

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

JOINT LEGISLATIVE HEARING

In the Matter of the
2015-2016 EXECUTIVE BUDGET ON
ENVIRONMENTAL CONSERVATION

Hearing Room B
Legislative Office Building
Albany, New York

January 28, 2015
9:30 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 Thomas F. O'Mara
Chair, Senate Committee on
Environmental Conservation

Assemblywoman Deborah J. Glick

Senator Patricia A. Ritchie
Chair, Senate Committee on Agriculture

Senator Diane Savi no

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

PRESENT: (Continued)

Assemblyman Jefferson L. Aubry

Assemblyman Erik M. Dilan

Assemblyman Carl E. Heastie
Assemblyman Marcos Crespo
Senator Velmanette Montgomery
Assemblywoman Patricia Fahy
Assemblywoman Ellen C. Jaffee
Assemblywoman Barbara S. Lipton
Senator Brad Hoylman
Assemblyman Clifford Crouch
Assemblyman Michael J. Cusick
Assemblyman Dan Stec
Senator Martin Malave Dilan
Assemblyman Steve Englebriht
Assemblyman Kenneth Zebrowski
Assemblywoman Vivian E. Cook
Assemblyman Peter D. Lopez
Assemblyman Steven Otis
Assemblyman Joseph S. Saladino
Assemblywoman Crystal D. Peoples-Stokes
Assemblywoman Helene E. Weinstein

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2015-2016 Executive Budget
Environmental Conservation
1-28-15

PRESENT: (Continued)

Assemblyman Thomas J. Abinanti
Assemblywoman Michelle Schimel
Assemblywoman Earlene Hooper
Assemblyman Keith L. Wright
Assemblyman Todd Kaminsky
Assemblyman Charles Barron
Assemblyman David Wepri n
Assemblyman Felix Ortiz

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Assembl ywoman Catheri ne T. Nol an
 Assembl yman Charl es D. Lavi ne
 Assembl yman J. Gary Pretl ow
 Assembl yman Matthew J. Ti tone
 Assembl yman Davi d McDonough
 Assembl yman Fred Thi ele

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1 CHAIRMAN DeFRANCISCO: Welcome.
 2 Pursuant to the State Constitution and
 3 the Legislative Law, the fiscal committees of
 4 the State Legislature are authorized to hold

5 hearings on the Executive Budget proposal,
6 and we've all been here before. Today's
7 hearing will be limited to discussion of the
8 Governor's proposed budget for Environmental
9 Conservation, Parks, Recreation and Historic
10 Preservation, Agriculture and Markets, and
11 the New York State Energy Research and
12 Development Authority.

13 Following each presentation there will
14 be some time allowed for questions from the
15 chairs of the fiscal committees and other
16 legislators. As to that, I usually am very
17 unsuccessful, but I'm pleading to the good
18 graces of everyone who has the good fortune
19 of testifying to try not to just read us a
20 four-page single-spaced presentation.

21 We can read, really. That may be a
22 revelation to the media and maybe a
23 revelation to many of you. However, we can
24 read. Your time is best spent by talking

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8

1 about your priorities and the things you want
2 us to know and we hope that we can cut down
3 on some time rather than be here late in the
4 evening.

5 Secondly, each legislator will given
6 10 minutes to ask questions. That's only
7 limited -- that's for the first round. If
8 you want to ask for more, you can come by at
9 the end and ask some more questions. We want
10 to give everybody the opportunity to ask

11 questions.

12 And lastly, with respect to the ground
13 rules, this will make this go well and I'm
14 not referring to our present commissioner
15 that's sitting there -- believe me, he's very
16 short and succinct. But what I would ask the
17 speakers, if a question was asked, if you
18 could be brief and concise. We've seen
19 filibusters, all of us have, but that will
20 only give one question per person if you take
21 the full ten minutes to answer. So try to
22 answer concisely. And then we'll move this
23 along and get some good information.

24 I'd like to welcome Commissioners Joe

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1 Martens, Rose Harvey, Richard Ball, and the
2 president and the CEO of NYSERDA and the rest
3 of the speakers. And that's about all I have
4 to say. If I think of something else, I'll
5 tell you later.

6 As far as our members -- who do we
7 have here? We have with us Senator Patty
8 Ritchie, Senator Tom O'Mara, and Senator Liz
9 Krueger, the ranking member of this
10 committee.

11 CHAIRMAN FARRELL: I have with me
12 Assemblyman Cusick, Assemblyman Dilan,
13 Assemblywoman Glick, Assemblyman Otis,
14 Assemblywoman Jaffee, Assemblyman Zebrowski,
15 Assemblywoman Lifton, and Assemblyman
16 Kamiisky. And Assemblyman Engl ebri ght.

17 And I have Mr. Oaks, who has members
18 to introduce.

19 ASSEMBLYMAN OAKS: We've been joined
20 also by Assemblyman Crouch, Assemblyman
21 Saladi no, and Assemblyman Dan Stec.

22 CHAIRMAN DeFRANCISCO: Thank you. The
23 first speaker is Joe Martens, commissioner of
24 the New York State Department of

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1 Environmental Conservation.

2 COMMISSIONER MARTENS: Thank you,
3 Chairman DeFrancisco, Chairman Farrell, and
4 the members of the fiscal and environmental
5 conservation committees, for this opportunity
6 to discuss Governor Cuomo's budget
7 recommendations for the DEC for state fiscal
8 year 2015-2016.

9 If you'll indulge me, Chairman, I will
10 read my statement, but it's only about two
11 pages typed up.

12 DEC accomplished a great deal during
13 Governor Cuomo's first term, and I appreciate
14 the strong legislative support we received.
15 The priorities are many, including increasing
16 resiliency in the face of extreme weather
17 events; improving access to DEC managed
18 lands; preventing the introduction of
19 invasive species; promoting economic
20 development by among other means remediating
21 brownfields; streamlining and prioritizing
22 our permitting and approval processes; and,

23 most important, DEC continues to implement
24 programs to protect public health and the

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1 environment. I'd like to highlight a few
2 examples of our successes.

3 Working closely with Nassau and
4 Suffolk Counties and a broad array of
5 stakeholders, we issued a report making a
6 host of recommendations to improve water
7 quality on Long Island and the natural
8 infrastructure that protects coastal
9 communities. In concert with that report,
10 the Governor announced a \$383 million program
11 to sewer four densely populated areas in
12 Suffolk County to start to reverse the damage
13 caused by years of uncontrolled discharges.
14 We are pursuing additional federal funds for
15 an ocean outfall for the Bay Park wastewater
16 treatment plant to restore water quality and
17 resiliency to Long Island's western bays.
18 And two weeks ago, we released a draft
19 ten-year Ocean Action Plan aimed at
20 protecting New York's extraordinary ocean
21 resources and the multi-billion-dollar
22 economy it supports.

23 We found creative ways to implement
24 the Sewage Pollution Right to Know Act. It

♀ 12

1 took DEC longer than some had hoped, but we
2 did it right -- in a way that is transparent,
3 convenient and free for local governments.

4 We also adopted one of the most stringent
5 laws in the country to restrict the sale of
6 ivory to help eliminate the poaching and
7 slaughter of elephants and rhinos.

8 Through the Governor's NY Works
9 program, we invested \$180 million in critical
10 environmental capital projects such as
11 restoring aging dams and flood control
12 structures, rehabilitating our State's fish
13 hatcheries, plugging abandoned gas and oil
14 wells, completing municipal brownfield
15 projects, funding Water Quality Improvement
16 Program projects, and implementing our
17 e-Business plan.

18 When I worked for Governor Mario
19 Cuomo, he announced that the state would
20 build a Catskill Interpretive Center. Some
21 good ideas obviously take longer than others
22 to be realized. This past summer, we broke
23 ground on the Catskill Interpretive Center,
24 which will open later this year. In the

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13

1 Adirondacks, we continue our historic
2 acquisition of the Finch Pruyn Lands.

3 We have worked successfully with the
4 U.S. Army Corps of Engineers to complete
5 seven major coastal projects, and initiate
6 work on the Fire Island to Montauk Point
7 Project and several New York City-based
8 projects.

9 Today we adopted the nation's most

10 stringent liquefied natural gas storage
11 regulations, making that fuel available for
12 transportation and other uses in New York for
13 the first time in nearly 40 years.

14 DEC's budget for the coming year
15 recommends State Operations appropriations of
16 \$469 million and a Capital budget totaling
17 \$566 million. This includes \$40 million in
18 NY Works to continue the critical capital
19 programs I mentioned earlier. The budget
20 proposes increasing DEC's budgeted fill level
21 to 2,946. This fiscal year, DEC also plans
22 to hold a training academy to maintain the
23 ranks of our public protection unit.

24 Working with the Conservation Fund

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14

1 Advisory Board, the budget continues to build
2 on Governor Cuomo's Open for Fishing and
3 Hunting initiative, which has reinvigorated
4 New York as a hunting and fishing destination
5 and boosted tourism opportunities throughout
6 the state. The Executive Budget proposes to
7 establish a new Habitat Conservation and
8 Access Account which will consist of revenue
9 from habitat stamps and a portion of the
10 revenue from lifetime license sales to
11 support the management, protection and
12 restoration of fish and wildlife habitat and
13 related recreation. This infusion of funding
14 will enable DEC to match federal
15 Pittman-Robertson funding that together will

16 support 18 new DEC staff to undertake this
17 work.

18 To support diverse community,
19 municipal and state environmental projects,
20 for the third consecutive year, the Executive
21 proposes to increase the Environmental
22 Protection Fund. The proposed \$172 million
23 appropriation represents a 28 percent
24 increase since 2010. And we are proposing

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15

1 increases to 14 EPF categories, including EJ
2 grants, invasive species, and the Hudson
3 River Estuary Program.

4 Governor Cuomo has led the nation in
5 taking action to improve preparedness for
6 potential risks associated with the increased
7 transportation of crude oil through New York
8 State. DEC and its partners and state
9 agencies continue to implement Executive
10 Order 125, which was issued exactly a year
11 ago today, while urging the federal
12 government to take immediate action to
13 protect New Yorkers and our natural resources
14 from the risk posed by petroleum transport.
15 To provide the state with some of the needed
16 tools, the budget proposes to: increase the
17 fees that flow into the Oil Spill Fund;
18 provide eight new staff at DEC; raise the cap
19 on the fund to \$40 million; enhance response
20 planning and first-responder training; and
21 create efficiencies by moving administration

22 of the fund to DEC.

23 The Brownfields Cleanup Program has
24 successfully cleaned up more than 190 sites

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1 to date. Although reforms enacted in 2008
2 established caps on tax credits, the BCP
3 program is still far too generous, providing
4 tax credits to projects that would have been
5 undertaken even in the absence of those
6 incentives.

7 The Executive proposal would extend
8 the program for 10 years with significant
9 reforms that target redevelopment credits to
10 sites that are located in areas with high
11 poverty or unemployment levels, sites that
12 are upside down, and sites that will be used
13 for affordable housing projects. The
14 Executive budget also includes \$100 million
15 for State Superfund to ensure that
16 remediation of the state's most contaminated
17 hazardous waste sites continues. A portion
18 of this funding can be used to fund the
19 cleanup of municipally owned sites.

20 Finally, the budget recommends certain
21 regulatory fees -- increases in certain
22 regulatory fees -- that have not been raised
23 since 2009 or longer which will allow us to
24 maintain staffing levels and meet federal

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1 requirements.

2 With all of these proposals, I am
3 confident the Executive Budget will enable
4 DEC to continue to fulfill its mission to
5 protect public health and the environment. I
6 appreciate the opportunity to testify and
7 would be happy to answer any questions you
8 have.

9 CHAIRMAN DeFRANCISCO: Thank you,
10 Commissioner.

11 The first questioner will be the chair
12 of the Environmental Conservation Committee
13 in the Senate, Senator O'Mara.

14 SENATOR O'MARA: Good morning,
15 Commissioner.

16 COMMISSIONER MARTENS: Good morning,
17 Senator.

18 SENATOR O'MARA: It's a pleasure to
19 have you here this morning. Thank you for
20 your testimony.

21 I've got a few questions for you on
22 some of the areas you've outlined, for some
23 more specifics. To start with, the
24 brownfields proposals that are out there.

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1 You indicated in your testimony that there
2 were a windfall of abuses prior to the
3 reforms of 2008 -- I believe that's when
4 those reforms were done -- but you say there
5 are still examples of windfalls, in your
6 opinion. Do you have any examples of those
7 since the reforms we did in 2008?

8 COMMISSIONER MARTENS: Senator, I'll

9 let members of my staff give specific
10 examples, but the caps simply -- they were
11 helpful. Because it capped the amount of tax
12 credits that could go to these projects.

13 But the tax credits in my view went to
14 projects that would have happened anyways in
15 areas in New York City, for example, or
16 Westchester County where property values are
17 fairly high. There were projects undertaken
18 that received literally millions -- hundreds
19 of millions, in some cases -- in tax credits,
20 when arguably these projects would have been
21 undertaken even in the absence of those
22 incentives. And the whole purpose of the
23 reforms is to make sure that they target
24 projects that absolutely need the credits in

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1 order to proceed. This is supposed to be an
2 incentive to clean up brownfield sites, not
3 to be a windfall for development projects
4 that would have happened in any event.

5 SENATOR O'MARA: Who will be making
6 the determination of whether or not a project
7 would have happened without the incentive?
8 That's a very difficult question. Is that
9 going to be DEC, in your role, how the
10 question is going to be answered? Or is that
11 going to be through economic development,
12 Empire State Development? You know, how's
13 that decision going to be made and who is

14 going to be the actual arbiter of which
15 project gets credit and which doesn't?

16 COMMISSIONER MARTENS: Hopefully the
17 specific language of the bill and hopefully
18 the new law will define which projects going
19 to be eligible. I don't think DEC is going
20 to be making a judgment per se.

21 The triggers that would allow someone
22 to get development credits are things like if
23 you are in an EnZone, an environmental zone,
24 if the property is upside down, meaning that

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20

1 the cleanup is more expensive than the
2 property is worth, those are the thresholds
3 that would be created in order for someone to
4 qualify. So DEC is not making the decision.
5 Hopefully the law itself will be making those
6 decisions.

7 SENATOR O'MARA: Just because a
8 project is eligible -- you're saying that if
9 it's eligible, it doesn't mean necessarily
10 that it's going to get selected?

11 COMMISSIONER MARTENS: No, if it's
12 eligible then they will be -- if it meets the
13 criteria for the credits, it will be entitled
14 to get those credits.

15 SENATOR O'MARA: Is there a total cap
16 on the credits in this reform that you're
17 proposing?

18 COMMISSIONER MARTENS: There is. And
19 the cap doesn't change, is my recollection.

20 There's a 24 percent cap for redevelopment
21 credits, so there's a 10 percent credit if
22 you meet the thresholds and then there's
23 additional bonuses if you are doing
24 affordable housing, if you're in a Brownfield

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21

1 Opportunity Area.

2 So within those increments, it can cap
3 out at 24 percent.

4 SENATOR O' MARA: Thank you.

5 You're saying that a portion of these
6 can be used for municipally owned sites. Can
7 you explain that part of the program a little
8 bit?

9 COMMISSIONER MARTENS: That's part of
10 the Superfund appropriation of \$100 million.
11 We've had this program, the Environmental
12 Restoration Program in New York, historically
13 it has been very popular with municipalities.
14 The funding for that was exhausted several
15 years ago. There is \$20 million that is
16 associated with an old appropriation that was
17 subject to an MOU between the Legislature and
18 the Governor. That MOU has never been
19 executed. So that \$20 million is still out
20 there, but we can't spend it yet. The
21 Governor included \$12 million in I think the
22 2013-2014 budget in the NY Works program for
23 municipally owned sites -- we have -- we just
24 recently announced about \$8.4 million in

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1 projects under that old appropriation. So
2 the Superfund authorization in the proposed
3 budget for 2015-2016 would authorize a
4 portion of that, an unspecified portion of
5 that \$100 million to be available at the
6 department's discretion to go towards
7 municipal site cleanup.

8 SENATOR O' MARA: Is that also limited
9 to that 24 percent cap that you --

10 COMMISSIONER MARTENS: No, it's not
11 subject to the cap. The ERP program is a
12 90 percent state-funded, 10 percent local
13 match.

14 SENATOR O' MARA: If we move a little
15 bit to the Title 5 permit fees for discharges
16 and emissions. Everything that -- a lot of
17 what I've seen in recent years is showing a
18 reduction in these emissions from the
19 emitters and the sources.

20 So why a need for a Title 5 increase,
21 a fee increase, when we're seeing the results
22 that we want with regard to emissions in the
23 state?

24 COMMISSIONER MARTENS: We have made

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1 terrific progress reducing emissions
2 generally in New York State. In fact, the
3 federal clean air laws require states to fund
4 their air programs with fees generated by the
5 emitters themselves.

6 We've been audited by EPA, we've been

7 audited by the Comptroller, and they
8 repeatedly cite our lack of fees necessary to
9 fund the Title 5 program, which we basically
10 filled the gap with General Fund resources.

11 Technically speaking, we are required
12 by federal law to pay for the program with
13 fees based on the emissions from those we
14 regulate.

15 SENATOR O'MARA: Can you outline the
16 adjustments in the fees that you're proposing
17 here?

18 COMMISSIONER MARTENS: I need a chart.
19 You can probably get to it quicker than I
20 can.

21 So right now, Senator, the fees are
22 based on the tons of pollutants that are
23 emitted and it's depending on how much you
24 emit. For example, up to a thousand tons

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1 it's \$45 per ton; 1,000 to 2,000 it's \$50.

2 We're proposing a base fee that every
3 facility would pay -- not each emission
4 source, but each facility would pay \$2500 per
5 source. And then in addition to that, we
6 would raise the \$45 fee to \$60, the 1,000 to
7 2,000 from \$50 to \$75, and so on up to a
8 limit of -- if a source is emitting 5,000 or
9 more tons, then they would go from \$65 to \$90
10 per ton.

11 So these are not dramatic increases in
12 fees, especially since --

13 SENATOR O' MARA: I would disagree.
14 Those are pretty substantially high
15 percentage increases. Even though it's not a
16 dollar per ton increase, you're talking in
17 some of those references 50 percent. And
18 then you're having a \$2,500 base fee to start
19 with.

20 Where are these funds to be directed,
21 to be used, that are going to be collected
22 through those increased fees?

23 COMMISSIONER MARTENS: To our air
24 program.

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1 SENATOR O' MARA: In what ways to the
2 air program? To do what?

3 COMMISSIONER MARTENS: They fund
4 staff, they fund -- they fund staff,
5 primarily, and monitoring. The monitoring is
6 required.

7 SENATOR O' MARA: So is it your
8 opinion, then, that you need more staff to
9 regulate your air program?

10 COMMISSIONER MARTENS: No. We're not
11 asking for any additional staff. We are
12 asking for the fees to support that staff,
13 which as I mentioned is actually a federal
14 requirement.

15 SENATOR O' MARA: Are there a backlog
16 of Title 5 permits before you right now?

17 COMMISSIONER MARTENS: No, there is
18 not.

19 SENATOR O' MARA: Are there many permit
20 holders, Title 5 permit holders in the state
21 right now that are not in compliance with
22 their permits?

23 COMMISSIONER MARTENS: I don't believe
24 so. We can get you a list of anybody that

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1 we've issued NOV's {ph} to. That happens, but
2 I'd say the lion's share of emitters are in
3 compliance with their permits.

4 SENATOR O' MARA: Now, where do we
5 stand in the state with repowering of a few
6 of the major electrical producers -- Dunkirk,
7 Cayuga, and Greenidge in Dresden? Where do
8 we stand as far as moving forward on those
9 proposals to provide consistent, reliable,
10 and low-cost electricity for New Yorkers?

11 COMMISSIONER MARTENS: I can't give
12 you specifics off the top of my head. I can
13 tell you that on Dunkirk, for example, we've
14 been meeting with the owner of the
15 Dunkirk Plant, and there is -- the issue
16 there has been an issue of what is the best
17 technology available for discharges from that
18 plant. And as of a week or so ago, I know
19 that we had come to at least a tentative
20 agreement with the plant owners on what would
21 be required to meet BTA. So they should be
22 in a position to move forward with that
23 project.

24 There's obviously -- the department's

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1 jurisdiction is limited to issues like air,
2 whether they -- if it's a plant that has been
3 closed and is going to reopen, whether they
4 have to go through new source review, which
5 is a fairly long process. It can take up to
6 a year to go through new source review. So
7 we're examining each one of these situations
8 on a case-by-case basis, but we're working
9 with them and obviously our goal is to make
10 sure that they're in compliance with our air
11 and water quality standards. But we've been
12 working with, you know, every one of those
13 individual plants.

14 SENATOR O' MARA: Thank you,
15 Commissioner. I think my time is up, and I
16 may be back, I may not.

17 COMMISSIONER MARTENS: Thank you,
18 Senator.

19 CHAIRMAN FARRELL: Thank you, Senator.

20 We've been joined by Assemblywoman
21 Helene Weinstein, Assemblyman Keith Wright,
22 Assemblyman Jeff Aubry, Assemblywoman Vivian
23 Cook, Assemblywoman Schimmel, Assemblyman
24 Wepri, Assemblyman Lavine, and Assemblyman

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1 Barron. And Felix Ortiz and Carl Heastie.
2 And Marcos Crespo. I'll get it right.
3 For questions, to begin, Deborah
4 Glick.

5 ASSEMBLYWOMAN GLICK: Thank you,

6 Mr. Chair, and welcome, Commissioner.

7 COMMISSIONER MARTENS: Thank you.

8 ASSEMBLYWOMAN GLICK: A few questions
9 that relate to the Supplemental Generic EIS
10 and the potential final EIS on the issue of
11 fracking. When do you envision the
12 supplemental being completed? Do you have a
13 timeline? And will the final EIS address all
14 of the points that Commissioner Zucker put in
15 his health review?

16 COMMISSIONER MARTENS: The timeline
17 for the SGEIS, since I always get in trouble
18 whenever I say a specific time, but I would
19 say --

20 ASSEMBLYWOMAN GLICK: Well, I realize
21 that.

22 COMMISSIONER MARTENS: Early 2015.
23 This year.

24 ASSEMBLYWOMAN GLICK: Okay, this year.

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1 COMMISSIONER MARTENS: We are
2 literally -- we meet on it weekly in the
3 agency. I've got a lot of staff devoted to
4 it right now, the revisions we're
5 undertaking, and absolutely it's going to
6 incorporate all of Dr. Zucker's report and
7 findings and much more.

8 ASSEMBLYWOMAN GLICK: On that matter,
9 both wastewater that might be used, fracking
10 brine that might be used as salting

11 material -- it's been reported that that's
12 been used in Western New York. Will that
13 also be a part of the discussion?

14 COMMISSIONER MARTENS: Fracking fluid
15 or brine from high-volume, hydraulically
16 fracked wells is not applied to roads in
17 New York State.

18 We haven't issued any beneficial-use
19 determinations. Brine from conventionally
20 drilled wells has been used in the past. But
21 no -- we are not importing brine from
22 Pennsylvania from hydraulically fracked wells
23 for use on roads. That is, unfortunately, a
24 popular myth. But it's not happening.

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1 ASSEMBLYWOMAN GLICK: So that's a
2 definitive "not happening."

3 There has been a regulation around how
4 much water can be withdrawn on any given day.
5 Obviously in some states we're seeing
6 terrible droughts and water becomes an
7 increasingly important resource. So the
8 daily withdrawal of 2 million gallons a day
9 for water, freshwater withdrawal, is supposed
10 to be a Type 1 review, and I'm wondering if
11 that has in fact been implemented. Because
12 I've been told that they have been subject to
13 a Type 2 SEQRA.

14 COMMISSIONER MARTENS: Who -- what
15 specifically are you referring to?

16 ASSEMBLYWOMAN GLICK: Water withdrawal

17 per day is subject to an environmental
18 review.

19 COMMISSIONER MARTENS: Right. Thanks
20 to you, we have a water withdrawal law on the
21 books. And if you have the capacity, I
22 believe, to -- it's a hundred thousand
23 gallons a day, that's the trigger for the
24 need for a permit from the department. So if

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1 you have the capacity to pump a hundred
2 thousand gallons per day or more, you're
3 subject to a DEC permit. So I'm not sure
4 where the 2 million gallons you referenced
5 comes from.

6 ASSEMBLYWOMAN GLICK: Well, that would
7 require -- that's a permit, but any
8 additional large withdrawal would require a
9 different kind of review. And I'm wondering
10 if you have had any circumstances in which
11 there are larger withdrawals occurring.

12 COMMISSIONER MARTENS: Off the top of
13 my head, I don't -- I'm not aware. I'm sure
14 we have large withdrawals occurring around
15 the state that we permit whether or not they
16 have been separately subject to a SEQR
17 review. I'm just not aware of any where
18 that's been triggered.

19 But I should have introduced the
20 people that are with me here. Marc Gerstman
21 is my executive deputy; Julie Tighe, my
22 legislative director; and Jeff Stefanko is my

23 director of budget. I'm sorry, I should have
24 introduced them to begin with.

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1 So I'm going to turn to Marc and ask
2 if he knows specifically whether or not there
3 is ...

4 EX. DEP. COMMISSIONER GERSTMAN: We
5 have been implementing the water withdrawal
6 law. There's a phased implementation, so
7 there are many facilities that are receiving
8 authorization that were grandfathered
9 already, so we're carrying their
10 authorizations forward. But any new
11 applications for water withdrawals in the
12 threshold that the Commissioner mentioned
13 would be subject to an environmental review
14 and a permitting review, including some water
15 conservation requirements that the
16 Legislature asked us to implement for those
17 applications.

18 ASSEMBLYWOMAN GLICK: There have been
19 lots of concerns over wastewater in general
20 and the state's capacity to handle
21 wastewater, combined sewer overflows and the
22 like. So I'm wondering if there has been --
23 do you monitor how many times a municipality
24 may be issuing a boil-water alert and what

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1 the department's view is of how serious that
2 our wastewater infrastructure problems really
3 are?

4 COMMISSIONER MARTENS: We do monitor
5 very carefully. And as you know, I mentioned
6 the Sewage Right to Know Law that you passed
7 and we recently have implemented in New York
8 so that the public is given a heads-up
9 whenever there is a problem with combined
10 sewer overflows.

11 There is a terrific need around the
12 state for upgrades, improvements and repairs
13 at wastewater treatment facilities. We help
14 substantially through the Environmental
15 Facilities Corporation, which I chair, and
16 put out literally hundreds of millions of
17 dollars in financing for these facilities
18 every year.

19 We've moved away from a grant program
20 that was historically the way that these
21 facilities got money for improvements. It
22 was a big federal program, now it's been
23 basically turned over to the states to use
24 loans. And the State Revolving Fund in

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1 New York is the largest in the nation, it is
2 probably one of the most aggressive in terms
3 of making the funds available.

4 Recently we just issued some new
5 requirements, or actually we relieved
6 requirements for communities that are having
7 financial difficulty in getting grants and/or
8 loans. So that grants can be made now to
9 communities that are financially stressed so

10 that they can do the initially engineering
11 that's necessary to evaluate their systems,
12 so then they can get applications into the
13 Environmental Facilities Corporation. Some
14 of these facilities are so strapped that they
15 couldn't even do the initial work to apply
16 for the EFC financing. So the new hardship
17 provisions should help that significantly.

18 ASSEMBLYWOMAN GLICK: I'll come back
19 for a second round.

20 COMMISSIONER MARTENS: Thanks.

21 CHAIRMAN FARRELL: Thank you,
22 Assemblywoman.

23 CHAIRMAN DeFRANCISCO: Thank you.

24 We were joined a little while ago by

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1 Senator Savino, who's out there among the
2 people, as is her practice.

3 SENATOR KRUEGER: And Senator Marty
4 Dilan.

5 CHAIRMAN DeFRANCISCO: And he's out
6 among the people as well.

7 CHAIRMAN FARRELL: And we also have
8 with us Assemblywoman Cathy Nolan.

9 CHAIRMAN DeFRANCISCO: Senator
10 Ritchie?

11 SENATOR RITCHIE: Good morning,
12 Commissioner.

13 We have an ongoing issue in
14 St. Lawrence County with the Long Pond
15 easement tract, and I'm sure that you're

16 aware that when the state bought the
17 conservation easements there that there were
18 30 camps that were located there, which is
19 involving 120 families from mainly
20 St. Lawrence County. This year is a crucial
21 year because if an agreement is not reached
22 by the end of the year, all but six of those
23 camps will have to be removed, and this is
24 something that has been in some of their

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1 families for a number of years.

2 And I'm wondering if funds to purchase
3 the subdivision rights are included in this
4 year's budget so we can finally have some
5 kind of conclusion with that issue.

6 COMMISSIONER MARTENS: I'm sorry, I'm
7 having trouble hearing, I'm a bit under the
8 weather. I know you referred to the
9 conservation easement and the situation with
10 the camps.

11 SENATOR RITCHIE: Right.

12 COMMISSIONER MARTENS: I know that
13 we're in discussions with the underlying
14 landowners there about what we can work out.

15 I think this is one of those
16 situations where the conservation easements
17 were probably of an earlier variety where the
18 camp owners were -- they had a time limit
19 before they had to remove camps, and in some
20 cases we can make accommodations and in
21 others it's not easy to.

22 But I'd be happy to look into the
23 status of this. I don't have the latest on
24 it.

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1 SENATOR RITCHIE: Okay, that would be
2 great. Because we're on the final year, so
3 that would be helpful.

4 And then just my second item is more
5 of a comment. I represent a pretty
6 economically challenged area, and tourism is
7 one of the bright spots, whether it be
8 fishing or boating in the summer or
9 snowmobiling and ATVi ng in the other part of
10 the year. Snowmobiling and then, you know,
11 three-quarters of the year ATVi ng.

12 And over the last few years I've tried
13 to expand the opportunity by allowing the use
14 of UTVs on some of the trails that are
15 appropriate trail systems to be used. And
16 this past year we've had many conversations
17 with those on both sides of the issue, and
18 I'm hopeful that this year we'll be able to
19 come to some kind of compromise. But it
20 would be very helpful if yourself or your
21 office would be willing to take part on some
22 of those conversations.

23 Because as we go forward, there'll be
24 connecting trails and certain trails that

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1 have already been in existence that are going

2 to come up. So it would be very helpful if
3 your office would be involved in some of
4 those conversations so we can see if we can
5 get to some kind of common ground on the
6 issue.

7 COMMISSIONER MARTENS: Always happy to
8 engage in the conversation.

9 SENATOR RITCHIE: Okay, great. Thank
10 you, Commissioner.

11 COMMISSIONER MARTENS: You're welcome.

12 CHAIRMAN FARRELL: Thank you.

13 Assemblyman Saladino.

14 ASSEMBLYMAN SALADINO: Commissioner,
15 thanks for being here. Thank you to all of
16 you.

17 How are we doing on keeping sand and
18 salt and road contaminants out of the Hudson
19 as we deal with all of this snow?

20 COMMISSIONER MARTENS: Well, all I can
21 say is that we work very closely with DOT, we
22 coordinate with them on where the snow can be
23 deposited.

24 Typically when a big storm is on the

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1 way like this one, we designate areas in
2 advance. We did it in Buffalo back in
3 November when we had the big storm, so we
4 have temporary areas where the snow can be
5 deposited. We pre-select sites, obviously as
6 far as away from water sources, rivers,
7 streams, et cetera, so there isn't all of a

8 sudden this flush of water and salt. But we
9 work very closely with DOT on that, and I
10 think it's been working very well.

11 ASSEMBLYMAN SALADINO: It just goes to
12 show your commitment to keeping contaminants
13 out of our marine environment and out of our
14 drinking water. It's been exceptional. And
15 that's why I bring up the issue of something
16 very important to Long Islanders and to our
17 downstate communities, and that is the issue
18 of the plume, the Navy/Grumman plume
19 emanating from Bethpage and going through our
20 aquifer system and heading to the Great South
21 Bay.

22 I know the DEC has been focused on
23 wellhead treatment, but back in June we
24 passed legislation in both houses calling for

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1 hydraulic containment, which the Governor
2 signed on December 29th. And I know we're
3 moving in that direction.

4 As we move through this year I know
5 there'll be the necessity for additional
6 testing of the plume and modeling of the
7 plume and working up a design for the
8 structure and construction of a facility to
9 hydraulically contain and clean up that
10 plume, which has the highest concentrations
11 of TCE anywhere in the country.

12 What do you need in the way of monies
13 to get that process started? We realize the

14 Navy is financially responsible, but we want
15 to make sure that the DEC has the resources
16 it needs to get started on one of the most
17 important water-protection programs in the
18 state.

19 COMMISSIONER MARTENS: Sure. The
20 short answer is what we're required to do,
21 under the law that you sponsored and that the
22 Governor signed, is to evaluate again the
23 situation with the Grumman plume. And we
24 fully intend to do that and comply.

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1 The report has asked us to evaluate,
2 as you said, the alternative to wellhead
3 treatment and containment which historically
4 we have felt would be very expensive, for all
5 the reasons we've discussed in the past.
6 It's a densely settled area; finding real
7 estate to put up the infrastructure you need
8 to contain that plume would be very
9 expensive.

10 But this report requires us to
11 evaluate that. So we'll know better when we
12 complete the report how much it would cost
13 and what it would take to implement, I think,
14 the approach that you are obviously signaling
15 in the bill that was signed into law.

16 ASSEMBLYMAN SALADINO: Commissioner,
17 since that law has been passed, the Navy
18 tests have shown us levels of TCE at 4,600
19 parts per billion and at 8,200 parts per

20 billion. You realize the State Health
21 Department and the EPA allow only 5 parts per
22 billion at the tap.

23 Realizing that the plume is not
24 diluting, which has been the reason for -- to

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1 allow for wellhead treatment alone in the
2 past, now that we see these reports, now that
3 we realize the plume is moving very quickly,
4 more than a foot per day in a southerly
5 direction -- and the fact that I know the
6 department does not want to see more
7 uncontaminated areas to be contaminated --
8 and the DEC does not want these very
9 dangerous chemicals to reach the Great South
10 Bay, can we get a commitment that hydraulic
11 containment is now the -- should now be our
12 focus and that we should now be providing the
13 DEC with more financial resources to begin
14 the process of getting that facility up and
15 running?

16 We estimate, and the folks that I've
17 been speaking to regularly, the engineers
18 I've been speaking to about it, a Phase 1
19 would cost \$75 million and would address
20 putting up that barrier to protect
21 uncontaminated areas -- and that we're all in
22 agreement that the Navy is responsible for
23 paying for this?

24 COMMISSIONER MARTENS: A first step is

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1 the report that we're required to do. That's
2 clearly the first step, and right now we're
3 evaluating how we can do that, because even
4 that report is going to take significant
5 resources on the department's part. And
6 we're evaluating whether or not that can be
7 done in-house or whether we have to hire a
8 consultant to do it. Which is frankly my
9 preferred approach, because if I divert staff
10 to do the report that's required, that's
11 going to take them away from a lot of other
12 things we're working on. And we have sites,
13 as you know, all around the state.

14 So we're evaluating how we can get
15 this done in a way that has the least impact
16 on the department financially but gets the
17 work done that's required by the legislation.
18 So that's really the first step.

19 And then once we get that report done,
20 then we're going to have a better idea just
21 how much it would cost. And then it's a
22 discussion obviously with the Navy, with
23 Grumman, to determine how we go forward from
24 there.

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1 ASSEMBLYMAN SALADINO: Can we get a
2 commitment that the department is with us in
3 pushing towards the hydraulic containment
4 that we know will provide the best assurance
5 of cleaning our water, the best assurance of
6 protecting uncontaminated areas, and the best

7 assurance that we will protect both the
8 marine environment, the Great South Bay, from
9 these chemicals and to ensure that we have
10 clean, uncontaminated water to share with
11 other communities that will be needing it,
12 including New York City, as population grows
13 and needs grow?

14 COMMISSIONER MARTENS: I can't give
15 you a commitment when we haven't even done
16 the report yet and I don't know what the
17 total costs will be.

18 As you know, we've looked at this in
19 the past and we've had deep concerns about
20 whether it was feasible to stop the plume
21 from advancing. Obviously those hotspots
22 that have recently come to light, we're going
23 to get the Navy to address those hotspots and
24 they will be doing increased pumping in those

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1 areas to make sure that the plume around that
2 hotspot doesn't expand.

3 We want to stop it to the greatest
4 extent we possibly can, so we are going to
5 move ahead. We're not going to wait for the
6 report to address the recent findings about
7 the areas that are heavily contaminated, but
8 we need to do this report. We need to
9 evaluate how much it's going to cost and
10 whether it's technically feasible. I still
11 think that is an open question.

12 And obviously, you know, our first

13 preference is always to clean up everything
14 we can, but it's not always feasible because
15 of cost and because of constraints of things
16 like real estate, being able to put in the
17 proper infrastructure, which on Long Island
18 is a real challenge.

19 ASSEMBLYMAN SALADINO: Well, the good
20 news is --

21 CHAIRMAN FARRELL: Thank you,
22 Mr. Saladino.

23 ASSEMBLYMAN SALADINO: -- that much of
24 this information has already been prepared by

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1 the water districts. And I'd like to propose
2 that the DEC receive an additional \$9 million
3 as part of our budget for the purposes of the
4 testing and for it to be dedicated to the
5 creation of the design of that facility for
6 hydraulic containment and full remediation of
7 the plume.

8 Thank you so much for being with us,
9 and thank you for your consideration.

10 CHAIRMAN FARRELL: Thank you.

11 CHAIRMAN DeFRANCISCO: Senator
12 Krueger.

13 SENATOR KRUEGER: Good morning,
14 Commissioner.

15 COMMISSIONER MARTENS: Good morning,
16 Senator.

17 SENATOR KRUEGER: I have some
18 questions about wastewater issues. What has

19 DEC estimated the wastewater infrastructure
20 needs of the state to be?

21 COMMISSIONER MARTENS: Off the top of
22 my head, I think the last count was
23 \$36 billion to \$38 billion.

24 SENATOR KRUEGER: How much is in this

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1 budget for infrastructure support
2 improvements for wastewater?

3 COMMISSIONER MARTENS: Most of the
4 support for wastewater treatment plants, as I
5 mentioned before, is financing through the
6 Environmental Facilities Corporation. So
7 there's literally hundreds of millions of
8 dollars available for loans and some grants
9 to communities around the state. That's the
10 traditional -- been the traditional approach
11 to wastewater treatment, is loans in
12 New York, for years.

13 In addition to that, the Regional
14 Economic Development Council process has
15 identified wastewater treatment within the
16 regions in places as a critical element to
17 economic expansion. Places that have
18 limitations on wastewater treatment, if
19 there's limitations on treatment, then
20 there's often limitations on economic
21 development.

22 And in some places there's moratoria.
23 So that has been a source of funding, and the
24 billion and a half that the Governor proposed

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1 for the Regional Economic Development
2 Councils could be another potential source if
3 it's identified by the communities and by the
4 Regional Economic Development Councils as a
5 high priority.

6 SENATOR KRUEGER: So we talk about
7 wastewater and infrastructure, but what we
8 talk about is really sewage concerns.

9 COMMISSIONER MARTENS: Right.

10 SENATOR KRUEGER: The Legislature
11 passed into law a Sewage Right to Know Act in
12 2013 because of the concern about sewage
13 leakage and sewage dumping into the
14 drinking-water systems of various places and
15 contaminating streams and rivers and creeks
16 and lakes.

17 I come from New York City, where
18 apparently we have approximately 28 billion
19 gallons of sewage per year -- I'm assuming
20 it's per year, it's hard to believe it's per
21 day.

22 COMMISSIONER MARTENS: I hope that's
23 per year.

24 (Laughter.)

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1 SENATOR KRUEGER: Thank you.

2 What's been the implementation of this
3 law so far? So how have you implemented this
4 law so far, and what changes have been made

5 pre the law?

6 COMMISSIONER MARTENS: I alluded to in
7 my testimony we now have a system, it's the
8 New York Alert system, which is an existing
9 program run by the State Office of Emergency
10 Management, where the public is alerted
11 whenever there's emergencies of -- mostly
12 natural emergencies. So that system will be
13 used to alert communities. Actually, it will
14 feed information into the New York Alert
15 system so that anybody can receive these
16 alerts on their Blackberries and iPhones and
17 the like when there is an expected sewer
18 overflow.

19 And usually it's based just on the
20 expectation that there's going to be a
21 certain amount of rain over a period of time.
22 So this information now is being fed by the
23 communities into the New York Alert system.

24 Anybody can sign up for the New York

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1 Alert system, so I think we've satisfied the
2 public notification requirements in a way
3 that was very efficient. And as I said, it's
4 essentially cost-free to the communities,
5 which was I know a concern of everybody's
6 when they passed the law to begin with, let's
7 not put additional requirements -- if we
8 hadn't identified a central system like
9 New York Alert, we could have just said every
10 municipality has to come up with their own

11 system, design it, feed it into DEC, we've
12 got to decipher it and figure a way to get it
13 out to the public. So I think we've come up
14 with a really good way to make it widely
15 known when there are CSO problems around the
16 state.

17 SENATOR KRUEGER: And how many
18 notifications were made through that system
19 in the last year?

20 COMMISSIONER MARTENS: We just got up
21 and running, so I don't know how many, to
22 tell you the truth. We had that information
23 coming to DEC I believe on a weekly basis,
24 and we were notifying the public while --

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1 before we got the new system up and in place.
2 But I can get you whatever facts and figures
3 we have on the number of notifications.

4 SENATOR KRUEGER: And when I -- if I
5 sign up and I'm alerted, what is this telling
6 me? Is it telling me to do something? Is
7 telling me not to drink the water?

8 COMMISSIONER MARTENS: Mostly telling
9 you, don't swim or do anything that requires
10 contact recreation for a period of time.

11 It will also tell you -- if there is a
12 boil alert, then it will tell you that as
13 well. But mostly it's telling people who
14 might go in or have contact with a body of
15 water -- you know, a swimming area, a beach,
16 a recreation area -- stay away from it.

17 SENATOR KRUEGER: And I've been told
18 that you exempted combined sewer systems from
19 this requirement, which might include
20 New York City. What is a combined sewer
21 system, and who is being exempted from this
22 law?

23 COMMISSIONER MARTENS: I don't know
24 the answer off the top of my head. I mean, a

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1 combined sewer system is when the stormwater
2 and sewer systems are combined and there's
3 lots of those. They're combined in the
4 Capital Region, for example.

5 So I'm not aware that they're exempted
6 from the law.

7 SENATOR KRUEGER: I couldn't hear the
8 response from your colleague.

9 COMMISSIONER MARTENS: I'll have to --
10 I don't know the exact answer off the top of
11 my head, Senator, but I'm happy to let you
12 know.

13 SENATOR KRUEGER: If in fact combined
14 systems are exempt, and they're some of the
15 largest municipalities in the state, I think
16 we might want to reevaluate how we set up
17 that law. Because speaking from New York
18 City, I don't think I want my city exempted
19 from notifications of --

20 COMMISSIONER MARTENS: I'm happy to
21 talk to you about this. I just don't know
22 enough off the top of my head to tell you.

23 SENATOR KRUEGER: You know what? I'm
24 gi ving up my last 30 seconds. Thank you.

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1 CHAI RMAN DeFRANCI SCO: Hi story,
2 hi story.

3 Next?

4 CHAI RMAN FARRELL: Assembl ywoman
5 Jaffee.

6 ASSEMBLYWOMAN JAFFEE: Thank you,
7 Mr. Chai r.

8 I wanted to just review the staffing
9 levels, the current staffing levels at the
10 DEC. Right now my information is that
11 there's 2910 full-time equivalents, which is
12 significantly lower than previously. It's
13 been -- in 2009-10 it was over 3,000, 3,300.

14 That level of staffing in terms of
15 lower numbers of staff available, how does
16 that impact the enforcement activities of the
17 DEC? And in addition, in terms of providing
18 permits and issuances, can projects be
19 reviewed thoroughly if there is significantly
20 lower level of staff available to provide
21 that expertise?

22 COMMI SSIONER MARTENS: I think as
23 you're probably aware, the staffing at DEC
24 after the national economic crisis in 2008

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1 went down significantly, as did most state
2 agencies. I think overall we probably lost
3 about 25 percent of our staff from its peak.

4 It used to be around 4,000, I think, at its
5 peak. So we obviously have a lot less staff
6 than we used to.

7 Since Governor Cuomo came into office,
8 the staffing has been steady. And as we
9 noted in this budget, we have about a
10 28-person increase related to the Oil Spill
11 Fund and fish and wildlife activities, which
12 is very welcome.

13 We're doing everything we can in the
14 department to adjust to the staffing levels
15 that we have. I have talked about this in
16 the past. I've made IT a big priority in the
17 agency because we have been in the dark ages
18 in the past. We are a paper -- very heavy
19 paper-laden agency. We do permits by paper.
20 So things -- it requires a lot more time, a
21 lot more filing. It is a very inefficient
22 process, and we have made a lot of progress
23 over the last several years in updating our
24 IT system to make staff more efficient.

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1 We've also gone -- used the lean
2 process -- is this going to be to music?

3 (Cell phone sound.)

4 ASSEMBLYWOMAN COOK: I'm glad you like
5 it.

6 COMMISSIONER MARTENS: I've made a
7 major commitment, as the administration has,
8 to this so-called lean process, which is
9 nothing more than literally picking apart

10 every part of the process you go through in
11 any program to identify what things you can
12 do better, what things you can do without.

13 We've learned a lot. And it's a
14 painful process, because it means staff that
15 is already struggling to keep up has to
16 divert their attention to the internal
17 processes, and we've spent a lot of time on
18 it. It's been frustrating but very
19 rewarding, because we have actually found
20 that a lot of the things we do were products
21 of, you know, decades-old practices in the
22 agency. So we have improved a lot, and I
23 appreciate all the dedication that staff has
24 put towards this.

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1 So I think we're a lot more efficient
2 than we have been historically. And because
3 of this major commitment to IT, \$6 million a
4 couple of years ago, there's another
5 \$2 million in the NY Works budget for IT
6 upgrades, we are coming into the 21st century
7 now. And I think that has helped
8 dramatically how we conduct our business.

9 You know, I don't think any
10 commissioner would sit here and say no, we
11 couldn't use more staff, but the Governor has
12 made a commitment to keep state spending less
13 than 2 percent. And the only way to do that,
14 with increases in education aid and
15 healthcare, has been to keep the agencies

16 flat. So we've kept flat, so we've had to
17 adjust and we've done everything we possibly
18 can to make ourselves more efficient.

19 On the enforcement side, I don't think
20 there's been any real diminishment in
21 enforcement statewide. In fact, our
22 enforcement statistics from issuing
23 violations from our environmental
24 conservation officers is actually up

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1 dramatically in the last year. We still do
2 all the required inspections we're required
3 to do under the federally delegated program
4 under air and water, for example, so I think
5 we're doing pretty well with the resources
6 that we're provided.

7 ASSEMBLYWOMAN JAFFEE: I understand
8 that the revenue that has come in from around
9 the state, the Bottle Bill, has decreased.
10 Do you know why those revenues have been
11 decreasing?

12 COMMISSIONER MARTENS: I don't know
13 why they've been decreasing. I'll probably
14 have to get back to you. Julie Tighe here
15 knows an awful lot about the Bottle Bill, and
16 Julie, you may want to talk about the Bottle
17 Bill revenues.

18 DEC LEG. DIR. TIGHE: I don't know
19 that we have specific reasons for why, but
20 certainly, you know, the numbers that were
21 provided from the Department of Taxation and

22 Finance indicate that recycling rates --
23 ASSEMBLYWOMAN JAFFEE: I can't hear
24 you. Fix your microphone?

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1 DEC LEG. DIR. TIGHE: The recycling
2 rates are actually going up a little bit. As
3 we've been doing more enforcement, we'll see
4 more compliance with the law.

5 We do have a number of cases with the
6 Attorney General's office and district
7 attorneys that would address both shipping,
8 where we know a lot of the fraud is
9 occurring, as well as ensuring that companies
10 who are required to be registered as deposit
11 initiators are doing so, and that has
12 resulted in some increases.

13 But the recycling rates have been
14 going up. So we don't know exactly what the
15 reasons are, but certainly an increase in the
16 recycling rate is one of the objectives of
17 the Bottle Bill.

18 COMMISSIONER MARTENS: And I would
19 just say that on the enforcement end, as
20 Julie mentioned, we've been working with the
21 AG's office, with district attorneys, and we
22 have a lot of cases pending. They're very
23 difficult to actually prosecute and bring to
24 conclusion, so we hope there will be

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1 settlements down the road that will actually

2 increase revenue. But we won't know until
3 those cases are concluded.

4 ASSEMBLYWOMAN JAFFEE: Perhaps we can
5 find a way to work together to raise
6 awareness as well in terms of increasing
7 those opportunities, the public participating
8 as well. Thank you.

9 COMMISSIONER MARTENS: We're always
10 open to ideas, thank you.

11 CHAIRMAN DeFRANCISCO: Thank you.

12 I just had a couple of questions. I
13 wanted to ask you about the EFC. Do you have
14 any idea what backlog on applications there
15 are, dollarwise?

16 COMMISSIONER MARTENS: I'm sorry,
17 Senator?

18 CHAIRMAN DeFRANCISCO: The EFC, they
19 have requests -- or I imagine municipalities
20 have requests in or others have requests in
21 for dollars from that fund.

22 COMMISSIONER MARTENS: Yes.

23 CHAIRMAN DeFRANCISCO: And from what I
24 was told, there's a long backlog of

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1 applications.

2 COMMISSIONER MARTENS: (Shaking head.)

3 CHAIRMAN DeFRANCISCO: There's not.

4 COMMISSIONER MARTENS: No.

5 CHAIRMAN DeFRANCISCO: Okay. Can you
6 give me an idea, dollarwise, what the level
7 of applications is that are still pending?

8 COMMISSIONER MARTENS: I can get you
9 that information, Senator, but virtually
10 everyone that's on the intended use plan
11 that's eligible for funds gets funding from
12 EFC. We get the money out the door -- I'm
13 not aware of any backlogs in any application
14 at EFC.

15 CHAIRMAN DeFRANCISCO: He's whispering
16 something to you.

17 COMMISSIONER MARTENS: I don't need
18 him to whisper.

19 EX. DEP. COMMISSIONER GERSTMAN: The
20 EFC last year lowered the threshold for
21 municipalities to come in for financing at
22 EFC, to essentially open the door. And so
23 those that -- as the Commissioner said, those
24 that are in the queue are moving through the

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1 process.

2 So we have increased the opportunity
3 for all municipalities across the state to
4 obtain EFC funding.

5 COMMISSIONER MARTENS: But again, I'm
6 not aware of any backlog or people waiting
7 for money. We're pretty efficient in getting
8 the money out the door once they've applied.

9 CHAIRMAN DeFRANCISCO: Okay. The
10 other issue maybe you just addressed, and
11 that was there were complaints at one time,
12 maybe before you made these changes, that it
13 was difficult for municipalities to actually

14 use the funds because of the costs associated
15 with the application and other things. Is
16 that what you -- that's why you made these
17 changes?

18 COMMISSIONER MARTENS: That's one of
19 the reasons. As I mentioned before, there
20 are municipalities that are so small they
21 don't have the in-house expertise to prepare
22 the preliminary evaluation of their systems
23 to then apply for the funds. So this new
24 hardship provision which we've liberalized

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1 recently is going to make it easier for those
2 communities to get grants from EFC. They're
3 just small engineering evaluation grants of
4 up to like \$50,000 -- hopefully that will
5 give a lot of communities the ability to get
6 in the door.

7 CHAIRMAN DeFRANCISCO: That's good.
8 One very quick question. Assemblywoman Glick
9 had asked you about the EIS, the
10 Environmental Impact Statement, and you
11 anticipate it done sometime this year.

12 COMMISSIONER MARTENS: Early this
13 year.

14 CHAIRMAN DeFRANCISCO: Okay. With
15 respect to that statement, what is the --
16 since the decision has been made, why is the
17 statement required? What's the logic behind
18 that?

19 COMMISSIONER MARTENS: The statement

20 is required because it is the legal process
21 that was started under E041, I think it was,
22 where there was basically a moratoria until
23 the EIS was completed. So by E041 we were
24 directed to do this process. Once we

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1 complete the process, E041 will have been
2 satisfied.

3 CHAIRMAN DeFRANCISCO: Now, you said
4 that that report will include the analysis as
5 well as -- and much more than you ended up
6 with.

7 COMMISSIONER MARTENS: Yup.

8 CHAIRMAN DeFRANCISCO: Okay. And that
9 much more, does that include the findings of
10 the various experts that were hired by the
11 State of New York and what their opinions
12 were on this issue?

13 COMMISSIONER MARTENS: Absolutely.
14 That's all part of the record, and that's all
15 part of what we've considered and I'll
16 consider in the finding statement, which is
17 really the final document that goes out under
18 that SGEIS.

19 CHAIRMAN DeFRANCISCO: Okay. That's
20 all I had.

21 CHAIRMAN FARRELL: Thank you, Senator.

22 We've been joined by Assemblywoman
23 Peoples-Stokes, Assemblyman Thiele, and
24 Assemblywoman Fahy.

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1 To question next, Assemblyman Cusick.

2 ASSEMBLYMAN CUSICK: Thank you,

3 Mr. Chairman.

4 It's always good to see you,
5 Commissioner. Thanks for being here today.

6 I'm just going to ask concerning the
7 EPF. Could you just run through again the
8 funding amount this year compared to last
9 year?

10 COMMISSIONER MARTENS: It's a
11 \$10 million increase from \$162 million to
12 \$172 million. The increases have been spread
13 through I think 14 different categories
14 within the EPF. Mostly on the basis of
15 demand within those categories.

16 ASSEMBLYMAN CUSICK: Now, Staten
17 Island has been -- we have been the recipient
18 of EPF funding most recently with the
19 Pouch Camp, and I want to thank the state for
20 doing that. But could you run through how
21 that process goes with the department, how
22 those categories are picked and how different
23 projects or different areas are chosen for
24 the money this year?

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1 COMMISSIONER MARTENS: They're almost
2 a different process for every category in the
3 EPF. Most of them are competitive programs.
4 Many of the categories in the EPF are to fund
5 municipal projects, so for the municipal
6 projects there is basically an application

7 process, a ranking system, and the funds are
8 distributed through a competitive process.

9 Things like land acquisition funds,
10 the Open Space Plan, which is updated every
11 three years -- and we're in the process of
12 completing the most recent update now -- that
13 helps prioritize which projects will get
14 funded. And in part it's a question on the
15 land acquisition front, if the projects are
16 ready to go. Many take years to come to the
17 point at which we're ready to actually close.
18 But the open space guide is the plan there.

19 If you have more specific questions --
20 but every category has a slightly different
21 process. There's a municipal parks
22 category --

23 ASSEMBLYMAN CUSICK: Right. Well, the
24 current year, this year's funding, when that

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1 money runs out, are any of the projects going
2 to be short of the money that was promised to
3 them that they will then go over to the next
4 year?

5 COMMISSIONER MARTENS: Not that I'm
6 aware of.

7 ASSEMBLYMAN CUSICK: No?

8 COMMISSIONER MARTENS: No.

9 ASSEMBLYMAN CUSICK: Okay. So then
10 any --

11 COMMISSIONER MARTENS: I mean -- you
12 know, some projects, you know, may be more

13 expensive than there is money in the fund.
14 And that's always a question, and sometimes
15 we will set prior-year money aside for a
16 project. So they use reappropriations to
17 come up with the full amount of the project
18 cost. So it could be that it takes multi year
19 commitments of the EPF to entirely fund a
20 specific project.

