1 JOINT PUBLIC HEARING BEFORE:

2 THE NEW YORK STATE ASSEMBLY STANDING COMMITTEE ON HEALTH, and THE NEW YORK STATE ASSEMBLY STANDING
3 COMMITTEE ON ENVIRONMENTAL CONSERVATION

4 AND

5 THE NEW YORK STATE SENATE STANDING COMMITTEE ON HEALTH, and THE NEW YORK STATE SENATE STANDING COMMITTEE ON
6 ENVIRONMENTAL CONSERVATION

7 ----------

8 PUBLIC HEARING:

9 WATER QUALITY AND CONTAMINATION

10 ----------

11 Legislative Office Building - Room B
181 State Street, 2nd Floor
12 Albany, New York 12247

13 September 7, 2016
11:00 a.m.
14

15 PRESIDING:

16 Assemblyman Steve Englebright
Chairman
17 NYS Assembly Standing Committee on
Environmental Conservation
18
Assemblyman Richard N. Gottfried
19 Chairman
NYS Assembly Standing Committee on Health
20
Senator Kemp Hannon
21 Chairman
NYS Senate Standing Committee on Health
22
Senator Thomas F. O'Mara
23 Chairman
NYS Senate Standing Committee on
24 Environmental Conservation

25

1 PRESENT FROM THE SENATE:
2 Senator John A. DeFrancisco
3 Senator Brad M. Hoylman
4 Senator Liz Krueger
5 Senator Elizabeth Little
6 Senator Kathleen A. Marchione
7 Senator Patricia Ritchie
8
9 PRESENT FROM THE ASSEMBLY:
10 Assemblyman Thomas Abinanti
11 Assemblywoman Patricia Fahy
12 Assemblyman David F. Gantt
13 Assemblywoman Pamela J. Hunter
14 Assemblywoman Ellen Jaffee
15 Assemblyman Kevin Kavanagh
16 Assemblyman Peter D. Lopez
17 Assemblywoman Donna A. Lupardo
18 Assemblyman John T. McDonald III
19 Assemblyman Steven F. McLaughlin
20 Assemblywoman Nily Rozic
21 Assemblywoman Michelle Schimel
22 Assemblyman Frank Skartados
23 Assemblyman Dan Stec
24 Assemblyman Phil Steck
25

1 PRESENT FROM THE ASSEMBLY:
2
3 Assemblyman Matthew Titone
4 Assemblyman Fred W. Thiele, Jr.
5 Assemblywoman Carrie Woerner
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David Hassell Formerly worked at Saint-Gobain McCaffrey Street location	625	673

1 ASSEMBLYMAN ENGLEBRIGHT: Let's get underway.
2 First, I'd like to thank you all for being
3 here today, to examine water quality and
4 contamination issues in New York State.
5 My name is Steve Englebright, and I am the
6 Chair of the Assembly Environmental Conservation
7 Committee.
8 Before going further, I'd like to note the
9 presence of many of my colleagues in the Assembly
10 who are with us today.
11 These include Member Gottfried to my right,
12 Member McLaughlin to my left, as well as
13 Members Schimel, Hunter, Werner, Steck, Rozic, Fahy
14 Thiele, Dan Stec, Jaffee, Skartados, and Kavanagh.
15 And we have a number of Senators who are
16 here.
17 I think I'm going to defer in a moment.
18 Perhaps this is the moment to let them be
19 introduced.
20 Let me defer to my colleague.
21 SENATOR HANNON: Yes, good morning.
22 I'm Senator Kemp Hannon, Chair of the Health
23 Committee.
24 To my right, Senator Kathleen Marchione;
25 Senator Tom O'Mara, who is the Chair of the

1 Environmental Committee for the Senate;
2 Senator John DeFrancisco, who is the Deputy
3 Majority Leader of the Senate;
4 Senator Liz Krueger, who is the Ranking
5 Member on the Senate Finance Committee;
6 Senator Pat Ritchie, who is the Chair of the
7 Agricultural Committee;
8 And Senator Brad Hoylman, who is the Ranking
9 Member on the Senate Environmental Committee.
10 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
11 So we're going to talk and hear a lot today
12 about things that have gone wrong.
13 The public has an expectation that the
14 state's laws and regulations are protective of our
15 water and environment.
16 Recent events have challenged that assumption
17 and, instead, created authentic victims and damaged
18 communities.
19 I hope that today we can make significant and
20 meaningful progress in understanding more about wha
21 went wrong so we can make progress in preventing
22 future events.
23 However, I am disappointed to note that,
24 several weeks ago, the Assembly had requested
25 specific information, including documents and

