR KRUEGER: Thank you.

17 CHAIRMAN FARRELL: Assemblyman
18 Sweeney for a second go.

19 ASSEMBLYMAN SWEENEY: Thank you,
20 Mr. Chairman.

21 I want to follow up on a few
22 questions asked by other members, Joe.
23 Mr. Crouch asked you a question about revenue
24 from forest products, and you indicated it's

1 significant and you hope to grow that even
2 more, so to speak.

3 Where does that revenue go to?

4 COMMISSIONER MARTENS: The natural
5 resources account, special revenue fund.

6 ASSEMBLYMAN SWEENEY: Okay.

7 Mr. Englebright asked you about the
8 pesticide, the changes, which I share some of
9 his concerns. There is a proposed change on
10 reporting requirements in a couple of
11 respects -- first of all, putting the burden
12 on retailers instead of applicators.

13 COMMISSIONER MARTENS: Right.

14 ASSEMBLYMAN SWEENEY: And also
15 eliminating the availability of site-specific
16 information rather than place of purchase.

17 And I heard your answer, which is
18 something primarily used by researchers, that
19 some of the changes were intended to assist
20 researchers.

21 But when you're talking about
22 something like developing a breast cancer
23 map, for example, which I think you
24 specifically referenced, I'm not entirely

1 sure how reporting the location where product
2 is sold is better information for a
3 researcher than telling them where it was
4 applied. So those two changes in particular
5 concern me.

6 Can you address that, or would you
7 like to get back to me on that? Either way
8 is fine.

9 COMMISSIONER MARTENS: I'd like to
10 get back to you. What I have heard, you
11 know, from the research community, I think
12 it's the Health Research Science Board
13 basically suggested abolishing the provisions
14 that are currently in law because the data
15 has been unusable. So we're trying to come
16 up with more usable data and also data that
17 would be more widely available.

18 So again, we're open to improvements
19 in this regard, and I'm happy to talk to you
20 about it. But the data that we've been
21 generating apparently has not been helpful.

22 ASSEMBLYMAN SWEENEY: Okay. I would
23 like to learn more about that.

24 COMMISSIONER MARTENS: Marc makes a

1 good point. It's that the information now
2 does not include information from
3 agricultural users and from homeowners' use.
4 So that's a whole segment that has been
5 absent from the database, and we hope to pick
6 up that by having the reporting come from the
7 sales data. Because that will pick up people
8 who buy products for home use as opposed to
9 agricultural use.

10 ASSEMBLYMAN SWEENEY: I think the
11 point is that finding out where people buy
12 the product is not as useful as finding out
13 where they apply the product.

14 If you're going to do, for example, a
15 breast cancer map and you want to know where
16 the problem areas are -- and, you know, I get
17 calls, I'm sure there are other members who
18 get calls; Mr. Englebright has done a lot of
19 work on this subject -- they want to know
20 what it means in their neighborhood. You
21 know, they don't necessarily want to know
22 where the product was sold, you want to know
23 where it's applied.

24 So if you could look at it from that

1 respect, I think it would be -- and let me
2 know -- that would be helpful.

3 COMMISSIONER MARTENS: You bet.

4 ASSEMBLYMAN SWEENEY: Ms. Glick asked
5 you about abandoned well sites. Is it not
6 accurate to say that there are hundreds if
7 not thousands of abandoned well sites in
8 New York State?

9 COMMISSIONER MARTENS: I'm not sure
10 we were talking about wells. It was
11 quarries, I think, that she asked about.

12 ASSEMBLYMAN SWEENEY: Okay. Well,
13 let me ask you about well sites, then. Is it
14 not accurate to say that the money that --
15 there was money that was paid into a fund.
16 That fund was swept, I believe, correct?

17 COMMISSIONER MARTENS: It has been.

18 ASSEMBLYMAN SWEENEY: At least once.
19 I don't know what's left in it, if anything,
20 anymore.

21 COMMISSIONER MARTENS: It's not a
22 very well capitalized fund. In the first
23 place, it's only \$100, I think, per
24 applicant.

1 ASSEMBLYMAN SWEENEY: Okay. Would it
2 be reasonable, then, to suggest that with all
3 of these abandoned well sites around the
4 state and with little to no money left in a
5 fund that wasn't well capitalized to begin
6 with, that we're probably not keeping up as
7 well as we should or we might in terms of
8 identifying these sites, reclaiming them,
9 ensuring that they're safe, that sort of
10 thing?

11 COMMISSIONER MARTENS: I think we
12 started that process last year when you
13 approved the NY Works II money that included
14 \$2 million for exactly that purpose. Another
15 \$2 million is included this year.

16 We have put together an RFP for firms
17 to bid on for closing wells, and we've
18 identified the wells that we think are the
19 highest priority in terms of, you know,
20 potential exposure and damage to the
21 environment. So we have two RFPs going out
22 under the current-year contract, and we'll do
23 the same thing next year. And it could
24 result in the closure of dozens if not

1 hundreds of wells.

2 So I acknowledge that this has not
3 been handled well in the past, and these
4 abandoned wells have been neglected. But I
5 think we made a start on it in the current
6 fiscal year, thanks to your inclusion of the
7 funds for it.

8 ASSEMBLYMAN SWEENEY: Thank you.

9 Different subject. Can you tell me
10 when the invasive species regulations will be
11 finalized?

12 COMMISSIONER MARTENS: We're in the
13 public comment process right now. So I'd
14 have to check to see. We were out for public
15 comment; the public comment period is either
16 closed or is closing soon. So we review the
17 comments, do the responsiveness summary, and
18 then we'll finalize the regs.

19 ASSEMBLYMAN SWEENEY: Okay. If you
20 could get back to us with a time frame, I'd
21 appreciate it.

22 COMMISSIONER MARTENS: Sure. I'm
23 sorry, I don't know when the comment period
24 closed.

1 ASSEMBLYMAN SWEENEY: In 2009 we did
2 legislation on E-waste and required
3 manufacturers, as you know, to accept the
4 return of E-waste. There was a report that
5 DEC was required to produce on April 1st of
6 2012. Can you tell me the status of that
7 report?

8 COMMISSIONER MARTENS: I'm looking
9 around. I'll have to check.

10 ASSEMBLYMAN SWEENEY: Okay. And then
11 you also received funding from the EPF to
12 update wetlands maps. What is the status of
13 that project?

14 COMMISSIONER MARTENS: We have
15 several projects underway. I know in the
16 Lake Ontario region we have a wetland
17 remapping project underway. In the Hudson
18 Valley I think we are close to completing the
19 updated wetlands maps. There may be others,
20 Assemblyman, but those are the two that come
21 to mind.

22 ASSEMBLYMAN SWEENEY: Do you have any
23 idea when those reports might be released?

24 COMMISSIONER MARTENS: It will

1 actually not be a report, but it will be new
2 wetland boundaries, proposed new wetland
3 boundaries. We'd have to notify landowners.
4 I'll have to see what our schedule is for
5 getting out notices. But we'll get you that
6 as well.

7 ASSEMBLYMAN SWEENEY: Are those the
8 only two areas of the state being done? Or
9 is it your plan to do additional areas of the
10 state?

11 COMMISSIONER MARTENS: Funding
12 available, we'd like to update the wetlands
13 maps. There are places where they are out of
14 date. So we were fortunate enough to secure
15 some federal funds for that, and we'll be
16 trying to seek more.

17 ASSEMBLYMAN SWEENEY: Thank you.

18 COMMISSIONER MARTENS: You're
19 welcome.

20 CHAIRMAN FARRELL: Thank you.
21 Assemblyman Oaks.

22 ASSEMBLYMAN OAKS: Thank you,
23 Chairman.

24 And welcome, Commissioner. I'd just

1 like to say thank you for your staff and
2 efforts in working and being responsive to
3 us. I know you have regulatory
4 responsibilities and issues, and certainly
5 that's important, but it's critical as well
6 to have positive relationships with those of
7 us in the Legislature.

8 I know earlier you responded to some
9 of the comments about SEQRA and the SPDES
10 process and some discussion on that. I
11 appreciate your response to that. And I know
12 I continue to hear from people not
13 necessarily to -- that changes or help could
14 come, and not necessarily changing compliance
15 requirements, but just making that more
16 responsive and in a timely manner.

17 The Governor mentioned in his State
18 of the State, I believe, about opening up
19 state lands, more availability. We don't see
20 anything in the budget proposal that would
21 align with that. Do we have any sense on
22 when we might understand more what that might
23 include and how that might be rolled out?

24 COMMISSIONER MARTENS: We do have

1 50 projects that are associated with the
2 \$6 million of the NY Works funds in this year
3 that are geographically dispersed around the
4 state. We're happy to get you a list of the
5 projects that are on that.

6 ASSEMBLYMAN OAKS: Thank you. And I
7 know in the Conservation Fund we've done some
8 changes before in fees, licensing fees.
9 There's some more proposed within this
10 budget. With all of the current changes, the
11 proposed changes, where do we stand now with
12 the fund itself? Are we solid with that? Is
13 it in good standing?

14 COMMISSIONER MARTENS: Well, it is in
15 good standing. I think, you know, that we
16 project very conservatively, based on the
17 changes in the fees and the number of license
18 holders we have now. And I believe that we
19 will be good without any changes other than
20 the ones that are currently proposed through
21 fiscal year 2016-2017.

22 And we have, again, projections that
23 we can give you where our hope, of course, is
24 that with all of the additional marketing

1 that the Governor has talked about in the
2 State of the State, and with the lowering of
3 some of the licenses, that we're actually
4 going to attract more license holders and
5 purchasers of fishing and hunting licenses.
6 So that will actually increase revenue.

7 But that's not how we plan. We plan
8 as conservatively as possible. And the
9 2016-2017 budget, again conservatively, we
10 will not need any license increases to
11 support the existing level of programming
12 until that year.

13 ASSEMBLYMAN OAKS: Thank you,
14 Commissioner.

15 COMMISSIONER MARTENS: You're
16 welcome.

17 CHAIRMAN FARRELL: Thank you.
18 Assemblyman Crouch.

19 ASSEMBLYMAN CROUCH: Thank you.

20 Commissioner, just one quick thought
21 here, or quick question. In the past I've
22 had a number of agricultural producers in my
23 office complaining about the fact that our
24 pesticide approval program in this state does

1 not align itself with the federal
2 government's approval program. And so you've
3 got other states that are able to use certain
4 new pesticides on certain crops, and in
5 New York we can't. So we become
6 uncompetitive.

7 Especially the small crops, like the
8 berry crops or whatever, I had some berry
9 growers in my office just yesterday talking
10 about the research that Cornell has been
11 doing on a new pest that's now affecting the
12 berry crop, but the pesticide will probably
13 be a long process to get it approved in
14 New York State especially.

15 California, sometimes they have -- of
16 course they have larger amounts of berries
17 grown there, like strawberries and maybe
18 raspberries. So companies can more afford to
19 go through the approval process in that
20 state. As opposed to New York, if it's a
21 small number of acreage in comparison, the
22 companies don't even bother to register here
23 because they know it's going to be a long
24 process, it's going to cost a lot of money.

1 Your thoughts on basically aligning
2 our certification and registration process
3 with the federal government -- my
4 understanding is that some states do that --
5 to be able to give our producers the equal
6 access, if you will, to pesticides and
7 herbicides that will help them be
8 competitive.

9 COMMISSIONER MARTENS: Obviously I've
10 put a heavy premium on trying to get
11 approvals done within my agency as
12 expeditiously as possible. But I think the
13 added layer of product registration in
14 New York is, in my view, being protective of
15 the environment and water quality. And
16 particularly in places where natural
17 resources are particularly sensitive, like on
18 Long Island, where the groundwater is the
19 supply of water, it's warranted to go through
20 the extra layer of review.

21 We do obviously want to do it as
22 quickly as possible, and that's why we've
23 asked for extending the fees permanently so
24 that we have a stable source of income for

1 that program. If there are specific
2 instances where people have had problems and
3 delays are causing problems, let us know
4 about it. We try to be expeditious, but I
5 think it's absolutely critical that we know
6 what we're putting on the ground and on the
7 land, because ultimately it does end up
8 affecting that natural resource -- or could
9 if we are not very cautious.

10 Just coincidentally, and I should
11 have mentioned this earlier, is we have put
12 many of our programs at DEC through what is
13 known as the "lean process." The pesticide
14 program is one of those that's going through
15 a lean process now because we are very
16 sensitive to the fact that there have been
17 delays with getting products registered.

18 ASSEMBLYMAN CROUCH: That's a good
19 process. Good. Thank you.

20 CHAIRMAN FARRELL: Assemblywoman
21 Fahy.

22 ASSEMBLYWOMAN FAHY: Thank you,
23 Commissioner. And it's a pleasure to be here
24 today. Again, sorry I had to step away for a

1 prior commitment.

2 Really pleased about the Executive
3 Order that was issued last night by the
4 Governor. Can you tell me -- and again,
5 really appreciate your assertiveness and your
6 responsiveness, by the way, in delaying the
7 comment period and in agreeing to hold a
8 public hearing on this. So really appreciate
9 the responsiveness.

10 Can you tell me, with the issuance of
11 the Executive Order, does this mean any
12 permit that was being considered for the
13 expansion there at the Port of Albany, does
14 that mean all of that is on hold until we
15 hear back on this Executive Order? Or what
16 does that mean for the permitting process for
17 the building of the new facility at the port?

18 COMMISSIONER MARTENS: It doesn't
19 mean that the permitting process is on hold.
20 We obviously extended the comment period, and
21 we're very interested in hearing from the
22 community.

23 We have to go through the permitting
24 process, and we haven't -- there is no

1 foregone conclusion here one way or the other
2 on the expansion. And I would point out that
3 our jurisdiction on that project is limited.
4 We don't have jurisdiction over the rails,
5 you know, off-site. The application was for
6 a number of boilers to be included so that
7 they could heat the oil for ease of
8 transporting it off the tankers.

9 So the Governor is actually, between
10 his Executive Order and us, appealing to the
11 federal government to act more quickly. We
12 are concerned and want to look at all of our
13 programs that apply to spill prevention and
14 response.

15 Facilities like the one in Albany do
16 have a spill prevention response plan that
17 they submitted to us with their original
18 permit. We're going to be reviewing those as
19 they apply to all facilities across the
20 state, taking a closer look at them, making
21 sure that they are as protective as possible.
22 But we have to work within the limits of our
23 jurisdiction.

24 So while the permit's not on hold, we

1 want to invite public comment, we're going to
2 scrutinize it, and we'll have to make a
3 decision at the end of the day.

4 ASSEMBLYWOMAN FAHY: Okay. And
5 again, appreciate the responsiveness. I know
6 my colleague John McDonald -- the port is on
7 the border of my district, but it's in
8 John McDonald's district, and I know he
9 shares it and has appreciated the
10 responsiveness from your agency. So we'll
11 continue to work with you on that because
12 there are some very serious concerns.

13 And by the way, we know it's not just
14 our districts in Albany, this is a state
15 issue and in many ways has national
16 ramifications, which is why I'm pleased you
17 reached out to the feds on this.

18 Just a very quick question. I know
19 you've addressed a few questions on EPF, the
20 Environmental Protection Fund. And at least
21 it's going up, appreciated to see the small
22 increase that was requested. Can you tell me
23 how many projects, how many grant proposals
24 are going without?

1 In other words, of the proposals you
2 see, are you funding 50 percent? I mean,
3 what would be an amount there if we were to
4 advocate for additional funding in the EPF?
5 What might that be in terms of who's going
6 without or what percentage is going without?

7 COMMISSIONER MARTENS: I don't know
8 the number off the top of my head. And I
9 defer to Anne, who sees a lot of these
10 applications and actually makes sure the
11 money gets to the recipients.

12 But we can certainly tally up the
13 list of applications. We know, for example,
14 in certain categories we have backlogs that
15 we just get to them when we can get to them
16 within the amount that's appropriate. But
17 those kind of numbers we're happy to share
18 with you.

19 ASSEMBLYWOMAN FAHY: Okay. Just to
20 get a sense of it, because I know while at
21 least it moved in the right direction, which
22 is great, it was a little disappointing, just
23 the smaller increase, because that fund is
24 just so critical to so much of the work.

1 And then I just want to associate my
2 comments previously, in terms of the bond act
3 and Albany, with one of Chairman Sweeney's
4 comments on the need for better wastewater
5 infrastructure. Albany is one of those areas
6 that still has some wooden pipes in the
7 ground, so we recognize the need for that
8 investment.

9 And that's it. Thank you so much.

10 COMMISSIONER MARTENS: Thank you.

11 CHAIRMAN FARRELL: Thank you.

12 To close, Mr. Abinanti.

13 ASSEMBLYMAN ABINANTI: Thank you,
14 Mr. Chairman.

15 Good morning, Commissioner.

16 COMMISSIONER MARTENS: Good morning.

17 ASSEMBLYMAN ABINANTI: I'd like to go
18 to a local issue, if I can. Westchester
19 County, Saw Mill River. As you're probably
20 aware, it's one of the many rivers in
21 Westchester County that's constantly
22 flooding. The Army Corps of Engineers has
23 indicated that they have had some money for
24 quite some time to become involved in a

1 project there. We've finally succeeded in
2 passing some legislation in Westchester to
3 get the county involved. There are community
4 groups that are working along the Saw Mill
5 River that want to get something done. The
6 missing piece is the state.

7 We've spoken with DOT, they tell us
8 that you have to be involved. What is your
9 department's plans for dealing with the
10 Saw Mill River, and where will I find some
11 money in this budget that will accomplish
12 that?

13 COMMISSIONER MARTENS: I don't have
14 an easy answer for you. We are the
15 nonfederal partner in all Army Corps
16 projects, so that's why I'm sure DOT said
17 that DEC needs to be involved.

18 We do have NY Works funds that
19 provide our state's share of the cost of
20 federal projects. The specific -- I'm not
21 even sure what stage the inquiry is at,
22 whether it's a reconnaissance study or not.
23 But I'm happy to look into it and find out
24 whether or not we've been even approached for

1 funding on the Saw Mill project.

2 ASSEMBLYMAN ABINANTI: I'd appreciate
3 the response.

4 As a second piece to this, as I
5 indicated, Westchester County, like I'm sure
6 a lot of other of our communities, has very
7 significant flooding problems. And now the
8 county is involved in each part of the
9 county. We've divided the county into
10 watersheds, so it's not confined only to the
11 Saw Mill River.

12 Does your department have a mechanism
13 to fund a piece of each of these studies? I
14 mean, as the newspapers and the TV broadcast
15 several years ago, the Village of Mamaroneck
16 on the east side was under water, and other
17 parts of the county are under water. In my
18 district, parts of Greenburgh, parts of
19 Elmsford. I mean, it's an impairment to
20 business. If we're talking about business,
21 we have businesses that are just literally
22 floating away.

23 So is there a program that you have
24 that local governments, municipalities,

1 counties can avail themselves of some money
2 to move these projects forward?

3 COMMISSIONER MARTENS: Well, the
4 primary focus, for better or worse, has been
5 on the recent spate of flooding, lastly in
6 the Mohawk Valley. And the Governor did
7 secure federal funds for the New York Rising
8 program. And I'm not sure how many
9 communities we're up to, but it's well over a
10 hundred communities that have been invited to
11 participate in that program.

12 ASSEMBLYMAN ABINANTI: I understand
13 the need to address those immediate issues.
14 But we had the immediate problem, and just
15 because Elmsford and Mamaroneck have dried
16 out doesn't mean that the problem isn't still
17 there.

18 COMMISSIONER MARTENS: I understand.

19 ASSEMBLYMAN ABINANTI: And so I'd
20 like to pursue with your office how we can
21 get some money. I mean, we finally have the
22 Army Corps of Engineers on board with some of
23 these, and we've got the county on board.
24 And what's holding us up is the state.

1 COMMISSIONER MARTENS: Well, I wasn't
2 aware that we were holding it up. But I
3 will --

4 ASSEMBLYMAN ABINANTI: Well, I mean,
5 you understand, everybody else is saying
6 "Where's the state, we won't go forward until
7 the state comes down."

8 COMMISSIONER MARTENS: Julie just
9 handed me a little background on the fact
10 that a feasibility study apparently has been
11 undertaken by the Army Corps of Engineers.
12 So that's really the first step in the
13 process. Actually it gets a reconnaissance
14 study, then a feasibility study, which is
15 more detailed --

16 ASSEMBLYMAN ABINANTI: Well, they did
17 that feasibility study several years ago, and
18 I think they're now talking about a new
19 project, saying that the old one is so old
20 because we never moved forward and did
21 anything with it. And so maybe we can have a
22 discussion offline. I'd just like to
23 highlight the issue in public.

24 COMMISSIONER MARTENS: Be happy to.

1 ASSEMBLYMAN ABINANTI: Thank you.

2 CHAIRMAN FARRELL: Thank you.

3 CHAIRMAN DeFRANCISCO: Thank you,
4 Commissioner. And thank you for being
5 willing to serve in your capacity. You're
6 doing a great job at a very difficult time in
7 our history, and the same holds true for your
8 staff. So thank you very much.

9 COMMISSIONER MARTENS: Thank you.
10 Thanks to all of you. I appreciate the
11 support.

12 CHAIRMAN DeFRANCISCO: The next
13 speaker is Rose Harvey, commissioner of the
14 New York State Office of Parks, Recreation
15 and Historic Preservation.

16 (Chanting among the audience.)

17 CHAIRMAN DeFRANCISCO: Can we -- can
18 we please -- can we please have some order.
19 We get your point. Could we have some order
20 so we can continue business.

21 All right, Commissioner.

22 Commissioner, you can begin as soon as the
23 audience will allow you to. Excuse me.

24 Excuse me. Yes, please. Commissioner, would

1 you please go forward.

2 COMMISSIONER HARVEY: Thank you.

3 Good morning, Senator DeFrancisco and
4 Assemblyman Farrell. Thank you for including
5 me in this discussion of the Executive
6 Budget.

7 I'm Rose Harvey, and as commissioner
8 of the Office of Parks, Recreation and
9 Historic Preservation I'm charged with
10 overseeing one of our nation's greatest
11 treasures, the New York Park system.
12 New Yorkers take great pride in the 179 parks
13 and 35 historic sites that comprise the
14 system, and we're looking forward to adding
15 our 180th park this year on the Buffalo
16 waterfront.

17 Governor Cuomo recognizes our parks
18 system is a powerful economic and
19 environmental catalyst with great benefits
20 all across every corner of this state. He's
21 introduced initiatives that are connecting
22 people to the parks, tackling the
23 long-standing infrastructure challenges, and
24 keeping parks open, welcoming and accessible

1 for all New Yorkers.

2 The 2014-2015 Executive Budget
3 provides State Parks with the tools that it
4 needs to continue serving the New York
5 public. It maintains level funding for park
6 operations so that we may offer valued
7 recreational and educational services
8 throughout the state. It continues our
9 commitment to modernize and revitalize the
10 park system's infrastructure and our public
11 facilities. And finally, it maintains robust
12 funding for the Environmental Protection
13 Fund.

14 The parks system this year again was
15 very successful. Despite the devastation of
16 Superstorm Sandy, all our parks were open for
17 Memorial Day weekend and still, in spite of
18 that delay, attracted more than 60 million
19 visitors statewide for the second year in a
20 row, an all-time high.

21 Throughout the season our parks
22 hosted major outdoor concerts, festivals, and
23 hosted hundreds of athletic events -- 5Ks,
24 triathlons, basketball, skating, hockey,

1 tennis, swimming, teams, tournaments and
2 lessons -- to encourage everyone to get out
3 into the great outdoors, to teach them the
4 skills to be active, to be healthy and, in
5 doing so, to provide an economic boost to the
6 local economies.

7 The success of the parks system in
8 2013 has helped to attract large
9 national-scale events. This past year alone
10 we entered into an agreement with the PGA of
11 America and announced that Bethpage State
12 Park on Long Island will host two of
13 professional golf's biggest events -- the PGA
14 Championship in 2019 and the Ryder Cup in
15 2024 -- at the famed Black Course. And as
16 well, we are hosting in 2016 the Barclays.

17 Our historic sites are closely
18 involved in the Governor's "Path Through
19 History," a statewide roadmap, literally and
20 figuratively, that ties together historically
21 and culturally significant sites, locations
22 and events throughout the Empire State. The
23 effort to highlight New York's rich heritage
24 showcases New York State's history and

1 cultural significance and promotes tourism
2 and economic development in communities in
3 every region in this state.

4 Our agency administers one of the
5 strongest historic preservation programs in
6 the nation. Last year the State Historic
7 Preservation Office advanced 97 listings to
8 the State and National Registers of Historic
9 Places, which in turn assists property owners
10 in the preservation of these structures. We
11 reviewed 5,800 state and federal projects for
12 compliance with historic preservation laws,
13 completing these reviews in an average of
14 11 days. Our state and federal historic
15 rehabilitation tax credits spurred more than
16 \$1.1 billion in the redevelopment of
17 commercial properties listed on the National
18 Register, and more than \$14.3 million in home
19 improvements to help revitalize historic
20 neighborhoods.

21 In order for our parks to continue
22 serving their communities and remain anchors
23 of our tourism economy, the Executive Budget
24 for the third year in a row continues making

1 investments in these parks and in these
2 historic sites. There is \$90 million in the
3 NY Works funding for capital improvement
4 projects to provide visitors with safe,
5 welcoming and modern facilities. The first
6 two rounds of this landmark funding has
7 enabled the agency to advance 192 separate
8 projects within 81 parks and historic sites,
9 to restore, to repair, to enhance while also
10 improving energy efficiency and operational
11 efficiency. This year's \$90 million of
12 NY Works funding will allow a dozen more
13 improvement projects to begin in 2014 at all
14 of our sites, which will continue to create
15 jobs, encourage tourism and transform our
16 parks system from a 20th-century to a
17 21st-century park system.

18 In his State of the State address the
19 Governor announced the Adventure License, a
20 new initiative to improve services for many
21 outdoor recreational enthusiasts. The
22 Adventure License includes the option for a
23 Lifetime Empire Passport, offering
24 New Yorkers the opportunity for paying just

1 once and then experiencing all that the parks
2 have to offer for the rest of their lives.
3 It saves frequent visitors thousands of
4 dollars over a lifetime, and it creates a way
5 for people to show their lifetime support for
6 our irreplaceable state park system.

7 For those who enjoy New York's
8 waterways, the Adventure License will make it
9 easier to carry on the tradition of safe
10 boating. New Yorkers who have taken a
11 boating course and received their boating
12 safety certificate can, with just a few easy
13 steps, choose to have the certification noted
14 on their driver's license or nondriver ID,
15 therefore carrying only one card to show that
16 they are certified.

17 Finally, the Executive Budget
18 contains \$170 million for the Environmental
19 Protection Fund. Parks and Historic
20 Preservation administers funding from four of
21 these EPF categories: State Lands
22 Stewardship and Open Space land purchases,
23 which are shared between Parks and Historic
24 Preservation and the Department of

1 Environmental Conservation, along with the
2 Local Parks and Historic Preservation Grant
3 Program and the Zoos, Botanical Gardens and
4 Aquariums, the ZBGA program.

5 The Executive Budget includes level
6 or increased funding for all four categories.
7 For the past two years, the Local Parks and
8 Historic Preservation Grants section was
9 included in the Governor's Regional Economic
10 Development Council Awards, and it proved to
11 be an effective mechanism for promoting
12 tourism and economic development in local
13 communities throughout the state.

14 Thank you again for your commitment
15 to our magnificent state parks system, and
16 I'm very, very appreciative, on behalf of
17 Parks and Historic Preservation, for each and
18 every one, for all of your support for our
19 parks and our historic sites.

20 CHAIRMAN DeFRANCISCO: Senator
21 Grisanti.

22 SENATOR GRISANTI: Thank you, Senator
23 DeFrancisco.

24 Good morning, Commissioner. How are

1 you today?

2 COMMISSIONER HARVEY: Good. How are
3 you?

4 SENATOR GRISANTI: Good.

5 You know, I was happy you mentioned
6 that in your speech about the 180th park in
7 Buffalo, in our region. I was more happy
8 that the NFTA got out of the real estate
9 business and went back to the transportation
10 business.

11 What is the time frame for that park
12 along the Outer Harbor in Buffalo, and what
13 is the plan or what's being done to move that
14 along?

15 COMMISSIONER HARVEY: So we've just
16 completed all of our testing, which will then
17 be reviewed by DEC and Department of Health.
18 We are working out a master plan for it. And
19 we're looking forward to announcing the state
20 park in a few months. And it will be open
21 and operating under NFTA's tutelage for this
22 summer, but with additional programs and park
23 resources.

24 SENATOR GRISANTI: When you have the

1 master plan, is there a comment period that
2 goes out? Are you taking comments right now
3 from groups or individuals regarding what the
4 master plan would look like?

5 COMMISSIONER HARVEY: We're just
6 right now really finishing all of the
7 testing, looking at the marina and how it
8 operates. And we'll get to a public process
9 once we get all the information.

10 SENATOR GRISANTI: Okay. The
11 question that I just asked Commissioner
12 Martens is -- and I've heard this from
13 stakeholders, that the Office of Parks,
14 Recreation and Historic Preservation is
15 sometimes late or slow in paying bills on the
16 ZBGA contracts, including large contracts.
17 It's stressful for a lot of not-for-profits
18 partnering with the state through this
19 program, since ZBGA is a unique operational
20 funding category within the EPF. So when
21 they don't receive their prompt payments,
22 what happens is it affects their ability to
23 continue the programs, including care of
24 living collections and payment of staff and

1 salaries.

2 What, if you know, is the status of
3 ZBGA's grant payments? Are they on schedule?
4 What fiscal year are you involved with? And
5 what are you doing about it, if they're not
6 on schedule, to get that on schedule in the
7 future?

8 COMMISSIONER HARVEY: Actually we've
9 paid almost every single one. And we have
10 just a handful left, and they will be paid by
11 the end of this fiscal year, on time.

12 SENATOR GRISANTI: Okay. And you
13 mentioned the historic tax credits. I was
14 happy to see the amount of redevelopment.
15 I've been pushing each year a Senate bill for
16 an increase in the historic tax credit
17 monies, and I think we can redevelop even
18 more of these projects across the state. And
19 I look forward to trying to push that again
20 this year.

21 And that's all I have for you,
22 Commissioner. Thank you.

23 COMMISSIONER HARVEY: Thank you.

24 CHAIRMAN FARRELL: Thank you.

1 Assemblywoman Glick.

2 ASSEMBLYWOMAN GLICK: It's very good
3 to see you, Commissioner. And I have to say
4 in all the years I've been doing this, I
5 don't know that I've ever seen a commissioner
6 just show up by his or herself and sit at the
7 table alone. So kudos to you for doing this
8 on your own. Even if they may be back there
9 somewhere, most people don't do this without
10 a net.

11 COMMISSIONER HARVEY: I'm totally
12 supported by everyone back there, and they'll
13 probably be getting you the answers to your
14 questions.

15 ASSEMBLYWOMAN GLICK: First of all,
16 parks are incredibly important, and thank you
17 for doing a good job with them.

18 Harriman State Park is relatively
19 close to the city, and there had been a
20 closure of the lake there. And I'm not sure
21 why, and not sure when it would be opening.
22 I think it's Sebago Lake, or Sebago Beach.
23 And it's important because it's so close to
24 the city and yet it is very much the sort of

1 experience that one might have if one had
2 traveled up to the Adirondacks to, you know,
3 Raquette Lake or something.

4 COMMISSIONER HARVEY: So our one of
5 three goals is to get as many people into the
6 parks and get all of our facilities open.
7 Sebago Lake was unfortunately, because of
8 Irene and Lee, flooded out and sustained
9 great damage. And we're looking at using it
10 for events and other areas while we're in the
11 process of getting it back online. And it
12 will be open to the public, it will be used,
13 but it's still under repair.

14 ASSEMBLYWOMAN GLICK: Has that
15 impacted the -- there are -- I don't know if
16 it's a Boy Scout camp or a Girl Scout camp or
17 whether they alternate. Is that a usable
18 facility?

19 COMMISSIONER HARVEY: Well, we have
20 the group camps that are nearby, and actually
21 they still do use it sometimes. And that is
22 a big focus of our Parks Department, is to
23 get them all online, improve them, and get
24 more camps there. And so we will give them

1 all the facilities and all the access that
2 they need.

3 ASSEMBLYWOMAN GLICK: Thank you. One
4 last question which is, for me, very
5 parochial, but it affects probably a larger
6 number of people, and that is the Hudson
7 River Park. It sustained quite a bit of
8 damage through both Sandy and Irene. Some of
9 those dollars that have come in to repair the
10 bulkhead and so forth may be some federal
11 dollars. But I think that there continues to
12 be -- there was extensive damage.

13 But it is, in my humble opinion, not
14 just a park, but it is the western edge of
15 Manhattan. And to some extent having the
16 park responsible for protecting the island's
17 western edge is, I think, a little bit
18 unfortunate to have the park responsible. In
19 the absence of the park, there would have
20 been damage to the island, more damage. And
21 I don't know why the park is being -- why
22 it's limited to the park to repair some of
23 the bulkhead, et cetera.

24 Do you have any thoughts on that?

1 COMMISSIONER HARVEY: I do. You
2 know, our parks, in Sandy, sustained
3 \$120 million worth of damage. But
4 Governor Cuomo was very effective in bringing
5 in the federal dollars. And it's a long
6 process to qualify. And we have been working
7 with the Hudson River Park to make sure that
8 they get through that process and get that
9 federal money.

10 And I know it's on the list for the
11 federal money. I can't say that they're
12 going to get everything, but we are certainly
13 working to make sure that they get their fair
14 share of the federal money.

15 ASSEMBLYWOMAN GLICK: Thank you.

16 CHAIRMAN FARRELL: We've been joined
17 by Assemblyman Nick Perry.

18 Senator?

19 CHAIRMAN DeFRANCISCO: Yes, you had
20 mentioned in your prepared remarks that the
21 first two rounds of the capital funding for
22 the parks advanced 192 separate projects with
23 81 parks and historic sites. How were the
24 sites selected as to where the money was

1 going to go?

2 COMMISSIONER HARVEY: We go through a
3 process working with each of the regions, and
4 each of the regions work with the Friends
5 group and the stakeholders, and a list is
6 developed and vetted. And actually I think
7 in both subsequent years you did get a copy
8 of that list.

9 CHAIRMAN DeFRANCISCO: Okay. And the
10 Legislature got a copy of the list prior to
11 any announcements of any type of the projects
12 that were going to be funded by the money?

13 COMMISSIONER HARVEY: I do believe
14 so.

15 And if you look at criteria, we look
16 at infrastructure, first and foremost,
17 sewage, water, roof repair, boilers. We look
18 at putting back online within the parks
19 recreational facilities that have been closed
20 down -- you know, bathhouses, beaches,
21 athletic fields, whatever it may be. We look
22 at new facilities. Any new facilities are
23 typically in partnership with our Friends
24 group, and actually the new facilities often

1 are leveraged by private donations that are
2 made. And those are kind of the main
3 categories.

4 CHAIRMAN DeFRANCISCO: So are you
5 intending, once there's been some selection
6 process -- and I assume legislators have the
7 opportunity to comment on what their
8 districts may need. Are you going to follow
9 the same process this year where there's
10 going to be a list provided as to how that
11 money is going to be used?

12 COMMISSIONER HARVEY: Yes.

13 CHAIRMAN DeFRANCISCO: Before there's
14 any formal press conferences and the like?

15 COMMISSIONER HARVEY: My
16 understanding is yes.

17 CHAIRMAN DeFRANCISCO: Okay, thank
18 you.

19 CHAIRMAN FARRELL: Assemblyman
20 Englebright.

21 ASSEMBLYMAN ENGLEBRIGHT: Thank you,
22 Mr. Chairman.

23 Commissioner, how are you today?

24 COMMISSIONER HARVEY: Good.

1 ASSEMBLYMAN ENGLEBRIGHT: It's
2 wonderful to see you.

3 First, I just want to say thank you
4 for your response in the Sandy crisis. Your
5 agency was heroic. That's in one word a
6 summation.

7 COMMISSIONER HARVEY: They were.
8 Everyone behind me was.

9 ASSEMBLYMAN ENGLEBRIGHT: Everybody
10 in the agency really deserves recognition and
11 appreciation. But especially at the
12 leadership level, you and your immediate
13 staff, thank you.

14 COMMISSIONER HARVEY: Thank you for
15 that acknowledgment.

16 ASSEMBLYMAN ENGLEBRIGHT: I have a
17 couple of questions. The state's Heritage
18 Area Program, it seems to me that with the
19 Path Through History initiative that there's
20 an opportunity to revitalize the relationship
21 between the Heritage Areas and your agency,
22 or at least to plan for a more active
23 integration of that program with the agency.
24 I just wonder, do you have any thoughts in

1 that direction? What are your plans or the
2 possibilities?

3 COMMISSIONER HARVEY: The Heritage
4 Areas are our crown jewels and gems, and
5 they're local partnerships with the
6 localities and private groups and with the
7 state. And they are woven into the Path
8 Through History and part of that roadmap, and
9 I think the Path Through History is bringing
10 more visitation.

11 As well, we've encouraged all of the
12 Heritage Areas to continue to apply for CFA
13 grants, because they're all about economic
14 development. And in the last two years
15 they've received over \$5 million of grants to
16 promote them, to fix, you know, to restore
17 buildings, whatever it will be. And those
18 decisions should be local and made by the
19 local partners.

20 ASSEMBLYMAN ENGLEBRIGHT: Let me
21 shift to something again related. I think
22 the Path Through History that the Governor
23 has initiated is really one of the most
24 impressive initiatives of our recent time.