21 ASSEMBLYMAN CUSICK: Okay. Because
22 the gist of my question is that if there are
23 projects that are ongoing right now and they
24 come up short this budget cycle and we have

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1 now increased that -- the EPF in the current
2 budget that we're having these hearings on,
3 will that money then have to carry over?
4 Will some of that money have to be used for
5 any shortfalls in the last budget? The
6 answer is no?

7 COMMISSIONER MARTENS: I think the
8 answer is it could be. It really depends on
9 the project, the specifics of the project.

10 You know, the categories that were
11 enhanced -- more money will be available
12 within those categories to fund projects.
13 Some projects in the EPF, there's just a
14 backlog. For example, municipal recycling,
15 there's \$69 million of applications that are
16 pending and have been pending. So we
17 continually roll out the money year after
18 year, so an increase in that category would

19 allow us to fund additional projects that
20 have been in the queue.

21 So the additional resources that are
22 in the EPF will allow us to do more projects
23 in every one of those categories, or complete
24 a project that we may not have had the full

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1 resources to fund without that increase.

2 ASSEMBLYMAN CUSICK: I see I have a
3 couple of minutes here. I just want to move
4 to -- I think you had answered to one of my
5 colleagues about new people being hired for
6 enforcement. Are there new people being
7 hired for enforcement throughout the state?

8 COMMISSIONER MARTENS: I mentioned
9 that we are going to hold another academy in
10 the fall, and that's my -- the academy is
11 where we train new environmental conservation
12 officers and forest rangers. So we will be
13 having an academy. The size of the academy
14 hasn't been determined yet, it depends on how
15 many people leave.

16 But the enforcement, you know, takes
17 place in a lot of places within DEC. We have
18 engineers, lawyers and so forth that work on
19 enforcement cases. The rank and file -- the
20 basic staff size of DEC is not changing, but
21 we will have, again -- we will supplement our
22 environmental conservation officers with the
23 academy in the fall.

24 But overall enforcement effort is

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1 status quo.

2 ASSEMBLYMAN CUSICK: Okay. Thank you,
3 Mr. Chairman.

4 CHAIRMAN FARRELL: Mr. Aubry.

5 ASSEMBLYMAN AUBRY: Thank you,
6 Mr. Chairman. And Commissioner, thank you.

7 I represent the community around
8 LaGuardia Airport -- Flushing Bay, Flushing
9 Creek, Willets Point -- and am particularly
10 concerned about your involvement as an agency
11 in monitoring the environmental challenges
12 that exist in that area, particularly because
13 of the airport, the water pollution in
14 Flushing Bay and Flushing Creek, and its
15 impact on our community.

16 We have asked for -- in many years to
17 have an increased monitoring of air pollution
18 particularly, and that request has not been
19 met.

20 My community is even more challenged
21 now, because as there is a redevelopment of
22 LaGuardia Airport anticipating more flights,
23 larger airplanes, and a five-to-ten-year
24 construction process, of which all of the

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1 materials, many of them asbestos-laden, will
2 be taken out of that airport through the
3 roads -- there's only one way in and one way
4 out, and that's through my neighborhood and

5 my community, which is of course a minority
6 community. And just to mention on the other
7 side of this is Flushing, Queens, also a
8 minority community.

9 So my question is what attention is
10 your agency giving to this, what I consider
11 to be economically viable areas but
12 environmentally challenged?

13 COMMISSIONER MARTENS: I'd like to
14 think, Assemblyman, that we're going to
15 ensure that any appropriate standards and
16 applicable environmental protections are in
17 place. Things like, you know, expansion of
18 the airport, where if there are air impacts
19 where we're going to be involved, we're going
20 to do whatever we need to do to make sure
21 that the air quality continues to meet
22 air-quality standards.

23 Monitoring is always a challenge for
24 us. We have a monitoring system, a statewide

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1 monitoring system. We get a lot of requests
2 for -- to monitor individual sites. And our
3 system is set up to monitor the ambient air
4 quality across the state, and we've set it up
5 in places, again, where the engineers tell me
6 it's the best way to assess overall air
7 quality.

8 We don't have the capacity to do many
9 individual sites, but I'm happy to talk to
10 you about the concerns in the community and

11 see if there something, a specific concern
12 that, you know, we haven't addressed
13 adequately. I'm delighted to talk to you
14 about it.

15 ASSEMBLYMAN AUBRY: Right. And I
16 appreciate that, Commissioner. But the
17 reason I laid out all of these things is to
18 identify the fact that this may be a unique
19 area because of all of those challenges.
20 Everything in one place -- airport, flights,
21 sound, water, all of the things that would
22 appear to be in a place to create a
23 particularly challenged area.

24 And so while I understand this broader

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1 issue, it would seem to me that an agency
2 such as yours would be able to adjust to such
3 a particularly challenged area that has been
4 challenged for years. And there has been
5 this, you know, where we do it wide and
6 broad, and we look over here and we look over
7 there. But the asthma issues in the
8 community, the low-birth-weight babies in the
9 community, the sound problems -- because I
10 grew up in this neighborhood, and so I
11 learned to talk with pauses. Airplane just
12 went over. In school. The question is --
13 airplane just went over in school. So that's
14 what we have lived with.

15 Now, for me, over 60 years, because of
16 the placement of the airport -- and we choose

17 to live there, that's right, but these things
18 now create more desperate impact because the
19 neighborhood has changed, it's more
20 overcrowded, we have the most overcrowded
21 schools in the City of New York. So this has
22 great impact on how those children grow up,
23 how those families live. And so there has to
24 be some place in our state process where

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1 emergency issues are recognized and special
2 measures and protections are put in place.

3 What else could I expect?

4 COMMISSIONER MARTENS: Well, wherever
5 we have jurisdiction -- and our jurisdiction
6 is triggered when someone has a discharge to
7 Flushing Bay where there's emission points.
8 Particularly in an environmental justice
9 community, we do have a commissioner's policy
10 that requires us to expand the public
11 participation process and make sure that all
12 of the issues are aired.

13 Wherever we have -- wherever our
14 jurisdiction is triggered, we are going to
15 engage with the community. It's not -- you
16 know, our jurisdiction is limited to certain
17 specific things. When someone needs a permit
18 to discharge, if they're going to increase
19 emissions, they need our permission to do so.
20 And we can in that process engage the
21 community and try to address issues more
22 broadly, as you suggest.

23 ASSEMBLYMAN AUBRY: Well, certainly
24 the smell of Flushing Bay should be enough to

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1 cause you to come down there often. I may be
2 the last living person that actually swam in
3 Flushing Bay -- some claim that's why I'm as
4 tall as I am, because of nuclear reaction.
5 But I'm only being humorous.

6 But I really -- over the years, this
7 call has always been met with, Well, the
8 Port Authority has it, and this has it, and
9 that has it, and the city has it. But
10 nothing has happened on a coordinated basis
11 to respond to these challenges.

12 COMMISSIONER MARTENS: One thing that
13 we have done as a department is we have,
14 what's the term, "ECO-Quality" operations
15 where we have identified environmental
16 justice communities around the state and we
17 send in our environmental conservation
18 officers, and we announce that we're doing
19 so, and we come into the community. Because
20 a lot of times in environmental justice
21 communities there's -- as you know, there are
22 lots of industries, businesses that aren't
23 the cleanest in the world, and there's a high
24 concentration of them.

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1 So we have these kind of sweep
2 operations where we'll go in, we look at
3 all the individual -- as many individual

4 businesses as we can, and we try to get them
5 to -- we want to make sure that they're
6 actually complying with all of the various
7 requirements we have for solid waste disposal
8 for, again, SPDES permits or whatever the
9 issue is. We look across all of the media,
10 and we're basically trying to tell them we're
11 here and we want the community to be
12 operating as cleanly as possible. Because
13 there is higher concentrations of these types
14 of activities in areas like that.

15 ASSEMBLYMAN AUBRY: So can I expect
16 that we will get that treatment?

17 COMMISSIONER MARTENS: I'd be happy to
18 look into doing it this year, because we
19 designate so many places around the state,
20 and this sounds like it might be a perfect
21 area to do that this year.

22 ASSEMBLYMAN AUBRY: Just an add-on,
23 because I missed it and I'm almost out. The
24 Grand Central Parkway also runs through the

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1 middle of this, which adds to our congestion
2 and our air quality.

3 Thank you.

4 CHAIRMAN FARRELL: Thank you,
5 Assemblyman.

6 Assemblywoman Lifton.

7 ASSEMBLYWOMAN LIFTON: Good morning,
8 Commissioner.

9 COMMISSIONER MARTENS: Good morning.

10 ASSEMBLYWOMAN LIFTON: First, I do
11 want to just briefly stop and thank you for
12 working so cooperatively, having DOH work --
13 for working so closely with the Department of
14 Health, not as a -- as a de facto co-lead
15 agency, almost, on the SGEIS on fracking, and
16 for coming to what I believe is the correct
17 result on the de facto ban on fracking in
18 New York State. So thank you, Commissioner,
19 to you and all your staff for all the long
20 years of work you did on that project.

21 That project, for me -- that issue,
22 for me, led into the issue of methane and
23 climate change. And I -- maybe you agree
24 that climate change is certainly one of the

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1 most important issues we're facing --

2 COMMISSIONER MARTENS: I agree.

3 ASSEMBLYWOMAN LIFTON: -- as a state,
4 as a country and as a world.

5 You didn't mention it in your
6 comments. I'm wondering, we had a draft
7 climate action plan, it went out in 2011,
8 lots of comments on that. When are we going
9 to see a final climate action plan put out by
10 the DEC?

11 Looking at comments, I've forgotten
12 how many comments were on it -- are we going
13 to see a final plan for New York State?

14 COMMISSIONER MARTENS: I don't know
15 when you'll see a final plan. We've been a

16 bit distracted.

17 We've got the CRRRA, Community Risk and
18 Resilience Act, which you passed last year,
19 which has us establishing sea-level rise and
20 requires agencies to include in their
21 decision-making process many factors that are
22 influenced by climate change.

23 So we're focused on that. We've
24 actually started the process of talking to

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1 other agencies to do that and that was a
2 very, I think, a very significant law that
3 you passed last year. So I thank you and
4 congratulate you.

5 ASSEMBLYWOMAN LIFTON: And it is.

6 COMMISSIONER MARTENS: And DEC is
7 right in the center of that, along with the
8 Department of State, which is required to
9 draft the model ordinances to again deal with
10 and anticipate the impacts of climate change.

11 So I have not focused on finalizing
12 the climate action plan, but we obviously are
13 working, you know, very extensively on
14 climate issues across the board. RGGI
15 obviously is -- by lowering the cap a year
16 ago to 91 million tons a year, we took a
17 giant leap forward as a state in setting a
18 national marker, if you will, for actions to
19 reduce greenhouse gases.

20 Much of the work in the climate action
21 report has been incorporated into the State

22 Energy Plan, which is -- the latest version
23 is soon to be finalized. So you might want
24 to take a look at the State Energy Plan,

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1 because I think most -- a lot of the elements
2 of the climate action plan have been
3 incorporated into that.

4 ASSEMBLYWOMAN LIFTON: I did look at
5 the State Energy Plan, I did comment on the
6 State Energy Plan, so we haven't seen that
7 yet either.

8 The adaptation stuff is obviously really
9 important, with climate change running apace.
10 We have to do those adaptations, it's critical,
11 but we also, as you know, have to -- if we're
12 ever going to stop adapting to the problem,
13 we're going to have to stop the problem at
14 its root cause.

15 COMMISSIONER MARTENS: Right. And
16 you're aware that the Governor, in his State
17 of the State, singled out in the written
18 version a climate agenda, if you will, and
19 articulated and directed agencies to take a
20 number of steps to make sure that all the
21 state agencies and entities are preparing for
22 climate impacts.

23 ASSEMBLYWOMAN LIFTON: So the cap you
24 spoke about, does that meet the state's goal

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1 of 80 percent reduction by 2050, 80 by 50, as

2 New York City has instituted?

3 COMMISSIONER MARTENS: Well, it brings
4 us well along the way. I think we're going
5 to have to take additional steps. I think
6 when you see the final clean power plant
7 regulations come out of EPA, RGGI will get us
8 most of the way there. But until we see the
9 final rules, we won't know what additional
10 steps we need to take. But it moves us well
11 along that path.

12 It doesn't quite get us there, but we
13 anticipate having to do more when we see the
14 final federal regulations for the existing
15 power plants.

16 ASSEMBLYWOMAN LIFTON: Thank you,
17 Commissioner.

18 Clean Energy Fund, the Renewable
19 Portfolio and so on. The RPS, there's a
20 proposal to change the old programs into a
21 new program, the Clean Energy Fund that will
22 also presumably raise more money for those
23 efforts.

24 The old RPS, the Renewable Portfolio

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1 Standard, funded main-tier programs.
2 Large-scale wind -- renewable projects, wind,
3 solar and so on. Are we going to see
4 proposals in that Clean Energy Fund for
5 main-tier projects where -- are there any
6 initiatives coming down the pike? There's
7 not much talk about that, not much

8 information about main-tier big renewable
9 energy projects being initiated.

10 COMMISSIONER MARTENS: I'd rather
11 defer to John Rhodes, who's up in a little
12 while, I think, from NYSERDA.

13 ASSEMBLYWOMAN LIFTON: Oh, okay.
14 Thank you.

15 Is that true of Green Bank also? Are
16 you familiar with Green Bank?

17 COMMISSIONER MARTENS: Yes. Yeah,
18 that's all NYSERDA. John I'm sure will be
19 happy to talk to you about that.

20 ASSEMBLYWOMAN LIFTON: Thank you,
21 Commissioner.

22 Back to my point about DOH and co-lead
23 agency, if I could. The experience we ended
24 up having was that it was very important to

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1 have the Department of Health involved in
2 that major environmental issue.

3 COMMISSIONER MARTENS: Yup.

4 ASSEMBLYWOMAN LIFTON: Do you think,
5 going forward, that it might be useful to
6 have DOH designated at the beginning as a
7 co-lead agency on these kind of really
8 important issues so that the first scoping
9 document that goes out, rather than ending up
10 having so many comments over so many
11 iterations, might go out with a stronger
12 scoping document to begin with, to look at
13 the health impacts on something like that?

14 COMMI SSIONER MARTENS: The Department
15 of Heal th was extensi vely i nvolved from
16 Day 1. I thi nk the hei ghtened review was
17 primari ly as a resul t of the i ntense i nterest
18 and concerns from the medi cal communi ty. I
19 thi nk thi s one -- thi s i ssue stood out as one
20 that requi red, you know, addi ti onal and ki nd
21 of speci fi c scruti ny from the Department of
22 Heal th.

23 But we work very closely wi th the
24 Department of Heal th on vi rtually any i ssue,

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1 whether i t's hazardous waste cleanup -- the
2 Grumman plume, for exampl e. We work wi th the
3 Department of Heal th al l the time. They are
4 our si ster agency and, you know, the
5 standards that we set for the soi l standards,
6 for exampl e, are al l done i n cooperati on wi th
7 the Department of Heal th.

8 In the end, we need to ensure that
9 everythi ng we do i s protecti ve of publ ic
10 heal th, and they are the publ ic heal th
11 experts. So I' m not sure, you know,
12 speci fi cally requi ring them as a co-lead i s
13 necessary. We work wi th them i n tandem
14 whenever and wherever we need to.

15 ASSEMBLYWOMAN LI FTON: Thank you,
16 Commi ssi oner.

17 COMMI SSIONER MARTENS: You' re wel come.

18 CHAIRMAN FARRELL: Thank you.

19 Assembl yman Kami nsky.

20 ASSEMBLYMAN KAMINSKY: Thank you very
21 much.

22 Commissioner, I just want a point of
23 clarification with the question about the Bay
24 Park outfall pipe.

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1 COMMISSIONER MARTENS: Yes.

2 ASSEMBLYMAN KAMINSKY: As I read this,
3 funding for it is not in the budget; correct?

4 COMMISSIONER MARTENS: Correct. We
5 are seeking federal funds for that outfall
6 pipe. I have written to FEMA about securing
7 additional funds. So far we have not been
8 successful, but we're going to continue to
9 pursue it. We think we can make an excellent
10 case for additional federal funds and feel
11 that we're actually entitled to additional
12 federal funds for this project.

13 ASSEMBLYMAN KAMINSKY: Why was it not
14 included in the budget?

15 COMMISSIONER MARTENS: All of these --
16 the funds for the Bay Park plant have all
17 been federal funds and have come out of
18 the -- basically the appropriations that the
19 federal government made for Sandy. And the
20 scale of the damage at the Bay Park plant was
21 so extensive that there's no way the state
22 could address this individually. So we're
23 going to continue to very aggressively pursue
24 federal funds for the outfall.

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1 And as you know, \$810 million has
2 already been committed in federal Sandy funds
3 for repairs at the plant.

4 ASSEMBLYMAN KAMINSKY: Was there any
5 discussion about whether the infrastructure
6 money that was set aside from the settlements
7 could or should be used for the outfall pipe?

8 COMMISSIONER MARTENS: I did not
9 discuss the use of those funds for the
10 outfall pipe. It may have been considered,
11 but I honestly don't know.

12 ASSEMBLYMAN KAMINSKY: And are you --
13 I understand that you think it's a good --
14 that the state has a good case to lobby the
15 federal government for the money. Is there
16 anything coming back the other way telling
17 you that it might be successful?

18 COMMISSIONER MARTENS: I don't know
19 whether we'll be successful or not. I can
20 tell you we're going to pursue it and we have
21 been pursuing it. We have made, again, I
22 think an excellent case that under various
23 federal requirements that this was -- that
24 the treatment system was damaged as part of

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1 this -- a part of Sandy, as a result of
2 Sandy, and that the federal funds should be
3 used to replace the treatment system, and an
4 outfall is a superior way to treat effluent
5 from that plant.

6 So we think, again, we can make an

7 excellent case that the federal funds should
8 be used for this project.

9 ASSEMBLYMAN KAMINSKY: Okay. Within
10 that process, what happens next? Are you
11 waiting to hear from them? Do you do a
12 presentation? I just want to know what's the
13 next step.

14 COMMISSIONER MARTENS: I think the
15 next step is we're working on a meeting in
16 Washington with federal officials.

17 ASSEMBLYMAN KAMINSKY: Okay. I just
18 want to make a statement, and I guess you'll
19 tell me whether you agree. I suspect you do.
20 But in the 20th Assembly District that I
21 represent, the Western Bays are in extremely
22 poor shape because of the discharge of
23 effluent, whether that's marine life or the
24 water itself. And of course the project

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1 excites me not only because it's better for
2 the environment, but because the
3 municipalities that could hook up their
4 sewage treatment into it do not have to use
5 the land that they've currently devoted for
6 sewage treatment.

7 So at Long Beach, for example, there's
8 a great possibility that its own sewage
9 treatment plant won't have to be there
10 anymore, which opens up lots of development.
11 And that's true with other places as well.

12 So my constituents that I've talked to

13 overwhelmingly favor it, as do a number of
14 the different municipal governments. I think
15 it's a tremendously important idea. It's a
16 once-in-a-generation opportunity to really
17 develop in a smart, green, and economically
18 beneficial way.

19 So I think it's a tremendously
20 important project. Anything I could help do,
21 please let me know. And I just want to ask
22 if you feel the same way about the importance
23 of the project.

24 COMMISSIONER MARTENS: I think it's a

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1 critical project. The Western Bays are in
2 terrible shape, as you say. DEC actually
3 published a white paper that documented that
4 the damage to the marshes in the Western Bays
5 has a direct impact, an adverse impact on the
6 resiliency of that area.

7 The coastal marshes attenuate storm
8 surges, they show down wave action, they --
9 you know, they are the protective feature
10 along the coastline. And the introduction of
11 all that nitrogen into those bays accelerates
12 the damage and the deterioration of those
13 marshes. We think there is a direct and
14 obvious connection between the two.

15 So getting that nitrogen out of the
16 bays is critical. And the outfall pipe,
17 again, we think, is the most cost-effective
18 way to do that.

19 ASSEMBLYMAN KAMINSKY: Okay, I really
20 appreciate that.

21 The next quick point is about the Army
22 Corps of Engineers' plan for the Long Beach
23 Barrier Island to build up a beach dune.
24 Obviously you're very familiar with the

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1 project. Can you tell me where they are with
2 that and what DEC's role is, going forward,
3 to make sure that happens expeditiously?

4 COMMISSIONER MARTENS: We've been
5 working very, very closely with the Army
6 Corps. I think we've established a great
7 working relationship on the FIMI project,
8 which is the abbreviated version of FIMP.
9 That project, they have all the approvals
10 necessary and have been moving forward with
11 elements of it. We

12 Still have a lot -- DEC's role is that
13 we are the local -- the state sponsor, and
14 we're a cooperating agency. We have to
15 ensure that the real estate that's necessary
16 to do that project is secured in advance, and
17 we're actively working on that. We started
18 the parts of the project where either the
19 state or county owned the real estate so we
20 can move those sections ahead more quickly.

21 But we're doing everything we possibly
22 can to keep that project on track.

23 ASSEMBLYMAN KAMINSKY: Okay. I think
24 that's great.

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1 And, you know, every hurricane season
2 we move into where the beach looks just like
3 it did the day before Sandy is an unfortunate
4 day and we remain vulnerable, so I appreciate
5 your commitment to that project. And thanks
6 for -- thanks for answering those questions.

7 COMMISSIONER MARTENS: Thank you.

8 CHAIRMAN FARRELL: Thank you.

9 Assemblyman Crouch.

10 ASSEMBLYMAN CROUCH: Thank you. Good
11 morn ing, Commi ssi oner.

12 COMMISSIONER MARTENS: Good morn ing.

13 ASSEMBLYMAN CROUCH: You mentioned
14 earlier and answered one of the questions
15 about the training academy to maintain the
16 ranks of your public protection program.
17 These are the environmental police that are
18 going out -- are they also classified, some
19 of them, as foresters?

20 COMMISSIONER MARTENS: Forest rangers,
21 yes.

22 ASSEMBLYMAN CROUCH: Forest rangers,
23 okay.

24 Speaking of our state forests, I ask

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1 this every year: As far as the people from
2 your department that go out and mark trees so
3 that you can market those trees on state
4 land, I'm still getting complaints from

5 loggers that the state's not managing their
6 forest lands well, marking the trees that are
7 dying on the stump, and obviously being
8 subjected to some of the invasive species
9 that we're seeing more and more of. Any plan
10 for increasing your marketing of the forest
11 lands?

12 COMMISSIONER MARTENS: Yes, I think we
13 have made some significant progress in that
14 regard. It's slow and incremental progress,
15 but it's -- we've made progress.

16 The last two years in a row we've
17 actually generated about \$5.5 million from
18 timber sales on state land, and that was all
19 supervised by DEC staff. And it's the
20 first -- I think this year and last was the
21 first time that we actually generated more
22 income than expenses, which is a good thing.

23 And the incremental revenue that we
24 are getting from this sale of timber, we

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1 think we ought to be able to fund temporary
2 positions so that we can actually cut
3 additional timber on state lands. So we plan
4 to do that this year. We plan to add to the
5 ranks, there will be temporary staff and
6 seasonal staff.

7 ASSEMBLYMAN CROUCH: Okay.

8 COMMISSIONER MARTENS: And then the
9 other point I would make is that the Habitat
10 Conservation Account that I mentioned in my

11 testimony, those funds and the 18 staff
12 people that we will get for those funds will
13 be used in our wildlife management areas to
14 cut timber, to create early successional
15 habitat, which is good for bird watchers,
16 hunters, you name it -- outdoors folks
17 generally.

18 So those funds actually flow back into
19 the Conservation Fund. But that will also
20 help us more intensively manage state lands
21 because we have the ability to sustainably
22 harvest considerably more wood on state lands
23 than we have in the past. And it's been
24 mostly due to staff shortages, historically,

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1 that haven't allowed us to cut what we think
2 is perfectly sustainable and reasonable and
3 will actually improve habitat on those lands.

4 ASSEMBLYMAN CROUCH: As you know, a
5 well-managed forestland really helps our
6 wildlife management because -- and even in
7 some cases it may have some areas that need
8 to be clear-cut so that it really has a full
9 rejuvenation, and that's very beneficial to
10 wildlife.

11 Speaking of invasive species, there is
12 about 50 or so that are in the state that we
13 recognize. There's some 18, I think, in the
14 Adirondack Park. What's your current plan
15 for handling some of the invasive species
16 that we seem to be seeing an increasing

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amount of all the time?
COMMISSIONER MARTENS: Well, thanks to both legislative actions and regulations, we've had a lot of activity. We put out an invasive species, aquatic and invasive species plan. We've put out the regulations that were required from the bill that you passed into law that specifies both

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prohibited and regulated species, invasive species.

So we put out that list, and it is extensive. We and State Parks have both issued regulations requiring any visible aquatic -- any vegetation, period, that is attached to boats to be removed before it's put in the water. We've had a very successful program on Lake George with the boat-washing program there.

So we've been extremely active. I think in the EPF and the aquatic invasive species -- or in the invasive species line, rather, there's a million-dollar enhancement that we hope to target the Adirondacks as kind of a pilot program for addressing aquatic invasive species elsewhere other than Lake George. So we've been very active, and again I think largely in cooperation with you.

ASSEMBLYMAN CROUCH: Is there an increase in your budget to handle some of

23 this? Or is it static at this point?

24 COMMISSIONER MARTENS: The increase is

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1 in the Environmental Protection Fund.

2 ASSEMBLYMAN CROUCH: In the
3 Adirondacks, if you have invasive species
4 that attacks -- well, like the Asian longhorn
5 beetle -- your typical program has been to
6 cut those trees. I know that there's a lot
7 of restrictions in the Adirondack Park about
8 cutting trees. Does DEC have the authority
9 at this time, if you see a pocket that's
10 being invaded by the longhorn beetle or the
11 ash borer, that you have the authority to go
12 in and cut those trees before it gets into a
13 real explosive situation?

14 COMMISSIONER MARTENS: Tricky and
15 delicate topic, obviously, because the State
16 Constitution prohibits or extremely restricts
17 our ability to cut trees in the park. So
18 that's a topic that we are talking about
19 internally to figure out what and how we
20 would respond to an outbreak in the park.

21 I do think we have the authority in
22 limited cases to undertake cutting when it's
23 necessary -- again, to prevent extensive
24 damage and minimize the damage -- but that's

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1 something that we're obviously looking at
2 very carefully, because invasive species are
3 a huge issue and the park presents very

4 special challenges.

5 ASSEMBLYMAN CROUCH: Where are we on
6 the final approval of the Belleayre Resort
7 project? That's been going on for well over
8 10 years.

9 COMMISSIONER MARTENS: It's been a
10 long process.

11 ASSEMBLYMAN CROUCH: Governor Spitzer
12 moved it along considerably at one time, but
13 it's still languishing out there somewhere.

14 COMMISSIONER MARTENS: Well, it's
15 not -- it hasn't been languishing. It's been
16 a very active administrative process. We
17 have several parties that are involved. We
18 have to actually close the record from a
19 previous administrative proceeding, which my
20 staff has recommended doing.

21 When we propose something, all the
22 parties have a chance to comment. And the
23 parties have asked for additional time. In
24 this case I believe the applicant has asked

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1 for additional time to submit additional
2 documentation. So when that is complete --
3 and I think we gave a very limited amount of
4 time -- I expect a decision on that, again
5 very shortly.

6 ASSEMBLYMAN CROUCH: This year,
7 possibly?

8 COMMISSIONER MARTENS: Oh, yes,
9 absolutely.

10 ASSEMBLYMAN CROUCH: Thank you. My
11 time's up.

12 CHAIRMAN FARRELL: Thank you.

13 COMMISSIONER MARTENS: Thank you.

14 CHAIRMAN DeFRANCISCO: We're joined by
15 Senator Hoylman, who has some questions.

16 SENATOR HOYLMAN: Thank you. Nice to
17 see you. Thank you for the call yesterday
18 from your team.

19 As you know -- first I wanted to say
20 that I'm very pleased to see a much-needed
21 increase in the Environmental Protection
22 Fund. So thank you for that.

23 But as you know, the EPF's primary
24 historic funding source has been the real

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1 estate transfer tax. And when the RETT
2 revenues decreased with the real estate
3 market collapse a few years ago, we saw the
4 drastic cutbacks in the EPF as a result. Now
5 that RETT has rebounded significantly and may
6 hit all-time highs, why aren't we using a
7 small piece of that increased RETT to boost
8 EPF funding?

9 COMMISSIONER MARTENS: The RETT, as
10 you know, is a general revenue that comes
11 into the state, and the lion's share of it
12 goes directly to the General Fund. So if we
13 take an additional amount out of the RETT,
14 that means there's less going into the
15 General Fund to fund all of the other things

16 that are funded in the state budget.
17 So it's always been a specified amount
18 in the law that was taken out of the RETT.
19 It wasn't a percentage of the RETT so that
20 when the RETT increased, the EPF increased.
21 It just hasn't worked that way historically.
22 And again, anything we take out of the RETT
23 in addition just comes out of the General
24 Fund, so it's just shifting from one pot to

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1 the other.

2 So this year the Governor did propose
3 that we use \$13 million out of funds
4 generated by RGGI for activities in the EPF
5 that are associated with greenhouse gas
6 reduction. And there's many categories in
7 the EPF that fall into that category. The
8 Smart Growth Program, the Water Quality
9 Improvement Program, much of those funds are
10 directed at greenhouse-gas-reducing
11 activities.

12 So we think there is a direct nexus
13 between the use of RGGI funds for limited
14 purposes within the EPF, and that's why that
15 decision was made.

16 SENATOR HOYLMAN: Well, I have to say
17 I am concerned that we are sweeping funds out
18 of RGGI. I don't think it sets a good
19 precedent. We saw that happen a few years
20 ago.

21 That, I think, when Governor Paterson

22 used RGGI funds for the General Fund, was
23 classified as a loan. Will this be
24 classified as a loan?

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1 COMMISSIONER MARTENS: There is no
2 loan language included in the budget, so it
3 would not be a loan.

4 And I think the difference here is
5 that the activities we've identified in the
6 EPF have a nexus to the RGGI funds. There is
7 a purpose related to greenhouse gas
8 reduction.

9 SENATOR HOYLMAN: And is there -- do
10 you have an understanding why NYSERDA isn't
11 using the funds from RGGI at a fast enough
12 pace? I mean, it would seem to me that clean
13 energy, clean tech, potentially the future of
14 our state's economy, there might be more
15 emphasis and more utilization of the RGGI
16 funds for those purposes.

17 COMMISSIONER MARTENS: Well, I mean
18 they are used extensively for a variety of
19 programs that are directly related to
20 greenhouse gas reduction. I mean, virtually
21 all of the RGGI funds are dedicated to energy
22 conservation. Energy conservation is
23 probably the single biggest use of RGGI funds
24 historically, and will continue to be.

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1 SENATOR HOYLMAN: Any concern that

2 sweeping these funds out of RGGI will violate
3 the agreements that New York has with its
4 sister states who are members of RGGI? I
5 know there's a memorandum of understanding
6 that stipulates how RGGI funds are to be
7 used. Have you pre-cleared these?

8 COMMISSIONER MARTENS: No. Again,
9 because of the nexus between the activities
10 and the EPF and RGGI, I don't see any problem
11 there.

12 SENATOR HOYLMAN: That's been reviewed
13 and --

14 COMMISSIONER MARTENS: We certainly
15 looked at it.

16 SENATOR HOYLMAN: Well, thank you very
17 much.

18 Again, I certainly support the
19 increase in the EPF. I am a little
20 disappointed that we are basically
21 transferring funds from one environmental
22 initiative to another, rather than using
23 funds from RETT and from our tax base to
24 support clean energy initiatives. But I

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1 wanted to thank you for your leadership and
2 for the mostly good news that we see in the
3 budget.

4 COMMISSIONER MARTENS: Right. Thank
5 you.

6 CHAIRMAN FARRELL: Thank you, Senator.
7 Assemblywoman Schimmel.

8 ASSEMBLYWOMAN SCHIMMEL: Thank you so
9 much, Mr. Chair.

10 And thank you, Commissioner, and your
11 staff, and Julie, who takes my calls
12 frequently. Thank you so much.

13 First, I just want to give a thank you
14 for your testimony but also thank you for the
15 ROD. And you know what I'm talking about,
16 the Record of Decision that pertains to my
17 district.

18 Really it's a, if you will, a seminal
19 event for Long Island, and I'm talking also
20 for Joe Saladino. I'm in a similar case with
21 him. We've had a property, Lockheed Martin,
22 that has been impacted for well over
23 60 years, but for 17 years we've been waiting
24 for a remediation plan. And I'm going to

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1 tell you, it's under your stewardship that
2 we've actually come up with a plan, and it's
3 a very positive plan, and thank you for that.
4 So that's a thank you.

5 And I also want to give a shout out to
6 my Senator, Jack Martins, who's worked very
7 closely with me on achieving that plan.

8 Ironically, that plan is dealing with
9 impacts of industrial processes that are well
10 over 60 years old, when we didn't know
11 better. So we're actually taking over trying
12 to remediate things that, through no fault of
13 our own, these are impacts on our water

14 system. And as you know, on Long Island we
15 live and work on our water system.

16 So this leads to the next concern,
17 because my life, and your life probably too,
18 is a "hit the mole:" You fix one problem,
19 there's another one. As we were waiting for
20 the ROD, which we achieved, concurrently we
21 were concerned about the crosscurrents, and
22 I'm going to bring it up now, about Jamaica
23 wells that are coming into play and its
24 impact, number one, on the plan. Because we

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1 have a plan in place -- again, a snapshot in
2 time on that 30-year plan that we will be
3 able to remediate that plume.

4 But as we speak, if in fact we open up
5 the Jamaica wells in Queens that have been
6 decommissioned, how will that, number one,
7 impact the plan? And number two, how will
8 that impact the water quality and the other
9 wells in my area and I daresay all along the
10 north and west of Nassau County?

11 And one of the big concerns, again --
12 and maybe you can help us with the spin -- is
13 that the New York City DEP, that they are
14 required to do a study, but the study falls
15 along more political boundaries rather than
16 geological boundaries. And that the system
17 that they're using, because there is no study
18 that's been done of the Lloyd and the
19 Magothy -- and this was required in 1986. A

20 study of the Lloyd aquifer system, which
21 predates all of us, was not done. How do we
22 judge maximum pumping rates, allowances when
23 there is no baseline study? And what would
24 you need from us, us and even my district,

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1 anyone, to allow you or USGS to get a real
2 study?

3 Because this is a huge impact, despite
4 what everyone thinks, in my district and all
5 along Nassau County, because we've had
6 numerous meetings, when in fact we open up
7 the Jamaica wells. And just to tell you, the
8 Jamaica wells -- and I believe it's 33 wells
9 that possibly could be impacted by this,
10 these have been decommissioned since, I
11 believe, the late '90s -- if they start
12 pumping, and I don't even know the millions
13 of gallons, how will that impact salt water
14 intrusion, the plume movements in my area,
15 climate change, all these things? What can
16 we do?

17 And the reason I'm bringing it up
18 now -- I don't expect an immediate answer for
19 this budget, but going forward, this is
20 something we've been asking for -- and I'm
21 sorry you're sitting in that chair, this is
22 something we've been asking for year after
23 year after year, but now the rubber is
24 hitting the road with this Jamaica wells.

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1 And I'm hoping that it is a regional approach
2 rather than a New York City approach, a
3 Long Island approach. We need a conclusive
4 approach because, I've got to tell you, the
5 water doesn't care what boundaries you're in;
6 they only flow, you know, accordingly.

7 So if you can just speak to that in
8 some form. Thank you.

9 COMMISSIONER MARTENS: Thanks,
10 Assemblywoman.

11 I will just confirm that all of your
12 concerns are legitimate. It's a big project.
13 DEP is in the lead on the project, they have
14 committed to an environmental impact
15 statement and an EIS process, which is good.
16 That means that they are going to be looking
17 at every aspect and hopefully the regional
18 aspects. DEC is going to participate in that
19 process, at least as an interested and
20 involved agency. And that -- you know, I
21 think the mayor has even stated recently that
22 he is going to reach out to the stakeholders
23 for a meeting to kick off the process in the
24 near future.

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1 But we're very engaged in it. My
2 water staff is very engaged in it. I think
3 many of the concerns you raised are ones that
4 we're going to be, one, urging DEP to find
5 answers and we're going to be right there in
6 the process to evaluate what they've come up

7 with.

8 ASSEMBLYWOMAN SCHIMMEL: That is -- and
9 I appreciate that and everything you've said
10 I've heard on -- in terms of the DEC.

11 What I'm concerned about, again, is to
12 have an open eye about the baseline, the
13 studies that they're using, because there is
14 no grand study that was done of what the
15 hydrologic system really is, it's going to be
16 based on past studies. And again, we have to
17 make sure the platform, much like in IT,
18 everyone is using the same platform and it's
19 not proprietary in nature, the study that
20 they're using, that everyone is sharing it so
21 we can come up with the scenarios that they
22 come up with, match the scenarios in my neck
23 of the woods, because we're going to be
24 looking at that as well.

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1 Again, it will be a financial impact,
2 even in terms of we do counterstudies -- and
3 I'll put it out there, we may be looking to
4 do our own studies just so we can match it
5 with the DEP.

6 So I want you to, as a state
7 stakeholder who has that more broad regional
8 approach, to appreciate that this is
9 something that is very much a concern, not
10 just to the Manhasset Neck Peninsula, but
11 Long Beach. We are very concerned. And you
12 know, you've walked this walk before, the

13 DEC, saltwater intrusion.

14 COMMISSIONER MARTENS: Sure.

15 ASSEMBLYWOMAN SCHIMMEL: We are
16 terrified.

17 And the monies that will impact us in
18 terms of desalin -- I can't even put my --
19 it's too big for today. After this week, I
20 can't even think in those terms. But I'm
21 just -- I couldn't miss this opportunity to
22 say that we are very concerned.

23 And we are friends, we realize what's
24 going on in New York City. They're our

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1 brethren. But to look at concerns with
2 regard to other opportunities as well. I
3 know they need water, and I understand the
4 whole scenario of why they're looking to open
5 up the wells, but to keep in mind
6 alternatives and to, much like we're
7 remediating with our ROD in my neck of the
8 woods, the impacts of things that were done
9 60 years ago. I don't want the next
10 Assemblywoman 20 years from now having to
11 clean up the decisions that are made today.

12 CHAIRMAN FARRELL: Thank you,
13 Assemblywoman.

14 ASSEMBLYWOMAN SCHIMMEL: Thank you.

15 CHAIRMAN FARRELL: Thank you.
16 Assemblyman Oaks.

17 ASSEMBLYMAN OAKS: Good morning,
18 Commissioner.

19 I just wanted to note that Assemblyman
20 Lopez has joined us, Assemblyman McDonough in
21 the crowd as well.

22 Thank you for spending the morning
23 with us. And I just wanted to say obviously
24 we're dealing with a lot of big-picture

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1 issues, a lot of small ones. But I would
2 join, I guess, with some others in saying
3 thank you for, during the year -- I know you
4 have your regional structure -- we contact
5 the agency, and thank you for the responses
6 we get and the actions, both on your central
7 staff, of trying to respond to the needs that
8 our individual constituents have.

9 I'd like to back up to brownfield
10 programs, some comments were made today. I
11 know in the Governor's proposal he's looking
12 at terminating projects that have been in the
13 hopper prior to June of '08. I understand
14 that at the end of this calendar year those
15 projects would no longer be eligible. And
16 then once that --

17 COMMISSIONER MARTENS: Assemblyman,
18 they would have until 2017 to complete
19 projects to still be eligible for the
20 existing tax credits. So there is a grace
21 period.

22 ASSEMBLYMAN OAKS: Okay. I understood
23 that prior to '08, though, we're going to
24 have this calendar year. No?

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1 COMMISSIONER MARTENS: No.

2 ASSEMBLYMAN OAKS: Okay. I hope that
3 is not true.

4 COMMISSIONER MARTENS: No, it isn't.

5 ASSEMBLYMAN OAKS: So the -- well, I
6 guess that my sense would be that I know
7 there's a hundred million that is tagged for
8 that. Do you feel that those dollars will
9 provide -- I know some municipalities, for
10 instance, others have been hesitant to move,
11 for instance, to the next phase, perhaps,
12 because they weren't sure the dollars were
13 behind them, whatever. Do we feel like the
14 resources in this budget put us on the path
15 to some of those that have been in limbo or
16 not followed through, that we can make that
17 target date and that it's there?

18 COMMISSIONER MARTENS: I think you're
19 really referring to the Environmental
20 Restoration Program, which is the funding for
21 municipally owned sites.

22 And as I mentioned before, we've made
23 significant progress. There are plenty of
24 projects out there that we don't have

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1 adequate funding for right now, but the
2 budget does propose \$100 million for
3 Superfund, and we can allocate a portion of
4 that for the ERP program.

5 I also mentioned that \$20 million that
6 is subject to the MOU with the Legislature,
7 that's a particular pot of money that would
8 help address some of those municipally owned
9 sites. So at some point I hope, you know,
10 maybe we can initiate discussions on that
11 memorandum of understanding and come into
12 agreement, because I think that \$20 million
13 would help significantly on the municipal
14 side.

15 ASSEMBLYMAN OAKS: And I know some
16 questions were asked on the permitting fees
17 with Title 5 earlier as well. I also know
18 that there's some other fee increases
19 included in here, including the SPDES ones.

20 Is there, you know, again driving
21 those costs, are we backlogged on people not
22 being or entities not being permitted? Or
23 are we, you know, having a problem with
24 compliance with existing permits that would

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1 be driving these increases?

2 COMMISSIONER MARTENS: No, there isn't
3 a backlog in permitting. I think the
4 philosophy on the fees was simply they were
5 set up and intended to have the applicants
6 pay the agency's costs of administering the
7 programs, whether it's the SPDES program or
8 air permits. And the fees haven't been
9 raised for quite some time, I think 2009 in
10 most cases. Some go back much longer than

11 that.

12 So this was just a recognition that
13 the permittees should help pay for the
14 program. They still won't cover all the
15 state's costs, but we're just trying to bring
16 those -- the fees up so they help offset some
17 of the state's costs of implementing them,
18 the programs.

19 ASSEMBLYMAN OAKS: I did a quick
20 estimate, it's about a 20, 25 percent
21 increase that we'd be looking at.

22 The amount that that will raise on the
23 SPDES side?

24 COMMISSIONER MARTENS: \$2.9 million is

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1 the --

2 ASSEMBLYMAN OAKS: And then we are
3 going to see -- part of the proposal is also
4 to then attach it to the CPI. And so we will
5 see, going forward, that -- would that start
6 next year, then, if this is adopted?

7 COMMISSIONER MARTENS: Yes.

8 ASSEMBLYMAN OAKS: -- we would see
9 that going forward, of increases? Would this
10 and the Title 5, is it all the proposed
11 increases would all be --

12 COMMISSIONER MARTENS: All be subject
13 to the CPI.

14 ASSEMBLYMAN OAKS: Thank you.

15 CHAIRMAN FARRELL: Assemblyman
16 Engl ebri ght.

17 ASSEMBLYMAN ENGLEBRIGHT: Thank you,
18 Mr. Chairman.

19 Good morning, Commissioner.

20 COMMISSIONER MARTENS: Good morning.

21 ASSEMBLYMAN ENGLEBRIGHT: You know,
22 the department has really been cut back in
23 recent years, and this has happened at a time
24 when we've had great need for the services of

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1 this department -- in fact, an expanding
2 need.

3 And so within the larger -- trying to
4 set your comments and the budget presentation
5 into context, I can't help but observe that
6 we're in a rebuilding time now. And as I
7 look at that, I'm reflecting on the reality
8 that two of the most important constituencies
9 that will help drive support for your
10 department are the preservation community and
11 the conservation community, including hunters
12 and fishermen, trappers. And the greatest
13 strength for helping to add to that impetus
14 of rebuilding would be for these communities
15 to see their common purposes and their
16 overlapping interests.

17 And that's why I was very heartened to
18 see your budget proposing to establish a new
19 Habitat Conservation and Access Account. It
20 seems to me that because it would help
21 support management and protection of fish and
22 wildlife habitat, as well as recreation, and

23 build on the federal Pittman-Robertson Act,
24 that this is in fact a way to help expand a

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1 constituency of the department.

2 So first I just want to say that I am
3 heartened to see that. And my question is,
4 am I appropriately heartened? Am I seeing
5 this correctly? Is this an initiative that
6 in fact will help bring these powerful
7 constituencies together such that one plus
8 one will equal four?

9 COMMISSIONER MARTENS: I think you are
10 appropriately heartened. It is a -- I think
11 it's a terrific proposal. We've had a
12 significant increase in Pittman-Robertson
13 funds, which need to be matched by the state.
14 And frankly we would have trouble, you know,
15 matching it if we didn't identify additional
16 resources.

17 And by taking just a relatively small
18 portion of the fees from the lifetime
19 licenses and putting them in this account,
20 plus the habitat stamps, we've identified a
21 pot of money that will leverage lots of
22 federal money. Ten of those positions are
23 coming from federal funds, and it'll allow us
24 to do increased management. It will be good

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1 for wildlife. So it's not just the
2 constituencies who matter in the political
3 process, but it will actually create good

4 habitat for both species that are harvested
5 and for birders like myself.

6 So it's a great idea, and I think it's
7 going to work very well. And I think the
8 proof will be what you hear from the various
9 constituencies, and I'm hoping that they'll
10 both be very positive about it.

11 ASSEMBLYMAN ENGLEBRIGHT: We have 185
12 species that are listed by your department as
13 in peril that have important functions for
14 recreation and conservation, ecological
15 function.

16 I'm greatly heartened by this. It's
17 wonderful to see optimism emerging, and it is
18 consistent with what I see as, overall, just
19 a terrific effort to manage and do more with
20 less. But this should not be a permanent
21 condition. You need to actually be funded
22 adequately, and this is a step in the right
23 direction. I thank you for your leadership
24 in this.

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1 COMMISSIONER MARTENS: Thank you.

2 Thank you very much, Assemblyman.

3 CHAIRMAN FARRELL: Thank you.

4 Assemblyman Wepri n.

5 ASSEMBLYMAN WEPRI N: Thank you,

6 Mr. Chair man.

7 Good mornin g, Commi ssi oner.

8 COMMISSIONER MARTENS: Good mornin g.

9 ASSEMBLYMAN WEPRI N: One of my

10 constituents, who also is a former colleague
11 of mine in the New York City Council, is
12 Jim Gennaro, who I understand has been
13 working with you for the last year. And he's
14 a great acquisition, in my opinion, and I
15 hope you utilize his environmental knowledge
16 that he had when he chaired the environmental
17 conservation committee -- the Environmental
18 Protection Committee in the City Council.

19 COMMISSIONER MARTENS: Thank you. He
20 was a great acquisition.

21 ASSEMBLYMAN WEPRIEN: I agree.

22 I understand that there are a number
23 of site operations that you've used
24 not-for-profits or other volunteers to either

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1 be involved in the process or take over
2 certain operations. How is that working, and
3 can you give us some examples of how that's
4 done and where it's done?

5 COMMISSIONER MARTENS: The thing that
6 comes first to mind -- and maybe there's
7 other examples, and my staff will give me a
8 nudge -- but when it comes to management of
9 state lands, we have partnerships with
10 several conservation organizations -- the
11 New York-New Jersey Trail Conference, the
12 Adirondack Mountain Club -- that actually do
13 a fair amount of maintenance work on state
14 lands, both -- some of it's paid, and others
15 it's through a volunteer program. And I'd

16 say we'd be lost without them. So that's a
17 great example where we've used third parties
18 and not-for-profits to help benefit the State
19 of New York.

20 ASSEMBLYMAN WEPRIN: Has that saved
21 money, that possibly you could use some of
22 the money that might have otherwise been
23 allocated for other functions?

24 COMMISSIONER MARTENS: It certainly

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1 saves us money. I mean, it's not as if we
2 have a lot of excess money to go around.
3 But, you know, we get a lot more done that we
4 wouldn't have been able to get done
5 otherwise. The trails would not be in as
6 good of shape as they are if it weren't for
7 the efforts of these not-for-profits.

8 ASSEMBLYMAN WEPRIN: Okay. And is
9 there any way you've interacted or can
10 interact with some of the not-for-profits
11 that have been very involved in the
12 airport-noise situation that Assemblyman
13 Aubry referred to? Because I also have a
14 situation in my district in eastern Queens
15 where there are a lot of not-for-profit
16 groups very much involved in the effort, you
17 know, and a lot of it is at the federal level
18 and federal aviation. But is there any
19 interaction between you in that area and some
20 of the not-for-profits?

21 COMMISSIONER MARTENS: No, I would

22 say -- not off the top of my head. Although
23 I would say that -- either whether they're
24 individuals or members of organizations, that

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1 certainly participate in processes that help
2 provide information to regulatory agencies
3 like DEC. If there's issues of noise, then
4 people who are out witnessing it, who can
5 either invest in the equipment to measure the
6 noise, to become again involved in whatever
7 regulatory process that might, you know, help
8 attenuate those noises -- I mean, people and
9 organizations are -- you know, they're part
10 of the process that leads to mitigation of
11 noise impacts, visual impacts, lots of
12 things.

13 You know, birds are a big problem
14 around airports, and we get organizations
15 like Audubon that will step up when birds are
16 threatened. And they're very concerned about
17 the way that both the administering agencies
18 and regulatory agencies go about dealing with
19 those, so they help inform us as to different
20 approaches to take other than just lethal
21 methods, for example, with dealing with
22 birds. So that's another example where
23 not-for-profits can be very helpful and
24 useful in the process.

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1 ASSEMBLYMAN WEPRI N: Good. Thank you,

2 Commi ssi oner.

3 COMMI SSI ONER MARTENS: You bet. Thank
4 you.

5 CHAI RMAN FARRELL: Thank you.
6 Assemblyman Stec.

7 ASSEMBLYMAN STEC: Thank you,
8 Chai rman.

9 Good morni ng, Commi ssi oner.

10 COMMI SSI ONER MARTENS: Good morni ng.

11 ASSEMBLYMAN STEC: Nice to see you.

12 Thank you agai n, Commi ssi oner.

13 A couple of my colleagues have already
14 touched on some of the things that I want to
15 revisit and maybe go a little deeper into
16 since they're already touched on.

17 Late last year the State Comptroller
18 released a report expressing concern,
19 essentially that's been I think reverberated
20 by others already this morning, about
21 staffing levels at DEC, the trends over time.
22 And certainly I'm mindful that no one wants
23 to appear in front of a large crowd on public
24 record and criticize the boss's budget

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1 proposal, but with that said --

2 COMMI SSI ONER MARTENS: And I'm not
3 going to do that.

4 (Laughter.)

5 ASSEMBLYMAN STEC: I know. I don't
6 blame you. You're a smart man.

7 Well, certainly my concern is, all

8 right, you're trying to maintain, as is
9 everyone -- I mean. That's a safe direction
10 for us to go in a budget perspective with
11 whoever we deal with. But you're trying to
12 maintain your current level of service
13 activity based on a current level of staffing
14 that isn't likely to increase.

15 My question for you is, do you have
16 any concerns about two things that are
17 changing that ratio, or potentially for you,
18 is goals, aspirations, or activities from the
19 Legislature looking to put an increased
20 workload on DEC for a new enforcement program
21 or a new environmental program that isn't
22 currently on the books, that clearly is going
23 to take staffing and resources. And then
24 hand in hand with that, again, every time we

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1 acquire more property, that increases the
2 workload as well. And the concern I have,
3 the concern I know a lot of local officials
4 in the Adirondacks in particular have, but I
5 imagine statewide, is that we don't want to
6 see a land acquisition management plan being
7 chains and padlocks and that's it.

8 So do you have any concerns in those two
9 areas -- you know, legislative initiatives and
10 land acquisition -- in the guise of how that
11 impacts your budget and your staffing?

12 COMMISSIONER MARTENS: Thank you for
13 the question.

14 You know, whenever there is a new
15 legislative proposal that requires the agency
16 to do something, that is obviously of concern
17 to us about how we're going to implement any
18 new programs. The Sewage Right to Know Act
19 was certainly one of those. There was no
20 additional funds, and I can tell you that it
21 required a significant effort on lots of
22 people in my agency, both in the IT section
23 and in the water section, to implement the
24 law.

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1 Does that mean, you know, it shouldn't
2 be enacted? No, I wouldn't jump to that
3 conclusion. It's an important law. It will
4 help inform the public about when sewage
5 overflows could have an adverse impact on
6 public health. But it's obviously a
7 balancing act. What we have to do when new
8 laws are enacted and new priorities are put
9 in place is we have to prioritize within the
10 agency and shift from one thing we're doing
11 to another. And as you well know, situations
12 change out there in the real world and
13 priorities shift all the time.

14 So that's my job as commissioner, to
15 decide what kind of resources I'm going to
16 put at new problems and new initiatives. But
17 I would always ask that before the -- and you
18 do, when you deliberate. I'm sure you think
19 about the implications on a state agency.

20 But if you decide as a body, and the Governor
21 agrees and approves a bill, then that becomes
22 my priority. And I'm going to do my level
23 best to make sure that we implement whatever
24 new program is imposed legislatively.

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1 ASSEMBLYMAN STEC: But is it fair to
2 say that without a resourcing allocation that
3 if we add workload to you and change your
4 priorities, our expectation ought to be that
5 something else isn't going to get done?

6 COMMISSIONER MARTENS: Yes, something
7 else is not going to get done. And it may be
8 temporary, it may be -- again, we have to
9 do -- Sewage Right to Know, another good
10 example, took an extensive effort over a
11 year. But at the end of the day, that staff
12 is now back to the priorities that they had
13 been working on earlier which got delayed.

14 On the land acquisition front, you
15 know, we're also -- and coming from the land
16 conservation community, I'm very mindful of
17 the responsibilities that you have when you
18 buy land. And, you know, I just talked about
19 the partnerships we have and the help we get
20 from organizations like ADK and New York-
21 New Jersey Trail Conference. We're always
22 looking for partnerships and new arrangements
23 that can assist us in managing land.

24 But it's not -- it is -- I can tell

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1 you it's a responsibility we take really
2 seriously. We've tried very hard to engage
3 communities in the Adirondacks to participate
4 with us and provide us with some help with
5 managing state lands. And that's happened on
6 the local -- several local governments in the
7 park have stepped up, spent their own
8 resources, because I think in the end they
9 concluded it was beneficial to them to
10 improve and enhance a resource and make it
11 more publicly accessible, for example.

12 But I agree with you, it's a big
13 responsibility, and we have to look at every
14 single acquisition with an eye toward how are
15 we going to manage it and how are we going to
16 pay for it.

17 ASSEMBLYMAN STEC: The increase
18 proposed for land acquisitions is
19 \$3.8 million. Can you tell us the highlights
20 for the entire \$25.5 million? Are these all
21 deals that have been decided on already? I
22 mean, is all that identified where it's
23 going? Is all the increase the Finch lands,
24 or -- just give me like a thumbnail sketch.