1 correspondence, from DEC and DOH in order to better
2 prepare for these hearings.
3 We received assurances that that information
4 would be provided.
5 Unfortunately, the information has not been
6 provided in a timely or satisfactory manner.
7 That will be part of our discussions today
8 with the departments. They're about to testify, an
9 I'd like to hear more about why and when we can see
10 those documents.
11 But in the absence of the requested
12 information, I would note that this does subtract
13 from what we had hoped to accomplish today; it does
14 subtract from our intent to focus on how to prevent
15 future water contamination in order to preserve our
16 drinking water, lakes, and rivers.
17 In New York we have learned the hard way
18 about the chemicals PFOA and PFOS, but there are
19 many, many more chemicals, approximately 85,000 in
20 industrial use today, that have not been fully
21 evaluated.
22 Companies have a responsibility to be
23 responsible stewards and prevent adverse chemical
24 exposure of employees, residents, and the
25 environment.

1 When they don't act responsibly, they have to
2 be held accountable.
3 One of our most important responsibilities to
4 the residents of this state is to protect their
5 health and the environment.
6 This means that we need to be able to
7 identify the harmful chemicals prior to adversely
8 impacting our health and water supplies.
9 The absence of the information that we had
10 requested from the departments also means that the
11 Assembly will likely hold a third hearing at a time
12 and place to be announced later, after we do receiv
13 the requested information.
14 We look forward to hearing today from each of
15 you, but, first, a few items of housekeeping.
16 Each witness will be sworn in.
17 Please try to limit your comments to no more
18 than 10 minutes.
19 And your written testimony will be included
20 as part of the public record, so you should feel
21 free to summarize your testimony rather than readin
22 it to us word-for-word.
23 Please also be sure to state your name for
24 the record prior to speaking.
25 Those of you who did not have the opportunity

1 to testify, and would like to submit written
2 testimony, should submit your testimony via e-mail
3 or mail as soon as you can, but, please, no later
4 than two weeks from today.
5 It will then be added to the hearing record.
6 Before going on, I think I would like to ask
7 Mr. Gottfried if he would like to make some
8 observations, one of which is, I think that what we
9 talked about briefly before, which is that we'd lik
10 to hear from people more than cause people here to
11 listen just to us.
12 But, I'll let you explain what that means.
13 ASSEMBLYMAN GOTTFRIED: Okay. Well, I don't
14 have any opening remarks, except -- because I think
15 we all know why we're here.
16 Just a couple of procedural notes.
17 One, we are not going to take a lunch break,
18 or, probably, ultimately, we're not going to take a
19 dinner break, although, as Chair of the Assembly
20 Health Committee, I do feel strongly that, every
21 couple of hours, we all need to stand up, maybe eve
22 walk around.
23 The Assembly Health Committee has, for about
24 20 years, made a practice of swearing in all
25 witnesses. A very simple process.

1 This is not like Oliver North. You don't
2 stand up and hold up your right hand.
3 I would just ask "if the testimony you're
4 about to give is true," and if you give the correct
5 answer, you get to continue.
6 That's all I have to say.
7 ASSEMBLYMAN ENGLEBRIGHT: I would just like
8 to say that I appreciate the collegiality from our
9 colleagues in the Senate.
10 Thank you for joining this hearing and being
11 a part of it today.
12 SENATOR HANNON: I was actually going to say,
13 congratulations on joining our hearing, but that's
14 fine.
15 I have asked the Senators if we would forgo
16 any opening statements because of the importance of
17 the testimony we're about to hear.
18 And unless anybody's changed their mind,
19 I think they concurred.
20 And Senator Little, Betty Little, has joined
21 us, and is seated behind the other Senators.
22 ASSEMBLYMAN ENGLEBRIGHT: So, thank you, and
23 let's begin.
24 The first panel: Dr. Howard Zucker,
25 Commissioner of New York State Department of Health;