1 And within the context of its potential, I'm
2 just wondering if the other great parks
3 system inside of the orbit of State Parks,
4 which is the ZBGA orbit of parks -- these are
5 private, not-for-profit parks, but they form
6 a parallel universe with State Parks. The
7 relationship presently is mostly that they
8 come to ask for money through the ZBGA
9 program, and that's the main nature of the
10 relationship.

11 I'm just wondering if you see an
12 opportunity within the context of the Path
13 Through History type of initiative for making
14 a more robust connection between these zoos
15 and botanical gardens and aquaria sites,
16 which are parks, in the not-for-profit world
17 with a public/private type of partnership.
18 That already exists, but I'm just wondering
19 if there's a way to enhance it going forward
20 within the context of its potential for
21 economic stimulus, tourism enhancement
22 similar to what the Path Through History
23 theme is about.

24 COMMISSIONER HARVEY: I think it's a

1 great idea. And we do have some informal
2 partnerships. They help to advise us on
3 environmental education --

4 ASSEMBLYMAN ENGLEBRIGHT: And they
5 have Sonnenberg Gardens as an interesting
6 model.

7 COMMISSIONER HARVEY: Right. Right.
8 But to the extent that we can weave
9 them more completely into the Path Through
10 History and deepen and enrich that
11 partnership, a great idea.

12 ASSEMBLYMAN ENGLEBRIGHT: Thank you.

13 Just a request, the Susan B. Anthony
14 House in Greenwich is languishing. If you
15 could just take a look at it to see if
16 there's a way to bring it into adaptive
17 reuse. It's vacant. It would seem to me
18 that there's an opportunity, again, to weave
19 it into the types of programs you've just
20 been discussing, and perhaps to have a guest
21 curator or perhaps even a business for
22 utilization of the site.

23 Again, thank you very much for all
24 the good work. You make us proud. Thank

1 you.

2 COMMISSIONER HARVEY: Thank you.

3 CHAIRMAN FARRELL: Assemblyman

4 Walter.

5 ASSEMBLYMAN WALTER: Thank you very
6 much, Commissioner, for being here. Thank
7 you, Chairman.

8 Just to follow up on some of the
9 questions that Senator DeFrancisco had
10 regarding the project list for funding for
11 the NY Works, the \$90 million, you do not
12 currently have a list of the projects that
13 you hope to fund with this \$90 million?

14 COMMISSIONER HARVEY: We do, in that
15 we -- the NY Works is the first
16 substantial -- the Governor has made the
17 first substantial capital in over 30 years,
18 and we're now on our third year. And some of
19 that is to finish what we've already started,
20 and then as well to go forward with other
21 projects.

22 ASSEMBLYMAN WALTER: How much money
23 is left over from the previous allocations or
24 uncommitted at this point?

1 COMMISSIONER HARVEY: Actually,
2 almost all of the first year is either almost
3 spent or committed. And of the second year
4 of the \$90 million, almost all of that is
5 spent or committed. And now we move forward.

6 ASSEMBLYMAN WALTER: If I could get
7 or everyone, certainly, could get a list of
8 the projects that are already completed and
9 the ones yet to be completed based on what
10 you've already developed, that would be very
11 helpful.

12 Just real quickly, what's the status
13 of the Empire State Games?

14 COMMISSIONER HARVEY: The Empire
15 State Games are no longer associated with our
16 agency. But they were really spun off and
17 were regionalized. And there has been some
18 activity in some of the regions and not as
19 much in others. And I can get you a more
20 precise update if you'd like.

21 ASSEMBLYMAN WALTER: Okay. Thank you
22 very much.

23 CHAIRMAN FARRELL: Thank you.

24 Assemblyman Otis.

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ASSEMBLYMAN OTIS: Hello,
Commissioner. Thank you for coming.

And I'd like to start off by thanking you and thanking Governor Cuomo for the great commitment of capital dollars to the state parks system. As we all know, prior to the Governor taking office we went through a few years of tremendous neglect and really starving the capital needs of the parks system, and so that's been turned around. And implementing and spending those dollars appropriately, it's been turned around.

And so thank you to you and your team for that great work, and to the Governor for the commitment to one of the best park systems in the country. We need to maintain it properly. So thank you.

COMMISSIONER HARVEY: And I know the Governor would say right back to you, thank you all for your support of this. It's huge.

ASSEMBLYMAN OTIS: I had a question about your -- you've had in the last few years a very nice increase in the number of park visitors, and I'm curious as to whether

1 or not staffing-level-wise you have the
2 staffing to properly attend to the increase
3 in visits, which has been significant. And
4 also if you have a sense of a breakdown of
5 where in particular parks or regions where
6 you're seeing the increase. Is that
7 something that I'm sure you have some sort of
8 analysis of?

9 COMMISSIONER HARVEY: Yes. The
10 increase, just to generalize, is pretty much
11 all throughout the state at certain flagship
12 parks. We have, you know, the top 10.
13 Interestingly enough, this year on
14 Long Island, because of Sandy, that's down a
15 little bit. But still, to have 60 million
16 statewide is amazing.

17 And with respect to staffing, I think
18 we're doing a great job and we're leveraging
19 our staff. We're working with partners and
20 Friends groups. And I feel that we're doing
21 a very good job at providing welcoming, safe,
22 accessible, affordable parks to all.

23 ASSEMBLYMAN OTIS: Thank you very
24 much, and thank you for your great work.

1 COMMISSIONER HARVEY: Thank you.

2 CHAIRMAN FARRELL: Thank you,
3 Commissioner.

4 Just one question for the record.
5 You remember the last time we talked, I think
6 I mentioned to you that we were discussing,
7 in my staff, the plant and the roof of the
8 park, the Holland River Park. Has anybody
9 spoken to you about the discussion to fix
10 that?

11 COMMISSIONER HARVEY: With respect to
12 the --

13 CHAIRMAN FARRELL: Did anybody from
14 my staff call you, or have you heard --

15 COMMISSIONER HARVEY: I have not.
16 I'll call your staff.

17 CHAIRMAN FARRELL: Yes. We're trying
18 to figure out the cost of adding the new cups
19 to catch the rainwater because of the problem
20 that we're getting too many mosquitos
21 downstairs in the pollution plant. I'm
22 saying that so the record will say what it
23 is.

24 And I just want to make sure -- I'm

1 going to reach out and find out when they're
2 going to contact you, because we're going to
3 have to add it to the budget.

4 COMMISSIONER HARVEY: Okay, tell you
5 what. We'll look right into that and we'll
6 give you a number.

7 CHAIRMAN FARRELL: Thank you very
8 much. And you have a good day.

9 COMMISSIONER HARVEY: Thank you.

10 CHAIRMAN DeFRANCISCO: Thank you for
11 your testimony and your service.

12 James B. Bays, first deputy
13 commissioner of the New York State Department
14 of Agriculture & Markets. And on deck is
15 John Rhodes of NYSERDA, if the on-deckers
16 could move closer to the front.

17 Whenever you're ready, you're on.
18 And you've got to push that button for the
19 red light.

20 FIRST DEP. CMR. BAYS: Good morning,
21 Chairman DeFrancisco, Chairman Farrell,
22 Senator Ritchie, Assemblyman Magee and other
23 members of the State Legislature. My name is
24 James Bays, and I serve as the first deputy

1 commissioner at the New York State Department
2 of Agriculture & Markets.

3 On behalf of Governor Cuomo and our
4 new Acting Commissioner Richard Ball, I'm
5 pleased to be with you today. It's an
6 exciting time to be working in New York's
7 agriculture, in large part because this
8 administration understands agriculture's
9 importance to New York's economy, especially
10 in upstate.

11 The 2014-2015 all-funds budget
12 proposed by the Governor for the Department
13 of Agriculture & Markets is \$163.6 million.
14 This funding allows us to fully maintain our
15 wide-ranging responsibilities and continues
16 strong support for a variety of programs
17 important to New York agriculture.

18 The Executive Budget also funds the
19 Taste NY initiative, a joint venture between
20 Ag & Markets and Empire State Development.
21 This program fuses the state's agriculture
22 sector with tourism to highlight the great
23 variety of wine, beer, spirits and food
24 products grown and produced here in New York.

1 Taste NY markets New York State
2 products through specialized events as well
3 as retail locations throughout the state,
4 including stores in high-traffic rest areas,
5 train stations and airports across New York.
6 We already have stores at JFK Airport,
7 LaGuardia, the New Baltimore and Chenango
8 service areas, and more will be coming in the
9 weeks and months ahead.

10 Last year Taste NY participated in
11 more than 15 events to promote agricultural
12 producers, including the Great New York State
13 Fair in Syracuse, the PGA Championship in
14 Rochester, the Saratoga Race Course, the
15 Manhattan Cocktail Classic, the Hudson Valley
16 Food and Wine Fest, Farm Aid, Cider Week, and
17 the New York City Wine & Food Festival.
18 We've exposed hundreds of thousands if not
19 millions of people already to the best food
20 and beverage products our state has to offer.
21 In the process we've increased tourism and
22 also awareness of the Empire State of
23 Agriculture.

24 I should also note that Taste NY

1 complements our existing branding program,
2 known by over 3,000 businesses across the
3 state as the Pride of New York. Pride
4 companies participate in taste events, their
5 products are sold at Taste stores, and the
6 program continues to grow.

7 The Executive Budget continues to
8 support the FreshConnect farmers markets,
9 which are helping to feed underserved and
10 undernourished communities across the state.
11 The Governor launched this program in 2011,
12 and last year the state supported 24
13 projects. The FreshConnect program also
14 helps to maximize consumers' purchasing
15 power, allowing SNAP-eligible consumers to
16 receive a \$2 incentive to purchase locally
17 grown foods for every \$5 spent at a
18 FreshConnect market.

19 The Executive Budget continues the
20 department's work with DEC to protect the
21 state's farmland, combat invasive species,
22 control pollution, and conserve our water and
23 soil.

24 The Executive Budget recognizes that

1 the Great New York State Fair is an economic
2 driver in New York, and especially in Central
3 New York. The department did a great job
4 last year in bringing the fair back to its
5 agricultural roots, and we plan to continue
6 this in 2014. There are already plans to
7 expend our agricultural presence at the fair
8 by making enhancements to the barns, and to
9 build upon the success of last year's highly
10 successful Taste NY at the Fair initiative.

11 Bridging the gap between upstate
12 agricultural producers and downstate
13 consumers remains a challenge that the
14 department is poised to overcome. New York
15 is home to the city with the largest appetite
16 in the world, and we need to make it easier
17 for our producers to tap into this market.
18 The Governor's new Upstate-Downstate
19 Food-to-Table Agriculture Summit will focus
20 on linking our upstate agriculture industry
21 and downstate consumers and markets in order
22 to create a self-sustaining agricultural/
23 commercial food system for the state.

24 The summit will identify strategies

1 that will maximize procurement of local food
2 and beverage products by public schools and
3 government agencies, it will increase access
4 to fresh fruits and vegetables in underserved
5 communities and address hunger, and it will
6 upgrade and streamline the distribution of
7 fresh and processed food products and
8 beverages around the state.

9 To ensure that New York retains its
10 leadership position in dairy production,
11 \$21 million has been made available to help
12 dairy farmers produce renewable energy
13 through anaerobic digesters and improve their
14 business operations through the Dairy
15 Acceleration Program, which is jointly
16 administered by Ag & Markets and DEC.

17 Due to the department's efforts to
18 identify new growth opportunities in the
19 yogurt industry -- where New York already
20 leads the nation -- New York is poised to
21 expand its share of this critical market
22 area.

23 To further continue our support for
24 growing industries, Governor Cuomo will host

1 a second round of agricultural industry
2 summits, one for our yogurt industry and
3 another for farm-based beverage industry, to
4 identify additional growth opportunities. As
5 large as these sectors are, they still
6 haven't reached their ceilings, which means
7 more jobs and more opportunity for economic
8 development upstate lies ahead.

9 Today, New York's 36,000 farms
10 contribute more than \$5.3 billion in direct
11 sales to the state's economy. We are a
12 diverse producer of commodities ranging from
13 cabbage and apples to milk and eggs. Just
14 last year, over 600,000 cows produced more
15 than 13.1 billion pounds of milk, and nearly
16 1,500 vineyards and 350 wineries produced
17 180 million bottles of wine. We are a top
18 producer of agricultural products in the
19 country -- maple, dairy, farmed-based
20 beverages, apples, you name it. And the best
21 part is that we still have more room for
22 growth and our potential has never been
23 higher.

24 In conclusion, the department

1 recognizes and appreciates its partnership
2 with the Legislature. I'm confident that
3 New York's farms will continue to grow,
4 creating more jobs and making our state's
5 home-grown products known across the globe.

6 I thank you for this opportunity to
7 be with you, and I'm pleased to entertain any
8 questions.

9 CHAIRMAN FARRELL: Thank you. We've
10 been joined by Assemblyman and Majority
11 Leader Morelle.

12 CHAIRMAN DeFRANCISCO: We've been
13 joined by Senator Cathy Young.

14 And the first questioner will be
15 Senator Ritchie, the chair of the Agriculture
16 Committee in the Senate.

17 SENATOR RITCHIE: Welcome, Deputy
18 Commissioner. For the record, I'd like to
19 start off by saying that we certainly
20 appreciate the Governor's support of
21 agriculture. And the newest venture
22 connecting upstate and downstate together is
23 something that Senator Krueger and I have
24 talked about a number of times, connecting

1 producers in my area and upstate with the
2 New York City market. So I'm certainly
3 thrilled to see that included.

4 Just a couple of technical questions
5 to start. In the Ag & Markets budget, with
6 regard to local assistance appropriations, I
7 see that 675,000. It looks like it is an
8 increase in the Cornell Diagnostic Lab. Can
9 you tell me if that really is an increase or
10 it's just moved from state ops?

11 FIRST DEP. CMR. BAYS: Actually,
12 that's due to the movement of those funds
13 into the -- yeah, it's moving from the state
14 operations part of the budget to the local
15 assistance part of the budget, Senator.

16 SENATOR RITCHIE: And can you just
17 maybe elaborate on why that was moved?

18 FIRST DEP. CMR. BAYS: Really we felt
19 that it made sense to get them all in one
20 place. That was the justification.

21 SENATOR RITCHIE: Okay. And then
22 further down, as far as the Governor's
23 Taste NY, which is a wonderful program also,
24 it looks like there's an increase of

1 \$1.1 million. But was that actually moved
2 from the economic development portion of the
3 budget?

4 FIRST DEP. CMR. BAYS: That's
5 correct.

6 SENATOR RITCHIE: I'm getting to
7 something here.

8 So in the calculations from Senate
9 Finance, it looks like there's a decrease in
10 the local assistance appropriations by 2.9.
11 But when you add back in that the money for
12 the Taste NY is actually a decrease overall
13 and that the 675,000 was shifted from another
14 location, it looks like there might have been
15 almost a \$4 million decrease in local
16 assistance appropriations.

17 And I can just tell you, in my
18 position as chair I hear from so many of the
19 local farmers how these programs that have
20 been decreased are really the lifeline for
21 them, whether you're a maple producer or the
22 increased money for the Wine and Grape
23 Foundation. And I know the Governor is a
24 huge supporter of agriculture. So I'm just

1 wondering if maybe you could shed some light
2 on why there's a decrease in those lines.

3 FIRST DEP. CMR. BAYS: The Executive
4 Budget maintains those levels as proposed a
5 year ago, Senator. We recognize that this is
6 just a first attempt here, and we recognize
7 the Legislature has a role in looking at
8 those budgets. And so we're certainly
9 willing to entertain any thoughts that you
10 might have with regard to any of those
11 programs.

12 SENATOR RITCHIE: Well, in the years
13 that I've been here, when we've come back,
14 the Governor has always been certainly
15 supportive in entertaining the suggestions by
16 the Legislature.

17 So I guess I would just ask, as far
18 as, say, a program like Farm Viability, which
19 we touched on last year, is that something
20 that your agency sees worth in and would
21 support an increase in funding? Or is there
22 maybe a different direction that the
23 department sees with regards to
24 Farm Viability as one?

1 FIRST DEP. CMR. BAYS: Certainly. I
2 would suggest that the relationship with the
3 Farm Viability Institute and the board is
4 better than ever. We did work closely with
5 them throughout this year on a number of
6 occasions. Our efforts really were simply to
7 try to assist the board in becoming more
8 effective, and really that's it. We want to
9 do whatever we can do to provide some
10 incentives. And it's our intent to continue
11 to work very closely. I know they're also
12 developing a strategic plan, which we think
13 is a very good move. So we embrace the Farm
14 Viability Institute and we'll continue to
15 work closely with them.

16 SENATOR RITCHIE: That's great. Just
17 a couple of other questions. I do hear from
18 some of the groups that get the funding that
19 by the time it goes through each step, when
20 they get the money sometimes it's far past
21 when it would be the best time to get it for
22 research or whatever they're using it for.
23 I'm assuming DOB has some part in that.

24 Can you see any way to expedite the

1 money that's put in the budget so it gets to,
2 say, the maple producers sooner than it is
3 now? Can you see any way to expedite that?

4 FIRST DEP. CMR. BAYS: You make a
5 very good point. And it is a bit frustrating
6 from time to time for us; we'd like to get
7 those monies to the producers or to the
8 entities as quickly as we can.

9 Obviously we have a balance there.
10 We have to do our due diligence with these
11 applications to make sure that there's
12 integrity. But yes, we're very interested in
13 trying to try to streamline whatever we can
14 to get these monies to the recipients sooner.
15 So we share your concern on that, Senator.

16 SENATOR RITCHIE: And one final
17 question, and then I have a comment.

18 Because of the age of farmers in
19 New York State, and it's now approaching the
20 average of 56, that's a real concern for the
21 industry. Do you have any ideas of what we
22 could be doing, working together, to try to
23 entice more younger farmers into agriculture?

24 FIRST DEP. CMR. BAYS: Certainly the

1 programs, the Ag in the Classroom and the
2 various things that Cornell has done with the
3 Ag Education Program through the years, has
4 been very important. I also would think that
5 the proposal in the Executive Budget to raise
6 the level of exemption on the estate taxes
7 will help with the succession planning that
8 various farms are having as well.

9 Clearly it's a concern that we all
10 share. It's very difficult to get involved
11 in farming based on the investment
12 requirements. So I don't have any personal
13 sense as to exactly what we could do, but we
14 share your concern and we want to do the
15 things we can do as an agency to try to
16 support those programs that would bring more
17 students into the fold and to get them
18 prepared to operate a business. And that's
19 really what we're talking about here, a very
20 complicated and yet still physical business,
21 Senator. So we share your concern as well.

22 SENATOR RITCHIE: And just to add on
23 that, we were certainly thrilled, anyone that
24 I've talked to from the agriculture industry,

1 that the Governor included that.

2 The reduction in the estate tax was
3 something that the Senate included in their
4 plan last year. And that just is going to
5 bring, I think, the issue to the forefront.
6 When you have family members coming in saying
7 that someone has passed away and they're
8 going to have to sell off part of their farm
9 in order to pay the estate tax, that's not
10 the right thing to help encourage continuing
11 generations to stay on the land. So that's a
12 wonderful thing that the Governor has
13 proposed, and I look forward to making sure
14 that makes its way through in the end.

15 And just as a final comment, I'm
16 certainly glad to see you here again, look
17 forward to working with the department. I
18 had the opportunity to speak with the acting
19 commissioner who will be coming shortly for
20 confirmation, commend the Governor on his
21 nomination. Richard Ball will be, I think, a
22 great asset to the department, someone that I
23 first got to meet during the flooding in
24 Schoharie. And he's a farmer, he knows the

1 business. And I think the Legislature and
2 your department will be able to do good
3 things together.

4 FIRST DEP. CMR. BAYS: Thank you,
5 Senator. I absolutely concur. We have a
6 wonderful, I think, staff at the
7 commissioner's level. I'm one of three
8 farmers. I was happy to have another farmer
9 come into the seat. We think that sends a
10 strong message to the industry. We're
11 equally as excited about Richard's arrival.
12 Thank you.

13 SENATOR RITCHIE: Thank you.

14 CHAIRMAN FARRELL: Thank you very
15 much.

16 Assemblyman Magee, chair of the
17 Agriculture Committee.

18 ASSEMBLYMAN MAGEE: Thank you.

19 Welcome, Commissioner.

20 FIRST DEP. CMR. BAYS: Thank you,
21 Bill.

22 ASSEMBLYMAN MAGEE: Yes, thank you,
23 Commissioner, for coming and talking or
24 giving us some facts on the budget the

1 Governor has proposed.

2 There's a couple of things that -- I
3 don't know whether you talk about transfer of
4 farms from one generation to another and so
5 on. And one of the programs that's being cut
6 rather significantly I think helped do that,
7 and that's the FarmNet. And the Governor has
8 proposed to reduce it by \$200,000. Do you
9 think the program is still going to be able
10 to do what it's been doing? And it has been
11 doing a lot of good things.

12 FIRST DEP. CMR. BAYS: I do,
13 Assemblyman. I do believe it will. We feel
14 very strongly about those programs. There
15 are a number of programs that I think are
16 important. Again, the Executive Budget is
17 what it is. We recognize that you folks will
18 have an opportunity to make changes in the
19 budget, depending upon where you'd like to
20 go. But yes, I believe those programs are
21 essential, like PRO-Dairy and FarmNet and the
22 other programs that we have through the Local
23 Assistance Program budget.

24 ASSEMBLYMAN MAGEE: Okay. And in the

1 funding this year, was -- did it result in
2 any reduction in staff?

3 FIRST DEP. CMR. BAYS: No. No,
4 actually the proposed fill level for the
5 department is 487, which is right on par with
6 where we ended up last year. So no.

7 ASSEMBLYMAN MAGEE: And in the area
8 of -- and this is a program that's been
9 around for a long time, the Rabies Program.
10 In the area of the Rabies Program there's
11 been a significant cut proposed for that. I
12 wonder if you have any comments on that.

13 FIRST DEP. CMR. BAYS: Fifty thousand
14 dollars is proposed to be in the rabies part
15 of the budget, Assemblyman.

16 ASSEMBLYMAN MAGEE: Right. Reduced
17 by 200,000, though, from what it was.

18 FIRST DEP. CMR. BAYS: I think that's
19 the same as was proposed in the Executive
20 Budget last year.

21 ASSEMBLYMAN MAGEE: Have you looked
22 at that to see what impact it might have on
23 rabies in the state?

24 FIRST DEP. CMR. BAYS: We will. We

1 will.

2 ASSEMBLYMAN MAGEE: Another one that
3 I think of in terms of agriculture programs
4 and farming is a coming back of the
5 hops-growing in New York. Has the department
6 been involved at all with that?

7 FIRST DEP. CMR. BAYS: We have.
8 We've been involved I think since the very
9 first moment. And I believe there's \$40,000
10 in the budget to help evaluate and test hop
11 varieties in concert with, I think, the
12 experiment station. And we want to do
13 whatever we can do to increase the
14 availability of hops.

15 ASSEMBLYMAN MAGEE: And earlier the
16 Senator mentioned something about Farm
17 Viability. And there has been a significant
18 reduction in that program, but you still
19 think it's going to be able to function and
20 do what it's been doing?

21 FIRST DEP. CMR. BAYS: I do,
22 Assemblyman. I feel very strongly that
23 the -- I think this past year we've had some
24 very productive discussions. Our discussions

1 were simply to try to get the board to
2 develop a strategic plan to look at perhaps
3 other funding streams to see if we couldn't
4 perhaps attract some private dollars or some
5 more federal dollars into that program. But
6 we believe that there's some real
7 opportunities on the private side as well,
8 and that was a big part of the discussions
9 that we had with the Farm Viability Board.

10 ASSEMBLYMAN MAGEE: The Taste NY you
11 mentioned and talked about quite a bit, so
12 that is -- basically we think it's working,
13 doing what we want to accomplish. And one
14 thing that you also spoke about in your
15 comments was the State Fair. And I think
16 it's just terrific that we're bringing
17 agriculture back to the fair, because it is
18 an agricultural fair.

19 And local county fairs, does the
20 department get involved with them at all?

21 FIRST DEP. CMR. BAYS: The local
22 fairs? We do. We do indeed. In fact,
23 they're on our website. We make sure that we
24 put something on our website so that folks

1 can reach in, get the dates, find out what
2 exactly is happening at that fair or proposed
3 to happen at that fair. We get involved in
4 some of the premium work and sit as an
5 advocate for, counsel to the local fairs.

6 ASSEMBLYMAN MAGEE: And another
7 thing, the Governor has proposed increasing
8 the number of months for food inspections
9 from 12 to 24. Do you feel that once
10 every -- after 24 months is adequate?

11 FIRST DEP. CMR. BAYS: The proposal,
12 Assemblyman, is one that we think will help
13 us to do a better job of inspections. Really
14 the proposal is for us to move to an
15 every-two-year inspection cycle for the
16 low-risk entities that exist, and that way
17 that will free us up a little bit more to
18 tune in, to focus more on those higher-risk
19 facilities.

20 So yes, we think that's an important
21 component of the budget to be able to do
22 that.

23 ASSEMBLYMAN MAGEE: Okay, I guess
24 that's it. Thank you.

1 CHAIRMAN FARRELL: Thank you.

2 CHAIRMAN DeFRANCISCO: Senator
3 Savino.

4 SENATOR SAVINO: Thank you, Senator
5 DeFrancisco.

6 Thank you, Deputy Commissioner, for
7 your testimony.

8 I just want to focus briefly on -- I
9 like the way you artfully put this, that
10 New York is home to the city with the largest
11 appetite in the world and we need to make it
12 easier. We definitely do. I'm assuming the
13 city that you're referring to is the City of
14 New York. Yes, we do have probably the
15 largest appetite. We also have the largest
16 food redistribution center I think in the
17 country, some say in the world, at Hunts
18 Point.

19 And I notice that in your testimony
20 you're talking about a summit, an Upstate-
21 Downstate Food-to-Table Agricultural Summit,
22 to figure out how do we get some of that
23 produce that's grown right here in New York
24 down to the city with largest appetite.

1 And this is a problem that's existed
2 for quite a while. So I'm curious as to have
3 we figured out that part of the problem is
4 the incredibly high cost of transportation
5 and how far trucks have to go. And what can
6 we do about that? Do we need a summit?
7 Can't we come up with some sort of a
8 transportation credit for our farmers where
9 we can give them something in exchange so
10 that it doesn't cost them so much to bring
11 their products to our hungry New York City
12 residents?

13 FIRST DEP. CMR. BAYS: Certainly that
14 might well be one of the considerations that
15 we would look at. One of the very positive
16 things that we see is the arrival of the new
17 commissioner. Commissioner-Nominee Ball is a
18 farmer from Schoharie who is currently
19 involved in this. He moves some of his
20 product into the city. So we think with his
21 good thinking and his leadership we can find
22 our ways.

23 But we need to look at all the
24 various options that are out there for us to

1 create that link. It's not an easy thing.
2 We're talking about a perishable commodity,
3 obviously. And so we need to look at the
4 entire waterfront in terms of overcoming that
5 obstacle that exists.

6 SENATOR SAVINO: Well, I've actually
7 met the new Commissioner Ball. I went to his
8 farm recently, in November, and it is an
9 amazing operation. And for those of you who
10 haven't been there and you can get to it in
11 Schoharie, I suggest you go there. Because
12 they not only have a great farm, they have a
13 great restaurant, and he has four daughters
14 who are wonderful cooks.

15 That being said, I believe we really
16 do need to find a way to focus on how we use
17 alternative methods other than trucks. If we
18 can put them on barges, if we can put goods
19 on rail, we should start to move in that
20 direction.

21 Senator Krueger represents Manhattan,
22 and she will tell you that one of the largest
23 Green Markets in the city is at Union Square.
24 If you walk around that Green Market, there

1 are almost no New York State farmers there.
2 They're coming from Pennsylvania, they're
3 coming from Connecticut, they're coming from
4 New Jersey. I represent Staten Island; of
5 course we're always at war with New Jersey,
6 you know, competing for business. Many ways,
7 not always over the bridge.

8 (Laughter.)

9 SENATOR SAVINO: But we're not
10 getting our produce coming from our own
11 farmers in a state where agriculture is our
12 largest business. And that's a real shame,
13 and it's a failure. And there's such a
14 demand for it. We've got to do better. And
15 I hope that the summit provides real
16 solutions, not just window dressing and, you
17 know, a nice banner for the event.

18 So I look forward to working with you
19 guys on that, because it really is critically
20 important that we close that gap. I'd like
21 to see the day when Hunts Point -- and by the
22 way, Hunts Point needs some work. It's
23 outdated, and there's a lot of investment
24 that should go into it. But I'd love to see

1 the day where Hunts Point has all New York
2 agricultural products and just a little bit
3 from Jersey. Thank you.

4 FIRST DEP. CMR. BAYS: I concur. And
5 thank you, Senator.

6 CHAIRMAN FARRELL: Thank you.

7 CHAIRMAN DeFRANCISCO: Senator
8 Krueger.

9 SENATOR KRUEGER: Thank you. Good
10 morning. Or afternoon, sorry.

11 I actually am piggybacking on the
12 points that my colleague Senator Savino just
13 raised. I have long been an advocate for
14 trying to come up with new ways to get New
15 York State agriculture into New York City
16 mouths. And since she finished with Hunts
17 Point, let me point out that for years now
18 some of us have been trying to work with the
19 state and the city, not just to modernize the
20 entire Hunts Point produce market, the
21 primary Terminal Market, but to establish
22 either within that new market or, I would
23 argue, even in the parking lot of the fish
24 market right next door, a wholesale market

1 for New York State product, the way that
2 farmer's markets are a retail mechanism for
3 moving farmers' products to citizens in
4 New York City.

5 And she's right, we need to make sure
6 more New York farmers are at these farmer's
7 markets. If they could figure out to how to
8 wholesale their product -- and I would argue
9 Hunts Point is the best place to do so.
10 Because if you are a small to medium-sized
11 food market, if you are one of thousands of
12 restaurants that are interested in local
13 foods, you are already going to the
14 Hunts Point section of the South Bronx
15 multiple times a week, usually starting at
16 2 in the morning, to buy everything else you
17 use in your restaurant. And I would argue
18 that New York State could do so much if there
19 was a wholesale center that was the Pride of
20 New York wholesale location.

21 And then we need to ensure that
22 farmers do have a mechanism where they can
23 perhaps piggyback their transportation or
24 co-op effort their food down to Hunts Point.

1 I'm curious, do you have any new plans for
2 moving this forward? We've been talking
3 about it forever.

4 FIRST DEP. CMR. BAYS: You know,
5 augmenting the FreshConnect program is
6 something that we would love to do. I think
7 you've outlined a number of possibilities,
8 taking advantage of transportation networks,
9 merging some of those efforts. But we're
10 going to look at it top to bottom. The
11 summit is designed to do exactly that. Let's
12 take a full accounting of what's in the way
13 of making this happen and to do everything we
14 can do as a department to streamline, to
15 expedite and to link. So I think that's
16 exactly the intent of the summit, Senator.

17 SENATOR KRUEGER: But I wondered
18 looking at how short-term and long-term we
19 could absolutely increase wholesale
20 distribution right there in Hunts Point.
21 Oddly, as a Senator from New York City, I
22 started working on the Hunts Point market in
23 1983 and was there again this weekend with
24 Senator Gillibrand. There's so much

1 potential for what we can do.

2 And following up also with the summit
3 or with economic development, New York City's
4 school system is the third-largest purchaser
5 of institutional food in the country. It
6 serves 800,000 meals per day; hopefully, with
7 the new program for universal lunch, soon
8 900,000 meals per day. We already
9 successfully got into federal legislation
10 language that allowed school districts to
11 purchase local foods or an advantage to
12 purchasing local foods. And I know the
13 New York City school system has already
14 switched to purchasing all their milk and I
15 believe all their apple products from
16 New York State farmers.

17 I think that Ag & Markets needs to
18 look very seriously at how it can support
19 targeted processing of New York State foods
20 to meet the specs of the federal breakfast
21 and lunch program. Because the potential for
22 school meals, not just in the City of
23 New York but throughout the state, to
24 actually buy New York State products as

1 opposed to products from other parts of the
2 country, the potential is enormous. It has
3 to be hundreds of millions of dollars a year.
4 But New York State farmers have to be able to
5 provide the products in the standard specs
6 that the feds require.

7 So I'm wondering, does your agency
8 have any plans to work on that?

9 FIRST DEP. CMR. BAYS: The idea of
10 trying to better direct fresh produce into
11 institutions -- schools, prisons, higher
12 education -- is something that we feel very
13 strongly about. We have taken some measures
14 already in that direction. We've begun to
15 inventory where those entities are.

16 It clearly is on the screen for us,
17 Senator, and something that we will be
18 focusing on this year. Obviously it's an
19 important component of the upstate-downstate
20 summit. And these are the kinds of things it
21 seems to me that we'll be talking about and
22 hoping to come to some consensus around,
23 moving forward.

24 SENATOR KRUEGER: And I would just

1 urge you to be at the table, so to speak,
2 when the new tax credits and incentives for
3 manufacturing and for being near campuses are
4 implemented. Because it's not just being
5 able to move product farm-to-table, but also
6 the kinds of processed products that
7 institutional food programs purchase.

8 I mean, the concept that we are
9 buying products from California that have
10 been processed and frozen there and training
11 them into New York to sell them to our school
12 food system and other institutions -- we
13 should be able to do that with New York
14 product. But that requires really evaluating
15 what kinds of new processing plants we may
16 need to create or support in order to move
17 that food more effectively into institutional
18 food programs.

19 FIRST DEP. CMR. BAYS: Yes. Again,
20 totally concur. I think we share the same
21 frustration. And we need to find a way. And
22 we will certainly be zeroing in on that,
23 Senator. It's a frustration to a number of
24 us in the department.

1 SENATOR KRUEGER: And I will happily
2 continue to work with my colleague
3 Senator Ritchie to see if we can accomplish
4 these things, because I think we have a very
5 long list of things that can work. And it's
6 a win/win for everyone.

7 FIRST DEP. CMR. BAYS: We look
8 forward to working with you on these issues,
9 absolutely.

10 SENATOR KRUEGER: Thank you.

11 (Discussion off the record.)

12 CHAIRMAN FARRELL: Assemblyman Otis.

13 ASSEMBLYMAN OTIS: I have a follow-up
14 question on Assemblyman Magee's question
15 about the inspections.

16 Are the numbers of inspections
17 anticipated in the course of a year going to
18 stay the same? Will the number of inspectors
19 on staff remain the same?

20 FIRST DEP. CMR. BAYS: Certainly
21 there will be no decrease in the number of
22 inspectors. We have, I think, about 83,
23 84 inspectors. Those numbers would certainly
24 not decrease.

1 Yes, we think we can do a better job
2 by moving to a more risk-based program or
3 protocol here. There are lower-risk
4 facilities that we think will be fine if we
5 go in there every couple of years. There are
6 others that absolutely really need to be
7 visited on an annual basis.

8 ASSEMBLYMAN OTIS: And does your
9 department inspect statewide? Or where there
10 are county or city health inspection
11 programs, do you not play a role? How does
12 that work?

13 FIRST DEP. CMR. BAYS: We inspect
14 statewide, Assemblyman.

15 ASSEMBLYMAN OTIS: So in some cases
16 there are local inspectors who are also
17 inspecting in addition to what you do? I'm
18 in Westchester County; they do health
19 inspections to food establishments as well.

20 FIRST DEP. CMR. BAYS: To
21 restaurants, yes. We generally have the
22 bodegas and the grocery stores and those
23 kinds of facilities. So there is a bit of a
24 duality there, but that's where it really

1 splits.

2 ASSEMBLYMAN OTIS: Okay, thank you
3 very much.

4 FIRST DEP. CMR. BAYS: You're
5 welcome.

6 CHAIRMAN DeFRANCISCO: Senator
7 Tkaczyk.

8 SENATOR TKACZYK: I'll be brief. I
9 just wanted to let you know how delighted I
10 am that Richard Ball is now acting
11 commissioner at the department. He's a
12 neighbor of mine, and he's a phenomenal
13 farmer and very visionary and has been
14 intimately involved in connecting our
15 produce, our local farms with schools and
16 with New York City.

17 And he was a key person in helping
18 the Corbin Hill project to be successful; I
19 don't know if we mentioned it while you were
20 here. But his farm is the hub to bring 20
21 farmers in the area, and they send a
22 tractor-trailer-load of produce to the South
23 Bronx every week. And there are models like
24 that that -- what he said at the committee

1 should be replicated nationwide. And I think
2 there's other models like that. And I'm very
3 supportive of the conversation we're having
4 to connect producers with consumers.

5 But I wanted to also put in a plug
6 for how important it is to make sure that
7 farms and farmers have the research available
8 to help them understand what crops grow well,
9 what pests might be coming up. And there are
10 critical research facilities in Geneva and in
11 the Hudson Valley, which I represent, that
12 are so important to the farmers. And I will
13 tell you, I can't talk to a farmer without
14 them saying "And don't close down my research
15 facility that helps me understand what's
16 going on with the apple season and how best
17 to provide that productive apple crop."

18 So I think that's really important to
19 make sure that those research components are
20 there for the farmers when we want them to
21 expand. Like the brewery industry, we want
22 them to grow hops and grow barley. Well,
23 it's hard for them to do the research plots
24 to figure out which barley is the best for

1 beer and how it grows in these different
2 regions. So we really definitely need that
3 research support.

4 Thank you.

5 CHAIRMAN DeFRANCISCO: Thank you.

6 Senator Young.

7 SENATOR YOUNG: Thank you. And I
8 just have one quick question -- welcome --
9 today.

10 It's my understanding, from what I've
11 been reading, that on the federal level
12 there's a bipartisan agreement on the
13 Farm Bill that has several changes to how
14 agriculture is dealt with. For example, I
15 think there's an elimination of the MILC
16 program to help dairy farmers, but they have
17 a substitute program to offset the loss of
18 the MILC program.