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1 COMMISSIONER MARTENS: I can't give
2 you a really good sketch off the top of my
3 head. As you know, we don't get all that
4 money. State Parks also has a land
5 acquisition program, so some of those
6 resources will go to State Parks. Some of

7 the money -- we're anxious to complete the
8 Finch acquisition, but we are phasing it out
9 so that it doesn't, you know, consume all of
10 the land acquisition resources, because we
11 always want this to be a statewide program.
12 And there are other places in the state that
13 do have high-priority land acquisition
14 projects that are outlined in the Open Space
15 Plan, like Pouch Camp that we talked about a
16 little earlier.

17 ASSEMBLYMAN STEC: All right. I've
18 got another topic I want to go into, but
19 it'll take more than 30 seconds. So perhaps
20 I'll come back. Thank you.

21 COMMISSIONER MARTENS: You're welcome.

22 CHAIRMAN FARRELL: Next, Assemblyman
23 Crespo.

24 ASSEMBLYMAN CRESPO: Hi, Commissioner,

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1 how are you?

2 COMMISSIONER MARTENS: Good, how are
3 you?

4 ASSEMBLYMAN CRESPO: Let me begin -- I
5 wanted to echo something that Assemblyman
6 Jeff Aubry mentioned, and it relates to
7 something I wanted to ask you about.

8 With regards to the air pollution
9 issues and noise issues as it relates to the
10 airports, while I represent the south section
11 of the Bronx, I will tell you that the issue
12 is very important for us as well. It just so

13 happens that when particularly flights
14 arriving to LaGuardia are asked to circle
15 around as they wait for a runway, their
16 route, their circular route to waste time, is
17 right above my community. And so from my
18 window in my building I can see the runways
19 at LaGuardia, and I can -- those flights
20 circle around our area, and it's an issue
21 that's important to us.

22 You know, for years we've been talking
23 about air quality issues in the South Bronx,
24 the health disparities that are impacted by

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1 it, and we believe this may be something to
2 look at. Maybe not so much on the noise
3 aspect of it, but more so on whether there's
4 a difference in the pollutants that are
5 emitted through jet fuel burning as opposed
6 to something else.

7 So that's an issue that's important to
8 us. And you mentioned Operation ECO-Quality,
9 which is what I want to really thank you and
10 your agency -- that initiative in my
11 community at Hunts Point, working with
12 particularly the auto businesses, had a
13 tremendous impact and was very successful and
14 I think one of the best examples of the
15 proactive government helping small businesses
16 and helping communities without just going in
17 with a violation book in hand, but rather
18 working with them and walking them through

19 the process.

20 Where is the funding for that project?

21 Is that a separate line item, or is that a
22 matter of staffing, so that you can execute
23 that initiative not just in the South Bronx
24 but other parts of the state?

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1 COMMISSIONER MARTENS: Yeah, it's not
2 a separate budget item that I think Operation
3 ECO-Quality is funded -- I'm not sure even
4 which program --

5 EX. DEP. COMMISSIONER GERSTMAN: Law
6 enforcement.

7 COMMISSIONER MARTENS: It's part of
8 the law enforcement program. And it was
9 actually an initiative started by my law
10 enforcement folks, so I give them credit for
11 coming up with the idea, and it's one that
12 they and I are both very proud of.

13 ASSEMBLYMAN CRESPO: Okay. I just
14 want your guidance so that we can fight for
15 that in this process and make sure that we
16 fund that part of your budget adequately,
17 because I think it's a successful program, we
18 need more of it.

19 COMMISSIONER MARTENS: Thank you.
20 It's a priority for me, and it's a program
21 that I think is terrific.

22 ASSEMBLYMAN CRESPO: In your testimony
23 you mentioned the amount of money going
24 towards environmental justice grants. Any

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1 parts of that particularly impacting as it
2 relates to air quality and waste management?

3 COMMISSIONER MARTENS: It certainly
4 could. We take applications for
5 environmental justice grants and they can
6 include -- and it's fairly broad and
7 wide-ranging. But if it enhances
8 environmental quality, then it could be
9 eligible.

10 What we're trying to focus on is
11 environmental justice grants that will
12 actually help train people in the
13 environmental justice community in green
14 projects, in green infrastructure in
15 particular, so that people in the community
16 can actually learn skills that could be
17 applied to environmental projects in their
18 communities.

19 So training is an area that's going to
20 be emphasized with the grants.

21 ASSEMBLYMAN CRESPO: There's a -- in
22 terms of resiliency and the coastal
23 communities in my district, I have several
24 homeowner associations that are on the

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1 waterfront. And obviously we have the Hunts
2 Point Market on the Hunts Point side,
3 surrounded by residential communities.

4 We were lucky with the trajectory of

5 Superstorm Sandy, that it didn't hit us at
6 the angle that would have created the most
7 damage. And while I've had homeowners who've
8 lost their entire properties, homes that were
9 demolished as a result of the damage and a
10 number of other things, our biggest concern
11 has been what are we doing to ensure that in
12 another storm the materials that relate to
13 the industrial zone and the Hunts Point
14 Market and other things, and whatever sewage
15 treatment is there, doesn't impact the local
16 community in another disaster.

17 And one of the proposals that's been
18 out there -- I don't know if you're familiar
19 with Hunts Point Lifelines, which is one of
20 the six winners of a national HUD competition
21 called "Rebuild by Design." They were
22 awarded \$20 million to begin some of their --
23 federal monies to begin some of their
24 studies, but I believe there's going to be

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1 many more millions of dollars made available
2 by the federal government so long as there is
3 a state agency involved as a sponsor. And I
4 don't know if you looked at that yet, but
5 that is going to be a crucial plan in terms
6 of achieving what you just described, which
7 is not just a resilience piece but also
8 training community residents, economic
9 development.

10 It really ties all those ends

11 together. So if you've not yet made yourself
12 familiar with it, I would love to connect
13 with you on that because it addresses those
14 issues. And if there's something that we can
15 begin to do in this budget to reflect that
16 investment, it is crucial. Without the
17 market, it's not just the Bronx that's
18 affected, it's the entire food supply of the
19 tri-state area. We're talking annually about
20 \$3 billion to \$5 billion in economic
21 activity, so it's important to us all.

22 COMMISSIONER MARTENS: Thank you. I
23 am aware of the Hunts Point program, but it's
24 obviously not administered by DEC but by the

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1 Governor's Office of Storm Recovery and
2 Jamie Rubin, who have been terrific.

3 The New York Rising program is aimed
4 at doing many of the things that you've
5 suggested in terms of encouraging communities
6 to consider resiliency as they do their own
7 local plans, so I'm happy to talk to you more
8 about it.

9 ASSEMBLYMAN CRESPO: Thank you.

10 CHAIRMAN FARRELL: Thank you.

11 Assemblyman Otis.

12 ASSEMBLYMAN OTIS: Commissioner, nice
13 to see you. And thank you for the good job
14 you've done running the Department of
15 Environmental Conservation. You're a very
16 skilled commissioner and have done a good job

17 running a multi faceted operation, so my hat
18 is off to you, and keep up the good work.

19 COMMISSIONER MARTENS: Thank you. I
20 appreciate it.

21 ASSEMBLYMAN OTIS: I especially want
22 to thank you about the efforts DEC plays in
23 terms of storm resiliency and flood
24 mitigation, those kinds of programs, which is

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1 really good stuff.

2 What I would like to take you back to
3 is a little follow-up on some of the
4 questions that were raised earlier about
5 water quality, EFC, and what's going on in
6 terms of my area, but it's really a statewide
7 issue for municipalities.

8 Complying with the MS4 EPA Phase 2
9 requirements, which your agency administers
10 and enforces, is sometimes often a problem
11 for municipalities these days. A lot of
12 municipalities don't even apply to EFC
13 because they're so scared about the cost
14 elements of even doing this on a loan basis.
15 And so the Governor has in his proposal of
16 how to spend the money from the bank
17 settlements, a lot of that is towards
18 infrastructure. There are a couple of
19 pots -- a pot towards resiliency, a pot
20 towards statewide infrastructure, things
21 which I think is great.

22 Are any of those monies available if

23 we were to try to fashion some of that
24 towards some grants to municipalities for

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1 fixing some of their stormwater and sanitary
2 pipe systems, which are a big issue for water
3 quality in Long Island Sound and other water
4 bodies around the state? This is a problem
5 that in a sense is going to get ignored -- it
6 has been ignored and it's going to continue
7 to be ignored, just because of the cost
8 factor and loans alone, I think, are not
9 going to do it for municipalities and
10 property taxpayers.

11 Your thoughts on how we can move the
12 ball and expand the opportunities for more
13 creative ways to pay for some of that?

14 COMMISSIONER MARTENS: Two quick
15 thoughts.

16 One is -- and I think you mentioned
17 it, the billion and a half that is going to
18 the Regional Economic Development Councils.
19 Certainly if a Regional Economic Development
20 Council decided that those type of
21 infrastructure projects were important enough
22 for economic development in their
23 communities, and they're all tied together,
24 the funds could be used for those projects.

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1 The second is DEC's Water Quality
2 Improvement Program that we administer
3 through the EPF. We do give grants annually

4 through that program, and we try to tailor
5 that program to needs that have been
6 identified by communities. And it can be to
7 promote green infrastructure, it could
8 possibly be used for MS4 compliance, so
9 that's something we may want to talk about
10 and consider in the future.

11 But I agree, you know, loans are
12 terrific, but you still have to pay them
13 back. And for many communities, loans are
14 prohibitively expensive.

15 ASSEMBLYMAN OTIS: And we're trying to
16 keep these things off of the property tax.

17 Let me ask a follow-up question. In
18 terms of when your enforcement people are
19 meeting with municipalities about compliance
20 issues, do they work in part of the
21 conversation "Here are some different funding
22 options, either EFC or other kinds of things
23 through DEC," so instead of just saying
24 "You've got to fix this or else," which

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1 certainly can be part of the conversation,
2 "Here are some possibilities how we can help
3 you line up some funding to address some of
4 these things"?

5 COMMISSIONER MARTENS: I think that's
6 always part of the conversation, whether it's
7 from my environmental conservation officers
8 or from my Division of Water. We are trying
9 to help solve problems. We're not --

10 enforcement is really important, but we also
11 want to give people the means to sort out the
12 problems and not get into -- we'd rather see
13 people spending money on projects than paying
14 penalties.

15 So anytime there are communities --
16 and again, if there are communities that you
17 are aware of that are having problems, we're
18 happy to sit down and help them work through
19 them.

20 ASSEMBLYMAN OTIS: On a related
21 topic -- less municipalities but more, in our
22 area, county sanitary districts, people that
23 run the sewage treatment plants -- there have
24 been upgrades, and DEC has been part of

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1 helping with the upgrades for the ones that
2 are on the Long Island Sound shore in
3 Westchester County, but this is, again, a
4 problem around the state. This is another
5 area where in a sense to meet continuing
6 Clean Water Act requirements all around the
7 state, there are going to have to be upgrades
8 to sewage treatment plants.

9 To the extent we can find new ways to
10 have that not be totally on the property-tax
11 payer, either through the loan program --
12 which EFC does, and as you noted and in my
13 experience also, is EFC basically -- every
14 application that complies gets funded, so
15 there is plenty of borrowing capacity that is

16 not used because the applications aren't in.
17 So there's money there.

18 But this is another area where
19 additional state assistance that is not in
20 the form of loans would be helpful in
21 allowing us on Long Island Sound, for
22 instance, to continue to keep the pace in
23 terms of improving water quality with the
24 upgrades that are needed in the future.

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1 So any help and focus on that as you
2 plan for the future is much appreciated.

3 COMMISSIONER MARTENS: Thank you for
4 the message.

5 ASSEMBLYMAN OTIS: Thank you.

6 Thank you, Mr. Chairman.

7 CHAIRMAN FARRELL: Thank you.

8 Assemblywoman Fahy.

9 ASSEMBLYWOMAN FAHY: Thank you,
10 Mr. Chairman.

11 And welcome again, Commissioner. It's
12 a pleasure to have you here this morning, and
13 your entire team.

14 And I want to start by saying thank
15 you for your hard work, all your research on
16 the position to ban fracking and your input
17 into the Governor's decision to ban that. It
18 was truly some of the best news last year,
19 and we really appreciate all the work that
20 you put into that.

21 I also just want to thank you in

22 general. We talk to your office a lot and
23 really appreciate the responsiveness of you
24 and all of your team, including when it's

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1 calls about black bears which have ended up
2 in my neighborhood, and some very sad
3 stories. And again, we really appreciate the
4 responsiveness.

5 COMMISSIONER MARTENS: Thank you.

6 ASSEMBLYWOMAN FAHY: I know you've had
7 a long morning, and I think so many of my
8 questions have been answered, so I just want
9 to make a few other comments and then I just
10 have one, maybe two questions.

11 Just a few things. Brownfields, I
12 know there are some proposals there. I look
13 forward to the modifications, I look forward to
14 hearing more. I think -- I am actually
15 encouraged by some of what I am hearing and,
16 again, I look forward to hearing more. That is
17 very, very important, that cleanup to urban
18 development in Albany here where I live.

19 The combined -- I know you already had
20 a couple of questions while I was hiding back
21 there on combined sewer and water overflow.
22 Nothing has surprised me more since moving to
23 Albany than the thought that we too at times,
24 because of this combined water/sewer pipes,

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1 that we too end up polluting the mighty

2 Hudson River. And I think that it's just
3 horri fic that it's 2015 and we have not
4 addressed that issue.

5 EPF, the Envi ronmental Protecti on
6 Fund, I'm very pleased to read about the
7 i ncrease. I find that encouragi ng. I always
8 want a little more because I see so many of
9 the good projects that come out of that. But
10 I am a little concerned this year -- and hope
11 that we are not robbing Peter to pay Paul --
12 with the fact that some of those monies are
13 being transferred over to the RGGI funds, the
14 Regional Greenhouse Gas Ini ti ati ve.

15 So I have some real concerns. And if
16 you want to comment, you can, or I will
17 follow up, because I know you've addressed
18 that a little bit. Staffing levels remain a
19 concern overall at DEC.

20 So finally, then, the tank cars, the
21 oil tanks. Again in my backyard or in my
22 neighborhood, if you will. That continues to
23 be -- the safety concerns are paramount. And
24 as you know, I was successful in passing some

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1 legi slati on here in the Assembly, not in the
2 Senate, but I will be working on that again.

3 Again addressing some safety measures
4 at the ports in terms of storage and having
5 the surety bonds to make sure, should there
6 be any disaster, that we are covered and that
7 the taxpayer is not on the hook. And I am

8 encouraged to see that the Governor is
9 proposing to increase the Oil Spill Fund.

10 Just a couple of questions, and I
11 welcome your comments. Why -- first of all,
12 again, it's encouraging -- I'm not sure it's
13 enough, so I'd welcome your comments on
14 whether you think that is sufficient from the
15 25 to 40, along with your comments on -- it
16 may be an explanation of the shift in those
17 funds from the DEC to the Comptroller, and
18 I'll stop there again.

19 Thank you.

20 COMMISSIONER MARTENS: Thanks,
21 Assemblywoman, I appreciate your comments.

22 On the Oil Spill Fund, we feel raising
23 the cap from 25 to 40 is sufficient just
24 based on our historical experience on how

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1 fast the money flows in and out. The cap
2 only kicks in if the funds reach the cap.
3 Usually we're spending it fast enough so that
4 we don't approach the cap, so I don't think
5 that's a significant issue. We just wanted a
6 little bit more breathing room, if you will,
7 and proposed the increase from 25 to 40.

8 The fee increases again are relatively
9 modest. But we think it will shore up the
10 fund enough so that we'll have the resources
11 necessary to address oil spills as we have
12 been for years in this state. So we think it
13 is a reasonable proposal. The fees haven't

14 been raised in a long time. And again, based
15 on experience, my staff -- those are the fees
16 that my staff recommended, and I'm confident
17 that they'll be enough.

18 The shift from the Comptroller to DEC
19 is purely for administrative efficiency. We
20 work very well with the Comptroller, we have
21 no issues with the way they've administered
22 the funds. I think, though, that it -- I'm
23 not sure why it ended up with the Comptroller
24 originally when it did. But we manage funds

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1 I like Superfund all the time at DEC. We audit
2 all of our own expenditures. And of course
3 the Comptroller has the right to audit any of
4 our programs at any time in any event, and we
5 welcome him to audit the Oil Spill Program.

6 So just based on our ability to manage
7 money, to spend it, we are the ones that are
8 responsible for all the expenditures in the
9 Oil Spill Fund, so it made sense to us to
10 bring it in-house. We think that it will
11 create some administrative efficiencies. We
12 won't have to go through two processes of
13 auditing invoices that are submitted to us
14 for payments from your contractors, for
15 example. So I think there's some modest
16 savings involved, and we think it just makes
17 sense. But it's not because we have any
18 problem with the way the Comptroller has
19 administered the fund. We've had a great

20 working relationship with them for years.

21 ASSEMBLYWOMAN FAHY: Thank you. Just
22 along that same line, just a quick follow-up.

23 I appreciate that you think it is
24 sufficient, the increase in the fund overall.

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1 Whether it's there or whether it's another
2 fund, one of the things that we hear a lot
3 about is from first responders and whether
4 they've had the sufficient training
5 necessary. And that's not just in the
6 immediate area of here, you know,
7 particularly near the port, but it's the
8 trains -- where the trains come. You know,
9 from Western New York and then down along the
10 Hudson, many very close to the Hudson River,
11 many, many very close to a number of schools.
12 And I forget the numbers, but it's rather a
13 significant amount of schools that are within
14 a half mile or so of the trains.

15 So whether it's that fund or another
16 fund, do you think we are doing enough to
17 train first responders in case there were any
18 type of disaster?

19 COMMISSIONER MARTENS: No, it's a
20 critical element in being able to respond to
21 emergency spills whenever they occur.

22 We've already stepped up the training
23 and the drills that we've done. We've had
24 several drills over the last year or so. And

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1 part of the oil spill proposal in the budget
2 is to expand the purposes of the fund to make
3 it -- no question that it can be used for
4 training-preparedness exercises. Because
5 there has been questions raised about whether
6 the spill fund can be used for these things,
7 so we want to make sure that it's clear.

8 And we think the fund ought to be used
9 for preparedness, for training, because
10 obviously the more you do on the front end
11 and the quicker you respond, the less cleanup
12 and expense you're going to have on the tail
13 end when emergencies do occur, and they will
14 occur.

15 So we just think it makes good sense
16 to use the Oil Spill Fund for that, and
17 that's in part why we have proposed some
18 changes in the potential uses of the fund and
19 increased the size of the fund itself.

20 ASSEMBLYWOMAN FAHY: Thank you. Thank
21 you again, Commissioner, I appreciate it.

22 CHAIRMAN FARRELL: Thank you.

23 CHAIRMAN DeFRANCISCO: Senator O'Mara
24 to close for the Senate.

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1 SENATOR O'MARA: Unless I open a can
2 of worms.

3 Commissioner, just in follow-up, there
4 were a lot of questions here about staffing
5 and the speed of decision-making at DEC that
6 has become very frustrating throughout the

7 years of my experience, in the Legislature
8 and before, with major issues. And we want
9 to make sure that the decisions are done
10 correctly and based on the science and the
11 facts and not on politics. Which seems to be
12 the longer things get drawn out, the more the
13 political pressures build on these issues.

14 I want to commend you for the decision
15 today to move forward with LNG storage and
16 transportation in New York State, something
17 that I've worked on for years. That makes us
18 the 50th state, the last state in the country
19 to allow that type of activity. It's a
20 cleaner form of energy, it's something that
21 we've fallen behind on in this state, and
22 it's taken three or four years to get this
23 done and to fruition.

24 Another project in my area, the

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1 Crestwood underground storage facility in
2 Watkins Glen, is now in its either fourth or
3 fifth year. And going on last fall, the DEC
4 I think appropriately ordered an issues
5 conference. But why wasn't that issues
6 conference ordered in the first six to nine
7 months of that process, dragging on -- that's
8 become an extremely politicized issue.
9 There's been over 200 people arrested at the
10 site for protesting that activity, which is
11 an expansion of current underground storage
12 capacity.

13 The fracking decision, high-volume
14 hydraulic fracturing in New York State. Over
15 eight years to come to a conclusion on how to
16 move forward or not move forward on that has
17 been a huge political football that, in the
18 end, seemed to come down to a decision of
19 whether or not I would want my kids living
20 next to or near a hydraulic fracturing
21 drilling location. From an individual that,
22 by the way, doesn't have any children. You
23 have some children, Mr. Martens, and I think
24 you'd be in a better position than

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1 Commissioner Zucker to make that conclusion
2 on whether or not and where you'd want to
3 site your family in this.

4 But we've gone through eight years and
5 come to a scientific conclusion on whether
6 I'd want my children living next to it. It
7 doesn't seem to be too based in science.

8 Just to close here with a question on
9 the SGEIS and the process that's been brought
10 up by other members here. What's the next
11 step after the SGEIS? When New York is now
12 the 50th state to allow LNG storage, when the
13 day comes when New York realizes that
14 high-volume hydraulic fracturing can be done
15 safely and responsibly in this state, what's
16 the next step to reopen this down the road?

17 You know, over these eight years
18 there's been significant improvements in the

19 technology in the natural gas industry and
20 exploration of natural gas into the shale gas
21 plays. We're the only state in the country
22 that isn't pursuing that. So the day will
23 come when we revisit this issue.

24 What is the process after your SGEIS

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1 in reopening that and pursuing alternatives
2 or better practices as they develop?

3 COMMISSIONER MARTENS: I'm afraid my
4 answer will probably frustrate you a little
5 bit because I don't know that I can pinpoint,
6 you know, what change will occur out there in
7 the real world that would prompt a
8 reconsideration. The department could
9 reconsider that decision at any time. But I
10 think after you see the SGEIS when it is out
11 in public -- you've seen Dr. Zucker's
12 report -- I don't think it's going to be
13 revisited in the near term because the
14 conclusion was that there was just far too
15 many risks and that we couldn't minimize them
16 to protect public health and safety.

17 But you're right, the technology
18 changes. The studies that Dr. Zucker relied
19 on, many of those are ongoing studies and,
20 you know, they could draw a different
21 conclusion at some point in time about the
22 connection between the activity and the
23 medical problems that have been increasingly
24 occurring near sites where hydraulic

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1 fracturing has occurred. So it could be
2 revisited at any time when new or
3 significant information comes to light.

4 And as you point out, it's an evolving
5 field. The industry certainly has made lots
6 of improvements in technology and in their
7 practices. But, you know, regardless, where
8 we are today obviously is that we don't think
9 they've come far enough.

10 So my guess is that it will be
11 reconsidered at some point in the future, but
12 something -- you know, some significant new
13 information will have to come to light,
14 whether it's medical information or whether
15 it's just a breakthrough on how to treat
16 flowback water and treat it. Right now in
17 New York State, if we started fracking,
18 dealing with flowback -- there probably
19 wouldn't be many options in New York State,
20 so the stuff would have to be mostly
21 transported out of state. But that could
22 change. The industry is recycling more of
23 the flowback water, but we'd like to see
24 significant improvements in treatment

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1 technology so that it could actually be
2 treated here in New York State.

3 So it's not a very precise answer, but
4 it's the best one I can give you.

5 SENATOR O' MARA: No, I appreciate your
6 answer. And I too would like to see better
7 flowback water treatment options, but there
8 also are options out there, to my
9 understanding, that don't involve the use of
10 water, that involve propane gel and some
11 other types of technologies. Are those going
12 to be open to be considered going forward?

13 COMMISSIONER MARTENS: Absolutely.
14 We'll continue to look at the new technology.
15 We've been looking at them all along. Most
16 of those new technologies are for places
17 where water is in short supply; you know, in
18 Texas, for example. So the cost of doing
19 that in New York would probably, in my guess,
20 be prohibitive.

21 But new technologies are going to
22 evolve. And if they get to the point where a
23 lot less water is being used in the process,
24 alternative chemicals for fracking fluids

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1 that are not harmful to public health, lots
2 of things could change. But again, as where
3 we are today, obviously we don't think we're
4 ready for it in New York.

5 SENATOR O' MARA: Do you feel -- to
6 close here, do you feel you need more
7 staffing to better handle not just the
8 fracking issue but all these other issues
9 that come up that seem to take years and
10 years to go through? But yet you're not

11 asking for more staffing to be able to
12 better, more efficiently, more quickly handle
13 those issues.

14 COMMISSIONER MARTENS: No, I think by
15 and large the volume of regulatory activity
16 that goes through the agency we handle very
17 expeditiously. As you point out, it tends to
18 be the big controversial projects where there
19 is a lot of concern raised, public concern
20 raised. And we have given -- we try to give
21 the public every opportunity to participate
22 in the project, to make sure that they get an
23 opportunity to present all the factual
24 information they can on projects and about

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1 the safety of particular projects.

2 So I don't think it is a staff issue
3 as much as just the larger, more
4 controversial, more complicated projects take
5 longer.

6 SENATOR O' MARA: Thank you.

7 COMMISSIONER MARTENS: Thank you,
8 Senator.

9 CHAIRMAN FARRELL: Thank you, Senator.

10 Next, Assemblyman Lopez, and then
11 Assemblywoman Glick to close.

12 ASSEMBLYMAN LOPEZ: Thank you,
13 Mr. Chairman.

14 And welcome, Commissioner. It's
15 always good to see you and your team.

16 I do want to just say that my office

17 remains very thankful for your constructive
18 engagement throughout my district on any
19 number of issues, so you have a great team.
20 So thank you.

21 COMMISSIONER MARTENS: Thank you.

22 ASSEMBLYMAN LOPEZ: I did want to
23 touch base quickly in regard to flood
24 resilience. We still have that issue and for

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1 my district, which you well know, almost
2 three years out we still have -- probably a
3 quarter of my calls are related to flood and
4 flood recovery, flood resilience.

5 I'm just curious. In terms of the
6 EPF, I thought that at one point there might
7 have been a stand-alone category for funding
8 for flood resiliency planning and capital
9 projects. And I guess I'm not -- maybe it's
10 buried in some other line. I see funding for
11 plantings, riparian buffers. I see funding
12 for ag climate adaptation programs. But I
13 don't know if we have funding set aside for
14 comprehensive planning for flood resiliency
15 and for capital projects associated with
16 that.

17 COMMISSIONER MARTENS: Assemblyman, I
18 was just conferring with my staff because I
19 was drawing a little bit of a blank on the
20 EPF category that was dedicated to flooding,
21 and I'm not sure one exists.

22 There was \$250,000, Julie, for

23 resiliency --

24 ASSEMBLYMAN LOPEZ: Resiliency,

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1 correct.

2 COMMISSIONER MARTENS: -- but not for
3 flooding. And the flooding issues are --
4 well, DEC certainly is very involved in
5 flooding.

6 In part, you know, our interest is in
7 making sure that where there's problems with
8 streams that flood habitually, that
9 projects are undertaken in a way that ensures
10 that not only the flooding is addressed but
11 the resources protected and that it's done
12 right. Because a lot of times, as you know,
13 when the instinct is to come and just clean
14 out the stream as quickly as possible, a lot
15 of times the material that's cleaned out is
16 put along the banks of the streams and then
17 it just creates a channel which creates
18 bigger problems downstream.

19 So we want to make sure that it's done
20 in a way that's responsible, respects the
21 resource, and minimizes the flood impacts.

22 The New York Rising program is, again,
23 another example where in many flood-prone
24 communities funds have been made available to

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1 develop local plans that build in not only
2 projects related to funding but future
3 resiliency to make sure that communities are

4 sustainable. But that funding goes through
5 the Governor's Office of Storm Recovery, not
6 through DEC. But we obviously participate in
7 that process.

8 ASSEMBLYMAN LOPEZ: The reason I bring
9 that up -- and the model that remains in my
10 mind is in the State of Vermont, where
11 they've initiated a program under Act 110,
12 river, river corridor and flood plain
13 management programs. And it goes by a river
14 and watershed basis and looks at everything
15 from the functioning of the streams as they
16 exist now to comprehensive planning and even
17 to local zoning. And it has incentives and
18 other things for local governments to
19 participate.

20 But as I work in my district, I'm
21 hard-pressed to find any real proactive
22 leadership from the state that is helping
23 guide them and give them a model to work
24 with. So I was just curious about the role

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1 of the department in there. And I know we
2 have different agencies, we have New York
3 Rising, the Storm Recovery, but I'm
4 hard-pressed to find -- I'm trying to
5 initiate a program in Schoharie County based
6 on the Vermont model, and ultimately there
7 are so many actors out there, no one's really
8 coordinating it in any meaningful fashion.
9 And I'm just curious --

10 COMMISSIONER MARTENS: We've tried
11 hard in the communities in the Mohawk Valley
12 in particular, after the flooding events
13 there, to -- we actually got the Governor's
14 Office of Storm Recovery to agree to provide
15 funding for a consultant called MMI that
16 developed basically these watershed stream
17 plans for communities that were hard-hit and
18 that were suffering from repeated flooding.

19 MMI has done work in the Catskill
20 watershed -- the New York City watershed,
21 rather, and they are experts in the field on
22 just the type of things that you're talking
23 about. And money was made available for
24 certain communities. I think the frustration

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1 is we're not getting to every community
2 necessarily that needs it.

3 But, you know, we've identified this
4 firm and an approach to stream management
5 that I think is working pretty well. And
6 obviously funding shortages are always a
7 problem; we have just so much federal and
8 state money to work with. But we should
9 continue the conversation, and maybe we can
10 talk about what's been done in some of these
11 other communities through the MMI work.

12 ASSEMBLYMAN LOPEZ: We'd like to do
13 that. I know that Soil and Water, too, they
14 had done an analysis along the Mohawk River
15 corridor, including tributaries, but there's

16 a disconnect and there's no real linkage
17 between the planning process and local
18 government decision-makers and ultimately
19 into their home communities for zoning,
20 building, other land-use associated factors.

21 So that's a challenge, and I'm looking
22 for funding and for technical support that
23 lends itself on a statewide basis. In
24 Vermont, it's vested in their Department of

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1 Environmental Protection.

2 So I was just curious. Just real
3 quickly, Commissioner -- and I know my
4 colleague Cliff Crouch spoke about the state
5 harvesting -- do you folks have a target
6 figure on the state forests? Do you have an
7 annualized target of how much revenue you
8 think you can generate?

9 COMMISSIONER MARTENS: You might have
10 missed my earlier comment, but we -- this
11 year, it was about ...

12 ASSEMBLYMAN LOPEZ: About 5 million?

13 COMMISSIONER MARTENS: It was about
14 5 million, 5.5 million, two years in a row.
15 Really, we don't have a target from a revenue
16 perspective. We are limited by how much time
17 we can spend and staff we can spend on going
18 out and marking trees in advance of cuts,
19 basically. But we do have some resources
20 that we are going to employ temporary and
21 seasonal staff to go out and do additional

22 marking this year. So I'm hoping that when
23 we're back here in a year that we'll have an
24 improved statistic for you and we'll exceed

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1 the \$5.5 million revenue marker.

2 ASSEMBLYMAN LOPEZ: My hope was,
3 Commissioner -- I know we're running out of
4 time -- was to see that figure, if we could,
5 on an annualized basis, trying to project as
6 best as we can, and then try and tie that
7 back to the staffing constraints. We've
8 talked about -- again, in the Catskill
9 region -- about having appropriate support
10 out there from your staff, and rangers, in
11 particular Park Police.

12 So thank you.

13 ASSEMBLYWOMAN GLICK: Thank you,
14 Commissioner, for your many --

15 CHAIRMAN FARRELL: Excuse me.
16 Assemblywoman Glick.

17 (Laughter.)

18 ASSEMBLYWOMAN GLICK: Thank you very
19 much for your taking --

20 CHAIRMAN DeFRANCISCO: To close.

21 ASSEMBLYWOMAN GLICK: -- for taking so
22 much time with us today.

23 COMMISSIONER MARTENS: I'm happy to.

24 ASSEMBLYWOMAN GLICK: I have one

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1 somewhat parochial question, but let me just

2 preface that with a comment, that I believe
3 that there will be lots of different types of
4 technology advances and I would hope that
5 New York State would focus on those that help
6 to reduce greenhouse gases, as opposed to
7 those that might increase greenhouse gases
8 and have very serious health concerns.
9 Regardless of whether one person
10 characterizes that in a personal way, it's
11 based on serious health studies.

12 Having said that, I would like to ask
13 you, the Hudson River Park runs along four
14 and a half, five miles of the Hudson River on
15 the West Side of Manhattan. The trust that
16 runs that -- and there's many habitat issues
17 around the Hudson River -- the trust has
18 engaged in soliciting a very major donation
19 from the Diller-von Furstenberg Foundation.
20 It is intended to build a very significant
21 large new pier in sensitive habitat. It's
22 being cast as revitalizing or renewing an
23 existing pier, but they're going to dismantle
24 that pier, leave the pile field, and then

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1 create a very large significant new
2 structure.

3 The question about that is in driving
4 all of these new cement piles, there will be
5 disruption to the riverbed. It is a nursery
6 for many various fish species that are vital
7 to the Atlantic fishery, especially for my

8 friends on Long Island who are engaged in the
9 sport of fishing, and so it's a critical,
10 critical habitat.

11 Has DEC been contacted? Will DEC be
12 doing an EIS on this? And what process do
13 you envision for reviewing this very
14 significant new intrusion into the water?

15 COMMISSIONER MARTENS: I'm aware of
16 the project. I'd be surprised if we haven't
17 been contacted.

18 Marc informs me that we have been
19 contacted. We certainly have permit
20 jurisdiction, so we would be reviewing this.
21 We will have certainly Article 15
22 jurisdiction. I don't know about tidal
23 wetlands, but probably, you know, several
24 hooks -- probably SPDES, water discharge

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1 permits. So there'll be several permits that
2 would be required by DEC. And all I can tell
3 you is that we will fully evaluate the
4 impacts of the project on the habitat and
5 they're going to have to meet whatever
6 applicable standards apply, but we're going
7 to review it and scrutinize it very
8 carefully.

9 You know, historically, obviously the
10 West Side has been an area that has been
11 acknowledged as a sensitive habitat, and
12 we're going to obviously take it very
13 seriously and look at it very closely.

14 Whether an EIS is required -- it will depend
15 on whoever the designated lead agency is
16 here. They'll have to go through the SEQR
17 process and, if there are significant
18 anticipated impacts, then I presume an EIS
19 would take place. But again, I don't know
20 enough about the particulars off the top of
21 my head to say whether or not it would.

22 ASSEMBLYWOMAN GLICK: Just to follow
23 up, there is the construction concern but
24 there is also the concern that this is

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1 already indicated as an area that would have
2 every week, for a period of months, 5,000
3 people coming for various events. And
4 there's also, though it's not been
5 particularly publicized, a barge alongside
6 the pier for ancillary uses.

7 So I would just ask you, as your team
8 gets various permit requests, to look very
9 carefully at how they're going to handle
10 wastewater, how they're going to handle
11 debris that will invariably come from the
12 individuals who will be attending these
13 events.

14 I think it's -- while people are very
15 happy because it's private money, I think
16 that we can't overlook or let individuals who
17 have very, very significant resources simply
18 say "Well, this is a great thing for
19 entertainment." Which it may be, but I

20 would n't want it to be at the detriment of an
21 essential resource.

22 COMMISSIONER MARTENS: We'll look at
23 it very carefully. Thank you.

24 CHAIRMAN DeFRANCISCO: Thank you.

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1 That's the last questioner, and I just
2 want to close this with all of us here know
3 you're not the ultimate decider, there's
4 somebody else that makes decisions. And all
5 of us here I think know, no matter where you
6 are on environmental issues, that you've
7 always treated all of us fairly, given us the
8 information we've needed, and everything you
9 do is controversial.

10 And to be in that position and to have
11 that respect, as many of the people here
12 said, is really a tribute to you. And I hope
13 you continue as long as you want and are able
14 to continue providing the information and
15 also the leadership. Because all of your
16 people in Central New York that we go to,
17 they're always excellent and they all provide
18 terrific service for the Legislature.

19 Thank you very much.

20 COMMISSIONER MARTENS: Thank you very
21 much, Senator. Thank you all.

22 (Applause.)

23 CHAIRMAN FARRELL: Thank you.

24 CHAIRMAN DeFRANCISCO: Let's see.

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1 Maybe we'll take an hour break.

2 (Laughter.)

3 CHAIRMAN DeFRANCISCO: No, just
4 kidding.

5 Rose Harvey, commissioner of the
6 New York State Office of Parks, Recreation
7 and Historic Preservation. And on deck is
8 Richard Ball, commissioner of Ag and Markets.

9 Thank you very much. Whenever you're
10 ready to start.

11 COMMISSIONER HARVEY: Good morning.
12 And I'd like to introduce -- at my left is
13 Andy Beers, who is our executive deputy
14 commissioner for parks.

15 So good morning, Senator DeFrancisco
16 and Assemblyman Farrell. Thanks for inviting
17 me for this discussion of the Executive
18 Budget. Also thanks to Senator Little and
19 Assemblywoman Markey, who are chairs of the
20 Tourism and Parks Committees, and also to all
21 the members of the Legislature for all your
22 interest, all your help, and all your
23 participation with parks.

24 As commissioner of the Office of

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1 Parks, Recreation and Historic Preservation,
2 I am charged with overseeing our exceptional
3 New York State park system. New Yorkers take
4 great pride in the 180 parks and 35 historic
5 sites in our park system. Governor Cuomo's
6 leadership is helping connect people to

7 parks, revitalize the facilities, and keep
8 parks open and welcoming to all New Yorkers.

9 The 2015-16 Executive Budget enables
10 State Parks to continue serving New Yorkers
11 in several important ways. It increases
12 capital funding to continue modernizing and
13 revitalizing the park infrastructure, it
14 maintains level funding for park operations
15 so that we may offer valued services to all
16 New Yorkers, and it increases the
17 Environmental Protection Fund.

18 The park system again had a very
19 successful year in 2014. I am pleased to
20 announce today that State Parks attracted
21 62 million visitors in 2014. That's a
22 3 percent increase over 2013 and a nearly 8
23 percent increase in attendance since Governor
24 Cuomo's first term. Additionally, the number

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1 of overnight stays in our campgrounds was the
2 highest on record ever.

3 Our parks hosted major events, such as
4 concerts, festivals and athletic
5 competitions, which provided an economic
6 boost to local economies. As an example,
7 next year Bethpage State Park in Farmingdale
8 is scheduled to host a PGA tour, the
9 Barclays, followed by the 2019 PGA Championship
10 and the 2024 Ryder Cup. Under Governor
11 Cuomo's leadership, we have brought in some
12 of the biggest tournaments in the entire golf

13 circuit, and they're going to result in
14 plenty of investment for the local economy.

15 The state park system grew last year
16 with Governor Cuomo's official designation of
17 the Buffalo Harbor State Park as New York's
18 180th state park. It will be Buffalo's first
19 state park, and we are creating a destination
20 along the city waterfront that will attract
21 visitors from all over to experience some of
22 the best that Buffalo has to offer.

23 As part of his efforts to enhance
24 sporting and recreational opportunities,

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1 Governor Cuomo introduced the New York State
2 Adventure License Series in 2014, which
3 includes lifetime and multi-year options for
4 the Empire Passport, which is our very
5 popular annual pass. Sales of our new
6 three-year Empire Passports are particularly
7 brisk, with 17,000 three-year passports, most
8 sold during a special "Cyber Monday"
9 promotion just this holiday season.

10 Our agency administers one of the
11 strongest historic preservation programs in
12 the nation. Last year, the State Historic
13 Preservation Office advanced 100 listings to
14 the State and National Registers of Historic
15 Places. We reviewed more than 5,400 state
16 and federal projects for compliance with
17 historic preservation laws completing the
18 reviews in an average of 11 days. That's

19 efficiency.
20 State and federal historic
21 rehabilitation tax credits spurred nearly
22 \$500 million in commercial redevelopment
23 projects statewide.
24 The Executive Budget continues to make

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1 significant capital investments in the parks
2 that serve their communities and anchor our
3 tourism economy. The New York Parks 2020
4 plan will leverage a broad range of public
5 and private funding, for a total investment
6 of approximately \$900 million in state parks
7 by 2020, including \$110 million in the
8 upcoming fiscal year. The funding will
9 launch dozens of capital improvement projects
10 to provide visitors with safe, welcoming and
11 modern facilities in our state parks and all
12 our historic sites. The first three rounds
13 of this landmark funding have enabled us to
14 advance over 200 separate capital improvement
15 projects within 109 parks and historic sites
16 to restore, to repair, to enhance all of
17 these public facilities.

18 The Executive Budget also establishes
19 two exciting initiatives that will enhance
20 and leverage a robust volunteer program in
21 our park system. First, it includes
22 \$1 million to establish the Excelsior
23 Conservation Corps. It follows in the spirit
24 of FDR's Civilian Conservation Corps. This

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1 program will provide 10-month positions for
2 young adults to work in state parks and state
3 forests on trail building, facility
4 maintenance, volunteer project leadership,
5 and environmental education programs.

6 Second, the budget includes \$500,000
7 to create new Friends Groups Capacity Grants,
8 which will provide competitive grants to
9 non-profit friends groups that support parks,
10 historic sites, rail trails, and other
11 recreational facilities.

12 The capacity grants are included in
13 the Environmental Protection Fund, which is
14 proposed to increase to \$172 million in the
15 upcoming fiscal year. The EPF funding is
16 level or increased funding for the programs
17 that will be administered by State Parks.

18 Thank you again for your commitment to
19 our magnificent state park system. As always,
20 I am truly appreciative of the tremendous
21 support that members of the Legislature have
22 provided to our agency, and I welcome all
23 your questions.

24 Thank you.

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1 CHAIRMAN DeFRANCISCO: Senator O'Mara.

2 SENATOR O'MARA: Thank you,

3 Mr. Chairman.

4 Just I think just one question,

5 Commissioner, and thank you for being here
6 today.

7 The parks capital funding has been
8 increasing over recent years, and now we're
9 looking at an increase in the Executive
10 Budget of \$20 million is the number, up to
11 \$112 million. So almost a 20 percent
12 increase, which is significant. Do you have
13 a plan for the use of those funds? And can
14 you just give us an overview of what the
15 current state of the capital facilities are
16 in the parks system?

17 COMMISSIONER HARVEY: So until
18 Governor Cuomo came into office, really,
19 Parks never received, in any kind of
20 consistent and sustained fashion, capital
21 dollars to repair its facilities. And with
22 the NY Works program that is in its third
23 year, we are receiving \$90 million a year.
24 And as well this year, we'll receive

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1 \$20 million more as a one-time appropriation.

2 We do have a plan, you know; it's
3 Vision 2020, and it's about fixing the
4 infrastructure, it's about preserving the
5 natural resources. It will include opening
6 many facilities that have been boarded up and
7 unable to be used. It will include some new
8 structures and nature centers and visitor
9 centers where there was no obvious place to
10 go.

11 And so it's very exciting and
12 long-term and we have, you know, three years
13 behind us and we're going forward. And with
14 respect to the \$20 million extra of the
15 \$90 million of the NY Works, when you dig
16 into an infrastructure that's for 40 years
17 really never been getting -- never been in
18 the capital budget of the state for a long
19 time, you do find quite a few infrastructure
20 issues. And sometimes they're timely and
21 need immediate response, and that's to help
22 out on that.

23 But we've got \$900 million between the
24 NY Works, between money that we've raised

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1 from private groups, between partnerships
2 with DEC, the Department of Transportation,
3 and the Governor has a real plan to make it
4 happen.

5 SENATOR O' MARA: Are you making -- so
6 it's basically a five-year plan you're
7 looking at at this point, kind of a five-year
8 plan for the use of the funds?

9 COMMISSIONER HARVEY: Yes. Yes.

10 SENATOR O' MARA: And can you tell me
11 what kind of projects you're making or how
12 you feel that progress is going on so-called
13 public-private partnerships and getting
14 private entities involved in supporting the
15 infrastructure?

16 COMMISSIONER HARVEY: We have --

17 private entities are both supporting us and
18 operating in partnerships on operations, and
19 also with the capital. And we have raised,
20 in the last three years, about \$34 million in
21 private dollars. A lot of that goes to
22 capital. Some of that will go and be matched
23 by NY Works and will go to some of the newer
24 structures.

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1 SENATOR O' MARA: What does the private
2 entity get out of it? Is there advertising
3 or signage or something like that? Or is it
4 just the goodwill of the entity in being
5 involved with that?

6 COMMISSIONER HARVEY: Actually, with
7 most of the dollars that we've raised to
8 date, it's foundations, it's private
9 individuals, they're part of our friends
10 group. They'd like to see a new amenity, a
11 sensory garden, you know, whatever it may be,
12 and we've gone and raised money from them and
13 also matched with the NY Works money.

14 SENATOR O' MARA: Thank you.

15 ASSEMBLYWOMAN GLICK: Good afternoon.
16 You indicated that you're going to begin an
17 Excelsior Conservation Corps. How many
18 youngsters do you think you'll be able to use
19 within that group?

20 COMMISSIONER HARVEY: I think a couple
21 of dozen to start with. It's a pilot but it
22 also will build on volunteer programs

23 ongoing. So we're going to sit down and look
24 at it, but it will weave into the SCA

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1 program. And we have the New York-New Jersey
2 Trail Conference, who offers many volunteers
3 for trail work, as Joe mentioned with DEC.

4 So we're going to weave it in, and I
5 suspect you're going to see more and more
6 volunteers. This is something that the
7 Governor is personally interested in, in
8 really leveraging volunteerism.

9 ASSEMBLYWOMAN GLICK: And how are
10 folks going to know about it?

11 COMMISSIONER HARVEY: We are going
12 to -- we will, you know, sit down and figure
13 out all the details. And definitely the
14 Governor is going to be right behind, you
15 know, marketing and advertising and bringing
16 it into play.

17 ASSEMBLYWOMAN GLICK: Harri man State
18 Park has sustained a lot of storm damage, I
19 believe a lot of other parks. How many other
20 state parks over the last few years have
21 sustained substantial damage from various
22 floods and storms?

23 COMMISSIONER HARVEY: Oh, you know,
24 40, 50, 60. I mean, up to actually a

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1 hundred -- we have been hugely hit with
2 Irene, Lee, and Sandy. And our staff have
3 been amazing in their ability to both fix it

4 but also think about how to make it more
5 resilient. And we've also been working with
6 the Governor's Storm Recovery Office, and we
7 are getting a big chunk of those dollars,
8 particularly to build more resilient
9 solutions rather than just fix what occurred
10 in the past.

11 So you know, it's -- we're hoping for
12 no more big storms, and we're -- we were able
13 to open everything last year by Memorial Day.
14 And slowly but surely, we've got the
15 inventory. And it's not just fixing, we're
16 also thinking about how to make it more
17 resilient with all these partnerships with
18 our other state agencies.

19 ASSEMBLYWOMAN GLICK: I think Harri man
20 still has some issues around Sebago Lake.

21 COMMISSIONER HARVEY: And in fact I
22 was just sitting down with the regional
23 director about that. And so we're talking
24 about what we can do with that.

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1 ASSEMBLYWOMAN GLICK: The Catskill
2 Park is sort of a vague designation, but it's
3 very close to major population centers. So
4 you have more and more people, and it's a
5 good thing that more and more people want to
6 get out into the nature and to hike and
7 exercise, but I don't think -- I'm not sure
8 how park rangers are actually designated to
9 be in certain areas, and I have a concern

10 that you have a lot of people with great
11 enthusiasm and not a lot of experience
12 reading about take a hike up Wittenberg and
13 you can backpack over to Slide. And that's
14 great but, you know, it can be dangerous if
15 people don't understand that flip-flops are
16 not actually the appropriate footwear, and so
17 forth.

18 So is there any effort on the part of
19 the agency to reach out and educate people
20 and have more park rangers available? I've
21 heard that it's an aging -- I'm sensitive to
22 that, but -- that it's an aging corps and
23 that you'll face a lot of retirements in the
24 next five years, and I don't know what is

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1 planned for backfilling that. And you just
2 don't give somebody, you know, a uniform;
3 there's some training involved. So could you
4 just talk a little bit about the plans?

5 COMMISSIONER HARVEY: Absolutely. You
6 know, our Park Police, it wasn't until three
7 years ago --

8 ASSEMBLYWOMAN GLICK: Get a little
9 closer to the microphone.

10 COMMISSIONER HARVEY: I'm so used to
11 having a booming voice. Can you hear me now?

12 ASSEMBLYWOMAN GLICK: Yeah, yeah.
13 It's just bad acoustics here.

14 COMMISSIONER HARVEY: Our Park Police
15 Force was flat since 2008. Governor Cuomo

16 came in and began, after Year 2, we began
17 recruiting both more Park Police and also
18 more seasonal rangers. And the numbers have
19 increased, and we are graduating our third
20 academy. And they go through the --
21 full-time Park Police go through rigorous
22 training for six months, I think it's six
23 months or so, at an academy. And we're at
24 250 to 260, and then we're going to have

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1 another academy this fall. So the ranks are
2 rising and, as well, we have also added to
3 the ranks these seasonal rangers, and they do
4 go through training. And some go through two
5 weeks, some go through four weeks.

6 So we understand very well your
7 concern and also the need to train, and we're
8 putting a lot of effort and emphasis in
9 increasing full-time and also supplementing
10 with trained rangers.

11 ASSEMBLYWOMAN GLICK: One final
12 question. I've heard that the state is
13 trying to unify its image and come up with
14 some rebranding that will impact all of the
15 agencies, and I'm wondering how that will --
16 whether you've been brought into that, will
17 it impact the Parks Department? And if so,
18 how many dollars are actually going -- you
19 know lined up, whether it's signage or some
20 other expense?

21 COMMISSIONER HARVEY: The good news is

22 that the color for Parks and for most of the
23 environmental organizations -- I don't have
24 it on, but is green, dark green, and that's

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1 going to be the same color. And that's
2 pretty much also our signs. And the notion
3 is that all of the change will be phased in
4 as we change signs or change uniforms, so not
5 raising extra dollars to do it overnight.
6 And the phase-in will be easier because it's
7 going to be the same color, generally, and
8 we're generally the same name.

9 So it won't have, you know, financial
10 impact. And having the same colors is very
11 important so you wouldn't have a two-tiered
12 system as you started phasing it in. So I
13 think we can do it and do it well.

14 ASSEMBLYWOMAN GLICK: Thank you.

15 CHAIRMAN FARRELL: Thank you.

16 CHAIRMAN DeFRANCISCO: The next
17 questioner is going to be Senator Ritchie.

18 SENATOR RITCHIE: Commissioner, first
19 I'd just like to start off by saying how much
20 I appreciate each time we have called your
21 office or contacted your office with an issue
22 in the district, you've been very responsive,
23 and it really has been wonderful.

24 My district has a lot of parks in it,

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1 whether it be on the St. Lawrence or on the

2 lake and throughout the rest of St. Lawrence
3 County and Jefferson. So I'm wondering as
4 you go forward to spend the capital funds,
5 how will you determine what parks get funded
6 and upgraded and how you'll make that
7 determination?

8 COMMISSIONER HARVEY: So it's from the
9 ground up, in that we work with our
10 engineers, you know, our capital people in
11 the region, we work with our State Park
12 commissioners, we then work with all of our
13 Albany staff. We then have a review
14 committee to look over, because we've got to
15 balance all of the needs.

16 So it's a very long, kind of
17 exhaustive process where we look very
18 carefully at what the needs are, balancing
19 infrastructure to facilities to new
20 structures, and then make final decisions on
21 the allocation of the dollars.

22 SENATOR RITCHIE: And I would ask, is
23 there any kind of regional balance there to
24 decide, you know, where the money is going so

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1 that one region or two regions don't utilize
2 all the resources?

3 COMMISSIONER HARVEY: We look at it --
4 we run all the numbers. So we look at the
5 attendance of the region, we look at, you
6 know, the revenue, the programs, and we look
7 at the percentage of the capital versus all

8 of that, to make sure that it's all
9 proportional. So we're very, very careful to
10 keep it balanced geographically.

11 SENATOR RITCHIE: Okay. Thank you.

12 CHAIRMAN FARRELL: Thank you.

13 Next, Assemblyman Saladino.

14 ASSEMBLYMAN SALADINO: Thank you,
15 Commissioner, for being here. I'm Joseph
16 Saladino. I represent a wide swath of the
17 barrier islands and the beaches on the South
18 Shore of Long Island. And along with my
19 colleagues Assemblymembers McDonough,
20 Garbarino, Kaminsky and our Senators, we're
21 very focused on the importance of restoring
22 these beautiful treasures and the importance
23 of protecting the mainland from future
24 storms.

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1 So I wanted to know what is committed
2 in dollars in the budget and what plans are
3 in the continuation of the programs, and do
4 you need more in dollars added to what
5 already may be committed for the hardening of
6 the protective shoreline and the
7 refortification of the dunes that protect
8 Ocean Parkway and act as the rebar, and in
9 effect it keeps our barrier island intact.

10 COMMISSIONER HARVEY: So we have a
11 great partnership with the Department of
12 Transportation. And with them, between us
13 we've committed close to \$23 million to

14 \$25 million in sand replenishment. And
15 they've committed, you know, probably close
16 to \$60 million. I mean, we're up very high
17 in the tens and tens of millions of dollars,
18 which is to, you know, create -- both to
19 replenish the beaches and to replenish the
20 dunes and then therefore fortify the Ocean
21 Parkway, which was rebuilt and replaced. And
22 then in doing that, act as a barrier, coastal
23 barrier, for the mainland and all of the
24 communities on the barrier island.

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1 And I think to date we have in place
2 seven miles of new dunes and new beach
3 replacement. So we're almost with finished
4 that project, and -- but then also the Army
5 Corps now is picking up from Robert Moses and
6 will invest further dollars going east, to
7 both replenish the beaches, the dunes, and
8 protect the communities -- and in doing that,
9 also protect the communities on the mainland.

10 ASSEMBLYMAN SALADINO: Is your agency
11 committed to working with us to making sure
12 that these replenishment materials come from
13 dredging of our inlets?

14 COMMISSIONER HARVEY: Yes. In fact,
15 it's a great symbiotic relationship, because
16 all those inlets were clogged with Sandy.
17 And we actually -- all of the beach
18 replenishment was dredging all of the
19 navigation channels that was blocking all of

20 the fishing fleet from going out. So we
21 dredged those channels, we put them on the
22 beach. And as well, in rebuilding the dunes,
23 we also created habitat that had been
24 destroyed.

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1 So it was -- it has been, will be a
2 really productive partnership. And I do --
3 DEC was by our side, and the Department of
4 Transportation was by our side. And we loved
5 seeing the Department of Transportation was
6 planting all this dune grass all over the
7 dunes. It was great.

8 ASSEMBLYMAN SALADINO: Looks great.
9 So that commitment to the dredging of those
10 inlets will continue.

11 COMMISSIONER HARVEY: Yes. Yes.

12 ASSEMBLYMAN SALADINO: I'd just like
13 to say, on behalf of the people of Long
14 Island, my colleagues on the South Shore in
15 the Assembly and the Senate, thank you for
16 what's been going on. And thank you for the
17 continuation of this wonderful air show that
18 we're lucky to have right here in New York
19 State.

20 COMMISSIONER HARVEY: Thank you for
21 all your help.

22 CHAIRMAN DeFRANCISCO: Senator
23 Hoylman.

24 SENATOR HOYLMAN: Hi, Commissioner.

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1 Nice to see you. Usually we see each other
2 getting coffee in the morning at the hotel
3 where we stay. But it's good to see you
4 here.