1 and Commissioner Basil Seggos, from the New York
2 State Department of Environmental Conservation.
3 Who wants to go first?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: I will
5 start. Thank you.
6 ASSEMBLYMAN ENGLEBRIGHT: Dr. Zucker.
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: Good
8 morning, Chairpersons Hannon, O'Mara, Gottfried, an
9 Englebright, and members of the Committee.
10 I am pleased to be here today to discuss not
11 only water contaminants and regulations, but more
12 importantly, what steps we are currently taking, an
13 will continue to take in the future, to ensure the
14 quality of New York's drinking water.
15 I'm joined to my right by Brad Hutton, Deputy
16 Commissioner of the Office of Public Health, who ha
17 been with the department for more than two decades;
18 and to my left, Dr. Lloyd Wilson, a 34-year veteran
19 of water issues at the Department of Health.
20 And also present with us today, behind me, is
21 Dr. Nathan Graber, Dr. Elizabeth Lewis Michael, and
22 Dr. Roger Sokol from the department's center for
23 environmental health.
24 I'm very proud to be joined by these
25 dedicated public servants who have made a career of

1 working to protect public health in the state of
2 New York.
3 OFF-CAMERA SPEAKER: Can you pause for a
4 moment?
5 (Pause in the hearing.)
6 (Back on the record.)
7 OFF-CAMERA SPEAKER: We're trying to see if
8 there is something we can do with the sound system
9 because -- and this is a persistent problem in this
10 room -- none of us can understand a word you're
11 saying.
12 SENATOR HANNON: Not due to your fault.
13 OFF-CAMERA SPEAKER: Right, yes, very
14 clearly, which could shorten the hearing, but --
15 [Laughter.]
16 OFF-CAMERA SPEAKER: -- undermines its value.
17 (Testing of sound system.)
18 (Back on the record.)
19 OFF-CAMERA SPEAKER: Whatever they've done,
20 we do hear you better.
21 Thank you.
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: Is that
23 better?
24 OFF-CAMERA SPEAKER: It is much better.
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: Great.

1 Thank you.
2 OFF-CAMERA SPEAKER: Thank you, Dr. Zucker.
3 If you could reintroduce everyone.
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: Sure.
5 Very well.
6 So I thank the members of the Assembly and
7 the members of the Senate.
8 I look forward to taking the opportunity now
9 to currently take on and discuss all our efforts
10 now, and in the future, to ensure the quality of
11 New York's drinking water.
12 I'm joined to my right by Brad Hutton. He's
13 the Deputy Commissioner of the Office of Public
14 Health, who has been with the Department of Health
15 for more than two decades.
16 And to my left, Dr. Lloyd Wilson. He's a
17 34-year veteran at the Department of Health, and
18 works with water issues.
19 And also present, behind me, is
20 Dr. Nathan Graber, Dr. Elizabeth Lewis Michael, and
21 Dr. Roger Sokol from the department's center of
22 environmental health.
23 I am proud to be joined by these dedicated
24 public servants. They have made a career of workin
25 to protect public health in the state of New York.

1 Access to clean drinking water is a defining
2 issue of our time.
3 The rapid rise of manufacturing has built the
4 economic success of our state and of our nation,
5 employing citizens, enabling us to provide for our
6 families, and making our country a powerhouse, but,
7 it has also left a trail of significant
8 environmental pollution, the consequences of which
9 we are only just beginning to understand.
10 These stories of water contamination are
11 becoming too familiar in New York communities.
12 We know the names of the towns and the
13 companies:
14 Hoosick Falls and Saint-Gobain;
15 Bethpage and Northrop Grumman;
16 Petersburgh and Taconic Plastics;
17 Westhampton and Gabreski Air National Guard
18 Base;
19 Newburgh and Stewart National Air Guard Base;
20 And we hear the stories from Colorado, from
21 Alabama, Pennsylvania, and elsewhere.
22 Recent reports indicate at least 42 states
23 have one or more of 141 unregulated contaminants in
24 their drinking water, and that number is growing.
25 While we're facing these significant