19 I know it's early and I know you
20 probably haven't done any kind of in-depth
21 analysis yet about the agreement. But I was
22 wondering, is that something that the
23 department will issue a report on upcoming?
24 Or do you just keep tabs on it? Because I'd

1 like to get your analysis of how it affects
2 agriculture in New York State.

3 FIRST DEP. CMR. BAYS: Yes, Senator,
4 we will look in-depth at the Farm Bill.
5 It's, as you probably know, a thousand-page
6 document. We have taken a cursory look at
7 it, an examination, but we're not through
8 that analysis. But we too are concerned
9 about the -- if in fact the MILC provision is
10 not in the bill, that is a concern of ours
11 for sure.

12 And yes, we will be issuing a
13 response to the farm bill as proposed. I
14 think today is a fairly important day in
15 Washington around the Farm Bill. But we've
16 not been by any means finished our analysis
17 of the Farm Bill.

18 SENATOR YOUNG: Thank you very much.
19 I look forward to what you find out.

20 FIRST DEP. CMR. BAYS: Very good.
21 Thank you, Senator.

22 CHAIRMAN DeFRANCISCO: Thank you.
23 Very quickly, there's \$1.1 million
24 included in the budget for the Taste NY

1 program. Has there been any discussion or
2 are there any plans right now as to how to
3 use it or what programs or what events are
4 planned?

5 FIRST DEP. CMR. BAYS: I would
6 suspect, Senator, that we'll do -- obviously
7 we'll be again in a prominent way at the
8 State Fair. I would imagine that we'll be at
9 some of the other higher-priority public
10 events so that we can continue to promote the
11 product.

12 Part of those monies will be in
13 support of the various retail stores that we
14 have on the Thruway and at JFK and LaGuardia
15 and I believe at Islip as well, we're there
16 at Islip. So some of those monies will go
17 for staff support and signage and for the
18 other components of the program.

19 CHAIRMAN DeFRANCISCO: And some will
20 go for events, I assume, special events?

21 FIRST DEP. CMR. BAYS: Absolutely.
22 Yes.

23 CHAIRMAN DeFRANCISCO: Are there any
24 on the horizon that you think you might be

1 considering?

2 FIRST DEP. CMR. BAYS: I'd have to
3 get back to you, Senator. I'm not sure
4 what's right on the horizon.

5 CHAIRMAN DeFRANCISCO: Okay, that
6 would be fine.

7 Speaking of the State Fair, are we
8 going to have a director, one that will stay
9 more than a year?

10 FIRST DEP. CMR. BAYS: Let's hope so.
11 Yes, I'm confident we will. The Governor, of
12 course, kicked off a search. We had just
13 short of 60 applications from a national
14 pool. A very impressive group, I might add.
15 That has been pared down now to I believe
16 three finalists. Those interviews are
17 ongoing. And I would think soon, the
18 undefined "soon," we will have a new State
19 Fair director.

20 Let me say that a premium is being
21 put on venue management experience for a new
22 State Fair director, and I think that's a
23 very positive development.

24 CHAIRMAN DeFRANCISCO: Because it

1 happens to be in my Senate district, but I've
2 been going to the fair since I was a kid.
3 And usually it's someone who's there -- the
4 director's usually there for four, eight
5 years, or sometimes more. And it seems like
6 every year we've got a new State Fair
7 director.

8 And the attendance has been going
9 down, and that isn't only because of weather,
10 believe me. There was some great weather
11 this year. And we need some stability there
12 because it's a great venue for agriculture,
13 as you've all mentioned, and just for people
14 to have some fun.

15 FIRST DEP. CMR. BAYS: You're
16 absolutely right. It's the crossroads of 90
17 and 81, it's right in the heart of Central
18 New York.

19 Actually, attendance was up 5,000
20 this year from last, but we did experience
21 nine days of rain out of 12. We do think
22 that had a little bit of an impact as well.

23 CHAIRMAN DeFRANCISCO: But then some
24 of the acts were canceled at the main

1 performing center. I mean, it just seemed
2 like it was not done professionally.

3 So with that said, as I say, you'd
4 have some fun there. Because we all deserve
5 some fun nowadays, every so often.

6 So I appreciate it. Thank you for
7 testifying. Thank you for your service.

8 FIRST DEP. CMR. BAYS: Absolutely.
9 Thank you so much. Thank you, everyone.

10 CHAIRMAN DeFRANCISCO: The next
11 speaker is John Rhodes, president and CEO of
12 NYSERDA.

13 NYSERDA PRES/CEO RHODES: Good
14 afternoon.

15 CHAIRMAN DeFRANCISCO: Good
16 afternoon. You no doubt know your business
17 like the back of your hand, and I know that
18 you don't need to read a single-spaced
19 four-page writing without expressing your
20 true thoughts and feelings about this job.
21 Am I correct?

22 NYSERDA PRES/CEO RHODES: Is my
23 microphone on?

24 (Laughter.)

1 CHAIRMAN DeFRANCISCO: Do what you
2 choose. But thank you.

3 NYSERDA PRES/CEO RHODES: Good
4 afternoon, Chairman DeFrancisco, Chairman
5 Farrell, and members of the committees.
6 Thank you for the opportunity to testify
7 before you today. I am John Rhodes, and I
8 serve as the president and CEO of the
9 New York State Energy Research and
10 Development Authority, NYSERDA.

11 NYSERDA is a public benefit
12 corporation that plays an important role in
13 helping the state meet its goals of reducing
14 energy consumption, promoting energy
15 efficiency and the use of renewable energy
16 sources, and protecting the environment. As
17 part of its central mission, NYSERDA
18 collaborates with many stakeholders,
19 including business, academia, public interest
20 groups, the environmental community, energy
21 producers and consumers, and communities at
22 large. NYSERDA is heavily involved in energy
23 innovation and in business and economic
24 development, supporting the growth and

1 deployment of innovative clean energy
2 products and technology. Our programs are
3 funded principally through the System
4 Benefits Charge and the Renewable Portfolio
5 Standard, which are assessments on gas and
6 electric bills.

7 To support our work, the Executive's
8 budget proposal for NYSERDA includes
9 \$16.2 million for energy research and
10 development programs, including funding for
11 our competitive R&D grant program. This is
12 the same amount that was included in last
13 year's budget.

14 Since NYSERDA's inception, our
15 professional staff has provided expertise in
16 research and development and an ability to
17 successfully reduce energy consumption across
18 all sectors, through our nationally acclaimed
19 programs. These programs have provided cost
20 savings to consumers and helped to make
21 businesses more sustainable, while at the
22 same time reducing the impact on the
23 environment and encouraging economic
24 development.

1 NYSERDA is also playing a key role in
2 helping the state become more resilient to
3 natural disasters, which are now occurring
4 more frequently and with greater intensity.
5 Governor Cuomo's Fuel NY initiative is a
6 comprehensive solution to ensure that the
7 state is better positioned in the future to
8 maintain access to fuel while the industry
9 recovers from a temporary disruption caused
10 by storms or disruptions otherwise resulting
11 in extended and widespread power outages.

12 As part of Fuel NY, the Gas Station
13 Back-Up Power Program and the Portable
14 Emergency Generator Program are designed to
15 help ensure that first responders, essential
16 personnel, residents, and other motorists
17 have access to fuel in a declared energy or
18 fuel supply emergency.

19 Currently designed to serve the
20 downstate New York retail market, the
21 Gas Station Back-Up Power Program allows gas
22 station operators to apply to NYSERDA for
23 grants to help pay for the wiring necessary
24 to accept portable emergency generators and

1 for installation of permanent back-up
2 generators. Through 2013, the Gas Station
3 Back-Up Power Program issued grant contracts
4 to more than 300 gas stations. We expect a
5 steady increase in 2014 as we continue
6 outreach in the downstate area and expand the
7 program to include upstate New York, as
8 proposed in the Governor's Executive Budget.

9 Another component of the Fuel NY
10 program is the creation of the nation's first
11 state-based Strategic Gasoline Reserve, which
12 was designed to create a physical reserve in
13 Long Island of approximately 3 million
14 gallons of gasoline. Upon declaration of an
15 energy or fuel supply emergency, this fuel
16 could be released to meet a gap in supplies
17 serving the general retail market or the
18 first responder community on Long Island or
19 neighboring regions. Like the Gas Station
20 Back-Up Power Program, this initiative will
21 also be expanded to serve upstate emergency
22 responders.

23 In 2014, NYSERDA will be launching
24 the NY Prize initiative to fund innovative

1 community microgrids. These new energy
2 systems will combine clean distributed energy
3 resources with microgrid technology that can
4 allow communities to operate as an "energy
5 island" in the event of a power outage.

6 In addition to NYSERDA's role in the
7 state's storm recovery, we have continued our
8 core mission work of developing and
9 delivering programs that are making
10 New York's energy more efficient and cleaner.
11 Here are a few highlights of our work.

12 NYSERDA's Home Performance with
13 ENERGY STAR Program reached a major milestone
14 this year with the completion of the
15 program's 50,000th project at a Rochester
16 area home.

17 NYSERDA Clean Energy Incubators have
18 leveraged \$96.5 million in private
19 investment, along with \$41.3 million in
20 external federal funding, to advance start-up
21 companies in New York. We expect the number
22 of clean-energy start-up companies to reach
23 155 in 2014 with the assistance of NYSERDA's
24 Proof-of Concept Centers program.

1 As part of Green Jobs-Green New York,
2 over 46,000 energy audits have been conducted
3 across the state, and a total of 4,507 loans
4 have been closed, valued at \$43.6 million.
5 This number includes 1,289 On-Bill Recovery
6 Financing Program loans valued at
7 \$13.7 million.

8 Under the NY-Sun Initiative,
9 statewide efforts in 2012 led to the
10 successful installation of more than
11 58 megawatts of solar panel capacity in the
12 state, which nearly doubled the amount of
13 customer-sited solar installed in 2011. A
14 combined total of 299 megawatts of solar has
15 been installed or is under development as
16 part of NY-Sun. NYSERDA has petitioned the
17 Public Service Commission to expand and
18 improve the program to install
19 3,000 megawatts of solar by 2023.

20 Last year the Governor introduced the
21 \$1 billion NY Green Bank initiative in his
22 State of the State address as the financial
23 engine that will mobilize private investment
24 to build a more cost-effective, resilient,

1 and clean energy economy in New York.

2 The NY Green Bank will partner with
3 private-sector institutions by providing
4 financial products such as credit
5 enhancement, loan loss reserves, and loan
6 bundling to support securitization and build
7 secondary markets. These financial products
8 will support economically viable clean-energy
9 projects that cannot today access financing
10 due to market barriers, such as federal
11 policy uncertainty, insufficient performance
12 data, and the lack of publicly traded capital
13 markets for clean energy.

14 The NY Green Bank is a cost-
15 effective, powerful and complementary
16 addition to New York's existing portfolio of
17 clean-energy support programs, which NYSERDA
18 believes can provide unique value that
19 current programs alone cannot deliver.

20 In 2013, the NY Green Bank launched
21 with an initial capitalization of
22 \$218.5 million. Initial funding combines
23 \$165 million reallocated from other programs
24 approved by the PSC and \$52.9 million from

1 the Regional Greenhouse Gas Initiative, RGGI.
2 The NY Green Bank is expected to open for
3 business and offer its first financial
4 products early in 2014.

5 Under Governor Cuomo's leadership,
6 New York and NYSERDA continue to be
7 recognized for supporting energy efficiency
8 and renewable energy. This year, the U.S.
9 Environmental Protection Agency bestowed on
10 NYSERDA its highest honor, the Sustained
11 Excellence Award. In addition, the American
12 Council for an Energy-Efficient economy
13 recognized NYSERDA with its Exemplary Program
14 awards for our On-Bill Recovery Financing
15 Program, Existing Facilities Program, and
16 New Construction Program. The *Bond Buyer*, a
17 leading finance publication, recognized
18 NYSERDA and the New York State Environmental
19 Facilities Corporation, under the leadership
20 of Matt Driscoll, with the "Deal of the Year
21 for Small Issuer Financing" for our
22 multimillion-dollar bond issuance for energy
23 efficiency financing.

24 This concludes my opening remarks,

1 and I would be happy to take any questions
2 that you may have.

3 CHAIRMAN DeFRANCISCO: Senator
4 Savino.

5 SENATOR SAVINO: Thank you, Senator
6 DeFrancisco.

7 And thank you for your testimony.

8 I want to focus a bit on the gas
9 station backup plan. I represent Staten
10 Island and South Brooklyn, two of the areas
11 that were incredibly hard-hit by Sandy, and
12 so I witnessed the hours and days that people
13 waited on line to purchase gas. And I know
14 that out of that came this idea that if --
15 one of the problems we realized was that many
16 of the gas stations didn't have electricity.
17 If you don't have electricity, you can't pump
18 gas. If you can't pump gas, you can't sell
19 it.

20 But I think the proposal is somewhat
21 shortsighted because it only focuses on the
22 end user in many respects, not the pipeline
23 of gas. So what we saw during Sandy was not
24 just that gas stations didn't have power and

1 couldn't pump the gas that they had in their
2 tanks, but that once they ran out there was
3 no way to replenish them because the first
4 thing that happens in the storm is they sent
5 the tankers back out to sea because you
6 didn't want them in the terminal because it's
7 safer out at sea.

8 So if you don't have anything at the
9 terminal, you don't have anything to get on
10 the truck. If you don't have anything to get
11 on the truck, you can't get it to the gas
12 station. If you can't get it to the gas
13 station, what are we going to do with the
14 generators?

15 The other problem that we've found
16 from speaking to the service station dealers
17 is the majority of service station dealers
18 don't own the stations, they lease the
19 property from petroleum companies. They also
20 don't own the gas. They get paid a
21 commission, 6 cents per gallon for every
22 gallon of gas they pump.

23 So the question is why are we
24 requiring the service station dealer, who

1 doesn't own the service station, doesn't own
2 the gas, to purchase and maintain a generator
3 to pump out a product that he doesn't own?
4 Wouldn't it make more sense to address the
5 pipeline problem, number one? And I think
6 maybe the reserve will help with that, you
7 know, setting aside that 3 million gallon
8 reserve.

9 But why not require the petroleum
10 dealers, who own the gas, to provide the
11 stations a generator to pump out their
12 product? And that was a long question, so
13 take your time.

14 NYSERDA PRES/CEO RHODES: And I
15 appreciate the length of question but also
16 the urgency of the question.

17 Our studies, and I'd be happy to
18 share the information with you, was that the
19 principal problem after Sandy was the lack of
20 power at the gas stations, that in fact the
21 availability of supply to the gas stations
22 recovered relatively quickly and the long
23 outages were due to the lack of power at the
24 stations. As I said, I'd be happy to have my

1 staff share that work with your staff.

2 My understanding of the program is
3 that it was designed to provide at the gas
4 station the means of providing the power to
5 run the pumps and particularly to allow
6 motorists, especially along evacuation
7 routes, to have the means of egress that they
8 needed. I'm not sure what the particulars
9 are about why that mandate was imposed in
10 quite the way it was. But from a
11 preparedness point of view, it's certainly
12 true that you want -- it's our belief that
13 what you want is power at the gas stations.

14 SENATOR SAVINO: That might be true.
15 However, again, you didn't answer the bigger
16 question. Which is the service station
17 dealers don't own these properties, someone
18 else does.

19 So what I'm suggesting is two things.
20 One, we're proposing a solution -- or it's a
21 partial solution, because only some gas
22 stations are going to be required to have
23 generators, the ones that are determined to
24 be on an evacuation route. Not all of them.

1 So you could conceivably have a power outage
2 across, let's say, all of Staten Island --
3 I'll just use my own little corner of the
4 world.

5 All of Staten Island is without
6 power. We have multiple service stations on
7 Staten Island, but some of them will be
8 designated as being on an evacuation route.
9 Some of them won't. So some of them will
10 have full tanks in the ground with no
11 electricity and can't pump them out. Some of
12 them will be determined to be on an
13 evacuation route and necessary, so they'll
14 have generators that they're required to pay
15 for to pump out a product that they don't
16 own. But once they run out, we'll have gas
17 available in other parts of the island and no
18 way to pump it out.

19 So what I'm suggesting is perhaps we
20 don't close the door on this, because I don't
21 believe we have an adequate solution. I
22 think we still have to address the fact that
23 we may wind up with gas that's not available
24 because it can't get to the terminal. If it

1 can't get to the terminal, it can't get to a
2 truck.

3 Trucks also, in this business, they
4 have a set schedule that they're not allowed
5 to deviate from just because a particular gas
6 station runs out. So I'm not sure if your
7 plan addresses that, but it needs to.

8 So the only suggestion I have, with
9 the minute and a half I have left, is that
10 this plan isn't quite done. We need to do
11 something about making sure we have access to
12 fuel. We also need to make sure people
13 aren't going out to get gas just because they
14 want it. I had people parked in front of my
15 home, which was a mile and a half away from
16 the closest gas station, overnight for no
17 reason whatsoever. They weren't going
18 anywhere. So we need to address that issue
19 as well.

20 But I think we need to sit down with
21 the petroleum dealers, with the independent
22 service station dealers, the franchise
23 dealers, and come up with a solution that
24 really makes sense so that we have access to

1 fuel when we need it, that first responders
2 have access to it, and that we're not asking
3 small businesses to take on a loan or a grant
4 to purchase a piece of property that's not
5 theirs to begin with. That's my only
6 suggestion.

7 And I look forward to working with
8 you on this, because I think it's kind of
9 half-cooked.

10 NYSERDA PRES/CEO RHODES: Well, let
11 me endorse the sense of urgency that you
12 bring to the issue. Of course we share it.
13 The community, the recipients of assistance
14 that you're concerned about are precisely the
15 ones that we are concerned about. And we
16 absolutely will not close the door on
17 reviewing the program to make sure that it is
18 as effective as possible for this critically
19 important mission. Thank you.

20 SENATOR SAVINO: Thank you.

21 CHAIRMAN FARRELL: Assemblyman Oaks.

22 ASSEMBLYMAN OAKS: Thank you,

23 Chairman.

24 Just a couple of questions, one on

1 the Governor's Energy Highway, just the
2 latest information on that. Are there
3 current projections of when, you know, we
4 might see progress on that?

5 NYSERDA PRES/CEO RHODES: The Energy
6 Highway? Well, NYSERDA has very specific
7 responsibilities in connection with the
8 Energy Highway. We have a certain
9 responsibility for conducting studies and
10 supporting collaborative research.

11 But I can assemble the broader answer
12 to your question and get it to your office
13 from other agencies that are involved in the
14 State Energy Highway.

15 ASSEMBLYMAN OAKS: Thank you on that.

16 I know that Vice President Biden was
17 here recently and talked with the Governor,
18 and they talked about strengthening the
19 electrical grid in the state and modernizing
20 that. Is that incorporated at all within
21 this year's budget?

22 NYSERDA PRES/CEO RHODES: There are
23 activities that we are taking to do so this
24 year, and they are incorporated in the

1 different agency budgets that are involved.

2 In addition, the State Energy Plan,
3 which was just released for public comment,
4 anticipates further work on this agenda as we
5 go forward. So some items are in this year's
6 budgets of the different agencies, but this
7 is an undertaking that's going to proceed
8 over several years.

9 ASSEMBLYMAN OAKS: There was just
10 some discussion on the rewiring in the
11 generators for gas stations and whatever, and
12 I know that some of that effort has taken
13 place downstate. I represent some of the
14 upstate areas, and I know there is now
15 further discussion on moving forward to cover
16 some of that area as well.

17 Along with that, I know there was
18 some discussion about perhaps NYSERDA gaining
19 possession of generators and renting, or a
20 process of doing that. Have we made any
21 progress on that, or where is the standing of
22 that?

23 NYSERDA PRES/CEO RHODES: With
24 respect to downstate, the program that we are

1 in the process of implementing is to prepare
2 around 1100 gas stations downstate to accept
3 generators and then to organize and contract
4 for a pool of quickly deployable backup
5 generators that could be dispatched to those
6 prewired gas stations that are most affected
7 by the emergency that we are then responding
8 to. And that process is underway in terms of
9 contracting for those services and support.

10 ASSEMBLYMAN OAKS: They're not
11 purchased at this point, but the process is
12 working toward that is?

13 NYSERDA PRES/CEO RHODES: The process
14 is working towards a model where a firm would
15 undertake to deploy the generators as needed,
16 where needed, into the prewired,
17 ready-to-receive-them sites on effectively a
18 leased basis.

19 ASSEMBLYMAN OAKS: Thank you.

20 SENATOR KRUEGER: Senator Pat
21 Ritchie.

22 SENATOR RITCHIE: I sponsor
23 legislation in the Senate that would require
24 the payment of grants to farm operations

1 within 90 days by NYSERDA. And I know that
2 there is a problem, we had a hearing in
3 Watertown and a number of farmers testified
4 that they're awarded the grant, they make the
5 investment, and then it sometimes has been
6 taking them a year to get payment from
7 NYSERDA. Sometimes the farm is not able to
8 keep that debt until they get payment from
9 NYSERDA.

10 So can you tell me why that is taking
11 place and what can be done to rectify it?

12 NYSERDA PRES/CEO RHODES: Thank you
13 for the question. I share your sense of
14 urgency about this pattern. And we are
15 working, we are developing plans for speeding
16 up exactly this kind of issue as we speak.
17 I'd like to perhaps get back to you with more
18 information about specifically where we are
19 on those programs with respect to the farming
20 community.

21 I absolutely endorse the impatience
22 and frustration that you express.

23 SENATOR RITCHIE: And when you're
24 talking about a proposal, are you talking

1 about maybe fast-tracking that? Because
2 there are farmers out there right now who are
3 still waiting for payment. So I don't know
4 if -- are we talking about having something
5 together and trying to move forward quickly,
6 or is this going to be a lengthy process?

7 NYSERDA PRES/CEO RHODES: I will need
8 to look into that, but I imagine that we will
9 be looking at the full range of
10 possibilities, including expediting what we
11 can expedite and fixing the system so that it
12 is faster in the future.

13 SENATOR RITCHIE: And I just have one
14 last question.

15 Three-phase power is needed now for
16 dairy operations but also for digesters. Can
17 you tell me what NYSERDA is doing to make
18 themselves helpful to those farmers who are
19 trying to make such big investments in their
20 farm operations?

21 NYSERDA PRES/CEO RHODES: In the
22 anaerobic digesters?

23 SENATOR RITCHIE: Yes. And also when
24 they're upgrading their milking parlors.

1 Most of them are waiting now for three-phase
2 power, and when they hear back from the
3 utility the large costs associated with them,
4 they can't expand.

5 And I know the Governor is certainly
6 interested in expanding operations. But if
7 they can't afford to upgrade to three-phase
8 power, then that's something that we should
9 be looking at. I'm just wondering what is
10 NYSERDA doing to help the problem.

11 NYSERDA PRES/CEO RHODES: Let me get
12 back to you on the broader question of what
13 we are doing to help farmers.

14 With respect to the anaerobic
15 digesters themselves, NYSERDA has an active
16 program both to assist with the investment
17 costs of the anaerobic digester equipment and
18 installation as well with the costs
19 associated with connecting to the grid.

20 SENATOR RITCHIE: Do you just know
21 basically what percentage of the cost of a
22 digester NYSERDA might be helping with?
23 Because it sounds like we're talking about
24 maybe a million-dollar investment. And are

1 we talking that NYSERDA may have a 5 percent
2 investment in it, or are we looking to have a
3 realistic pot of money available to actually
4 help a farmer?

5 NYSERDA PRES/CEO RHODES: I think the
6 pots of money are quite, in your words,
7 realistic. I believe the cap is I think
8 \$2 million per project. So I think that is,
9 for most projects, quite a significant
10 contribution and improvement of the
11 economics.

12 SENATOR RITCHIE: Do you know what
13 percentage of projects are funded?

14 NYSERDA PRES/CEO RHODES: Project
15 applications that have come in?

16 SENATOR RITCHIE: Yes.

17 NYSERDA PRES/CEO RHODES: I would
18 have to get back to you on that. I believe
19 we are -- I know we are funding all projects
20 that seem fundable to us. And I know we are
21 about to open another round of solicitations.

22 SENATOR RITCHIE: Well, I would
23 appreciate it if you could get to me, at
24 least with regards to the farm operation

1 projects, the number that was funded and what
2 percentage of the project is funded. Because
3 if we have a pool of money and we're funding
4 such a small amount of it, we're not going to
5 be able to help them expand at their farm.
6 So I just want to make sure that we have the
7 right amount of money in the pot and we're
8 actually giving a large enough share of that
9 to a farmer to encourage them to expand.

10 NYSERDA PRES/CEO RHODES: I
11 understand the question and will get you the
12 answer.

13 SENATOR RITCHIE: Okay, thank you.

14 CHAIRMAN FARRELL: Thank you.

15 Assemblyman Abinanti.

16 ASSEMBLYMAN ABINANTI: Thank you,
17 Mr. Chairman.

18 Thank you for joining us today. I'd
19 like to talk a little bit about -- you
20 mentioned the NY-Sun initiative. I want to
21 drill it down even more.

22 I've had some inquiries from
23 individual homeowners about converting to
24 solar power or adding solar panels to their

1 roofs and things like that. In fact, there
2 are even some members of the private system
3 that call people and say that there's a
4 program out there that you can take advantage
5 of, it's not going to cost you anything to
6 install solar and in the end it will benefit
7 you, you'll cut your energy bills, et cetera.

8 Can you address that program for a
9 minute? And I heard something about it being
10 cut back. Is it possible for you to comment
11 on that?

12 NYSERDA PRES/CEO RHODES: I cannot
13 comment on the report that you've heard that
14 NY-Sun might be being cut back. We are I
15 think expanding, we are proposing to expand
16 the NY-Sun program to a very meaningful
17 extent. I think to date we have installed
18 something like that 200 megawatts, and we are
19 going to aim for 3,000 megawatts.

20 ASSEMBLYMAN ABINANTI: Right, I
21 applaud your efforts in that area. I'm just
22 trying to understand what this individual
23 homeowner initiative is. I don't know if
24 it's through NYSERDA or through someone else.

1 It sounds like it would be a NYSERDA program.

2 NYSERDA PRES/CEO RHODES: It is a
3 NYSERDA program.

4 I'm not sure how to respond to the
5 report that you're describing. The design of
6 the expanded NY-Sun megawatt block program is
7 designed to achieve the end of the need for
8 subsidies over a period of time, a multiyear
9 period of time. So that is the purpose of
10 this. The mechanism is not to starve the
11 homeowners but rather to help the private
12 sector develop the ability to provide solar
13 power at economics that are good for them and
14 good for the homeowner, and to do so over
15 time so the costs will come down as the
16 market matures.

17 ASSEMBLYMAN ABINANTI: So are we
18 talking about shifting from a homeowner
19 subsidy to a business subsidy?

20 NYSERDA PRES/CEO RHODES: No, we are
21 talking about preserving the subsidy to the
22 homeowner, the owner of the panels, but we
23 are talking about doing so while developing a
24 market that can be more mature and therefore

1 reduce costs and become more efficient over
2 time.

3 ASSEMBLYMAN ABINANTI: Now let's go
4 to the budget aspect of this. Where does the
5 funding for this come from?

6 NYSERDA PRES/CEO RHODES: The bulk of
7 NYSERDA's funding comes from ratepayer funds.

8 ASSEMBLYMAN ABINANTI: This is the
9 same funding, then, it's not a separate
10 source of funding than the one you referred
11 to already?

12 NYSERDA PRES/CEO RHODES: Correct.
13 This is something that has been or would be
14 approved by the Public Service Commission as
15 a use of ratepayer dollars. So it's coming
16 out of that part of the budget.

17 ASSEMBLYMAN ABINANTI: But the
18 existing program with homeowners is already
19 in place, has been approved and is ongoing?

20 NYSERDA PRES/CEO RHODES: Correct.

21 ASSEMBLYMAN ABINANTI: Is the amount
22 of money set aside for that the same for next
23 year as it has been in the past?

24 NYSERDA PRES/CEO RHODES: It is going

1 up.

2 ASSEMBLYMAN ABINANTI: All I wanted
3 to hear.

4 NYSERDA PRES/CEO RHODES: At a
5 meaningful rate.

6 ASSEMBLYMAN ABINANTI: Thank you.

7 SENATOR KRUEGER: Senator Tkaczyk.

8 SENATOR TKACZYK: Hi. I just have a
9 couple of questions.

10 You talked about the NY Green Bank
11 initiative and it's going to have a billion
12 dollars. When is that going to be available,
13 and what types of financial programs is it
14 going to be offering specifically? And what
15 types of projects will be able to get funded
16 under it? Could you give me an example
17 first.

18 NYSERDA PRES/CEO RHODES: The Public
19 Service Commission at the end of 2013, I
20 think December 19th, approved the
21 redeployment of certain funds to provide
22 initial capitalization to the Green Bank.
23 The Public Service Commission approved around
24 165. And together with other funds that

1 NYSERDA and the Governor's office determined
2 could be usefully deployed here, there is
3 additional capitalization of the Green Bank
4 of around \$218 million.

5 The Green Bank is opening up for
6 business. It has a leader, it is building up
7 the staff, and it is in very good
8 communication with prospective partners. So
9 we expect the Green Bank will be doing
10 business before the end of the first half of
11 this year, 2014. So that was one part of
12 your question.

13 SENATOR TKACZYK: Who is the leader?

14 NYSERDA PRES/CEO RHODES: The leader
15 is a seasoned executive by the name of Alfred
16 Griffin. He comes to us from Citibank, where
17 he has considerable experience and quite some
18 record of accomplishment in just this sort of
19 field.

20 The intended uses of the facility
21 will be to provide solutions that block --
22 where there's a financial market failure that
23 prevents an otherwise good clean-energy
24 project from going forward.

1 So you might have, for instance, have
2 an apartment building complex that would like
3 to borrow money to implement energy
4 efficiency in its buildings. The economics
5 of this are very good, the landlord wants to
6 do it, and the payback is some reasonable
7 number of years -- and the bank says "I have
8 concerns because this is a new product, I'm
9 only supposed to lend where there is a record
10 of loan repayment performance."

11 And you're in a chicken-and-the-egg
12 world where people aren't making the loans
13 because there is no track record, so the
14 track record hasn't developed so people can't
15 make the loans.

16 The Green Bank, with due scrutiny of
17 the creditworthiness of the borrower and the
18 economic soundness of the project would step
19 in and in this case potentially provide a
20 loan loss reserve, which is a way of giving
21 assurance to the borrower that if the loan
22 falls behind in terms of payments come in
23 late or payments stop coming in, they can go
24 to this loan loss reserve first and get the

1 money.

2 At this point they don't need a loan
3 performance track record, they know they have
4 cash that they can go to, so they make the
5 loan. So that creates the track record, and
6 that starts the virtuous cycle of getting the
7 bank or other entity into the business and
8 possibly putting the Green Bank out of
9 business in this particular respect.

10 So it is working in partnership with
11 lending entities, in this case, and it is
12 about solving gaps or failures in the market
13 for finance in order to support projects,
14 clean-energy projects that would be renewable
15 energy or energy efficiency that would be
16 otherwise eligible for NYSERDA support. And
17 if those are sound, we will solve the
18 financing gap.

19 SENATOR TKACZYK: One last question.
20 I had an area that was hit by a flood and it
21 was mentioned that NYSERDA had assistance
22 available to potential property owners.
23 Could you describe what those programs are
24 from NYSERDA that might help a business owner

1 recover? Let's say they have a property that
2 has several apartments in it. Is that
3 something you could assist with? And they've
4 lost several furnaces because of the flood.

5 NYSERDA PRES/CEO RHODES: Yes. I
6 could give you more detail on that, but there
7 are programs to provide assistance for
8 upgrading and replacement of energy
9 equipment, particularly if there is an energy
10 savings that can be associated with that
11 upgrade.

12 SENATOR TKACZYK: There was just a
13 lot of confusion about what NYSERDA could do
14 in the community that I was working with in
15 Fort Plain. So I would love to get someone
16 from your staff to contact me and let us know
17 some of those details.

18 NYSERDA PRES/CEO RHODES: We will do
19 that. Thank you, Senator.

20 SENATOR TKACZYK: Thank you.

21 CHAIRMAN DeFRANCISCO: Senator
22 Krueger.

23 SENATOR KRUEGER: Good afternoon.

24 NYSERDA PRES/CEO RHODES: Good

1 afternoon.

2 SENATOR KRUEGER: The Governor in his
3 budget talks about Renewable Heat New York
4 Low Emission Biomass Heating Initiative. I'm
5 sure there's a nickname, and I'm not sure
6 what that would be. And he talks about it as
7 a clean-energy initiative, but my
8 understanding is that biomass heating is
9 actually wood heating.

10 And so I'm wondering what are we
11 doing with that program and do we actually
12 believe expanding on wood heating is a
13 actually a clean-energy model in the
14 21st century.

15 NYSERDA PRES/CEO RHODES: We believe
16 that there are technologies out there that
17 burn wood much more efficiently and with much
18 less particulate emission than existing wood
19 furnaces and boilers. And this program is
20 about making available resources to help
21 install that new generation of cleaner-
22 burning equipment to replace other, dirtier,
23 more pollution-emitting equipment.

24 And we believe that we can do this at

1 an economic savings to the consumer, and we
2 believe we can do this in the service of
3 resiliency and diversification of fuel
4 source, particularly in areas that have very
5 few alternatives.

6 So our judgment, based on studies, is
7 that this is in fact a cleaning-up program as
8 well as an economic development program as
9 well as a cost-savings program. As well as,
10 in some sense, a resiliency/diversification
11 of resources program.

12 SENATOR KRUEGER: And are we going to
13 have standards for this program that are
14 equivalent to the emissions from ultra-low-
15 sulfur heating oil or other models that are
16 defined as having a cleaner footprint than
17 conventional wood-burning --

18 NYSERDA PRES/CEO RHODES: We will
19 have standards that absolutely ensure that
20 what we put in will have a cleaner footprint
21 than what we replace.

22 SENATOR KRUEGER: So the only
23 standard is it has to be better than what you
24 had before and not an actual standard?

1 NYSERDA PRES/CEO RHODES: No, we will
2 have -- we will make sure of that, but we
3 will also make sure that it is an
4 improvement -- it is clean by accepted
5 definitions.

6 SENATOR KRUEGER: And how are we
7 going to pay for this?

8 NYSERDA PRES/CEO RHODES: We are
9 developing proposals to do that now, as the
10 members of the state's Energy Portfolio and
11 other sister agencies may be contributing to
12 that.

13 SENATOR KRUEGER: Is there an
14 estimated price tag?

15 NYSERDA PRES/CEO RHODES: We are
16 developing that. And I can share it with you
17 as it comes into being.

18 SENATOR KRUEGER: Thank you.

19 There was an article in *Bloomberg*
20 *News* about the Northeast being price-gouged
21 on natural gas prices as everything got cold.
22 And I'm just wondering does New York State --
23 and it may not fairly be a NYSERDA question,
24 but you're here in front of me. Is there a

1 mechanism the State of New York has in place
2 either to prevent price gouging or protect us
3 when we see it happening?

4 NYSERDA PRES/CEO RHODES: Well, I
5 will defer to other agencies on what we can
6 do against price gouging.

7 To the larger question of what can we
8 do in response to fuel shortages and fuel
9 price increases that follow unhappily but
10 inevitably from cold spells such as the one
11 we are experiencing, we do have mechanisms to
12 understand the need and possibly implement
13 measures to supply and reduce costs. And the
14 Governor's office is actively monitoring
15 those situations across all the critical
16 fuels -- including propane, including ULDS,
17 as you mentioned, and including fuel for
18 electric power generation -- and is on a
19 day-to-day basis determining whether there is
20 a need to activate those measures.

21 SENATOR KRUEGER: Again, just for the
22 record, according at least to the articles,
23 the minute it got cold, so to speak, the
24 natural gas prices in New York skyrocketed,

1 even though most of the contracts are on a
2 long-term basis so you can't actually have a
3 shortage of natural gas the minute the
4 temperature goes down. Which is why I'm
5 defining it as price gouging. It's not
6 suddenly a shortage exists in the State of
7 New York or even in the market overall. I
8 believe it is taking advantage of an
9 exceptionally cold period of time to use as
10 an excuse to skyrocket the cost.

11 So I am very interested and concerned
12 about if we don't have a system in place that
13 can help New York State address and protect
14 from this, our creating some mechanism where
15 we can track and do something about this in
16 future. Because I suspect this is not a
17 one-time story.

18 NYSERDA PRES/CEO RHODES: Senator, I
19 think this goes beyond the remit of NYSERDA.
20 But I can certainly make sure that we get
21 back to you with our view of who is
22 responsible on these kinds of issues.

23 SENATOR KRUEGER: And conceivably I
24 can ask the Power Authority that question as

1 well. Thank you.

2 CHAIRMAN FARRELL: Mr. Abinanti for a
3 second go.

4 ASSEMBLYMAN ABINANTI: Thank you,
5 Mr. Chairman.

6 The Greener Communities initiative,
7 this is something that you were actively
8 pushing the last few years. What's the
9 status of the program now, and are we on
10 schedule to provide more grants for regional
11 sustainability?

12 NYSERDA PRES/CEO RHODES: Yes. The
13 Cleaner Greener Community program is up and
14 running. We have just awarded \$30 million,
15 approximately, in funding to a number of
16 projects across the state, all of which go to
17 economic development and to supporting the
18 clean-energy economy. And we are expecting
19 to implement another round of Cleaner Greener
20 Community funding before the end of 2014.