5 I wanted to thank you first for the
6 State Historic Preservation Office's efforts
7 in connection with the historic building in
8 my district in Chelsea at 217 West 18th
9 Street. It's actually a post office that the
10 U.S. Post Office operates and wants to
11 cantilever over top with some market
12 condominiums. So the Post Office wants to
13 sell off, basically, their air rights to a
14 private developer.

15 And due to the efforts of SHPO,
16 they've been stopped from that, which is good
17 news for my constituents who want to keep
18 that historic character in their
19 neighborhood. SHPO issued a letter stating
20 that the proposal would have an adverse
21 impact on the historic building -- which, by
22 the way, is on the National Register of
23 Historic Places. So we're fighting this
24 battle, and thank you so far for your

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1 support, and I'll be in touch with you on
2 that as it proceeds.

3 I also wanted to ask a question about
4 the Path Through History program that you
5 have. Is that what it's called?

6 COMMISSIONER HARVEY: It is. And it's

7 a -- the Governor initiated it, and it's
8 really essentially trying to tie together all
9 of the historic institutions and parks and
10 sites and to market them and advertise them
11 and to also see them thematically and
12 horizontally rather than individual sites.
13 And there's a great website, there's much
14 better signage, there's much better
15 marketing.

16 SENATOR HOYLMAN: I have noticed the
17 signage in subway stations, for example, in
18 my district. And I commend you for that. I
19 haven't noticed any in connection with --
20 that I've seen so far -- with LGBT history in
21 my neighborhood and the neighborhood I share
22 with Assemblymember Glick. It might be
23 something you look at.

24 I was wondering, are you coordinating

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1 your efforts in that regard with, for
2 example, the New York City Office of Parks
3 and Historic Preservation, Landmarks?

4 COMMISSIONER HARVEY: Each region has
5 a kind of committee which represents all of
6 the major players of the, you know, historic
7 institutions, and then come up, kind of, with
8 the plan for the marketing. But I will make
9 sure that we're -- it sounds like we need to
10 be a little better coordinated, so --

11 SENATOR HOYLMAN: And just one more
12 final question. Is that program continuing

13 to expand? Will we see more of those signs
14 and markers in connection with historic
15 sites?

16 COMMISSIONER HARVEY: I think -- you
17 know, I don't know where it is in terms of --
18 but I believe that it's not complete.

19 SENATOR HOYLMAN: Okay. Thank you.

20 CHAIRMAN FARRELL: Thank you.

21 Assemblyman Otis. To close.

22 ASSEMBLYMAN OTIS: Thank you,
23 Mr. Chairman.

24 Thank you, Commissioner. And Andy,

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1 nice to see you both. Just a little
2 follow-up on your public/private
3 partnerships. That's expanding. Could you
4 go into a little more detail on it? And I
5 would just say for my colleagues, we have a
6 very, thanks to State Parks, a very positive
7 experience with the public/private experience
8 at the Jay Heritage Center and the Jay
9 property, which is mostly owned by New York
10 State. And the question was asked, well,
11 what's the benefit for the not-for-profit?
12 In this case, we have a not-for-profit. The
13 only benefit is to New York State, because
14 they are raising private money to help
15 operate what is basically a state-owned park
16 property. And they're doing now a -- they've
17 raised over a million dollars to do a
18 historic gardens restoration and all sorts of

19 other things there.

20 So this model, if done right and if
21 you have the right not-for-profit, it is of
22 tremendous benefit to the state and State
23 Parks and no downside. They're a
24 not-for-profit. They're not advertising,

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1 they're not -- they're just doing good
2 things.

3 But I'm wondering, because I know
4 you're exploring these on other State Parks
5 properties and some places where you have
6 buildings, as you mentioned in your opening
7 statement, that have been boarded up and
8 whatnot. Could you give a little more detail
9 about how that whole effort is going? Which
10 is hard, and it's slow work to find solutions
11 to these, so ...

12 COMMISSIONER HARVEY: So if you think
13 about it, we've got some of our larger
14 friends groups -- the Alliance for New York
15 State Parks, New York Trails -- and they have
16 been helping us all throughout the system.
17 They raise dollars for us. In some cases
18 they operate events. They're just absolutely
19 invaluable.

20 And then you go down and we probably
21 have over 75 not-for-profit groups that are
22 helping to manage or raise money or run a
23 program or an environmental program at their
24 respective parks, such as yours. And you all

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1 have been a tremendous help at the John Jay
2 Heri tage.

3 So we are looking to expand that. We
4 also have New York-New Jersey Trails and the
5 Appal achi an {sic} Mountai n Cl ub who do our
6 trail management. And we're expanding that
7 as well , to give them more staff to manage
8 vol unteers so it can be more effective. And
9 Audubon runs walks in our parks. We now have
10 a partnership with the Ameri can Red Cross of
11 "Learn to Swim," to offer free swimming in
12 those parks where the children don't have
13 access to parks or can't afford swim lessons.
14 And that's now happening all across the parks
15 system.

16 So I can't say enough about the
17 partnership. And I can't say -- and it is
18 crucial to our operation. And we are really
19 looking for partnerships with -- and then
20 we're looking for the right partner, where
21 they have that niche, they have that
22 expertise to provide a service.

23 We also have 5,000 structures, many of
24 which are not germane to the park use or the

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1 operations, off to the side. And it's not
2 where we're going to be putting our capital
3 money. So last year the Legi slature passed
4 the Resident Curator Program, which is just a

5 pilot, and we are now publishing regulations.
6 But it would allow an entity or an individual
7 to come in and invest significantly into the
8 upgrade of the structures, which are boarded
9 up and a symbol of disinvestment, and then
10 lease it for a certain amount of time.

11 And this has been used by many, many
12 states in the Northeast, and the National
13 Park Service. And so that too would be very
14 helpful to bring in investment dollars on
15 structures where we shouldn't be spending our
16 capital.

17 And then the final partnership is
18 concessions. You know, we have hotels, we
19 have three very large concert venues. We
20 have big golf courses. All of those where
21 there are those that can concession it and
22 have special expertise, we're going to bring
23 them in, too, to provide better service to
24 the public.

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1 ASSEMBLYMAN OTIS: That's great.
2 Thank you very much. One additional
3 question. You had mentioned a new program
4 through EPF that is going to assist some of
5 these not-for-profit partnership things. How
6 do you see that money being used? Is that
7 for start-up not-for-profits, to help them
8 mature? Or is that just to help make some
9 projects happen with some more developed,
10 long-tenured not-for-profits?

11 COMMISSIONER HARVEY: It will be a
12 grants program. And, you know, we're going
13 to set it up. But it will certainly go, for
14 instance, to Parks and Trails, who helps us
15 significantly -- I Love My Parks Day. Or,
16 you know, probably some of the smaller groups
17 that -- where we know them, we know what
18 they're going to do. And then also maybe
19 some start-ups in new areas. You know, yet
20 to be determined what the guidelines will be
21 for the grants.

22 ASSEMBLYMAN OTIS: It sounds like a
23 great program.

24 COMMISSIONER HARVEY: It is a great --

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1 ASSEMBLYMAN OTIS: It will help make
2 that partnership opportunity better as they
3 get better. So good job.

4 Thank you.

5 CHAIRMAN FARRELL: Senator.

6 CHAIRMAN DeFRANCISCO: Yes. Just to
7 follow-up on some of those questions about
8 the public/private partnerships, probably
9 10 years ago -- or maybe even more -- the
10 Legislature passed legislation to authorize
11 the -- for example, a building in the park to
12 be leased for a longer period of time to make
13 it financially feasible for the developer to
14 come in. I think Bethpage has one, don't
15 they? If they still do. When they were
16 starting the first Bethpage, I guess it was

17 the U. S. Open.

18 Is that still in operation?

19 COMMISSIONER HARVEY: We have certain
20 structures where we have 40-year leases. We
21 have a -- we're very interested in allowing
22 40-year leases on additional structures. And
23 so far we've needed to come, one by one, back
24 to you all. And so far --

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1 CHAIRMAN DeFRANCISCO: And the concept
2 is no one's going to invest a lot of money to
3 put a major facility in unless they've got
4 control of the property for a period of time,
5 they can get their money back. And I know
6 that -- didn't it have facilities it could
7 have weddings at it and -- it was major.

8 Do we have many of those in the state?

9 COMMISSIONER HARVEY: I would say
10 we've got on the books in legislation
11 probably maybe 20 that have longer terms, and
12 those are the ones that are really working.
13 Because we were able to get the capital
14 investment, it was amortized over a longer
15 period of time, and it was a very strict
16 leasehold so we controlled the operations.
17 And there are more that need it.

18 CHAIRMAN DeFRANCISCO: And lastly --
19 for me, anyway -- there were some questions
20 asked by Senator Ritchie about the various
21 projects, whether regionally based and so
22 forth. And Senator O'Mara mentioned like a

23 five-year plan or whatever the period of
24 time. Do you actually physically have a

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1 listing of all the structures or all the
2 projects that you've got in the pipeline and
3 some kind of standards to determine whether
4 or not -- who should get the funding first?

5 COMMISSIONER HARVEY: Absolutely. We
6 know all of the structures. We have a list.
7 You know, we've taken inventory on what the
8 conditions are. And, you know, we've gone
9 through an exhaustive process.

10 CHAIRMAN DeFRANCISCO: Okay. That
11 process, does it have some type of listing of
12 the factors that are considered in
13 determining how far up the list you are?

14 COMMISSIONER HARVEY: Yeah. You know,
15 as with any agency, as a commissioner you've
16 got to balance all the priorities. But, you
17 know, we're looking to make sure it's
18 balanced geographically, we're looking to
19 make sure we're taking care of infrastructure
20 for the future.

21 CHAIRMAN DeFRANCISCO: No, I
22 understand. But I'm trying to figure out
23 whether or not there's a written set of
24 criteria or considerations that have to be

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1 made. And secondly, whether there's a
2 document that any one of us could see to show
3 where you are now and what kind of backlog

4 you've got in relation to the money that
5 you're getting.

6 COMMISSIONER HARVEY: With respect
7 to -- we have a kind of vision plan document
8 that we're about to put out which kind of
9 gives a sense of what the priorities are.
10 And that will come out pretty soon.

11 And then in terms of backlog, we do --
12 you know, we have lists and lists and we've
13 rated all the structures. And then with
14 respect to going forward, it's an
15 evolutionary and ever-moving process of what
16 you can and can't do. But we're just making
17 general decisions on how to allocate.

18 CHAIRMAN DeFRANCISCO: Okay. Thank
19 you.

20 CHAIRMAN FARRELL: Thank you.
21 Assemblyman Englebright.

22 ASSEMBLYMAN ENGLEBRIGHT: Thank you.

23 Commissioner, first I just want to say
24 thank you for all the good work that you do.

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1 Our parks are thriving, despite that we're
2 just now emerging from this deep recession of
3 the last few years. And during that time,
4 the state parks have seen an increase in
5 attendance consistently year over year. So
6 that's evidence of good management, and I
7 just want to say thank you for that good
8 management and your vision.

9 COMMISSIONER HARVEY: Thank you.

10 ASSEMBLYMAN ENGLEBRIGHT: Your
11 partnerships has been a theme of the last
12 couple of questions, and it was what I wanted
13 to ask you about.

14 And as soon as you have a chance, when
15 you complete the resident curator rules and
16 regulations, I'd love to see that. That was
17 an initiative that we began some years ago,
18 with your deputy commissioner taking an
19 important role and pointing the way, really,
20 for the need for this. And it's a very
21 important part of the historic preservation
22 mission that you as our state historic
23 preservation officer also oversee. So when
24 that's available, I'd love to have a chance

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1 to look at it.

2 COMMISSIONER HARVEY: Definitely.

3 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
4 My question, relating again to the
5 partnerships, is the Zoos, Botanical Gardens
6 and Aquariums program. It's one of the
7 longest-lasting and most robust partnerships
8 that your agency has had with a park system
9 of not-for-profit sites and parks. And that
10 is an echo, really, of the State Parks system
11 itself. And over the years the funding that
12 has come through for the ZBGA program has
13 enabled expansion of access to those parks
14 and many of the themes that overlap with your
15 agency.

16 I just wonder if you could give us an
17 overview of where the ZBGA program and your
18 partnership with them is at this time.

19 COMMISSIONER HARVEY: With the ZBGA
20 program?

21 ASSEMBLYMAN ENGLEBRIGHT: Yes.

22 COMMISSIONER HARVEY: We continue to
23 give ZBGA grants. And that level is
24 stabilized and actually in the EPF was

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1 slightly increased. And we have a good
2 relationship, and we actually have some
3 partnerships where they help us out.

4 ASSEMBLYMAN ENGLEBRIGHT: Sonnenberg
5 Gardens comes to mind.

6 COMMISSIONER HARVEY: Yes, exactly.
7 With gardens or, you know, biological issues,
8 whatever it may be.

9 So it's all good and the funding is
10 stable. We're all paid up. And the EPF has
11 slightly increased the allocation.

12 ASSEMBLYMAN ENGLEBRIGHT: Well, I hope
13 that continues to be stable and also to grow
14 going forward.

15 And again, thank you for your good
16 work. All of these partnerships make for
17 increased public access and utilization of
18 the total park assets of the state. So well
19 done.

20 COMMISSIONER HARVEY: Thank you for
21 all your help.

22 CHAIRMAN DeFRANCISCO: Thank you. I
23 believe that's it.

24 CHAIRMAN FARRELL: No, one question

♀ 205

1 and then that's it.

2 CHAIRMAN DeFRANCISCO: Oh, one
3 question, I'm sorry.

4 CHAIRMAN FARRELL: That's all right.
5 How are you doing?

6 COMMISSIONER HARVEY: Good.

7 CHAIRMAN FARRELL: That's not the
8 question.

9 (Laughter.)

10 CHAIRMAN FARRELL: It's two questions.
11 The roof, you know, you've done -- you
12 did a good job on the ice skating rink. My
13 daughter enjoys it and everything -- and so
14 do the constituents, so I don't get into
15 trouble. And -- but we've got a problem that
16 you're getting holes in the ice because the
17 roof is leaking. And it drips, drips, drips,
18 and it gets dangerous.

19 Do you know if -- I didn't get a
20 chance, been a little busy the last couple of
21 days, to look at the papers on you. Do you
22 have anything in there for repairing the roof
23 or changing the roof? Because I hear it's in
24 not good shape.

♀ 206

1 COMMISSIONER HARVEY: I know that it

2 is on our list. I have seen it. And I know
3 that, you know, Riverbank, of all parks,
4 really, because it's so developed, needed a
5 lot -- needs, needed and needs a lot of
6 infrastructure improvement. And we had to do
7 the boilers and the gym floor and the field
8 and the track. And we then shaded the ice
9 rink, and then we fixed the freezing under
10 the ice. And we're going to get to that
11 roof, but I don't know exactly where it is.
12 And I'll get back to you.

13 CHAIRMAN FARRELL: Because I will
14 request that we get something on it. Because
15 everything you've mentioned that you've done
16 is fantastic, but if you've got water
17 leaking, then you'll have trouble again.

18 COMMISSIONER HARVEY: And I agree.

19 CHAIRMAN FARRELL: And so it's --
20 because you've done a really good job on the
21 floors and everything else.

22 All right. And again, thank you very
23 much.

24 COMMISSIONER HARVEY: Thank you.

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1 CHAIRMAN DeFRANCISCO: Thank you. I'm
2 sorry you didn't go as long as Commissioner
3 Martens, but I'm sure you'll get over it.

4 All right, the next speaker is Richard
5 Ball, commissioner of New York State
6 Department of Agriculture and Markets.

7 Whenever you're settled in, move the

8 mic in and start off.

9 COMMISSIONER BALL: Well, good
10 afternoon. Thank you.

11 CHAIRMAN DeFRANCISCO: Good afternoon.

12 CHAIRMAN FARRELL: Good afternoon.

13 COMMISSIONER BALL: Good afternoon,
14 Chairman DeFrancisco, Chairman Farrell,
15 Senator Ritchie, members of the agricultural
16 committees and elected officials. I am
17 pleased to offer my testimony on the 2015-16
18 Executive Budget for the department of
19 Agriculture and Markets.

20 New York is an agricultural state, and
21 no governor has paid more attention to the
22 continued growth and development of this
23 sector of the economy than Governor Cuomo.
24 In 2013, New York State farmers set a record

♀ 208

1 for sales with \$5.68 billion in cash
2 receipts, representing a \$1 billion increase
3 in agricultural receipts in just three years.
4 2011 to 2013 were the highest years on record
5 for on-farm sales here in New York.

6 The 2015-16 Executive Budget
7 recommends \$164.4 million for the department.
8 This funding will help maintain our agency's
9 regulatory functions while continuing to
10 advance our state's agricultural sector.

11 The Executive Budget proposes to
12 eliminate some \$30,000 in fees to provide
13 relief to agribusinesses all across the

14 state. Licensing and regulatory services
15 associated with these fees will continue to
16 be taken care by the department.

17 The Executive Budget also proposes
18 \$50 million to assist farmers and related
19 businesses in the Southern Tier and the
20 Hudson Valley. Thirty million dollars of
21 this funding would go toward helping
22 businesses in the Southern Tier maintain,
23 develop and grow farm, agricultural and
24 related businesses, while \$20 million would

♀ 209

1 go towards purchasing farmland conservation
2 easements in the Hudson Valley region.

3 A major initiative overseen by our
4 agency is the Great New York State Fair,
5 which had a banner year in 2014, breaking two
6 single-day attendance records. In his State
7 of the State address, the Governor cited the
8 fact that it has been more than 100 years
9 since the fairgrounds underwent a major
10 renovation. The Governor is proposing a
11 \$50 million investment to transform the
12 fairgrounds into a dynamic, year-round
13 facility that would serve as a springboard
14 for development all along the Onondaga
15 Lakefront for decades to come.

16 We are also pleased with the
17 Governor's commitment to strengthening
18 appropriations for the state's Environmental
19 Protection Fund, with overall appropriations

20 increasing by \$10 million. This includes
21 \$14.2 million for Ag Non-Point Source
22 Pollution Control projects; \$14 million for
23 farmland protection; \$4.775 million for Soil
24 and Water Conservation Districts; and

♀ 210

1 \$5.7 million to fight invasive species, which
2 is an increase of \$1 million.

3 In addition to this funding is
4 \$500,000 for the Ag Climate Adaptation Program,
5 which would expand our highly successful AEM
6 program, Agricultural Environmental
7 Management, to address environmental concerns
8 beyond just water quality, to include climate
9 resiliency components, new pest management,
10 as well as carbon management on farm
11 operations. This program would ensure a
12 comprehensive approach to on-farm
13 environmental management and positions
14 New York farms to remain viable in these
15 times of increasing climate variability.

16 The Governor also proposes a
17 commission to study protecting dairy farmer
18 profits that will evaluate dairy prices and
19 programs that would help maintain dairy farm
20 profitability, including encouraging dairy
21 farmer participation in the new federal
22 Margin Protection Program.

23 This year's proposed budget continues
24 to fund the Taste New York program to the

♀ 211

1 tune of \$1.1 million. The Governor has laid
2 out an ambitious expansion of the Taste
3 New York program in 2015 designed to help the
4 program triple sales for producers through
5 aggressive promotion, online purchasing, and
6 more stores, vending machines, and events.
7 We are hard at work leveraging our existing
8 resources in cooperation with other state
9 agencies to further the expansion of the
10 program and create new opportunities for our
11 producers.

12 We have also reestablished the Pride
13 of New York Program with the Pride of
14 New York advisory committee, which will
15 provide feedback on ways we can improve that
16 program. This program has supported New York
17 State agricultural producers, including
18 nursery growers and Christmas tree farmers,
19 for nearly 20 years.

20 Addressing the issues of food deserts,
21 providing fresh foods for our youth and
22 research into emerging sectors, will continue
23 under this year's proposed budget, which
24 includes \$350,000 for the continuation of the

♀ 212

1 FreshConnect Farmers' Market program,
2 \$250,000 for Farm to School, and \$40,000 to
3 evaluate and test hop varieties at the Geneva
4 Experiment Station to help assist our state's
5 growing craft beer industry.

6 Our department is also hard at work

7 finishing up the recommendations from the
8 Interagency Task Force on Lessening Obstacles
9 for Agriculture. We call that SIL0. And we
10 continue to work with institutions at all
11 levels of government to strengthen
12 procurement of agricultural products. We'll
13 make great strides in 2015 advancing the
14 deliverables outlined in December's
15 first-ever Farm to Table Upstate/Downstate
16 Agriculture Summit, and in the process open
17 up vast new markets for our state's farmers
18 and producers.

19 There's an optimism and an excitement
20 in this field that I've never seen before but
21 I'm so proud to represent. I would be happy
22 to answer any questions you have at this
23 time, sir.

24 CHAIRMAN DeFRANCISCO: Thank you.

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1 Chairwoman of the Senate Agricultural
2 Committee, Patty Ritchie.

3 SENATOR RITCHIE: Thank you.
4 Welcome, Commissioner. I just want to start
5 off by congratulating you and the Governor
6 for all your focus on New York agriculture,
7 especially the buying locally initiative.
8 You briefly spoke about your Taste New York.
9 Could you elaborate on that and maybe give a
10 few specifics on how you plan on expanding
11 that in this coming year?

12 COMMISSIONER BALL: On procurement or

13 on Taste?

14 SENATOR RITCHIE: On Taste.

15 COMMISSIONER BALL: Well, we're
16 looking at increasing the income to the
17 producers through the Taste program
18 generally.

19 You know, Taste is a point of contact
20 for our consumers. Farmers are now 1 percent
21 of the population, and at these Taste stores
22 our consumers, our travelers get a chance to
23 see what it is we do and actually get a taste
24 of it. And the stores that we have in place

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1 so far have been able to direct people, once
2 they taste that farm product, right to the
3 farm, right to the source, and get them used
4 to using New York products.

5 We have a strategy for expanding
6 Taste. Part of it is marketing, looking at
7 the populations, where are they, what are the
8 most likely customers, who are they, and are
9 we meeting their needs. But also it's a
10 strategy about gateways. We've started in
11 the New York City area; obviously, that's a
12 major gateway for New York. But clearly the
13 North Country, the Southern Tier, the Niagara
14 Frontier, coming in from the Massachusetts
15 border at Albany, those are all gateways.
16 And we have to look at where the people are
17 and how we get to them.

18 So we're looking at adding new stores.

19 We're working with DOT on this, and
20 Empire State Development as well, and coming
21 up with a model for how we do that.

22 SENATOR RITCHIE: Can you tell me, are
23 there standards in place to brand something
24 as a New York product at this time?

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1 COMMISSIONER BALL: Yes. And that's
2 something that's ongoing, because new
3 products are coming at us all the time. The
4 Pride of New York advisory committee is
5 tackling that, and what exactly is a New York
6 product is important to us. We want to make
7 sure it's grown in New York State, processed
8 in New York State.

9 SENATOR RITCHIE: Assemblyman Magee
10 and myself, as you know, have been working on
11 the Young Farmers Initiative and trying to
12 address the number of aging farmers in
13 New York State and trying to encourage young
14 people back in. And I was very pleased to
15 see that you're -- in the Governor's budget,
16 in the address, you're talking about a Young
17 Farmers Workgroup. Is that something you
18 could elaborate on?

19 COMMISSIONER BALL: Sure. That's a
20 particular passion of mine, growing up on a
21 farm but not having a farm to go to when I
22 got out of high school. I'm technically a
23 first-generation farmer. I'm happy to say we
24 have three generations on our farm today.

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1 But I can really appreciate the challenges
 2 there are to beginner farmers, because the
 3 cost of admission into agriculture is pretty
 4 high.

5 We have brought together our lenders
 6 in the state, who many of them have beginner
 7 farmer programs. We've brought together our
 8 land trust, we've brought together Cornell,
 9 who has the FarmNet FarmLink program, and
 10 we've brought together our veterans and our
 11 minorities from the City, people that have an
 12 interest in this, and we've brought together
 13 our young farmers. And basically we're all
 14 sitting down at the same table to identify
 15 what the challenges are.

16 The Legislature, with you folks, and
 17 the Governor signing it last year, put
 18 together the Beginner Farmer Bill with a pot
 19 of money to help young people get started.
 20 So we have a lot of pots of money. And we
 21 have to deal with a couple of issues --
 22 access to land, access to funds, access to
 23 training, and access to just how do we
 24 navigate all these various pots of money and

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1 opportunities that we have: Who needs
 2 training, and who can do that.

3 So it's an exciting workgroup. We've
 4 met twice. We're going to meet again in the

5 very near future. And hopefully the outcome
6 will be clear about who can do what and how
7 we can help get new farmers on old farms.

8 SENATOR RITCHIE: And could you give
9 me an update on where we're at with some of
10 the young farmer proposals that were passed
11 last year, like the innovative grants? Do
12 you know where we're at in that process?

13 COMMISSIONER BALL: Yes, we've got --
14 the money is housed at Empire State
15 Development, and our department put together
16 criteria for that, and accepting applications
17 until I think yesterday. Today, I think, is
18 the deadline for that.

19 There's an opportunity for young
20 farmers to apply for that, follow through the
21 process, and we look forward to awarding some
22 grants to some new farmers.

23 SENATOR RITCHIE: This past month the
24 Governor vetoed a bill that was sponsored by

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1 myself and Assemblyman Magee that would
2 utilize unused state land for beginning
3 farmers, and in the veto message it said that
4 it needed to be done during the budget. But
5 when the Governor's budget came out, I don't
6 see any language that pertains to the surplus
7 state land. So I'm wondering if that's
8 something that you're looking at.

9 COMMISSIONER BALL: Actually, that's
10 something we are looking at with the Beginner

11 Farmer Group, because that would be a prime
12 source of available land for young people.

13 On a number of other matters of
14 initiatives for agriculture, we're working
15 with OGS and looking at some of the
16 properties they hold. So I think that's part
17 of the mix with the Beginner Farmer Group.

18 SENATOR RITCHIE: In the Governor's
19 budget there was an \$8 million cut to Aid to
20 Localities. Those are programs that are
21 critically important for research or
22 marketing. So I would just ask, what is your
23 perspective on the Aid to Locality items that
24 are listed in the budget? And do you believe

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1 that it's helpful to our farmers?

2 COMMISSIONER BALL: For sure. I have
3 to say this is such a wonderful opportunity
4 for me personally to be able to be a part of
5 so many positive initiatives for agriculture.
6 I think we have a great opportunity to do
7 some wonderful things in New York for
8 agriculture, and I think we have a solid
9 budget to start with for agriculture to do
10 this. But I would certainly appreciate your
11 experience and your input on how we could
12 explore ways to do an even better job. So I
13 certainly would welcome your input on that.

14 SENATOR RITCHIE: Well, in the past
15 few years that I've been the chair of the
16 Agriculture Committee, the Governor has

17 always been very supportive of making sure
18 that the Aid to Localities was included in
19 the final budget. So I'm very hopeful that
20 that's what will happen again this year.

21 Just one final question, on the
22 \$50 million that was to be split in the
23 budget between assisting farmers and farmland
24 protection in Hudson Valley and the Southern

♀ 220

1 Tier. Of course we have farmers across the
2 whole state that have a need. So I'm
3 wondering if, during the course of the next
4 few months, if we might be able to address
5 the need of farmers in maybe some other areas
6 besides the Southern Tier and Hudson Valley.

7 COMMISSIONER BALL: I have had an
8 opportunity to get around the state, and we
9 have a marvelous agriculture program in the
10 state. I think there's a number of
11 initiatives that we're undertaking right now
12 that benefit all of our upstate growers.

13 But I remember, quite honestly,
14 sitting in a cabinet meeting in December when
15 the Southern Tier was being discussed, and in
16 the background the question in a lot of
17 people's minds was, What is the answer for
18 the Southern Tier? And in my mind the answer
19 was agriculture. We've got tremendous
20 resources down there in our land, in our
21 forests, in our farmers. And I looked at the
22 initiatives that we're undertaking with

23 upstate and downstate, connecting upstate
24 markets with downstate customers, and looking

♀ 221

1 at procurement efforts around our
2 institutions and our schools, and I thought
3 this is the answer for the Southern Tier.

4 And now we have, I think, the Governor
5 willing to invest in this economy that's had
6 such a hard time. I think we can look at the
7 infrastructure there. I think we can look at
8 farmers and farms and what they need to make
9 sure the next generation remains viable on
10 that farm. And I'm excited about the
11 program.

12 In the Hudson Valley -- I think
13 there's pressure on development rights all
14 over the state, but clearly in the
15 Hudson Valley it's very acute and it's very
16 obvious. That's our front door to our
17 marketplace. And so I think those two areas
18 were targeted this year for some help. But
19 I'm excited about the opportunities for the
20 Southern Tier to help grow their way out of
21 this economy.

22 SENATOR RITCHIE: I certainly support
23 assisting the Southern Tier and Hudson Valley
24 with farmland protection. But there's other

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1 parts of the state that are in need, such as
2 the North Country, where agriculture really
3 is the focus. So I would hope that as we go

4 forward, not only in the Southern Tier and in
5 the Hudson Valley, we would look to include
6 some of the other parts of the state that
7 that really is their main economic engine.

8 And, you know, as far as farmland
9 protection, that is something that's needed
10 across the entire state, something that's
11 been backlogged for a long time, just
12 starting to move forward. And, you know,
13 whether you're in Hudson Valley or you're on
14 the tip of Long Island, it's something that
15 we need to make sure that our farmland is
16 protected. So I certainly want to thank
17 yourself and the Governor for looking at it.
18 I would just ask that you expand that to
19 other parts of the state that are in the same
20 kind of need, whether it be assisting the
21 farmers or for farmland protection.

22 COMMISSIONER BALL: For sure.

23 SENATOR RITCHIE: And that was my last
24 question. I just would like to add how much

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1 I appreciate the great job that you're doing,
2 that, you know, we pick up the phone and we
3 have some issues that we can both, you know,
4 work together to help promote agriculture,
5 you have been right there. And, you know,
6 for somebody in this position I just want to
7 say that you're doing a great job for the
8 state and for the farmers in New York State.

9 COMMISSIONER BALL: Thank you very

10 much.

11 CHAIRMAN FARRELL: Assemblywoman

12 Glick.

13 ASSEMBLYWOMAN GLICK: It's good to see
14 you again, Commissioner.

15 COMMISSIONER BALL: Good to see you.

16 ASSEMBLYWOMAN GLICK: Just a few
17 questions. One, I know that in the budget
18 there's always this dance between the
19 Legislature and the Executive. And there are
20 some items that are smaller items that are
21 generally viewed as legislative adds, and
22 they traditionally wind up out of the budget
23 and then, in the negotiation, hopefully they
24 get back in, because they're crucial to

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1 segmented parts of the agriculture industry.

2 But one that was somewhat concerning
3 to me was the cut to the Cornell Diagnostic
4 Lab. That's a really -- first of all, it's
5 not a -- you know, a million dollars. It's
6 not a \$100,000 item, it's a million dollars.
7 And it's really quite crucial for identifying
8 various animal diseases and specific
9 pathogens that could be of great concern.
10 And I'm just wondering if you know why the
11 Executive felt that that particular key item
12 was not part of the Executive Budget.

13 COMMISSIONER BALL: Well, it's a
14 process, the budget process, as you pointed
15 out. But I think that it was not targeted

16 out specifically. I think we have an
17 opportunity as we review the budget to look
18 line by line at things and look at what's
19 necessary and what's nice and make the case
20 and move forward. And we certainly want to
21 look forward to doing that with you.

22 ASSEMBLYWOMAN GLICK: I'm glad that
23 the State Fair is going to get an upgrade. I
24 hope part of that will be better food

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1 choices. I know people go to county fairs
2 and the State Fair to have everything under
3 the sun fried. But it's somewhat distressing
4 if you're trying to work on keeping a healthy
5 diet. It's few and far between. So I hope
6 that will be one of the items you'll be
7 encouraging and raising people's awareness
8 that, you know, fruits and vegetables are
9 really part of a healthy diet. And we have
10 so many small producers around the state that
11 really could use that as a showcase.

12 COMMISSIONER BALL: Yeah. We made a
13 real concerted effort this year at the fair
14 to kind of move agriculture back to the
15 middle of the fair and be the centerpiece.
16 And I think we're very mindful of what you
17 just said. If you remember, we added this
18 year in the Dairy Building a yogurt bar so
19 people who had their fill of fried foods
20 could go there and have something good. And
21 great yogurt, an assortment of yogurts there.

22 But also as you walked back towards
23 Gate 2 and Gate 3, you couldn't miss the
24 Taste tent. There was a huge Taste tent

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1 there featuring every day different New York
2 producers with their products. And every day
3 it was a different mix and they all had a
4 different mix of things to present.

5 And so I think we had some good
6 success in pointing out agriculture and the
7 good food aspects of agriculture as well.
8 But point taken.

9 ASSEMBLYWOMAN GLICK: Two other
10 questions.

11 Germany, not known for its great
12 sunshine, has made a lot of investment and
13 aggressive investment in solar energy. And
14 it actually, per capita, leads the world. We
15 have -- so many of our farms are energy
16 intensive and do have space on dairy barns
17 and so forth for solar installations. They
18 need it for electricity for milking machines,
19 for refrigeration. And I'm wondering if
20 there is, you know, some working with NYSERDA
21 to do more to help farmers. Because, you
22 know, these are not -- you know, I look
23 forward to a time when these installations
24 will be relatively inexpensive. They're not

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1 right now because, you know, the state has

2 invested in Buffalo in a big solar facility
3 which eventually will come online. But I'm
4 wondering what work is being done to assist
5 farmers in reducing energy costs, which is so
6 much a part of what's a challenge in this
7 state.

8 COMMISSIONER BALL: Yeah. I'm happy
9 to say that one of the wonderful outcomes of
10 our SILO task force was we brought in all the
11 agencies in government that regulate
12 agriculture to the same table, NYSERDA being
13 one of them. And one of the outcomes of the
14 task force is an additional task force on
15 renewable energy. As you know, methane
16 digesters are an option. And solar is an
17 option, and wind is an option.

18 But certainly on most farms, after you
19 take out the cost of labor, the largest cost
20 to the farm in many cases is electricity. On
21 my farm, that was indeed the case. We
22 invested in 2011 in a 95-kilowatt solar
23 array, which now produces a large percentage
24 of our electricity for the farm.

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1 So you're right on target. The sun is
2 there every day, and it's out there -- well,
3 most days, I should say, it's out there. But
4 clearly energy efficiency on the farm, and
5 our farms have the potential to be energy
6 generators for our state. And our task force
7 is going to look at doing just that.

8
9 question. The issue of animal harming is
10 regulated to some minor extent through some
11 laws and regulations. If one were to
12 identify -- and there is obviously concern on
13 the part of farmers that it not be too
14 aggressive because they don't want to have
15 individuals showing up at their farm saying
16 that animals who are being used for
17 production in some way are being abused. So
18 I get that.

19 But there have been some really
20 serious issues with larger animals that are
21 clearly not in a farm situation that are not
22 cats and dogs. Although that is another
23 issue. There have been some terrible
24 circumstances with horses that are not

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1 well-cared-for, that are suffering. And I'm
2 just wondering, you know, if you could
3 enlighten me as to what view the department
4 has on these circumstances and how closely
5 you're working with local law enforcement to
6 identify and not allow individuals who
7 clearly are incapable of taking proper care
8 of these animals, how we can eliminate that.

9 COMMISSIONER BALL: Sure. That's
10 everybody's job, frankly. But it's our job
11 too, and we take it very seriously. No good
12 farmer mistreats his animals when he has
13 livestock because they just don't perform

14 well. It's not in their heart to do that.

15 And it's counterproductive.

16 ASSEMBLYWOMAN GLICK: Right. These
17 are not -- these are not farmers, these are
18 people with a mental illness.

19 COMMISSIONER BALL: Yeah. We do have
20 cases around the state where sometimes people
21 with the best of intentions don't have the
22 ability to take care of animals.

23 We're fortunate -- that it is
24 something we look at, we take very seriously,

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1 we watch very closely. We're fortunate in
2 New York State -- I am, certainly, at the
3 department -- I have probably the best vet in
4 the United States working for us, Dr. David
5 Smith, who rides herd on that for us. And we
6 take it very seriously.

7 ASSEMBLYWOMAN GLICK: Okay. Thank
8 you.

9 CHAIRMAN FARRELL: Thank you.

10 CHAIRMAN DeFRANCISCO: Senator
11 Krueger.

12 SENATOR KRUEGER: Good afternoon,
13 Commissioner.

14 COMMISSIONER BALL: Senator.

15 SENATOR KRUEGER: So like my colleague
16 Deborah Glick, I come from Manhattan Island,
17 but I've said forever there are 8½ million to
18 9 million of us down there who want to eat
19 what New York State can grow and get to us.

20 I am also so pleased with you, as the
21 commissioner, broadening the discussions
22 about opportunities in agriculture in
23 New York State. And while I don't think it's
24 adequate amounts of money, I'm delighted to

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1 see that there is money for the Hudson Valley
2 and the Southern Tier for new expansions and
3 models.

4 I actually had the opportunity in the
5 fall to take a tour in the Hudson Valley of
6 three private/public partnerships: The
7 Hudson Valley Harvest, the Farm-to-Table
8 Co-Packers, and the Hudson Valley Farm Hub.
9 How to help educate new farmers to grow the
10 things that are marketable today, how to
11 figure out how to get the products that are
12 being grown directly to market in New York
13 City through a merging of the farm sales to a
14 trucking delivery system directly to the
15 city, and how to actually take the
16 agricultural products and process them into
17 products that people nearby are saying they
18 will buy.

19 So I think it's a phenomenal model.
20 But I'm not a farmer. Was I right to think
21 it's a phenomenal model and we should be
22 doing more to expand this in other parts of
23 the state? And are we doing more to expand
24 this?

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1 COMMISSIONER BALL: Yes. You may not
2 be a farmer, but you're very perceptive.
3 You're absolutely correct. Those are all
4 three great models, great points of contact.
5 And great opportunities for New York products
6 in our urban areas, wherever they are.

7 We're actually working very closely
8 with the Local Economies Project in Kingston,
9 the regional food hub program there, because
10 our mission is similar. And that is we're
11 going to look to build human capacity around
12 the state in agriculture where it's needed,
13 we're going to focus on food systems,
14 connecting the marketplaces, and shine some
15 light on the darkness that exists there, and
16 work on climate resiliency because those are
17 three areas that we need to work on. So
18 they're absolutely correct models, and good
19 ones.

20 SENATOR KRUEGER: And so when my
21 colleague Pat Ritchie says what else are we
22 doing in other parts of the state, can we not
23 also be working to develop some of those
24 models beyond the Southern Tier and the

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1 Hudson Valley? And I see Pat Hooker in the
2 audience, who I think is still with ESDC --
3 shaking his head. Yes? No? Sort of?

4 CHAIRMAN DeFRANCISCO: Not sure.

5 COMMISSIONER BALL: He's now the
6 deputy secretary for agriculture, actually,

7 so --

8 SENATOR KRUEGER: Oh, secretary for
9 agriculture. Well, he was also involved with
10 ESDC.

11 COMMISSIONER BALL: Yes.

12 SENATOR KRUEGER: But I wish I had
13 heard more discussion about smart
14 improvements for agriculture within the
15 discussion of economic development, because
16 I'm saying for the record I'm glad to see the
17 \$50 million, but I think, to be honest, it's
18 sort of a drop in the bucket compared to
19 where other states with agricultural sectors
20 are investing in their agricultural
21 sectors. So I'm wondering whether there's
22 also discussion about how we make sure that
23 when we talk about these enormous pots of
24 money through regional economic development,

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1 that we're looking at some of these success
2 stories being translated into state
3 investment and private/public partnerships.

4 Because, yes, can it be great for the
5 Southern Tier? You said agriculture is a
6 critical economic development path for the
7 Southern Tier. I'm delighted to hear that
8 because I'm not wild about the fracking or
9 the gambling theories, and it looks like
10 these might not be happening there anyway.
11 But I am very interested in understanding
12 more about how we make the investments that

13 are going to be what I would call
14 game-changers in New York State's opportunity
15 to be a world leader in 21st century
16 agriculture, moving those products from where
17 they're grown to where our population centers
18 are.

19 I mean, I'm sure you read these
20 articles also: The country of China is
21 buying up other countries just so it can have
22 their farmland, because it knows it's going
23 to need farms and farmers in its future to
24 feed its population.

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1 We don't have to go to other countries
2 and buy up their farmland; we just can't
3 afford to lose ours. And to make sure we're
4 developing a new generation. That's more a
5 speech than a question. But I want to say
6 that I think you are absolutely on the right
7 path.

8 COMMISSIONER BALL: While
9 well-articulated, I would mention a couple of
10 things to you. One is this year, largely as
11 a result of the conversation I had with the
12 Governor about upstate and downstate, on
13 December 4, 2014, we held an
14 upstate/downstate first-ever Farm to Table
15 Summit in New York City. And we brought in
16 growers from the upstate areas and we brought
17 in procurement people and people from the
18 mayor's office and people from the food

19 banks. We brought in everybody together.
20 Probably the biggest single outcome
21 from that meeting was that we were all in the
22 same room and all on the same page. But we
23 held three separate panels, one on
24 procurement, one on access to markets, and

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1 one on access -- how do we get food in
2 neighborhoods that don't have it, like the
3 South Bronx. And out of the summit, aside
4 from all of us getting to know each other and
5 building a relationship -- because first and
6 foremost, food is a relationship business;
7 it's not just a production-of-food business,
8 it's actually a relationship business -- came
9 the recommendation to form a Regional Food
10 Hub Task Force, comprised of people from
11 New York City as well as upstate people, to
12 look at where in our infrastructure, where in
13 the scheme of the food system do we need some
14 help. Do we need a loading dock here? Do we
15 need transportation there? Do we need to
16 know what food is needed where? So that is
17 being formed as we speak.

18 Secondly, out of that summit came the
19 notion of building a food hub market in the
20 South Bronx to help facilitate the movement
21 of food there.

22 Thirdly, out of that came the
23 mechanism to duplicate those efforts that are
24 ongoing in the South Bronx with Grow NYC,

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1 Corbin Hill Farm, if you've heard of that,
 2 and take that beyond to other urban areas.
 3 New York City doesn't own poverty or own
 4 access-to-food issues. We have the same
 5 challenges, the same food deserts going on in
 6 our upstate cities and even some of our rural
 7 communi ti es.

8 So let's take that model that's
 9 beginni ng to work so well and provide a
 10 mechani sm for fundi ng where they can learn
 11 how to do the same thi ng in Buffalo, in
 12 Canton, in Binghamton and Syracuse, Rochester
 13 and Albany and wherever there's a need. So I
 14 thi nk that's a wonderful outcome from that
 15 food hub.

16 SENATOR KRUEGER: I have only like 15
 17 seconds. I want to ask you one more
 18 questi on.

19 COMMI SSIONER BALL: Okay.

20 SENATOR KRUEGER: So everybody talks
 21 about mi crobreweri es doi ng so well. How is
 22 our wi ne i ndustry doi ng?

23 COMMI SSIONER BALL: Our wi ne i ndustry
 24 is doi ng equal ly well. We haven't stopped

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1 drinki ng wi ne to drink beer i nstead.

2 But that whole craft-beverage i ndustry
 3 is reachi ng new hei ghts. New York was named
 4 Wi ne Regi on of the Year recent ly. And the

5 quality of wines and the number of wineries
6 and the number of people that are producing
7 for our wineries -- and more importantly, the
8 number of consumers who are taking advantage
9 of that -- is growing. I think it's pretty
10 untapped.

11 SENATOR KRUEGER: So our sales numbers
12 are going up.

13 COMMISSIONER BALL: Sales numbers are
14 going up.

15 SENATOR KRUEGER: Thank you.

16 COMMISSIONER BALL: Thank you so much.

17 CHAIRMAN FARRELL: Assemblyman Lopez.

18 ASSEMBLYMAN LOPEZ: Thank you,
19 Chairman.

20 Commissioner, welcome.

21 COMMISSIONER BALL: Neighbor, how are
22 you?

23 ASSEMBLYMAN LOPEZ: Good to see you,
24 neighbor.

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1 Just a few questions, if I may,
2 quickly. And I was thrilled to see the
3 Governor's announcement of driving incentive
4 into the State Fair and the \$50 million. But
5 one of the things I've been advocating for,
6 and I've spoken to the Association of Ag
7 Societies, was the challenge of investment at
8 all of our fairs. And as you know, depending
9 on the locality, how heavily subscribed they
10 are, they're in disparate condition. And I

11 can say, in the region that I serve, which
12 you know very well, many of our fairs are
13 functioning just to keep basic infrastructure
14 going.

15 And I'll use, for example, the Morris
16 Fair in Otsego County. 4H offers shakes in
17 Kingston, the 4H. They couldn't do it in
18 Otsego County because they have no running
19 water going to their building. So when I
20 look at the Norwich Fair, when I look at the
21 Morris Fair, I look at some of them, very
22 severe condition. And I'm thinking that if
23 we're not adding to the 50 million, maybe
24 there's a way to take a portion of that

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1 \$50 million and look at the capital needs of
2 our fairs generally. For two reasons. One,
3 to promote agriculture, but also as a tourism
4 driver for those regions.

5 So any thoughts on that, Commissioner?

6 COMMISSIONER BALL: Well, I think
7 you're absolutely right, we need to talk
8 about that. Because the fairs are a great
9 point of contact. You know, no matter how
10 good we get in agriculture at taking care of
11 our livestock or planting the seed at the
12 right time at the right depth and caring for
13 it, if our public doesn't know what we're
14 doing or how we're doing it or feel good
15 about it, then we have to do a better job.
16 And there's an opportunity where we can tell

17 our story, agriculture can tell the story.

18 So yes, let's look at that.

19 ASSEMBLYMAN LOPEZ: So there was one
20 other facet, I thought I'd test this off you
21 too. So one was the capital investment for
22 facilities. But I also heard that
23 participation in the fairs from our farmers
24 is also dependent on the premiums that they

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1 receive for participating. And I've heard
2 that they've been challenged. We've been
3 having trouble getting our farmers to step
4 away from the farm because those premiums
5 dictate how long they can be there, if at
6 all. And I don't know if you have any
7 thoughts on that as well.

8 COMMISSIONER BALL: Yeah. Yup, it's a
9 challenge. But I think, you know, last week
10 the State Association of Fairs met out in
11 Rochester, and we were there and spoke with
12 them. And we're in the process of looking at
13 their needs and analyzing what those needs
14 are in terms of dollars. Be happy to work
15 with you on that.

16 ASSEMBLYMAN LOPEZ: I'd be thrilled to
17 see something possibly come back in the
18 Governor's 30-day period, if it's possible,
19 to show some spreading that benefit out to
20 all the fairs and maybe even looking at
21 premiums to encourage farmer participation.

22 COMMISSIONER BALL: Okay.

23 ASSEMBLYMAN LOPEZ: If I may, quick --
24 and I was thrilled to hear Assemblywoman

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1 Glick talk about the alternate energy. As
2 you know, you and I are on the same page with
3 that. I'm just wondering, beyond the
4 funding, is there some way we can strengthen
5 the hands-on support and technology transfer
6 so we're not just going out to hire
7 consultants but maybe we have someone who can
8 be reaching out to the farmers aggressively,
9 whether it be for technology transfer or
10 helping them package the applications.
11 Because it's not just the money, it's also
12 the time and packaging of a system, whether
13 it's a methane digester or solar panels or
14 anything else.

15 COMMISSIONER BALL: Sure. And
16 frankly, it's an education, understanding
17 what's available, what it costs, how it's
18 going to work. For a lot of farmers that
19 first issue of education is a huge stumbling
20 block.

21 So I think our Renewable Energy Task
22 Force is going to hope to address some of
23 those very issues. Also, the dairy industry
24 is undergoing a sincere effort to look at

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1 energy on their farms, not just solar or
2 methane digesters, but also using less
3 electricity, for example, with LED lighting,

4 et cetera. So yes.

5 ASSEMBLYMAN LOPEZ: So I'm just
6 looking if there's some way we can get
7 someone out aggressively, so whether it's
8 extension or whoever the partner might be.
9 But I think that would be something to look
10 at.

11 Lastly, two programs, state programs
12 where I'm not sure how well agriculture is
13 being represented. I have four regional
14 councils, for example, that I serve. So
15 Mid-Hudson, Mohawk Valley, Capital District,
16 Southern Tier. And part of the challenge I
17 see is that the outlying rural areas struggle
18 to have their projects advocated. So whether
19 it's the Capital District and you have Greene
20 and Columbia Counties or Essex County on the
21 outlying, I'm not sure that agriculture is
22 getting to the table as much as it needs to
23 be.

24 So I'd be looking for some thoughts on

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1 how we can strengthen the presence of
2 agriculture, agribusiness, in the REDC
3 process. And then secondly, also in the
4 Start-Up NY, as I reach out to the
5 colleges -- and I have New Paltz and
6 Cobleskill, you know the region, north from
7 Binghamton, Hudson Valley -- I'm also looking
8 for some thoughts on how Ag and Markets could
9 interdict or be participatory in the Start-Up

10 NY process to help promote, direct, guide and
11 get some of these initiatives to the table.
12 Years ago there used to be a deputy
13 commissioner for agribusiness, and it was
14 decades ago. Pat remembers. And I know
15 others like Pat and yourself have been active
16 with it. But I'm thinking we have two good
17 programs there, in my opinion. But I think
18 agriculture, we could probably strengthen the
19 visibility of agriculture.

20 Any thoughts on that?

21 COMMISSIONER BALL: I think you're
22 absolutely correct about the Economic
23 Development Council process. If you take an
24 honest assessment of our strengths and

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1 weaknesses, which is part of the council
2 process -- each council comes up with a plan
3 and assesses their strengths and weaknesses
4 and looks at their resources -- you know, in
5 the areas you mentioned, agriculture is their
6 strength. And yet we can do a better job at
7 being at the table and being involved and
8 contributing to the conversation and
9 directing some funds to agriculture.

10 I see it moving better in a better
11 way. There's initial excitement about jobs
12 and factories and nanotech, understandably,
13 because they're big and flashy. But quietly,
14 in rural communities, we do a good job at
15 agriculture. We actually are good farmers in

16 this state, great resources. So we need to
17 make sure that the presence on those councils
18 is representative of agriculture. In some
19 cases, farmers are just busy and they don't
20 take the time to involve themselves in the
21 process.

22 A couple of good examples, though. In
23 the Southern Tier, for example, they did set
24 a standard where they set together a

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1 agricultural fund, a revolving loan fund for
2 new agribusinesses, which was quite
3 far-reaching. I would like to see other
4 councils imitate that, because it made the
5 funding available year-round and not just in
6 the cycle in the fall. They had a capacity
7 to deal with something that came up
8 immediately. I thought that was an
9 excellent -- excellent thinking on their
10 part.

11 But that's again I think an outreach
12 and an education thing with the REDCs for
13 agriculture, to let them know that they --
14 you know, down here in Albany I've been
15 overjoyed to find out that the notion of
16 agriculture as economic development is
17 understood. And I think in our rural
18 communities we've got to make sure it's
19 understood as well.

20 ASSEMBLYMAN LOPEZ: Thank you,
21 Commissioner. And again, I would encourage

22 Start-Up NY.

23 Thank you, Mr. Chair man.

24 COMMI SSI ONER BALL: Thank you.

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1 CHAI RMAN DeFRANCI SCO: Senator O' Mara.

2 SENATOR O' MARA: Thank you, Chair man.

3 Commi ssi oner, I represent the Southern
4 Tier and southern Finger Lakes, so I can
5 personally attest to the fact of the great
6 work that you in your tenure here and the
7 state has done wi th our wi ne and craft
8 beverage i ndustry in recent years. I believe
9 I have more wi neries and more mi crobreweries
10 in my Senate di strict than any other di strict
11 in the state. And it's done wonders for the
12 agricul tural and touri sm i ndustries in our
13 state.

14 But that's really located around the
15 Finger Lakes. And our Southern Tier has
16 great agricul tural oppor tunities that I think
17 some of these programs that are talked about
18 in here will go to help, and we need to grow
19 on those.

20 I would like to get a little more
21 explanati on from you on the Southern Tier
22 fund of \$30 mi lli on to help sustain farms.
23 And that seems to me to be in reaction to the
24 deci sion not to move forward wi th Marcellus

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1 Shal e gas expl orati on in New York State.

2 Can you outline for me what the
3 criteria is for the use of that \$30 million
4 fund?

5 COMMISSIONER BALL: I can tell you
6 that we've left the specifics of that
7 relatively vague while we analyze it. It's
8 intentionally broad at this point. But we
9 are looking at a number of different things.

10 I think it's a great opportunity. You
11 know, the result of that decision was an
12 opportunity for us to have this discussion
13 about the Southern Tier. Certainly we've got
14 a lot of forestland down there. I think
15 69 percent of the land is forested down
16 there. There's great forest industries.
17 What do they need, what can we do there?
18 We've got a lot of land that could be great
19 beef pastureland. We currently are a
20 beef-deficit state. We don't produce the
21 beef that we use in our state; we need more.
22 That's wonderful beef land.

23 And we're looking at how can we invest
24 in the infrastructure that would support that

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1 and benefit many farmers, as well as how can
2 we help a farm that has maybe lacked the
3 capacity to change its M.O. or change the
4 infrastructure it has on its farm to
5 accommodate the next generation so that it
6 will be there for that next generation.

7 Those are the broad things that we're

8 looking at. And right now our people are
9 furiously in the weeds trying to analyze how
10 we do that, how we physically get that money
11 into the area. We've been on the phone a lot
12 with your leaders, agricultural leaders in
13 your communities down there and have a pretty
14 good bunch of answers, pretty good bunch of
15 questions to go by. But at this point I have
16 to ask you to stay tuned and we'll work with
17 you on that as we have the answers.

18 SENATOR O' MARA: Commissioner, I have
19 heard at least talk or discussion -- and
20 whether it's fact or myth you never really
21 know -- so I'll just ask you, with regards to
22 the \$30 million, that there was some talk of
23 it being used to pay farmers to make a
24 commitment to retain their land as farmland

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1 for a certain period of time and give them
2 \$500 per acre or something like that. Is
3 that part of what's being discussed?

4 COMMISSIONER BALL: Well, that's one
5 of the ideas in the realm of possibility, is
6 a payment per acre in return for an easement,
7 a temporary easement on the land.

8 SENATOR O' MARA: How long of an
9 easement is being discussed?

10 COMMISSIONER BALL: You know,
11 numbers are ranging right now, nothing's been
12 decided. But I think we're looking at 20 to
13 25 years. Because that's a generation on a

14 farm, in my book.

15 SENATOR O' MARA: It is. What
16 restrictions are being considered on that?
17 Would oil and gas exploration be permitted
18 under such a lease with that money being
19 given?

20 COMMISSIONER BALL: I can't get into
21 any of the details of it because they haven't
22 been known yet. Not because I don't know
23 them, but we haven't gotten that far.

24 SENATOR O' MARA: Because certainly

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1 many farmers across the Southern Tier were
2 holding out hope for natural gas exploration.
3 Many had had leases that paid far and above
4 \$500 per acre for only a two-year period and
5 not a 20-, 25-year period.