1 challenges, the Governor's water quality
2 rapid-response team is taking aggressive action to
3 stay ahead of the problem.
4 In addition, we are working with all of you
5 in the Legislature to make record investments in
6 water infrastructure, and that includes $400 millio
7 for water-infrastructure improvements across the
8 state, a historic $300 million commitment to the
9 state's environmental protection fund, a $1 billion
10 state superfund program, $5 billion in financing
11 available through the State's drinking-water
12 revolving fund, and, together, this amounts to the
13 largest annual investment in water infrastructure o
14 any state in the nation.
15 In New York, as is the case everywhere,
16 drinking water comes from natural sources, and each
17 source can contain naturally-occurring minerals,
18 organic materials, chemicals and contaminants, as
19 well as those added by industrial pollution.
20 In fact, all drinking water, even bottled
21 water, may have small amounts of contaminants.
22 Today I want to highlight the current
23 regulatory construct, but also raise two important
24 issues, as the State continues its aggressive actio
25 to make sure our residents have access to clean

1 drinking water.
2 Right now, 6.5 million New Yorkers drink from
3 water systems that do not require the testing of
4 emerging contaminants, such as PFOA, or drink from
5 water supplies that are not regulated at all.
6 That is one-third of all New Yorkers, that
7 I will describe this in greater detail shortly.
8 The Environmental Protection Agency is the
9 chief regulator of the nation's, approximately,
10 155,000 public water systems under the Safe Drinkin
11 Water Act.
12 As part of the regulatory construct, the
13 Department of Health works closely with local healt
14 departments, local water operators, the Department
15 of Environmental Conservation (DEC), and our other
16 partners to oversee the more than 9,000 public wate
17 systems in the state.
18 We follow federal and state regulations
19 within a well-established framework, and we rely on
20 the best available science and decades of experienc
21 to guide our determinations and our actions.
22 Currently, public water systems must test for
23 regulated contaminants; for example, benzene and
24 arsenic, cadmium.
25 Federal and state standards provide clear

1 rules and regulations that must be followed if
2 public drinking-water systems exceed the allowable
3 amount of a regulated contaminant.
4 Exceedances are not uncommon.
5 On average, my department handles more than
6 200 cases annually in which water systems exceed th
7 allowable level of a regulated contaminant.
8 In these situations, we follow
9 EPA-established course of action.
10 The courses of action are (1) to confirm the
11 contaminant, (2) to notify the public, (3) to
12 identify the source, and (4) to reduce the exposure
13 in the water supply.
14 Now, then there are the unregulated
15 contaminants, such as PFOA, PFOS, and the like,
16 which there are more than 80,000.
17 In this case, the EPA requires that municipal
18 water systems test for unregulated contaminants
19 under a program called the "Unregulated Contaminant
20 Monitoring Rule"; or the "UCMR."
21 This was established in 1999.
22 The purpose of the UCMR is to determine the
23 presence of 90 unregulated contaminants, like PFOA,
24 in drinking-water systems across the country to hel
25 inform EPA's establishment of regulatory levels.

However, the UCMR program doesn't apply to water systems with less than 10,000 people, which means that 2700 small-community water systems and other non-community water systems, like schools, ar not required to test for these unregulated contaminants.

So to put it another way, the current EPA UCMR program does not require the testing of water systems that serve 2.5 million New Yorkers.

This creates situations, like Hoosick Falls, where potentially for decades, residents were drinking water contaminated with PFOA, but the Village had no obligation to even test for it.

Had it not been for a concerned village resident, PFOA in the drinking water of Hoosick Falls may never have been discovered.

But if the Village had been required to test under the UCMR program, they would have identified years earlier.

That's why, today, with Commissioner Seggos, I sent a letter to the EPA, urging them to adopt ne guidance that would require all public water systems, no matter the size, to test their water fo unregulated contaminants under an expanded UCMR program.