21 ASSEMBLYMAN ABINANTI: Now, this
22 money is available to our local communities;
23 correct? They work in a partnership with
24 businesses, or how do they work?

1 NYSERDA PRES/CEO RHODES: It depends
2 on -- we solicit applications and they come
3 in, and then the money goes to the successful
4 applicant. In most cases I believe there
5 will be a local community that is deeply
6 involved in the application.

7 ASSEMBLYMAN ABINANTI: Thank you very
8 much.

9 CHAIRMAN DeFRANCISCO: Senator
10 Grisanti.

11 SENATOR GRISANTI: Yes. Thanks,
12 John, for being here.

13 You would agree -- and I think you
14 touched on this when Assemblyman Abinanti was
15 asking you this -- that there's bottlenecks
16 in the transmission lines in Central New York
17 and other areas of New York State?
18 Bottlenecks in the transmission lines, would
19 you agree with that?

20 NYSERDA PRES/CEO RHODES: We have a
21 very limited role in those transmission line
22 issues.

23 SENATOR GRISANTI: Okay. Well, when
24 he was talking to you and asking about the

1 Energy Highway, that's the Governor's program
2 to move energy efficiently across the state?

3 NYSERDA PRES/CEO RHODES: Correct.

4 SENATOR GRISANTI: So you have a
5 limited role in that?

6 NYSERDA PRES/CEO RHODES: Right. We
7 have the lead responsibility for certain
8 studies, but we do not have lead
9 implementation responsibility on that.

10 SENATOR GRISANTI: Okay, that's what
11 I'm getting to.

12 Are the studies done because -- and
13 you've mentioned this on other questions,
14 about a sense of urgency. It is a sense of
15 urgency because, you know, we have,
16 particularly in my district in Western
17 New York, we have plants that are able to
18 produce electricity to get it down to
19 New York City rather than bringing a line in
20 from Quebec.

21 So are the studies done with regards
22 to -- I don't know why you need a study if
23 there's -- I mean, there's bottlenecks,
24 there's problems with the transmission lines.

1 And fixing these lines can create tens of
2 thousands of jobs and boost the economy
3 significantly. Is that what your studies are
4 showing, or do you already know that to be
5 the case?

6 NYSERDA PRES/CEO RHODES: NYSERDA
7 studies are limited in scope to exploring the
8 feasibility and impact of certain potential
9 solutions. Those solutions that we are
10 addressing do not in fact include
11 transmission lines and the like. They
12 include measures that might reduce the need
13 for increased transmission.

14 I believe that it is other agencies
15 within the Governor's emergency portfolio
16 that have the lead responsibility on those
17 broader transmission-oriented issues.

18 SENATOR GRISANTI: Okay. But you
19 just said there's a study to reduce the need
20 for less transmission? I don't understand
21 that.

22 NYSERDA PRES/CEO RHODES: For
23 instance, a study that NYSERDA might do is to
24 assess the potential for renewable generation

1 or for smart-grid investments on the other
2 side of the bottleneck, if you will, so that
3 you need to push less energy through the
4 bottleneck.

5 SENATOR GRISANTI: I got you. Okay.
6 Okay, understood. All right, thanks. That's
7 all I've got.

8 CHAIRMAN DeFRANCISCO: All right,
9 just a couple of questions and you can go
10 home to your loved ones.

11 The first question is your funding
12 is -- there's only like \$28 million in the
13 budget; correct?

14 NYSERDA PRES/CEO RHODES: Twenty-
15 eight, yes, sir.

16 CHAIRMAN DeFRANCISCO: Okay. But you
17 spend a lot more than that.

18 NYSERDA PRES/CEO RHODES: Yes, sir.

19 CHAIRMAN DeFRANCISCO: How many
20 hundreds of millions do you spend? Give me
21 the nearest hundred million.

22 NYSERDA PRES/CEO RHODES: It's
23 \$760 million in this year's budget.

24 CHAIRMAN DeFRANCISCO: Okay. When

1 you say this year's budget, your budget;
2 correct?

3 NYSERDA PRES/CEO RHODES: Correct.
4 Yes, sir.

5 CHAIRMAN DeFRANCISCO: Do you have
6 some breakdown of where that money comes from
7 and where it goes to? I mean a line-by-line
8 kind of accounting of what you've done with
9 your money in the past and where it came from
10 so you could spend it.

11 NYSERDA PRES/CEO RHODES: Yes, sir.
12 But let me just correct myself. I looked up
13 the number. Our budget this year is
14 \$747 million.

15 CHAIRMAN DeFRANCISCO: I was just
16 looking for the nearest hundred million, so
17 that was --

18 NYSERDA PRES/CEO RHODES: May I
19 answer your question in two parts?

20 CHAIRMAN DeFRANCISCO: Three, if
21 you'd like.

22 NYSERDA PRES/CEO RHODES: One, there
23 was a request for kind of a line-by-line
24 accounting. Can we get that to your office?

1 CHAIRMAN DeFRANCISCO: Oh,
2 absolutely. I just want -- the first thing I
3 need, I just want to see the various dollars
4 from each source of income and then just -- I
5 don't need a line by line, but just where
6 those resources go, how they're allocated and
7 where they come from. That's really the most
8 important thing.

9 NYSERDA PRES/CEO RHODES: Right. And
10 so the bulk of the funding comes from
11 ratepayer surcharges. And those go to uses
12 that are approved by the Public Service
13 Commission as a use of those ratepayer
14 monies.

15 So meaningfully, those include our
16 energy efficiency programs, where we provide
17 grants and incentives for reducing energy
18 consumption, and they go for renewable
19 portfolio standards where we provide support
20 for installation of solar and of wind and of
21 anaerobic digesters and of other forms of
22 renewable energy.

23 And there is -- the bulk of our R&D
24 expenditure is also funded by those ratepayer

1 surcharges.

2 In addition, we get funds from the
3 Regional Greenhouse Gas Initiative auction
4 proceeds, which we use for related but
5 supplemental uses, including the Cleaner
6 Greener Communities and so forth. And of the
7 \$28 million that we are asking for in this
8 budget, \$12 million goes to the New York
9 State cost share of the West Valley
10 operation, which is a cleanup of a site in
11 Western New York in partnership with the U.S.
12 Department of Energy, and \$16 million goes to
13 R&D and planning activities.

14 So I can give you more detail, but
15 more or less that's how it goes.

16 CHAIRMAN DeFRANCISCO: But the only
17 numbers you just gave me -- and I know you
18 don't have them here, but the numbers you
19 gave me were the numbers that are budgeted,
20 the 28 million?

21 NYSERDA PRES/CEO RHODES: Right.

22 CHAIRMAN DeFRANCISCO: The rest is
23 just big globs, this is where it comes from,
24 this is where it goes to?

1 NYSERDA PRES/CEO RHODES: No. We
2 will give you the details, but there's about
3 \$500 million or so in ratepayer funds that go
4 to --

5 CHAIRMAN DeFRANCISCO: No, you just
6 went through it. I just want to get
7 something in writing showing X in and X out
8 for these various programs, from the money
9 in, another pot of money in, and how much
10 it's costing these programs.

11 NYSERDA PRES/CEO RHODES: Shall I do
12 that for that past year and for this budget
13 year?

14 CHAIRMAN DeFRANCISCO: Well, do you
15 know what it's going to be for this budget
16 year yet?

17 NYSERDA PRES/CEO RHODES: We can tell
18 you what we plan.

19 CHAIRMAN DeFRANCISCO: Well, that
20 would be great. That would be even better.
21 I'd like last year, but if you've got it
22 pretty well figured out where you expect it
23 to go, that would be terrific.

24 NYSERDA PRES/CEO RHODES: With the

1 caveat that sometimes the world forces
2 changes on us. But yes, we can share
3 expectations.

4 CHAIRMAN DeFRANCISCO: Great, I
5 appreciate it. And thank you very much for
6 your testimony. And you are free to go.

7 Now we next have Wayne Bayer. He is
8 the vice president of the New York State
9 Public Employees Federation DEC. And on deck
10 is Jeff Williams, Farm Bureau.

11 (Off the record.)

12 MR. BAYER: Good afternoon,
13 Mr. Chairmen, Senators and Assemblypeople. I
14 would like to clarify from the beginning that
15 I'm speaking as a representative of the
16 PEF/encon Division 169 Steward Council at DEC
17 headquarters. We represent approximately
18 1800 of the dwindling number of employees at
19 DEC. We're down to 2917 --

20 CHAIRMAN DeFRANCISCO: Excuse me.
21 Excuse me. Stop for a minute, take a breath,
22 relax before you continue and go on.
23 Seriously. Seriously, compose yourself.
24 You're fine. We've got till midnight

1 tonight. Only till midnight because then we
2 start tomorrow's hearing at midnight.

3 (Laughter.)

4 MR. BAYER: As I started to say,
5 we're down by 597 positions since -- on
6 January 31, 2010, the Joint Fiscal
7 Committee's staff analysis said that DEC was
8 down by 539 positions. We're now down by 597
9 positions. And that's just since 2010. But
10 the committee and everybody else should be
11 cognizant of the fact that we're down by
12 one-quarter to one-third of what our highest
13 staffing level was in the early 1990s.

14 And I think most of you know, but
15 some of you may not, that almost every year
16 since DEC was created in 1970, there's been
17 added new statutory and regulatory
18 responsibilities that the staff has had to
19 take on. I can think of only one program
20 that has been cut in that time period, but
21 the staff responsibilities still increase.

22 Preparing for today's testimony, I
23 was struck by the fact that how many things
24 that I mentioned in my 2011 testimony are

1 still relevant. Particularly DEC is still
2 not the agency that it was when it was
3 established and envisioned under Governor
4 Rockefeller. Our staffing level, as I said,
5 is down by one-quarter to one-third from its
6 high point in the '90s. We are still
7 contracting out work that DEC staff used to
8 do, could do. And if they did that, the
9 New York State citizens would have higher
10 confidence that the people doing the work
11 were hired under the merit and fitness
12 system, under the increasingly marginalized
13 and unused New York State Civil Service
14 system.

15 Furthermore, state employees, PS&T
16 staff as well as I think some managerial
17 employees, are covered by the Public Officers
18 Law. We're not beholden to the end-of-the-
19 year possible bonus that a contract employee
20 may have. That's not to single out any
21 contract employees, as many contract
22 employees that work for the State of New York
23 under contract are doing great work and are
24 great people.

1 In that testimony we mentioned the
2 cuts and in previous testimony we mentioned
3 staff that was not adequately on staff to do
4 dam safety inspections. We also mentioned
5 there wasn't enough staff on hand to do
6 oversight of CAFO operations, concentrated
7 area feed operations. And shortly after we
8 mentioned both those things in previous
9 testimony, there was the huge fish kills in
10 the Beaver Creek and I believe the Black
11 River. There also was that Hadlock Pond dam
12 that collapsed, causing major economic
13 disruptions and controversy.

14 And as you know, DEC is not the only
15 agency that's suffering a lot of staff cuts
16 and staff shortages. Almost every state
17 agency in New York is. And you all know that
18 every local government, school district and
19 fire department is suffering from inadequate
20 staff and inadequate funding. A lot of this
21 is due to the fact that the federal
22 government no longer provides federal revenue
23 sharing. And that is because a lot of the
24 tax cuts on the federal level have been cut.

1 Nobody likes to pay taxes. And they're
2 particularly onerous for property owners, as
3 most of you know, and there's a large clamor
4 to do some cuts for those this year.

5 But I would ask you to keep
6 conscious, as you're considering tax cuts, of
7 how much taxes have been cut since the 1950s.
8 For example, under President Eisenhower, a
9 Republican, under a Republican-controlled
10 Senate and House of Representatives, the top
11 income tax rate was 92 percent. So was the
12 capital gains rate. So that's part of the
13 reason why there's not enough adequate
14 funding.

15 We also warned about not having
16 enough staff to monitor and survey the huge
17 lumber harvesting producing areas under DEC
18 control. That is causing maybe some
19 reduction in the potential for lumber
20 harvesting revenue that could come into the
21 state.

22 And we also warned about the staff
23 shortages for inspecting and monitoring the
24 shellfishing areas off of Long Island -- that

1 reduction in staff as the U.S. FDA has
2 threatened to take away the agreement that
3 they had with the State of New York for DEC
4 staff to do that monitoring.

5 And upstaters should not be too
6 complacent about the cuts in downstate staff
7 because those staff down there also have a
8 responsibility for inspecting and monitoring
9 the major seafood distributors located
10 throughout the State of New York. So think
11 about that the next time you order seafood
12 when you're out.

13 We'd like to mention two others that
14 are fairly critical right now. And the one
15 is for the shortages in the Emergency
16 Response and Spill staff. And that's
17 particularly concerning with increased
18 freight rail traffic traveling throughout
19 New York State carrying the Bakken field oil.
20 And as you know, that in the last year
21 there's been more rail train accidents than
22 the previous 30 years.

23 The DEC staff is fairly well trained
24 to deal with that. And most professional

1 fire departments, including the one in
2 Albany, are fairly well trained. But it's
3 not quite sure if a lot of the other fire
4 departments throughout the state are
5 adequately prepared and trained and have the
6 equipment and the staff to investigate and
7 respond to a major rail train accident. And
8 that's because a lot of them are volunteer
9 fire departments. There's good volunteer
10 fire departments throughout the State of
11 New York, but they may not all have the
12 resources to get the adequate training that
13 they need.

14 And you should be cognizant of the
15 fact that each region office of DEC is down
16 to approximately two spill responders. And
17 that is particularly onerous and concerning
18 where the large regional offices have large
19 tracts of land with a lot of geographical
20 distance between where the spill
21 responders are and where the accident may
22 occur. And part of that is because DEC has
23 not been authorized to backfill any
24 positions. Part of that is because of the

1 micromanagement of the Division of the Budget
2 and perhaps the second floor of the Capitol,
3 because we like to believe that the top-level
4 administrative staff at DEC is cognizant and
5 aware of the potential harm they could do
6 without adequate staffing.

7 The other fairly new program that is
8 very understaffed is the Invasive Species
9 Unit. Back in 2003 Governor Pataki signed a
10 bill sponsored Senator Marcellino and
11 then-Assemblyman DiNapoli to create an
12 Invasive Species Task Force to recommend how
13 to respond to the growing problem of invasive
14 species. And I won't go into a lot of detail
15 now, I'll just refer you to the website links
16 that are included in the backs of the
17 testimony, which provides a lot of
18 information about what those task forces did
19 and what they recommended.

20 One thing you should be aware of
21 that's very concerning to the DEC staff is
22 that one task force called for up to eight
23 additional professional staff, full-time
24 staff, as well as a number of interns to help

1 out with developing all these task forces and
2 contracting these task forces to do the
3 investigation and oversight for invasive
4 species attacks.

5 Invasive species, I don't think
6 there's a figure yet for the potential cost
7 to New York State. But I think the last
8 estimate that I'm aware of is that the cost
9 of invasive species nationally is over a
10 billion dollars. It affects the agricultural
11 industry, it impacts the fishing industry,
12 which is a huge revenue driver for New York
13 State, including a driver for the tourist
14 industry in New York. So a lot of these
15 invasive species have come in and had really
16 negative impacts.

17 They've had negative impacts on
18 boating, because a lot of the -- I think it's
19 hydrilla algae or weeds that are
20 proliferating and getting into a lot of lakes
21 and streams upstate, you know, slow down
22 boats and crowd out other species, clog water
23 pipes, water pipe intakes and outpipes. And
24 you all know about the problems with the

1 West Nile virus, which is an invasive
2 species.

3 You all hopefully know about the
4 Asian carp that is coming up through the
5 Great Lakes and the canals and is probably
6 destined to come into New York, and that
7 Asian carp is really a voracious eater of
8 other productive and important species of
9 fish that are very important to the fishing
10 industry.

11 Some of you have probably seen those
12 videos of those things that are -- they
13 mass-produce and regenerate so rapidly that
14 some people are out fishing and those carp
15 are really flying into their boats and
16 hitting them in the head. And that's of
17 great concern to the fishing industry.

18 And we don't have enough adequate
19 staff to respond to this stuff and
20 investigate or try to remediate or stop the
21 expansion.

22 CHAIRMAN DeFRANCISCO: Excuse me.
23 Can you start summing up a little bit? See
24 the clock in front of you? Can you start

1 summing up?

2 MR. BAYER: Okay. The last two
3 things, I'd be remiss if I didn't mention on
4 the part of my colleagues two staffing issues
5 at DEC. One is the fact that we had a labor
6 and management joint task force to recommend
7 expand telecommuting and compressed pay
8 period. That program was successfully
9 evaluated and recommended for expansion and
10 making permanent.

11 That has not happened. And why is
12 that concerning? Because that has the
13 potential for major energy reduction, air
14 pollution reduction. With reducing traffic
15 on the roads and in parking lots, it saves
16 costs for maintenance and repair and
17 expansion of more parking garages and parking
18 lots. It also is very good for helping with
19 recruitment and retention of DEC employees
20 and potentially other employees at other
21 agencies, because it helps out for those
22 staff that have elder care, childcare or
23 second job responsibilities.

24 And it's particularly troubling that

1 under President Bush that program was
2 expanded and directed to apply to almost
3 every federal agency. And it's quite ironic
4 that President Bush had more of an
5 environmentally friendly policy than the
6 governors of New York have had in the last 10
7 years.

8 In closing, I just want to mention
9 also that lately there's been some staff
10 harassment and hindering our ability to meet
11 on labor/management issues and health and
12 safety issues. And health and safety issues
13 are very important to DEC staff because we
14 have some of the greatest variety of job
15 responsibilities on the air, land and water,
16 with planes that restock isolated lakes in
17 the Adirondacks and on tidal currents and
18 waters off the shores of Long Island and the
19 Great Lakes.

20 And we also have staff that are
21 working in isolated forest areas. If you
22 remember, the successful reintroduction of
23 the bald eagle in New York State, that was
24 done because of DEC staff going high up in

1 trees in isolated areas.

2 And we believe that the good health
3 and safety programs we've had previously has
4 helped to reduce the number of serious
5 accidents, if not deaths, of state DEC
6 employees. And without a good health and
7 safety program with staff participating in
8 it, the possibility of those accidents could
9 increase costs in workers' compensation
10 claims, lost sick leave and injuries.

11 So I thank you for the opportunity of
12 going a little over. Sorry I made the great
13 introduction.

14 CHAIRMAN DeFRANCISCO: We'll
15 definitely remember you.

16 (Laughter.)

17 MR. BAYER: And I would be happy to
18 respond to any questions, either now or
19 later, that the members of this committee may
20 have.

21 CHAIRMAN DeFRANCISCO: Senator
22 Savino.

23 SENATOR SAVINO: Thank you,
24 Senator DeFrancisco.

1 And thank you for your testimony. I
2 want to focus on the last two points that you
3 made.

4 First, with respect to the size of
5 the workforce, I can guarantee you there will
6 be a lot of discussion about the state of the
7 state workforce at the Workforce hearings,
8 which are coming up in the next week or two.

9 MR. BAYER: Plus I can't really
10 testify on behalf of all of the state
11 agencies.

12 SENATOR SAVINO: You know, what's
13 happening to the state workforce is
14 appalling.

15 But you mentioned two issues at the
16 end of your testimony about alternative work
17 schedules and DEC's failure to implement what
18 came out of the labor/ management meetings.
19 Do other agencies have an alternative work --

20 MR. BAYER: Some do, but it's not
21 universal. And some are still, I think,
22 experimental programs. But it's not
23 widespread throughout New York State.

24 And we believe and contend that DEC,

1 the agency responsible for air pollution
2 reduction, energy reduction and elimination
3 of fossil fuels, eventually, should be a role
4 model for all other state agencies. And if
5 the state agencies successfully model this,
6 it could be a role model for local
7 governments as well as in the private sector
8 and would have enormous benefits for massive
9 reduction of energy, global warming, and air
10 pollution.

11 SENATOR SAVINO: Do any of the
12 agencies that you know of, do you have
13 flex-time schedules where you kind of extend
14 the work day, which cuts down on overtime and
15 also takes into consideration people with
16 children, people who have parents that they
17 have to tend to?

18 MR. BAYER: Yeah, for those of you
19 who don't know, compressed pay periods are
20 that if that agency has a 40-hour work week,
21 a 37.5-hour work week, people still put in
22 those hours. The only thing is that instead
23 of working five days a week for a shorter
24 number of hours, they only work four days a

1 week and get a day off in the middle of the
2 week or on either end of the weekend. And it
3 depends on the staffing analysis and the
4 preference of that agency which days they
5 have off.

6 SENATOR SAVINO: And on the final
7 piece about retaliation, that's a very
8 disturbing thing to hear. Because you have
9 collective bargaining agreements, you have
10 duly elected shop stewards who, when they're
11 acting on behalf of the union, they are not
12 supposed -- I mean there's very clear law
13 about not interfering or treating them as if
14 they are not in fact shop stewards.

15 So what is the process that PEF
16 follows when there is retaliation against a
17 shop steward who's acting on behalf of the
18 union?

19 MR. BAYER: Well, I should qualify,
20 there's not direct, very obvious retaliation
21 as of yet that we've observed. But there's
22 sometimes indirect, there's harassment and
23 questioning and denial of time to go to
24 meetings and participate in meetings.

1 SENATOR SAVINO: That's pretty
2 direct, in violation of labor relations.

3 MR. BAYER: Well, you're right. But
4 we are working to explore possible actions we
5 can take. And we're also looking at past
6 practice being a major issue that we could
7 rely on and focus on. Because we've enjoyed,
8 with past commissioners and with agency
9 staff, a very good labor relations process.
10 And it's just that in the last year or two,
11 under some of the new probably human
12 resources and personnel people, they've been
13 a lot more restrictive and obstructionist in
14 our ability to meet on a number of issues.

15 SENATOR SAVINO: I would suggest you
16 aggressively pursue those kind of cases,
17 either through improper practice charges or
18 going to the Public Employee Relations Board,
19 because that's a situation that will only get
20 worse, it won't get better.

21 MR. BAYER: Understood.

22 SENATOR SAVINO: Thank you.

23 CHAIRMAN DeFRANCISCO: Senator
24 Tkaczyk.

1 SENATOR TKACZYK: Hi. I wanted to
2 ask about the hazardous spills response team
3 or emergency spills response unit at the DEC
4 you mentioned in relationship to the rail
5 trail potential accidents.

6 What do you do now with local fire
7 departments, and do you have formal
8 arrangements with local volunteer companies
9 to do training with them or help them with
10 training? And the reason I ask is I know I
11 have local fire departments that respond to
12 emergencies on the Thruway and can use help
13 with hazardous cleanup training. Is that
14 something that you do now or would consider?

15 MR. BAYER: I would to get back to
16 you on the details of that. I believe
17 there's a fair amount of communication and
18 cooperation between the state spill
19 responders that work in not only DEC
20 headquarters but work in the DEC regional
21 offices, but I don't have direct information
22 on that. I can try to get that for you and
23 provide that information to you.

24 SENATOR TKACZYK: Thank you.

1 MR. BAYER: One thing I didn't
2 mention was one good thing in the budget was
3 further reform of the State Brownfields
4 Program. Because we've been concerned about
5 not only the corporate welfare with the
6 enormous tax credits -- and I forget, some
7 Assemblyman or member of the committee asked
8 Commissioner Martens about what the total
9 dollar amount was on the brownfields tax
10 credits.

11 I would suggest or recommend to you,
12 when you get that information, that you ask a
13 further follow-up question, and that is the
14 difference between the total brownfields tax
15 credit and what actually was spent on
16 investigation and remediation costs.

17 I think it's pretty obvious that a
18 lot of the tax credits went not only to
19 investigation and remediation but also went
20 to development costs. That a lot of these
21 for developers that would have built this,
22 remodeled, or did something in that
23 brownfields area because of the prime
24 geographical location, which would have made

1 quite a good return on their investment.

2 And the other thing about the
3 brownfields program is that DEC staff,
4 especially ones in the Environmental
5 Remediation Unit, are spending so much time
6 on the brownfields program, the oversight
7 with that, they're not doing the other job
8 responsibilities adequately enough or fully
9 enough, especially proactively, that the
10 remediation program, the State Superfund
11 Program, was originally set up for.

12 They don't have enough time to
13 monitor these other sites satisfactorily, to
14 say nothing about doing investigation of the
15 potential sites, you know, the so-called
16 P-sites. Years ago they used to be called
17 two-way sites.

18 And they're not being proactive in
19 looking for -- one thing that was recommended
20 10 years ago at an EPA site assessment
21 conference was that DEC and DOH, as a result
22 of a survey that was done of dry cleaning
23 sites -- a lot of dry cleaning sites have
24 long gone out of existence, as it wasn't

1 profitable or they were merged or bought up
2 by bigger dry cleaning operations, and the
3 local area became just a place where people
4 dropped off their clothes and actual cleaning
5 would be done elsewhere. But a lot of these
6 dry cleaning sites at one time legally, and
7 because of unknown science and medical
8 information, dumped chemicals in their back
9 lots or doors. And --

10 CHAIRMAN DeFRANCISCO: I think you're
11 going into other areas --

12 MR. BAYER: I know. I know.

13 CHAIRMAN DeFRANCISCO: -- and we've
14 got people really, really dying to testify.

15 Thank you very much. I appreciate
16 it.

17 MR. BAYER: Thank you.

18 CHAIRMAN DeFRANCISCO: And the next
19 witness is Jeff Williams, director of public
20 policy, New York Farm Bureau.

21 (Discussion off the record.)

22 MR. WILLIAMS: I apologize for the
23 tardy entrance.

24 CHAIRMAN DeFRANCISCO: That's okay.

1 MR. WILLIAMS: I will obviously
2 abridge my comments from my prepared
3 statement which you have in front of you.

4 I just want to offer a few reactions
5 to the Governor's budget, and first offer
6 that we're very happy with the selection of
7 Commissioner Richard Ball for Ag & Markets.
8 He is a great farmer and an even better
9 person. So we're very happy and looking
10 forward to working with him.

11 We're also very happy with the
12 Governor's budget on the Ag & Markets side
13 when it comes to the animal health programs
14 in the budget. The Governor chose to fully
15 fund those programs, and so we have not much
16 more to say than that, other than the fact
17 that they're critical programs and we're
18 happy that he recognizes that.

19 There's still work to be done,
20 however, when it comes to promotional
21 programs for agriculture. The promotional
22 programs are our economic development
23 programs in the state, and they demonstrate
24 and bring back a lot of bang for the buck.

1 Whether it's maple promotion, Christmas tree
2 promotion, apple, wine, grape, wood products,
3 these are the markets for the sectors that
4 they help to promote themselves -- in the
5 state, across the country, internationally --
6 and really help make the match between
7 farmers in upstate New York and New York
8 City.

9 So if it's a natural-cut Christmas
10 tree being marketed in New York City as
11 opposed to one from North Carolina or Canada
12 or a fake tree, maple products in some of the
13 best hotels and restaurants in the city, an
14 apple to every marathon runner who finishes
15 the New York City Marathon, those programs
16 get the word out about the good things that
17 New York agriculture does. And more
18 investment is needed when it comes to those
19 promotional programs.

20 Likewise, applied research. We're
21 happy with Farm Viability getting a good
22 start of \$400,000. And that's a farmer-led
23 board to address emerging research on farms
24 in the state. But more is needed for the

1 Farm Viability Institute, and likewise for
2 the Turfgrass Environmental Stewardship Fund,
3 berry fruit fly research, and programs for
4 corn, onion, vegetable and bee research.
5 These programs help increase yields, extend
6 growing seasons, reduce pesticide use, and
7 control pests and disease. So it's a win/win
8 for not only the farmer's bottom line but
9 also for the environment.

10 Next up is FarmNet, which is an
11 amazing program if you're actually a farmer
12 and unfortunately need to use FarmNet. They
13 offer business planning and mental health
14 counseling. Farm profits are very slim, and
15 being a farmer is pressure-filled because
16 you're constantly on the brink. Whether a
17 farmer loses a field of vegetables to disease
18 or a flood, apples to cold weather or dairy
19 cows to a barn fire, unfortunately, FarmNet
20 steps into the brink and helps that farmer
21 pick up the pieces.

22 When a farmer invests a million
23 dollars to purchase seed on a vegetable farm
24 in the spring and plants that seed, there's

1 an expectation that he or she gets the crop
2 back and makes some money. When they're left
3 holding the bag for a million dollars in that
4 season and have to invest another million for
5 the next season, FarmNet becomes incredibly
6 important to manage stress on farms in the
7 farm families.

8 With regard to the EPF, we appreciate
9 the Governor's investment in the agricultural
10 programs. Whether it's for nonpoint, water
11 quality, farmland protection, invasive
12 species, we look forward to working on these
13 programs in the coming year.

14 Soil and Water Conservation Districts
15 also receive an increase in funding, which we
16 applaud. They could use more funding, to be
17 perfectly honest. To help farms meet the
18 challenges of increasing milk production in
19 an environmentally sustainable way or meeting
20 the requirements of the Chesapeake Bay TMDL,
21 Soil and Water Conservation Districts are our
22 partners in the environment and on the farm.

23 And lastly, it's not under the
24 purview of this committee, but it has an

1 incredible importance to Green New York in
2 the environment and keeping farms operating,
3 and that's increasing the estate tax
4 threshold from \$1 million to \$5 million at
5 the federal level.

6 Not having to sell the farm to pay
7 the estate tax keeps a farm in the family and
8 the next generation coming on. Three
9 thousand farms have estates of over
10 \$1 million and are in danger of losing their
11 farms if there's a death in the family. Most
12 of those assets are farmland, machinery,
13 animals, the things that make a farm a farm.
14 And so increasing that threshold keeps a farm
15 in operation and open spaces open.

16 That's my comments. Thank you very
17 much.

18 CHAIRMAN DeFRANCISCO: Thank you.
19 Senator Ritchie.

20 SENATOR RITCHIE: Good afternoon,
21 Jeff.

22 MR. WILLIAMS: Good afternoon.

23 SENATOR RITCHIE: Just a couple of
24 quick questions.

1 When the deputy commissioner was
2 there, one of my colleagues asked about
3 whether the amount that was appropriated,
4 since it was decreased, was enough with
5 regards to FarmNet. And I believe that he
6 said he thought it was enough. We had
7 increased it in the Legislature because
8 FarmNet was doing such good work with regards
9 to some of the farmers who had gone through
10 some of the hurricane damage and flooding.

11 Could you kind of elaborate on that
12 and whether you think that level is enough?

13 MR. WILLIAMS: I think the Governor's
14 budget inclusion is a good start, but more is
15 needed. As I mentioned, farms are under
16 stress from a variety of ways -- whether it's
17 the weather, whether it's commodity prices,
18 whether it's the price they're getting from
19 the market. The number in Governor's budget
20 is a good start, but I think last year it was
21 over \$900,000. And I think getting to that
22 point would be obviously fantastic, but
23 perhaps a number in between would be
24 reasonable.

1 SENATOR RITCHIE: And with regards to
2 Farm Viability, I hear on pretty much a daily
3 basis directly from farmers who say what an
4 advantage it is for them to get the expertise
5 from Farm Viability. And that was cut
6 substantially again. Can you kind of give us
7 an overview on what your feelings are on that
8 program?

9 MR. WILLIAMS: Yeah. As I mentioned
10 in my testimony, Farm Viability helps farmers
11 become more profitable. They engage in
12 research on one farm to help with extending
13 the season through high-tunnel technology.
14 And if it works on that farm, that research,
15 the goal is to replicate that from farm to
16 farm to farm. So the research doesn't just
17 benefit one farmer, it benefits the entire
18 industry.

19 And the board is farmer-led. So as
20 you probably all know, farmers are pretty
21 penny-pinching people so they don't spend
22 money unwisely. So they really try to target
23 the research to the exact kind of research
24 and the exact kind of farm that's needed. So

1 certainly we would definitely support a large
2 increase in Farm Viability.

3 SENATOR RITCHIE: A couple of the
4 groups that have come in and asked for
5 funding were funded, one of them last year,
6 and they did have some real success. They're
7 proposing that this year, if we were able to
8 put money in the budget, that we ask for
9 matching funds. What would Farm Bureau's
10 feeling be on that?

11 MR. WILLIAMS: For Farm Viability or
12 just for --

13 SENATOR RITCHIE: No, for any of the
14 programs with state support, set up a program
15 with matching funds.

16 MR. WILLIAMS: A lot of commodity
17 groups already match anyway, through a
18 self-assessment. And so they're willing to
19 invest one to one or something like that from
20 their own private money.

21 We are certainly open to ongoing
22 conversations about which programs they are
23 and the ability to match those programs. But
24 certainly in this day and age, with the

1 economy what it is, it certainly seems in
2 some cases that grower matching or grower
3 investment to get other state investment
4 could make sense.

5 SENATOR RITCHIE: And the last
6 question, if you could pick one thing that we
7 could do that would make the biggest
8 difference to farmers right now, what would
9 that be?

10 MR. WILLIAMS: Wow. I think
11 everything is very important, but the estate
12 tax portion of this, increasing it to
13 \$5 million and indexing it to inflation,
14 would make a big difference for farm
15 longevity in the state. Not to discount
16 anything else that I testified about, but
17 that's long been a priority for Farm Bureau.

18 SENATOR RITCHIE: Okay, great. thank
19 you.

20 CHAIRMAN DeFRANCISCO: Senator
21 Tkaczyk.

22 SENATOR TKACZYK: Hi. I wanted to
23 just get your specific amounts that you're
24 requesting these programs that you've been

1 talking about that are great and we want to
2 be supportive of.

3 And you can come back to me later
4 with it, but what specifically is the amount
5 you want to see FarmNet go up by? How much
6 are you recommending the Farm Viability
7 increase up?

8 And you also mentioned the County
9 Soil and Water Conservation Districts have
10 been really helpful and important in
11 providing technical assistance to farmers and
12 helping with recovery from storm and flood
13 damage. You strongly support proposed
14 increased funding. I want to know how much,
15 because I need to know how much do we need out
16 there to do the job. Because I know they've
17 been incredibly productive and helpful to
18 farms in my district.

19 And lastly, you propose increased
20 funding for farmland protection. You know,
21 what are you proposing and what's it going to
22 do for the state? So if you could specify
23 those specifics, I definitely would
24 appreciate that.

1 MR. WILLIAMS: It's obviously a very
2 timely question, and our board of directors
3 met this week to address exactly that. We're
4 in the process of putting together a
5 spreadsheet in a document. So I will have it
6 ready hopefully by next week, and if not,
7 I'll definitely share our numbers with
8 everybody on the panel.

9 SENATOR TKACZYK: Yeah, definitely.
10 And also the rationale behind those numbers.
11 Thank you.

12 MR. WILLIAMS: Yes, absolutely.

13 CHAIRMAN DeFRANCISCO: Senator
14 Savino.

15 SENATOR SAVINO: Thank you, Jeff, for
16 your testimony.

17 You know, when you read the
18 testimony, in your demeanor it's like you're
19 happy, happy, happy with the Governor's
20 budget proposals. But we know that there's
21 got to be obviously some things that you are
22 all advocating for increased funding in
23 certain areas.

24 And I'm curious about what you think

1 about the question that I posed to the deputy
2 commissioner of Ag & Markets: What can we do
3 to close the distance between our upstate
4 farmers and our downstate consumers?

5 MR. WILLIAMS: Well, I think -- from
6 our budget testimony, first of all, I think
7 we feel luckier than other trade associations
8 or organizations in the Governor's budget.
9 So we characterize the Governor's budget as a
10 good start. I'm not discounting how much
11 work needs to be done to get back to even
12 where we were last year, let alone 2008
13 levels. We've lost close to 50 percent in ag
14 funding over the last couple of years.

15 But to address your question, we've
16 long advocated for an E-ZPass system in
17 New York State that would offer farms
18 delivering product into New York City -- or
19 urban areas, it doesn't have to be New York
20 City -- with a discounted E-ZPass rate.
21 Because if you're shipping apples or milk
22 into Bronx or Brooklyn or Hunts Point and
23 you're coming from Western New York, the
24 tolls are already considerable and the bridge

1 tolls are spectacular. And you multiply that
2 by a number of trucks a day over a number of
3 days in a year, you can go a long way through
4 offering an E-ZPass or some kind of discount
5 for transportation.

6 SENATOR SAVINO: I spoke to an apple
7 farmer yesterday, and I asked him a simple
8 question. I said, "How much does it cost for
9 you to bring a truck of apples down to the
10 Hunts Point market?" Which he does rarely,
11 but when he does. He said \$1,400 one way.
12 That's an extraordinary amount of money.

13 And so I think what we're trying to
14 say to you is that we really need you to give
15 us some specific solutions to these problems
16 that we can help work on in the budget.
17 There's a tremendous amount of tax credits
18 and tax cuts that the Governor is proposing.
19 I think maybe we could retarget some of them
20 in a way that provides meaningful support for
21 our upstate farms.

22 And I won't talk to you about
23 workers' issues, not in this forum, but I
24 would like to thank you guys for your

1 assistance with opening up that dialogue.
2 And it's one that's going to continue until
3 we find a solution that works for both sides.

4 But in the Governor's budget he does
5 talk about this estate tax, increasing the
6 threshold from \$1 million to \$5 million. And
7 I know the reaction from some has been, you
8 know, it's only for rich people. I don't
9 think people really are focusing on the
10 effect that would have on farms.

11 And I just use my own short
12 experience in the farming world or the area.
13 I lived in Orange County once for two years.
14 Orange County used to be considered rural.
15 Now it's an exurb of New York City, and that
16 has definitely had an effect on the property
17 values of what used to be farms. And they're
18 selling them now to developers for
19 residential property.