6 COMMISSIONER BALL: Sure.

7 SENATOR O' MARA: This fund seems to be
8 some acknowledgment of the desperation in the
9 Southern Tier, particularly with farmland as
10 farmers continue to go bankrupt or sell off
11 their land to be able to pay their property
12 taxes year after year. It's becoming a very
13 urgent problem. And with our great
14 agricultural base in New York, I want to see
15 that we do all we can to do that.

16 But, you know, basically their hope
17 was eviscerated with the collapse of the
18 going forward with Marcellus Shale
19 exploration, which would have gone far

20 further than any \$30 million fund in this.
21 And to say that we're going to put
22 \$30 million into the Southern Tier seems
23 insignificant in the amount of what other
24 options could have been -- not that they're

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1 under your purview. But then to come out and
2 say we're going to spend \$50 million at the
3 New York State fairgrounds? It seems short
4 shrift, again, to the Southern Tier. And
5 I'll just leave it at that.

6 Thank you.

7 CHAIRMAN FARRELL: Thank you.

8 Assemblyman Crouch.

9 ASSEMBLYMAN CROUCH: Thank you. Thank
10 you, Mr. Chairman.

11 And good afternoon, Commissioner.

12 Good to see you again.

13 COMMISSIONER BALL: Assemblyman.

14 ASSEMBLYMAN CROUCH: I just would like
15 to very quickly say that I hear a lot of good
16 things about what you're doing across my
17 district. I'm very appreciative of your
18 background and your being forthright, and
19 you're honest. And you've been down in my
20 district on two or three different occasions,
21 so I personally appreciate that too. Because
22 in agriculture they always like to see the
23 real people in government come out and talk
24 turkey with them, you know?

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1 COMMISSIONER BALL: Thanks.

2 ASSEMBLYMAN CROUCH: I echo the
3 comments of Senator O'Mara that -- I was
4 questioning the 30 million. But I won't
5 dwell on that. I think you've answered the
6 questions pretty much that I had through his
7 comments and questioning.

8 A few years ago when the price of fuel
9 spiked well over \$4 a gallon, the farmers
10 were put upon with fuel surcharges, because
11 obviously the haulers had contracts to haul
12 the milk at a certain price per gallon per
13 mile or whatever. And so they enacted
14 surcharges. And then when fuel prices
15 decreased somewhat, talking to some farmers,
16 that the surcharges were still there. But
17 yet there were two or three or four years
18 that had already gone by, so obviously some
19 of those contracts had been renegotiated. So
20 if they're renegotiated, I'm sure that
21 they've kind of readjusted some of those
22 prices for hauling, but the surcharges were
23 still there, to my understanding.

24 I guess the question -- I haven't had

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1 a chance to talk to some of the farmers, but
2 the question is if they're still there now,
3 why? And if your department has any
4 oversight on that. Because, you know, there
5 shouldn't be a free lunch on the farmers all
6 the time. They pay the hauling, which I

7 believe they shouldn't to get their milk from
8 the farm to the creamery, because they no
9 longer have possession or ownership of it
10 once it leaves the farm.

11 And if there's some way that we can
12 look at that, if the farmers are still being
13 charged a surcharge on that hauling for the
14 milk. Because that's when the price was over
15 \$4 a gallon and milk prices literally still
16 in the gutter, if you will, at 12 dollars and
17 change, they were really getting gouged on
18 some of those surcharges and having to pay
19 very heavily. But if your department could
20 just look at that, if surcharges are still in
21 place. If they are, why? Because, again,
22 we're in a situation now that fuel prices are
23 falling.

24 I'm always concerned about what the

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1 dairy farmer has to pay, and it seems like
2 sometimes others look at, you know, the dairy
3 farm as a free lunch to extract money, so ...

4 COMMISSIONER BALL: Sure. My
5 experience is that's largely a farmer co-op
6 arrangement. And the farmers, you know,
7 comprise the co-ops.

8 But we're going to pull together here,
9 as mentioned in my testimony, a workgroup on
10 looking at particularly the Dairy Margin
11 Protection Program, but also issues for the
12 co-ops, and what is the direction we need to

13 go forward to make sure that we can stabilize
14 dairy producers in our state. And we'll be
15 happy to add that to the agenda.

16 ASSEMBLYMAN CROUCH: Okay, thank you.

17 COMMISSIONER BALL: Thank you very
18 much. Appreciate it.

19 CHAIRMAN DeFRANCISCO: Senator
20 Montgomery.

21 SENATOR MONTGOMERY: Yes, thank you.

22 Good afternoon, Commissioner. I have
23 a couple of questions that I want to ask all
24 at once, because my time goes so quickly.

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1 And so if you can, you can answer them, or
2 otherwise you might answer them for me at a
3 later date.

4 Two things. One is I'm from Brooklyn,
5 Kings County. And we have quite a number of
6 green markets. They are very popular, and
7 people really even want more. So that just
8 goes to show you the desire to have fresh
9 produce and other products.

10 So I note that in the proposal there
11 is going to be an office opening up in
12 Brooklyn, if it hasn't already opened.

13 COMMISSIONER BALL: It's opened.

14 SENATOR MONTGOMERY: Okay. Then where
15 is that, and how do we build a closer
16 relationship and I guess a more connected,
17 community-connected relationship with that
18 office? Because that's going to be very,

19 very exciting for us in Brooklyn to work with
20 you on.

21 COMMISSIONER BALL: It's exciting for
22 us too. How can we be in the biggest
23 marketplace in the world and not have eyes
24 and ears down there?

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1 SENATOR MONTGOMERY: Yes.

2 COMMISSIONER BALL: It actually was an
3 office where inspectors were housed, and now
4 we've added marketing people and people to
5 work on Taste and procurement and have
6 relationships with both Brooklyn and New York
7 City overall. Be happy to get you the phone
8 numbers of the people who are in that office
9 and make sure they reach out to you.

10 But, you know, on our farms, as I
11 mentioned earlier, no matter how good a job
12 we do at planting the seed and growing the
13 livestock, if we're not marketing it, if
14 we're not out there communicating what we
15 have to our customer, we're kind of spinning
16 our wheels. So we need to be in the
17 marketplace, and we are going to be in the
18 marketplace.

19 SENATOR MONTGOMERY: Absolutely, yes.
20 And I think it would be very helpful for us
21 to work together to try to strengthen our
22 interdependence, farming community with the
23 marketplace where we are, and we'd like to
24 work with you on that.

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1 The other question I have, which is
2 sort of related but really different, is I've
3 had some very, very exciting opportunities to
4 work with the Future Farmers of America. And
5 they have a small project that they have
6 developed which is like a rolling museum,
7 where they can bring that into a community.
8 They've brought it into my district, working
9 with young students or with students in the
10 district, students from upstate working with
11 students downstate, showing them how maple
12 syrup is produced and so forth.

13 One, I wonder if we can look at that
14 as a means of really beginning to cultivate a
15 different understanding and relationship
16 between people in the market and the farming
17 community through those young people. And
18 that it could go both ways, that we could
19 bring students from upstate to downstate
20 using things like that museum and other
21 things that they probably can bring with
22 them, as well as having students from
23 downstate come upstate and visit farms and so
24 forth.

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1 So I wonder -- and as far as I can
2 tell, the Future Farmers of America are not
3 really viewed as, you know, a major part of
4 our institutional approach to the economy.

5 And I'm wondering if you have thought about
6 it, if you would think about that in a
7 different way, and that we could begin to
8 build a relationship between the farming
9 community in particular, since we're a huge
10 farming state, and those kinds of activities
11 that start with young people at an early
12 point in their lives when they are not
13 already full of these biases on one level or
14 another.

15 So if you would respond to that. What
16 do you think?

17 COMMISSIONER BALL: Yeah. Well,
18 absolutely, that's a marvelous notion and a
19 great idea. And you're absolutely correct,
20 the FFA kids are -- they're our future
21 leaders in agriculture, but today they're our
22 salesmen for agriculture and a perfect
23 connection to the marketplace. A great point
24 of contact. Young people, regardless of

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1 where they come from, have so much in common.
2 And for them to understand young people from
3 the city and for the city young people to
4 understand what it's like to live in rural
5 America, you find out we have more in common
6 than we understood originally.

7 So that's a wonderful idea. We're
8 going to do more of that. We need to
9 multiply that little maple example a hundred
10 times for sure.

11 SENATOR MONTGOMERY: I appreciate
12 that. And we certainly could use a lot more
13 of our young people understanding the
14 relationship between their health and farm
15 products, produce.

16 COMMISSIONER BALL: Absolutely. Thank
17 you.

18 SENATOR MONTGOMERY: Thank you.

19 COMMISSIONER BALL: Thank you very
20 much. And we'll get out that information,
21 the phone numbers and contacts for the New
22 York City office.

23 SENATOR MONTGOMERY: Appreciate that.
24 Thank you.

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1 CHAIRMAN FARRELL: Thank you, Senator.
2 Assemblyman Dilan.

3 ASSEMBLYMAN DILAN: Thank you,
4 Mr. Chairman.

5 And I'll start by saying that Senator
6 Montgomery stole my thunder.

7 SENATOR MONTGOMERY: Sorry about that.

8 ASSEMBLYMAN DILAN: I'm a new member.
9 This was intended to be my first question.
10 So, Mr. Chairman, I'll be brief, but I'll
11 expand on it.

12 You say that the office in Brooklyn
13 has opened. I just want to ask in
14 more detail, what are the expected benefits
15 for the City of New York in the office, and
16 what are the expected benefit for farmers in

17 the State of New York?
18 COMMISSIONER BALL: Well, largely
19 they're tasked with carrying out the
20 conclusions and expectations from the
21 upstate/downstate summit. The food hub task
22 force participation, working with the mayor
23 and the city, working with the boroughs, the
24 chambers of commerce, to understand

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1 agriculture.
2 One component of that is the community
3 gardens that you have around the city, like
4 how do we access that, how do we get in touch
5 with Cornell Cooperative Extension to take
6 full advantage of that. Those are all
7 wonderful points of contact for people in
8 your neighborhood to learn about agriculture,
9 understand agriculture, and dispel the myths
10 about agriculture. So that's part of their
11 charge.

12 Taste. You know, the Governor's
13 initiative on Taste and the state's
14 initiative on Pride of New York, getting
15 New York products into New York institutions,
16 into New York schools, into New York
17 hospitals. That takes building
18 relationships. It takes where does it go,
19 how does it get there, where is the farmer,
20 how do we get the truck in here, where's the
21 truck go, what the tolls are. All those
22 kinds of connections, those are the things

23 that they're being tasked with, bridging the
24 gaps.

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1 ASSEMBLYMAN DILAN: Okay. So are you
2 working with community-based organizations or
3 any community partners to help you achieve
4 that aim?

5 COMMISSIONER BALL: Sure. Absolutely.

6 ASSEMBLYMAN DILAN: So I too, like the
7 Senator, will be interested in receiving the
8 number and the list of community partners.
9 Because like the Senator said, we represent,
10 well, not the same area, but people with, you
11 know, high diabetes and large health
12 problems. And I think that your office can
13 be the beginning of turning that around.

14 COMMISSIONER BALL: Sure.

15 ASSEMBLYMAN DILAN: Thank you,
16 Mr. Chairman.

17 I also understand from my colleague
18 that you personally may be fluent in Spanish,
19 which I appreciate. And I understand that
20 migrant workers are important to agriculture,
21 and it's good to know that --

22 CHAIRMAN FARRELL: Is your microphone
23 on?

24 ASSEMBLYMAN DILAN: I understand that

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1 you are fluent in Spanish, and I appreciate
2 that on a personal level because migrant
3 workers are part of the agriculture

4 community. And to have a commissioner who
5 speaks the language I think is a bonus.

6 Thank you, Mr. Chairman.

7 CHAIRMAN DeFRANCISCO: I just had a
8 couple of comments and remarks. I can't
9 understand why Assemblywoman Glick doesn't
10 like deep-fried Twinkies.

11 (Laughter.)

12 ASSEMBLYWOMAN GLICK: I didn't say I
13 didn't like them.

14 (Laughter.)

15 CHAIRMAN DeFRANCISCO: Okay. That's
16 number one.

17 But number two, also advice to any
18 legislator here, if you come to the New York
19 State Fair, you are required to have a
20 sausage sandwich if you're a politician.
21 Otherwise it's a bad move, believe me. Some
22 gubernatorial candidate learned that early on
23 in his campaign.

24 With respect to the State Fair, it's a

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1 proposal right now. Are there any concepts
2 as to what it's going to look like or what
3 the goals are or what the logic behind it is?

4 COMMISSIONER BALL: I think that the
5 logic behind it is excellent. First of all,
6 the New York State Fair was rated as one of
7 the top five state fairs in the United
8 States, which is awesome. And we know it's a
9 great fair, and it has great sausage.

10 But also I had an opportunity in my
11 lifetime to visit three out of the other top
12 state fairs in the country at various times.
13 And I think we have a real opportunity here
14 to elevate it to be the best fair. So the
15 vision of transforming it, fixing that
16 infrastructure, getting it up to speed is
17 exciting.

18 But I think what's more exciting is
19 the notion of integrating that into the
20 community and having it not just be a great
21 fair, but having it be a great community.
22 And so the visions are being put together
23 that will incorporate the fair as well as the
24 surrounding lakefront community. And right

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1 now it's just a few drawings on paper, it's
2 fairly early on in the process, but it's
3 going to be pretty exciting. We'll keep you
4 apprised as we go along.

5 CHAIRMAN DeFRANCISCO: Well, it's in
6 my district, so I have a special interest to
7 make sure it's done right.

8 But secondly, I think when I was a
9 kid -- I can't remember that far back -- that
10 the Center of Progress Building had exhibits
11 like major new products that were being
12 developed in the State of New York,
13 magnificent, the next generation of stuff you
14 would use in the house, that sort of thing.

15 Now, as long as I can remember it's

16 now rented out to people that sell stuff that
17 cleans your glasses, things that -- there may
18 be some state office, state departments that
19 have a booth there, including the State
20 Senate. There may be other things like that,
21 but it mostly sells stuff that is not very
22 high-tech, to put it mildly. You can get
23 much of it in a dollar store.

24 So all I'm asking for is sometime

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1 someone should really put together a list of
2 some of the major new initiatives that are
3 happening in New York State that are
4 high-tech, that are showing a center of
5 progress, the progress in the State of
6 New York. Whether it's that particular
7 building -- and I know this used to be, it's
8 deep back in my memory -- it shows what
9 New York State is really doing now that makes
10 New York Staters proud as opposed to avoiding
11 a trip to the dollar store.

12 So please give that some
13 consideration. Especially with some of the
14 new businesses coming into the state, it may
15 be a perfect opportunity to showcase the
16 state's progress.

17 COMMISSIONER BALL: I like it. Thank
18 you.

19 CHAIRMAN DeFRANCISCO: So do I. I
20 usually agree with myself.

21 (Laughter.)

22 CHAIRMAN FARRELL: Not all the time.
23 Thank you. Next, Assemblyman Otis.
24 ASSEMBLYMAN OTIS: Thank you,

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1 Mr. Chairman.

2 CHAIRMAN FARRELL: Oh, excuse me, and
3 we've been joined by Assemblyman Titone. And
4 Gary Pretlow, Assemblyman Gary Pretlow.

5 ASSEMBLYMAN OTIS: Just to
6 Assemblywoman Glick's comments about more
7 choices at the State Fair, I interpreted that
8 to mean, when she said deep-fried, that she
9 wanted more choices, she was looking for
10 double-deep-fried.

11 COMMISSIONER BALL: Or wrapped in
12 bacon, perhaps.

13 (Laughter.)

14 ASSEMBLYMAN OTIS: Commissioner, thank
15 you very much. And I'm a big fan of your
16 Taste NY program, which I think is
17 tremendous. And I have a constituent who for
18 the holidays sent Taste NY baskets to friends
19 all over the country, and one of them from
20 Utah sent back a picture of them with their
21 Taste NY-products basket. So it is getting
22 around, and it's a good thing.

23 A question about if there's additional
24 money in the budget for Taste NY locations.

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1 How many do we have now, how many do we

2 project in a year or so with expansion? And
3 do we now have Taste NY stations within
4 larger stores? Is that something you're
5 looking at, let's say in a large supermarket,
6 a Taste NY corner in there? Is that part of
7 the program or something you're considering?
8 Thank you.

9 COMMISSIONER BALL: Thank you.

10 Well, we certainly want our grocery
11 stores carrying New York products. I don't
12 think we envision a Taste NY store in the
13 corner of a grocery store, say. But we want
14 to see New York products in there for sure.
15 That's a separate effort.

16 We have 25 retail locations in New
17 York State of Taste stores, and we're looking
18 to leverage that with the vending machines,
19 as you see here in the Empire Plaza and the
20 Capitol and around the state in the Thruway
21 areas. We're looking at adding four or five
22 stores here in the near future, buildings in
23 strategic locations where traffic makes sense
24 and where access makes sense and the gateway

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1 component is addressed.

2 So we're also looking at the Thruways.
3 Obviously every rest stop is a potential
4 Taste NY location. So all of those are on
5 the drawing board.

6 ASSEMBLYMAN OTIS: That's great. And,
7 you know, combined between the efforts on

8 tourism, which is with a different state
9 agency, I mean so much is being done to
10 promote upstate New York business through all
11 these things, and they really meld together.
12 So it's all very positive. Thank you.

13 COMMISSIONER BALL: Thank you.
14 Appreciate that.

15 CHAIRMAN FARRELL: Thank you very
16 much.

17 Assemblyman Titone.

18 ASSEMBLYMAN TITONE: Thank you,
19 Chairman.

20 Good afternoon, Commissioner. And I,
21 like my colleague Assemblymember Otis, am a
22 huge fan of Taste NY, and I appreciate all
23 the efforts. Really I just want to, you
24 know, as you look at marketing and retail, it

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1 occurs to me that, you know, on Staten Island
2 we have wonderful cultural centers and
3 historic parks, historic Richmondtown. And
4 in my mind I think these would be perfectly
5 conducive areas to start marketing Taste NY
6 products. We have the gift shops that can
7 accommodate them. On our Heritage Farm in
8 Staten Island, we actually produce our own
9 honey along with many other produce.

10 So outside of the Thruway, which I
11 think is great in retail, I think maybe you'd
12 think outside of the box and look at all the
13 cultural institutions in New York City, not

14 just Staten Island, but, you know, coming on
15 and off the Staten Island ferry, where you
16 have millions upon millions of tourists and
17 commuters every day. And we also have one of
18 our arts and cultural centers located there
19 with a gift shop.

20 I think looking outside the box for
21 promoting the retail end of Taste NY would be
22 not a bad idea to talk about and think about
23 our cultural s, our not-for-profits that would
24 be happy to have Taste NY products in their

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1 gift shops and such.

2 COMMISSIONER BALL: I'd love to take a
3 look at that.

4 ASSEMBLYMAN TITONE: Thank you.

5 CHAIRMAN FARRELL: Thank you very
6 much.

7 CHAIRMAN DeFRANCISCO: Thank you,
8 Commissioner. Appreciate it. Sorry for the
9 long wait. But obviously you're getting good
10 reviews here.

11 COMMISSIONER BALL: Well, thank you so
12 much. Appreciate your energy.

13 CHAIRMAN DeFRANCISCO: Okay. John B.
14 Rhodes, president and CEO of NYSERDA. And I
15 believe he's going to be joined by Tom
16 Congdon. He's here to answer any questions
17 that we might have, along with yourself.

18 NYSERDA PRESIDENT RHODES: Correct.

19 CHAIRMAN DeFRANCISCO: All right. So

20 as soon as you get settled and you're ready
21 to roll, you're on.

22 NYSERDA PRESIDENT RHODES: Thank you
23 very much. Good afternoon, Chairman
24 DeFrancisco, Chairman Farrell, and members of

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1 the committees. Thank you for the
2 opportunity to testify before you today.

3 I am John Rhodes. I serve as
4 president and CEO of the New York State
5 Energy Research and Development Authority,
6 NYSERDA. I am joined by Tom Congdon, chief
7 of staff of the Department of Public Service.
8 Appreciating your guidance a few hours ago,
9 Mr. Chairman, I will keep my opening remarks
10 brief.

11 NYSERDA's funding is principally
12 derived through the System Benefits Charge
13 and the Renewable Portfolio Standard, which
14 are assessments on gas and electric bills.
15 NYSERDA plays an important role in helping
16 the state meet its goals of reducing energy
17 consumption and promoting energy efficiency
18 and the use of renewable energy to help
19 protect our environment. We will continue to
20 be a vital participant in the Governor's
21 Reforming the Energy Vision, or REV,
22 initiative, which seeks to provide a cleaner,
23 more affordable, and more reliable energy
24 system for all New Yorkers.

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1 Under the REV initiative, New York
2 State will spur clean energy innovation,
3 bringing in new investments and improving
4 consumer choice while protecting the
5 environment and energizing New York's economy
6 at the state and local levels. By unleashing
7 innovation, overcoming market barriers and
8 empowering communities, New York is
9 pioneering a new statewide approach that will
10 provide customers with greater opportunities
11 for energy savings, local power generation,
12 and enhanced reliability.

13 As a part of the REV initiative,
14 NYSERDA is evolving its operational
15 strategies, recognizing that government can't
16 meet all of the state's energy challenges
17 alone. NYSERDA is partnering with the
18 private sector to develop and expand
19 clean-energy markets and break down barriers
20 that are slowing the growth of those markets.
21 We are also partnering with local
22 communities. Our goal is to enable the
23 market, not be the market. Leveraging
24 ratepayer funds with private capital, along

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1 with greater market competition, will help us
2 bring technologies to scale as we integrate
3 existing technologies into the state's energy
4 system.

5 A key element of NYSERDA's
6 transformation is its proposal before the

7 Public Service Commission to merge its
8 funding sources into a single Clean Energy
9 Fund, or CEF. The CEF combines funding from
10 a number of sources to better respond to
11 market changes, create self-sustaining
12 markets for clean energy, and to stimulate
13 clean-energy economic development. The CEF
14 aims to ensure and expedite the state's
15 achievement of its overall clean energy and
16 clean energy economy objectives by targeting
17 marketplace gaps and barriers. This 10-year
18 fund is fuel-neutral and would authorize the
19 investment of \$5 billion in New York's
20 clean-energy economy through 2025, while
21 reducing overall ratepayer charges for
22 customers.

23 The Clean Energy Fund will build on
24 our past success and focus on four areas:

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- 1 • Market transformation, which is
2 about finding methods to reduce barriers to
3 clean-energy development;
- 4 • Business innovation, increasing the
5 commercial readiness of early-stage and
6 high-growth-potential companies that are
7 envisioning and developing transformative
8 clean-energy solutions;
- 9 • The New York Green Bank, a
10 \$1 billion initiative that leverages
11 private-sector capital to support and expand
12 strategic and targeted investment in clean

13 energy; and
14 • NY-Sun, a \$1 billion initiative to
15 create a robust and self-sustaining
16 solar-power market in New York, reducing
17 incentives as the industry builds to scale.

18 By embracing principles already in
19 place -- stability, transparency, focus on
20 soft costs, and partnership with industry and
21 communities -- the CEF will advance the great
22 strides we've already taken with existing
23 initiatives like the New York Green Bank and
24 like NY-Sun.

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1 Since NYSERDA's inception, our staff
2 has provided expertise in research and
3 development and an ability to successfully
4 reduce energy consumption across all sectors.
5 In the 2015-16 fiscal year, NYSERDA will
6 continue focusing \$16.2 million in funding
7 for energy research and development, and in
8 statewide energy planning and analysis
9 activities. This includes funding for the
10 Department of Environmental Conservation's
11 Climate Change Office. We will also provide
12 additional support to continue the Fuel
13 New York initiative that ensures that the
14 state is better positioned to maintain access
15 to fuel during temporary fuel disruptions.

16 NYSERDA also will continue protecting
17 New York's interests in the West Valley
18 Demonstration Project in Cattaraugus County.

19 The Executive Budget recommends \$12.5 million
20 for ongoing nuclear waste cleanup work at the
21 West Valley site. Our costs at West Valley
22 are largely dictated by a federal match
23 requirement, and this amount reflects the
24 funding level necessary to match the federal

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1 appropriation during the 2015-16 federal
2 fiscal year.

3 New York State is taking bold steps to
4 significantly improve its energy policy, and
5 NYSERDA is actively working to help the state
6 achieve its goals.

7 This concludes my opening remarks, and
8 I would be happy to take any questions that
9 you may have.

10 CHAIRMAN DeFRANCISCO: Thank you.
11 Senator Krueger.

12 SENATOR KRUEGER: Good afternoon.

13 NYSERDA PRESIDENT RHODES: Good
14 afternoon, Senator.

15 SENATOR KRUEGER: And so you don't
16 have separate testimony, so when I'm asking
17 questions that may involve the PSC, I guess
18 I'm directing towards you versus you, if
19 that's okay.

20 PSC CHIEF OF STAFF CONGDON: Sure.

21 SENATOR KRUEGER: So you just
22 testified that we're proposing a \$5 billion
23 Clean Energy Fund with a breakdown of --
24 sorry, just pulling out your testimony -- a

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1 breakdown of a number of different
 2 activities. Where's the \$5 billion coming
 3 from?

4 NYSERDA PRESIDENT RHODES: So the
 5 \$5 billion is coming at -- this is a proposal
 6 to the Public Service Commission, so they
 7 will dispose. But in our proposal, the \$5
 8 billion will come from collections -- that
 9 is, surcharges by ratepayers for gas and
 10 electric utilities on their bills.

11 PSC CHIEF OF STAFF CONGDON: If I may
 12 add, these are existing surcharges that are
 13 already on the bills. And there is not a
 14 proposal to increase the surcharges beyond
 15 what they already are today.

16 SENATOR KRUEGER: So it's 5 billion
 17 over 10 years, which is half a billion a
 18 year, although obviously that's not
 19 necessarily true. But it's from surcharges
 20 that already exist. So what aren't we
 21 spending that half a billion per year on
 22 anymore that we're currently collecting but
 23 not going to use that way anymore? What are
 24 we not funding anymore through existing

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1 surcharges?

2 NYSERDA PRESIDENT RHODES: I'm sorry,
 3 Senator, how will we change our programs in
 4 the future?

5 SENATOR KRUEGER: Well, you're saying,
6 if I heard both of you together correctly,
7 5 billion committed to this. And I love
8 expanding clean-energy efforts. So I just
9 rounded half a billion a year. We're not
10 increasing surcharges on the ratepayers, so
11 that must mean we're collecting money now
12 that we're not going to be spending on
13 something we're currently using that money
14 for. What's not being spent anymore?

15 NYSERDA PRESIDENT RHODES: So indeed
16 we are transitioning away from one set of
17 programs and towards another set of programs.
18 And that transition is fundamentally informed
19 by the recognition that we can and must do
20 better in terms of achieving a scale of clean
21 energy -- that we can achieve better energy
22 results, that we can achieve better clean
23 energy economy, economic development results,
24 if we adopt some new models. And that's

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1 essentially because partners are ready to
2 work with the government sector.

3 So there is the private sector on the
4 sidelines, with its ability to innovate, with
5 significant amounts of capital and so forth,
6 and also the local sector is a little bit on
7 the sidelines as well. And those are two
8 changes that we are going to make sort of
9 redeploying funds from some current programs
10 into that new model. And NY-Sun and New York

11 Green Bank, which are already up and running,
12 are representative of how that will work and
13 the principles on which we expect to achieve
14 success.

15 SENATOR KRUEGER: So the Green Bank
16 billion, from your testimony, and the NY-Sun
17 billion is separate from the 5 billion new
18 clean-energy proposals?

19 NYSERDA PRESIDENT RHODES: No, it is
20 within the 5 billion.

21 SENATOR KRUEGER: It is within. So
22 it's those two plus another 3 billion?

23 NYSERDA PRESIDENT RHODES: Correct.

24 SENATOR KRUEGER: And you talk about

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1 in your testimony that this whole package is
2 fuel-neutral. So what's the definition of
3 clean energy for these \$5 billion?

4 NYSERDA PRESIDENT RHODES: So most
5 simply, clean energy is greenhouse-gas-
6 reducing or greenhouse-gas-eliminating. That
7 includes, most familiarly includes renewable
8 energy. So wind; solar, prominently;
9 anaerobic digesters, which we just heard
10 talked about in the agricultural sector. And
11 it includes energy efficiency, which is the
12 reduction in the use of energy, that being
13 the cheapest way to avoid generating
14 electricity in the first place and therefore
15 to avoid generating carbon by generating
16 electricity. So those are the elements of

17 clean energy.

18 SENATOR KRUEGER: And how does this
19 proposal by the Governor mesh with all the
20 discussions about the REV? And I'm trying to
21 remember what the REV stands for, actually,
22 as I ask the question. But you know what I
23 mean, you're shaking your heads.

24 NYSERDA PRESIDENT RHODES: It meshes

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1 because it's part of a comprehensive
2 strategy. REV, I think you --

3 SENATOR KRUEGER: Reforming the Energy
4 Vision.

5 NYSERDA PRESIDENT RHODES: Thank you,
6 Senator O'Mara.

7 SENATOR KRUEGER: Thank you, Senator
8 O'Mara.

9 NYSERDA PRESIDENT RHODES: Reforming
10 the Energy Vision. So the REV, if I can just
11 quickly sort of summarize its big components.
12 So there is a proceeding underway at the
13 Public Service Commission which is a set of
14 regulatory reforms which go to changing the
15 rules under which utilities operate and
16 operate as businesses. There is a set of
17 things that the New York State agencies as
18 agencies are doing, improving energy
19 efficiency in state assets. So OGS and
20 Transportation and primarily led by the
21 New York Power Authority. And then there's
22 the Clean Energy Fund, which is really about

23 working to -- investing to make clean-energy
24 investments more sensible. Right? And so we

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1 are enabling a lot of the progress that is
2 contemplated in the other parts of REV.

3 SENATOR KRUEGER: Just briefly -- I
4 know I'm going to have more questions in
5 later cycles -- because I'm trying to
6 understand how all these things mesh together
7 and change our lives.

8 The Renewable Energy Standards I
9 believe sunset in 2015. Is the Governor
10 going to propose continuation, changes,
11 modifications since we're all talking cleaner
12 energy, we're all talking redirecting our
13 funds that way, we're talking changing PSC
14 through REV? What's the role of standards we
15 have and commitments we've made up until now?

16 NYSERDA PRESIDENT RHODES: So we
17 appreciate this is a complicated topic and
18 we're of course happy to have any level of
19 conversation with you or your staff that
20 would help.

21 With respect to the Renewable
22 Portfolio Standard --

23 SENATOR KRUEGER: That was the name,
24 yes, thank you.

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1 NYSERDA PRESIDENT RHODES: No, no.
2 -- that is indeed sunseting at the
3 end of 2015, and the Clean Energy Fund is in

4 many ways a successor fund of that as well as
5 some other programs.

6 To date, the Renewable Portfolio
7 Standard has principally been focused on
8 developing clean renewable energy through
9 wind, so large wind farms generally upstate.
10 We know that that is a meaningful resource
11 for the state as we go forward, and we are
12 looking for ways to continue that. We are
13 examining our options. We are -- we have
14 something of a transition plan. We have just
15 a few months, in November, we had a large and
16 meaningful solicitation, our term for an
17 auction, procuring a good chunk of wind. We
18 are committed to having another one in this
19 year, 2015. And the Public Service
20 Commission has directed us to examine the
21 possibility of having a further auction in
22 the year 2016. So together, that program of
23 solicitations is our current bridging plan.

24 In the meantime, we are developing

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1 innovative options to seek to preserve wind
2 as an important resource for the state in the
3 years that follow.

4 SENATOR KRUEGER: My time is up, so I
5 will probably ask for further questions.

6 Thank you.

7 NYSERDA PRESIDENT RHODES: Thank you.

8 CHAIRMAN FARRELL: Thank you.

9 Assemblyman Otis.

10 ASSEMBLYMAN OTIS: Great to see you.
11 And, you know, I think that the theme of your
12 testimony and what NYSERDA is doing is that
13 you have a lot of very innovative financial
14 incentives to move us to less reliance on
15 greenhouse gases. And NYSERDA has a lot of
16 different programs that are too voluminous to
17 outline in your testimony today.

18 But my question is, you have all sorts
19 of really good stuff going on. What are you
20 doing currently to try and expand knowledge
21 of those programs to the business community,
22 to local governments, to schools and to
23 residents so that they can take advantage of
24 the new incentives and things that you really

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1 have redevise d in terms of how NYSERDA
2 incentivizes these different good programs?

3 NYSERDA PRESIDENT RHODES: So one of
4 the first -- you asked a broad question, so
5 my answer will probably have several parts to
6 it.

7 One of the first things we're doing is
8 I think we're working very hard to become
9 easier to deal with, not just as a set of
10 government agency workers, but as a website
11 and so forth. And we're practicing
12 streamlining, we're practicing lean. And I
13 know for a fact that we are getting good
14 reviews, in those parts of NYSERDA where
15 we've already rolled that out, of being much

16 more easy to deal with.
17 On the second point, it is in fact --
18 on a related point, it is in fact one of the
19 missions of NYSERDA to, as we look forward
20 and do what I've described as market
21 transformation, is to make all of those
22 stakeholders deeply aware of the clean energy
23 opportunities that are out there. I said
24 stakeholders, but one way to think of them is

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1 potential investors. They're people that are
2 going to decide, I'm going to put this on my
3 roof, I'm going to put this in my shop. And
4 so our work is to make them more aware and
5 make it easier for them to say yes to clean
6 energy solutions.

7 Continued incentives will be a part of
8 that picture, but only a part of that
9 picture. Because it's also true that with
10 the growing sophistication of the
11 marketplace, many of the solutions don't need
12 to be government-directed or government-
13 supported. So that's a core theme of our
14 reducing soft costs. You can think of it as
15 making it easier for customers to say yes.
16 When we say reducing soft costs as part of
17 NYSERDA's market transformation strategy,
18 that's what we mean.

19 ASSEMBLYMAN OTIS: Thank you. I'd
20 just say that there's a lot there. And I'm
21 trying in my district to get people to be

22 aware of the programs and use them. But the
23 theme that I -- and I heard you speak in
24 Binghamton a few months ago, and you made a

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1 very good presentation there. It's pretty
2 clear that's it's devised to try and move us
3 in the right direction, and that can't all
4 happen overnight. But you're leading the
5 way. So congratulations on the good work.

6 NYSERDA PRESIDENT RHODES: We have
7 excellent partners, thank you.

8 ASSEMBLYMAN OTIS: Thank you.

9 CHAIRMAN FARRELL: Thank you.

10 CHAIRMAN DeFRANCISCO: Senator O'Mara.

11 SENATOR O'MARA: Thank you,
12 Mr. Chairman.

13 Good afternoon.

14 NYSERDA PRESIDENT RHODES: Senator.

15 SENATOR O'MARA: With regards to the
16 \$5 billion for the 10-year fund, that's all
17 coming from surcharges that are currently
18 being paid by the ratepayers?

19 NYSERDA PRESIDENT RHODES: Correct.

20 SENATOR O'MARA: And over a 25-year
21 period you expect to be able to collect and
22 invest \$5 billion?

23 NYSERDA PRESIDENT RHODES: I'm sorry,
24 over a 10-year period.

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1 SENATOR O'MARA: Ten-year period?

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Over a 10-year period, okay.

NYSERDA PRESIDENT RHODES: Yes, sir.

SENATOR O' MARA: I read the number wrong.

So what is that annually that's currently being collected from ratepayers on their utility bills?

NYSERDA PRESIDENT RHODES: I believe that the current surcharges are \$925 million or so in calendar 2015.

PSC CHIEF OF STAFF CONGDON: That funds NYSERDA's programs as well as some utility-run programs.

SENATOR O' MARA: Okay.

NYSERDA PRESIDENT RHODES: Thank you, Tom.

SENATOR O' MARA: And they're going to be used, as you said, for fuel-neutral programs or new ways of creating energy? And the fuel-neutral, will that include -- you've mentioned renewable anaerobic digesters, efficiency programs and the like. Is that going to include improved efficiencies through other types of fuel sources such as nuclear or clean coal or natural gas improvements?

NYSERDA PRESIDENT RHODES: No. Senator, what we mean by fuel-neutral is the ability to go into a property and help them or help the market help them provide an

8 energy solution that makes the energy
9 performance of the house or the farm better.
10 And in some cases we may be working on making
11 the electric efficiency better. In some
12 cases we may be trying to reduce consumption
13 of gas or of heating oil or of propane. And
14 the ability to attack, if you will, the
15 inefficiencies of whatever fuel they're in is
16 what we mean by fuel neutrality.

17 SENATOR O' MARA: Okay. So you collect
18 about \$950 million annually from the
19 ratepayers.

20 NYSERDA PRESIDENT RHODES: This year.

21 SENATOR O' MARA: This year. Is this
22 year different than other years?

23 NYSERDA PRESIDENT RHODES: It's been
24 lower in past years.

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1 SENATOR O' MARA: All right. Do you
2 expect it to remain about that \$900 million,
3 \$950 million? Or to be increasing year to
4 year?

5 NYSERDA PRESIDENT RHODES: I'd like to
6 get you further information on that, on our
7 plans. But one of the driving forces behind
8 the Clean Energy Fund and behind the
9 Governor's Reforming Energy Vision is to
10 reduce energy costs and achieve energy
11 affordability across the state. And that
12 includes reducing these collections over
13 time. So it is a central principle of the

14 Clean Energy Fund and also a commitment that
15 we will be reducing collections over time.

16 SENATOR O' MARA: What, roughly,
17 percentage does an individual's bill at home,
18 utility bill, what percentage of that makes
19 up these various surcharges that are on
20 there?

21 NYSERDA PRESIDENT RHODES: I would
22 have to get back to you on the level that it
23 would be of a typical household's utility
24 bill. But overall, utility bills in the

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1 state are approximately \$30 billion. And so
2 the 900-plus million would be approximately
3 3 percent. That's across all customer
4 types -- commercial, industrial and
5 residential.

6 SENATOR O' MARA: Now, of that money
7 that's collected annually, how much of that
8 has been committed annually towards projects?
9 You go through all of it every year, or is
10 there a fund that's been growing?

11 NYSERDA PRESIDENT RHODES: We -- it's
12 a complicated answer. We have multi-year
13 projects, so that we commit earlier and at a
14 greater rate than we actually spend, because
15 you commit the five-years tail of money.

16 In the Clean Energy Fund proposal it
17 is -- I'm sorry, we have developed an
18 uncommitted balance of collections. And the
19 Clean Energy Fund prudently puts that money

20 to work in order to reduce the need for
21 collections over time.

22 So while we have a cash balance
23 currently, and that is outlined in our
24 budgets, it is an inherent part of our

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1 proposal, subject to PSC approval, that that
2 cash balance is put to work in the interest
3 of avoiding otherwise a need for collections.

4 SENATOR O' MARA: Okay. With regards
5 to the Governor's proposal for a so-called
6 \$20 million competitive fund for green jobs
7 in the Southern Tier, is that under your
8 purview?

9 NYSERDA PRESIDENT RHODES: We are --
10 yes, although I expect to work quite closely
11 with Empire State. But yes, it is under our
12 purview.

13 SENATOR O' MARA: And do you have any
14 further description or details about what
15 this program is going to be?

16 NYSERDA PRESIDENT RHODES: We are
17 developing that as we speak. This is an
18 innovative program. There are models
19 elsewhere around the state on which we will
20 draw. Right now we know that it is -- we
21 know that it is a -- you know, we know that
22 the Southern Tier is a really good place to
23 do this kind of work. We know that SUNY
24 Binghamton has made some meaningful

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1 investments in this sector. We know that
2 local communities and local governments are
3 very active in the clean energy space. We
4 see a lot of it in what we call our solarized
5 work. And therefore we have great confidence
6 that there's an opportunity to put the
7 \$20 million to work in a series of companies
8 and projects yet to be -- in a program yet to
9 be fully refined.

10 We'd be very happy to work closely
11 with you and keep you informed on --

12 SENATOR O' MARA: When do you expect to
13 have these details? Is this going to be
14 forthcoming before we're expected to vote on
15 a budget that includes \$20 million for this
16 program?

17 NYSERDA PRESIDENT RHODES: I -- I'm
18 not sure this is an Executive --

19 PSC CHIEF OF STAFF CONGDON: I'm not
20 sure this is an Executive Budget proposal. I
21 think it may have been mentioned as part of
22 the Governor's initiatives, but I don't think
23 you'll be asked to vote on that --

24 SENATOR O' MARA: So there's not a

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1 specific proposal on this in the budget?

2 PSC CHIEF OF STAFF CONGDON: We can
3 follow up to confirm with our --

4 SENATOR O' MARA: Or is it going to
5 come out of some other area?

6 NYSERDA PRESIDENT RHODES: We are

7 anticipating a funding that's not out of an
8 appropriation.

9 SENATOR O' MARA: You mentioned there's
10 other models around the state. How much has
11 been going to fund these other programs in
12 other regions of the state annually?

13 NYSERDA PRESIDENT RHODES: Well, there
14 is a -- there's a model in Buffalo which is
15 really about start-up companies that I'm not
16 sure how much it has spent, but it's in the
17 single digits -- or committed. It's in the
18 single digits of millions.

19 We have had several rounds of what we
20 call the Cleaner Greener Communities, which
21 are -- we've had two out of three rounds.
22 The three rounds will total about a hundred
23 million dollars. That's spread out over two
24 years or so. And we also have other

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1 initiatives that I'll just mention as the
2 New York Prize, which is a \$40 million
3 initiative announced by the Governor for
4 community grid. Those may all be relevant to
5 this.

6 SENATOR O' MARA: Thank you.

7 NYSERDA PRESIDENT RHODES: Thank you.

8 CHAIRMAN FARRELL: Mr. Oaks.

9 ASSEMBLYMAN OAKS: Thank you,
10 Chairman.

11 Just a couple of questions. One, last
12 year the Vice President was here and there

13 was an announcement that there was going to
14 be \$1.4 billion in resources used for
15 enhancing the electrical grid, doing some
16 microgrids and doing some modernization so
17 that it would be better prepared with, you
18 know, future storm effects.

19 One, are those dollars incorporated in
20 this year's budget? You know, have we made
21 progress on this effort that was announced
22 last year?

23 NYSERDA PRESIDENT RHODES: Tom,
24 perhaps --

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1 PSC CHIEF OF STAFF CONGDON: So much
2 of that is utility investments and hardening
3 the utility infrastructure. The Long Island
4 Power Authority was actually awarded
5 approximately \$1.4 billion from FEMA to cover
6 the costs of the damage incurred to their
7 system from Sandy, which was about \$700
8 million, as well as more than \$700 million
9 for hardening the system.

10 That award comes with strings
11 attached. The investments have to be made on
12 parts of the system that were actually
13 damaged in Sandy. PSEG, the operator of the
14 Long Island grid, is in charge of investing
15 that money into the system, and they have a
16 planning process underway to deploy that
17 funding into the system.

18 There has also been some funding made

19 available through New York Prize, which John
20 referred to before, which is a microgrid
21 competition that NYSERDA is implementing that
22 is underway. It's approximately \$40 million
23 for New York Prize.

24 There have also been utility

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1 investment plans approved by the Public
2 Service Commission. Outside of Long Island,
3 Con Ed has an aggressive hardening plan
4 within their rate case, elevating substations
5 and modernizing their system to harden it.

6 We could get you further details after
7 this, but that's a snapshot of what's out
8 there.

9 ASSEMBLYMAN OAKS: So the 1.4 is
10 focused at the Long Island/New York City
11 area, not a statewide effort?

12 PSC CHIEF OF STAFF CONGDON: Well,
13 portions of the initiatives are statewide.
14 As I mentioned, New York Prize is a statewide
15 program on microgrids. And there are other
16 activities that I think are upstate that we
17 can get you in a follow-up.

18 ASSEMBLYMAN OAKS: Thank you.

19 The Energy Highway proposal that the
20 Governor's been pushing, progress on that?
21 Accomplishments? Where we're headed with
22 that?

23 PSC CHIEF OF STAFF CONGDON: Sure. So
24 there were several components to the Energy

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1 Highway initiative. One was to develop an
2 Indian Point contingency plan. As many of
3 you know, Indian Point is currently seeking
4 an extension to their federal license to
5 continue operating its nuclear plant in the
6 Hudson Valley. And their license for one of
7 the units expires at the end of 2015.

8 There have been a number of
9 reliability studies to determine whether or
10 not reliability standards could be met
11 without Indian Point. And it has been
12 determined that replacement power would be
13 necessary to safely retire Indian Point. And
14 given the uncertainty around the federal
15 license, the PSC did commence a proceeding
16 under the Energy Highway banner, if you will,
17 to look at contingency plans.

18 And in fact they have already approved
19 several transmission upgrades on kind of
20 existing lines, just reconductoring that will
21 improve the power flow into the Hudson
22 Valley. And those projects, already approved
23 by the commission, are expected to be in
24 service by mid-2016. That brings several

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1 hundred megawatts of capacity into the
2 system.

3 In addition, the PSC approved demand
4 response and energy efficiency programs that

5 are being administered by NYSERDA in
6 coordination with Con Edison in the region
7 affected by Indian Point's retirement. Those
8 programs are underway, and more than 100
9 megawatts of demand response is expected to
10 be achieved by those programs by the mid-2016
11 time frame.

12 In addition, in a separate matter, the
13 commission brought what is referred to as the
14 AC transmission proceeding, which was a
15 first-of-its-kind proceeding at the PSC where
16 they invited developers to submit project
17 proposals, both for approval by the
18 commission but also for siting. And they
19 would compete with one another to meet the
20 policy objective of reducing the historic
21 transmission constraints that are known to
22 exist on our New York electric grid.

23 Four project developers have submitted
24 project proposals, through that proceeding,

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1 to the PSC. Those project proposals are
2 under review. They've done a lot of work,
3 the developers have, in siting, which, means
4 they're in the communities talking to
5 affected landowners, et cetera.

6 In part as a response to some of the
7 community concerns that have been raised in
8 the context of that proceeding, the Governor
9 announced in the 2013 State of the State the
10 notion that we should really be telling the

11 developer community we should try to develop
12 these transmission lines in existing
13 corridors, existing infrastructure corridors,
14 and to incentivize that activity suggested in
15 last year's State of the State -- a
16 transmission E-ZPass, a streamlined siting
17 process for projects that stay wholly within
18 the right of way.

19 The PSC changed its rules and adopted
20 a 10-month approval process for projects that
21 do that, and at the same time encouraged the
22 developers that were already in this AC
23 transmission proceeding to resubmit plans
24 that were as consistent as possible with the

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1 policy objective to minimize siting impacts.
2 And just a few weeks ago, those developers
3 came in with new amended project proposals
4 that seek to avoid the negative landowner
5 impacts.

6 So sorry for the long-winded answer,
7 but that's an update on the Energy Highway.

8 ASSEMBLYMAN OAKS: Thank you very
9 much.

10 CHAIRMAN FARRELL: Thank you.

11 CHAIRMAN DeFRANCISCO: First of all,
12 Mr. Rhodes, thank you for coming. You were
13 already scheduled. But Mr. Congdon, I
14 appreciate you being here, because whoever
15 said this is a complex topic understated
16 that.

17 But I want to get down to the basics,
18 the workings between NYSERDA and the PSC,
19 some of the charges and the like, without any
20 specific program that we're talking about.

21 First of all, when NYSERDA is looking
22 for some of that surcharge money, do they
23 make an application to the PSC, Mr. Rhodes?

24 NYSERDA PRESIDENT RHODES: We make a

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1 proposal to the PSC.

2 CHAIRMAN DeFRANCISCO: And is the
3 proposal -- how detailed? Does it just say
4 we need a billion dollars, or does it say we
5 need a billion dollars for this program where
6 we're considering this project, this project,
7 this project or that project?

8 NYSERDA PRESIDENT RHODES: It has been
9 quite detailed in the past. And that has to
10 some extent impeded progress, because the
11 level of detail sometimes resulted in a lack
12 of flexibility. And as we made progress and
13 as the markets changed, we discovered that
14 what we had prescribed ourselves to do was no
15 longer working.

16 In the future we are still going to
17 have quite a bit of detail on the programs,
18 and we will also be extremely accountable and
19 transparent about the results that we are
20 achieving. Because these programs are about
21 delivering good energy, clean energy --

22 CHAIRMAN DeFRANCISCO: All right, I

23 get that. You're beyond the question.

24 NYSERDA PRESIDENT RHODES: Sorry.

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1 CHAIRMAN DeFRANCISCO: All right, now
2 when was the last time that NYSERDA actually
3 petitioned the PSC with a proposal?
4 Approximately when.

5 NYSERDA PRESIDENT RHODES: Well, the
6 most meaningful one is the Clean Energy Fund
7 proposal which we're talking about here,
8 which went in in November.

9 CHAIRMAN DEFRANCISCO: And when will
10 that be on the PSC's agenda?

11 NYSERDA PRESIDENT RHODES: They are
12 considering it now. They are receiving
13 comments now from stakeholders on a
14 well-defined process. The expectation is
15 that an order -- this is the form that their
16 decision takes -- will come in the summer,
17 June or July.

18 CHAIRMAN DeFRANCISCO: Okay. Now, is
19 that a proposal, is that a public document,
20 since it's already been submitted? Your
21 proposal that's going to be decided in June.

22 NYSERDA PRESIDENT RHODES: Yes.

23 CHAIRMAN DEFRANCISCO: Okay. And
24 that's the type of detail you want to provide

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1 in the future as well, whatever the detail is
2 in that proposal?

3 NYSERDA PRESIDENT RHODES: I'm sorry,

4 I may have misled you. That initiated the
5 process. We have been asked to provide
6 supplemental information in a supplemental
7 filing, which will be due in about a month's
8 time. That will also be a public document.
9 And the process is specifically constructed
10 to invite and allow public comment on those
11 proposals.

12 CHAIRMAN DeFRANCISCO: Okay. But the
13 proposal that's in at the moment, before the
14 supplemental information is provided, is
15 there any detail as far as the projects that
16 that money is being asked for?

17 NYSERDA PRESIDENT RHODES: There is
18 detail in some cases, less detail in others.

19 CHAIRMAN DeFRANCISCO: Okay. Could I
20 get a copy of that proposal?

21 NYSERDA PRESIDENT RHODES: Yes, sir.

22 CHAIRMAN DeFRANCISCO: Okay. And also
23 the supplements that you provide.

24 NYSERDA PRESIDENT RHODES: Yes,

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2 CHAIRMAN DeFRANCISCO: Okay. Now, the
3 reason I'm asking all this, because I have no
4 clue, quite frankly -- and I've been around
5 here a while -- as to what's going on between
6 the PSC and NYSERDA because there's no
7 legislative oversight whatsoever. Is that a
8 fair statement? No legislative oversight of
9 these billions of dollars that are going to

10 be used. Is that fair, Mr. Congdon?

11 NYSERDA PRESIDENT RHODES: The
12 principal oversight comes from the
13 commission.

14 PSC CHIEF OF STAFF CONGDON: But
15 there's also no --

16 CHAIRMAN DeFRANCISCO: Okay, what's
17 the nonprincipal oversight that the
18 Legislature has?

19 PSC CHIEF OF STAFF CONGDON: Well, the
20 Legislature provided authority to the Public
21 Service Commission to set rates, just and
22 reasonable levels, to achieve reliability in
23 public policy objectives. And in this case
24 for these clean energy programs, efficiency

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1 programs, they have been found to be
2 cost-effective ways to be meeting our
3 reliability and public policy objectives.

4 CHAIRMAN DeFRANCISCO: All right. But
5 you don't need -- meaning NYSERDA doesn't
6 need approval of any of these projects, it
7 goes through the PSC. The Legislature gave
8 the authority, but continuing oversight, the
9 Legislature has none; correct?

10 PSC CHIEF OF STAFF CONGDON: Right.
11 But the Legislature also has no authority
12 over a rate case filed by a utility. And,
13 you know, the PSC has been charged with
14 regulating a \$30 billion enterprise, which is
15 our utility service. These are -- core

16 utility services is part of that expenditure.

17 CHAIRMAN DeFRANCISCO: And the PSC,
18 you're now -- what's your position at the
19 PSC?

20 PSC CHIEF OF STAFF CONGDON: I'm chief
21 of staff at the Department of Public Service.

22 CHAIRMAN DeFRANCISCO: All right.
23 Now, being chief of staff, the PSC, can they
24 on their own increase the surcharges?

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1 PSC CHIEF OF STAFF CONGDON: They
2 could, with an established record supporting
3 it.

4 CHAIRMAN DeFRANCISCO: All right. But
5 that established record doesn't go to the
6 Legislature for approval; correct?

7 PSC CHIEF OF STAFF CONGDON: No.
8 Neither does a Con Ed rate filing.

9 CHAIRMAN DeFRANCISCO: No, I
10 understand. But I'm trying to figure out how
11 NYSERDA works, as we're looking for millions
12 of dollars.

13 And my next question goes along the
14 lines of how do you determine are there
15 regulations as to here's the qualifications
16 to get some of this money, whatever the new
17 program is going to be -- and I assume
18 NYSERDA makes those determinations. PSC
19 doesn't, correct?

20 PSC CHIEF OF STAFF CONGDON: Well,
21 NYSERDA proposes what they believe to be our

22 policy -- you know, what they propose to be
23 the programs to achieve our policy
24 objectives. But ultimately we at the

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1 department and at the commission would make
2 the decision as to whether their proposal
3 meets that test.

4 CHAIRMAN DEFRANCISCO: What
5 department, PSC?

6 PSC CHIEF OF STAFF CONGDON: Well, the
7 department is the agency advising the Public
8 Service Commission, yes.

9 CHAIRMAN DeFRANCISCO: Okay. So the
10 PSC, when they say a million dollars goes to
11 NYSERDA, they don't say provided that it's
12 being used for this project, that project or
13 the other project. NYSERDA has the
14 discretion; correct?

15 PSC CHIEF OF STAFF CONGDON: Well,
16 that depends. That depends. And we have
17 been very prescriptive at the commission in
18 the past, approving down to the measure level
19 of what type of efficiency measure in a home
20 would be allowed to be funded under these
21 programs. And in the past, you know, that
22 has proven to be a challenge to implement.
23 We heard from the industry that actually
24 delivers this type of work that it was an

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1 absolutely unworkable mess and it was

2 actually working against achieving the public
3 policy goals.

4 So there's a prescriptive way to go
5 about it and a slightly less prescriptive
6 way, and now we are considering a slightly
7 less prescriptive approach.

8 CHAIRMAN DEFRANCISCO: Which gives
9 more discretion to NYSERDA, correct?

10 PSC CHIEF OF STAFF CONGDON: Right.

11 CHAIRMAN DEFRANCISCO: Now, this money
12 that's being applied for, is it homeowners,
13 farmers? Does it include large businesses?

14 PSC CHIEF OF STAFF CONGDON: Yes.

15 CHAIRMAN DEFRANCISCO: All right. So
16 if a large business fits the qualifications,
17 whatever the prescriptive language is,
18 NYSERDA picks -- if there's two or three
19 proposals, NYSERDA will pick which one?

20 NYSERDA PRESIDENT RHODES: I'm afraid
21 I don't follow the question.

22 CHAIRMAN DeFRANCISCO: If there's
23 several large projects and there's a limited
24 amount of money, it's up to the discretion of

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1 NYSERDA as to who receives the money; is that
2 fair to say?