1 We are also calling on them to provide
2 sampling results to states in a timely and
3 transparent manner, and offer actual guidance to
4 address the detection of unregulated contaminants.
5 If the EPA declines to take action, then we
6 will introduce legislation to require the testing o
7 all public water systems in the state, and will
8 grant a hardship exemption to municipalities that
9 can't afford to do the testing on their own, and th
10 State will perform the testing.
11 This action is critical to making sure that
12 no community in New York ever has to endure what
13 Hoosick Falls has been enduring because of its
14 undetected corporate pollution.
15 We urge you to join us in supporting this
16 legislation.
17 The EPA has issued health advisories for just
18 104 of the more than 80,000 unregulated chemical
19 contaminants.
20 In the absence of legally enforceable
21 regulatory levels, these health advisories provide
22 information and guidance to state and local entitie
23 on contaminants that may appear in drinking water.
24 According to the EPA, their health advisories
25 are intentionally set below levels that are expecte

1 to result in health effects.
2 This is a buffer. It's known,
3 scientifically, as the "margin of protection,"
4 because the level at which health effects may occur
5 is much higher than the level at which the health
6 advisory is set.
7 According to the EPA 2016 Fact Sheet, and
8 I quote:
9 EPA's health-advisory levels were calculated
10 to offer a margin of protection against adverse
11 health effects to the most sensitive populations:
12 fetuses during pregnancy and breast-fed infants.
13 The health-advisory levels are calculated
14 based on the drinking-water intake of lactating
15 women, who drink more water than other people, and
16 can pass these chemicals along to nursing infants i
17 through the breast milk.
18 End quote.
19 In other words, the health-advisory level is
20 the point at which drinking-water systems should
21 begin taking steps to reduce the amount of the
22 contaminant in the water supply.
23 Beyond the regulated contaminants and
24 unregulated contaminants in public drinking-water
25 supplies, private wells are another major issue.

1 As you have heard last week and today,
2 private wells are not covered by any federal or
3 state regulations; yet, time and again, in the
4 process of our investigations, the department has
5 uncovered contaminated private wells.
6 The quality of drinking wells greatly vary.
7 Therefore, where possible, the department,
8 working closely with the Environmental Facilities
9 Corporation, provides funding and technical
10 assistance to move communities off the private well
11 by connecting them to public water supplies.
12 This is currently the case in Suffolk County,
13 where we are working to connect private
14 drinking-water wells in Westhampton, that may be
15 affected by PFOS, to the public water supply.
16 We certainly recognize that it is not
17 feasible to move everyone away from private
18 drinking-water wells, nor should it be. So we will
19 also be introducing legislation to increase
20 oversight of the state's 1.1 million private wells.
21 Right now, upon the sale of a home with a
22 private well, there is no requirement to test the
23 well for water quality, or even notify the buyer
24 about whether the well has been tested.
25 Our legislation will require that homeowners

selling their residences test their private well fo contaminants and notify the buyer of the results prior to closing the sale.

To protect renters, landlords will also be required to test private wells and notify tenants and the county of those results.

This is commonsense legislation.

We are talking about a few hundred dollars in testing costs, with a huge potential upside every time we proactively identify a contamination, and other local communities have had similar laws in place for years.

I strongly urge all of you to join us in supporting this legislation.

I know that many of you have been supportive of similar bills in the past, and I hope that you will continue to provide that support again today.

Beyond our actions, Governor Cuomo yesterday signed landmark legislation, mandating that every school in New York State test its drink water for lead contamination.

Lead pipes in fixtures were used across the nation until Congress banned them in 1986, and lead contamination is an increasingly prevalent issue, especially for our children.

1 This is a different problem. It is not a
2 question of removing a contaminant from the water
3 supply.
4 If we knew then what we now know, we would
5 have built the pipes with different materials.
6 Unfortunately, there are hundreds of
7 thousands of pipes within buildings and schools
8 across New York State which cannot cheaply or easil
9 be replaced.
10 That's why maintenance, flushing, and testing
11 is so important.
12 There are actions that can be taken to ensure
13 that children aren't exposed to lead, even in cases
14 where lead pipes may have been used in the
15 construction of their schools.
16 But when those actions fail and our kids are
17 being exposed to lead, it's obvious that we would
18 want to know about that and be able to address it i
19 short order.
20 Until now, schools in New York were not
21 required to test their drinking water for lead or
22 notify parents or government officials of results.
23 Testing was voluntary and administered by the
24 federal EPA.
25 This method of voluntary testing has