20 So I think as you guys go along
21 talking about this, remind people that not
22 all estates are multimillionaires. Some of
23 them are farms who just found themselves in
24 the pathway of residential development, which

1 has drastically driven up their property
2 values.

3 MR. WILLIAMS: First of all, we
4 appreciate your interest in the agricultural
5 industry.

6 Then on the estate tax, it really
7 does come down to us making sure that we tell
8 that story. We do not want to get lost in
9 the overall clamor of what you're talking
10 about. And it's very easy to reach
11 \$1 million in New York State. We lag behind
12 many other states when it comes to the
13 inheritance tax or the estate tax. And I
14 think just the idea of pegging our threshold
15 to the federal threshold to us doesn't seem
16 like we're catering to the rich fat cats; it
17 just seems more of a parity issue to us. But
18 you're right, it's a story that we need to
19 make sure that we tell.

20 SENATOR SAVINO: Thank you, Jeff.

21 CHAIRMAN DeFRANCISCO: Thank you.

22 And just to wrap it up, I agree with
23 you a hundred percent that you've got to be
24 very visible in your push for the estate tax.

1 I've had that bill for years. It was in our
2 recommendations from the Senate hearings
3 throughout the state. The Governor picked it
4 up, thankfully.

5 But the debate on the floor, I've
6 done it before, it's all the rich people.
7 And the rich people are bad in the State of
8 New York, according to some people. They're
9 always able to pay more. So the farmer's
10 voice has to be heard, or else it's not going
11 to pass.

12 So I appreciate your recognition of
13 that and the fact that you're going to make
14 sure it happens.

15 MR. WILLIAMS: Thank you for your
16 long-time support as well.

17 CHAIRMAN DeFRANCISCO: Thank you.
18 Thank you very much.

19 The next speaker is Judy Littrell,
20 executive director, New York Association of
21 Conservation Districts, to be followed by
22 Laura Ten Eyck.

23 MS. LITTRELL: Good afternoon. Thank
24 you, Chairman DeFrancisco and Chairman

1 Farrell, for giving me the opportunity to
2 speak here today.

3 And on behalf of the New York State
4 Association of Conservation Districts, I too
5 want to echo how pleased we are about the
6 appointment of Richard Ball as the new
7 commissioner of Ag for New York State. We
8 appreciate the work that he's done with the
9 local Soil and Water Conservation District in
10 Schoharie County, but also for his passion
11 and his drive to get local foods into the
12 downstate markets.

13 The Soil and Water Conservation
14 Districts serve as primary, local resource
15 management entities. They are
16 implementation-based, non-regulatory, while
17 serving urban, suburban, rural and
18 agricultural landowners and their
19 communities. And because of their diversity,
20 districts have unique opportunities to work
21 in concert with a wide variety of coalitions,
22 government agencies, local partner
23 organizations and municipalities, all
24 promoting cooperative conservation.

1 NYACD is pleased with the Governor's
2 proposed funding of the EPF at a total of
3 \$157 million. We are encouraged by this
4 action, and urge the Senate and Assembly to
5 meet and possibly exceed the funding levels
6 the Governor has proposed. NYACD does ask
7 that as the RETT fund balance continues to
8 increase, that the amount of that fund
9 dedicated to the EPF be brought back to the
10 pre-2008 levels. The demand for EPF funds
11 and protecting the environment is blatantly
12 apparent, and in most program areas the
13 demand is not being met from a funding
14 perspective.

15 The 2012 legislative session resulted
16 in Governor Cuomo signing the legislation
17 that doubled the Soil and Water Conservation
18 District reimbursement cap from \$30,000 to
19 \$60,000 annually per district. To fulfill
20 this new statute, Governor Cuomo has proposed
21 a \$1 million increase of funding to the
22 Soil and Water Conservation District EPF
23 line item, which would be divided by the
24 58 districts. Reimbursement and payment from

1 the state would be made to each conservation
2 district under Soil and Water Conservation
3 District Law Sections 11a, b and c.

4 NYACD fully supports the Governor's
5 proposal to bring the funding level for
6 districts in line with the district law that
7 was amended in 2012 and asks that the Senate
8 and Assembly also fund the districts at the
9 \$4.5 million level.

10 Increase in district funding should
11 be strongly considered, mainly due to the
12 ever-continuing growth in demand for
13 services, which is becoming more diverse
14 every year, and in turn, is allowing
15 districts to consolidate services at their
16 local level. Districts are trying to meet
17 these demands while being faced with tighter
18 budgets, particularly funding from county
19 sources which has been decreased in many
20 localities or just plain flatlined.

21 Just in the past 12 months,
22 retirement payments into the state retirement
23 fund that districts are required to pay into
24 for district employees has risen 18 percent.

1 The proposed increase in EPF funding is
2 needed not only statutorily, but from a
3 practical standpoint. Soil and Water
4 Conservation Districts have implemented more
5 than 1400 EPF-funded projects from 2006 to
6 2012.

7 The districts expedite projects in
8 short time periods, are proven to be
9 effective and proven to be very efficient.
10 The districts spread program dollars fairly
11 equally across all regions of New York State,
12 from Long Island to Buffalo. The EPF funds
13 are leveraged by districts, many of them
14 working together, to attract more money for
15 resource conservation practices from various
16 sources.

17 All in all, in 2012 conservation
18 districts in New York State conducted
19 \$90 million in conservation projects and
20 programs, which has benefited all
21 New Yorkers. However, without the \$1 million
22 proposed increase in Soil and Water
23 Conservation District funding, the districts
24 will be unable to maintain their capacity so

1 as to be able to continue to deliver the
2 technical support and assistance needed to
3 meet this kind of demand for their services
4 for their communities and all of New York
5 State.

6 And I have listed here quite a long
7 list of accomplishments of the various
8 programs that districts have accomplished in
9 2012. And I will not go through them one by
10 one, I'll let you read them on your own.

11 The weather, flood recovery and
12 future natural disasters. Frequent extreme
13 weather events continue to place more demands
14 for district services, especially when
15 flooding occurs. Not only do farmers depend
16 on district staff to assist in evaluating
17 storm damage to their farmsteads,
18 municipalities are depending more and more on
19 districts to assist with mitigation and
20 prevention of future floods.

21 In a direct response to Hurricane
22 Irene, the Delaware County Soil and Water
23 Conservation District developed a
24 DEC-approved training program to help

1 municipal officials, contractors and machine
2 operators respond to flood damage. The
3 training is based on sound stream science by
4 working with the stream's natural tendencies
5 for post-flood corrective action. And
6 following the guidelines and recommended
7 procedures, the need for communities to go
8 back and repair mistakes can be eliminated,
9 saving time, money and resources, along with
10 the intentions of preventing extreme flooding
11 in the future.

12 In 2013, more than 400 municipal
13 workers, machine operators, contractors and
14 statewide district employees have been
15 trained through this program, and all
16 districts have completed flood mitigation
17 projects in 2012, restoring 77,000 acres of
18 public and private land protecting people,
19 property, and the environment.

20 Upon reviewing the diversity and the
21 wide scope of district programs, ultimately,
22 increased EPF dollars is necessary to meet
23 the statute of the law, and so as to carry
24 out the intent of the district law where it

1 states "to protect and promote the health,
2 safety and general welfare of the people of
3 this state."

4 The Executive Budget has also
5 proposed to fund the Ag Nonpoint Source
6 Program at a level of \$14.2 million. While
7 supportive of this funding level, more
8 funding is needed to meet the constant demand
9 of the program. The goal of the Ag Nonpoint
10 Source Program is to support New York's
11 diverse agricultural community in their
12 efforts to reduce potential sources of
13 surface and groundwater contamination while
14 maintaining the economic viability of the
15 farming community. It is a competitive grant
16 program that is locally led and implemented
17 by the districts.

18 As a result of the 2012 Ag Nonpoint
19 Source RFP, 76 proposals were received and
20 state funds requested totaled \$21.5 million
21 for 296 farms, but only \$12 million of funds
22 were available. For the past four grant
23 cycles, more than \$20 million in requests for
24 project funding are applied for, and the

1 demand is expected to remain above the
2 \$20 million level as many CAFO-sized
3 operations continue to utilize the program.

4 The diversity of New York farm
5 operations are changing, with food processing
6 waste now becoming part of the Ag Nonpoint
7 Source Program. Currently, EPF funding
8 barely meets the needs of only half of the
9 RFPs that are submitted.

10 Another challenge for compliance is
11 the federal conservation funds distributed
12 via the Natural Resource Conservation Service
13 are being cut due to the federal budget
14 deficit. These funds, which were utilized in
15 conjunction with Ag Nonpoint Source dollars,
16 will be reduced to farmers, which will cause
17 greater costs to become more environmentally
18 compliant.

19 Included in the Ag Nonpoint Source
20 Program is the Ag Environmental Management
21 Program, which continues to be a critical
22 piece in growing the agricultural industry in
23 New York State, as it provides the framework
24 for all types of farms, from dairy to

1 vineyards to equine operations, to protect
2 and enhance the environment while maintaining
3 the economic viability of these farms. And
4 currently over 12,000 farms are participating
5 in the AEM program in New York State.

6 During its seventh year of existence,
7 the AEM base funding program provided nearly
8 5,300 hours of technical assistance to
9 farmers by conservation district staff, the
10 equivalency of 32 full-time positions. The
11 52 participating districts added 605 new
12 farms to the AEM program.

13 The AEM program and the Ag Nonpoint
14 Source programs have been recognized by the
15 EPA and DEC to be the leading mechanism in
16 New York State to reduce agricultural
17 stormwater pollution, while also being
18 identified as a significant element to the
19 federally mandated Nonpoint Source Management
20 Program. In addition, the Ag Nonpoint Source
21 Program has been recognized as an important
22 initiative to meeting the goals of nationally
23 significant pollution reduction strategies in
24 the Chesapeake Bay Watershed.

1 If the Ag Nonpoint Source Program and
2 with the AEM program are not appropriately
3 funded, environmental stewardship on our
4 farms will not progress forward, water
5 quality will decrease, and farm profitability
6 will suffer, as well as our local
7 communities. The Ag Nonpoint Source Program
8 has a New York State Health and Safety
9 designation and, as such, should be given a
10 high priority for funding.

11 NYACD respectfully requests that the
12 Assembly and Senate maintain the funding of
13 the program at the \$14.2 million level, with
14 consideration of funding increases in the
15 future based on demand for the program.

16 In closing, the conservation
17 districts promote cooperative conservation
18 and the programs they implement play a vital
19 role in local communities across all of New
20 York State. Increased funding is necessary
21 to continue to build capacity at the local
22 level within the Soil and Water Conservation
23 Districts, to support program goals that keep
24 New York's waterways and land resources clean

1 and viable, which benefits local food
2 production, tourism and recreation for all
3 New Yorkers.

4 CHAIRMAN DeFRANCISCO: First, I see
5 the stenographer taking a deep breath and her
6 one finger fell off because it was going so
7 fast.

8 (Laughter.)

9 CHAIRMAN DeFRANCISCO: Would you like
10 to take a break? You sure? You just raise
11 your hand whenever you're ready.

12 Anybody? Oh, I'm shocked. Senator
13 Tkaczyk.

14 SENATOR TKACZYK: Thank you, Chairman
15 DeFrancisco.

16 And I want to personally thank Judy
17 Littrell for being here. And she also helped
18 organize a tour for Senator Krueger and I in
19 Montgomery County last spring when it was
20 about 90 degrees out. And we visited many
21 manure pits and learned about the role that
22 your organization provides to farmers to
23 really help them with the technical expertise
24 to make sure that they're complying with our

1 CAFO recognition regulations.

2 I'm just confused, in your testimony
3 you said in 2012 there was a demand for more
4 funding. You had 76 proposals requesting
5 \$21.5 million, and only \$12 million was made
6 available. But you're not asking for an
7 increase in the funding level?

8 MS. LITTRELL: We are -- well, we
9 would like an increase in funding for the
10 Ag Nonpoint Source Program because obviously
11 we're not meeting the demand. Yes, we are
12 asking for an increase in that line item if
13 the funding is available, realizing that we
14 are getting an increase in the line item as
15 well for the districts. But again, yes, we
16 would like an increase in funding for the Ag
17 Nonpoint Source Program.

18 SENATOR TKACZYK: And remind me how
19 your operation is funded. Your
20 administrative costs are covered how exactly?

21 MS. LITTRELL: Partly through that
22 line item in the EPF that's labeled just Soil
23 and Water Conservation Districts. And then
24 every district gets a county appropriation,

1 and that varies. No county gets the same
2 appropriation across the board, it just
3 varies from county to county. Which is the
4 primary source for the administrative part of
5 things.

6 SENATOR TKACZYK: We know how
7 important you are, and I appreciate you being
8 here today. Thank you.

9 MS. LITTRELL: Thanks.

10 CHAIRMAN DeFRANCISCO: Thank you.
11 Thank you very much. I appreciate it.

12 And Laura Ten Eyck is next. Darren
13 Suarez is on deck.

14 MS. TEN EYCK: Do I have to do
15 something to start the clock? I've never
16 done this before.

17 CHAIRMAN DeFRANCISCO: No, just talk.

18 MS. TEN EYCK: That I can do.

19 CHAIRMAN DeFRANCISCO: Just talk and
20 the clock will stop you.

21 MS. TEN EYCK: Okay, thank you.

22 My name is Laura Ten Eyck and I work
23 for American Farmland Trust. American
24 Farmland Trust is a national nonprofit

1 organization that protects farmland or works
2 towards the protection of farmland from being
3 consumed by suburban sprawl. And I work for
4 the New York field office.

5 I would like to thank Senator Ritchie
6 for being a big supporter of farmland
7 conservation, and I also want to say hello to
8 Senator Tkaczyk and Senator Krueger, who were
9 both at my family's orchard earlier -- well,
10 last year actually.

11 And I think what I'm going to do is
12 sort of base my remarks on my own family
13 farm's experience with farmland protection.

14 But first of all, what I want to talk
15 about is the State Farmland Protection
16 Program, which is basically funding to do two
17 things. One, to supply funding for
18 municipalities and counties to develop
19 agriculture and farmland protection plans to
20 minimize the loss of agricultural land to
21 development in their communities. And the
22 other is to provide funds for the purchase of
23 development rights on farmland to permanently
24 protect it from development.

1 The Farmland Protection Program is
2 part of the Environmental Protection Fund.
3 And the Farmland Protection Program, like
4 many programs, has been inching its way back
5 from severe cuts during the economic meltdown
6 several years ago. The program was funded at
7 \$13 million last year, and we were pleased to
8 see an increase in the Executive Budget
9 proposal of \$1 million. However, there is a
10 need for a lot more funding for a variety of
11 reasons. And what we're requesting is
12 funding of \$25 million.

13 Our rationale for that request is
14 included in the budget testimony that I
15 provided you with, and I'll be happy to
16 answer any questions about that. But the
17 main thing is I think the Farmland Protection
18 Program has historically been dramatically
19 underfunded, and the demand for the funds has
20 vastly exceeded its needs. And I think the
21 reason for that is because a lot of people
22 don't really understand what the Farmland
23 Protection Program is and what farmland
24 conservation is and the role that that plays

1 in many different components of our society.

2 New York State has 7 million acres of
3 farmland, but we are losing it at the rate of
4 about one farm every 3½ days to suburban
5 sprawl.

6 What I want to do is share the story
7 of Indian Ladder Farms, which is my family's
8 farm. And I think the conservation of that
9 farm demonstrates a lot of the benefits of
10 farmland conservation and why it's necessary
11 in order to help keep farms going from one
12 generation to the next. It's not really a
13 dramatic story. It's not as if the state
14 jumped in and stopped the bulldozers from
15 tearing down the barn for a housing
16 development. But it does illustrate the
17 precariousness of the agricultural land base.

18 My family farm was started -- I'm the
19 fourth generation. It was started as a dairy
20 farm in the early 1900s. The barn burned
21 down, it became a beef farm, and now it's an
22 apple orchard. The farm was placed under a
23 conservation easement in 2003. We decided to
24 apply to the State Farmland Protection

1 Program in 2000 and received funding in 2003.

2 And a variety of things have been
3 achieved by protecting this farm. One is it
4 played a significant role in keeping the farm
5 in business. The funding we received in
6 exchange for the development rights were
7 reinvested in the business to get us through
8 different times when a partner left the farm,
9 and also was able to help us diversify our
10 crops in response to the growing interest in
11 local foods and begin to grow a lot more
12 different kinds of fruits and vegetables and
13 install a farm-to-table cafe and other
14 activities like that.

15 The environmental benefits to the
16 Farmland Protection Program are shown at
17 Indian Ladder Farms, which is located between
18 two ecologically significant wetlands and
19 very near John Boyd Thacher State Park. By
20 putting an easement on the Indian Ladder
21 Farms we've expanded the amount of protected
22 area between the park and the wetlands and
23 farm to a swath of over 3,000 acres, the farm
24 representing about 325 acres.

1 The farm is a pretty big business.
2 We attract tens of thousands of customers a
3 year to the town of New Scotland, where we're
4 located. We employ a lot of people. Year
5 round we have about 10 employees, and that
6 goes up to about 80 during the fall season.
7 We have a pick-your-own, we have a big farm
8 market. And many of these people are
9 seasonal workers, but many of them come
10 become every year. And a large number of
11 them are high school students who we
12 constitute their first actual job and
13 basically teach them how to work.

14 In our customer base we have people
15 who have been coming to the farm since they
16 were children and now they're bringing their
17 grandchildren. In addition to selling, we
18 also do a lot of buying. We buy from all
19 different kinds of local vendors, whether
20 other farm products. One of our big people
21 that we buy from is our acting commissioner
22 of agriculture, Richard Ball. We sell a lot
23 of produce from Schoharie Valley Farms at
24 Indian Ladder Farms.

1 And we also employ a lot of service
2 providers. With the infrastructure that we
3 have, which includes a number of barns and
4 cold storage units and lots of farm
5 equipment, there is rarely a day that goes by
6 that somebody is not pulling in in a truck of
7 one kind or another to do work on the roof or
8 fix equipment. And these are local people
9 who also benefit.

10 We decided to put the easement on the
11 farm because in the late 1990s we noticed all
12 around us a lot of farmland was turning into
13 3-to-10-acre lots and growing McMansions.
14 They literally now abut the farm on almost
15 all sides except for where the wetlands are,
16 and they continue to appear in spite of the
17 economic downturn.

18 And so the easement has taken a lot
19 of the stress out of the situation for us,
20 because we are now coming to a generational
21 transition. My father is the principal
22 operator of the farm, and he's 75 years old.
23 It's a little known fact that he is actually
24 immortal and will never die, so --

1 (Laughter.)

2 MS. TEN EYCK: Actually, that's not
3 true, but this is the belief that is held by
4 the majority of farmers of his generation.

5 There's been no succession planning
6 that's taken place. We are now, my brother
7 and sister and I, engaged with him in trying
8 to figure out a way that the farm will stay
9 in the family.

10 It is different for one person to
11 operate the farm. The farm is not able to
12 support three families. Between my brother
13 and sister and I, we have six grandchildren
14 from the ages of 12 to 21 who are all too
15 young to know whether they want to stay in
16 the business or not, so we need to find a way
17 keep things going and try to get on to the
18 next generation.

19 Having the easement on the farm has
20 taken a lot of the pressure out of the
21 situation, because that's where we all live
22 and none of us want to see it sold and turned
23 into a housing development. And that can't
24 happen.

1 Basically we're now working starting
2 a new business on the farm, planting hops and
3 barley. We're going to take advantage of the
4 farm brewery legislation and start producing
5 a farmstead beer. We're working with
6 FarmNet, which has been referred to often,
7 consulting with us on how we're going to
8 transition to the next generation. The
9 future is unknown, but there is one
10 certainty, and that's that the land will
11 remain available for agricultural production.

12 And that's the end of my comments.
13 If anybody would like to ask me any
14 questions, I'll happy to try to answer them.

15 CHAIRMAN DeFRANCISCO: Senator
16 Tkaczyk.

17 SENATOR TKACZYK: Indian Ladder Farms
18 was one of those farms I took Senator Krueger
19 to go and visit. It's nearby, it's in my
20 district, and it's a wonderful farm.

21 And we're so happy it has that
22 easement and will be a forever farm. Tell
23 your dad, you know, I said hi.

24 MS. TEN EYCK: I will.

1 SENATOR TKACZYK: And it's great that
2 you're here.

3 And we really do appreciate your
4 story, because I think it tells what can
5 happen when we preserve our farmland and how
6 important it is in your community. It's a
7 major economic engine. And there are so many
8 visitors who are coming to visit your farm
9 and then go see Thacher Park. It's a
10 beautiful area, and it is going to stay that
11 way because we've invested in the farmland.

12 So thank you.

13 MS. TEN EYCK: Thank you.

14 CHAIRMAN DeFRANCISCO: Senator
15 Ritchie.

16 SENATOR RITCHIE: You know, the first
17 time American Farmland Trust came to see me,
18 I think they told me that the backlog was
19 like five years back because the funding was
20 cut. Can you tell me, do you have a a
21 backlog right now?

22 MS. TEN EYCK: The backlog -- well,
23 let me just say that the Farmland Protection
24 Program had a history of taking a long time

1 to close its projects.

2 The reason for that -- there's
3 basically three reasons. One is there's only
4 one guy at Ag & Markets who is responsible
5 for processing all that paperwork, and he's
6 extremely diligent and wants to make sure
7 that the taxpayers' money is put to good use.
8 The land trust and the municipalities and
9 counties that are involved in these deals
10 often have very limited capacity. And the
11 farmers are also to blame, because once they
12 start looking at a conservation easement on
13 paper, all of a sudden they have a lot of
14 questions and a lot of reservations and
15 there's a long process in finalizing all that
16 language, which I can personally attest to,
17 having been through that with my father.

18 So when the funding was cut, there
19 were a lot of projects in the backlog and it
20 was about a \$70 million backlog involving
21 about 60 farm families. That has now been
22 reduced to approximately \$15 million with a
23 few projects outstanding.

24 There has not been a new request for

1 proposals since the dramatic cut that we had
2 in 2008-2009. We're really looking forward
3 to the Department of Ag & Markets issuing a
4 new request for proposals so that the
5 demand -- I mean, farmers are coming to the
6 land trust and the municipalities all the
7 time hoping to apply for this funding because
8 it's a way for them not only to protect their
9 land but to generate income from their land
10 to reinvest into their businesses.

11 And we think that it's time for a new
12 request for proposals, and we're hoping as
13 part of that that there can be efficiencies
14 introduced so that these projects don't take
15 any longer than two years to complete.

16 SENATOR RITCHIE: So this increase in
17 funding actually still will not take care of
18 the backlog?

19 MS. TEN EYCK: Right. I mean,
20 currently \$14 million will fall just short of
21 closing out the backlog, won't allow any new
22 projects to be put into the hopper. So we're
23 hoping that we can get additional funding on
24 top of the \$1 million to sort of jump-start

1 the program.

2 SENATOR RITCHIE: Do you have any
3 idea how many proposals are out there that
4 you haven't been able to look at? Or do you
5 actually keep them potentially in a folder if
6 somebody calls to ask in case you get to the
7 point where you can fund new ones?

8 MS. TEN EYCK: The regional land
9 trusts have been sort of assembling
10 waiting-list files, but it really has been so
11 uncertain as to when applications will be
12 sought again that not too much advance work
13 has been done.

14 There is one thing that's happening,
15 though, is that because of the interest in
16 the local foods movement we have a lot of
17 farmers entering the field of agriculture who
18 are really quite young, who do not come from
19 farm families. I mean, as my story shows,
20 farm families who have farms face a lot of
21 problems in transferring them from one
22 generation to the next. The farmers who do
23 not come from farm families are facing huge
24 hurdles in accessing farmland.

1 We recently were meeting with a
2 couple that was leasing land and then with an
3 FSA loan was able to buy land, about 50 acres
4 in Columbia County. They have a CSA they
5 want to expand into a goat dairy. And they
6 have such a big loan that they can't get any
7 more credit. So they would like to place a
8 conservation easement on their farmland in
9 exchange for funding that they can then use
10 to start up their dairy operation. And these
11 people are probably about late 20s.

12 SENATOR RITCHIE: Well, looking at
13 ways to encourage young farmers is a priority
14 for this session. So appreciate your input,
15 and you'll be hearing from us soon. So thank
16 you.

17 MS. TEN EYCK: Thanks, Senator
18 Ritchie.

19 CHAIRMAN DeFRANCISCO: Senator
20 Krueger.

21 SENATOR KRUEGER: Thank you.

22 First, my regards to your father. I
23 am so glad that Senator Tkaczyk arranged for
24 me to visit a number of dairy farms and your

1 apple orchard farm on that two-day visit.
2 And next time I visit dairy farms, it won't
3 be 90 degrees out because that's not the
4 right time to visit manure pits, I learned.

5 But I have to say I learned so much
6 from meeting with you and your father and
7 touring and learning all the creative things
8 you've been doing, and including encouraging
9 young people to learn about farming,
10 including constantly experimenting with new
11 farm products to grow and to market,
12 including your proposal for hops.

13 Senator Ritchie just asked one of the
14 questions I wanted to ask you, which was is
15 there some kind of an economy of scale that
16 we could help build New York successful -- I
17 mean, when I visited your farm I thought,
18 wow, this is a very successful and exciting
19 place. And yet I hear you say that there's a
20 potential problem for three families to
21 continue it together if and when your father
22 decides to stop farming -- because I'll
23 accept that he's immortal and perhaps wants
24 to slow down.

1 Is there something where we could be
2 doing -- you mentioned that farmers have
3 trouble getting the credit to expand, both I
4 guess for land and equipment costs. Does the
5 farm trust know are there models that are
6 successful in other states that we should be
7 doing here to not just encourage new farmers
8 to come and farmers to stay but also for
9 farms to be able to potentially grow so that
10 they can actually be a larger footprint that
11 increases the economic outcome for
12 themselves?

13 MS. TEN EYCK: Well, just to come
14 back to farmland conservation for a minute,
15 for land that isn't under easement, as our
16 farm is, extracting the value of the real
17 estate development rights from the land does
18 huge things to make it affordable for the
19 next generation. Often a senior generation
20 will sell the development rights to the land
21 and get public funding and use that towards
22 their retirement and then sell the land at
23 its reduced value without the development
24 rights. The next generation is able to then

1 afford it at that price and buy it. So that
2 does play a big part in helping the land turn
3 over.

4 In terms of how to make farming more
5 profitable so that more people can survive
6 off of a farm, that's a really big question
7 and I don't have any specific proposals right
8 now.

9 I know one thing we're looking at
10 with our family farm is it's grown, like a
11 house that's had additions put on it, over
12 the past 50 years into quite an unwieldy
13 operation. And we're looking at trying to
14 break it into components that individuals can
15 take on and grow from there, especially with
16 emphasis on direct marketing and increasing
17 the amount of food that we can sell directly
18 to the consumer.

19 Another issue, as was mentioned
20 earlier today, is the institutional
21 purchasing of food. And here in New York
22 State agencies and institutions run by the
23 state are buying a lot of food. That
24 represents an enormous market that's

1 essentially untapped by farmers in New York.
2 You would think that it wouldn't be so
3 complicated for New York to buy food from
4 New York farmers. But American Farmland
5 Trust has an initiative called Farm to
6 Institution New York State. We've put
7 together a group of people to work on this
8 issue. There's a lot of barriers, so we're
9 trying to identify what they are and ways to
10 overcome them so farmers can tap in that
11 market.

12 SENATOR KRUEGER: We have to stop,
13 but I bet all three of us here would love to
14 work with you and the Farmland Trust to
15 explore those options. So thank you.

16 MS. TEN EYCK: Thank you very much.

17 CHAIRMAN DeFRANCISCO: And that
18 concludes the questions, except that I would
19 like to work with you when you finish
20 producing your first case of beer. I'd like
21 to visit your farm, okay?

22 (Laughter.)

23 MS. TEN EYCK: Absolutely. No
24 problem.

1 CHAIRMAN DeFRANCISCO: Thank you very
2 much.

3 Next, Darren Suarez, to be followed
4 by Eric Carlson. If you would come forward,
5 that would be helpful.

6 And I'm certain that you could
7 paraphrase this very small print on several
8 pages, because you're a very bright guy. I
9 know that.

10 MR. SUAREZ: Yes, Senator. I will
11 make sure that we move through it quickly.

12 So thank you and good afternoon. I'm
13 Darren Suarez, the director of government
14 affairs for the Business Council of New York
15 State. And thank you for the opportunity to
16 testify about the Governor's Executive Budget
17 and the proposed changes to the Brownfield
18 Cleanup Program.

19 As an organization dedicated to the
20 advancement of an economic climate that
21 encourages opportunity, entrepreneurship and
22 innovation, I offer today's testimony to
23 articulate our support for the current
24 program, because the brownfield projects

1 right now have successfully redeveloped
2 properties, neighborhoods and communities,
3 all while returning a direct capital
4 investment of over \$6.80 for every \$1 of tax
5 incentive.

6 In a soon-to-be-released study by the
7 Public Policy Institute, they have determined
8 that the current program has provided
9 significant return to the State of New York
10 in terms of state taxes and also payroll.

11 In my testimony today I will
12 articulate our support for the framework and
13 much of the intent contained in the
14 Executive's proposed amendments to the BCP.
15 However, we do have concerns about the
16 results of some of the specific provisions.
17 Many of our members are currently reviewing
18 the proposed amendments to determine their
19 real-world impacts. Today I will share with
20 you some of our earlier observations, but in
21 the coming weeks our members will provide to
22 the membership of the committees and the
23 Legislature a thorough and detailed response.

24 The program has been very successful

1 and, to anyone who is actually interested in
2 taking a look beyond the headlines,
3 brownfield projects have successfully
4 redeveloped properties here in neighborhoods
5 and communities better than many other
6 programs in the state, all while returning a
7 direct capital investment of over
8 \$1.2 billion. The data is undeniable.
9 New York taxpayers see \$6.80 in capital
10 investment for every dollar of tax incentive.

11 And that's only direct investment and
12 doesn't include other benefits to the
13 economy, including jobs, wages, taxes, sales
14 taxes, corporate sales taxes, property taxes,
15 infrastructure savings including roads, power
16 lines, sewers, et cetera, or the
17 environmental benefits.

18 There are numerous examples of
19 brownfield redevelopment projects that have
20 literally transformed properties. That's
21 contained in my testimony. Right now,
22 though, we've reached a critical juncture.
23 In December the Business Council joined with
24 other members of the development community,

1 the environmental justice community, and the
2 environmental community to request that the
3 Executive Budget contain an amendment to
4 extend the brownfield tax credits.

5 The letter stated that the state has
6 reached a critical juncture, that sites
7 currently entering the Brownfield Cleanup
8 Program are increasingly less likely to
9 complete the program before the Brownfield
10 Redevelopment Tax Credit sunsets at the end
11 of 2015. It is paramount that the Brownfield
12 Redevelopment Tax Credits be extended, along
13 with the BCP and the BOA program, as they are
14 driving brownfield cleanups and redevelopment
15 in New York State.

16 Many of the requests contained in
17 that letter are contained in the
18 Executive Budget proposal, including
19 extending the tax credits for a period of not
20 less than 10 years, maintaining the current
21 site preparation tax credits for all eligible
22 participants, amending the tangible property
23 tax credit to provide targeting of the
24 tangible property credits based on

1 quantifiable criteria, increasing the
2 incentives for developers to redevelop
3 brownfields consistent with BOA plans, the
4 inclusion of Class 2 significant threat sites
5 into the BCP, and the development of a
6 fast-track program for lightly contaminated
7 sites that do not seek tax credits.

8 The Executive Budget proposal has
9 provided a critical framework to focus a
10 discussion on the BCP. After initial review
11 of the proposal, our membership has developed
12 an early list of critical items that should
13 be addressed by all parties to ensure the BCP
14 continues to encourage persons to voluntarily
15 remediate brownfield sites for reuse and
16 redevelopment. It is very clear that with
17 the right reforms the BCP will empower
18 communities and private capital to redevelop
19 New York's brownfields.

20 Our specific concerns are that to be
21 eligible for the tangible property credits,
22 future applicants must demonstrate that the
23 site meets one of three tests. The Business
24 Council believes that the tests as currently

1 drafted are too restrictive and will lead to
2 excluding some sites which should be eligible
3 for the tangible property credits. Our
4 membership is in the process now of reviewing
5 past projects to determine the practical
6 effects of the three criteria. Today I will
7 share some of our initial concerns.

8 The vacancy test. As it's currently
9 drafted, this is too restrictive and doesn't
10 acknowledge that many sites are not
11 completely vacant but are underutilized.
12 There's a requirement in the proposal that a
13 site remain vacant for 15 years, or 10 years
14 and be in arrears with taxes.

15 The PED project test contains a
16 threshold job requirement that appears to be
17 too high, given current experiences. And
18 most importantly, the project test doesn't
19 value capital investment or job retention.
20 An individual must create between 100 and 300
21 jobs, and our recent experience is most
22 projects don't create nearly that many.

23 The Business Council has concern with
24 some of the proposed modifications to the

1 current program. The Business Council
2 strongly urges a rethinking of the proposed
3 grandfathering. Breaking from past reforms,
4 the proposal would remove sites for which a
5 brownfield cleanup agreement was entered into
6 before June 23, 2008, if it doesn't obtain a
7 certificate of completion by December 31,
8 2015. A site with a BCA dated after June 23,
9 2008, and before July 1, 2014, would be
10 removed unless the CoC is completed by
11 December 31, 2017. Sites accepted into the
12 BCP after July 1, 2014, would have to receive
13 a CoC by December 31, 2015, to qualify for
14 any BCP credits. These provisions don't take
15 into consideration the market conditions or
16 newly discovered environmental conditions.

17 A new provision would require the
18 implementation of an approved work plan
19 within 90 days of approval and must proceed
20 on the department's approved schedule. This
21 is not necessarily practical even in the best
22 of real estate markets. This provision could
23 force poor long-term choices to satisfy an
24 unjustified urgency. The DEC is right to be

1 concerned about the time frame for completion
2 of the program, but the development of
3 uncompromising statutory solutions does not
4 reflect the long-term best interests of the
5 community.

6 Finally, the effective date of this
7 proposal should be amended to January 1,
8 2016, thus providing a greater transition
9 period between the programs.

10 Thank you again for the opportunity
11 to comment, and we look forward to continuing
12 our conversation with the administration and
13 the State Legislature to advance a
14 multifaceted effort to strengthen the BCP.

15 CHAIRMAN DeFRANCISCO: Thank you.

16 You said that you provided some
17 recommendations to the Governor as to how the
18 brownfield program should be changed. You
19 said some of them were in the Governor's
20 proposal; correct?

21 MR. SUAREZ: Mm-hmm.

22 CHAIRMAN DeFRANCISCO: But the
23 critical points -- and I've read them and I
24 heard you -- those are things that you feel

1 still need to be changed to make it in
2 accordance with what you think would work
3 best.

4 MR. SUAREZ: That's correct. I think
5 the letter reflects what a group of
6 organizations, both environmental and
7 business-wise, thought should be in the
8 Governor's budget. And seeing sort of
9 obviously what was contained, there are some
10 things that we are suggesting should be
11 adjusted.

12 CHAIRMAN DeFRANCISCO: So there's
13 some tweaks that have to be made. But
14 generally, the concept of amending the
15 program, you're in general agreement except
16 for these particular points?

17 MR. SUAREZ: That's correct.

18 CHAIRMAN DeFRANCISCO: Okay. Anyone
19 else? Thank you very much. I appreciate it.

20 Eric Carlson, president and CEO of
21 Empire State Forest Products Association.

22 MR. CARLSON: Thank you,
23 Mr. Chairman. Appreciate it. And I will
24 paraphrase my testimony in the due diligence

1 of time. I appreciate your tenacity for
2 taking all this time yourselves.

3 I want to thank the chairmen and all
4 the members of the standing committees on
5 environmental conservation for the
6 opportunity here to provide some perspective
7 on the budget.

8 I'm Eric Carlson, president and CEO
9 of the Empire State Forest Products
10 Association. Our association represents the
11 forest products industry, which really
12 generates 66,000 jobs across the state and
13 provides nearly 7 percent of the economic
14 activity. In addition to that, we also own,
15 manage and have responsibilities over
16 recreational values at many of our private
17 forests, and another 31,000 jobs.

18 And I would say today, on this really
19 cold day, our members are out there in this
20 below-zero weather working very hard. This
21 is for many of our members a hardscrabble
22 job, and they work very hard in very
23 dangerous conditions.

24 First of all, and foremost, is the

1 budget. We're extremely pleased to see the
2 Governor has laid out the Renewable Heat NY
3 to use the biomass energy in New York to
4 replace imported oil to heat our homes,
5 businesses and public institutions. His
6 message includes -- and I think this is
7 important -- help to encourage more
8 sustainable forest management, an important
9 focus for our industry for the past 20 years.

10 I want to also lay out some
11 opportunities this Legislature can provide to
12 expand markets for our forest products, deal
13 with the impact of invasive species, and
14 provide new opportunities for cooperation.
15 I'll start with the way government can help
16 foster our markets.

17 This Legislature in 2009 enacted the
18 Wood Products Development Council to be that
19 tool to help promotion of wood products
20 manufactured in New York State. The council
21 needs funding this year. We've recommended a
22 level of \$300,000. And there's a rationale
23 for that, because during the last year we are
24 poised to take advantage of the upturn in the

1 markets. New check-off programs have been
2 passed with self-imposed assessments to our
3 own industries through the paper and softwood
4 industries, and we're currently considering
5 this year a hardwood check-off that would be
6 voted on later this year. Now's the time
7 that New York can provide that seed money
8 that's so important for competitiveness for
9 our industry against our competitors.