3 NYSERDA PRESIDENT RHODES: That is
4 frequently the case but not always the case.
5 There are cases where we have really a
6 competition to determine which proposals are
7 most worthy. We have a process which is

8 public, which includes outsiders and uses
9 strict evaluation standards. There are
10 sometimes other programs where, if the
11 projects fits within a box and if you, the
12 proposer, fit within a box, you get it.

13 CHAIRMAN DeFRANCISCO: Okay. But if
14 there's limited money and you have this
15 competition, whatever it may look like,
16 NYSERDA alone makes the determination who's
17 the winner and who's the loser?

18 NYSERDA PRESIDENT RHODES: Subject to
19 a public process, yes.

20 CHAIRMAN DeFRANCISCO: I've run out of
21 time. Just one last question and I'll come
22 back with a couple of others.

23 But the surcharge, Mr. Congdon, do the
24 LIPA customers, do they pay that surcharge?

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1 PSC CHIEF OF STAFF CONGDON: They do
2 pay a surcharge. It is not the surcharge
3 that is approved by the Public Service
4 Commission. The Public Service Commission
5 does not regulate the rates at the
6 Long Island Power Authority.

7 CHAIRMAN DEFRANCISCO: Do you have any
8 idea how much the surcharge at LIPA is in
9 comparison to the surcharge by the PSC to
10 other customers throughout the state?

11 PSC CHIEF OF STAFF CONGDON: I do.
12 It's generally consistent on a per-capita
13 basis. They raise around \$100 million

14 annually in their surcharge just from
15 Long Island.

16 CHAIRMAN DeFRANCISCO: But I mean the
17 percentage, the percentage on the power bill.

18 PSC CHIEF OF STAFF CONGDON: I'll have
19 to get back to you. I'd hate to give you the
20 wrong --

21 CHAIRMAN DeFRANCISCO: But even though
22 LIPA customers don't pay in a surcharge for
23 this fund, they're able to take the benefits
24 of this fund that's paid by the rest of the

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1 state; is that fair to say?

2 NYSERDA PRESIDENT RHODES: Generally
3 the -- generally not. There are -- the kind
4 of programs that we provide as NYSERDA in the
5 rest of the state are generally provided by
6 LIPA on Long Island, for the very reasons
7 that you discussed.

8 CHAIRMAN DEFRANCISCO: So if a LIPA
9 customer makes an application to NYSERDA for
10 some energy-efficient project, they would not
11 be eligible?

12 NYSERDA PRESIDENT RHODES: They would
13 frequently make the application to LIPA
14 rather than to NYSERDA.

15 CHAIRMAN DeFRANCISCO: Let me ask it
16 even an easier way. Has a LIPA customer
17 ever, since you've been in this office, made
18 an application that was approved out of these
19 funds that are generated by the rest of the

20 state?

21 NYSERDA PRESIDENT RHODES: Let me --
22 let me look into that.

23 CHAIRMAN DeFRANCISCO: If you can get
24 back to me, that's fine.

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1 PSC CHIEF OF STAFF CONGDON: Generally
2 speaking, one of the core eligibility
3 standards for NYSERDA's programs is that you
4 have to pay into the programs in order to be
5 eligible for them. There are some programs
6 that NYSERDA administers that are statewide
7 that LIPA contributes to. So, for example,
8 NY-Sun is now a fund that is funding solar
9 statewide. PSEG, which is the utility
10 administering the program on Long Island,
11 taps into a statewide fund that LIPA
12 contributes into through RGGI and other
13 mechanisms.

14 So there are some examples where it
15 does happen, but the core eligibility
16 standard is you have to pay into the funds
17 that NYSERDA administers in order to be
18 eligible.

19 CHAIRMAN DeFRANCISCO: So LIPA would
20 pay rather than the ratepayer.

21 PSC CHIEF OF STAFF CONGDON: Well,
22 LIPA is ratepayers paying into it.

23 CHAIRMAN DeFRANCISCO: All right,
24 that's fine. For now.

♀

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1 CHAIRMAN FARRELL: Assemblywoman
2 Schimmel.
3 ASSEMBLYWOMAN SCHIMMEL: A perfect
4 segue for a LIPA ratepayer. And thank you so
5 much, President Rhodes and Mr. Congdon, for
6 your testimony. I just have a couple of
7 questions about -- and I'm absolutely in
8 agreement about a clean green energy. And
9 for economic development, and you say it
10 yourself, you have to leverage private-sector
11 capital. And one of the concerns that I
12 have, and you mentioned the -- I forgot --
13 the New York Prize competition, which I did
14 go to Stony Brook to get, and my town is
15 actually looking possibly to be the lead
16 agency to do this program about distributed
17 generation, which is part of Utility 2.0.

18 And the problem is a lot of these
19 monies that we talk about talk about soft
20 costs and design planning rather than the
21 hard costs of implementation and capital
22 investment. So that bridge from getting from
23 a plan, albeit it could be a great plan, into
24 actually developing this procedure is a

♀ 317
1 little scary to us.

2 So when you talk about leveraging
3 private-sector capital, one of the things
4 I've been learning from going to other
5 legislators around the country is the state
6 has been very generous, and rightly so for

7 economic development, to give tax credits.
8 And you mentioned it yourself in, you know,
9 the budget proposal about tax credits for
10 economic development. But some of the
11 impingement to capital investment is not on
12 the state side, it's on the federal side.
13 And I'm hearing from industry and other state
14 legislators from around the country that
15 albeit the federal government is very
16 generous for tax incentives for oil and gas
17 industry, on the clean energy side it's not
18 up to snuff. And I wonder if you could
19 comment on that. And as we as state -- you
20 as a formal state person, are you partnering
21 with the federal government to find if there
22 are ways of giving federal tax incentives to
23 leverage private-sector money? Because the
24 green energy is being precluded from entering

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1 that market much the way oil and gas can,
2 because there are incentives for oil and gas
3 in terms of tax incentives and not so with
4 green energy.

5 NYSERDA PRESIDENT RHODES: Okay. So
6 you're absolutely right, there are federal
7 programs, tax-code-based, for which other
8 energy sources are eligible and for which
9 clean energy sources are not eligible. There
10 is a steady campaign by people who appreciate
11 this issue in Washington to move the agenda
12 forward. I know that, you know, the state

13 would be in favor of that. But I'm also
14 aware that not all of us have great optimism
15 about resolving gridlock in Washington, which
16 is -- so we try to be realistic about the
17 prospects of that --

18 ASSEMBLYWOMAN SCHIMMEL: Is the state
19 part of that -- in other words, you have to
20 be in there. Is the state part of those
21 discussions with our federal colleagues?
22 Because I haven't heard --

23 NYSERDA PRESIDENT RHODES: Yes.

24 ASSEMBLYWOMAN SCHIMMEL: Okay. So

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1 that's the answer, yes. So I know we're
2 aware of it, but is there initiatives being
3 put forth? I haven't heard of that.

4 NYSERDA PRESIDENT RHODES: I know for
5 a fact that we have interactions on that very
6 topic.

7 ASSEMBLYWOMAN SCHIMMEL: Very good.
8 Okay, also just to talk about the Utility
9 2.0, the microgrid, the distributed
10 generation, which is very important, you
11 know, because conservation is to me where
12 it's at. That being said, it focuses
13 primarily, as you mentioned, with the FEMA
14 funding about disaster, you know, prep. But
15 that's kind of a disconnect from -- I like to
16 see it as more of a forward thinking that --
17 a more broader than just reacting, from what
18 I understand about the New York Prize.

19 NYSERDA PRESIDENT RHODES: That
20 disconnect is something that New York Prize
21 wants to deal with. You know, I think one
22 way to think about it, and it may be a little
23 bit simple, is you can do something to put a
24 distributed source of generation in a

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1 critical facility for disaster preparedness.
2 Once you have it there, it's available all
3 the time. What are you doing with it, and
4 what else would you wrap around it in terms
5 of other programs or storage technologies or
6 an energy efficiency or what have you, to
7 create something that is valuable for the
8 community and, in the case of New York Prize,
9 also valuable for the utility? Because if
10 you do that right, this is a solution that's
11 better for the utility and their shareholders
12 than to doing a lot of copper work.

13 ASSEMBLYWOMAN SCHIMMEL: Is Long
14 Island -- and believe me, I appreciate being
15 part of that, you know, and Long Island
16 appreciates that. That being said, are there
17 mousetraps around the state that's already
18 doing this? I know it's being done.
19 California has it, I'm hearing about other
20 states. But is there anywhere else in
21 New York State where this is evident, this
22 distributed generation? That's my last
23 question.

24 NYSERDA PRESIDENT RHODES: I would say

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321

1 that there are very few people anywhere in
2 the country who are doing exactly what we
3 envision. There are microgrids that have
4 been really good for resilience. Perhaps the
5 one that everybody knows best is NYU during
6 Sandy. But the idea that it's more than just
7 for resilience, it's for always-on community
8 and utility benefits, that's -- I'm not sure
9 we can look to anywhere else. We are
10 probably leading the way in this state.

11 ASSEMBLYWOMAN SCHIMMEL: Thank you.

12 SENATOR KRUEGER: Hi, I'm up next. In
13 follow-up to earlier questions, and I think
14 actually to some degree in follow-up to
15 Senator DeFrancisco's questions -- he left.
16 But it's surprising to both of us how much
17 we've morphed into the same questions over
18 the years. It's raising all kinds of serious
19 problems for us.

20 (Laughter.)

21 NYSERDA PRESIDENT RHODES: I'll stay
22 quiet.

23 SENATOR KRUEGER: If he was here, he
24 would respond.

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322

1 So we're taking all this money and
2 we're moving it around, but it's not
3 necessarily new money. So when you decide to
4 put it somewhere, somebody else isn't getting

5 it. So before, I was asking about the use of
6 the surcharge money for something different
7 than it's being currently spent on. And I
8 said the number 500 million, but I was
9 digging through the data I got and it appears
10 that NYSERDA has proposed repurposing
11 \$815 million in ratepayer money collected in
12 this year.

13 Is that correct? Is there a
14 \$815 million change in how you want the
15 surcharge money to go where it's been being
16 used for something called the "RPS Main Tier"
17 and being moved instead into the Clean Energy
18 Fund?

19 NYSERDA PRESIDENT RHODES: I'll have
20 to get back to you on that. We are carrying
21 forward some of those balances in order to
22 fund ongoing work. I know that one of the
23 meaningful sources of funding for NY-Sun is
24 repurposing of the renewable energy funds

♀

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1 in -- from renewable energy to renewable
2 energy. But to the extent you're asking
3 about specifically the \$800 million in this
4 year, I would rather give you, you know, a
5 financially based answer.

6 SENATOR KRUEGER: Okay. I would like
7 follow-up. Because my understanding was the
8 Main Tier money was going mostly towards wind
9 projects but very specifically towards
10 renewable energy and helping us meet our

11 renewables target.

12 So does that mean we don't think the
13 investments we've been making in wind are
14 good and we're stopping doing that? What
15 happens?

16 NYSERDA PRESIDENT RHODES: No, we
17 are -- well, we are committed to continuing
18 to invest in wind. We know that technology
19 for wind is getting better. And we know that
20 wind produces energy that is good in many
21 ways besides being energy and clean. But I
22 do want to observe that one of the roles --
23 one of the ways we have to guide our programs
24 is in response to market conditions. And one

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1 of the most amazing developments in the clean
2 energy field has been the pace of economic
3 improvement in solar. And so from a
4 technology that was not really competitive
5 all that many years ago, we now have the
6 possibility of NY-Sun, which is a
7 billion-dollar program spent over 10 years,
8 designed in a way that when we are done, no
9 subsidies will be needed anywhere in New York
10 State for it to make sense for a homeowner or
11 property owner to invest in solar.

12 So it's not -- it's not regret about
13 wind, which remains an excellent resource,
14 but it is an appreciation of the new
15 opportunity of solar. That's just an example
16 of what we have to keep our eyes on.

17 SENATOR KRUEGER: And I don't pretend
18 to be a scientific expert on which models are
19 working best. I wanted to highlight that I
20 wish there was more transparency and open
21 discussion about the fact that if you take
22 this money and you make the commitment to
23 move it here, then you're not spending it
24 over there. And the question should be asked

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1 what are the -- who are the winners and
2 losers in the big picture, are those the
3 right decisions, and how do we have a more
4 transparent process and discussion so that we
5 in the Legislature and the public know that
6 the State of New York is making the decision
7 to take money out of existing renewable
8 clean-energy models because they think a
9 newer option is a better one.

10 NYSERDA PRESIDENT RHODES: So I --
11 I -- in response, can I just give you two
12 undertakings? One is we will continue to do
13 our very best to make the right decisions on
14 things like that, with a lot of advice from
15 stakeholders and the like. But we will also
16 make -- give you an undertaking to do a much
17 better job about being transparent and
18 communicative about this.

19 I think earlier in your earlier round
20 of questions you said this is really
21 complicated stuff. That should not be an
22 excuse for us to be confusing. Thank you.

23 SENATOR KRUEGER: And following up
24 again I think on Senator DeFrancisco's

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1 questions, so he was going down the road of
2 PSC gives the money to NYSERDA, NYSERDA
3 doesn't come to the Legislature, it decides
4 where the money is going.

5 But in the Green Bank proposal within
6 the budget, also a billion dollars, NYSERDA
7 is actually requesting taking \$800 million of
8 the funds it was previously given from PSC
9 surcharges and moving it into the Green Bank.
10 Two hundred million has already gone into the
11 Green Bank. What is that being spent on, and
12 who's deciding that billion dollars?

13 NYSERDA PRESIDENT RHODES: So the
14 Green Bank is a strategy in response to the
15 fact that we as a state and we as a country,
16 but especially we as a state, see many
17 clean-energy projects that make sense. And
18 many of those do not -- are not able to go
19 forward because they do not have access to
20 financing. And financing is what it takes to
21 get a decisionmaker, you know, to say yes to
22 a project in many cases.

23 And the reason for the lack of
24 financing isn't that the projects are bad.

♀ 327

1 The very frustrating fact is that the
2 projects are fundamentally good on their
3 economics, it's just that our financial

4 markets aren't set up to easily give finance
5 to clean-energy projects the way they are for
6 home improvement or a car purchase and the
7 like.

8 And there's just a lot of soft costs,
9 going back to that phrase, involved in doing
10 deals for the first time and involved in
11 providing assurances to people who are
12 unfamiliar with the details of projects. And
13 so the Green Bank is built on an
14 understanding that that is a gap that, if
15 filled, would unleash billions of dollars of
16 private investment.

17 And you spoke of the initial
18 \$200 million of capitalization. We have
19 projects well advanced in the pipeline to use
20 that very first capitalization that will go
21 to a range of energy efficiency and renewable
22 energy projects around the country, not just
23 with Green Bank financing but -- this is the
24 critical piece -- in every case with

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1 multiples of that Green Bank dollar amount
2 coming from private-sector entities who would
3 not have provided the financing otherwise.

4 SENATOR KRUEGER: And who's deciding
5 how that money's spent?

6 NYSERDA PRESIDENT RHODES: There is an
7 investment committee at the Green Bank and at
8 NYSERDA, involving people within the Green
9 Bank and within NYSERDA -- I, for one, sit on

10 that investment committee -- that reviews
11 those transactions for a series of criteria
12 which are principally that they are within
13 the boundaries of permissible projects set
14 out by the PSC, which are principally --
15 they're what we would think of as clean
16 energy projects, although drawn slightly more
17 narrowly, that they are sound transactions
18 that we are not -- that we have done a lot of
19 research to avoid any undue risk, and that we
20 believe that -- this is the important part
21 and, admittedly, the subjective part -- that
22 we are confident that we are not doing
23 one-of-a-kind transactions but that we are
24 doing first-of-a-kind transactions: if we do

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1 this, others will copy and we can get out of
2 that business.

3 SENATOR KRUEGER: I know my time is
4 up, but just two takeaways. One, if you
5 would then follow up with me and the
6 committees. If we're putting 815 million, or
7 whatever number it is, from NYSERDA into
8 clean energy, what is NYSERDA not going to
9 fund anymore? And if we're putting another
10 781 million from NYSERDA into Green Bank,
11 what is NYSERDA not going to fund with those
12 dollars anymore? Because I understand we
13 want to be the first out of the gate, we want
14 to have the newest technologies that are the
15 most energy efficient, but I also think we

16 need to understand in the Legislature, within
17 the context of the budget, even though this
18 is mostly off-budget, who are we not funding
19 anymore and is there a reason we should be
20 actually asking the question, gee, those were
21 working very well and maybe they collapse
22 without the NYSERDA funding because we're
23 redirecting all the NYSERDA funding.

24 So that's a request to get back to us

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1 with that information.

2 NYSERDA PRESIDENT RHODES: So two very
3 fair requests, that, you know, we communicate
4 better to you and get back to you with the
5 information, and that we are concrete about
6 why the path forward is different and better
7 than the path that we're leaving behind.
8 Absolutely.

9 SENATOR KRUEGER: And also if the
10 Green Bank has already awarded any monies for
11 any projects, that would also be good to
12 know.

13 NYSERDA PRESIDENT RHODES: It has not,
14 but we will keep you posted.

15 SENATOR KRUEGER: Thank you. Thank
16 you.

17 CHAIRMAN DeFRANCISCO: Okay, I guess
18 I'm last. And this is the lightning part,
19 the lightning question part.

20 So number one, what is NYSERDA's
21 annual budget? Within the nearest couple

22 million.

23 NYSERDA PRESIDENT RHODES: In terms of
24 what we spend on programs?

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1 CHAIRMAN DEFRANCISCO: Yeah.

2 NYSERDA PRESIDENT RHODES: So this
3 year we are spending approximately
4 \$700 million.

5 CHAIRMAN DEFRANCISCO: And what do you
6 have in reserve that hasn't been spent yet?

7 NYSERDA PRESIDENT RHODES: I would
8 have to get you the numbers. We know those
9 numbers, and I don't want to get confused
10 about what's been spent and what's been
11 committed and what's this year and what's
12 next year.

13 CHAIRMAN DEFRANCISCO: All right. all
14 right. So that I'd like to know.

15 Secondly, what is being requested in
16 the most recent application to the PSC,
17 dollarwise?

18 NYSERDA PRESIDENT RHODES: Five
19 billion dollars.

20 CHAIRMAN DEFRANCISCO: Five billion.
21 The whole five at this time. Okay.

22 And what percentage of your annual
23 budget comes from PSC, the surcharges,
24 approximately?

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1 NYSERDA PRESIDENT RHODES: If you'll

2 live with approximately, the high 80s.

3 CHAIRMAN DeFRANCISCO: Okay. And does
4 NYSERDA issue an annual report which lists
5 all the projects that were funded and the
6 amounts that went to those projects?

7 NYSERDA PRESIDENT RHODES: It provides
8 an annual report. It does not list each
9 project, some of which are a couple-thousand-
10 dollar projects in a home. But it does
11 provide programmatic detail and the big --
12 and the larger projects.

13 CHAIRMAN DeFRANCISCO: Okay. May I
14 have the last annual report when you get a
15 chance?

16 NYSERDA PRESIDENT RHODES: Let me get
17 that to you.

18 CHAIRMAN DeFRANCISCO: Okay. With
19 respect to the Green Bank, you said there's
20 some parameters that the board is going to
21 consider whether someone could get a
22 Green Bank --

23 NYSERDA PRESIDENT RHODES: The
24 investment committee will consider, yes, sir.

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1 Yes.

2 CHAIRMAN DeFRANCISCO: And are those
3 procedures already submitted, I mean the
4 guidelines already prepared?

5 NYSERDA PRESIDENT RHODES: Correct,
6 yes, sir.

7 CHAIRMAN DeFRANCISCO: And could you

8 give me that along with the names of the
9 people who are on the committee?

10 NYSERDA PRESIDENT RHODES: Yes, sir.

11 CHAIRMAN DeFRANCISCO: Okay. And
12 lastly, this is just for personal
13 information. A few years ago a bill passed
14 the Senate called the Green Jobs bill where a
15 portion of -- a substantial amount of money
16 was doled out to community groups, the way I
17 remember it, and they go out door to door,
18 knocking on doors, "Could we make your house
19 more efficient," then get people working as a
20 result. Was that run through NYSERDA?

21 NYSERDA PRESIDENT RHODES: Yes.

22 CHAIRMAN DeFRANCISCO: And is it still
23 in existence?

24 NYSERDA PRESIDENT RHODES: Yes. There

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1 were several components to that. There was
2 one -- there was a larger component which was
3 about providing assistance incentives to
4 projects and to homeowners to do clean
5 energy, with the intermediaries that you
6 mentioned of the community-based
7 organization. And that is -- that's in its
8 last year or so.

9 And then there was another portion
10 which was dedicated towards financing.
11 Financing means that we're lending money,
12 which means that it comes back. So that
13 portion of Green Jobs Green NY is still

14 continuing, the financing portion.

15 CHAIRMAN DeFRANCISCO: Do you have any
16 idea what money is left?

17 NYSERDA PRESIDENT RHODES: The
18 financing portion is about \$25 million, and
19 that's kind of --

20 CHAIRMAN DeFRANCISCO: Recycling,
21 right.

22 NYSERDA PRESIDENT RHODES: --
23 recycling. I would have to get you what is
24 left out of -- what remains to be spent and

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1 committed under the other parts of the
2 program.

3 CHAIRMAN DeFRANCISCO: And do you have
4 statistics as to how many people took
5 advantage of this program?

6 NYSERDA PRESIDENT RHODES: We have
7 those statistics.

8 CHAIRMAN DeFRANCISCO: I'd like that
9 too. Because I --

10 NYSERDA PRESIDENT RHODES: Those
11 are -- we publish those, and we will get
12 those to you.

13 CHAIRMAN DeFRANCISCO: Okay, thank
14 you. And the Green Bank is a revolving fund
15 too, correct?

16 NYSERDA PRESIDENT RHODES: Yes, sir.

17 CHAIRMAN DeFRANCISCO: Okay,
18 excellent. Thank you both for your time and
19 your patience, and I appreciate both of you

20 bei ng here --

21 PSC CHIEF OF STAFF CONGDON: Thank
22 you.

23 NYSERDA PRESIDENT RHODES: Thank you
24 very much.

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1 CHAIRMAN DEFRANCISCO: -- because I'm
2 trying to figure this all out.

3 PSC CHIEF OF STAFF CONGDON: Great.

4 CHAIRMAN FARRELL: Thank you very
5 much.

6 CHAIRMAN DeFRANCISCO: Thank you.

7 The next speaker is Lance Robson,
8 chairman of the New York State Fish and
9 Wildlife Management Board.

10 For those who are keeping score here,
11 if you go to the second page, the New York
12 League of Conservation Voters submitted their
13 testimony, they won't be here. Similarly,
14 the New York State Humane Association
15 submitted their testimony and they will not
16 be here. So it's not as bad as it seems.

17 (Comments off the record.)

18 MR. ROBSON: I'd like to thank you all
19 for the opportunity to speak to you today.
20 My prepared comments are pretty short, but
21 based on what I heard from some of the
22 concerns from the legislators here today,
23 I've got a few things tacked on the back that
24 I wanted to add on to it.

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1 The Fish and Wildlife Management Board
2 is a statutorily established, unpaid board
3 made up of regionally elected delegates
4 representing the more than 1.7 million
5 sportsmen in this state, the landowners of
6 the state, and 55 out of 62 of the county
7 governments of the state. The board's main
8 tasks are to advise on matters of fish,
9 wildlife and habitat management and sporting
10 access.

11 U. S. Census Bureau and U. S. Fish and
12 Wildlife Service research, which is updated
13 annually, confirms that fish and
14 wildlife-related recreation generates well
15 over \$8 billion in annual economic activity
16 in New York State.

17 The board welcomes and applauds the
18 increased funding for fish, wildlife and
19 habitat management and access projects
20 included in the proposed budget. We also
21 welcome the intent to formalize a dedicated
22 funding stream of sporting license sale funds
23 and related federal fish and wildlife
24 restoration grant funds to hire 18 new

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1 full-time workers to work exclusively on
2 habitat and access-related work. While very
3 welcome, those 18 new hires will only replace
4 about one-quarter of the boots-on-the-ground
5 personnel losses in the Division of Fish and
6 Wildlife Management since 2009.

7 There is, therefore, a need for
8 further funds to restore something closer to
9 the level of staffing needed to accomplish
10 work and projects at the levels we
11 experienced prior to the economic downturn in
12 2009. Over 100 DEC staff not directly
13 related to on-the-ground fish and wildlife
14 management were shifted to the traditional
15 Conservation Fund during the heart of the
16 recession. If, due to our improving economic
17 status, these personnel were placed back on
18 the General Fund, that would free up more
19 than \$10 million per year of sporting license
20 Conservation Fund monies for additional
21 on-the-ground fish, wildlife and
22 habitat-related work.

23 Of additional concern are the staff
24 and funding cuts since 2009 in the Division

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1 of Operations, who actually perform much of
2 the construction, upkeep and repair of roads,
3 trails, boat launches, Wildlife Management
4 Areas, DEC parks, etcetera. In addition to
5 quite deep staff cuts and program funding
6 cuts, much of their equipment has aged to the
7 point of desperately needing replacement.
8 Nearly all of the bulldozers, dump trucks,
9 skid steers, et cetera, date to the 1990s or
10 earlier and are in need of replacement. We
11 cannot expect the DEC to properly and safely
12 maintain the 4 million acres of lands that it

13 does manage without the personnel and
14 equipment to do so.

15 Cuts in the Division of Lands and
16 Forests personnel and spending have also led
17 to a decrease in timber sales, a drop in
18 forest stand improvement work and forest
19 infrastructure work. This has led to reduced
20 values for standing timber, lost
21 opportunities for wildlife habitat
22 improvements, and a steady deterioration of
23 state forest infrastructure. While there
24 will be some foresters hired in the near

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1 future with an intent to increase timber
2 sales, the need for additional personnel is
3 still great. As with other parts of the DEC,
4 their vehicles and equipment are generally
5 well past their prime and are in need of
6 replacement.

7 All of these personnel and funding
8 shortfalls act together to reduce the amount
9 and quality of fish, wildlife, habitat and
10 access-related work the department can do as
11 compared to pre-2009 totals. They also have
12 led to a steady deterioration in much of the
13 infrastructure on state-owned lands.

14 Again, we welcome the partial
15 restoration of some of the recession-related
16 personnel and spending cuts that affect fish,
17 wildlife, habitat management and sporting
18 access. We look forward to working with you

19 in the times ahead in hopes of returning
20 closer to pre-recession levels of staffing
21 and funding in order to more properly care
22 for the natural resources of the state.

23 That ends my prepared statements. But
24 based on some of the questions from

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1 legislators earlier, I just wanted to point
2 out that forestry is very different from
3 other forms of agriculture in the timeline
4 involved on your return for investment. X
5 dollars in now does not equate to Y dollars
6 out next year. Even pulpwood and firewood
7 take 20 years or more to grow. And when
8 you're talking about sawn logs, which is
9 typically what the Lands and Forests folks
10 are managing for, you're talking a lifetime.

11 So they've been neglected in terms of
12 both funding for program and for staff, and I
13 just would caution that you won't necessarily
14 see a dollar-in, dollar-out change.

15 And the other issue is much of their
16 timber sales are directly dependent on the
17 economy and what the construction industry
18 wants at any given time. So if the state
19 lets out a request for proposals or a request
20 for bids, it doesn't necessarily mean the
21 timber is going to sell. So just, you know,
22 it's a different kind of animal. So we've
23 got to be talking about generational and
24 longer timelines to manage that properly.

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1 I am encouraged by over the last few
2 years there seems to be a lot more
3 cooperati on between, in parti cular, Parks and
4 the DEC and Ag and Markets, in cooperati on on
5 everything from movi ng the legi slati on
6 forward on the Eurasi an boar issue, the
7 captive deer issue, some of those issues.
8 State Parks, under Commi ssi oner Harvey, has
9 put a focus on i ncreasi ng recreati onal
10 opportuni ties in state parks for fi sh- and
11 wildl i fe-related recreati on. Those are all
12 wel come.

13 I also note that in the recent past,
14 in response to some of the questi ons on
15 aquati c i nvasi ve speci es, that State Parks
16 and DEC staff and law enfor cement staff from
17 both agenci es met last week to -- I don' t
18 know all the detai ls, I just know that they
19 met regardi ng enfor cement on the new aquati c
20 i nvasi ve laws regardi ng boat washes and
21 thi ngs l i ke that. And I thi nk in the
22 not-too-di stant past those ki nds of thi ngs
23 woul dn' t have happen ed as readi ly as they' re
24 happeni ng now. There does to be a much

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1 better spi ri t of cooperati on between
2 di fferent departments of the government.

3 And l astly, I was unawa re that the
4 Cornell Di agnosti c Lab fundi ng was cut. I' m

5 not sure yet what the results of that are,
6 but I would note that the DEC's pathology lab
7 staff were cut pretty deeply a few years ago,
8 and it would be worth looking into. I'm sure
9 the question has already come up.

10 But, you know, for my own peace of
11 mind I'm going to be looking into how this
12 affects our ability to do everything from
13 rabies tests -- you know, I had a personal
14 incident where a rabid fox attacked me in one
15 of our barns a few years ago. In the 45
16 minutes it took myself and an ECO to track it
17 down and kill it, it attacked two of the
18 neighbors. It was nice to get a very quick
19 lab report back on that. And I just want to
20 make sure that we still have, you know, those
21 kinds of resources available.

22 That ends my statement.

23 CHAIRMAN DeFRANCISCO: This is the
24 annual rite of spring. And traditionally

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1 many of the agriculture programs are cut and
2 not put in the Executive Budget, or reduced.
3 Somehow they come back in after the
4 legislative process. And I feel comfortable
5 that that program will be back in. That's
6 number one.

7 Number two is you had mentioned that
8 we need more personnel now that we're out of
9 the recession and so forth. Can you give me
10 some estimate or get to me some estimate as

11 to how many people you're talking about,
12 because you say 18 is too little, and what
13 specific areas in DEC, what job titles are
14 you looking for?

15 MR. ROBSON: My personal experience
16 goes back a couple of years. I was a member
17 of the Conservation Fund Advisory Board and
18 told -- I'm not sure if -- you know, things
19 run together after a few years. It was
20 either two or three years ago now. But if my
21 memory is right, the Division of Fish,
22 Wildlife and Marine Resources, that I'm most
23 familiar with, had about 50 personnel cuts
24 from 2008 to 2010. What was particularly

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1 frustrating about a number of those is they
2 were without regard to funding source. A
3 significant number of those people were being
4 paid wholly or substantially out of federal
5 sport, fish and wildlife restoration grants,
6 but the jobs were still cut. This 18 people
7 that -- the state match and -- you know, the
8 25 percent state match and 75 percent federal
9 grant match that the commissioner mentioned
10 earlier is a welcome start. But, you know,
11 I've been away from that for just a couple of
12 years. I'm hesitant to give you any better
13 numbers than that.

14 CHAIRMAN DeFRANCISCO: That's fine, I
15 can find out. Okay. And thank you very
16 much. The fact that we're not asking more

17 questions has nothing to do with the quality
18 of your presentation.

19 MR. ROBSON: That's fine. Thank you.

20 CHAIRMAN DeFRANCISCO: It has more to
21 do with the hour of the day.

22 MR. ROBSON: All I know is I hope the
23 seats up there are more comfortable than the
24 ones up there.

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1 (Laughter.)

2 MR. ROBSON: You all have been here a
3 long time.

4 CHAIRMAN DeFRANCISCO: All right,
5 thank you.

6 Charles Parker, president of the
7 New York State Conservation Council, Inc.

8 (Comments off the record.)

9 MR. PARKER: Thank you for the
10 opportunity to make this presentation. And
11 based upon a lot of my comments are in
12 agreement with what Lance just said, I will
13 give you the Reader's Digest version here.

14 The State Budget of 2014-2015 proposed
15 by the Governor and passed by the
16 Legislature, with its support for the
17 environment and sportsmen, was a turnaround
18 from previous budgets. From the sportsmen's
19 perspective, it seemed to recognize the
20 importance of conservation and the sportsmen
21 and our value to the environment. The budget
22 of 2014-2015 made for a strong base for the

23 proposed budget for 2015-2016 to build upon.

24 The proposed new budget continues to

♀ 347

1 create a base for the support and protection
2 of our sound environment and wise use of our
3 conservati on practices. To the financi ally
4 concerned, it supports an entity that
5 contributes \$8.1 billion to the New York
6 economy.

7 I'd like to reflect on the State
8 Comptroller's December 2014 report on
9 environmental fundi ng i n New York State,
10 which stated: "The Department of
11 Environmental Conservati on has experienced
12 staff cuts and constrained fundi ng since 2003
13 while its responsi bilities have grown. "

14 "DEC's staff has declined while
15 fundi ng has barely kept pace with i nflati on
16 and now is projected to decline," Di Napoli
17 said. "Our natural resources are major
18 assets for the state's economy and
19 New Yorkers' health and quality of life. We
20 must continue to safeguard these assets. "

21 Elements wi thi n thi s new proposed
22 budget address the needs as reflected in the
23 Comptroller's December report. Thi s budget
24 will move the state in the right di recti on.

♀ 348

1 While the cuts in the past were seen as
2 necessary for economic reasons, it would be
3 disastrous for these cuts to continue

4 Long-term.

5 The elements I was going to bring up
6 was, you know, the allocation of the
7 \$811 million from NY Works funds for access
8 projects, the \$4 million desperately needed
9 to continue the improvement of the
10 hatcheries, the offloading of \$1.2 million
11 for the e-licensing program -- we see that as
12 a positive -- and the new way they're going
13 to manage the Habitat Conservation and Access
14 Account under the Miscellaneous Capital.
15 It's protected as it was under the
16 Conservation Fund, and it brings capital
17 where they can work with it, where they can
18 get ahold of it. Eighteen staff personnel is
19 another move in a good direction.

20 From the perspective of the New York
21 State Conservation Council's membership, this
22 budget, coupled with the accomplishments of
23 last year's budget as it pertains to
24 conservation, is a strong move forward and

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1 worthy of the Legislature's support.

2 That's it.

3 ASSEMBLYMAN OAKS: I just --

4 CHAIRMAN DeFRANCISCO: Go ahead.

5 CHAIRMAN FARRELL: Yes.

6 ASSEMBLYMAN OAKS: Hi, Chuck. Thank
7 you for coming today.

8 Just a quick question. On the
9 NY Works access projects, have you been given

10 a sense of which ones are going to be funded?

11 MR. PARKER: Last year we were able to
12 submit what we would like to see done; you
13 know, through the process what got done. You
14 know, some of our projects were, some
15 weren't. This year personally I don't have a
16 scope of what's going to be done.

17 ASSEMBLYMAN OAKS: They worked with
18 you last year, hopefully.

19 MR. PARKER: DEC is strong in reaching
20 out to all aspects of the people, you know,
21 concerned about our environment, not just the
22 sportsmen. You know, I appreciate that.

23 ASSEMBLYMAN OAKS: Your notes here say
24 that the hatchery program, that it will be

♀ 350

1 very helpful but it doesn't do the whole job.
2 Do you have any sense what would?

3 MR. PARKER: That's a -- we're
4 recovering from 10, 15, 20 years of, you
5 know, neglect, not paying into the
6 infrastructure. You know, we're bringing it
7 back around. We're pleased at what we're
8 seeing. We realize there may be more to be
9 done. You know, it's -- you can't do it
10 overnight.

11 ASSEMBLYMAN OAKS: Thank you. Thank
12 you.

13 MR. PARKER: One comment I wanted to
14 add, you mentioned, you know -- as far as
15 staffing goes, the comment was made to me

16 recently from Lands and Forests that for
17 every additional person that you get on the
18 ground to do lands and forest management
19 yields three times the return. You know, so
20 it's a positive return investing in staffing,
21 you get more back than what you spend.

22 CHAIRMAN DeFRANCISCO: Thank you.
23 Anyone else? All right, thank you,
24 sir.

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1 Kelly Young, deputy director of public
2 policy, New York Farm Bureau.

3 On deck is Laura Ten Eyck, senior NY
4 project and outreach manager of the American
5 Farmland Trust. So if you can move down
6 while we're talking so we can accommodate
7 more people before midnight. Thank you.

8 MS. YOUNG: Hi, there. Thanks so much
9 for letting New York Farm Bureau talk with
10 you today. As you know, we are the state's
11 largest general agricultural advocacy
12 organization. We represent approximately
13 25,000 farm families in the state. We
14 recognize, you know, the fiscal challenges
15 that the state faces, and we were very
16 pleased to see that the Governor's budget
17 funding for Agriculture and Markets funded
18 appropriately the very important animal and
19 public health programs that our farm industry
20 and our food safety system really need and
21 they depend on.

22 We were a little disappointed that the
23 industry promotion and research programs for
24 many of the commodities in the budget were

♀ 352

1 only partially funded or not funded at all.
2 These are really -- these programs provide
3 the economic development engine for many of
4 our agricultural commodities across the
5 state. We have just recently been able to
6 very successfully get New York State
7 Christmas trees into New York City. We have
8 wine on the West Coast and abroad. These
9 kinds of developments are things we don't
10 want to backtrack on.

11 I can't overestimate how important
12 research is to the agricultural community.
13 This is how we figure out the next best way
14 to add value to our agricultural commodities,
15 the best way to grow those commodities, and
16 the way to deal with the threats that they're
17 facing right now.

18 I also want to mention that we're very
19 concerned about the Governor's proposal to
20 increase the minimum wage to \$10.50 an hour
21 upstate. We haven't even fully completed the
22 change to a \$9 an hour minimum wage; that
23 will happen by the end of this year. This
24 kind of change puts our agricultural industry

♀ 353

1 at huge disadvantage, a competitive

2 disadvantage compared to the neighboring
3 states and internationally. There are
4 competitors all around the world. Our dairy
5 industry is dealing with a significant trend
6 downward in prices. Our fruit and vegetable
7 farmers deal with razor-thin margins. They
8 are the folks least likely to be able to
9 afford this type of increase right now if we
10 want them to be successful.

11 We are closely watching the
12 \$50 million that you all discussed earlier
13 that the Governor set aside for the Hudson
14 Valley and the Southern Tier. We're sure
15 that many of our farmers in the Hudson Valley
16 will look forward to conservation easements.
17 Some of our farmers in the Southern Tier will
18 look forward to some kind of farm economic
19 development in that region. But our dairy
20 farmers in the North Country, our wine
21 growers in Long Island, our fruit and
22 vegetable guys out in Western New York are
23 just some examples of folks who aren't helped
24 by these programs, and all would value

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1 investment in their industries.

2 We appreciate that the Governor plans
3 to repeal a number of his nuisance fees in
4 the Agriculture and Markets budget. Very
5 excited about the investment in the State
6 Fair; that \$50 million will go a long way to
7 making sure consumers have a positive

8 interacti on wi th agri cul ture. The State Fair
9 is supposed to be our greatest showcase of
10 agri cul ture in New York State, and we really
11 hope to make it that.

12 Similarly, our county fairs in local
13 communi ties are where consumers meet wi th the
14 farmers in their area, they meet wi th their
15 neighbors. So we are looking to restore the
16 budget for local fairs to \$500,000 for
17 premi ums, and also a new line of \$500,000 for
18 capital improvements. Many of our fairs,
19 they're right in the middle of their
20 communi ties, they're dilapi dated, they're
21 long overdue for investment in
22 infrastruc ture. This doesn't only help make
23 sure that those summertime fairs are going to
24 be a pleasant and safe experience, but it

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1 also means that they'll be able to attract
2 events that will help ensure their long-term
3 sustai nabi lity.

4 The Environmental Protection Fund, the
5 EPF, it's very valuable to our farmers.
6 That's how our farmers work to ensure
7 environmental stewardship. The Farmland
8 Protection Program, investment in the Soil
9 and Water Conservation Districts, the
10 Agricultural Non-Point Source Abatement
11 Program, invasive species eradication, and
12 the Ag Waste Management Program are not just
13 important to our environmental conservation

14 progress but also drive our farm
15 profi tabi l i ty.
16 We strongly support the Governor
17 i ncreasing i nvestment i n the County Soil and
18 Water Conservati on Di stricts thi s year.
19 Those folks are on the ground techni cians
20 that help roll out our CAFO programs,
21 agri cul tural envi ronment management, and i n
22 thi s time of extreme storms, they help wi th
23 stream bank restorati on. It's becomi ng more
24 and more i mportant.

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1 The Governor also has plans to fund
2 research on how farmers can better prepare
3 for climate change. Thi s i s very i mportant
4 as we see new speci es, pests, comi ng to our
5 plant. And we have other weather chal lenges
6 that our farmers need to prepare for and make
7 plans for.

8 And fi nally, the Farmland Protecti on
9 Program i n the EPF has always been a very
10 val uable program for our farmers. Not only
11 i s i t i nvesti ng i n making sure there i s some
12 sound farm producti on there, whi ch has great
13 envi ronmental benefi ts, but i t's also a great
14 way to rei nvest i n farm i nfrastructure, make
15 sure we have the tools avail able to pass that
16 farm on to the next generati on.

17 Thank you.

18 CHAI RMAN DeFRANCI SCO: Thank you.

19 CHAI RMAN FARRELL: Thank you.

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Yes, Mr. Wepri n.
ASSEMBLYMAN WEPRI N: Thank you,
Mr. Chair man.
I was a little troubled by your
comment about -- your objecting to the \$10.50

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an hour minimum wage, because as you know,
one of the proposals is to have even a higher
rate for New York City, where the cost of
living is much higher. By my calculations --
first of all, how many hours, on the average,
do the farmworkers work now?

MS. YOUNG: Depending on the type of
the farm, it can vary greatly depending upon
the time of season. We have -- you know, a
lot of farms, fruit and vegetable farms have
seasonal workers. They have to work extended
hours in the summer during planting and
harvesting. That's the nature of our
business. A dairy farm might have more
stable and regular hours.

ASSEMBLYMAN WEPRI N: Okay. Because
just by my calculation, assuming a 40-hour
week, \$10.50 an hour comes to a little over
\$21,000. Which, you know, with -- you know,
our position traditionally in the Assembly
Democratic Conference has been that this is a
type of money that's not really going into
savings for the lower-paid workers but really
going directly into the economy.

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1 So I just don't understand why there's
2 a stronger argument for a competitive
3 disadvantage for your industry versus any
4 other industry. How is that different?

5 MS. YOUNG: A couple of reasons.
6 Number one, our farmers don't set their
7 prices. They're price takers. So it's very
8 difficult for them to absorb that kind of
9 increase on their labor costs. Labor is
10 often the largest expense on a farm
11 operation, the most difficult to adjust to.

12 And second, our farmers are already
13 paying, on average, well above our current
14 minimum wage, and they have been for a long
15 time. The minimum wage on a farm is often
16 the starting wage rate. That's for folks who
17 are learning the operation, they're learning
18 how to pick fruit, they're learning how to
19 take care of animals. It's not the long-term
20 wage that many of our farmers are paying
21 their employees.

22 But when you raise that minimum wage,
23 you're not just -- we're not just changing
24 the wage for the lowest-wage earners, all of

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1 the workers on that farm now have a wage
2 increase, and that's very difficult to
3 absorb. When we're talking about management,
4 they're making far, far above minimum wage.
5 So it has a wide impact on our farms.

6 ASSEMBLYMAN WEPRI: Okay. Well, I'm

7 going to beg to differ only because we're
8 talking about the lowest-paid workers and,
9 you know, they have to support their
10 families, they have to put food on their
11 table. I don't know if food is included, you
12 know, in addition to the wages. But in any
13 case, you know, we all have to make a living
14 and support our families. And I don't think
15 increasing it to \$10.50 is unreasonable. So
16 I guess we're going to beg to differ on that.

17 Thank you, Mr. Chairman.

18 CHAIRMAN DeFRANCISCO: That's it.
19 Thank you very much, and thank you for
20 speaking extemporaneously and getting your
21 points across. Thank you.

22 The next speaker is Laura Ten Eyck,
23 American Farmland Trust. She's a senior
24 New York project and outreach manager.

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1 On deck is Jessica Ottney Mahar,
2 director of government affairs, The Nature
3 Conservancy. And she's already down to the
4 appropriate spot, thank you.

5 Okay, go ahead.

6 MS. TEN EYCK: Hi. Okay, thank you
7 for giving me the opportunity to talk today.
8 I'm primarily going to be talking about
9 farmland conservation funding in the
10 Executive Budget proposal.

11 You've mentioned my title for American
12 Farmland Trust. I'm also a farmer. I'm the

13 fourth generation of my family to operate a
14 an apple orchard in Albany County. I'm
15 involved in the management of that. And that
16 farm happens to be conserved permanently with
17 funding from the State Farmland Protection
18 Program. And my husband and I are now
19 beginning a new farm within that farm,
20 growing hops and barley and starting a
21 farmstead brewery, which is inspired by the
22 new Farm Brewery Law. And I think this is a
23 good example of how farmland conservation
24 translates into economic development and the

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1 passing of farms on from one generation to
2 the next to grow with the times.

3 American Farmland Trust is a national
4 nonprofit organization. I work for the
5 New York field office, and we're focused on
6 farmland conservation and environmentally
7 sound agricultural practices across the
8 state. We work at the intersection of food
9 production and environmental conservation.
10 And in other words, our focus is everything
11 that's necessary for the survival of human
12 life in New York State.

13 I'm going to speak informally. You'll
14 be able to look at my budget testimony for
15 more facts and figures. I want to talk first
16 about some of the elements regarding funding
17 for farmland conservation in the Executive
18 Budget proposal.

19 The Environmental Protection Fund,
20 which is where the Farmland Protection
21 Program has lived for many years, has been
22 proposed to raise by \$10 million to
23 \$172 million, and we're in support of that
24 increase in funding for the Environmental

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1 Protection Fund, with a goal of seeing it
2 eventually reach \$200 million.

3 But we are opposed to taking money
4 from other environmental programs in order to
5 pay for that and would prefer to see the
6 money taken from the real estate transfer tax
7 to fund an increase in the fund.

8 The Farmland Protection Program is
9 part of the Environmental Protection Fund,
10 and the Executive Budget proposal is
11 proposing to fund it at \$14 million, which is
12 the same as it was last year. Overall, we've
13 been advocating -- have ongoing advocacy to
14 increase the amount of funding for the
15 Farmland Protection Program. But this year
16 is a little different because there's also
17 been a corresponding proposal for funding
18 from the financial settlement to direct funds
19 towards farmland conservation. And that
20 would be the previously discussed
21 \$50 million, \$20 million of which is directed
22 towards farmland conservation in the
23 Hudson Valley region for the permanent
24 protection of farmland there, and \$30 million

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1 for the Southern Tier, which originally was
 2 discussed as involving some farmland
 3 protection funds, but that seems to be
 4 somewhat of a moving target right now.

5 We're in support of directing these
 6 funds towards farmland conservation. As
 7 Senator Ritchie said earlier, there's many,
 8 many other parts of the state outside of the
 9 Hudson Valley and Southern Tier that need
 10 support in this respect. And as Senator
 11 Krueger said, even though it's a significant
 12 increase in money that we've had, it's still
 13 just a drop in the budget to address the
 14 problem that we're facing.

15 We do support any funds spent on
 16 farmland conservation to be used for the
 17 permanent conservation of farmland and not
 18 for term easements, and I'll address reasons
 19 why in just a minute.

20 We also focus on farmland protection
 21 projects being completed in under two years,
 22 so we don't get into a situation where we
 23 have backlogged projects like we had before.

24 Farmland loss is a significant problem

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1 in New York State. And nationwide, the
 2 country loses the equivalent of one acre of
 3 land every minute of every day to
 4 development -- residential, commercial,

5 industrial. And New York State has lost half
6 a million acres of farmland since the 1980s
7 to development. That's about one farm every
8 three and a half days. That leaves us at
9 this time with 7 million acres of farmland.
10 That sounds like a lot, but a few years ago a
11 study from Cornell found that if every
12 New Yorker ate a low-fat diet -- fruits and
13 vegetables and some meat and dairy and
14 eggs -- the state's 7 million acres of
15 farmland could only produce enough food to
16 feed 30 percent of our population. So not
17 only do we need to conserve farmland that
18 we're losing, we actually really need to
19 bring more farmland into agricultural
20 production, or more land into agricultural
21 production. Whether that's community gardens
22 in the city, whether that's the farms that
23 are in the suburbs that are still there that
24 everybody has written off because they're

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1 going to be developed sooner or later, or
2 whether that's area around Fort Drum,
3 agricultural area that could be brought more
4 into production, there's lots of
5 opportunities.

6 Another matter of concern is that in
7 addition to losing farmland, we are at risk
8 of losing farmers. In New York State,
9 according to the 2012 census, 30 percent of
10 the farmers in our state are 65 years old and

11 older. They control, through renting or
12 owning and operating, about 2 million acres
13 of agricultural land. Beyond that, between
14 the ages of 55 and 65, those are another
15 30 percent of our farmers who control another
16 2 million acres of land.

17 Many of these farmers have succession
18 plans in place. However, many of them don't.
19 We're digging into the data more on that to
20 find out how many of these operators that are
21 over the age of 55 have begun to plan for the
22 succession of their farm. But our work in
23 the field tells us that many, many, many
24 farmers have no plans for transferring their

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1 land.

2 So the question is what does that have
3 to do with farmland conservation. Well, land
4 when it's in transition, moving from one
5 generation to the next, is really vulnerable
6 to being lost to development. If there is no
7 way to pass the farm on to the next
8 generation, it's likely going to be sold and
9 it's likely going to be sold to a developer.

10 The problem is is that farming isn't
11 that lucrative, so farmers don't really have
12 a retirement fund, they don't have a pension,
13 and a lot of their assets are tied up in
14 their land. State funding for farmland
15 protection can really help a lot with
16 enabling farmers to pass their farm down to

17 another farmer. What they can do is get
18 money from the state in exchange for the
19 development rights to the land, put that
20 money towards their retirement, and then take
21 their farm, which is now at a lower value
22 because the development rights have been
23 removed through the easement, and sell the
24 farm at that lower value to a younger farmer

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1 so that it's more affordable to them. Then
2 they have the money from the sale of the farm
3 as well, they get the full value of their
4 farm and they can retire, but the farm
5 doesn't get developed.

6 So the state funding for farmland
7 conservation is doing this all the time and
8 enabling families to pass their farms down.
9 And I think that that's a major reason why
10 it's important for us to continue to fund
11 farmland conservation.

12 And I guess that's all I have to say.
13 If anybody has any questions, I'll do my best
14 to answer them.

15 CHAIRMAN FARRELL: Thank you.

16 Oh, Earlene. Assemblywoman Hooper.

17 ASSEMBLYWOMAN HOOPER: Thank you so
18 much. You're Jessica Ottney?

19 MS. TEN EYCK: I'm Laurie. Laura.
20 Laura Ten Eyck.

21 ASSEMBLYWOMAN HOOPER: Sorry. Would
22 you spell it for me, please?

23 MS. TEN EYCK: It's T-E-N, E-Y-C-K.
24 ASSEMBLYWOMAN HOOPER: Oh, I'm on the

♀ 368

1 wrong page.

2 MS. TEN EYCK: Jessica comes right
3 after me.

4 ASSEMBLYWOMAN HOOPER: Oh, Laurie Ten
5 Eyck.

6 MS. TEN EYCK: Yes.

7 ASSEMBLYWOMAN HOOPER: Thank you. So
8 this is the American Farmland --

9 MS. TEN EYCK: Yes.

10 (Discussion off the record.)

11 CHAIRMAN FARRELL: Thank you very
12 much.

13 MS. TEN EYCK: Thank you.

14 CHAIRMAN DeFRANCISCO: Thank you very
15 much.

16 The next speaker is Jessica Ottney
17 Mahar, director of government affairs of
18 The Nature Conservancy, followed by
19 Sean Mahar, director of government affairs,
20 Audubon New York. Do you know Sean?

21 MS. MAHAR: Yes, you put the proper
22 Mahar ahead. I am in fact Sean Mahar's wife.

23 (Laughter.)

24 CHAIRMAN FARRELL: We stepped into a

♀ 369

1 war.

2 MS. MAHAR: I can't wait to hear what
3 he has to say about this. Thanks to all of

4 you, to so many of you for staying so long --

5 CHAIRMAN DEFRANCISCO: How did you
6 both become government affairs people? Do
7 you set government affairs? Do you regulate
8 government affairs?

9 MS. MAHAR: Yes, it's total world
10 domination at the Mahar house.

11 (Laughter; discussion off the record.)

12 MS. MAHAR: Thank you again to all of
13 you for hanging in there for so long and
14 staying for our testimony. I'm Jessica
15 Ottney Mahar. I direct government relations
16 for The Nature Conservancy in New York.

17 I wanted to start out by thanking all
18 of you for the work you did in last year's
19 budget, particularly on the Environmental
20 Protection Fund. It was one of the first
21 years in many years where the Legislature
22 went over and above the Executive Budget
23 proposal and further increased the EPF, and
24 we were really excited and grateful for your

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1 hard work to do that, and we hope that you'll
2 keep up the great work again this year.

3 Senator O'Mara, we wanted to
4 congratulate you on becoming chairman of the
5 committee. Congratulations. And thank you
6 for your work last year on an aquatic
7 invasive species bill, which a number of you
8 also cosponsored.

9 Thanks to all of you for supporting

10 legislation to enhance community resilience
11 to climate change as well as the ban on
12 elephant ivory. We got a lot of great things
13 done in 2014, and we think this year's budget
14 is a great way to kick off another successful
15 year together in 2015.

16 The Nature Conservancy -- I'm not
17 going to read all of my testimony, so I'll
18 summarize. We think that this year's
19 Executive Budget proposal is a great starting
20 place, and we're really grateful that the
21 Governor is again prioritizing some of the
22 restorations we've heard about today that the
23 various speakers have brought up, various
24 staff restorations at state agencies as well

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1 as the Environmental Protection Fund, which
2 is the state's premier source of
3 environmental funding, in particular for
4 partnerships with organizations and
5 communities that do a lot of work that
6 benefit both people and nature.

7 I wanted to just give a quick overview
8 of the election year in 2014, because
9 actually it wasn't just a big election year
10 for everyone who wanted to come back to do
11 work here, it was a big election year for
12 nature. Across the country there were
13 record-setting amounts of ballot proposals
14 that voters approved in support of
15 conservation. It was the biggest election

16 year for nature in history, and \$29 billion
17 of public funding for open space, water
18 quality, community resilience and other
19 purposes were approved by voters. And these
20 were not all approved in areas that aligned
21 with one political party or another. This
22 was an incredibly diverse turnout. And these
23 measures passed in some cases with margins of
24 support of up to 75 percent.

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1 And I wanted to point this out because
2 as you go into this year's budget
3 negotiations, and I wanted to remind you that
4 our polling here in New York has consistently
5 showed that New Yorkers care about our water
6 quality and our open space and our parks, and
7 that they support you in your work to fight
8 for funds that support the environment. And
9 I think that the same type of support exists
10 here in New York as it did in all of these
11 other places.

12 The Environmental Protection Fund,
13 which you've heard a lot about today, is a
14 critical source of funding for a lot of
15 organizations and communities in the state.
16 It funds our municipal recycling programs,
17 our open space conservation, we just heard
18 about farmland protection. It funds zoos and
19 botanical gardens, it funds waterfront
20 redevelopment. And it's been proven to
21 generate a \$7 return for every dollar that

22 New York State invests. It's a great, great
23 investment for our state, in all regions,
24 different places, different solutions.