1 demonstrated the clear need for New York State to
2 provide its schools with direction on when, what,
3 and how to sample drinking water for lead.
4 And that's exactly what we're doing with this
5 landmark legislation.
6 It is time to bring the quality of our water
7 out of the shadows, once and for all, and that's
8 what, today, we're taking these actions.
9 The actions we're taking:
10 One, calling on the EPA to implement the UCMR
11 program to all water systems regardless of size;
12 Two, introducing legislation to improve the
13 oversight of private wells;
14 And, three, moving forward on mandatory lead
15 testing for every school in the state of New York.
16 But there's more that we're doing.
17 The water quality rapid-response team
18 continues to stay ahead of water issues across the
19 state.
20 In February of 2016, Governor Cuomo
21 established the rapid-response team in order to
22 quickly identify and address critical drinking-wate
23 contamination concerns in our communities.
24 I co-chaired this effort with
25 Commissioner Seggos, and over the past several

1 months, our team had been working together to:
2 One, develop an action plan that will include
3 recommendations to enhance the state's existing
4 drinking-water, groundwater, and surface-water
5 protection programs;
6 And, number two, rapidly respond to
7 site-specific issues in communities across New York
8 For instance, in Newburgh, PFOS was
9 identified in the water supply years ago.
10 In just the first few months, the team
11 identified and swiftly responded to PFOS
12 contamination in the city of Newburgh's public wate
13 supply.
14 The contaminant had been reported to the EPA,
15 through the UCMR. But, again, under that program,
16 states are not notified of the issues, and the EPA
17 does not respond to elevated contaminant levels.
18 Rather, the situation in Newburgh was
19 identified through our own efforts to access and
20 analyze the 2015 UCMR data provided to the EPA.
21 Although all our samples were below the EPA's
22 provisional health advisory in place at that time,
23 the State immediately engaged Newburgh's officials
24 to help address the problem. This included changin
25 the source of Newburgh's water supply.

1 The rapid-response team also identified
2 several communities in Suffolk County with levels o
3 potential concern.
4 In Westhampton, the UCMR data showed PFOS in
5 public water-supply wells near the Gabreski Air
6 National Guard Base.
7 The department provided technical assistance
8 on private wells to Suffolk County while corrective
9 actions were taken by local water operators to
10 address the public water supply.
11 Local testing revealed a PFOS level of
12 14,000 parts per trillion in the groundwater
13 monitoring well south of the airport.
14 And as I mentioned earlier, with assistance
15 from the DOH, DEC, EFC, and the local water
16 authority, Suffolk County action is being taken to
17 correct locations with private drinking-water wells
18 to the public water supply, and seek reimbursement
19 of the costs from the responsible party.
20 There are 20 million residents in
21 New York State, and the Department of Health is
22 relentlessly focused on providing every single
23 person with access to clean drinking water, whether
24 they rely on public water systems or a private well.
25 We will continue our aggressive approach to

1 ensuring water quality for all residents and
2 visitors.
3 As part of those efforts, the department
4 remains committed to working with the Legislature t
5 improve our laws and to strengthen our oversight of
6 drinking water.
7 I hope my testimony today has been helpful in
8 providing context for our efforts, and I look
9 forward to your questions.
10 Thank you.
11 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
12 Commissioner Seggos.
13 COMM. BASIL SEGGOS: Good morning,
14 Senator Hannon, Senator O'Mara --
15 ASSEMBLYMAN GOTTFRIED: Commissioner, I've
16 been forgetting my role here.
17 Do you swear that the testimony you're about
18 to give is true?
19 COMM. BASIL SEGGOS: I do.
20 ASSEMBLYMAN GOTTFRIED: Thank you.
21 And when we question Dr. Zucker, I'll ask him
22 the same question.
23 COMM. BASIL SEGGOS: Good morning,
24 Senator Hannon, Senator O'Mara,
25 Assembly Member Gottfried,

1 Assembly Member Englebright, members of the Senate,
2 Assembly, Health, and Environmental Conservation,
3 committees.
4 My name is Basil Seggos, and I'm the
5 Commissioner of the DEC.
6 I'm here today with my colleague
7 Martin Brand, who's our deputy commissioner for
8 remediation, and my chief of staff,
9 Peter Walk (ph.), as well as Julie Thai (ph.),
10 assistant commissioner for legislative affairs.
11 Thank you for the opportunity to discuss the
12 critical water-quality issues facing New York State
13 today.
14 As my colleague Commissioner Zucker just
15 discussed, 6.5 million people in New York State,
16 nearly one-third of us, get their drinking water
17 from public water systems that are untested for
18 unregulated contaminants, like PFOA, or from
19 unregulated private wells; and that's why our
20 departments are taking aggressive action today.
21 As my colleague described earlier, we're
22 calling on the EPA to remedy serious flaws in their
23 Unregulated Contaminant Rule Monitoring program; th
24 "UCMR" program.
25 This program does not require testing of