10 The council has really developed a
11 detailed strategy, working with the
12 Departments of Agriculture and Markets,
13 Environmental Conservation, and Empire State
14 Development that if we begin to implement it
15 will be a true partnership with the forest
16 products industry to increase the use of
17 New York's forest products right here in this
18 state. We need to focus the funding for
19 these true partnerships. This will help us
20 focus on developing local markets for our
21 local wood.

22 Let's also consider some legislation
23 that includes a New York preference for the
24 Office of General Services in purchasing

1 bids. You may not realize it, but very few
2 New York manufacturers have the opportunity
3 to bid on acquisition of their products here
4 in New York State, and I think it's time we
5 try to create an opportunity for them to be
6 competitive on state contracts.

7 Next I'll turn to the Environmental
8 Protection Fund, which is a great example of
9 where our industry shares support with many
10 groups. We understand the value of public
11 lands. Many of the state's acquisitions have
12 helped assure our industry that there would
13 be land for acquiring wood supply in the
14 future, in addition to providing recreation,
15 watershed protection and clean air. These
16 lands have remained as sustainably managed
17 forest, and we're pleased with the DEC
18 acquiring easement ownerships to assure both
19 the industry with wood supplies in the future
20 and the public with access. We encourage
21 this type of acquisition be favored,
22 especially inside the Catskill and Adirondack
23 Parks.

24 Another topic is the DEC's work with

1 Ag & Markets on invasive species. The sad
2 result of global trade is that these pests
3 have the potential to ravage our forests.
4 DEC has used working with our industry, along
5 with the Department of Agriculture and
6 Markets, to listen to our concerns and work
7 through the difficulties to manage these
8 pests.

9 We applaud the DEC for their work,
10 but they must have the resources. In a state
11 with 19 million acres of forest owned by
12 660,000 individuals, it's a daunting task and
13 we strongly urge that we address the invasive
14 species allocation within the EPF so that
15 pest funding be increased. Not at the
16 expense of other programs; let's increase the
17 size of the EPF. We support a level that
18 others have supported.

19 Now let's turn to property tax
20 reform. And we know that's a topic that's
21 always a challenging policy issue. We share
22 the responsibility and burden, along with the
23 agricultural industry, that we need to earn
24 our living off the land. Property tax reform

1 must consider that we need to have decades
2 for our crops to mature, and encourage a more
3 sustainable forest management system that
4 provides tangible benefits for open space,
5 clean water and clean air.

6 The Forest Tax Law provides that, and
7 we encourage you to consider some technical
8 corrections to the 2008 tax legislation that
9 will encourage landowners to embrace
10 sustainable forest management systems to meet
11 the law's requirements. This won't cost any
12 funding to the state, but it will reduce DEC
13 oversight time and provide no difference in
14 the quality of the results. It will
15 accomplish both that goal as well as
16 providing the assurance that the Governor's
17 Renewable Heat NY initiative would provide an
18 incentive for sustainable forestry.

19 Finally, let's talk about revenues
20 that DEC creates. And we heard Commissioner
21 Martens talk this morning about his desire to
22 increase revenues from state forest
23 contracting. I think that we need to work
24 with the Comptroller's office to provide some

1 efficiency tools so that the state has both
2 the assurance that they're properly managing
3 these forests as well as the flexibility to
4 respond rapidly to the impacts of the forest
5 health conditions of our state forests.

6 We've seen damages from Hurricane
7 Sandy and Irene and we've seen the impacts of
8 invasive plants and the ash borer and gypsy
9 moth and number of forest pests that have
10 impacted our resource, and we need to give
11 our professional foresters the tools they
12 need to rapidly respond to these needs and
13 provide much-needed revenues to the State of
14 New York. We spent decades developing these
15 resources, and we certainly want to
16 capitalize those resources to the benefit of
17 the state.

18 Lastly, I will remind the committee
19 that three years ago I came and recommended
20 to this committee that the state begin to
21 look at incentives for installing
22 high-efficiency, low-emission wood biomass
23 boilers. And we are pleased with Renewable
24 Heat NY in this year's budget. Helping

1 communities, businesses and state
2 institutions that have limited opportunities
3 to switch from fossil fuels will provide
4 local markets, encourage more investment in
5 the community, and keep New York's heating
6 expenditures here in New York.

7 Just for an example, New York exports
8 \$6 billion a year annually to purchase fuel
9 oil for heating our public facilities and
10 private homes. Our communities need to keep
11 that money here in town, and Renewable Heat
12 NY will begin to foster that type of
13 investment.

14 I want to thank you for the
15 opportunity and look forward to any
16 questions.

17 CHAIRMAN DeFRANCISCO: Thank you.

18 Any questions? Senator Krueger.

19 SENATOR KRUEGER: I don't know if you
20 were here earlier where I asked the
21 commissioner of NYSERDA what kind of
22 standards would be applied to a biomass
23 model. Obviously you're supporting it. But
24 I have concerns about the environmental

1 impact.

2 MR. CARLSON: Absolutely. And I
3 think that was a very appropriate question
4 that you asked, because that was something
5 that our industry has had to respond to for
6 many, many ways.

7 What this program would do is really
8 build upon the research investments that
9 NYSERDA has done, as well as the National Lab
10 of Brookhaven, who have developed really
11 important new technologies that are being
12 developed and used in appliances that are
13 available today.

14 We have two manufacturers in New York
15 State that actually manufacture those types
16 of low-emissions, high-efficiency wood pellet
17 boilers here in New York State. And we have
18 dozens of schools and businesses that
19 actually are using them this very day. There
20 are public institutions using those
21 facilities in some of our most sensitive
22 populations, our children. So they're very
23 confident that the research has been done,
24 and I think it's really capitalizing on the

1 research that NYSERDA has done. They have
2 been vigilant in demanding we have the
3 highest standards, and constantly pushing the
4 envelope. And we see this as a great
5 opportunity.

6 SENATOR KRUEGER: And do you think
7 you could get me some of that research?

8 MR. CARLSON: We absolutely can.
9 Absolutely.

10 SENATOR KRUEGER: I appreciate that.
11 Thank you.

12 CHAIRMAN DeFRANCISCO: ESF is in my
13 district. And what type of contacts does
14 your industry have or how do you benefit from
15 whatever ESF does in this area?

16 MR. CARLSON: Actually we work very
17 closely with ESF. One of the programs that
18 our industry self-imposes upon ourself is an
19 environmental and safety standard training
20 program. Many of the people at ESF are used
21 as instructors in that program. Over 2500
22 loggers in this state have went through that
23 certification program. We continue to
24 operate it today. It's required by anyone

1 harvesting on state forests.

2 In addition to that, some of the
3 research that they've done, specifically in
4 the research that they're doing on biofuels
5 and bioenergy, has been significant. The new
6 Gateway Center there at ESF is a great
7 example where we have a high-efficiency,
8 low-emissions wood boiler that's going to
9 fire that Gateway Center. They're in the
10 final stages of firing that up, and it's
11 going to be a great demonstration of how we
12 can develop not only just wood energy but
13 also biofuels from the facility. So they
14 have been the leader in terms of R&D.

15 In addition to that, they're also a
16 partner and a member of the Wood Products
17 Development Council. And I think that's the
18 benefit of having that Wood Products
19 Development Council funded, is to really
20 advance the research and development that we
21 need.

22 CHAIRMAN DeFRANCISCO: Thank you very
23 much. I appreciate it.

24 (Discussion off the record.)

1 CHAIRMAN DeFRANCISCO: The next
2 speaker is Chuck Parker, New York State
3 Conservation Council.

4 And then David Corr, Conservation
5 Fund Advisory Board, if he could make his way
6 down.

7 MR. PARKER: I appreciate the
8 opportunity to speak today. For over
9 80 years the New York State Conservation
10 Council has been a leader in advocating for
11 the wise use and management of New York's
12 valuable natural resources to ensure that
13 they are protected for our children's
14 children. The council supports the sound
15 management principles of New York's fish and
16 wildlife and their natural habitats. We
17 believe in conservation, which we see as the
18 wise use of our natural resources.

19 The New York State Conservation
20 Council represents over 300,000 sportsmen and
21 outdoor enthusiasts throughout the state.
22 While we are not alone in representing the
23 sportsmen, we are one of the largest if not
24 the largest sportsmen advocate groups in

1 New York. And we also believe our points of
2 view go well beyond our membership and
3 represent the vast majority of all sportsmen
4 and outdoor enthusiasts in New York State.

5 CHAIRMAN DeFRANCISCO: Excuse me one
6 moment.

7 Dave Corr, are you here? Why don't
8 you join him, because it looks like we had
9 you both together here and I didn't notice
10 that.

11 Go ahead.

12 MR. PARKER: Okay, thank you.

13 The Governor in his State of the
14 State message mentioned that there's a
15 \$9.2 billion economic impact to New York
16 from hunting, fishing and trapping. We are
17 pleased that the Governor realizes that there
18 is this \$9.2 billion impact. It shows that
19 we and what we accomplish through hunting,
20 fishing and trapping deserves the support of
21 the state and what is being offered in this
22 year's budget. The amount shows that there
23 is a positive feedback from investments made
24 by the state. We as taxpayers get a great

1 return on the state's -- our -- investment,
2 in the New York DEC.

3 The environmental conservation
4 portion of the budget is vast. I would like
5 to comment on six items concerning
6 conservation. These items have long been in
7 the bucket list of many a concerned sportsman
8 and sportsmen groups.

9 The DEC deserves the full funding as
10 proposed by the Governor's budget. In fact,
11 we would like to see more. Through the
12 sportsmen's license fees and resulting
13 matching funds, we do much to support the
14 efforts of wise conservation. The economic
15 impact of money budgeted to the DEC gives a
16 positive return. To fully realize that
17 positive impact, we need the support of the
18 infrastructure within DEC. This
19 infrastructure includes the proper staffing
20 necessary for them to do the best job
21 possible.

22 Point two, the state fish hatcheries
23 repairs. The \$7.5 million listed in the
24 Governor's capital budget under

1 reapportionments is not an unrealistic
2 number. It is a needed number for normal
3 maintenance to keep our hatcheries functional
4 for now and the future. This is a long-time
5 concern of the sportsmen.

6 The crossbow needs to be recognized
7 as a legal hunting implement, and the
8 Governor promoting that the New York State
9 DEC should determine how it will be used is
10 long overdue. The ability to use a crossbow
11 for hunting has had the support of the
12 majority of sportsmen.

13 The 500-foot to 150-foot shooting
14 distance reduction for archers from
15 structures is another logical proposal. It
16 offers adequate safety and increased
17 opportunity to manage and harvest wildlife.

18 The 50 proposed access projects,
19 access is a key element for sportsmen to be
20 able to hunt, fish and trap. More access
21 leads to more license sales, which translates
22 to more money to be used for conservation and
23 wise resource management.

24 Liability relief for landowners would

1 open up more opportunities for the sportsmen
2 to hunt, fish and trap. The opportunity for
3 a landowner to manage his lands soundly
4 without subjecting themselves to undue legal
5 liabilities. While New York State is
6 well-recognized nationally for the
7 opportunity to hunt, fish and trap and its
8 availability of quality public lands, the
9 availability to hunt on private lands offers
10 additional opportunity for quality hunting
11 and fishing.

12 We, the council, appreciate the
13 support that the State Assembly and State
14 Senate has offered over the years. I hope
15 that the legislative members in this hearing
16 today can convince their colleagues to
17 support all the environmental conservation
18 funding and legislative initiatives presented
19 under the Governor's 2014 budget.

20 CHAIRMAN DeFRANCISCO: David Corr.

21 MR. CORR: My name's Dave Corr, and
22 I'm here on behalf of the New York State
23 Conservation Fund. On behalf of the
24 Conservation Fund Advisory Board, the

1 New York State Conservation Council, and the
2 Fish and Wildlife Management Board, I'd like
3 to thank the committee for the opportunity to
4 provide testimony today on the budget.

5 The Conservation Fund is unlike any
6 other special revenue fund in the state. The
7 purpose of the Conservation Fund is "the
8 care, management, protection and enlargement
9 of the fish, game and shellfish resources of
10 the state and for the promotion of public
11 fishing and shooting." It is funded by the
12 sales of hunting, trapping, and fishing
13 licenses. The members of CFAB are from the
14 very community that provides the revenue
15 deposited into the fund.

16 The New York State Fish and Wildlife
17 Management Board also serves in an advisory
18 capacity to the New York State DEC. Its
19 members are the local sportspersons,
20 landowners, and county legislatures from
21 regional boards. In addition, numerous state
22 agencies are represented in non-voting
23 positions on the board, including the DEC, Ag
24 & Markets, Transportation, Cornell College,

1 and others.

2 The purpose of the Fish and Wildlife
3 Management Board is to "approve or disapprove
4 the fish and wildlife management practices
5 formulated by the regional boards" as well as
6 recommend "uniform fish and wildlife
7 management practices for similar ecological
8 types within the various ecological regions
9 of the state."

10 Our organizations have a common aim,
11 to advise the state on practices and issues
12 that affect sportspersons and landowners who
13 harvest wildlife, are a primary segment of
14 users of state-owned land, and who are the
15 most knowledgeable on these issues from our
16 direct experience in the outdoors. You
17 recognized the need for this expertise in
18 passing laws to create our board and
19 commissions.

20 Staffing levels within the Division
21 of Fish, Wildlife, and Marine Resources. We
22 remain concerned with the number of staff
23 that are now solely supported by the
24 Conservation Fund. For instance, 31

1 additional environmental conservation
2 officers have been added to the Conservation
3 Fund line. Many of these enforcement officer
4 positions and duties have little to no
5 involvement with game species or promotion of
6 public fishing and shooting. Rather, their
7 duties are in large metropolitan areas that
8 have no relation to the purposes of the
9 Conservation Fund and have no impact on the
10 license holders whose fees are supporting
11 their positions.

12 In fact, since 2009 the Conservation
13 Fund is supporting more and more staff --
14 approaching now 350 people -- yet programs
15 and staff to work with game species, be it
16 coyote, grouse or others, are lacking. The
17 shifting of staff is at odds with Department
18 of Environmental Conservation's five-year
19 plans on staffing levels that would be
20 supported by the Conservation Fund.

21 I would just highlight one quick item
22 on the last page of the staffing levels and
23 just say that in August of 2009 there were a
24 total of 412 positions, and now there are 356

1 filled positions within the DEC. When you
2 add to that fact that in 2009 there was only
3 one environmental conservation officer, and
4 there are now 86 charged to the fund, you see
5 where the emphasis has gone, to primarily
6 subsidize the Department of Law Enforcement.

7 Our organizations recognize the
8 budget restrictions that all agencies in our
9 state are facing. You are the ones who are
10 the most familiar with these fiscal
11 realities. Our organizations continue to
12 work closely with the DEC and the Governor's
13 office at these times.

14 We have also been open to creative
15 solutions. When the number of license sales
16 decreased and the Conservation Fund balance
17 stabilized, we supported the Governor's plan
18 to reduce license fees to spur sales and
19 tourism. However, our support for current
20 license-fee levels remains grounded in the
21 understanding that hunting, fishing and
22 trapping license fees do not go to the
23 General Fund but rather remain dedicated to
24 the Conservation Fund for specific purposes.

1 As we have in the past, we again
2 request that the Conservation Fund only be
3 used to support staff positions that are in
4 line with the purposes of the fund, namely
5 "the care, management, protection and
6 enlargement of the fish, game and shellfish
7 resources of the state and for the promotion
8 of public fishing and shooting."

9 Budget Allocations. Our
10 organizations remain concerned with the
11 differences between appropriated amounts
12 approved by the Legislature and the lower
13 amounts that are ultimately allocated by the
14 Division of Budget. These differences, as
15 well as slowness in making such allocations,
16 are directly impacting the fish and wildlife
17 of our state. A simple delay in approving a
18 budget allocation can result in a one-year
19 delay in program rollout.

20 For instance, Cayuga Lake has a sea
21 lamprey problem. For those who aren't aware,
22 lamprey are a type of invasive species. They
23 have no enemies and feed off of fish,
24 especially trout in freshwater lakes. The

1 trick to control of the population is yearly
2 treatment. If a year is missed, you have a
3 whole generation of lamprey that will be able
4 to spawn, allowing the lamprey to continue to
5 spawn and feed. Although funding for sea
6 lamprey control has been authorized in the
7 state budget, actual allocation of the funds
8 has not occurred, and therefore Cayuga Lake
9 has not received lamprey treatment. This is
10 directly due to the lack of funding and staff
11 at the DEC. Sea lamprey continue to have a
12 noticeable impact on trout in Cayuga Lake.

13 Invasive species simply do not wait
14 for budget allocations. Our organizations
15 request that the Division of Budget recognize
16 that funds approved by you for these programs
17 should be allocated and made available as
18 soon as possible.

19 Other priorities. To provide access
20 for all New Yorkers to New York State lands
21 while maintaining current roadways and
22 access. Provide access and support for the
23 full funding to reopen some of the 60
24 currently closed or partially closed roads on

1 state lands to include funding for access to
2 historic fire towers. Current DEC
3 operational staffing and funding levels have
4 not kept pace with many maintenance issues
5 such as culvert and bridge replacements.
6 This is despite the assistance from local
7 government in many areas. This situation has
8 been further aggravated by the recent cycle
9 of storms.

10 Future land acquisitions must have
11 viable plans for ongoing maintenance while
12 addressing the concerns of local government
13 and the local economies that are affected.
14 Further, we are asking that the Legislature
15 ensure that budgetary language ensure that
16 the Conservation Fund be protected so as to
17 ensure current and future assets and
18 continued funding through federal funding
19 sources such as Pittman-Robertson.

20 Support for current legislation. Our
21 organizations also want to express our
22 support for other initiatives from the
23 Governor's budget. Deferred maintenance at
24 fish hatcheries is proposed to be addressed

1 with \$4 million from the NY Works program.
2 Public access points would now be funded with
3 an additional \$6 million.

4 In addition, the proposed budget,
5 which would allow for safe crossbow hunting
6 and reduced setbacks for bow hunting, is
7 greatly appreciated. In more suburban areas,
8 deer control is simply not possible with
9 traditional firearms. Bow and crossbow
10 hunting provide effective alternatives to
11 rifles for deer control, and realistic
12 setbacks for bow and crossbow hunting make
13 that even more of an option.

14 Lastly, the Executive Budget provides
15 for legal protection for property owners,
16 lessees or occupants who allow their property
17 to be used for public recreation uses.

18 I can recall no other Governor in
19 recent memory who has so vigorously supported
20 and personally participated in the outdoor
21 activities that New York State has to offer.

22 In closing, lastly I would like to
23 thank you for your time today. Our
24 organizations remain committed to working

1 with you and the Governor on behalf of all of
2 the sportsmen and -women of New York.

3 Thank you.

4 CHAIRMAN DeFRANCISCO: Thank you.

5 Senator Ritchie.

6 SENATOR RITCHIE: I just want to say
7 thank you for the trip down.

8 Just a clarification. Chuck, I know
9 that you support legalizing crossbow, but
10 there were a couple of different proposals
11 over the last couple of years, and I know
12 there were different iterations and maybe
13 some that you liked better. I just want to
14 make sure that the proposal that the Governor
15 has put in the budget is the proposal that
16 you are supporting.

17 MR. PARKER: The New York State
18 Conservation Council has been in favor of the
19 use of crossbows as a legal hunting implement
20 for a number of years. And we believe it
21 should be included in the archery season.
22 But we also believe that, you know, approve
23 it as a legal hunting implement and let DEC
24 decide where it's going to be used.

1 SENATOR RITCHIE: All right, thank
2 you.

3 CHAIRMAN DeFRANCISCO: Thank you very
4 much. The lack of questions only means that
5 the day is getting longer, not that your
6 issue is not very important. But thank you.

7 MR. CORR: Thank you.

8 CHAIRMAN DeFRANCISCO: Jessica
9 Ottney, director of government relations,
10 The Nature Conservancy. You've been here all
11 the time since I saw you on the elevator at
12 9:30, right?

13 And to be followed by Sean Mahar of
14 Audubon New York.

15 MS. OTTNEY MAHAR: Yes, thank you,
16 Senator. And we did ride the elevator
17 earlier, and you're all troupers, and we
18 appreciate you hanging in today and every
19 year when you do this. Thank you.

20 My name is Jessica Ottney Mahar, and
21 I'm the director of government relations at
22 The Nature Conservancy in New York. And I
23 promise I won't read my testimony. You can
24 take a look at it and, if there are details

1 you want to ask about, I can answer questions
2 today or in the future through correspondence
3 or I can come visit your offices.

4 I did just wants to point out a few
5 issues and I wanted to first start by
6 thanking all of you, because last year the
7 environmental community celebrated the 20th
8 anniversary of the Environmental Protection
9 Fund, which was a really great moment to
10 reflect on what we've all done together, what
11 you helped create and steward through the
12 years and what we've built together and how
13 it's helped every community in New York
14 State. Every county in New York State has
15 benefited from the fund. And it was an
16 opportunity that you all and the Governor
17 took together to begin restoring the fund,
18 which was cut pretty drastically during the
19 economic decline starting in 2008.

20 So we're very appreciative of the
21 work that you did in the budget last year,
22 including an agreement that will bring more
23 revenue into the state through enhanced
24 Bottle Bill enforcement, which was the source

1 of funding for an additional increase in the
2 Governor's proposed budget this year. The
3 Governor is proposing to increase the EPF to
4 \$157 million, and we're pleased that that
5 agreement is being implemented and we're
6 urging to take steps to go even further.

7 When the EPF was created 20 years
8 ago, a smart thing was done by state leaders
9 who enacted it: They linked the EPF to the
10 state's existing real estate transfer tax.
11 And so for the last 20 years when property is
12 transferred in New York State, a small amount
13 of money is put from each transaction into
14 this fund, and it raises a significant amount
15 of money each year. In the good times it
16 raises just about a billion dollars, and
17 that's where it was prior to the economic
18 crash. In the bad times, it went down to
19 around \$400 million, which was a steep
20 decline. But overall it's been providing the
21 EPF a steady source of funding for really
22 important programs across the state -- things
23 like what we've heard about today, protecting
24 our farms, funding water pollution control,

1 reducing invasive species, protecting forest
2 lands that provide wood products to our
3 communities, and many more programs.
4 Municipal services like recycling.

5 So for 20 years it worked really
6 well. There were a few bumps along the way;
7 there was some money removed over the years
8 to offset budget deficits. But things went
9 well. And when the real estate transfer tax
10 declined during the economic crisis, the EPF
11 declined. And while that was painful, I'll
12 say it was understandable. And now the good
13 news is the real estate transfer tax is on
14 the rise. In fact, the fiscal plan has it
15 hitting a billion dollars again by fiscal
16 year 2018, which is great news for everyone.

17 And so what we're asking is that over
18 the course of this budget process and in the
19 coming few budgets we start making a
20 commitment to really restoring the EPF back
21 to where it needs to be. In 2007, there was
22 a law passed that would schedule increases
23 for the EPF to \$300 million. Obviously that
24 would be a big jump. That's not our ask this

1 year. But we're asking that the Legislature
2 work with the Governor to take another look
3 at this and see if we can continue to move
4 the needle and move that number up in the
5 budget this year.

6 A number of organizations are here
7 today, and the number \$200 million is what
8 we're advocating in this budget. And I've
9 included a number of charts in my testimony
10 that you can refer just to see the statistics
11 on where the EPF appropriations have been and
12 are scheduled to be under the currently
13 proposed financial plan, and where the real
14 estate transfer tax revenue is projected to
15 go.

16 In addition to the EPF, there's also
17 been another environmental use of the real
18 estate transfer tax, and this was brought up
19 in some of the questioning of Commissioner
20 Martens earlier. Our last environmental bond
21 act was in 1996. We haven't had one in quite
22 some time. And most of that money has been
23 spent. And as was discussed earlier, some of
24 the spending reduction by DEC this year is

1 because they've spent down that '96 Bond Act.

2 And the debt service payments on that
3 bond act are decreasing. And so that means
4 we're needing less real estate transfer tax
5 money for that debt service. And so what
6 we're advocating is as you look to think
7 about how we can recommit and continue to
8 restore the EPF, you look at the real estate
9 transfer tax and take that money that was a
10 different kind of environmental investment
11 and reinvest it in the EPF. And that's a way
12 to move forward with funding some of these
13 important programs.

14 The Nature Conservancy has enjoyed a
15 really great partnership with New York State
16 on a number of EPF programs. In my testimony
17 I have some information about programs we'd
18 like to see further enhanced should there be
19 more money added to the EPF. We're very
20 appreciative of the increases that were
21 included under the \$4 million proposal by the
22 Governor, and we hope we can again build on
23 those, particularly for the Land Conservation
24 Program, which is currently still only a

1 third of what it used to be.

2 We also want to call out specific
3 support for a new suballocation, the Water
4 Quality Improvement Program, for Suffolk
5 County water quality. We're working with a
6 number of other organizations on Long Island
7 because they have a serious problem right now
8 with nitrogen contamination in their
9 groundwater. It's actually closing down
10 fisheries, it's making the water dangerous
11 for public health. It's a serious issue.
12 The county executive in Suffolk County just
13 came out and said this is going to be the
14 number-one issue for his administration.

15 And what our science is showing is
16 that it's pollution from septic systems that
17 is leaching into the groundwater and getting
18 into the bays. So the interconnectedness
19 between the groundwater system and the
20 surface waters there are allowing this
21 nitrogen pollution to basically flow from the
22 groundwater to the bays and cause these red
23 tides and brown tides.

24 And so this \$2 million suballocation,

1 which will be matched by the county, will
2 allow for some pilot programs of advanced
3 treatment systems that can denitrify that
4 water. And it's critically important for
5 Suffolk County's public health and
6 environmental health.

7 And then I just wanted to also
8 acknowledge in this budget how important it
9 is that the state agencies who administer the
10 Environmental Protection Fund, they've done a
11 tremendous amount of work to increase the
12 pace of disbursements from their programs.
13 Laurie Ten Eyck from Farmland Trust was
14 talking about how some of these programs are
15 slow to disburse money and there was this
16 backlog. There's a backlog in a lot of
17 programs in the EPF, and they've done a lot
18 of work to address that. And in fact this
19 year they're actually planning on spending
20 \$6 million in excess of the appropriation,
21 which is fantastic news. We hope they could
22 even spend more and do more, and we'd
23 encourage that trend in the future.

24 We also want to support the NY Works

1 funding that's provided for Parks and DEC in
2 the Governor's budget, \$90 million for Parks
3 to continue to work down their backlog of
4 capital programs and \$40 million for DEC for
5 a number of important projects, including the
6 access initiative that we support.

7 And then I did just want to call your
8 attention to the fact that, much like with
9 the EPF, we had to do a lot of work to get
10 those disbursements to match appropriations.
11 DEC, their all-funds appropriation is
12 actually going up this year, which is great.
13 They need it. Their disbursements are
14 scheduled to drop by \$200 million annually
15 throughout the course of the fiscal plan, so
16 looking a few years outward.

17 So I'd just encourage, as you all
18 continue your conversations with the
19 Governor, I know the staffing issue is
20 something that, you know, really resides with
21 him. But the staffing and operations and,
22 you know, appropriations for the agency work
23 is also really important. DEC staff are
24 incredibly hardworking. Their mission is

1 critical to New York State's economy and to
2 our public health. And so as we continue to
3 have our economic recovery, these
4 environmental agencies that have experienced
5 significant cuts do need some restorations at
6 the staffing level as well.

7 And then I apologize -- I'm going to
8 chalk this up to being the mom of a
9 toddler -- I had to create an addendum to my
10 testimony. But on there you'll find we do
11 support the changes to General Obligations
12 Law and the legalization of crossbows.
13 There's information in there about some
14 studies we've done on New York forest
15 regeneration, the significant impact deer are
16 having on our forest health and possibly our
17 timber economy. So we support the
18 legalization of crossbows in order to give
19 the state another tool in reducing the deer
20 herd.

21 And then the General Obligations Law,
22 this is really important for not only private
23 landowners across the state but also for
24 The Nature Conservancy. We're a landowner,

1 and we have some serious issues, and this
2 causes us some serious stress. We actually
3 had a preserve where we had a gentleman jump
4 off of a 30-foot waterfall about a year ago
5 and break his arm. And his lawyer called
6 asking to talk to our lawyer, and they wanted
7 to know why there wasn't a sign at the top of
8 the waterfall saying it might be dangerous to
9 jump off the top of a 30-foot waterfall.

10 So if we can do things to relieve
11 some of the liability for landowners who
12 allow recreational use of their property,
13 including swimming, that would go a long way
14 for not only individual private landowners
15 but also organizations that really do work
16 hard to make landscapes safe for people to
17 enjoy, and open those private lands to the
18 public for recreation.

19 CHAIRMAN DeFRANCISCO: Thank you very
20 much.

21 The next speaker is Sean Mahar,
22 Audubon Society, followed by Adrienne
23 Esposito, Citizens Campaign for the
24 Environment.

1 MR. MAHAR: Good afternoon, Senator,
2 and other distinguished members of the Senate
3 and Assembly. Shall I begin? And I will
4 read word for word my entire testimony.

5 (Laughter.)

6 SENATOR KRUEGER: You get demerits
7 for that.

8 MR. MAHAR: I know I do. And I'll
9 beat the clock, too.

10 Anyway, thank you very much for
11 allowing me the opportunity to testify today
12 on the Governor's proposed budget.

13 I'll just start off by saying that we
14 are supportive of a number of initiatives in
15 the Governor's overall budget; I'll speak to
16 a number of them today. But on the whole, we
17 do strongly believe that the proposed levels
18 of funding for the environment need to be
19 increased overall in this budget. I think
20 when you look across New York, as a number of
21 my colleagues have testified today, demand
22 and public support for environmental spending
23 in this state is on the rise.

24 You know, for the past 20 years --

1 and we really liked celebrating the
2 20th anniversary of the EPF with the
3 Legislature last year and doing some great
4 events out in our districts to really talk
5 about the importance statewide that the
6 Environmental Protection Fund has provided to
7 our communities. We know that these
8 communities really see the economic potential
9 of environmental investments and need to see
10 more of these resources keep flowing.

11 And we do view the Governor's budget
12 as a start in that direction. You know, in
13 the last two years alone, the \$19 million
14 increase last year, the \$4 million proposed
15 increase this year is a start. And we're
16 glad to see, as my colleague from The Nature
17 Conservancy spoke about, the disbursements of
18 EPF funds matching the appropriation.

19 We still need to see more money
20 devoted to the Environmental Protection Fund
21 overall. The needs across the state, as I
22 said, are increasing. Our failing sewers are
23 discharging billions of gallons of raw sewage
24 every time it rains into local waterways. We

1 have farmland being lost at unprecedented
2 rates. We have invasive species fouling our
3 waters, our communities, our ecosystems. And
4 the longer we wait to address these issues,
5 the more costly they become to fix in the
6 long run.

7 And that's why we've supported a
8 \$200 million EPF investment in this year's
9 budget. And as others have pointed out, with
10 the real estate transfer tax really
11 rebounding and projected to go above a
12 billion dollars in the years to come, with
13 the declining payments on the 1996 Bond Act,
14 we believe that there's more than enough
15 money in the New York State transfer tax to
16 cover this increase and to devote more money
17 towards the Environmental Protection Fund
18 this year.

19 My testimony provides a few of the
20 categories that we support the Governor's
21 increased attention to this year. One that's
22 not there that we'd like to work with the
23 Legislature on is providing more money for
24 private landowners to engage in conservation.

1 With the majority of New York in
2 private ownership -- our forests, our farms,
3 our grassland habitats -- the choices that
4 private landowners make on their backyards
5 can really make it or break it for a lot of
6 different bird species and a lot of different
7 wildlife species in general. And the more
8 that we can work to incentivizing them doing
9 good stewardship practices, we actually get a
10 really big win for conservation and we also
11 give them property tax relief as well.

12 So our proposal is to look at the
13 Biodiversity Conservation and Stewardship
14 line of the EPF and increase that to a
15 million dollars and turn that into a grants
16 program where an entity could administer
17 grants to private landowners to implement
18 habitat management plans on their property.
19 This would also go towards providing matching
20 funds for some of the federal farm bill
21 programs and other federal programs that are
22 trying to encourage the stewardship of
23 private lands as well.

24 So we just see, again, a win/win for

1 conservation and property tax relief in the
2 state.

3 Outside of the EPF, we do appreciate
4 the Governor's broader push for new tax
5 credits for private landowners, yet we didn't
6 see any focus on working with private
7 landowners on the conservation side of that.
8 So as you continue to debate that proposal,
9 we'd like to sit down with you more and
10 discuss some opportunities to get tax credits
11 that would incentivize conservation and,
12 again, provide more incentives for private
13 landowners to engage in conservation in the
14 state.

15 I'll say overall too that we are very
16 supportive of the Governor's proposal for the
17 NY Works program. Again, the continued
18 attention to the backlog of capital
19 infrastructure needs at State Parks and DEC
20 properties is really important. We
21 appreciate your continued support of that
22 initiative as well and want to see that
23 maintained in the final budget.

24 In the last two years, over

1 \$1.5 million of the State Parks NY Works
2 funding has been dedicated towards habitat
3 and natural infrastructure stewardship, which
4 is really good and helps augment and leverage
5 some of the other EPF funding programs that
6 are out there, and also really helps to take
7 off our Audubon in the Parks initiative,
8 where we're working directly in state parks
9 to encourage more of this habitat restoration
10 to occur as well.

11 On the DEC side of NY Works this
12 year, we strongly support the Governor's
13 access initiative, trying to promote more
14 people getting outside and really improving
15 those opportunities, and we hope that that is
16 codified in the budget as well. One thing we
17 didn't see, though, was a similar proposal to
18 last year where they utilized some of the
19 NY Works funding for wastewater
20 infrastructure upgrades. I think that was a
21 really good capital grants investment that
22 the Governor proposed last year, and I know a
23 number of communities across the state were
24 really able to leverage that.

1 We really appreciate all the
2 questions that you asked today of the
3 commissioner and others on the focus of how
4 we tackle this multi-billion-dollar crisis
5 that's facing New York State. And we think
6 the grants program to the NY Works program
7 and the EPF's water quality improvements
8 program are important to that equation, and
9 we'd like to see more money dedicated towards
10 that in the future and coming up with a
11 longer-term solution to that crisis that's
12 facing our state.

13 A few of the other things I'll just
14 hit on briefly. We do support the New York
15 Open for Hunting and Fishing initiative,
16 especially the proposal to legalize the use
17 of crossbows, limit landowner liability, and
18 decrease the size threshold with which you
19 can fire a bow or crossbow.

20 As The Nature Conservancy pointed
21 out, overabundant deer are a big threat to
22 forest health in the state, and that's a big
23 threat to forest-breeding birds. And the
24 more opportunities that we can provide to

1 hunters to help manage the state's deer herd
2 is really important for conservation
3 activities overall. So we strongly support
4 this push by the Governor this year, and we
5 hope to see that approved in the final
6 budget.

7 One other program I wanted to flag,
8 the Governor has proposed a \$30 million
9 investment in Onondaga Lake communities for
10 their revitalization. Onondaga Lake is an
11 important bird area for Audubon New York, and
12 we've invested a lot of time and effort into
13 working to improve the habitat around the
14 lake. And we hope that this program can also
15 be leveraged to augment some of those efforts
16 and improve some of the on-the-ground
17 conservation that we're doing.

18 Also on the clean energy side of
19 things, the Renewable Heat NY program is
20 really an innovative approach, and we really
21 appreciate the Governor's focus on
22 sustainable forestry and trying to promote
23 sustainable forestry through that initiative,
24 and we hope that we can see more details on

1 that and get that codified as the budget gets
2 finalized this year.

3 And I'll just close by saying, too,
4 we put a lot of emphasis on state spending,
5 but the federal government does have an
6 important role to play in funding and
7 financing a lot of the infrastructure
8 upgrades that we need to see in the state.
9 We really appreciate the help that a number
10 of you provided this area in sending a letter
11 to the President urging increased funding for
12 the Clean Water State Revolving Fund, Great
13 Lakes Restoration Initiative, Long Island
14 Sound Program, and we just want to work with
15 you more in the future to make sure that
16 we're holding the federal government
17 accountable and ensuring that they're
18 investing similarly in New York's
19 environment.

20 So thank you very much for your time.

21 SENATOR KRUEGER: Thank you very
22 much.

23 Assembly?

24 ASSEMBLYMAN OAKS: Assemblyman Otis.

1 ASSEMBLYMAN OTIS: Sean, you
2 mentioned the \$4 million for natural
3 infrastructure, I think is what you were
4 talking about. Do you know whether any of
5 last year's \$4 million was spent or how it
6 was spent? It's a question we can ask DEC,
7 but I'm wondering if you happen to know what
8 they did with that.

9 MR. MAHAR: Which \$4 million are you
10 talking about?

11 ASSEMBLYMAN OTIS: You mentioned
12 water quality improvement money that was in
13 last year's budget that was not recurring in
14 this year's budget. So I'm just curious if
15 you have information about whether last
16 year's amount was allocated anywhere or not.

17 MR. MAHAR: I know it was grouped in
18 with the water quality improvement grants or
19 the request for proposals that was announced
20 in the fall. And I haven't looked to see
21 exactly where it's been committed to yet, but
22 I'll look and get back to you on that.

23 ASSEMBLYMAN OTIS: Okay, great.
24 Thanks. Thank you for your testimony.

1 MR. MAHAR: Thank you.

2 SENATOR KRUEGER: Thank you very
3 much.

4 CHAIRMAN DeFRANCISCO: Thank you.

5 Let's see, it's Adrienne Esposito,
6 executive director of Citizens Campaign for
7 the Environment, followed by Laura Haight,
8 senior environmental associate, NYPIRG.