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1 We are very supportive of the
2 Governor's Executive Budget proposal to
3 increase the EPF this year. He proposes a
4 \$10 million increase to \$172 million. We are
5 hopeful that this is just another step we're
6 taking on a path towards recovery. Prior to
7 the economic decline, the EPF was
8 \$255 million a year, and in 2007 the
9 Legislature passed a bill that would have
10 increased the EPF to \$300 million a year. So
11 we're hopeful that with the Governor and your
12 help, we can continue to restore the EPF to
13 pre-recession levels in the coming years.

14 A lot of folks today have mentioned
15 the fact that the source of the increase to
16 the EPF is in part through the use of
17 Regional Greenhouse Gas Initiative proceeds.
18 And so as you're looking at that and
19 evaluating alternatives to that proposal, I
20 will point out that the state's real estate
21 transfer tax is back. The financial plan
22 estimates that it will be generating more
23 than \$1 billion a year in every year that was
24 included in the new financial plan. This is

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1 the first time since I've been reading the

2 budget that those numbers have been that high
3 for the entire financial plan.

4 So the EPF is just a very small
5 portion of what that real estate transfer tax
6 funds. And certainly it's performing, at
7 least this fiscal year, above anticipated
8 earnings, and we expect very strong numbers
9 in the coming years. And you can look at my
10 testimony for some more information on that.

11 Two pieces of the EPF in particular we
12 wanted to support. The funding for land
13 conservation in the EPF is slated in the
14 Executive proposal to be increased by just
15 under \$4 million, and we're extremely
16 supportive of this increase. That program
17 used to receive \$60 million a year through
18 the EPF, and it's currently funded at
19 \$21 million. So it's at about a third of
20 where it used to be.

21 There are a lot of projects around the
22 state -- we heard about projects in the
23 Adirondacks, projects on Staten Island, in
24 the Hudson Valley, in the Finger Lakes.

♀

375

1 There's a long waiting line of organizations
2 and communities that are seeking to access
3 these funds to do work across the state. And
4 we're hopeful that as the Legislature
5 continues to restore the EPF, that there's a
6 focus on making restorations to that program.

7 The Long Island Water Quality Program

8 is incredibly important to The Nature
9 Conservancy. We've launched a campaign on
10 Long Island dealing with water quality and
11 specifically dealing with the threat of
12 nitrogen in our groundwater, which is
13 actually reaching our bays and causing
14 tremendous public health and economic
15 concern. It's shutting down our beaches and
16 causing these red and brown tides.

17 And we think there's a really -- we're
18 at an exciting moment with this issue. The
19 Governor commissioned a task force. That
20 task force came out with a report this fall
21 with a number of recommendations. And we
22 believe that now is the right time to ramp up
23 our efforts to reduce nitrogen in our
24 waterways and that there's a lot of community

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1 support behind that.

2 I also just wanted to express quick
3 support for the continued funding for
4 New York State Parks and DEC through the
5 NY Works program. We heard from Commissioner
6 Harvey and Commissioner Martens about the
7 backlog of capital needs at those agencies,
8 and that funding is going a really long way
9 towards doing great things that make our
10 public lands safe and accessible as well as
11 deal with a lot of other issues like oil
12 cleanups and other things at DEC.

13 I also wanted to express support for

14 continuing to grow agency staffing and for
15 the proposal to create a new Habitat
16 Conservation Access account to support fish
17 and wildlife habitat management. We're
18 really excited about that, leveraging federal
19 funding and bringing in 18 new staff members
20 at DEC.

21 And then finally I'll just talk
22 quickly about infrastructure, because there's
23 a lot of talk about infrastructure right now,
24 about \$4.5 billion worth. And we want to

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1 make sure that as you all are working with
2 the Governor to finalize the budget, the way
3 we're talking and thinking about
4 infrastructure is important. We've heard a
5 lot about water infrastructure, meaning our
6 sewers and our drinking water systems.
7 There's also environmental infrastructure.

8 And when The Nature Conservancy was
9 working with others on the State 2100
10 Commission after Sandy, one of the things we
11 worked to point out in that process is that
12 our state's environmental infrastructure
13 needs to be protected so that it can help
14 work for us. So areas where we have riparian
15 zones or wetlands, green spaces that can
16 actually help us absorb stormwater and act as
17 buffers from extreme weather.

18 We want to make sure that as we're
19 investing in infrastructure in New York State

20 we're defining it in such a way that it
21 captures both green and gray infrastructure.
22 And certainly we would echo the call of a lot
23 of our partners today on the need to
24 emphasize water infrastructure in particular

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1 as we invest in these things.

2 I think I'll leave it at that. Thanks
3 for the time.

4 CHAIRMAN FARRELL: Thank you very
5 much.

6 Assemblywoman Earlene Hooper.

7 ASSEMBLYWOMAN HOOPER: Thank you.
8 Thank you so much. I want to first of all
9 thank you for taking the time to be with us
10 all day. And I find that your presentation
11 was very well presented. And in viewing your
12 written testimony, I would like to just bring
13 some things to your attention. I'm actually
14 seeking clarification and requesting some
15 type of direction.

16 MS. MAHAR: Okay.

17 ASSEMBLYWOMAN HOOPER: I have in my --
18 I represent an area in Nassau County called
19 Freeport. And in that particular community
20 there is a vacant governmental -- once it was
21 a military establishment that is now vacant.
22 And it is located on a natural preserve. The
23 natural preserve has very unique natural
24 habitat such as birds, natural fauna, flora.

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1 And as I look at your page 1, you
2 refer to community groups that you assist in
3 areas such as this.

4 The municipality is suggesting placing
5 in very close juxtaposition to that natural
6 preserve a transfer waste station. It is a
7 residential area in designation and also
8 Department of Public Works and snow removal
9 equipment. And we are very concerned that
10 the maintenance of this type of equipment and
11 a waste transfer station there would have a
12 negative impact on the natural preserve.

13 I am very concerned and I'm asking
14 you, in reference to your presentation, that
15 outdoor recreation is very important, the
16 maintenance of natural preserves for our
17 future generations. My position is that a
18 waste transfer station, a Department of
19 Public Works, the necessary equipment to
20 maintain those works in close proximity to
21 this type of natural preserve would have a
22 negative impact on that preserve. And I am
23 seeking a way to assure to protect the land
24 and the waters for nature and the people.

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1 And also I am looking at one of your pages as
2 it refers to natural infrastructure. I'm
3 putting this out, then I'll ask a question.

4 I'm very concerned that in order to
5 protect the land and water for future
6 generations, that a waste transfer station

7 would certainly have a negative impact on
8 storm damage mitigation, it would have a
9 negative impact, as I indicated previously,
10 on natural resources, and it would not be a
11 place where people would want to live and/or
12 work.

13 So I see I'm running out of time. I
14 would like to know what could we do in that
15 community to prevent such an egregious
16 onslaught of this type of a facility being
17 placed in a community where there's less than
18 3 feet from residence, less than 3 feet from
19 a natural preserve that leads -- it's a
20 stream that leads into a bay that leads into
21 the Atlantic Ocean, and we see herons and
22 egrets and all types of natural fauna. What
23 can we do and how do you see The Nature
24 Conservancy assisting us in our quest?

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1 MS. MAHAR: That's a good question.
2 Without being more familiar with the area, I
3 can't really --

4 ASSEMBLYWOMAN HOOPER: I understand
5 that. I'd like to speak with you.

6 MS. MAHAR: I'll certainly get in
7 contact with our staff on Long Island to see
8 if they have an understanding of the site or
9 the issue, and I can get back to your office
10 and maybe get you a local contact, we have a
11 chapter down on Long Island. And there might
12 also be some other organizations that are

13 within the community that might be able to
14 help.

15 So I'd be willing to follow up with
16 you. I can't really give you a great answer
17 today, but I'm happy to follow up.

18 ASSEMBLYWOMAN HOOPER: So we can
19 contact you based on the information on the
20 rear of --

21 MS. MAHAR: Of course.

22 ASSEMBLYWOMAN HOOPER: My final
23 question is do you think it's a good idea to
24 put a waste transfer station less than 12,

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1 maybe 36 feet -- 3 feet from a residence and
2 DPW sanitation trucks that will have to be
3 maintained? Do you see that as a conflict as
4 it relates to maintaining safe water,
5 maintaining natural preserves? Do you see
6 that as a conflict?

7 MS. MAHAR: To be honest with you,
8 Assemblywoman, I can't answer that question.
9 I don't know enough detail. And one of the
10 things The Nature Conservancy really prides
11 itself is on is basing our positions on
12 science and kind of having a full
13 understanding of the facts before we take a
14 position. So I would hate to give you an
15 answer to that question without knowing
16 anything more about the -- I take your word
17 for it that it's very close to these areas,
18 and certainly that's of concern. But I would

19 have to see more. I'm not familiar with the
20 proposal, I apologize.

21 ASSEMBLYWOMAN HOOPER: And finally,
22 you said that you might be able to connect us
23 to local persons in this -- agencies and
24 other groups that would be able to help us to

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1 advocate for safe, long-term generational use
2 of this natural preserve that would be
3 destroyed should something of this egregious
4 nature be put there.

5 MS. MAHAR: Oh, sure. We --

6 ASSEMBLYWOMAN HOOPER: So you can
7 guide us.

8 MS. MAHAR: Well, we certainly have
9 partners that we work with on Long Island.
10 And we would be happy to put you in contact
11 with them to see if they're willing to
12 engage. So yes, I will.

13 ASSEMBLYWOMAN HOOPER: Thank you very
14 much.

15 MS. MAHAR: I'll get in touch with
16 your office.

17 ASSEMBLYWOMAN HOOPER: We'll get in
18 touch with you.

19 MS. MAHAR: Okay, great.

20 ASSEMBLYWOMAN HOOPER: Thank you very
21 much. Very good presentation.

22 MS. MAHAR: Sure, thanks.

23 CHAIRMAN DeFRANCISCO: Thank you.

24 Mr. Abinanti.

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1 ASSEMBLYMAN ABINANTI: Thank you,
2 Senator.

3 Thank you for sticking it out with us
4 today and giving us a very fine presentation.

5 I was just intrigued by your last
6 comments about the use of the Environmental
7 Protection Fund for preserving natural
8 resources. There is a problem in general
9 around the state with flooding. And there
10 doesn't seem to be any real money in the
11 budget directed towards that problem.

12 Do you believe or have you seen any
13 circumstances where EPF funding has been used
14 to assist local governments with flood
15 control projects? And do you think that
16 would be appropriate use of those monies?

17 MS. MAHAR: That's a great question,
18 thank you. And it's a great topic. I think
19 that when we look at environmental funding,
20 while the EPF is a niche and it's an
21 important fund, it might not be the answer to
22 every problem. And I know that there are a
23 number of areas in the state that are coming
24 back from Irene, Lee, Sandy and other events

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1 where significant federal money has actually
2 been allocated to New York State to deal with
3 some of these issues through the lens of
4 storm recovery. And I think that --

5 ASSEMBLYMAN ABINANTI: I'm thinking
6 more of the natural problems that occur for
7 something like the Saw Mill River Parkway in
8 Westchester County, where there's just
9 constant flooding. I'm not thinking of the
10 one-time events. And it's because the river
11 itself has not been properly maintained over
12 the years. And I'm trying to find a way --
13 these types of problems don't fit in the
14 one-time federal funding, and there doesn't
15 seem to be another type of program out there.

16 So if you don't think it works here,
17 let's talk later and see if you have any
18 suggestions on where we might be able to find
19 some money.

20 MS. MAHAR: Well, I think there are a
21 couple of programs within the EPF, things
22 like -- it used to be Trees for Tributaries,
23 now it's called Resiliency Planting; the
24 Waterfront Redevelopment Program, and maybe

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1 even elements of the Municipal Parks Program
2 could work.

3 But certainly I think that the needs
4 for the funding that you've identified, not
5 just in your area but statewide --

6 ASSEMBLYMAN ABINANTI: Statewide,
7 right.

8 MS. MAHAR: -- are significant, and
9 that the EPF isn't a significant enough
10 funding source to really tackle that program

11 without a significant infusion of more funds.

12 But certainly I think there's some --
13 I will say there's been some really great
14 work done by the New York Rising program with
15 their kind of ground-up approach and the way
16 they're thinking about planning recovery in
17 such a way that it really builds resilience
18 in for the future and doing things
19 differently.

20 And there could be elements of that
21 program that are then applied through a new
22 program to create a situation where, if
23 you're not eligible for disaster recovery
24 funding, you're doing the thinking in the way

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1 that they're doing in that program. Because
2 I think that's been a really instructive
3 process, and it could be expanded in the
4 future.

5 ASSEMBLYMAN ABINANTI: Okay. Thank
6 you.

7 CHAIRMAN DeFRANCISCO: All set? Thank
8 you very much.

9 Sean Mahar, director of government
10 affairs, Audubon New York. You have a tough
11 act to follow. I'm not going to rate the two
12 speakers, but you have a tough act to follow.

13 And next is going to be Willie
14 Janeway, executive director of the Adirondack
15 Council.

16 MR. MAHAR: Thank you, Senator. And

17 I'm well aware of the tough act I have to
18 follow. And thank you for, as always,
19 putting brains before beauty, as I like to
20 say.

21 Anyway, thank you for allowing me the
22 opportunity to testify today. I represent
23 Audubon New York. We're the state program of
24 the National Audubon Society. I won't read

♀ 388

1 my testimony; like everyone else, I'll just
2 hit the highlights.

3 And I think the few main points that
4 we really wanted to focus on are our support
5 for the Environmental Protection Fund. And
6 we appreciate the Governor's commitment of
7 \$10 million additional to the EPF this year,
8 and we urge for the final budget to include
9 at least that amount. I think, you know, the
10 10 million increase over last year is really
11 helping to meet the backlog that we have and
12 the ever-increasing demand we have for
13 projects. But given the economic conditions
14 of the state, we fully believe that a \$200
15 million EPF is warranted and supportable in
16 this year's budget, and we look forward to
17 working with you throughout the upcoming
18 negotiations to get towards that level as
19 well.

20 We definitely appreciate the
21 Governor's attention to the 14 categories
22 that he increased in the EPF this year,

23 namely open space acquisition, invasive
24 species management, ocean and Great Lakes

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1 conservation. All those are very critical
2 programs that need increased funding, and we
3 really appreciated seeing that in this year's
4 budget.

5 We also are thankful for the --

6 CHAIRMAN DeFRANCISCO: Excuse me.

7 Excuse me. May I interrupt you a minute?

8 MR. MAHAR: Sure.

9 CHAIRMAN DeFRANCISCO: Do you agree
10 with everything your wife said?

11 (Laughter.)

12 MR. MAHAR: Typically.

13 CHAIRMAN DeFRANCISCO: I mean on the
14 topics of the day. And if you do, what --
15 that's easy. If you don't, just tell us what
16 you don't agree with.

17 MR. MAHAR: How about this, yes. I
18 will focus on where we -- well, I wouldn't
19 even call it a disagreement. I would just
20 think it's a different priority.

21 (Laughter.)

22 CHAIRMAN DeFRANCISCO: Okay.

23 MR. MAHAR: And within the EPF I think
24 our different priority is looking at the

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1 biodiversity research and stewardship line of
2 the EPF.

3 Last year, thanks to your work, we

4 were able to amend that program to focus it
5 on achieving private landowner conservation
6 incentives and trying to really work with
7 private landowners to do better sustainable
8 habitat stewardship on their lands.

9 Audubon does a lot of work throughout
10 the state in key focus areas on grasslands,
11 forests and early successional habitat where
12 we work directly with landowners to produce
13 habitat management plans. And what we've
14 found is incentives really help them
15 implement those management plans. And what
16 we want to work with the Legislature on and
17 the Governor on this year is trying to find
18 out new ways of providing those incentives to
19 private landowners to do conservation work on
20 the lands that they steward.

21 The BRI line is one way of doing that.
22 We hope that we can increase that as part of
23 a broader EPF this year to at least a million
24 dollars, to put more money into the hands of

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1 landowners to do good conservation work, and
2 then to look to other areas of the budget,
3 either to tax credit reform, like you heard
4 Commissioner Martens talk about reforming the
5 488 program earlier today for forest
6 property-tax owners, even looking at the
7 farmland protection initiative that the
8 Governor has proposed in the Southern Tier
9 and the Hudson Valley.

10 I think there are a lot of
11 opportunities to think about how we can, in
12 the context of term easements and permanent
13 easements, how we can also incentivize those
14 landowners to be better stewards of the
15 properties that they own and manage to do
16 good conservation work for the benefit of
17 birds.

18 In addition to the EPF, and in
19 addition to the Southern Tier, I'll just say,
20 Senator O'Mara, to your point about
21 public/private partnerships at State Parks,
22 our organization is one that is engaged in a
23 public/private partnership with Parks. We
24 have our Audubon in the Parks initiative

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1 where our local Audubon chapters are working
2 directly with local state parks around the
3 state to do, like Commissioner Harvey said,
4 bird walks, habitat stewardship projects,
5 really getting engaged in trying to improve
6 the habitat at state parks.

7 And it's been a great model program
8 that we've seen used, and we look to expand
9 it more throughout each year. We've been
10 able to leverage some private funding to
11 support some grants to our chapters to do
12 that work, and we're always trying to find
13 out new ways of doing it.

14 And we look at the \$20 million
15 increased investment this year to the

16 NY Works program as part of the New York
17 Parks 2020 as being a great way of trying to
18 leverage some of the resources that we're
19 putting in. So with that increased
20 investment, we want to see more of that
21 targeted towards natural resource stewardship
22 and habitat stewardship on state parklands as
23 well, to really augment the great work that
24 our local chapters are doing throughout the

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1 state. And we look forward to giving you
2 more information on that in the future and
3 working to see that happen in State Parks.

4 Outside of that, like The Nature
5 Conservancy and like my wife, we do support
6 the NY Works funding for DEC that helped
7 really provide a lot of critical resources to
8 expand wildlife-watching opportunities in the
9 state; we're looking to promote ecotourism.
10 I know you've all laughed in the past when I
11 said this, but it is the truth. There are
12 4 million bird watchers in the state that
13 contribute \$4.2 billion to the state economy
14 through bird watching each year. It's a huge
15 number, it's a huge amount of money that
16 they're spending, and investments like this
17 in the NY Works program and the DEC's Access
18 Initiative are really critical to improving
19 those areas where our birders can get out to.

20 And also with the new Habitat and
21 Access Conservation Account, we're actually

22 going to be doing the management that we want
23 to see private landowners do on their land on
24 state lands now, and it's going to provide a

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1 great educational opportunity for us to
2 really spur more investments and more
3 attention from those private landowners in
4 doing habitat stewardship. So we hope that
5 you can support that during the budget
6 negotiations this year and finalize it.

7 Senator DeFrancisco, just because you
8 represent the State Fair, I think we really
9 appreciate the State Fair investment this
10 year. And the big thing we want to make sure
11 is when we talk about surrounding communities
12 to the State Fairgrounds, recognizing how
13 close it is to Onondaga Lake. We're doing a
14 lot of restoration work at Onondaga Lake,
15 through the Onondaga Lake Conservation Corps,
16 and we want to make sure those investments
17 are going to augment those efforts as well,
18 and enhance those efforts of what we're
19 doing, and not diminish the important
20 ecological value of Onondaga Lake. And we
21 look forward to getting you out to some of
22 the projects that we're working on throughout
23 the year coming up.

24 And I'll just finish too on talking

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1 about wastewater infrastructure investments.

2 I think you've heard a lot of that today, and
3 I really appreciated a lot of the questions
4 that you all asked of the commissioner as
5 well. I mean, we all know it's a critical
6 need, and sometimes it's forgotten about, out
7 of sight, out of mind, below-the-ground pipes
8 that are centuries old that are discharging
9 raw sewage into our waterways. And we can't
10 swim, we can't fish, and it's really
11 impacting the birds and other wildlife and
12 the people of the State of New York.

13 And we really need to see a renewed
14 commitment from New York State to addressing
15 this crisis. There are a lot of ways to do
16 that; we've provided some in our testimony
17 today. We really want to work with you this
18 year to prioritize more infrastructure
19 investments in New York State towards
20 upgrading our wastewater infrastructure.

21 And I'll just say that you heard a lot
22 of emphasis from the administration on going
23 after federal funding to do this, and I do
24 think the federal funding equation is

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1 extremely important to that. And if we're
2 going to be successful at leveraging that
3 money and getting more resources from the
4 federal government, we're going to need your
5 help in the year to come, either through
6 sign-on letters or resolutions, and we really
7 want to work with you to figure out new

8 creative strategies of really working with
9 our congressional delegation to get them to
10 fight hard for wastewater infrastructure in
11 the year to come.

12 So with that, I'll just conclude. We
13 look forward to working with you, and thank
14 you very much for your help and assistance in
15 the past.

16 CHAIRMAN DeFRANCISCO: Okay, thank
17 you.

18 Stenographer, are you okay?

19 (Laughter.)

20 MR. MAHAR: Senator, I try and beat
21 the clock.

22 CHAIRMAN DeFRANCISCO: That's my
23 point.

24 I'm going to apologize to you, because

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1 I've been moving people on. So if you start
2 falling, I'll know it's time to stop.

3 (Laughter.)

4 CHAIRMAN DeFRANCISCO: Assemblywoman
5 Glick.

6 ASSEMBLYWOMAN GLICK: Yes, there are
7 lots of bird watchers and they spend a lot of
8 money. And if it wasn't for 40-pound bags of
9 sunflower seed, I wouldn't be getting any
10 exercise.

11 So I realize this is more of a
12 New York City Audubon issue, but I have you
13 here. Obviously, the North Atlantic flyway

14 is very important. And in New York City,
15 Central Park is an excellent birding spot
16 because it creates -- it is a nice green
17 space for birds to migrate to or at least
18 land while they're migrating.

19 Aside from I know New York City
20 Audubon is working with some developers and
21 some architects on less glass or more
22 appropriate glass to avoid bird strikes,
23 which kill hundreds of millions of birds a
24 year, we're seeing around Central Park these

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1 taller and taller towers. So if there could
2 be some advocacy with the City of New York to
3 ensure that it is not totally and completely
4 encircled by inappropriately high glassy
5 towers, it would be very helpful. We've been
6 working on the ground, and it would be nice
7 to have some advocacy from Audubon on that
8 issue as well.

9 MR. MAHAR: Yeah, we obviously look
10 forward to creating a more bird-safe
11 environment throughout New York as our
12 birds are migrating through.

13 And just to your point, thank you for
14 your support last year of what we've called
15 the Light Pollution Bill, which requires
16 full-cutoff lights and reduced light
17 pollution going up. That was a huge help to
18 helping migrating birds not be distracted by
19 those tall buildings as they're flying

20 through the environment.
21 There are other creative things that
22 we're looking to do in the year to come with
23 launching a Lights Out New York program,
24 trying to get more state-owned buildings to

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1 just turn their lights off during peak times
2 of bird migration. Because what we find is
3 it's actually the lighting that attracts the
4 birds towards the buildings, and that's when
5 you get the most collisions to happen.

6 Our local chapter, like you said, is
7 working with glass manufacturers, actually,
8 to try and figure out how we can redesign
9 windowpane glass to reduce the reflectivity
10 of that so you don't have birds flying into
11 the glass as well. I think there's a lot of
12 opportunities looking at Corning, our
13 partners at the Corning Glass factory, to
14 really be a global leader in bird-friendly
15 glass. And we're definitely working with our
16 chapter on that.

17 But anytime you have issues like that,
18 Assemblywoman, feel free to come to us.

19 ASSEMBLYWOMAN GLICK: Thank you.

20 CHAIRMAN DeFRANCISCO: Assemblywoman
21 Hooper.

22 ASSEMBLYWOMAN HOOPER: Thank you.
23 Thank you, Mr. Stelling {sic}. I'm going to
24 just very briefly present to you some of the

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1 issues that I spoke earlier. In reference to
2 your page 1, where you indicate that it's
3 usually the areas where there are a higher
4 proportion of minorities that do not have
5 access to the cleanup funds? That's page 1.
6 Cleanups have been disproportionately located
7 in wealthy areas and robust building markets.

8 And I'm asking this question, it's not
9 related especially to brownfields, but I
10 would like to look at prevention. And as I
11 indicated earlier, there's an area in my very
12 small community where there is a natural
13 preserve, and it is being requested by the
14 municipality to put in that area a waste
15 transfer station and Department of Public
16 Works. And as I look on page 7, you indicate
17 that emissions from aging, dirty, heavy-duty
18 diesel engines are incredibly harmful,
19 especially to asthma, premature deaths. And
20 in the minority communities we do have an
21 excessive or higher rate of asthma.

22 As I go through -- I'm going to be
23 reaching out to your agency for some
24 guidance, but I don't have your telephone

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1 number or your address on the form.

2 MR. MAHAR: On the last page of my
3 testimony, my email address and phone number
4 are on there.

5 ASSEMBLYWOMAN HOOPER: The last page,
6 page 7?

7 MR. MAHAR: Page 4. If you're looking
8 at the Audubon New York --

9 ASSEMBLYWOMAN HOOPER: I'm
10 impressed -- before you get to page 4, I'm
11 impressed with your --

12 (Discussion off the record.)

13 ASSEMBLYWOMAN HOOPER: I am very
14 impressed with your final statement on page 7
15 where you advocate your mission to protect
16 air, land, water, wildlife --

17 ASSEMBLYMAN ABINANTI: That was his
18 wife.

19 ASSEMBLYWOMAN HOOPER: Your wife? So
20 you don't support that?

21 MR. MAHAR: See, my wife uses seven
22 pages, I only use four. I'm more concise.

23 (Laughter.)

24 ASSEMBLYWOMAN HOOPER: You're not

♀

402

1 interested in protecting air, land,
2 wildlife -- your wife does, so she --

3 MR. MAHAR: Well, we are obviously
4 interested in protecting the same things. We
5 have a focus on birds.

6 But I will say, Assemblywoman, we do
7 have a local chapter, the South Shore Audubon
8 Society, in Freeport. And I'll reach out to
9 them regarding your issue to see if they're
10 aware of it and make sure that they get in
11 contact with your office. Because usually
12 they are one of the first groups to really

13 get in the trenches and fight for areas like
14 what you're fighting for. So we look forward
15 to working with you on that.

16 ASSEMBLYWOMAN HOOPER: I'm very
17 impressed with that. Kudos to your wife.
18 But your contact is on page 4 of your
19 testimony?

20 MR. MAHAR: Yes, it's on the back page
21 of my testimony.

22 ASSEMBLYWOMAN HOOPER: I shall be
23 reaching out to you.

24 MR. MAHAR: Great, Assemblywoman.

♀

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1 ASSEMBLYWOMAN HOOPER: Thank you so
2 very much for bearing with us.

3 MR. MAHAR: Thank you, Assemblywoman.

4 CHAIRMAN DeFRANCISCO: Thank you.

5 The next speaker is Willie Janeway.

6 I just want to make an observation.
7 You were kind enough to stay for your wife's
8 testimony. She took off.

9 (Laughter.)

10 CHAIRMAN DeFRANCISCO: I just wanted
11 you to know that.

12 All right, Willie Janeway, executive
13 director, Adirondack Council, then followed
14 by William Cooke, director of government
15 relations, Citizens Campaign for the
16 Environment. And if you would move down,
17 that would be nice.

18 MR. JANEWAY: Thank you, Chairman.

19 Thank you, Senators. Thank you,
20 Assemblymembers. Thank you, Assemblyman Dan
21 Stec. It's nice to be here and to have your
22 own Assemblymember here. Congratulations,
23 Chairman, and I look forward to working with
24 you.

♀

404

1 I am Willie Janeway with the
2 Adirondack Council. Kevin Chlad, the
3 legislative director for the Council, is here
4 with me. We are advocates for Adirondack
5 wilderness, for Adirondack communities. We
6 don't look for and we don't accept any public
7 money, so don't try and give us any.

8 We are hoping, though, however, that
9 you can build on the Governor's
10 pro-Adirondack proposals. And Kevin is going
11 to speak briefly about two opportunities that
12 have to do with funding for environmental
13 issues, not just for the Adirondacks but
14 statewide.

15 What I want to do before Kevin briefly
16 summarizes the testimony is to point out and
17 to do something odd, to actually compliment
18 the institutions that you are a part of,
19 because not a lot of people even within these
20 institutions compliment the Legislature. But
21 more than a hundred years ago the Legislature
22 of New York set New York as a global leader
23 for large landscape-scale conservation --
24 protection of clean water, protection of

♀

405

1 wildlife, protection of communities -- by
2 establishing the Adirondack Park. And now,
3 123 years later, we are the members of the
4 institutions that hold that legacy in our
5 hands. And we have an opportunity, moving
6 forward with this budget, to make sure that
7 100 years from now people look back and feel
8 as if we made the right decisions to make
9 sure the Adirondacks, for its water, for its
10 wildlife, for the communities -- it's a
11 public/private park. You have an opportunity
12 to help make sure that park stays strong
13 going forward for future generations.

14 So thank you for your attention.
15 There's two specific opportunities that Kevin
16 is going to focus on.

17 MR. CHLAD: Thank you. Good
18 afternoon.

19 First I'd to talk to you about the
20 opportunity of infrastructure funding and how
21 we can address the clean-water gap. The
22 Governor has put forth a list of roughly
23 \$3 billion worth of special infrastructure
24 projects. We applaud the pledges from state

♀

406

1 leaders of both parties, of both houses, and
2 from across the state, in support of bank
3 settlement funds to address clean-water
4 infrastructure.

5 Infrastructure is a wise investment of
6 one-time cash infusions. We have an
7 opportunity to ensure that some of the
8 settlement money is dedicated solely to
9 address the tens of billions of dollars
10 backlogged in clean-water projects that slow
11 economic development, result in recurring
12 financial burdens for small towns that
13 continually chase broken water lines. And in
14 the Adirondacks, clean-water funding is
15 crucial to the future of development in our
16 hamlets.

17 The Comptroller reports that we spend
18 roughly one-fifth of what we should spend
19 annually on just maintaining clean-water
20 infrastructure. Just maintaining.

21 You are all keenly aware of the great
22 needs within your districts, and we can't put
23 this problem off anymore. We call upon the
24 Legislature to dedicate settlement money

♀

407

1 towards clean water and community resiliency
2 funding statewide, and specifically we call
3 for \$200 million dedicated to the
4 Adirondacks, which represent roughly
5 one-fifth of our state's land mass. And we
6 have an opportunity with that to transform
7 the entire region in one fell swoop.

8 So I'd also like to talk about the
9 opportunities we have within the
10 Environmental Protection Fund. We strongly

11 support the Governor's proposed increase from
12 \$162 million to \$172 million. The continued
13 restoration efforts of the EPF continue to
14 create jobs and protect clean water and
15 improve communities in the Adirondack Park.
16 In particular, we support increased EPF
17 funding for open space protection, invasive
18 species, state land stewardship, and smart
19 growth grants.

20 The \$10 million increase is progress
21 towards our shared goal of reaching an EPF of
22 \$200 million in the near future and
23 \$300 million in the long term. The EPF has a
24 long-standing relationship to the real estate

♀ 408

1 transfer tax. And the RETT is as strong as
2 it's ever been.

3 As you have heard already, rather than
4 relying on available revenue sources, the
5 Governor has proposed using off-budget
6 proceeds from the Regional Greenhouse Gas
7 Initiative carbon pollution auctions to fund
8 the increase in the EPF this year. These are
9 funds that are already dedicated to climate
10 change mitigation, and we oppose this
11 transfer.

12 We look forward to working with the
13 Legislature and the Governor through the
14 remainder of the budget process so that
15 communities continue to reap the economics
16 benefits and environmental benefits that this

17 fund provides.
18 Finally, with regards to agency
19 budgets, the Adirondack Council's written
20 testimony provides details on forest rangers
21 and the importance of hiring more assistant
22 forest rangers and the great return they
23 provide on investment, and the Adirondack
24 Park Agency, which has been starved for

♀ 409

1 funding and staff, keeping it from being more
2 proactive, science-based and helpful.

3 And thank you so much for your time.

4 MR. JANEWAY: So we give the four and
5 a half minutes over to the Mahars to help get
6 us back on schedule.

7 (Laughter.)

8 CHAIRMAN DeFRANCISCO: That's very
9 wise, very wise. Because if you had more to
10 say, some of those things you didn't want
11 will probably happen because it's so late.

12 But thank you very much. We do have a
13 question from Senator Krueger.

14 SENATOR KRUEGER: Thank you very much,
15 gentlemen.

16 So invasive species has been discussed
17 quite a bit today, and you mention it in your
18 testimony. I thought that the boat-washing
19 stations was a good idea that was helping at
20 least in the water-driven species. What's
21 your experience with how that's working or
22 what we should be doing there? I know the

23 Adi rondack Park has many lakes and ponds, et
24 cetera.

♀ 410

1 MR. JANEWAY: Thousands. And the
2 water quality in those lakes, as it is
3 important across the state, is important to
4 attack not for just ecological reasons but
5 for the economy, for the tourism that's
6 driven by that. Invasive species is a huge
7 economic and environmental threat.

8 And the initial efforts around
9 Lake George with the boat-wash stations are
10 something we applaud. There's a lot of local
11 government support. So you have
12 environmentalists, local government advocates
13 saying this is great. We have the Governor
14 putting out a pro-Adirondack proposal,
15 referencing in his State of the State
16 \$1 million in the Environmental Protection
17 Fund, an increase, to take that example and
18 look at how it could go out most effectively
19 and efficiently parkwide.

20 From that, I would hope that would
21 then set a model so we could apply that to
22 the Finger Lakes, Hudson Valley and other
23 places around the state.

24 SENATOR KRUEGER: And just another

♀ 411

1 quick question. So we created a, I guess,
2 lifetime fishing and hunting license, and
3 apparently that's brought quite a bit of

4 revenue into DEC, but it can't be spent at
5 the rate it's coming in. Couldn't that
6 logically be used to help with the rangers
7 issue that you're talking about not having
8 adequate funding for?

9 MR. JANEWAY: Just like there are
10 important issues between the RETT funding,
11 Environmental Protection Fund and the RGGI
12 fund funding, those certain programs, there
13 are important lines to look at in terms of
14 where the funding is coming from within the
15 agencies like that. So that's an issue that
16 you have to look at carefully, not just
17 assume that all that money is fungible.

18 SENATOR KRUEGER: Okay. But would you
19 agree that there's more money than we thought
20 was coming in and that hasn't been
21 appropriated, within that licensing amount?

22 MR. JANEWAY: I will only say that I'm
23 confident my colleagues at DEC, who as you
24 know I worked for for six years, and worked

♀

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1 with, are trying their best and doing all
2 they can to move it forward. I think they
3 need help to be able to get the money out the
4 door faster.

5 SENATOR KRUEGER: Thank you.

6 CHAIRMAN DEFRANCISCO: Thank you very
7 much.

8 CHAIRMAN FARRELL: Thank you.

9 CHAIRMAN DeFRANCISCO: And the next

10 speaker is William Cooke, director of
11 government relations, Citizens Campaign for
12 the Environment.

13 On deck is Laura DiBetta, director of
14 parks program and government relations for
15 Parks & Trails New York.

16 You're on.

17 MR. COOKE: Good afternoon.
18 Appreciate the opportunity to sit before you
19 today, Senators, Assemblymembers, staff.
20 William Cooke. You have the written
21 testimony, which of course my staff put
22 together. I want to just touch on a couple
23 of things just real brief.

24 In 1993 there was a pitched battle

♀

413

1 over the creation of something called the
2 Environmental Protection Fund. And one of
3 the nice things about being an old guy was I
4 was here for that, I was lobbying for
5 Citizens Campaign for the Environment all
6 those years ago. Here's what happened. Two
7 things drove this. One was an incredible
8 need to preserve key parcels of land around
9 the state permanently. And there was a
10 compelling need to provide funds that just
11 weren't available through other areas in the
12 budget for important environmental and public
13 health issues.

14 They created the EPF and they said,
15 Well, are how we going to fund this? And

16 Owen Johnson and Ron Stafford and some other
17 brain-trust Senators and some Assemblymembers
18 came up with the idea of why don't we fund
19 the vast majority of this out of the real
20 estate transfer fee.

21 Because when you buy real estate in
22 this state, you pay a very small little
23 percentage, a few hundred dollars, usually,
24 unless you're buying something pretty big,

♀

414

1 and that check goes to the State of New York
2 and goes into the real estate transfer fee
3 fund.

4 Now, they chose that because that
5 represents sale of land, period. It's either
6 resale or you're converting green space, but
7 you're doing a land transaction. And that
8 would fund dealing with environmental issues.
9 And as the price of land transactions went
10 up, the real estate transfer fee would
11 increase.

12 Now, all these years later we're
13 sitting here -- and we appreciate the
14 Governor proposing to increase the EPF. We
15 think that's great. But we look at the real
16 estate transfer fee and how much money it
17 generates, and it's going to be about a
18 billion dollars. And we look at how little
19 the EPF gets now compared to the intent.
20 That disturbs us.

21 There's an incredible need -- and I'll

22 get to the sewage in a second -- but just
23 with land, farmland, the non-point source
24 category. By the way, the non-point source

♀

415

1 category has been incredibly effective. My
2 organization was the organization that asked
3 the Senate to put that into the creation of
4 the EPF. But it has done some tremendous
5 things.

6 I want to talk just real briefly about
7 what this money does. And in the testimony
8 you see discussion of the Great Lakes
9 initiative, the ocean initiative, the
10 proposal to put funding into that.

11 Incredibly important environmentally, but
12 also incredibly important economically. The
13 Environmental Protection Fund is not just an
14 environmental protection fund, it's an
15 economic driver. It's a local waterfront
16 revitalization program, it's a land
17 acquisition program, it's incredibly
18 important in so many ways. And it has been a
19 wild success story.

20 I just want to touch on a couple of
21 things. One is there's been a proposal to do
22 term easements in the Hudson Valley. I've
23 got to be honest with you, term easements
24 have no value. Zero. If you're going to get

♀

416

1 an easement, get a permanent easement. If

2 you're going to protect land, protect it in
3 perpetuity.

4 But to suggest that we should give
5 some landowners some money and then after a
6 period of time it's just gone, is not
7 appropriate. And it's not consistent with
8 how we have done land preservation in this
9 state for decades. We agree with putting
10 money into easements. Not term easements.

11 I want to just touch on a couple of
12 things. Over at DEC, which stands for "Doing
13 Everything Conceivable," they have developed
14 a new program which in real time will tell
15 New York residents who want to know when
16 there is a water-quality program at a
17 specific water body that they're going to
18 use. You want to take the kids down
19 swimming, fishing, you're going to go
20 boating, there is a new thing at DEC which is
21 really incredible, web-based, New York
22 Alert-based, where you can get real
23 information on sewage discharges that are
24 going to affect your family.

♀

417

1 We think that's really great. And
2 there was some money put in in the last
3 budget cycle, \$500,000, that DEC could have
4 put out to municipalities to help them get
5 more technology, get up to speed, do a better
6 job on understanding the sewage problems they
7 have and how to communicate that to the

8 public. That money is in the Governor's
9 proposal for this year, but it hasn't been
10 allowed to be spent. We think that's really
11 important, and we think that at the end of
12 the process DEC should be able to get that
13 money and spend it. And the program they're
14 doing with Sewage Right to Know
15 implementation is extraordinary.

16 Here's the problem. The reason they
17 have to do this program is because we have
18 got an immense, monstrous problem with sewage
19 in this state every single time it rains and
20 oftentimes when it doesn't. They're doing
21 something that's really important. Because
22 if you're going to go into waters that are
23 contaminated with raw or partially treated
24 sewage, it is a health risk. It's also an

♀

418

1 economic problem. You don't get a lot of
2 tourism when the water is ...

3 DEC is doing great. But the problem
4 is we're not fixing the pipes. We're not
5 fixing the sewage treatment plants. We're
6 not doing the work. People talked about it
7 before. This is going to -- this is coming
8 back. And it's coming back to us every
9 single summer. And if you look at emergency
10 room admissions in hospitals that relate to
11 contaminated water, it is significant. If
12 you look at lost revenue because of
13 contaminated water and tourism drops, it's

14 si gni fi cant.
15 Here' s the bottom line. We need to
16 put an awful lot more money into sewage
17 i nfrastructure. And should the feds step up?
18 Sure. Fol ks, we can sit around and talk all
19 day about what the feds should do. But the
20 truth of the matter is New York State needs
21 to do more. We' re going to spend \$5 billion.
22 And in what the Governor proposed, there was
23 not one dime that we saw, not one dime, that
24 was speci fi cally targeted at dealing with

♀ 419

1 sewage i nfrastructure fail ing systems. We
2 could use about 36 billion.

3 Let me wrap up by saying, fol ks,
4 sewage may be out of sight, but it is not out
5 of our system and it is a risk that grows
6 exponentially. We' re now seeing green tides,
7 brown tides, we' re now seeing all kinds of
8 stuff. We need to make more investments --
9 not just in a nice bridge across the Hudson,
10 but in the i nfrastructure that protects our
11 water and suppl ies clean dri nki ng water to
12 our fami lies.

13 The Envi ronmental Protecti on Fund is
14 not the vehi cle to do that, but it could
15 certainly help. We need real money, big
16 money. We also could use a Envi ronmental
17 Protecti on Fund that goes back to bei ng
18 primari ly funded out of the real estate
19 transfer fee.

20 I appreciate your patience. I've gone
21 on longer than I should have. I appreciate
22 also your work. For more than 20 years, the
23 EPF has been a success story and you people
24 are a big part of the reason why.

♀

420

1 CHAIRMAN DeFRANCISCO: Thank you.

2 Senator Krueger first.

3 SENATOR KRUEGER: Thank you so much
4 for your testimony.

5 So I started the day asking some
6 questions of DEC -- you were probably on the
7 train up -- about their new emergency
8 response on sewer water leakage. And I asked
9 them a question, were they not implementing
10 the law for what's called combined sewage
11 systems.

12 MR. COOKE: Yes, CSOs.

13 SENATOR KRUEGER: And they said they
14 didn't really know the answer. Do you know
15 the answer?

16 MR. COOKE: Yes, I know the answer.
17 They are doing -- with the amount of staff
18 and resources available to them, they're
19 doing every single thing they can. No, they
20 are not addressing that as of yet. This is
21 not a static program. They are making
22 significant progress year over year, and I am
23 very confident that the CSO issue on the
24 notification part -- not fixing them -- will

♀

421

1 be addressed over the next three, four years.
2 But again, and I'm not a -- you know,
3 I'm not a cheerleader for the department, but
4 on this one they're doing exceptional work.
5 Exceptional work. But -- but -- there's a
6 lot more to be done. I'm sorry, I've just
7 got to mention one thing. My boss said if I
8 do not mention the ocean outfall pipe, a very
9 modestly priced project on Long Island that
10 would only cost a half a billion dollars and
11 would help Long Island residents immensely --
12 we need an ocean outfall pipe, and we can't
13 wait three more years and we can't wait five
14 more years. We need it started in 2015. And
15 it's a public health and economic driver on
16 Long Island.

17 CHAIRMAN DeFRANCISCO: Anyone else?
18 Thank you very -- oh, I'm sorry, Assemblyman
19 Abinanti.

20 ASSEMBLYMAN ABINANTI: A couple of
21 quick questions. You mentioned the temporary
22 easements. Is that in the budget?

23 MR. COOKE: The Governor proposed it
24 in one of his -- in his Hudson Valley

♀ 422

1 Regional -- yes.

2 ASSEMBLYMAN ABINANTI: So it's in the
3 budget.

4 MR. COOKE: That's -- yes.

5 ASSEMBLYMAN ABINANTI: I agree with
6 you, it's a valueless --

7 MR. COOKE: Well, first, I want to be
8 very clear with you, I have not read the
9 budget. We pay staff people to do that; I'm
10 not one of them. But yes.

11 ASSEMBLYMAN ABINANTI: Okay, so that's
12 something we should look for.

13 The second issue is you mentioned the
14 Sewage Right to Know Law. Do you know how
15 much money is left over unused?

16 MR. COOKE: In the sewage -- okay.

17 ASSEMBLYMAN ABINANTI: In this Right
18 to Know category, we gave \$500,000. Did they
19 use the whole 500?

20 MR. COOKE: Have not been able to
21 touch it. Here's why. It was put in -- and
22 I'm being told it was considered, and I don't
23 know what the term is you guys use, but it
24 was a Senate member item. And it was

♀

423

1 \$500,000 that the department was supposed to
2 put out to Aid to Localities, direct grants
3 to communities to get technology: Stream
4 gauges, monitoring, predictive modeling
5 stuff. Important stuff to help them
6 understand their sewage infrastructure needs,
7 failures, problems, and to help them get that
8 information out to the public real time.
9 That \$500,000 is stuck. The Senator who was
10 lead man on that, a fine gentleman, former
11 Senator Grisanti. The Assembly member who
12 was lead on that side was a great

13 Assemblyman, Bob Sweeney. I'm an orphan and
14 I've got \$500,000 that's looking for somebody
15 to just say spend it.

16 ASSEMBLYMAN ABINANTI: Okay, so you're
17 saying there's \$500,000 that was dedicated to
18 this, never spent, and the tasks for which it
19 was dedicated still haven't been
20 accomplished?

21 MR. COOKE: Yes. But the Governor has
22 put it back in. Now, this is separate from
23 what DEC is doing implementing the program.
24 This was money that they were going to give

♀

424

1 to localities to help them with technology,
2 with computer modeling, with that sort of
3 stuff.

4 So DEC is implementing the law, but --
5 and this is actually good news, we've got a
6 half a million bucks sitting on the table.
7 All we've got to do is get it authorized to
8 be spent, and that will help a number of --

9 ASSEMBLYMAN ABINANTI: So whatever the
10 mechanism is, you want that \$500,000 spent,
11 either put in this year's budget again or
12 spend last year's \$500,000, or something to
13 get that money out. Okay.

14 MR. COOKE: The Governor -- you don't
15 call it a rollover, but the Governor has put
16 it back in again.

17 ASSEMBLYMAN ABINANTI: So he has put
18 it back in again.

19 MR. COOKE: Yes. Yes, yes, yes. It's
20 the same \$500,000 from last year that wasn't
21 spent is in the budget this year, but we've
22 still got to get it out the door.

23 ASSEMBLYMAN ABINANTI: Right. But you
24 say in here you urge the Legislature to once

♀

425

1 again allocate.

2 MR. COOKE: Yes.

3 ASSEMBLYMAN ABINANTI: So basically
4 what you're saying is accept the Governor's
5 \$500,000 allocation.

6 MR. COOKE: Yes.

7 ASSEMBLYMAN ABINANTI: Okay. Thank
8 you.

9 MR. COOKE: Thank you very much.

10 CHAIRMAN DeFRANCISCO: Thank you.

11 The next speaker is Laura DiBetta,
12 director of parks program and government
13 relations for Parks & Trails New York, and
14 she's already seated.

15 And then Michael Dulong, staff
16 attorney, Riverkeeper, is next. And he's
17 coming down.

18 Okay, thank you.

19 MS. DiBETTA: All right, good
20 afternoon. Thank you. I appreciate you all
21 sticking around at this late hour.

22 Again, my name Laura DiBetta, and I
23 direct Parks & Trails New York's parks
24 program. In 1985, Parks & Trails New York

♀

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1 was founded to support the State Parks
 2 system, and in the 30 years since we've been
 3 the leading organization working for the
 4 promotion, protection and enhancement of a
 5 network of parks, trails and greenways across
 6 New York State.

7 I'm going to try to just hit the
 8 highlights of my testimony. I encourage you
 9 all to read my written testimony that I
 10 worked so hard on.

11 As you've heard through the leadership
 12 of the Legislature and the Governor, State
 13 Parks have received an historic infusion of
 14 funding through the NY Works initiative,
 15 nearly \$270 million to address aging
 16 infrastructure at state parks and historic
 17 sites. And it is thanks to this investment
 18 and ongoing Parks 2020 commitment that parks
 19 are transforming into destinations, places
 20 people want to visit for an entire day or an
 21 entire weekend, not just a few hours.

22 And in this year's budget, something
 23 that has been touched on today, there is a
 24 new initiative that will unlock the potential

♀

427

1 of local grassroots groups across the state
 2 who lead citizen initiatives to rebuild,
 3 strengthen and improve access to these
 4 wonderful state treasures. And I look

5 forward to telling you more about that in
6 just a couple of minutes.

7 We know that the investment in our
8 parks and historical sites is paying
9 dividends. Parks & Trails New York
10 commissioned a study that showed that the
11 state park system generates \$2 billion in
12 economic activity to the state and provides a
13 5-to-1 return on investment. The same study
14 showed that parks create 20,000 jobs
15 exclusive of park employees and that about
16 40 percent of visitor spending comes from
17 visitors who are from outside of those
18 communities where the parks are located. So
19 clearly the tourism dollars generated by
20 parks are critical, especially to struggling
21 upstate communities.

22 But I think we can all agree when most
23 people think about parks, they're not
24 thinking about return on investment or state

♀

428

1 appropriations, they're thinking that they
2 just -- they really love their parks. When
3 parks were threatened with closure, tens of
4 thousands of New Yorkers rallied to their
5 support. And for the last three years, on
6 the first Saturday in May, thousands of
7 New Yorkers have taken time out of their busy
8 weekend to participate and volunteer for I
9 Love My Park Day, which is an initiative that
10 we organized in partnership with State Parks,

11 to clean up, improve and beautify parks and
12 historic sites from Montauk to Niagara Falls.
13 And it's thanks in large part to this
14 outpouring of support from New Yorkers,
15 including from many of you, that parks have
16 remained open and are beginning to thrive.

17 Because parks are loved by so many
18 New Yorkers, they are one of the most visible
19 and symbolic of government programs. When
20 parks look shabby and neglected, people
21 notice and they feel less proud of their
22 state. And since rebuilding a park restroom
23 or repairing the roof of a visitor center can
24 be done quickly and at a fraction of the cost

♀

429

1 of something like rebuilding a bridge or a
2 highway underpass, park improvements offer
3 government a tangible way to show New Yorkers
4 and the world that New York is on the move
5 again.

6 Challenges, as you've heard, in the
7 system do remain, from leaking roofs at
8 Riverbank State Park, as you heard, to leaky
9 swimming pools and outdated water, sewer and
10 electrical systems. Recent severe storms
11 have only further compounded that need and
12 have highlighted actually the important role
13 the natural infrastructure features of our
14 parks can play in storm and flood protection.

15 So the Executive Budget proposal
16 includes \$110 million in new capital funding

17 through the NY Works program, allowing State
18 Parks to sustain its progress the backlog in
19 infrastructure needs and critical safety
20 repairs, restoring and reinvigorating the
21 state park system.

22 We appreciate that the Governor's
23 proposal also provides level funding for
24 operations, and we're pleased to see the

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430

1 proposed Excelsior Conservation Corps and we
2 look forward to engaging more youth in
3 initiatives such as I Love My Park Day.

4 So continued investment in our state
5 parks and historic sites will enable them to
6 more fully realize their potential as
7 economic engines for local communities, and
8 allow the agency to provide accessible
9 quality outdoor recreation and open space to
10 all New Yorkers. So we encourage you to
11 please keep the momentum going for parks with
12 another round of funding. A \$110 million
13 investment will strengthen the role that
14 state parks and historic sites play in
15 sustainable economic development and tourism
16 in communities across the state and will help
17 secure our parks and conservation legacy for
18 future generations.

19 Now, as you've heard, the
20 Environmental Protection Fund is a critical
21 source of funding for protecting New York's
22 water and air, providing stewardship for

23 state parks and forests, and delivering
24 essential resources to communities such as

♀ 431

1 through the Municipal Park Program that
2 supports local parks and trails.

3 Parks & Trails New York strongly
4 supports increasing the EPF to \$172 million,
5 as is proposed in the Executive Budget. The
6 continued restoration of the EPF after many
7 years of sweeps and cuts is progress to
8 support programs that create jobs and protect
9 clean water and improve communities in every
10 county in New York State. And the
11 \$10 million increase is progress towards
12 meeting a \$200 million EPF in the near
13 future, and a more sustainable \$300 million
14 EPF in the long term.

15 Now, as I indicated before, included
16 in the budget for the EPF is \$500,000 for a
17 new capacity-building grants program for
18 organizations that support and strengthen the
19 state's parks, trails and historic sites. So
20 these groups are nonprofit organizations.
21 They're made up of dedicated volunteers --
22 often, they're all volunteers. And they
23 accomplish Herculean tasks on shoestring
24 budgets. They raise private funds for

♀ 432

1 conservation and capital projects, they
2 perform maintenance and stewardship tasks,
3 they lead tours and provide educational

4 programming for young and old, and they
5 promote public use and enjoyment of these
6 sites through things like communications and
7 special events.

8 So a capacity-building grants program
9 will unlock the potential of these
10 organizations by increasing their
11 effectiveness, productivity, and their
12 volunteer and fundraising capabilities
13 through an innovative public/private
14 partnership. A small investment of EPF funds
15 in a grants program to strengthen these
16 organizations we think will reap large
17 benefits, enabling these groups to leverage
18 more private and federal dollars, marshal
19 more volunteer power, and augment the state's
20 already historic investment in parks. Their
21 efforts will enhance stewardship of the
22 state's parks, trails and historic sites, and
23 that will lead to even greater economic
24 benefits from tourism and outdoor recreation,

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1 improved access to outdoor resources, and
2 healthier, more sustainable and resilient
3 communities. Parks & Trails New York looks
4 forward to working with the Governor and
5 Legislature to implement this transformative
6 program.

7 Thank you again for the opportunity to
8 testify, and I'd be happy to try and answer
9 any questions that you may have.

10 CHAIRMAN DeFRANCISCO: Thank you very
11 much. Again, the lack of questions has to do
12 with the hour and not your presentation.

13 MS. Di BETTA: I understand.

14 CHAIRMAN DeFRANCISCO: The next
15 speaker is Michael Dulong, staff attorney,
16 Riverkeeper.

17 On deck is Environmental Advocates of
18 New York, Joseph Stelling, fiscal policy
19 associate.

20 Go ahead.

21 MR. DULONG: Good afternoon. Thank
22 you, Chairman Farrell, Chairman DeFrancisco,
23 and distinguished Senators and members of the
24 Assembly for the opportunity to testify

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1 today. My name is Michael Dulong. I'm a
2 staff attorney with Hudson Riverkeeper. With
3 me is Kate Hudson; she's our watershed
4 program manager.

5 Riverkeeper is a member-supported
6 watchdog organization dedicated to defending
7 the Hudson River and safeguarding the
8 drinking water supply of 9 million New York
9 City and Hudson Valley residents.

10 I'd like to identify for you four
11 critical areas in which the Executive Budget
12 can be improved to bolster water quality
13 protections and put New York State back on
14 track as a leader in the fight for a clean
15 environment. Those areas are the Hudson

16 River Estuary Management Program, clean water
17 infrastructure investment, oil spill
18 preparedness and response capacity, and DEC
19 water pollution enforcement.

20 First, we applaud the Governor for
21 providing \$4.7 million for the Hudson River
22 Estuary Management Program, up from
23 \$3.9 million last year. The Governor's
24 proposed increase is a strong vote of

♀ 435

1 confidence that the program is working to
2 bring the Hudson River back to life, and we
3 encourage the Assembly and the Senate to pass
4 his proposed funding.