9 MS. ESPOSITO: Good afternoon,
10 members of the Legislature, and thank you for
11 hanging in there. We appreciate that.

12 My name is Adrienne Esposito. I'm
13 the executive director of Citizens Campaign
14 for the Environment. We're an 80,000-member
15 organization throughout New York State, with
16 five offices in New York and one more in
17 Connecticut for good measure.

18 I am not going to be redundant, I'm
19 going to raise issues you have not yet heard
20 today. So you'll be very happy you stayed,
21 with one exception.

22 I too will reiterate the very strong
23 call for increasing the Environmental
24 Protection Fund to \$200 million. Why would

1 an environmentalist do that, you might say to
2 yourself. Well, we can tell you. Because we
3 feel that the focus on jobs and the economy
4 is the right focus by the Governor and by you
5 as the Legislature. And thank you, because
6 it's working. New York is coming back, and
7 that is a success story.

8 However, we believe and we know
9 people don't make their final decision on
10 where to live and work based solely on
11 employment opportunities. They base that
12 decision on also what does that area or that
13 region have to offer, what are the
14 recreational opportunities. People look for
15 those things such as clean beaches that are
16 open. They look for hiking trails, they look
17 for zoos, botanical gardens, community parks.
18 They look for farm-fresh produce that's
19 within reach. They look for open spaces.
20 They look for a better quality of life.

21 New York has to continue to offer
22 that in order to be competitive in a highly
23 competitive job market. And that's what EPF,
24 the Environmental Protection Fund, does for

1 us.

2 So let's look at the numbers, shall
3 we? In fiscal year 2010-2011 the RETT, the
4 real estate transfer tax, generated
5 \$580 million. It grew, in the next four
6 years, up to \$816 million in fiscal year
7 2013-2014. That is a 40 percent increase in
8 growth, a 40 percent increase in four years.
9 However, the EPF only grew by 14 percent,
10 clearly not keeping pace with being prorated
11 by what the RETT is generating.

12 We're asking you to help us in the
13 endeavor of getting an EPF back to where it
14 can be and it should be. We believe that
15 these dollars are not an expenditure of funds
16 but rather an investment of funds -- in our
17 jobs, in our economy, and in our health.

18 So you might be wondering, well,
19 where in the EPF could we put more money. We
20 can tell you that as well. Let's look at one
21 line item no one has spoken about yet:
22 Great Lakes, Oceans and Estuaries. For
23 instance, oceans provide a heck of a lot of
24 dollars for here in New York. For example, a

1 NOAA study in 2010 estimated that New York's
2 oceans, just the fishing and tourism industry
3 alone, generate \$21.7 billion into our
4 economy, equating to about 300,000 jobs.
5 That's a lot of money and a lot of jobs.

6 But on the other end of New York,
7 let's look at our Great Lakes. The
8 recreational fishing industry alone in the
9 Great Lakes, the sport fishing industry, is
10 valued at \$2.27 million, equating to
11 12,000 jobs.

12 So if we want to look where's the
13 best bang for our buck, let's look at our
14 waterways. The Great Lakes, for instance,
15 the DEC is right now updating and rewriting
16 the Great Lakes Action Plan. That is a plan
17 where we are looking at the challenges of the
18 Great Lakes and what are the remedies, what
19 are the solutions, and what are the
20 activities to be implemented to restore the
21 Great Lakes. This is very fortuitous because
22 right now the federal government, as you may
23 know, has just appropriated \$300 million to
24 Great Lakes restoration. It is in the Great

1 Lakes Restoration Initiative, as it's called.

2 As New York does our Great Lakes
3 Action Plan, we will be well-positioned to
4 bring those federal dollars to here in
5 New York as matching dollars. So when we
6 invest in the Great Lakes, we can also obtain
7 federal dollars to invest in us here in
8 New York.

9 And what about those oceans? Well,
10 just this month DEC gathered many experts to
11 talk about whale monitoring in the New York
12 Bight. You might say there they are,
13 environmentalists bringing up the whales
14 again. And that is true in this case.
15 However, we know through one year of
16 monitoring that whales do migrate past the
17 New York Bight, including the rarest mammal
18 on earth, which is the North Atlantic white
19 whale. And also the blue whale.

20 This is important because if we are
21 to site offshore wind farms, which we believe
22 we should and we could, and it should be part
23 of our New York State mandate, we need to
24 know the migratory pathways of these species

1 to not interfere with them. So the DEC is
2 now embarking on gaining the data to do so,
3 and they'll need the funding for that in that
4 line item.

5 Let's raise the issue of pesticides
6 one more time, because it's worth it. There
7 is a small increase in the EPF for
8 pesticides. That's a good thing, and thank
9 you for that. However, we need to get it
10 right. When pesticides enter surface waters
11 and drinking waters and our air, they are
12 toxic. That is the very definition of a
13 pesticide.

14 The DEC needs more staff. I heard
15 different Senators and Assemblymembers
16 earlier talk about the fact that we should be
17 approving more products quicker. We would be
18 okay with that, but the DEC needs staff to do
19 that. Because if they only do it with the
20 very few limited staff they have left in the
21 pesticide department, then they'll be doing
22 reviews that are not thorough enough. So a
23 thorough review, we're good with. The
24 staffing in the DEC needs to increase in

1 order to expedite and also do that in a
2 thorough way that is meaningful and
3 substantial for public protection of health.

4 I have to say one more thing, which
5 is not in my testimony, but about the
6 registry. And, you know, I've been around
7 long enough, and I'm okay with admitting it,
8 that I was there during the battle when the
9 first registry legislation was passed. And
10 the purpose of that registry wasn't to know
11 where people bought their pesticides. All
12 that tells us is that Walmart or Lowe's or
13 Home Depot has a sale that week. That's all
14 that tells us.

15 The purpose of finding out where
16 pesticides are applied was so that breast
17 cancer groups and scientists and academia
18 could overlay areas of application with areas
19 of cancer incidence. That's where it's
20 valuable to us. To know where it was bought
21 really has no value.

22 So if it's broken, we should fix it,
23 but we shouldn't give it a placebo. We're
24 not interested in a placebo, and I don't

1 think the breast cancer groups are interested
2 in a placebo. And breast cancer is still
3 around. In fact, it hasn't decreased. In
4 fact, unfortunately and sadly and tragically,
5 it has increased. In fact, groups that are
6 now named 1 in 9 have to change their name to
7 1 in 8 -- or some say 1 in 7 -- to reflect
8 the accurate statistics of what's being found
9 today. So let's get it right and not do a
10 placebo.

11 The next issue that has been touched
12 on but not talked about, biotoxin monitoring.
13 What the heck is that, you might say. Well,
14 you know what, it's new. And the news isn't
15 good. We have red tide, we have brown tide,
16 we have blue-green algae, we have rust tide,
17 we have a potpourri of toxic tides in
18 freshwater bodies from upstate New York to
19 Montauk in Long Island. And I'm sorry, but
20 the news isn't good. Red tide is lethal. It
21 does kill humans. Rust tide doesn't kill
22 humans, but it kills fish.

23 Blue-green algae is a liver toxin.
24 It actually, we believe, killed a dog, a

1 healthy dog that went into a lake in Montauk.
2 And this could only happen, I know, in the
3 Hamptons, where they do an autopsy on the
4 pet. But two hours later, the dog was dead.
5 The people were distraught, they had an
6 autopsy done. You know what? It was liver
7 failure. You know what? The lake had
8 blue-green algae in it. Coincidence?

9 CHAIRMAN DeFRANCISCO: Was the dog a
10 drinker?

11 (Laughter.)

12 MS. ESPOSITO: You know, I did not
13 make that inquiry. I will follow up with
14 that and get back to you on that, Senator.
15 Thank you for asking.

16 (Laughter.)

17 MS. ESPOSITO: But the point with
18 this is that we need to monitor for these to
19 keep us safe. We need to know what's in our
20 waterways, particularly the public and the
21 recreational waterways, and the drinking
22 water sources. It's really concerning.

23 The last thing I want to mention
24 quickly is pharmaceutical drugs. No one

1 mentioned that. It's an emerging issue, but
2 it's one we can tackle. Right now, for
3 instance, Citizens Campaign for the
4 Environment did a study in Suffolk County.
5 We found that 51 percent of the hospitals and
6 the long-term healthcare facilities and the
7 hospices were flushing their drugs, both the
8 narcotics and also the non-narcotics. That
9 is not safe disposal.

10 We know that 40 percent of drinking
11 water supplies in America are now showing
12 trace amounts of pharmaceutical drugs, just
13 trace amounts. So we're on the precipice
14 here of being able to stop a problem before
15 it occurs.

16 We are asking you to do one thing. I
17 know I'm over time, but give me 20 seconds.
18 The DEC has a very successful program where
19 they twice a year provide for hospitals and
20 also long-term-care facilities and other care
21 facilities a pickup of unwanted and expired
22 pharmaceutical drugs. Twice per year. They
23 piggyback on the DEA, the Drug Enforcement
24 Agency's program where they do it twice a

1 year.

2 But unfortunately, the DEC is now
3 only able to provide this in the Croton
4 Watershed district, and also they're
5 expanding it to Monroe County. Well, we
6 think everyone needs equal protection. And
7 we're asking you, members of the Legislature,
8 to put a line item in the EPF of
9 approximately \$800,000 so we can expand that
10 drug pickup program.

11 Where did we get that from? Well,
12 you know what, the long-term-care facilities
13 and the hospitals told us they would love
14 that. They'd use it in the New York City
15 Watershed, they would use it on Long Island,
16 they'd use it in Westchester, where we met
17 with all of them. They feel that that would
18 help them. This is not a suggestion that
19 came from environmentalists sitting in their
20 office, this is a suggestion that came
21 directly from the businesses and the care
22 facilities that have a need for safe
23 disposal. I can talk to you more about that.

24 But in the end, I'd like to say that

1 thank you for your work and to remember that
2 the environment is in partnership with our
3 economy and with our jobs and with a healthy
4 New York. And we're happy to work with you
5 to continue to do this work. Thank you for
6 the opportunity to comment.

7 CHAIRMAN DeFRANCISCO: Thank you very
8 much.

9 We have a question.

10 SENATOR KRUEGER: Sorry, no, I want
11 to thank you for the testimony. And also for
12 being the first one today to bring up wind
13 power and the importance of New York State
14 continuing its exploration there. And I
15 appreciate very much that you're here saying
16 that, you know what, this can be a good thing
17 for Long Island, we just have to factor in
18 all the legitimate concerns.

19 MS. ESPOSITO: It's one of my
20 favorite topics. Yes.

21 SENATOR KRUEGER: So thank you for
22 your expertise.

23 MS. ESPOSITO: Thank you.

24 CHAIRMAN DeFRANCISCO: Laura Haight,

1 NYPIRG, and then Rocci Aguirre is on deck.

2 MS. HAIGHT: Good afternoon.

3 CHAIRMAN DeFRANCISCO: Good
4 afternoon.

5 CHAIRMAN FARRELL: Good afternoon.

6 MS. HAIGHT: Thank you for this
7 opportunity to testify today. My name is
8 Laura Haight. I'm senior environmental
9 associate with the New York Public Interest
10 Research Group.

11 I will of course summarize my written
12 comments. I have been well trained by you,
13 Chairman DeFrancisco.

14 First off, I'd like to talk about DEC
15 staffing issues. As the state's economy
16 improves, we should be restoring the agencies
17 charged with protecting our resources and
18 public health. The DEC is at an all-time
19 staffing low, and as a result their ability
20 to enforce the laws to protect our air and
21 water has declined precipitously and the
22 agency is increasingly relying on industry
23 self-monitoring.

24 Unfortunately, this budget adds only

1 one full-time staff position to the DEC. We
2 absolutely need to reinvest in the DEC's
3 professional workforce in order to protect
4 New Yorkers and respond to the ever-
5 increasing natural and manmade disasters as
6 our aging infrastructure crumbles and severe
7 storms like Hurricane Sandy and Irene become
8 more frequent.

9 As previous speakers have mentioned,
10 the state's environmental funding needs far
11 outstrip the funding proposed in the
12 Governor's budget. We appreciate the
13 Legislature's leadership in ensuring that the
14 EPF throughout the years has been funded, and
15 we hope that you will work to restore funding
16 in the EPF this year to a level of at least
17 \$200 million.

18 Within the individual EPF categories
19 we urge you to increase funding for municipal
20 recycling programs. This program is at
21 all-time low of \$7 million. This is a
22 program that provides fifty-fifty matching
23 grants for municipalities to support both
24 their recycling and their household hazardous

1 waste collection programs, and this is the
2 only source of assistance to these
3 cash-strapped local governments to operate
4 these programs. There's a very long waiting
5 list for these grants as a result.

6 It's also important for New York to
7 maintain its commitment to the shared
8 resources of the Interstate Chemicals
9 Clearinghouse, and we would request that the
10 \$100,000 be specifically earmarked for the
11 ICC, as it has been previously, rather than
12 subsumed in the Pollution Prevention
13 Institute's line item.

14 The environmental community has
15 identified numerous potential sources of
16 revenue to pay for these programs. In
17 addition to tapping existing sources of
18 revenue such as the real estate transfer tax,
19 the state should consider creative proposals
20 such as a fee on plastic and paper disposable
21 bags in New York, which would generate
22 \$100 million or more in new revenue while
23 also reducing litter and pollution in our
24 communities. And kudos to CCE for leading

1 the charge on this initiative.

2 Another source of funding for the EPF
3 is the Bottle Bill. The state is now
4 collecting more than \$100 million a year from
5 unclaimed deposits in New York. Of that,
6 \$19 million is now directed to the EPF under
7 the agreement from last year. We believe, of
8 course, that a hundred percent of that should
9 go to the EPF.

10 But there's other ways that the
11 Bottle Bill can be used to generate more
12 funding. For one thing, we could get a lot
13 more money if we enforced the program more
14 aggressively. New York should follow the
15 example of California, which has invested in
16 additional auditing staff to track down over
17 700 companies that have not reported the
18 deposits they've been collecting. According
19 to the Container Recycling Institute,
20 New York is losing out on as much as
21 \$96 million a year in revenues because of
22 underreporting of deposits initiated on
23 beverages sold here.

24 The Legislature should also expand

1 the Bottle Bill to include sugared waters,
2 teas, sports drinks and other noncarbonated
3 beverages. While the primary purpose of this
4 would be to reduce litter and increase
5 recycling, this could generate an additional
6 \$12 million a year, according to CRI.

7 Finally, we need to do a
8 comprehensive review of the DEC's prorating
9 fees to identify funding gaps and see whether
10 New York's fees are in line with other
11 states'. For instance, the DEC has spent
12 probably in the hundreds of thousands of
13 dollars over the past 10 years reviewing a
14 proposal by Chemical Waste Management to
15 build a new landfill in Niagara County. And
16 this is all at taxpayers' expense, because
17 there's no application fee for siting or
18 expanding hazardous waste facilities in
19 New York.

20 I wanted to talk about Superfund
21 financing. There are currently more than
22 800 toxic waste sites awaiting cleanup
23 through the state's Superfund program, and
24 more sites are getting added to the list

1 every year. Unfortunately the 10-year
2 bonding authority for the State Superfund
3 expired last March.

4 The Governor has proposed including
5 \$90 million in this year's budget to extend
6 that program, but that's just for one year.
7 That's a radical shift from how the Superfund
8 has been financed in the past, and this is
9 going to have very serious impacts on the
10 program. As you know, it was initially
11 financed through a bond act in 1996. That
12 funding, when it expired in 2001, when that
13 happened, cleanups virtually ground to a halt
14 for several years before the Legislature
15 finally refinanced the Superfund in 2003 with
16 1.2 billion bonding over 10 years.

17 The state needs to make a long-term
18 commitment towards the cleanup of its most
19 toxic hazardous waste sites, not subject the
20 program to the vagaries of year-to-year
21 budget appropriations. So we urge the
22 Legislature to extend the state's bonding
23 authority for another 10 years to support
24 Superfund and ERP cleanups.

1 We also have concerns that the
2 proposed funding level will not allow for the
3 timely cleanup of these toxic waste sites.
4 They're proposing an amount which is
5 29 percent less than previous Superfund
6 levels, and we believe it should be restored
7 to \$120 million a year and include sufficient
8 agency staff so that those resources can get
9 out the door and we can start cleaning these
10 toxic waste sites and restoring the
11 communities that have been impacted so badly
12 for so many years.

13 We join with others in raising our
14 voice in opposition to the elimination of
15 funding for the Brownfield Opportunity Area
16 program. This is an important program, a key
17 competent of the Brownfield Cleanup Program.
18 According to New Partners for Community
19 Revitalization, 42 eligible applicants were
20 turned away in October due to lack of BOA
21 funds, and there's an estimated 70 more
22 communities that are seeking to apply to that
23 program. So we urge that that funding be
24 restored.

1 On the Brownfield Cleanup Program, we
2 commend the Governor for advancing a proposal
3 to reform this program, including many of the
4 reforms that our groups have been calling for
5 for many years. But since we're NYPIRG, we
6 do have a lot of concerns about the details.

7 These include -- and I could provide
8 more information later -- the criteria for
9 eligibility for the tangible property
10 credits. They need to be revised to allow
11 for affordable housing projects and projects
12 consistent with BOAS. In addition, we do
13 have concerns about the language on priority
14 economic development projects and think they
15 need to be tightened.

16 The proposal removes, very
17 imprudently, some of the BCP cleanup and
18 public participation requirements while
19 allowing even more toxic Superfund sites into
20 the program. The proposal eliminates bonus
21 credits for Track 1 cleanups, despite the
22 law's stated preference for permanent site
23 cleanups.

24 The proposed fast-track voluntary

1 program offers weaker cleanup requirements as
2 an incentive for participation. This is
3 simply not acceptable for sites that will be
4 receiving a liability release from the state
5 at the completion of the project.

6 And the proposal eliminates the
7 Brownfield Advisory Board, which could play
8 an important role in helping improve the
9 program. I'm not aware that that board has
10 met.

11 So there are provisions that we
12 support. We do support the termination of
13 sites that do not complete their cleanups
14 within the specified time periods. And we do
15 support extending the hazardous waste
16 generator fee exemption to additional
17 cleanups in the State of New York.

18 But we do question whether these
19 proposed reforms will go far enough to
20 contain the runaway costs of this program,
21 and we believe you should review the tax caps
22 that were imposed in the 2008 amendments and
23 see whether they need to be amended.

24 So in conclusion, we urge the

1 Legislature to really engage with the
2 Governor's office on this to ensure that the
3 final brownfield reform package is fiscally
4 prudent, environmentally protective, and
5 socially and geographically equitable.

6 I have a number of other items; I'll
7 go through several of them quickly. But our
8 other big-ticket item here is the proposal to
9 what I would consider gut the state's
10 Pesticide Reporting Program. We strenuously
11 oppose this proposal to eliminate pesticide
12 use reporting.

13 The pesticide use data collected
14 through New York's 1996 Pesticide Reporting
15 Law has led to groundbreaking scientific
16 research and informed a number of important
17 public policy decisions interesting at the
18 state, local and federal level. This
19 proposal would gut this program, shutting
20 down opportunities for important medical and
21 scientific research, and making the remaining
22 data collection of marginal utility.

23 We question why the Governor is
24 seeking an increase in EPF funding for this

1 program, from \$1 million to \$1.2 million,
2 while proposing to scale back the program so
3 significantly. So we urge you to reject that
4 proposal and instead pursue ways to make data
5 collection more efficient and data itself
6 more accessible. And we certainly have ideas
7 for that, and some of them are embodied in
8 legislation that Assemblyman Englebright has
9 advanced in the past.

10 We'd like to see funding for a
11 clean-energy roadmap for New York that's
12 described in our comments. Of course we were
13 glad to see no funding for fracking in this
14 budget. And we do urge -- it's not in the
15 budget now, but for the past three years it's
16 ended up in the final budget, what has been
17 this delay in the implementation of the
18 state's Diesel Emissions Reduction Act, the
19 DERA. This is an important legislation that
20 there's no excuse for delaying it. The
21 technology exists. The company that
22 manufactures the technology is right here in
23 New York, in Corning.

24 New York has the second-worst air

1 quality in the country when it comes to
2 diesel, and the impacts on children's health
3 and the elderly and people with heart disease
4 or lung disease cannot be understated.
5 There's no excuse, and really it's time to
6 stop kicking the can down the road and allow
7 DERA to go into effect, as it should have
8 been at the end of I believe it was 2010.

9 Thank you very much.

10 CHAIRMAN DeFRANCISCO: Thank you.

11 The next speaker, Rocci Aguirre,
12 director of conservation, Adirondack Council,
13 followed by Robin Dropkin.

14 Could I just go through these names
15 and see if you're all here? Robin Dropkin?
16 She's here. Tracy Brown? Here. Katherine
17 Nadeau? Here. Eric Kulleseid? Okay. Andy
18 Bicking? Okay. And Roger Downs. More
19 troupers. More troupers.

20 All right, you're on.

21 MR. AGUIRRE: Thank you. Good
22 afternoon, Chairman DeFrancisco, Chairman
23 Farrell, and honored legislators. My name is
24 Rocci Aguirre, and I'm the conservation

1 director at the Adirondack Council. We
2 appreciate the time to come down and testify
3 and get out of the North Country and enjoy
4 some of your warm weather down here.

5 The Adirondack Council is a 501(c)(3)
6 not-for-profit organization that is dedicated
7 to ensuring the ecological integrity and wild
8 character of the Adirondack Park -- clean
9 air, clean water, large wilderness areas, and
10 we really work to be a part of vibrant
11 communities and support thriving farms and
12 working forests.

13 We would like to echo many of the
14 comments that you've heard from our partners
15 and colleagues previously about the efforts
16 by the Senate and Assembly and Governor to
17 restore modest increases in the Environmental
18 Protection Fund. We appreciate your actions
19 and leadership and feel that this has been
20 extremely helpful in the Adirondacks. On
21 that level we'd like to thank you.

22 The restoration of the EPF is a
23 funding source that focuses on key issues in
24 the Adirondacks that are of importance to the

1 council, including land acquisition, clean
2 water, parks and community projects, and have
3 proven to be not only a great investment for
4 the North Country but also critical to the
5 lifestyles and the livelihoods of the
6 communities there.

7 We can do more. The modest increases
8 in the EPF reflect that the substantial move
9 forward of the \$4 million, from \$153 million
10 to \$157 million, is a great first step. And
11 in the North Country in particular, we see
12 projects that come out of these funds
13 leveraged against private and local community
14 efforts. A great example is funding by the
15 local North Country communities to put out
16 boat-wash stations as they seek to combat
17 invasive species.

18 A TPL study found that for every
19 dollar spent from the EPF that there was \$7
20 of economic impact. And up in the North
21 Country, the EPF equals clean water, and that
22 does equal more jobs.

23 As we have detailed in our written
24 testimony, there are multiple priorities that

1 are addressed in this year's budget that the
2 Adirondack Council is concerned with. The
3 most important of these priorities is the
4 funding of the EPF. And we congratulate you
5 and the Governor on turning around a
6 \$10 billion budget deficit and making
7 \$500 million available to invest in
8 priorities while providing tax cuts.

9 As such, we are disappointed that
10 some of the \$500 million and other previously
11 dedicated Clean Water Clean Air funding
12 wasn't directed to the EPF, where funding has
13 been slashed in recent years to help balance
14 the budget.

15 Without changes, the state will miss
16 real opportunities to create jobs; enhance
17 tourism, recreation and local agriculture;
18 reduce water and air pollution; and conserve
19 New York's most precious natural resources.
20 We ask along with our colleagues and partners
21 that you restore the EPF to \$200 million and,
22 while doing so, develop a plan to fund
23 New York's clean water infrastructure
24 projects in the Adirondacks and across the

1 state.

2 Under the proposed 2014-2015 budget,
3 modest increases in some areas are offset by
4 reductions in others. And as you've heard
5 the numbers on the real estate transfer tax,
6 in the coming year the state will pay
7 \$12 million less to the 1996 environmental
8 bondholders in 2014 than it did in 2013.
9 Rather than using this savings to further
10 restore the EPF, this budget proposal
11 transfers the savings to nonenvironmental
12 spending.

13 The modest restoration from
14 \$153 million to \$157 million still leaves the
15 EPF far below the 2009 level of \$250 million.
16 We know New York can do better. We are
17 confident that clean water, open space,
18 parks, green jobs and the Adirondacks are a
19 priorities for the Governor and Legislature.

20 We strongly support the proposal in
21 the Legislature for a Clean Water, Clean Air,
22 Green Jobs bond act and suggest that we need
23 more discussion of how to provide assistance
24 to local communities struggling with funding

1 upgrades for clean water infrastructure.

2 In addition to a \$200 million EPF,
3 some of our top priorities include, in order
4 to quickly reverse the trend of the massive
5 backlog that has been created, we believe
6 that the Open Space line should be funded at
7 \$30 million this year, including
8 \$26.75 million for land acquisition. At
9 \$4.6 million, the Invasive Species line is
10 the same as last year; but with a
11 \$200 million EPF, this should be \$10 million.

12 In terms of conservation impact,
13 addressing invasive species is given a
14 paramount priority in the North Country, and
15 demand for funding for programs far outstrips
16 the supply.

17 Of particular concern in this year's
18 proposed budget are the impacts to the
19 staffing and operational abilities of the
20 environmental agencies that are so integral
21 to life in the Adirondacks. As you've heard,
22 we believe, like others, that at the DEC
23 additional resources are critically needed
24 across all divisions but are of particular

1 importance within the Natural Resources and
2 Public Protection Offices.

3 The current statewide force in the
4 Lands and Forest Division has been steadily
5 decreasing over time. Current staff levels
6 now are lower than they were in 1985. And
7 with a half-million more acres to manage, and
8 more on the way, those staffing needs only
9 become more paramount.

10 Currently enforcement staff are
11 operating statewide with 60 percent of their
12 command structure and 50 percent of their
13 administrative structure. This pushes the
14 department to be reactive rather than
15 proactive. And in the North Country, that's
16 just unacceptable.

17 On a positive note, we applaud the
18 \$5 million in bonded NY Works money that will
19 be spent on equipment and vehicle
20 replacements, and the \$21 million to be spent
21 on repairs to DEC facilities, including
22 \$2 million to be spent on our crippled
23 air-monitoring network. This is a positive
24 first step towards what should be a longer

1 plan to revive the DEC fleet and facilities.

2 Finally, for the APA, the smallest of
3 the state agencies, we request that the six
4 vacant positions in regulatory affairs,
5 planning and enforcement be reinstated and
6 filled immediately to expand and improve
7 community outreach and proactive education to
8 prevent compliance issues.

9 In closing, on behalf of the
10 Adirondack Council and our membership, I
11 thank you for your core time and your efforts
12 to restore funding for clean water, open
13 space, and keeping the Adirondack Park --
14 your Adirondack Park -- wild for everyone.

15 CHAIRMAN DeFRANCISCO: Thank you.

16 Robin Dropkin, executive director of
17 Parks and Trails New York, followed by Tracy
18 Brown, Riverkeeper.

19 MS. DROPKIN: Good afternoon. Thanks
20 for hanging in there.

21 I'm Robin Dropkin, executive director
22 of Parks & Trails New York. PTNY was founded
23 in 1985 to support the state park system. In
24 the almost 30 years since, our influential

1 reports and advocacy efforts have been
2 critical to keeping parks open and to
3 protecting New York's natural and
4 recreational resources.

5 As you know, our 214 state parks and
6 historic sites are significant economic
7 drivers. The tourism dollars generated by
8 parks are critical, especially to upstate
9 communities. According to an independent
10 study that we commissioned, the New York
11 State park system boosts the state's economy
12 \$2 billion annually. That's about a 5-to-1
13 return on investment.

14 Parks also provide many other
15 benefits, strengthening New Yorkers' health
16 and fitness, protecting communities from the
17 impacts of extreme weather events, preserving
18 the state's heritage for future generations.

19 Because of their additional benefits,
20 most assessments of the impacts of parks
21 underestimate their true value. But when
22 most New Yorkers think of parks, they don't
23 think about return on investment, all they
24 know is that they love their parks. When

1 parks were threatened with closure, hundreds
2 of thousands of New Yorkers rallied to their
3 support. For the past two years, on the
4 first Saturday in May, more than 6,000
5 New Yorkers have taken time out of their busy
6 weekends to volunteer for I Love My Park Day
7 and help clean up and beautify state parks
8 and historic sites.

9 It's thanks in large part to this
10 outpouring of support, including support from
11 the Legislature, that parks have remained
12 open and are beginning to thrive again.

13 Because parks are loved by so many
14 New Yorkers, they're one of the most visible
15 and symbolic of government programs. When
16 parks look shabby and neglected, New Yorkers
17 notice and feel less proud of being
18 New Yorkers. And since rebuilding a park
19 restroom or putting a new roof on a visitor
20 center can be done quickly and at a fraction
21 of the cost of rebuilding a bridge or a
22 highway underpass, park improvements offer
23 government a tangible way to show New Yorkers
24 and the world that New York is on the move

1 again.

2 Parks are an integral part of the
3 state's infrastructure. The Governor and
4 Legislature have recognized this by including
5 parks in recent efforts to rebuild the
6 state's infrastructure and economy. The
7 \$179 million investment made by the state
8 over the last two years has made it possible
9 for State Parks to begin to address the
10 estimated \$1 billion backlog in critical park
11 infrastructure needs.

12 Flagship parks like Niagara Falls,
13 which only a few years ago were called shabby
14 and underfinanced by the *New York Times*, are
15 beginning to receive vital makeovers. And
16 visitors are clearly noticing the
17 improvements. Visitation is now up to more
18 than 16 million annually.

19 However, challenges remain.

20 According to a report by the Comptroller,
21 almost every park and historic site in the
22 system has some infrastructure need, from
23 crumbling buildings to outdated water, sewer
24 and electrical systems.

1 The \$90 million in new park capital
2 funding through the NY Works program proposed
3 in the Executive Budget recognizes this need.
4 NY Works funds will be used to maintain and
5 rehabilitate aging state park facilities,
6 half of which are over 50 years old. With an
7 investment of \$90 million annually, the
8 backlog in capital needs can be addressed
9 over a roughly 10-year period.

10 The Executive Budget maintains the
11 State Parks operations budget. Given
12 New York's recent fiscal challenges, we
13 appreciate that the agency's operations
14 budget has been held steady. However, rising
15 costs outside of the agency's control mean
16 that even a level operations budget will have
17 deleterious results.

18 The parks operations budget has been
19 cut 23 percent since the economic crisis --
20 more than most agencies. And it's operating
21 today with 1500 fewer staff than it was in
22 2008. The effects can be felt on the ground,
23 with reduced hours, days and seasons, fewer
24 programs and workers, fewer park police, and

1 less maintenance, not to mention fewer
2 resources dedicated to natural resource
3 protection and the visitor experience.

4 Essentially our state parks are
5 serving more and more visitors but being
6 given fewer and fewer resources with which to
7 do so. It just doesn't add up. More parks
8 plus more visitors equals less resources.
9 While capital improvements are critically
10 important, without sufficient funding for
11 operations the agency is left struggling to
12 achieve its mission.

13 I just wanted to add about another
14 creative way to advance the future of the
15 parks system, by taking a closer look at the
16 role of park and historic site Friends
17 groups. Active and engaged grassroots
18 organizations already contribute
19 significantly to the stewardship of the state
20 park system, raising tens of millions of
21 dollars and logging hundreds of thousands of
22 hours of volunteer assistance. Finding ways
23 to strengthen and further engage these
24 organizations will reap large benefits,

1 enabling them to leverage more private and
2 federal funding, marshal more volunteer
3 power, and better fill the growing gap in
4 government support.

5 Over the years, PTNY has developed a
6 suite of resources and opportunities for
7 Friends groups, ranging from capacity-
8 building grants to intensive technical
9 assistance. But clearly more could be done.

10 Lastly I'd like to address the
11 Environmental Protection Fund, of which we're
12 particularly interested in the stewardship
13 funds for state parks and forests and the
14 municipal park program. The increase of
15 \$4 million of course is very welcome, but it
16 falls short of what is needed to meet the
17 growing demand across the state. In a year
18 when New York has its first budget surplus
19 since the recent economic decline and
20 significant investments are being made in
21 many other sectors, we call on the
22 Legislature to not miss the opportunity to
23 increase investment in the environment.

24 As you know, EPF programs are very

1 popular. A recent survey showed that a
2 majority of voters in every part of the state
3 support enhancing funding for the
4 environment. Therefore, we urge you to work
5 with your colleagues to provide enhanced
6 funding -- ideally \$200 million, as you've
7 heard before -- for the EPF in the state
8 budget.

9 So PTNY looks forward to continuing
10 to work with the Legislature and the
11 administration to protect and preserve the
12 legacy of our great park system, as well as
13 to strengthen the network of parks, trails
14 and greenways across the state.

15 Thank you very much for hanging in
16 there.

17 CHAIRMAN DeFRANCISCO: Thank you for
18 hanging in there as well.

19 CHAIRMAN FARRELL: Thank you.

20 CHAIRMAN DeFRANCISCO: Thank you very
21 much.

22 Tracy Brown, from Riverkeeper. On
23 deck, Katherine Nadeau, Environmental
24 Advocates of New York.

1 MS. BROWN: Good evening. Thanks for
2 the opportunity to submit testimony on behalf
3 of Riverkeeper.

4 Riverkeeper is dedicated to defending
5 the Hudson River and the drinking water
6 supply of 9 million New York City and
7 Hudson Valley residents. So as Riverkeeper's
8 representative, I'm going to focus on
9 water-quality issues and I'm just going to
10 address four issues, two of which haven't
11 been brought up yet today.

12 As you may or may not realize,
13 New York is very unique in that it's the only
14 state that has Great Lake, bay and ocean
15 beaches. And many people call us the
16 "Saudi Arabia of water." And it is this
17 abundance of clean water that is one of the
18 things that continues to attract businesses
19 and residents to our communities. It's a
20 hugely valuable resource.

21 I'm going to start with something
22 that has been addressed today a couple of
23 times, our need for wastewater infrastructure
24 investment.

1 I think other people have made the
2 case well that this is a large problem that
3 we've inherited from decades of reduced
4 federal funding. A system that once was
5 based on grants from the federal government
6 is now based on loans that municipalities
7 need to take out on their own. And because
8 of this shift across many years of a
9 reduction of funding, we've gotten ourselves
10 in a bad spot where our systems have really
11 gotten rundown and now we're in catch-up
12 mode.

13 So we need some really creative
14 thinking and some big thinking to jump-start
15 our investment in wastewater infrastructure,
16 and that is not evident in the proposed
17 budget that the Governor has given us.

18 The Sandy federal dollars do include
19 some money for wastewater infrastructure
20 downstate; \$1.6 billion has been identified
21 for that. And that's great for downstate
22 communities. But if you look at the total
23 price of \$36 billion that it has been
24 projected by the DEC that we need, that's

1 really just a drop in the bucket.

2 Some specific actions that we
3 recommend that can be taken are, first of
4 all, addressing this problem of local
5 communities being really hamstrung and unable
6 to pursue bonds and handle debt service to
7 start to tackle their local wastewater
8 infrastructure needs.

9 So we would like to urge the
10 committee to pass a law that would exempt
11 wastewater infrastructure investments and
12 water infrastructure investments from the
13 2 percent tax cap. That would start to give
14 communities some breathing room to make
15 investments and start to address their local
16 problems.

17 I'm going to move on, in the
18 interests of time. Another topic that wasn't
19 addressed specifically today that is central
20 to water quality is water-quality monitoring
21 and assessment. There is a program at the
22 DEC, the Ambient Water Quality Monitoring and
23 Assessment Program, which gives us all of the
24 data that we use to make our assessments of

1 how healthy are our waterways and where do we
2 invest our precious and few clean-water
3 dollars.

4 That budget has been chipped and
5 chipped and chipped away, and last year I was
6 alarmed to hear, when the sequester cuts came
7 through, that the DEC was down to the point
8 of having \$640,000 for the statewide
9 water-quality monitoring program, and they
10 had to cut it by another third. So right now
11 that program is operating with \$440,000. And
12 just to give you a point of reference,
13 Riverkeeper does a program where we sample,
14 on the Hudson River, a 150-mile-long estuary
15 once a month in the recreational season, and
16 our budget is 50 percent of what the state is
17 spending for all the water-quality monitoring
18 for the entire state.

19 So we're in a tough spot where here
20 on one hand you have all these people calling
21 for improvements, some people are lucky
22 enough to have some dollars to invest in
23 water-quality improvements, but at the same
24 time we're heading towards this data blackout

1 where we're not able to really say in a
2 meaningful way how those investments are
3 working.

4 So you can spend money to take sewage
5 contamination out of the water, but if you
6 have no sewage contamination monitoring,
7 which right now we do not -- pathogen
8 monitoring was completely eliminated in that
9 last cut -- how do you know if that money was
10 spent well? How do you know if it really is
11 safe for people to get in that water or a
12 good investment to build a waterfront park in
13 Albany?

14 This cut, this one-third cut included
15 the complete elimination of pathogen testing,
16 pesticide testing, and PCB testing. And we
17 have many waterways across the state that are
18 already listed as being impaired for those
19 pollutants. And we are obligated by EPA to
20 track that and report on that, and I for one
21 am not really sure how we're going to do that
22 without this data. So I just wanted to
23 highlight that.

24 Another part of this program that

1 actually disappeared years ago, during the
2 cuts that we've been seeing over the course
3 of multiple years since the economic
4 downturn, is the funding to go out and do
5 spot testing for our permitted dischargers.
6 So we have our SPDES-permitted dischargers
7 who are allowed to discharge industrial waste
8 and municipal wastewater into our waterways
9 but, because of the lack of funding, they are
10 self-sampling and self-reporting on what
11 their discharges are. They're reporting if
12 they're in compliance with their permits.

13 So instead of a trust-and-verify
14 system, we have a trust-and-don't-verify
15 system right now. Which is fine for a lot
16 of, you know, probably the vast majority of
17 dischargers, who do the right thing and do
18 correct reporting and do correct monitoring.
19 But all you need is a handful of bad actors
20 out there and you end up like West Virginia,
21 with all of a sudden surface-water supplies
22 or recreational waterways going completely
23 offline overnight because somebody hasn't
24 discharged correctly because somebody isn't

1 following their permit because someone hasn't
2 maintained their facility and there isn't
3 enough boots on the ground to go out and
4 inspect and make sure that all of these
5 facilities are up to snuff and operating the
6 way that they need to.

7 So we really are running a very
8 serious risk when we lose data and we lose
9 inspections.

10 This Ambient Water Quality Monitoring
11 and Assessment Program, as I mentioned, it's
12 used to manage our listings of impairments,
13 so 303(d) listings, 305 listings. It's used
14 to track the waterways that are already
15 polluted and struggling, to see how they're
16 doing with TMDLs. It's also used to track
17 and monitor how we're doing with our invasive
18 aquatic species, an issue that other groups
19 brought up today, and harmful algae blooms,
20 as well as compliance with SPDES permits.

21 So it's very important, and I urge
22 you to look at this part of the budget and
23 put something back in for DEC to really have
24 a fully funded Water Quality Monitoring and

1 Assessment Program.

2 The third item I'm going to talk
3 about is somewhat related. On the good news
4 front, two sessions ago, with the help of
5 many people in this room and many people
6 outside of this room, we passed the Sewage
7 Pollution Right to Know Law. And that law
8 was the first step towards saying, okay, we
9 know we have this wastewater infrastructure,
10 it's having a lot of failures, we need to
11 start with transparency, we need to start by
12 letting the public and the agencies that are
13 responsible for these systems get better
14 insight into where are the failures and, as a
15 result, where is it safe and unsafe to get
16 into the water.

17 So that law went into effect this
18 May, and it's been very interesting to see it
19 work. One of the things that we're getting
20 out of this law, even though it's still in a
21 Phase 1 implementation -- and there's a
22 Phase 2 that's going to come online for this
23 recreational season. But the Phase 1
24 implementation has included reporting of

1 waste infrastructure system failures. So
2 pipes breaking, unexpected accidental
3 releases from our systems.

4 And in the first eight months it went
5 into effect, it documented over 100 million
6 gallons of sewage that was dumped into the
7 waterways, from the Great Lakes out to the
8 Atlantic Ocean, the Hudson River, our lakes
9 and streams.

10 So that's helpful. That's more than
11 we knew about previously. And I think the
12 DEC is finding it useful to have that data,
13 and it's helping to inform the wastewater
14 infrastructure investments that we are able
15 to make at this time.

16 But what it hasn't been capturing so
17 far is the sewage that's discharged from our
18 combined sewer systems. And our combined
19 sewer systems are the ones in the old cities
20 across the state where you have your sewage
21 lines using the same line as your rainwater.
22 So when it rains, you have an automatic
23 bypass of combined raw sewage and stormwater
24 into the waterways.

1 That volume, over the same eight
2 months, would have been 22 billion gallons of
3 sewage and stormwater, and that was not
4 recorded by Sewage Right to Know, and the
5 public has not been notified of that much
6 larger volume of sewage pollution.

7 So what we would like to see happen,
8 in order to help the communities that have
9 these combined sewer systems do a better job
10 notifying the public, is we'd like to see
11 some money appropriated for the installation
12 of monitoring technology or prediction.

13 You can make predictive models where
14 you basically say if it rains half an inch,
15 that means in my town the CSOs are going to
16 deploy. If it rains a quarter of an inch,
17 then in that neighborhood they're going to
18 deploy. And based on these models, you can
19 start to notify the public when sewage is
20 going into the waterway. And that is the
21 intent of the Sewage Right to Know Law. But
22 because the communities, a lot of them don't
23 actually know when their systems are dumping
24 sewage, they're saying that that's a reason

1 not to report through this law.

2 So we're hoping we can provide some
3 funding for those communities to track those
4 systems to do full notification. And it will
5 have the dual benefit of them getting a
6 better handle on how to reduce the frequency
7 of those overflows.

8 And then finally, the last issue I
9 want to talk about briefly, which has --

10 CHAIRMAN DeFRANCISCO: Briefly.
11 Briefly. Because you've got to glance at
12 your clock.

13 MS. BROWN: Very briefly, sorry.
14 -- is DEC's staffing levels.

15 So just in general, we all know and
16 have heard that with less staff we're going
17 to have less enforcement, we're going to have
18 less data about what's happening in our
19 environment, and we're going to have less
20 opportunity to make the smart investments and
21 get the most for our money. It's really a
22 situation where you spend less now, and it
23 costs you later down the line.

24 So thank you for your attention and

1 for your continued hard work on these
2 important issues.

3 CHAIRMAN DeFRANCISCO: Thank you very
4 much.

5 Katherine Nadeau, policy director,
6 Environmental Advocates of New York, followed
7 by Eric Kulleseid, Alliance for New York
8 State Parks.

9 MS. NADEAU: Thank you. So I'm
10 Katherine Nadeau. I'm the policy director
11 for Environmental Advocates of New York.

12 And I just want to open my remarks
13 with a very sincere thank you to
14 Senators Tkaczyk, Krueger, DeFrancisco,
15 Assemblyman Farrell, Assemblyman Oaks, and
16 Assemblyman Walter for spending the day
17 listening to these really important issues
18 and thinking about and I know taking back to
19 your discussions and deliberations what
20 you've learned here to try and make sure that
21 New York is on the right path with this
22 budget.

23 In our analysis of the Governor's
24 proposal, he lays a good foundation for where

1 we can go with our environmental protections.
2 But there's still a lot more that the
3 Legislature can and should do to make sure
4 that New York is protecting and conserving
5 our environmental resources.

6 First of all, there's been a fair
7 amount of discussion on staffing here today,
8 and this is something that Environmental
9 Advocates has spent years tracking and
10 documenting what happens when the agency
11 undergoes years and years of staff cuts. And
12 in the testimony that you have in front of
13 you, I've got a chart there showing how the
14 staff has been reduced over the decades.
15 We're getting down to historic low staffing
16 levels at the department, and they're back
17 down to numbers that they were at in the
18 1970s when the department was first formed.

19 Now, in the amount of time that the
20 department has been around, they've only
21 gotten more responsibilities, not less. And
22 these are the important responsibilities of
23 caring for our air quality, our water quality
24 and our communities.

1 So in his budget proposal the
2 Governor put forward a modest staff increase,
3 one new staffer at the agency. Now, you
4 know, this is a staff increase for sure. But
5 when we are advocating for more, we're
6 certainly hoping for bigger than that.

7 And when we look at the Governor's
8 budget, one of the things that concerns us
9 most is not what's happening this year but
10 what's going to happen in the outyears. The
11 Governor is projecting having surpluses in
12 the next couple of years. And the only way
13 to hit those is by maintaining flat agency
14 budgets and flat staffing levels.

15 Well, we know about pension costs
16 that are likely to rise as the workforce
17 retires. We know about negotiated salary
18 increases at the agency this year and next.
19 And this is going to add up to real and
20 actual cuts if we stick with this type of a
21 plan going forward. And those cuts will put
22 our communities at risk.

23 So looking into the outyears, I want
24 to flag this for your attention and ask that

1 you make sure that the agency has the staff
2 and the resources it needs.

3 On the brownfields issue, we've heard
4 quite a bit this today. The Governor's
5 package sets us on the right path towards
6 reforming a program that for far too long has
7 been completely off-target and out of
8 control. The program has spent over a
9 billion dollars to clean up just about
10 150 sites statewide, out of thousands that
11 need attention. And so setting up a system
12 of reforms is certainly necessary at this
13 point.

14 Environmental Advocates supports
15 redevelopment and remediation credits, but
16 they need to be put to work in the
17 communities that need them most and that most
18 need these type of incentives. So of the
19 Governor's proposal, we support separating
20 the eligibility for the redevelopment tax
21 credits from the remediation credits. We
22 support pathways towards getting these
23 credits that are based on need and community
24 revitalization. And we support moving

1 projects out of the program which have
2 lingered and left the state on the hook for
3 billions of dollars in tax liability.

4 When we look at what can still be
5 done, the BOA program, the Brownfield
6 Opportunity Area, needs to be funded. That
7 funding was cut in the Governor's proposal
8 and needs to be restored.

9 And the EZ program that's been
10 established in this proposal sets lower
11 cleanup standards for any sites that are
12 accepted into the EZ plan. All brownfield
13 sites need to be cleaned up to high standards
14 to protect our communities and to protect our
15 environment.

16 On Superfund, the Governor is
17 proposing a \$90 million appropriation to
18 continue that program. And we support
19 funding Superfund cleanups for sure. But as
20 Laura testified, from NYPIRG, this is a
21 program that needs a long-term investment.
22 These are long-term projects, and a long-term
23 refinancing is what's needed here.

24 On the EPF, we certainly support the

1 Governor's proposed \$4 million increase, but
2 there's still more that needs to be done. A
3 \$200 million appropriation for the
4 Environmental Protection Fund will make sure
5 that the programs that have demonstrated job
6 creation and community investment over the
7 years will continue to move forward and that
8 the state will be able to do more with those
9 good programs.

10 The Governor's budget proposal
11 proposes gutting the Pesticide Reporting
12 Program. We completely oppose these changes
13 and hope the Legislature will too.

14 One thing not included in the
15 Governor's budget, but what we've seen in the
16 last couple of budgets that have been
17 finalized and enacted, are extensions for the
18 DERA program. And this is the Diesel
19 Emissions Reduction Act. This was passed in
20 2006. It was a widely heralded law that will
21 decrease air pollution, which will decrease
22 environmental impacts and also provide a lot
23 of good health impacts as far as making sure
24 that we are preventing things like asthma

1 attacks and respiratory illness.

2 But the program was supposed to be
3 fully implemented in 2010. For the last
4 couple of years, however, the budgets have
5 included one-year extenders, continuing to
6 extend this program along and prevent the
7 program from being fully implemented. This
8 year we call on the Legislature to stop those
9 extenders and to make sure that the
10 Diesel Emissions Reduction Act lives up to
11 its promise.

12 On fracking, you know, the science is
13 still out on this. The Governor has
14 committed to getting the answers, to getting
15 the science before making any decisions, and
16 that's reflected in this budget proposal.
17 And we're happy about that because he's not
18 proposing any new programs, not proposing any
19 permitting or staff for fracking.

20 However, one of the things that we've
21 called for for a couple of years now, and
22 continue to call for, is an appropriation for
23 a health impacts assessment. While Dr. Shah
24 and the Department of Health are looking into

1 health impacts of fracking, right now it's
2 being done in a way that doesn't involve the
3 public, doesn't involve independent
4 scientists or researchers, and is behind
5 closed doors.

6 A health impact assessment is a
7 process laid out by the CDC as well as the
8 World Health Organization, and it's one that
9 will assess baseline community health while
10 also pointing to potential problems that
11 could come if the state were to allow
12 fracking. So we continue to call for that
13 appropriation in the budget.

14 And the final issue I just would like
15 to raise here is with NY Works. The
16 department has been awarded \$40 million under
17 the NY Works program, something that we
18 certainly support putting money on the ground
19 for projects to further environmental
20 protections. But one thing that caught our
21 eye was as part of the appropriations the
22 Governor's office said that they were
23 including \$2 million for air monitors and
24 air-monitoring programs.

1 We certainly support monitoring air
2 pollution. I mean, this is necessary under
3 state and federal law. But it also gives
4 really timely and needed information for
5 people who suffer from asthma, respiratory
6 illness, to just literally plan their day.
7 So these air monitors are desperately needed
8 over at the agency.

9 But our one concern is that this is a
10 basic operating cost. This is something that
11 is central to the agency's mission and should
12 be paid for through operating funds. Air
13 monitors are unlikely to survive even the
14 bond terms. I mean, these are pieces of
15 equipment that have a life on them.

16 And so we would encourage the
17 Governor and the Legislature, as you continue
18 what goes for capital projects versus what
19 goes for agency operations, to make sure that
20 basic day-to-day operations are being
21 absorbed by the agency so that capital
22 funding can be put into some of these bigger
23 projects that we all support.

24 So these were the issues that I

1 wanted to flag for you. And again, I thank
2 you so much for your time and attention this
3 afternoon and this evening.

4 CHAIRMAN DeFRANCISCO: And thank you
5 for hanging in there. It's been a long
6 today.

7 CHAIRMAN FARRELL: Thank you.

8 CHAIRMAN DeFRANCISCO: Thank you very
9 much.

10 Eric Kulleseid, Alliance for New York
11 State Parks. And then Andy Bicking.

12 (Discussion off the record.)

13 MR. KULLESEID: Senate Finance Chair
14 DeFrancisco and Assembly Ways and Means Chair
15 Farrell, plus the members with staying power
16 still here, thank you for the opportunity to
17 discuss Governor Cuomo's proposed budget as
18 it relates to State Parks and the
19 Environmental Protection Fund. I'm Eric
20 Kulleseid, senior vice president at the
21 Open Space Institute and executive director
22 of its Alliance for New York State Parks
23 program.

24 My testimony falls into two short

1 parts, the first related to the proposed
2 capital budget for State Parks, the second to
3 agency operations and the EPF.

4 We remain deeply grateful to members
5 of the Legislature for their strong support
6 for state parks in many ways over the course
7 of the past several years.

8 As you may know, after decades of
9 deferred maintenance and underinvestment at
10 New York State parks, Governor Cuomo has made
11 a sustained commitment to restoring state
12 parks and addressing a capital backlog still
13 nearing \$1 billion. The \$90 million for
14 state parks repairs and improvements in the
15 proposed spending plan is a continuation of
16 Governor Cuomo's commitment to improving
17 state parks. Having appropriated more than
18 \$200 million over the past two years for
19 state park restorations, the Governor, with
20 the support of the Legislature, recognizes
21 the value of parks both as recreational and
22 cultural destinations and as economic
23 drivers.

24 Never in the history of the New York

1 State parks system has there been this level
2 of sustained investment to upgrade and
3 restore our parks. These investments are
4 transforming a once beleaguered system and
5 restoring our greatest natural treasures as
6 sources of pride, community vitality, and
7 economic strength. I really encourage you
8 all to go to Niagara Falls, the nation's
9 oldest state park. The transformation
10 underway there of its historic and
11 breathtaking landscapes is truly remarkable.

12 On behalf of the 60 million people
13 who visit state parks each year and the
14 businesses and workers that benefit from the
15 economic activity they spur, we appreciate
16 all Governor Cuomo and the Legislature have
17 done to address the nearly \$1 billion
18 backlog. We look forward to working with you
19 all to secure this latest installment of
20 parks capital funding.

21 On the operations side, I echo others
22 who have spoken today. This year's budget by
23 and large freezes funding to last year's
24 levels. For an agency that's seen its budget

1 cut by 20 percent over recent years, facing
2 rising costs for both personal and
3 nonpersonal services, and is serving a
4 growing number of visitors, it's difficult to
5 argue the agency is truly being held
6 harmless.

7 We once again credit the commissioner
8 for leading the Office of Parks during lean
9 times. She effectively confronts challenges
10 head-on and is committed to rethinking the
11 way the agency functions. She's embraced
12 Alliance fundraising efforts, has supported
13 the idea of repurposing unused state park
14 assets where appropriate, is partnering with
15 local governments and not-for-profits, and is
16 seizing opportunities to promote more
17 public/private partnerships.

18 As I mentioned, the Alliance is a
19 program of the Open Space Institute, an
20 organization long associated with the
21 expansion of state parks, forest preserves,
22 and natural areas. In fact, over the course
23 of our 40-year history we have had a hand in
24 conserving a full 10 percent of New York's

1 335,000 acres of parkland, not to mention the
2 work we've done on state forest preserves and
3 wildlife lands.

4 Much of this work has been achieved
5 thanks to the Environmental Protection Fund.
6 The EPF has been key to helping OSI add to,
7 protect and buffer dozens of state parks,
8 including Thacher, Moreau, Sterling Forest,
9 Fahnestock and Minnewaska. In fact, last
10 year we got to the point where we and our
11 partners have more than doubled the size of
12 Minnewaska State Park Preserve near
13 New Paltz, with the end being a 21,000-acre
14 preserve less than 100 miles from New York
15 City.

16 I tell you this just to underscore
17 the critical importance of the EPF. We are
18 grateful for the funding level that has been
19 on the uptick over recent years, and for the
20 \$4 million increase to the EPF. Regrettably,
21 New York's environmental funding needs
22 greatly exceed this level. From protecting
23 water supplies, family farms and parkland --
24 and I will say I worked on the Indian Ladder

1 Farm, that was our easement that we did with
2 the Ten Eyck family -- and helping local
3 communities deal with an array of waste
4 disposal issues, including hazardous
5 materials, a strong EPF is fundamental to the
6 protection of the state's natural resources
7 and a robust economy for this and future
8 generations. As such, I respectfully urge an
9 increase in the EPF to \$200 million.

10 And then just as I expressed concern
11 about staffing levels and stagnant operating
12 funding at State Parks, there is a compelling
13 case to be made for the Department of
14 Environmental Conservation, which is
15 similarly struggling to provide services for
16 the public on its own lands.

17 In closing, and on behalf of the more
18 than 60 million people who visit our state
19 parks each year, we express our gratitude for
20 your support for the state parks, and from
21 the Governor.

22 Thank you very much.

23 CHAIRMAN DeFRANCISCO: Thank you.

24 Thank you for hanging in as well.

1 Andy Bicking, Scenic Hudson, to be
2 followed by our featured speaker, the last
3 speaker, the featured speaker of the day, the
4 closer, Roger Downs, Sierra Club.

5 MR. BICKING: Good afternoon,
6 Senators and members of the Assembly. Thank
7 you very much, as always, for the invitation
8 to provide you testimony about this year's
9 budget once again.

10 By way of introduction, Scenic Hudson
11 is working from the tip of Manhattan Island
12 to the foothills of the Adirondacks to
13 restore the Hudson River, its riverfront,
14 majestic vistas and landscapes as an
15 irreplaceable public and natural resource.

16 The comment was made earlier today
17 about policy recommendations from one of my
18 peer organizations not being made in an
19 office. And my message today to you from
20 Scenic Hudson is also not made from an
21 office. We are very active and engaged in
22 working in the riverfront communities along
23 the Hudson to advance a variety of capital
24 projects which we are either catalyzing,

1 coordinating or managing to benefit the
2 environment and promote compatible economic
3 development in the Hudson Valley. This work
4 takes place with municipalities and many
5 partners in the nongovernmental sector.

6 Thanks to your leadership and the
7 leadership of your colleagues in the
8 Legislature and the Governor's office, as
9 well as the work of countless grassroots
10 groups and municipalities, New York State now
11 recognizes that there are immense economic
12 benefits associated with capital investments
13 made in the environment.

14 My testimony covers several new
15 points of interest, compelling studies which
16 have been completed in recent years. I just
17 want to draw your attention to a few of the
18 points here.

19 The first is that both the Mid-Hudson
20 and Capital District Regional Economic
21 Development Councils have acknowledged the
22 importance of capital investments in the
23 environment, specifically the Environmental
24 Protection Fund, to achieve their regional

1 economic development strategies.

2 I'd also like to comment briefly upon
3 the important role of agriculture in economic
4 development and its synergy with capital
5 investment funds in the state budget. As you
6 well know, agriculture is a very critical
7 industry in the state. There are data in my
8 testimony talking about gross output, number
9 of jobs, et cetera. But it's important to
10 note that from a Hudson Valley perspective,
11 according to the National Young Farmers
12 Coalition, more than 70 percent of our
13 working farms are going to change hands in
14 the next 20 years. It is critical that we
15 have these highly productive farms to protect
16 our food supply and secure the Hudson Valley
17 and New York City's foodshed.

18 And conservation easements remain a
19 critical tool to enable this to happen,
20 creating access to land and putting cash
21 directly into the hands of farmers.

22 Many of you are familiar with the
23 recent study completed by Scenic Hudson over
24 the summer. The Foodshed Conservation Plan

1 for the Hudson Valley and New York City
2 identified 614 farms encompassing nearly
3 164,000 productive acres in 11 counties to be
4 part of a strategic effort at conservation in
5 the region. Nearly one-third of these
6 high-priority farms in the Hudson Valley
7 would cost approximately \$250 million to
8 protect over the next 10 years. And while
9 that is a significant number, when one
10 considers that its costs would be shared
11 among federal, state, New York City, local
12 and private partners, it becomes an
13 achievable goal.

14 I'd like to briefly touch upon the
15 Governor's track record on the environment
16 overall. Our experience with working with
17 these capital funds program through the
18 Economic Development Councils and in
19 partnership with local communities has been
20 very positive. During the Governor's first
21 three years in office he's provided strong
22 leadership at creating transparency and
23 effectiveness in many of these funds.

24 We've also seen very strong

1 management of the budget, reducing a
2 \$10 billion deficit to where we now have a
3 \$2 billion surplus. And it is the core
4 premise of my testimony to you today that you
5 please consider investing some of this
6 surplus back into capital funds for the
7 environment.

8 It's not surprising that the
9 Environmental Protection Fund is one of my
10 organization's top-tier interests. And I'd
11 like to touch upon a few points of local and
12 regional interest today without trying to be
13 redundant on what many of my colleagues have
14 stated earlier.

15 We are very enthusiastic about what
16 the Governor has done for the EPF over his
17 term of office, at first holding it harmless,
18 then investing \$19 million between last year
19 and this year. But we do feel and join with
20 our partners in recognizing that there are
21 many unmet needs in the region and strongly
22 supportive of a \$200 million EPF in the year
23 ahead. And we'd like very much to work with
24 you in that context.

1 I've touched briefly upon the
2 importance of agricultural protection. I
3 would only add to that that we have been very
4 successful in leveraging funding from
5 multiple sources on this. We just this
6 morning have seen in the House of
7 Representatives a new Farm Bill which has
8 passed which has \$1 billion for the
9 Agricultural Land Easement Program, which has
10 been a significant source of matching funds
11 for conservation easements in the Hudson
12 Valley.

13 I'm also pleased to share that from
14 both a farmland protection and open space
15 perspective we are seeing renewed investment
16 at the local level. Just yesterday evening
17 Ulster County Executive Michael Hein
18 announced the county's first-ever commitment
19 to open space and recreation through a
20 \$3 million bond. And we are seeing similar
21 advances made in Dutchess County and hope to
22 hear news from County Executive Marc Molinaro
23 on that front in the very near future.

24 These funds, in addition to helping

1 our farms, can also be advancing open space
2 goals. The Governor has proposed a
3 \$2.5 million increase in this category
4 overall. We're grateful for that. However,
5 we do note that funding for state land
6 acquisition, the primary use of this fund,
7 decreases because of the relative increase or
8 addition of subcategories in the Open
9 Space/Land Conservation line.

10 The benefits of open pace
11 conservation are well-documented. I will not
12 go into details about those now, other than
13 to state that there are unfortunately
14 diminishing opportunities to match state
15 investments with federal funds. While
16 Pittman-Robertson funds at the federal level
17 seem to be remaining consistent, the popular
18 Highland Conservation Act and Coastal Estuary
19 Land Protection Program, both matching funds
20 for state land acquisition, have not found
21 support in Congress as a whole despite the
22 fact that they've been strongly supported by
23 New York's delegation.

24 Investment and land acquisition

1 through the EPF would be met with support in
2 many local communities, as I indicated
3 earlier, in Dutchess and Ulster County. And
4 I would also like to note that as part of
5 this line item, the Conservation Partnership
6 Program is critically important to building
7 the capacity of land trusts in New York State
8 to help achieve open space goals articulated
9 in both the Open Space Plan and the Hudson
10 River Estuary Action Agenda.

11 I mentioned earlier one point of
12 concern about a new category of funding put
13 into the Open Space/Land Conservation line.
14 That is the Resiliency Planting Program.
15 We'd like to recommend that this be moved to
16 a more appropriate category of the
17 Environmental Protection Fund. And I say
18 that as an organization that's a huge fan of
19 this program, which was born in the Hudson
20 Valley. Otherwise known as "Trees for
21 Tribs," it's involved in stewardship of
22 riparian areas by planting native plants to
23 bring back the habitat and protect water
24 quality in those areas.

1 Again, it is fundamentally, as we see
2 it, a stewardship and water-quality-based
3 program, not an open space acquisition
4 program. And as such, we do recommend that
5 its presence in the Open Space line not come
6 at the cost of state land acquisition
7 dollars.

8 We've appreciated the support from
9 the Legislature in recent years about Hudson
10 Estuary Management funding. We do feel that
11 an increase in funding for this category of
12 the EPF is critical.

13 I'll note that there's an emerging
14 federal partnership opportunity collaboration
15 between the Army Corps of engineers, New York
16 State DEC and DOS and many not-for-profit
17 partners that can lead the Hudson Valley
18 Watershed and Estuary to a position that
19 we've seen for other major waterways in the
20 country, like the Chesapeake Bay or the
21 Puget Sound, which benefit from tens of
22 millions of dollars in federal investment.

23 And, Senator Krueger, as I know your
24 heart is very much in New York Harbor, I will

1 say that this program is being developed to
2 be compatible with the existing harbor
3 restoration plans.

4 So these things would be interlocking
5 and really I think be a huge win for New York
6 State if we were able to bring them about.
7 And that can be realized through an uptick in
8 funding for the Hudson River Estuary Program
9 in this year's budget.

10 Municipal parks and waterfront
11 revitalization are also very important for
12 the Hudson Valley. There are many regional
13 trail network and park development projects
14 underway building off the success we've seen
15 in the Walkway over the Hudson, as well as
16 communities that are thinking ahead about how
17 to respond to sea level rise so that the
18 critical infrastructure in harm's way of
19 flooding and rising sea levels can be moved
20 or protected in an appropriate way. And my
21 testimony does describe a half dozen or so
22 communities that are taking steps to develop
23 subregional trail networks as well as sea
24 level rise plans.

1 The last point in my testimony
2 relates to the solid waste category of the
3 EPF, specifically the increase the Governor
4 has proposed for the Natural Resource Damage
5 Assessment line item. We do believe that
6 this is justified at this time.
7 Specifically, as New York State's trustees
8 and federal trustees concerned with the
9 management of Hudson River PCBs and the
10 eventual natural resource damage claim move
11 towards some sort of settlement, it is
12 critical to be supporting the agency work to
13 do the science and the research so that
14 New York State is prepared to receive
15 settlement funds for the Hudson Estuary when
16 they do come.

17 So thank you very much for the
18 opportunity to testify today. In summary, we
19 appreciate your historic support of
20 environmental capital projects in New York
21 State, specifically the Environmental
22 Protection Fund, and hope to work with you to
23 find ways to increase it to \$200 million this
24 year. Thank you.

1 CHAIRMAN FARRELL: Thank you very
2 much.

3 CHAIRMAN DeFRANCISCO: And you had a
4 lot of material there, and you were able to
5 actually say it extemporaneously, and I want
6 to compliment you.

7 Senator Krueger has a question, I
8 believe.

9 SENATOR KRUEGER: And I know because
10 of the time we're all almost nervous to ask
11 questions. So, one, I also appreciate the
12 depth and everybody's points with the
13 desperate need for DEC to have adequate
14 staffing. I mean, that is clearly a theme
15 that I walk away with today.

16 But specifically on the Hudson River
17 and the importance of ensuring we're doing
18 what we can up and down, in New York City, as
19 you pointed out, we're very focused on how
20 can we potentially use some of the Sandy
21 funds to shore up and protect our waterway
22 system to also protect ourselves, so to
23 speak, moving forward.

24 And I'm just wondering whether the

1 non-New York City side of Sandy funds are in
2 any way, shape or form being used to
3 complement the recommendations you and some
4 of the other groups on water were making
5 today.

6 MR. BICKING: Yes, they are being
7 used. I can't specify at this time exactly
8 how or where. I could get back to you on
9 that.

10 I think, like many regions in the
11 North Atlantic, we would like to be using
12 more of them, of course. But we have seen
13 them as an effective tool for the state
14 agency to advance the work that it's done on
15 disaster recovery as well as sea level rise
16 planning.

17 SENATOR KRUEGER: If you give me
18 information, I will certainly follow up with
19 state agencies. Because certainly, speaking
20 for New York City, we have found that
21 evaluating the damage that was done and
22 potentially can be done by future storms,
23 many of the right answers are the smart
24 environmental proposals that haven't been

1 done on our shoreline and in our estuaries
2 and in the areas right there in the five
3 boroughs.

4 So we're definitely looking seriously
5 at it as a long-term, environmentally smart
6 and also protective model for our future.
7 And the whole state should be viewing it that
8 way.

9 MR. BICKING: Right. Well, I agree
10 with you, and we'll certainly follow up with
11 the project information that we have.

12 SENATOR KRUEGER: Thank you.

13 CHAIRMAN DeFRANCISCO: Thank you.

14 And the closer, Roger Downs from the
15 Sierra Club.

16 MR. DOWNS: So we're finally alone.

17 (Laughter.)

18 MR. DOWNS: So I'm Roger Downs. I'm
19 the conservation director for the Sierra Club
20 Atlantic Chapter. We are a volunteer-led
21 environmental organization of 38,000 members
22 statewide committed to protecting New York's
23 air, water and remaining wild places.

24 I'd like to echo the comments of my

1 colleagues. We commend you all for
2 overseeing this apparent economic resurgence.
3 And, you know, I think that there's a lot of
4 hope, if indeed there are surpluses, that we
5 can put some of that back into the
6 environment.

7 Over the past six years of New York's
8 economic recovery, the Department of
9 Environmental Conservation has shouldered
10 disproportionate cuts to staffing and
11 funding. Now that the Governor is projecting
12 a budget surplus, New York can no longer
13 afford to keep environmental spending at
14 austerity levels, not when our true
15 prosperity relies upon the protection of our
16 air, the purity of our drinking water, and
17 the health of our communities.

18 The Sierra Club has had deep concerns
19 for the past few budget cycles with respect
20 to the cumulative impacts that the
21 disproportionately deep cuts through these
22 multiple budget cycles have had on New York's
23 environmental agencies. Even if we have
24 stopped the bleeding in terms of staffing

1 losses, funding cuts have chained DEC
2 employees to their desks. There's not enough
3 money to finance travel, inspections,
4 emergency response, toxic cleanups, testing
5 equipment, and public outreach. We would
6 like to see the surplus money reinvested in
7 restoring DEC staffing and funding.

8 We also stand with our colleagues in
9 asking for a fully funded \$200 million EPF
10 that's funded with proceeds partially from a
11 resurgent real estate transfer tax that we
12 know is robust right now.

13 So instead of going over what has
14 been gone over before in detail, I want to
15 talk about something that's maybe slightly
16 uncomfortable. And I don't mean any offense,
17 but the Sierra Club is very supportive of
18 campaign finance reform in the budget. We
19 really feel that the toxic money in politics
20 is one of the most critical environmental
21 issues facing New Yorkers.

22 We support the public financing of
23 elections in the 2014-2015 Executive Budget
24 because we know that without a Legislature

1 committed to doing the people's business,
2 it's extremely difficult to implement needed
3 environmental protections and initiatives.

4 For years the environmental community
5 has watched key legislation die in
6 committee -- not because there hasn't been
7 popular public support, not because it's not
8 common-sense legislation, but because of the
9 millions of dollars in industry lobbying and
10 campaign contributions have insulated
11 decisionmakers from doing the right thing.

12 We understand that most legislators
13 are committed to serving their constituents
14 first. But with so much special interest
15 money flooding campaigns, elected officials
16 have almost no choice but to concentrate on
17 those that fill their coffers with a single
18 check. And I don't doubt that there isn't a
19 single person here that regrets the amount of
20 time that they have to spend on fundraising.
21 You probably despise it. You want to spend a
22 lot more time with your constituents. And we
23 feel that this is a system that we can work
24 on to move forward.

1 While not perfect, we're excited
2 about what we've seen in New York City.
3 Participating candidates are relying more
4 heavily on financing from small donors,
5 thanks to 6-to-1 matching donations of \$175
6 or less. As a result, we're seeing greater
7 and more diverse participation with more
8 donors and candidates from low and
9 moderate-income backgrounds. With the
10 passage of a publicly financed campaign
11 system in the budget, good candidates can
12 spend more time worrying about the issues
13 that matter to the constituents, not
14 fundraising.

15 Using New York City's system as a
16 model, nonpartisan experts from the Campaign
17 Finance Institute estimate the price at about
18 \$25 million to \$30 million a year for a
19 four-year cycle. That's \$250 per New Yorker
20 per year.

21 The alternative? Well, looking at
22 least at the past few legislative sessions
23 when we haven't even been able to get a
24 single environmental superbill onto a

1 committee agenda in the Senate, we're
2 concerned about, you know, the environmental
3 repercussions. Not to mention a government
4 that caters to an industry lobby rather than
5 to the public.

6 So we urge you to keep this in the
7 budget, work with the Governor on getting a
8 more robust campaign finance platform.

9 So the last thing I want to talk
10 about, and it was mentioned by the
11 commissioner -- we were very excited to hear
12 about the Governor's Executive Order that he
13 passed last night, but there is a real
14 problem with Bakken crude oil coming in by
15 the billions of gallons into New York every
16 year.

17 The 2014-2015 Executive Budget
18 proposal provides funding available for five
19 additional freight rail safety inspectors,
20 doubling DOT's current inspection capability
21 on the state's equipment and 3,500 miles of
22 track encompassing freight, rail and Amtrak.
23 And we urge you to keep this in the budget.

24 I just want to describe the situation

1 a little bit. We have been successful as an
2 environmental community in stopping a lot of
3 pipelines from the Bakken area, but companies
4 are now looking to use the rail as an
5 alternative pipeline. And while we've been
6 pushing for tighter regulations, these
7 railcars barrel through New York with very
8 little oversight or regulation. We know that
9 the 111 cars that they use are puncture-prone
10 and derail frequently. This summer, in July,
11 in Lac Megantic, Quebec, one of these trains
12 that could have been destined for Albany
13 derailed, slammed into a town and killed
14 47 people, incinerated 30 buildings.

15 We know that now the federal
16 government has reclassified Bakken shale
17 crude as having a much lower flash point. It
18 is incredibly flammable. Just after
19 Christmas, in Casselton, North Dakota, a
20 train collision led to a tremendous fireball
21 and they had to evacuate a 5-mile area. The
22 pictures are incredible.

23 Now, imagine this in Albany. We have
24 the Port of Albany now that last year

1 accepted about 1.2 billion gallons of this
2 crude. And all you have to do is go down to
3 the Port of Albany; you'll be overwhelmed by
4 the amount of tankers. These tankers rest
5 beside major housing developments, in some
6 cases 25 feet from the tracks. But they also
7 barrel past the DEC building, the Federal
8 Courthouse, in the half-mile evacuation zone.
9 If there was an explosion, we'd have to
10 evacuate the entire Empire State Plaza, the
11 Capitol, countless schools and neighborhoods.

12 This is a tremendous concern. And so
13 we applaud the Governor for issuing this
14 Executive Order.

15 But I do want to point out that this
16 does not necessarily relieve the DEC of its
17 current duties. I mean, part of the problem
18 is that Global Partners, LLC, the company
19 that has been bringing this oil into the Port
20 of Albany where it is transferred to ships,
21 has had to receive permits from the DEC,
22 Title 5 air permits.

23 We believe DEC had a responsibility
24 not only to look at the air emissions but,

1 under the State Environmental Quality Review
2 Act, to look at the broader implications of
3 this that have tremendous impact on public
4 health and safety.

5 In each case, the DEC issued a
6 negative declaration suggesting there's no
7 environmental impact. And at the time the
8 applicant said, "We want to increase crude
9 oil transport into the Port of Albany, double
10 it, to about 2.8 billion gallons." And yet,
11 they said, "We will not increase rail
12 traffic." This was not questioned, it was
13 issued a neg dec, and it went forward.

14 So we are very enthusiastic about the
15 Cuomo administration's new commitment to
16 directing various agencies to strengthen the
17 state's oversight of shipments of petroleum
18 products, but we want to make sure that the
19 DEC still does an EIS for the Port of Albany.
20 They have a heating facility that they are
21 looking at now that perhaps could allow these
22 companies to accept now tar sands from
23 Alberta. They need to heat it up because
24 when it arrives at the Port of Albany it is

1 the consistency of asphalt.

2 So these are huge concerns, and I
3 thank you for listening to them. Because of
4 course New York gets very little economic
5 benefit from this. This is high risk,
6 incredible risk, and very little economic
7 benefit. We are in the middle of Point A to
8 Point B. And if we look at what happened in
9 Lac Megantic, there's over \$200 million in
10 cleanup costs, and the company shipping the
11 oil decided to go bankrupt. And so they are
12 not liable in any way, or they can't recover
13 those costs. What will happen if this
14 happens in Albany?

15 So thank you very much.

16 CHAIRMAN DeFRANCISCO: Thank you very
17 much.

18 Now, to the great thrill of our
19 stenographer, this concludes the testimony
20 for the day. And thank you for your
21 unbelievable service. Unbelievable.

22 SENATOR KRUEGER: Thank you.

23 (Whereupon, the joint budget hearing
24 concluded at 5:26 p.m.)