5 Second, I think we're joining the
6 chorus here about the dire need for
7 clean-water infrastructure in New York State.
8 DEC has documented a need for \$36 billion in
9 investment in clean-water infrastructure over
10 the next 20 years, but the Governor's
11 proposed budget provides no new funding
12 dedicated to these types of projects. The
13 Comptroller recently issued a report finding
14 that statewide there is an \$800 million
15 annual shortfall in wastewater infrastructure
16 development.

17 Water infrastructure projects protect
18 community character and public safety, and
19 they provide jobs. For every billion dollars
20 spent, 47,500 jobs are created. But local
21 municipalities can't bear the costs of these

22 projects even with low financing rates. So
23 we respectfully propose that an \$800 million
24 fund be created out of the \$5.4 billion bank

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1 settlement and earmarked for an independent
2 revolving clean-water infrastructure bank to
3 help those municipalities fund these
4 much-needed projects.

5 With respect to crude oil transport in
6 New York, we thank the Governor for
7 recognizing the risks of irreparable human
8 and environmental harm posed by the drastic
9 increase in crude oil transport, and for
10 proposing improvements to the Navigation Law.
11 But the improvements don't go far enough.

12 The Governor proposed increasing the
13 Spill Fund cap by \$15 million, from
14 \$25 million to \$40 million, but that increase
15 is woefully insufficient, given that there's
16 been an 87 percent increase in the volume of
17 crude oil transported through the state. And
18 there are new hazardous types of crude oil
19 coming through, Bakken and tar sands crude
20 oil. In the past two years, individual
21 spills of Bakken and tar sands crude oil have
22 caused over \$1 billion each.

23 If the \$25 million fund established by
24 the Legislature in 1977 were merely adjusted

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1 for inflation, it would be worth over

2 \$97 million today. That should be the
3 minimum amount that the state considers going
4 forward. But due to the new threats -- the
5 increase in volume and the different types of
6 oils that are coming through -- Riverkeeper
7 proposes a cap of \$350 million, which is the
8 maximum amount recoverable in the case of an
9 accidental spill from a facility like the
10 Buckeye and the Global facilities in the Port
11 of Albany.

12 We also support the Governor's call
13 for some spill money to cover preparedness,
14 in addition to its current duties of recovery
15 and remediation. However, in order to ensure
16 that the preparedness expenditures don't eat
17 away at the Spill Fund's response capacity,
18 we propose that a separate account be
19 established for preparedness. That will
20 protect the Spill Fund's ability to respond
21 to spills in the future.

22 The Governor has also proposed
23 transferring responsibility over the fund
24 from the Comptroller's office to the DEC

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1 Commissioner. Riverkeeper strongly opposes
2 that transfer. As an elected official
3 directly answerable to the people of
4 New York, the Comptroller is in the best
5 position to manage the Spill Fund. The
6 Comptroller's office has managed the Spill
7 Fund responsibly for 25 years, and it has the

8 expertise and knowledge base to continue that
9 task. DEC would have to hire and train eight
10 new employees in order to take that role on.

11 And last with respect to oil, it has
12 to be pointed out that oil trains that
13 traverse the length of New York, coming down
14 the Hudson and Adirondacks, and do not
15 transfer their contents, don't pay any money
16 into the Spill Fund. They are not required
17 to have insurance sufficient to cover the
18 amount it would cost in the case of a spill.
19 Unless legislative action is taken, it's
20 inevitable that one of these trains is going
21 to spill its contents, and New York State
22 taxpayers are going to be on the hook to
23 repay the damages.

24 Last I want to talk about DEC

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1 enforcement of water pollution violations,
2 which is in absolute free fall. Since 2010,
3 facilities in significant noncompliance with
4 water pollution laws rose 20 percent. At the
5 same time, the number of facilities facing
6 DEC enforcement actions has dropped
7 64 percent. That astounding 64 percent drop
8 in four years is directly attributable to
9 staff cuts at DEC, which have
10 disproportionate when compared to those of
11 other agencies in the state. The cuts have
12 put DEC in danger of becoming a paper tiger.

13 We know firsthand that DEC staff are

14 dedicated to their mission of environmental
15 stewardship, and they're frustrated that they
16 don't have the resources they need to do
17 their jobs. The disproportionate staff cuts
18 warrant disproportionate restoration
19 immediately in order to reinstate DEC's
20 capacity to protect New York's environment.

21 Thank you again for the opportunity to
22 testify today, and for the important role you
23 play in protecting New York's environment.
24 We look forward to working with you, with

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1 members of the Assembly and Senate, to
2 improve upon the key areas highlighted today.
3 And we'd be happy to take your questions.

4 CHAIRMAN DeFRANCISCO: Senator
5 Krueger.

6 SENATOR KRUEGER: Thank you.

7 You covered so much territory, and so
8 just very quickly on the last point about oil
9 spill money if these train cars create a
10 massive problem, my understanding is there is
11 a -- there was a piece of legislation last
12 year that passed the Assembly, didn't pass
13 the Senate, that would have actually
14 addressed this. Do you agree?

15 MR. DULONG: What I understand about
16 that bill is that it was focused on oil
17 storage facilities, like the Buckeye and the
18 Global facilities in the Port of Albany. It
19 did not cover the trains as they're traveling

20 along New York or through New York.
21 SENATOR KRUEGER: And my understanding
22 is we have some problems about dictating
23 things about trains, that the federal
24 government is claiming they get to control

♀ 441

1 what happens with the oil trains. Can we
2 apply a tax to them even if we can't dictate
3 what kind of railcars they're using to
4 prevent spills?

5 MR. DULONG: There are certain -- the
6 federal government does have certain
7 authority over parts of trains, but
8 reasonable imposition of things like fees
9 or --

10 SENATOR KRUEGER: I'm sorry, we say
11 fees, not taxes, yes.

12 MR. DULONG: Right. Well, fees for a
13 spill fund that are reasonable would get past
14 that federal preemption, according to our
15 best research. And we'd be happy to discuss
16 that further with you.

17 MS. HUDSON: There are other states,
18 including Minnesota, Alaska and California,
19 that have passed legislation to increase the
20 level of fees and to task those fees to spill
21 preparedness as well as spill response, and
22 also to require that these companies present
23 evidence of an ability to meet the liability
24 they would face from a worst-case- scenario

♀ 442

1 spill before they start operating within the
2 borders of those states.

3 And so we are looking hard and want to
4 share with you and Assemblywoman Fahy the
5 work that she has done and will be continuing
6 to do.

7 SENATOR KRUEGER: Thank you.

8 CHAIRMAN FARRELL: Assemblywoman
9 Glick.

10 ASSEMBLYWOMAN GLICK: Just a quick
11 question on the -- are there not two
12 different kinds of oil that's coming through,
13 one is thicker and one is more volatile? Or
14 are they both the same?

15 MR. DULONG: Right. In terms of the
16 crude oil that is coming through, there are
17 two different types. There's volatile crude
18 coming from the Bakken shale formation in the
19 midwestern United States. Those are the
20 trains that you see most of the time blowing
21 up.

22 There's also tar sands oil, either
23 coming through --

24 ASSEMBLYWOMAN GLICK: And that's

♀ 443

1 heavier and thicker, and that's why Global
2 wants to heat it in order to pump it, is
3 that --

4 MR. DULONG: Right, it would need to
5 be heated in order to be transferred from the
6 railcars to marine vessels for transport down

7 the Hudson.

8 We are very concerned that that type
9 of oil, if it were spilled in a marine
10 environment, would sink, or it would at least
11 become submerged so that it would be
12 impossible to clean up.

13 ASSEMBLYWOMAN GLICK: Are those
14 facilities, even though obviously you're
15 opposed to it -- but is that facility that
16 would potentially be a transfer, are they
17 subjected to the same spill -- would they be
18 part of this Spill Fund?

19 MR. DULONG: They are indeed part of
20 the Spill Fund now, and they would be under
21 the Governor's proposal.

22 ASSEMBLYWOMAN GLICK: Okay, thank you.

23 MS. HUDSON: But they do pay at a much
24 lower rate in terms of the fees that they pay

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444

1 into the fund. That's because they're
2 differential fees.

3 The Governor's proposal actually
4 proposes to equalize the fees for oil that is
5 handled, processed and sold within New York
6 State and that which is removed from New York
7 State for sale elsewhere. And so we do
8 support that aspect of the Governor's
9 proposal which is to equalize the fees for
10 the different types of transport.

11 ASSEMBLYWOMAN GLICK: Thank you.

12 CHAIRMAN DeFRANCISCO: Thank you.

13 Michael, I introduced you when you
14 came down. Did you introduce her?

15 MR. DULONG: Yes, I did. This is Kate
16 Hudson. She's our watershed program
17 director.

18 CHAIRMAN DeFRANCISCO: Okay. I just
19 wanted to make sure so the stenographer knew
20 who to attribute the statements to.

21 Thank you.

22 MS. HUDSON: Thank you.

23 MR. DULONG: Thank you.

24 CHAIRMAN DeFRANCISCO: Next speaker,

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1 Joseph Stelling, fiscal policy associate,
2 Environmental Advocates of New York.

3 On deck is Ned Sullivan. Is Ned
4 Sullivan still here? Okay, you did hang in.
5 Come on down.

6 MR. STELLING: Hello. Good after --
7 well, I should say good evening, I think, at
8 5 o'clock now.

9 CHAIRMAN DeFRANCISCO: No, it's still
10 good afternoon.

11 (Laughter.)

12 MR. STELLING: My name is Joseph
13 Stelling. I'm the fiscal policy associate
14 for Environmental Advocates of New York. You
15 have my full testimony in front of you.
16 Given the hour and time, I will just sort of
17 try to hit the highlights.

18 But the first thing you'll see on deck

19 in there is, you know, really what we saw in
20 the Governor's proposal, there's a lot of
21 good things in there, and there's some things
22 to be worked on. So we want to encourage the
23 Legislature to use this to build upon to
24 create a really great budget for the

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1 environment and public health.

2 When it comes to the Brownfields
3 Cleanup Program proposal in there, that sort
4 of follows that theme. There's some really
5 good ideas in there. I think we all know
6 that the program is broken right now.
7 There's too much money going out the door for
8 undeserving projects and not targeting the
9 areas really in need well enough.

10 And so the Governor's program would do
11 some really good things. It would -- well,
12 it would do a few things. Number one, it
13 would separate, wisely, the expenses of
14 development from the expenses of the cleanup
15 itself. And so everybody would still be
16 eligible for credits related to cleaning up,
17 but it would make sure that worthy
18 projects are getting redevelopment credits,
19 meaning those projects in this proposal that
20 would, number one, be upside down, so their
21 cost of cleanup is more than the property
22 would be worth after cleanup. So these are
23 properties that would not get cleaned up if
24 there were not some incentive there.

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1 Number two, in areas that really need
 2 the development, these EnZones, they're
 3 high-unemployment, high-poverty areas which
 4 could really use the attention and the
 5 incentive for development in those areas.

6 And number three would be for
 7 affordable housing.

8 So those are the three conditions in
 9 this proposal whereby you could get
 10 redevelopment credits. And that is a good
 11 idea.

12 On top of that, it also includes a
 13 long-term extension, which we need for a
 14 program like this, certainty. And it would
 15 also, in addition to those things, include
 16 some ideas that we're not as thrilled about.
 17 And the proposals that we're not as thrilled
 18 about would be allowing less stringent
 19 Track 1 cleanups. For those that don't know,
 20 a Track 1 cleanup is the most exhaustive
 21 cleanup based on use, its unrestricted future
 22 use of the property.

23 And this would allow for institutional
 24 or engineering controls on Track 1 cleanups

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1 long-term to control vapor intrusion, which
 2 is a less stringent standard than it used to
 3 have. And the proposal would remove
 4 incentives for redevelopers to conduct

5 Track 1 cleanups. So we're obviously
6 troubled by the move away from doing the best
7 cleanups possible in this proposal.

8 The Brownfield EZprogram proposed here
9 also sort of seems like a good idea on its
10 face, encourage more developers to clean up
11 these things and get the benefit of a
12 liability release without soaking up tax
13 credits. However, the EZprogram as it is
14 proposed would reduce cleanup standards. It
15 would say that if this is, say, an industrial
16 area, they would just have to clean up to
17 background levels as opposed to actual
18 health-based cleanup standards.

19 So if you're in the middle of an old
20 industrial park and everything around you is
21 contaminated, you're only cleaning up the
22 background levels, you're not actually
23 cleaning up to an area that's really -- you
24 know, the science says is going to be

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1 protective. And so that's a concern.

2 And third, there is great stuff in the
3 Governor's proposal showing a commitment to
4 these BOA programs, Brownfield Opportunity
5 Areas, in that it streamlines the process a
6 little bit and increases the tax credits for
7 development in these BOAs. However, there's
8 no funding for the programs. And so we would
9 submit that, you know, if you really want to
10 support these programs, let's support these

11 programs. Restore the funding for B0A, which
12 was zeroed out last year as well, by the way.

13 So that's brownfields. Some really
14 good stuff in there. We like the gates that
15 the Governor has established, and we think
16 this does a lot of good, but there are a few
17 areas that we'd like to see the Legislature
18 build upon to get really a better program in
19 place.

20 Now, the next thing on my list, EPF, I
21 think you've already heard a lot about.
22 We're thrilled to see yet again another
23 commitment to increase the EPF in the budget
24 proposal by \$10 million. That's great. We

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1 have much higher needs in that program, so we
2 strongly encourage the Legislature to
3 appropriate at least that amount.

4 However, we don't think it's
5 appropriate to take RGGI funds to do that.
6 You know, taking from one environmental
7 program to support another isn't really
8 increasing environmental funding as it's
9 billed. It sets a bad precedent. I'll talk
10 in a few about why taking from RGGI is a bad
11 idea, but just for the EPF, you know, no need
12 to touch that. We've heard the real estate
13 transfer tax is healthier than ever. There's
14 plenty of ways to get revenue without taking
15 from another fund.

16 On top of that, staffing. Another

17 issue we've already heard a lot about, so I
18 won't belabor it. DEC is down 865 staff,
19 about a quarter of its workforce, from just
20 eight years ago. And so this mantra of doing
21 more with less just isn't true. They're
22 doing less with less. And the report we
23 released two years ago bore that out in the
24 numbers, and the DEC's report -- or, excuse

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1 me, the Office of State Comptroller's report
2 from December also showed, you know, staffing
3 levels go down, inspection and enforcement
4 actions go down with them. And this costs
5 public health, it costs our environment. We
6 need to give the DEC the resources they need
7 to do their jobs.

8 Next, Oil Spill Fund. And we just
9 heard the Riverkeeper folks talk a little bit
10 about this. But the Governor included some
11 significant changes to this program in his
12 budget proposal. And so, you know, there's a
13 proposed increase in the cap in the Oil Spill
14 Fund from \$25 million to \$40 million. On top
15 of that, it would have moved the fund from
16 the Office of State Comptroller, where it has
17 worked well, over to DEC, which lacks the
18 fiduciary technical skills needed to oversee
19 a fund like this.

20 And it also would expand the fund
21 dramatically in purview to include items like
22 testing, containment, research and deployment

23 of new technologies, spill prevention,
24 response equipment and mapping and planning

♀ 452

1 efforts.

2 Now, we think it's absolutely
3 appropriate and necessary, given the volume
4 of train traffic and oil moving through the
5 state we're seeing today, to take action.
6 But, you know, we have some problems with
7 this particular proposal. You know,
8 \$25 million to \$40 million is great, but we
9 know that a nominal fund increase really
10 doesn't capture the essence of what the
11 mobility of oil through the state looks like
12 today. It could be hundreds of millions of
13 dollars more given where we are today with
14 oil movement, potential for spills compared
15 to a few years ago.

16 Also, the emergency preparedness
17 stuff, all that money that wasn't before in
18 the purview of the fund but would, under this
19 proposal as it's read, really soak down those
20 funds and take away from its primary mission.
21 So we absolutely support that stuff. We need
22 to take more action to be ready for spills.

23 However, you know, it shouldn't be
24 within the purview of this fund. We should

♀ 453

1 use oil levies to support this sort of thing
2 but we have, you know, the Division of
3 Homeland Security and Emergency Services

4 specifically designed to look at emergency
5 response and that sort of things. So these
6 efforts should be housed within DHS. And DEC
7 certainly should get some money for mapping,
8 you know, to protect sensitive ecosystems,
9 water resources and things like that, but in
10 terms of emergency preparedness and response,
11 DHS is really the place that interacts with
12 local emergency responders and is best suited
13 to house this sort of thing. So those are
14 our recommendations on the Oil Spill Fund.

15 When it comes to Superfund, the State
16 Superfund, as you all know, it ran out of
17 money. Well, it's running out of money; it
18 ran out of bonding authority in 2013. I
19 believe there's only something on the order
20 of \$50 million left in the fund. And this is
21 something that really needs a long-term
22 commitment. There's over 800 active toxic
23 waste sites across the state that either need
24 cleanup or they need continued maintenance

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1 and monitoring, and the Governor proposed
2 just a one-year, one-off \$100 million. Which
3 is lower than historic funding levels and
4 would draw ERP, Environmental Restoration
5 Program funds, into the same program, so
6 further diluting that \$100 million
7 appropriation.

8 The bottom line is that these are
9 long-term cleanups and they need long-term

10 financing. So, you know, we support a bond
11 at least on the order of what was done
12 before: 10 years, \$1.2 billion, not a
13 one-year appropriation. You know, the last
14 time Superfund ran out of money toward the
15 beginning of the turn of the century,
16 cleanups ground to a halt. They need
17 long-term financing and certainty in order to
18 keep cleanups going, and we don't want to see
19 that slowdown happen again. So that's
20 Superfund.

21 Other than that, DERA delays. There
22 are no proposed delays to the 2006 Diesel
23 Emissions Reduction Act in the budget, and
24 we'd like to see it stay that way in the

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1 final budget. This is something that's been
2 delayed the last few years. It was set to be
3 implemented in 2010. It's an important
4 public health protection measure, and it's
5 been nine years since it was passed. It's
6 been five years since it was supposed to be
7 fully implemented.

8 The technology is available, a lot of
9 it is made right in upstate New York.
10 Corning makes a lot of the components for
11 these diesel particulate filters that are put
12 on these machines to clean them up. And so
13 there's no good reason to continue delaying
14 this. We want to see this go into effect
15 this year. Enough is enough on the DERA

16 delays.

17 Other than that, an item I'd like to
18 bring the Legislature's attention to because
19 you fought hard for this last year --

20 CHAIRMAN DeFRANCISCO: Joseph.

21 MR. STELLING: Yes.

22 CHAIRMAN DeFRANCISCO: Did you happen
23 to look at that electronic thing in front of
24 you?

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1 MR. STELLING: Oh, sorry.

2 CHAIRMAN DeFRANCISCO: There was all
3 kinds of warnings on there. I just was going
4 to --

5 MR. STELLING: Sorry about that.

6 CHAIRMAN DeFRANCISCO: You want to
7 quickly get your last point in?

8 MR. STELLING: Absolutely. The
9 Centers of Excellence in Children's
10 Environmental Health are an item the
11 Legislature fought really hard for and got
12 put into the final budget last year, and it's
13 been zeroed out. And this is something that
14 we'd like to see financed again because it's
15 a unique program, it creates these centers
16 across the state that fill a real need in
17 terms of, you know, both prevention and
18 diagnosis and treatment of these
19 ever-increasing children's
20 environmental-exposure-based illnesses.

21 And it fills a need, it's a great

22 program, it's just getting off the ground and
23 starting to do good things. So we'd like to
24 see you restore that funding.

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1 Thank you.

2 CHAIRMAN DeFRANCISCO: Thank you very
3 much. We have one question.

4 SENATOR KRUEGER: But don't answer it
5 now, just get back to me.

6 So in the earlier discussions I was
7 going back and forth with NYSERDA about if
8 all this money goes into these new programs,
9 what are they not funding anymore, because it
10 looks like there's up to a billion and a half
11 dollars of surcharge money, PSC to NYSERDA,
12 NYSERDA to other things.

13 So if you or anyone else here could
14 get back to me later with what you think that
15 means for existing NYSERDA programs.

16 MR. STELLING: Absolutely. Thank you.

17 SENATOR KRUEGER: Thank you.

18 CHAIRMAN DeFRANCISCO: All right. Ned
19 Sullivan -- that's Ned Sullivan -- director
20 of public policy, Scenic Hudson, to be
21 followed by Neil Woodworth, executive
22 director, Adirondack Mountain Club.

23 MR. SULLIVAN: Good evening. Thank
24 you very much. I'm Ned Sullivan. I'm

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1 president of Scenic Hudson. I'm here with

2 Andy Bicking, who's director of public policy
3 for the organization.

4 Scenic Hudson works to protect and
5 restore the Hudson River, from Manhattan to
6 the foothills of the Adirondacks, as a public
7 and natural resource.

8 Thank you, Chairmen and members of the
9 Legislature, for your leadership overseeing
10 New York State's environmental works and the
11 opportunity to testify to you today about
12 Governor Cuomo's proposed Executive Budget.
13 I'm going to be summarizing our written
14 testimony, in the interests of time.

15 In his budget proposal for the coming
16 fiscal year, the Governor has proposed four
17 initiatives that address the most pressing
18 environmental needs of our time. They are a
19 \$64 million allocation to farmland
20 protection, including \$14 million statewide,
21 \$20 million for the Hudson River Valley
22 permanent protection of farmland and the
23 additional funds for the Southern Tier. All
24 of these will help address the region and

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1 New York City's burgeoning demand for fresh
2 local food, estimated to exceed some
3 \$600 million annually.

4 The initiative will provide an
5 important down payment on securing the
6 New York City and Hudson Valley foodshed
7 while also creating jobs and supporting the

8 economic viability of the region's farms.

9 Second, we're very supportive of the
10 Governor's \$10 million increase in the
11 Environmental Protection Fund.

12 And third, we are encouraged that the
13 Governor has proposed an increase in the Oil
14 Spill Fund cap to \$40 million to improve the
15 state's ability to respond to the
16 well-documented and increasingly concerning
17 risk of an oil spill disaster by boat, barge
18 or rail.

19 And finally, we're interested and
20 encouraged by the Governor's continued
21 efforts at economic development, his proposal
22 for \$1.5 billion, a competition among seven
23 regions of the state for three \$500 million
24 awards, some of which can go to wastewater

♀ 460

1 and water facilities, which you've been
2 hearing about from others today.

3 So to begin with the farmland funding,
4 we are just very supportive and ask you to
5 join us in approving the Governor's
6 allocation of funds for farmland
7 preservation, both the statewide funds as
8 well as the regional.

9 In the Hudson Valley the \$20 million
10 to protect 4,600 acres of working farms in
11 the Hudson Valley and New York City foodshed
12 will enable us and other land trust partners
13 to work with New York State to permanently

14 protect this vital source of healthy and
15 fresh food. This major boost to our
16 conservation goals in the region will help
17 ensure that the valley's family farms remain
18 intact and continue to contribute to New York
19 State's and New York City's growing
20 agricultural and food-related industries.

21 Scenic Hudson, in partnership with
22 other land trusts in the Hudson Valley and
23 the U.S. Department of Agriculture, has
24 preserved more than 90 farms, or 12,000 acres

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1 of farmland. We welcome the opportunity now
2 to partner with the Department of Agriculture
3 and Markets through the RFP that it issued
4 during the past year and this new \$20 million
5 infusion.

6 Scenic Hudson invests over a million
7 dollars a year in farmland preservation, and
8 we are ready to invest our funds and to help
9 secure matching funds so that the state money
10 can extend even further and protect these
11 critical working farms.

12 We strongly encourage the Legislature
13 to maintain this \$20 million commitment and
14 to clarify the geographic scope of the
15 program to include the following counties:
16 Albany, Columbia, Dutchess, Greene, Orange,
17 Putnam, Rensselaer, Rockland, Saratoga,
18 Sullivan, Ulster, Washington and Westchester.

19 The Hudson Valley is uniquely prepared

20 to pursue and implement this initiative. In
21 2013, Scenic Hudson performed a first of its
22 kind comprehensive study outlining plans for
23 protecting the region's productive
24 agricultural lands. It's called "Securing

♀ 462

1 Fresh, Local Food for New York City and the
2 Hudson Valley: A Foodshed Conservation Plan
3 for the Region." I believe you should have
4 copies of that.

5 The report utilized state-of-the-art
6 geographic information systems to identify
7 the presence of farms in the region, rank
8 their soil value, their size and their
9 density in geographic clusters. The report
10 identified some 5,000 unprotected farms
11 comprising some 650,000 acres. A ranking
12 system that we developed directs resources to
13 the farms with the greatest productive
14 capacity. As far as we know, this is the
15 first of its kind in the nation.

16 The plan has been incorporated into
17 the state's draft Open Space Conservation
18 Plan, which identifies protection of the
19 NYC/Hudson Valley foodshed as a priority
20 project. It's also been adopted into the
21 Mid-Hudson Regional Economic Development
22 Council strategic plan, as well as the
23 Mid-Hudson Consortium's Regional
24 Sustainability Plan. So everybody is working

♀ 463

1 together, everybody believes that a
2 public/private partnership is crucial to
3 secure this land.

4 Much of this food is going to New York
5 City, to green markets, to soup kitchens in
6 all the boroughs, addressing the food
7 deserts, the issue of obesity. And so this
8 will have a real strengthening impact on the
9 relationship and viability of those farms
10 that are an extremely important source of
11 food for New York City as well as the Hudson
12 Valley.

13 So conservation will improve the
14 viability of the farms, preserve scenic
15 working landscapes, it drives a
16 multi-billion-dollar tourism industry,
17 safeguards wildlife habitat in
18 environmentally sensitive areas, including
19 local aquifers and drinking water supplies,
20 and it keeps the lid on local taxes. A
21 typical farm requires just 37 cents in
22 municipal services for every dollar of taxes
23 they pay. It will also help New York City
24 gain access to this fresh, healthy produce

♀

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1 and stem the tide of the loss of agricultural
2 land that you heard about earlier today. The
3 Hudson Valley is unique in both the soil
4 quality, the viability of the farms, and the
5 degree of threat from suburban development on
6 New York City's edge.

7 So turning to the Environmental
8 Protection Fund, we concur with what you've
9 heard today. We're thrilled about the
10 increase of \$10 million and the benefits that
11 this brings. You should have before you a
12 report that we and our partners developed,
13 "Land Stories: Creating Jobs, Building
14 Healthier and More Resilient Communities."
15 We are concerned that the Governor's increase
16 comes at the expense of the RGGI funds and
17 urge you to work with the executive to look
18 to the real estate transfer tax.

19 We're also supportive virtually across
20 the board of what Riverkeeper said about the
21 importance of increasing the funds available
22 for the Oil Spill Fund. We have grave
23 concerns with 50 miles of CSX railroads
24 running immediately adjacent to the Hudson

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1 River, and tanker ships carrying as much
2 crude oil as the Exxon Valdez running up and
3 down the river daily. And we can note that
4 one of the first of those to carry the Bakken
5 crude down the Hudson ran aground, punctured
6 one of its hulls, and could have caused an
7 Exxon Valdez-type spill. We urge the same as
8 Riverkeeper, a \$350 million fund rather than
9 just a \$40 million cap.

10 Finally, the Governor has proposed
11 \$1.5 billion in upstate economic development,
12 to be divided among three winning regions.

13 We're concerned and recommend that a portion
14 of this be allocated to those water and
15 wastewater and green infrastructure needs
16 that you've been hearing about, the
17 \$36 billion in need DEC has identified, the
18 \$800 million a year shortfall that the
19 Comptroller -- we'd like to see these funds
20 made available statewide so that all the
21 regions of the state can compete for that and
22 hopefully address environmental compliance,
23 compliance with the law, and keeping our
24 clean water viable and providing the

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1 infrastructure for business expansion.

2 Thank you.

3 CHAIRMAN DeFRANCISCO: Thank you. I
4 kind of agree with you -- I'm from upstate --
5 about the seven-region competition. I think
6 it should be spread statewide.

7 Do you think the \$20 million
8 commitment to Hudson Valley should be spread
9 statewide as well?

10 MR. SULLIVAN: We have \$14 million
11 available statewide. And as I indicated,
12 Senator, the Hudson Valley is uniquely
13 positioned to implement this \$20 million plan
14 within the Hudson Valley. We have the
15 blueprint, we have the track record. Scenic
16 Hudson is prepared to step up with matching
17 funds and bring to bear other county funds,
18 like Dutchess County has just appropriated a

19 million.

20 So the answer is no, I'd like to see
21 that focused in the Hudson Valley. But I
22 would like to see a portion of the
23 \$1.5 billion in economic development money
24 allocated specifically for water and

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1 wastewater infrastructure on a statewide
2 basis, so that all the regions can compete
3 for that for water and wastewater
4 infrastructure and other green
5 infrastructure.

6 CHAIRMAN DEFRANCISCO: All right, it's
7 late, I'm just going to throw it out there.
8 The thing that bothers me most about that
9 fund for three winners, and you're saying
10 compete for the water funds and clean water
11 funds that might go out for environmental
12 projects -- how the hell do you compete? How
13 do you determine who's more worthy of that
14 type of money? That should be -- you know,
15 it just seems to me to be statewide. But
16 that's just an editorial comment.

17 MR. SULLIVAN: Should I respond?

18 CHAIRMAN DEFRANCISCO: Very quickly,
19 if you could.

20 MR. SULLIVAN: Well, the Environmental
21 Facilities Corporation has a good system in
22 place for ranking water and wastewater
23 infrastructure projects that I think could be
24 used to help make that allocation. And I

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1 think if -- and they also have a program to
2 provide zero-interest loans.

3 And we think criteria can be developed
4 for the grants like there are criteria for
5 the loans that would send the grant money to
6 the most important environmental threats and
7 communities with the greatest financial need
8 and those that can demonstrate also that they
9 can bring in local or private money to
10 leverage the state funding.

11 CHAIRMAN DeFRANCISCO: Okay. Thank
12 you.

13 MR. SULLIVAN: Thank you.

14 CHAIRMAN DeFRANCISCO: I believe Susan
15 McDonough from the Humane Society is not
16 going to be here. But I want to ask if Green
17 Education & Legal Fund, Mark Dunlea, is he
18 here? I didn't think so. So we can knock
19 off the last one.

20 And now we're going to hear from the
21 Adirondack Mountain Club, Neil Woodworth,
22 executive director, to be followed by R.
23 Harry Booth, chair of the New York State
24 Association of Agriculture Fairs.

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1 MR. WOODWORTH: Once again, I
2 appreciate the patience that all of you have
3 had who are still here.

4 The Adirondack Mountain Club, despite

5 our name, represents people from Eastern Long
6 Island to Lake Erie and from New Jersey to
7 the Canadian border. We represent the
8 hikers, kayakers, backpackers, the
9 cross-country skiers, the people who use the
10 5.3 million acres of public land in New York
11 State.

12 We as well as many of the speakers
13 today applaud the proposal for a \$172 million
14 Environmental Protection Fund. We disagree
15 with the principle to use RGGI funding. When
16 we have the real estate transfer tax, which
17 has always been the engine, the engine in
18 1993 when some of you created the
19 Environmental Protection Fund, you designated
20 the real estate transfer tax as the main
21 funding source because there was a real tie
22 between real estate development and
23 environmental protection. Now that the real
24 estate transfer tax projection is now over

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1 \$1.1 billion for this fiscal year -- when it
2 was at that level in the past, we had an
3 Environmental Protection Fund that was twice
4 as large as the current budget proposal.

5 So I ask you to think about increasing
6 the amount of the real estate transfer tax
7 and funding at least \$172 million. And I
8 think I'm going to show you in a couple of
9 minutes that we need more than that.

10 And the first subject that I'm going

11 to talk about kind of responds to Senator
12 Krueger's issue. We really need to spend a
13 lot more right now on all kinds of invasive
14 species that are attacking the state from all
15 directions. And they're terrestrial, they're
16 aquatic. And this is one of those very
17 difficult public policy questions where a
18 stitch in time will save us billions in the
19 future. We know that simply stopping the
20 spread of aquatic invasive species with a
21 program that's affordable will prevent a
22 billion dollars' worth of property value loss
23 in the Adirondacks alone.

24 And how can we do that quickly? We're

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1 not going to be able to fund a boat
2 decontamination station for every lake in the
3 Adirondacks. However, some very good
4 research was done last summer by Paul Smith's
5 College, in conjunction with the success of a
6 boat cleaning and decontamination program at
7 Lake George. And we know that if we take
8 five or six major transportation entry points
9 into the park, we know that we can protect
10 the great majority of lakes in the park
11 because we know where the sources of infect
12 are coming from. And if we put them on
13 Route 30 and Route 3 and some of the other
14 great travel venues into those Adirondack
15 lakes -- and you can do that type of research
16 in any part of the state threatened by

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aquatic invasive species.
And I'm thinking particularly in the Finger Lakes. Because if we get hydrilla in more than Cayuga Inlet in the lower part of Cayuga Lake, you'll see massive property value loss in the Finger Lakes.

Terrestrially, we have dangerous tree species like the emerald ash borer and the

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Asian longhorn beetle. We are a hiking and recreational club. We are training our members to recognize those species while they're hiking and while they're paddling so that they can report to DEC -- we have much greater manpower than they do, and we can report to them so that site-specific eradication can take place. And these measures will buy time so we can come up with biological controls that will be the real solution.

Let me also turn to the issue that several have talked about today, and that is the issue of the crude oil trains. I think we've got a respite temporarily because of the dramatic drop in the price of oil. I think we will see less Bakken oil production, and I definitely think we'll see much less Alberta tar sand transportation because they're economically unprofitable at today's price per barrel of oil. So now is the time to set aside a major fund.

23 And let me tell you a little bit about
24 Alberta tar sand. Alberta tar sand is

♀ 473

1 supposed to be transported, on the old D&H
2 lines, from Montreal to Albany. And it goes,
3 there's about the -- in many, many places
4 about the width of this room between those
5 tracks and Lake Champlain, for 75 miles.

6 If Alberta tar sand bitumen derailment
7 occurs, and it's very likely along Lake
8 Champlain, we could contaminate the water
9 supply for a quarter-million Americans,
10 Canadians, and Vermonters. A similar episode
11 occurred four years ago on the Kalamazoo
12 River in Michigan. Tar sand bitumen sank to
13 the bottom of that river, it contaminated a
14 40-mile stretch. A billion dollars has been
15 spent, and we're not even close to restoring
16 the Kalamazoo River as the important drinking
17 water supply that it was.

18 With regard -- and I echo the people
19 who testified here today that that portion of
20 the bank settlement funds that's been
21 allocated for infrastructure grants, we
22 should and we can, you in the Legislature can
23 change the criteria so that wastewater,
24 drinking water, stormwater projects which are

♀ 474

1 so badly needed and we have such a backlog
2 on, have a higher priority in getting those
3 grants.

4 And do I believe that that should
5 be -- that seven regions or the state should
6 share that money? Yes, Senator DeFrancisco,
7 I agree with you. It's just a question of
8 allocating some of that bank settlement
9 money. And more could be allocated and more
10 could be dedicated to clean-water
11 infrastructure.

12 Now, another issue that we have, a
13 critical issue, is climate change. And I
14 think this state is on the cutting edge of
15 addressing climate change. But we have one
16 resource that we have not thought about
17 using. New York State is 63 percent
18 forested. That's almost 20 million acres of
19 land in this state that is forested. Recent
20 research indicates that one of the most
21 efficient ways of sequestering carbon is
22 either by allowing trees to mature -- and
23 both forest soils and mature trees sequester
24 up to 50 percent of carbon in their

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1 structures. We also know that the quick
2 regeneration of trees that is part of
3 New York State's environment will sequester a
4 lot of carbon quite quickly.

5 And if we change our forest practices,
6 policies -- and right now DEC is changing
7 thinking and organizing to change our forest
8 tax policy. And if we organize that so that
9 we prioritize the sales from state lands --

10 and yes, Senator Krueger, from New York
11 City's great watershed lands, which they cut
12 a lot of trees on, and we incentivize cutting
13 for furniture or dimension lumber, that locks
14 up the carbon. If we sell it for wood
15 pellets, we're going to put that carbon right
16 back up into the atmosphere.

17 So we can do a lot. Fourteen million
18 acres of those forests are privately owned.
19 And people need help to keep those forests.
20 And we could incentivize, with the right
21 forest tax program, locking up that carbon
22 and contributing to the fight against global
23 warming. So I ask you to think about that.

24 And finally, I will say to you that

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1 one thing we notice on that 5,300,000 acres
2 of public land is that we don't have enough
3 forest rangers, environmental conservation
4 officers, assistant forest rangers out there
5 to fully enable the public to enjoy that land
6 safely, and particularly to educate the
7 newest generation. I won't be around in
8 another generation to help protect the
9 Adirondacks, the Catskills and the other wild
10 areas, but they will if we teach them.

11 And at that point I'll stop and see if
12 any of you have any questions.

13 CHAIRMAN DeFRANCISCO: No, sir.

14 MR. WOODWORTH: Thank you.

15 CHAIRMAN DeFRANCISCO: Thank you for

16 lasting towards the end.

17 Is there an Erik Kulleseid here?

18 Okay, you are here. You're next after R.

19 Harry Booth, chair, and Mark St. Jacques,

20 member of the New York State Association of

21 Agricultural Fairs.

22 You're going to say great things about

23 renovating the New York State Fairgrounds, I

24 would assume.

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1 (Laughter.)

2 MR. BOOTH: Thank you very much. And

3 I certainly appreciate you staying here this

4 afternoon and giving us this opportunity to

5 speak to you.

6 CHAIRMAN DeFRANCISCO: Thanks for

7 sticking it out too.

8 MR. BOOTH: I'm going to just

9 paraphrase the testimony that I have rather

10 than reading the whole thing.

11 CHAIRMAN FARRELL: Thank you.

12 MR. BOOTH: I have with me, as you

13 said, Mark St. Jacques. We are both past

14 presidents of the New York State Fairs

15 Association and are now the Legislative

16 committee acting on their behalf.

17 And first I'd like to thank both

18 houses of the Legislature. Last year you

19 were kind enough, and we have many friends in

20 the Legislature, you were kind enough to

21 increase the premium dollars to the \$500,000

22 level. And I can't even begin to tell you
23 how much good that did to the young people in
24 this state that enter in New York State

♀ 478

1 fairs. And we are asking that you again
2 increase -- and it's not that we're not
3 appreciative of what's in the budget that the
4 Governor has put in there, but we certainly
5 would appreciate the support of the
6 Legislature again this year back to the
7 \$500,000 level.

8 My wife and I had an opportunity this
9 past year to visit 22 of the fairs across
10 New York State. And one of the things that
11 we found that was universal throughout the
12 industry was the pride that these young
13 people have in the fair, in their exhibits,
14 and in their fairs and in being able to
15 exhibit there.

16 Also, while we were walking through
17 the barns, the livestock barns and the
18 exhibit barns, the one thing that we noticed
19 through many, many of our small fairs in
20 New York State was the dilapidated condition
21 that some of these buildings are in. And it
22 is for that reason that we are asking for an
23 additional \$500,000 in a line item, hopefully
24 that could be in there on a permanent basis

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1 so that we could find a way to help these

2 fairs.

3 And infrastructure seems to be the key
4 word today, because everybody is talking
5 about infrastructure. And these small fairs,
6 as you've already heard from a couple of
7 other presenters, are in desperate need of
8 some help in their infrastructure.

9 But one of the things that we also
10 understand is that money is an important part
11 of this whole project. And I've asked Mark
12 St. Jacques if he would relate some of the
13 economic impacts that fairs have on New York
14 State. So Mark, would you --

15 MR. ST. JACQUES: Just to go through
16 it quick is in your pamphlet here is an
17 economic impact study that the association
18 had completed. And when you get a few
19 minutes, just look it over at the attendance
20 numbers, the sales, the tax revenue that's
21 generated by the 50 or so fairs.

22 The other thing too is it was
23 mentioned earlier -- probably more
24 importantly, being the hour, you know -- was

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1 the deep-fried Twinkies, the sausage sandwich
2 and, you know, all those things that make
3 your community fair just one of those things
4 you look forward to going to. So we want to
5 keep this short because we know that either
6 we're last or next to last. So I think it's
7 important to look at your -- these are

8 community events that really involve the
9 youth, and we need to continue so that
10 there's fairs that will continue to -- we've
11 already lost one fair, Monroe County, which
12 is closed just because of financial need and
13 no support of their community. So we don't
14 want to lose any more.

15 CHAIRMAN DeFRANCISCO: Thank you very
16 much.

17 Assemblywoman Glick.

18 ASSEMBLYWOMAN GLICK: Just one quick
19 comment. I think you have a great chart on
20 the back. It would help your case, which I
21 happen to agree with, to just do a total at
22 the bottom so that you see the full impact
23 across the state, how much, you know -- so
24 that it's easy, rather than somebody trying

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1 to add everything up. It's just a
2 suggestion.

3 MR. ST. JACQUES: Thank you.

4 MR. BOOTH: Thank you very much. We
5 really appreciate the opportunity to be here,
6 and thank you once again.

7 CHAIRMAN DeFRANCISCO: Thank you.

8 CHAIRMAN FARRELL: Thank you.

9 CHAIRMAN DeFRANCISCO: Now Erik
10 Kullseid, senior vice president, director,
11 alliance for New York State Parks, Open Space
12 Institute and Alliance.

13 And we did just also have our final

14 speaker show up. He was smart, he stayed at
15 home and watched it and came here at the
16 right time.

17 MR. KULLESEID: I'm a little
18 disappointed, because I really hoped to be
19 the one who would be singing "Good Night,
20 Irene" with you all.

21 (Laughter.)

22 CHAIRMAN DeFRANCISCO: You wanted to
23 be the featured speaker, didn't you?

24 MR. KULLESEID: And I also have to

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1 confess that in years past I've been a
2 reader, but today I'm throwing caution to the
3 winds and I'm going to talk plain-speaking
4 with all its warts. If you accept the warts,
5 I'll be plain-speaking.

6 CHAIRMAN DeFRANCISCO: You can talk
7 from your heart.

8 (Laughter.)

9 MR. KULLESEID: I do just want to
10 point out we've had some conversations today
11 about -- I'm Erik Kulleseid with the Open
12 Space Institute and the Alliance for New York
13 State Parks, and we've had conversations
14 today, Senator O'Mara, Assemblyman Otis in
15 particular, about private partners to the
16 state park system. And we are indeed one of
17 those.

18 And I would just highlight, as one
19 example, we are in the middle of successfully

20 wrapping up a \$2 million fundraising campaign
21 that will be mixed with \$4 million of state
22 funding to build a nature center at
23 Letchworth State Park, which is obviously
24 that Great Gorge Park in Western New York.

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1 Assemblyman Farrell, we're interested
2 in helping to do things at Riverbank that the
3 private sector can come in. I believe that
4 Riverbank ought to have private funding and
5 private support as well as all the strong
6 state support it's gotten through the years.

7 And right here in the Capital
8 District, we're thinking about Thacher Park
9 and Minnewaska in the Hudson Valley.

10 So we love the state park system and
11 are really anxious to keep bringing in our
12 resources.

13 Really, you know, I'm here today as a
14 happy camper, which is a great place to be
15 in. All I'll do is emphasize kind of the
16 four main points that we are extremely happy
17 about. We view the \$110 million in NY Works
18 for the State Parks system as being money
19 that's going to be brilliantly well spent.
20 You know, when you think back to 2010 when
21 90 parks were going to be closed because of
22 problems in the state budget and now the
23 Governor and this Legislature are combining
24 to rebuild the parks system, it's amazing.

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1 And, you know, when you think about it, its'
2 probably the wisest investment that could be
3 made, because State Parks are actually an
4 agency people like. Right? So this is
5 really giving something back to the people,
6 the 62 million people that use these parks.
7 Isn't this a great investment in the quality
8 of their life.

9 I also do wear a land conservation
10 hat. And so I also -- the Open Space
11 Institute also supports the \$10 million
12 increase to the Environmental Protection
13 Fund. And like others before me, I give
14 credit to the Legislature, particularly from
15 last year, for going out even above and
16 beyond what the Governor proposed. You know,
17 I applaud you for that. You've been great
18 partners for the over 20 years that that
19 legislation has been in place.

20 In particular, we also support the
21 \$4 million for open space protection and the
22 farmland protection in the Environmental
23 Protection Fund. You know, it is still --
24 there's still critical in-holdings, access

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1 parcels, things we can be doing to make these
2 parks and open spaces better for the public,
3 and having more money to do that is a hugely
4 good investment.

5 And finally, again circling back to
6 these private partnerships, the \$500,000

7 grant pool that is proposed for park friends
8 groups is only going to leverage more
9 private-sector volunteerism and funding to
10 help the state parks system. And, you know,
11 you only have to look at the very successful
12 program that is right now being run for the
13 land trusts in New York which has really
14 built their capacity. It's a parallel
15 concept, it's a proven concept, and why not
16 run with it, because I think the people and
17 the parks will benefit.

18 And that's it. I'm happy to answer
19 questions.

20 CHAIRMAN DeFRANCISCO: Well, in view
21 of your applauding us for our work, in view
22 of the fact that you paraphrased your speech,
23 next year when you call in, explain that to
24 whoever is answering the phone and

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1 scheduling, so we'll get you up a little
2 further.

3 (Laughter.)

4 CHAIRMAN FARRELL: May I ask one
5 question?

6 MR. KULLESEID: You may.

7 CHAIRMAN FARRELL: Not question. When
8 you talk about private money into public
9 space, it's got to go through the agencies,
10 not through the locality, because it creates
11 a problem.

12 MR. KULLESEID: Not to the local --

13 I'm sorry, what?

14 CHAIRMAN FARRELL: It shouldn't go to
15 the locality. Because one of my big fights
16 we're having now at Riverbank is who gets to
17 use the ice-skating rink. We have problems
18 like that and -- if I'm giving you this,
19 shouldn't I get that.

20 And so I like money, but I don't like
21 it to be used that way. So I'm always
22 watching.

23 MR. KULLESEID: And I think
24 conservancies, you know, raise some issues

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1 about public/private use. But it is the
2 world we live in that if we want these great
3 parks we need to have some way to get the
4 private dollars. But I totally agree with
5 you, it shouldn't at the expense of the
6 access and broad access.

7 CHAIRMAN FARRELL: Central Park
8 Conservancy. Those are wonderful places.

9 ASSEMBLYWOMAN GLICK: We had actually
10 a major lawsuit at Randall's Island because
11 the private schools essentially said, Oh,
12 we'll pay to fix up the fields and then we
13 get to use them. And the kids who lived
14 closer in the neighborhood and who went to
15 public schools were like, uh, what happened
16 to our playing fields?

17 So there are many, many -- you know,
18 if it comes with few strings attached and

19 just out of the generosity and the great tax
20 deduction, it's one thing. If it becomes a
21 private enclave -- that's the balancing act.

22 The Central Park Conservancy, they do
23 a great job. But it is not the City Council
24 that makes decisions about a public park, it

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1 is the Central Park Conservancy that makes,
2 in my opinion, too many policy decisions.

3 MR. KULLESEID: And so I'm happy to
4 say that the Letchworth Nature Center will be
5 open to the public. I am not running it, I'm
6 not charging money to use it, it will just be
7 a great benefit for one of the most
8 spectacular landscapes in the entire state.

9 CHAIRMAN FARRELL: Thank you.

10 CHAIRMAN DeFRANCISCO: Thank you very
11 much.

12 And the final and featured speaker
13 this year is for the Green Education & Legal
14 Fund, President Mark Dunlea.

15 MR. DUNLEA: I always enjoy being the
16 featured speaker. I welcome that
17 opportunity. My name is Mark Dunlea. I am
18 president of the board of the Green Education
19 & Legal Fund.

20 I was across the street at my office
21 watching the hearing over at Emmanuel
22 Baptist, trying to get some spiritual
23 guidance as to what my message should be
24 today.

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1 I also got some guidance from a movie
2 I watched last evening called The Normal
3 Heart. And it stars Mark Ruffalo, and it's
4 about the fight that they had to take to get
5 attention to the AIDS issue. And
6 unfortunately, their battle against
7 scientists and their battle against elected
8 officials to get serious attention reminds me
9 a little bit too much of the struggle we're
10 having right now in terms of getting action
11 on climate change.

12 And Mr. Ruffalo is particularly
13 critical to this issue because a couple of
14 years ago he funded a study to look at
15 whether it would be possible for New York
16 State to move to a hundred percent clean,
17 green energy in New York State. He funded a
18 study by a number of professors at Cornell
19 University and Stanford University. And they
20 concluded that it was in fact technologically
21 feasible to do it by 2030. And that did not
22 include any, you know, role for nuclear
23 power. And that what we needed was sort of
24 the political leadership, which I hope that

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1 this distinguished panel will be providing,
2 to make that occur.

3 We have three requests with respect to
4 this study. One, that the Legislature

5 actually officially adopt a goal of
6 100 percent clean energy by 2030, rather than
7 the existing State Executive Order for an
8 80 percent reduction by 2050.

9 Second, we wish you to further fund a
10 study on how to achieve such a goal.

11 And third, and perhaps most
12 importantly for the budget, to begin the
13 significant investment needed to accomplish
14 such a goal. Professor Jacobson estimated
15 that the cost to transition to a hundred
16 percent clean energy by 2030 would be about
17 \$460 billion.

18 Now, a significant part of the
19 \$460 billion is already invested by the
20 private sector in the normal upkeep and
21 maintenance and strengthening of our energy
22 system. But clearly there's going to be a
23 need for significant public investment to
24 accomplish that goal. And we would certainly

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1 support investment of the entire \$5 billion-
2 plus so-called windfall surplus in clean
3 energy.

4 One of the things we also will point
5 out is that New York has not made significant
6 progress on renewable energy. The Renewable
7 Portfolio Standard had set a goal by this
8 year of having 30 percent of the state's
9 electric energy provided by renewable energy.
10 Since that goal was established 10, 12 years

11 ago, we've only added 3 percent. So we're
12 only at 22 percent, and we're supposed to be
13 at 30 percent today.

14 One area where the state is really
15 lagging is in the issue of transportation.
16 And in fact a newer study done by Professor
17 Jacobson nationwide concluded that the
18 country cannot get to a hundred percent clean
19 energy by 2030, primarily because of the
20 transportation issue.

21 And I notice that the New York City
22 mass transit system has an estimated
23 \$32 billion in New York City capital needs
24 over the next five years, with nearly

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1 \$100 million needed over the next 10 years.
2 And we would certainly urge the state budget
3 to include a much more significant investment
4 in that.

5 One of the things I testified a lot
6 about over the last 15 years, without much
7 success so far, is that the state needs to
8 enact a state carbon tax. We do have the
9 Regional Greenhouse Gas Initiative, which is
10 a cap-and-trade program. Like a number of
11 groups that have spoken today, we certainly
12 oppose what we view as the raid of the RGGI
13 funds by Governor Cuomo, who's seeking to
14 divert \$36 million to the Environmental
15 Protection Fund.

16 We do support increase funding for the

17 Environmental Protection Fund; in fact, we
18 support a figure of \$300 million. But we do
19 not think it should be taken out of money
20 from the RGGI funds.

21 And I will, as a side note, say that
22 we were very pleased to see the Governor
23 discuss some \$50 million to purchase
24 farmland -- preservation rights, conservation

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1 rights. Not entirely clear why he feels it
2 needs to be limited to the Southern Tier and
3 the Hudson Valley. There's a lot of farmland
4 across the state that needs to be protected.

5 But in general, we oppose the raid of
6 the RGGI funds. I will note that Oregon has
7 done a state study, or at least one of the
8 professors, of doing a carbon tax. Yes, it
9 would be better for the federal government to
10 enact a carbon tax. It would reduce some of
11 the administrative costs to administer it
12 nationally rather than at the state level.
13 But given that it appears that there may be
14 some gridlock in the foreseeable future at
15 the federal level, having the state, you
16 know, take some action on a carbon tax would
17 be helpful.

18 I will also note that recent public
19 opinion polls show that if the proceeds from
20 the carbon tax are devoted to renewable
21 energy, a majority of American voters,
22 including a majority of Republicans, support

23 such a carbon tax. And I think any economist
24 or person who's looked at climate understands

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1 that a carbon tax is inevitable if we're ever
2 to survive climate change. And the state
3 deserves credit under Governor Pataki for,
4 you know, initiating the Regional Greenhouse
5 Gas Initiative. But we think it's time to
6 move forward and do the carbon tax.

7 We support the idea that staffing
8 levels at DEC should be increased to offset
9 the cuts that have been made in recent years
10 to hold -- particularly to make it more
11 possible to hold polluters accountable.

12 We support the proposal advanced by
13 various environmental groups to provide for
14 long-term secure funding to restore the
15 state's Superfund program, such as to the
16 tune of \$120 million a year for 10 years.

17 We support across-the-board increases
18 in fees and charges to various polluters to
19 adequately compensate taxpayers for the costs
20 related to cleaning up their messes. We're
21 tired of taxpayers being required to
22 subsidize pollution by companies and passing
23 the bill on to consumers and taxpayers.

24 We were pleased to see the Governor

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1 call for increased funding for the Oil Spill
2 Fund, include an increase in the fund cap
3 from \$25 million to at least \$40 million.

4 However, we do not support the Governor's
5 proposal to remove the oversight of the Oil
6 Spill Fund from the State Comptroller. In
7 fact, we would like to see the Governor or
8 the State Legislature halt all transports of
9 crude oil by rail in the state. Safe
10 transport of crude oil through populated
11 areas is not possible. The National
12 Transportation Safety Board has recommended
13 that the Federal Railroad Administration
14 require railroads to avoid populated and
15 other sensitive areas for crude oil and other
16 hazardous materials.

17 Finally, while this is not yet part of
18 the budget, perhaps the State Legislature
19 will take it up. I'm also active with
20 350 New York City. We had a few people,
21 about 400,000, join us recently for a little
22 march in New York City this fall. One of our
23 major demands is that New York State and
24 New York City divest all public funds from

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1 fossil fuels. We need to ensure that
2 80 percent of the fossil fuels we presently
3 know exist are never used, in order to avoid
4 climate change.

5 And we think it is a real risk to -- a
6 member of my family is a former state worker,
7 and so we have, you know, a state pension
8 that will eventually come our way. We'd like
9 to see it actually show up. And to the

10 extent that the state pension is invested in
11 fossil fuels, which are quite, quite risky at
12 this point, that puts that pension plan into
13 jeopardy. And we request that, you know,
14 both Mr. Di Napoli and the City Pension Fund
15 divest from fossil fuels.

16 So I very much appreciate you hanging
17 around to hear from us and look forward to a
18 great budget this year to deal with climate
19 change.

20 SENATOR KRUEGER: Thank you.

21 CHAIRMAN FARRELL: Thank you.

22 CHAIRMAN DeFRANCISCO: Thank you very
23 much.

24 I was going to say that concludes

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1 testimony, but Erik's still here. I don't
2 know if he wants to be last and speak again
3 or --

4 (Laughter.)

5 CHAIRMAN DeFRANCISCO: I don't think
6 so.

7 So with that said, we're going to
8 adjourn this meeting till 9:30 tomorrow
9 morning, for Transportation. Thank you all.

10 (Whereupon, at 6:06 p.m., the budget
11 hearing concluded.)

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