1 unregulated contaminants, like PFOA, for the public
2 water systems that serve less than 10,000 people.
3 In New York State alone, this arbitrary
4 threshold leaves 2.5 million New Yorkers at risk.
5 We are, therefore, calling on the EPA to
6 expand the UCMR program to require sampling of all
7 public water systems regardless of size.
8 If testing were required in all of these
9 cases, PFOA in the village of Hoosick Falls' water
10 system could have been detected earlier.
11 If the EPA fails to act, we will be advancing
12 legislation, and working with you, to require all
13 public water systems not covered by the UCMR progra
14 for unregulated contaminants.
15 Approximately 4 million people get their
16 drinking water from private wells that are
17 completely unregulated, and as we've seen in
18 communities, from the North County to Long Island,
19 private wells are often vulnerable to contamination
20 Therefore, we will also be advancing
21 legislation to require the testing of private wells
22 upon construction or upon the sale of property.
23 Landlords will also be required to test
24 private wells and to notify tenants of the results.
25 The parties selling or renting the property

1 will be expected to cover the expense of the
2 required sampling, which currently costs about $400,
3 which we expect to drop to 200 to 300 dollars, due
4 to increased demand.
5 Both bills will require the provision of
6 hardship exemptions for individuals and communities,
7 where the State will help with testing.
8 We thank you for your leadership on these
9 issues, and the many issues -- many of you here hav
10 today have supported these reforms, and we hope to
11 join with you, moving forward, on these proposals.
12 Clean water is crucial for public health, our
13 economy, and the environment, and there are many
14 threats to clean water, including nutrient
15 pollution, stormwater, and industrial wastes.
16 New York has a rich industrial legacy that is
17 a source of pride; however, the aftermath of that
18 legacy has negatively impacted our environment and
19 our public health.
20 We often do not learn about the full impact
21 of industrial contamination until well after they'r
22 dumped into the environment.
23 We also have aging infrastructure that has
24 not been maintained, or simply needs to be upgraded,
25 in order to properly treat these chemicals and othe

1 pollutants before they enter the environment.
2 Ensuring that our surface and groundwater
3 is clean is one of DEC's most important
4 responsibilities.
5 First and foremost, DEC uses its statutory
6 authority to prevent pollution from entering
7 New York's environment.
8 We have many tools at our disposal, including
9 the Clean Water Act, and the State Environmental
10 Conservation Law, to control water pollution,
11 primarily through our state pollution-discharge
12 elimination system; or "SPDE" system.
13 Second, if contamination occurs, DEC
14 investigates, remediates, and holds polluters
15 accountable.
16 Here, we use the State's Superfund Law on the
17 brownfields cleanup program to clean up polluted
18 sites.
19 And, as you know, DEC works closely about DOH
20 to tackle drinking-water contamination issues,
21 particularly once a potential source of
22 contamination has been identified.
23 Our primary mechanism to prevent or limit
24 water pollution is the SPDES program.
25 DEC issues more than 21,000 general and

1 individual permits annually for discharges to
2 surface waters and groundwater. These permits
3 regulate everything, from septic systems and
4 wastewater-treatment plants, to industrial
5 facilities and power plants, farms with
6 animal-feeding operations, to stormwater runoff.
7 We use permits to limit pollution and ensure
8 that water quality is able to support the use of th
9 waterway.
10 The DEC monitors and enforces these permits
11 to protect against excessive discharges.
12 Since I took office as Commissioner, I've
13 launched a thorough review of the program in order
14 to speed up the review of these permits.
15 When permit conditions are not enough to
16 protect a water body and it becomes, or is,
17 impaired, we develop pollution budgets called "tota
18 maximum daily load" plans; or "TMDLs."
19 These ensure that waterways are not
20 overloaded with pollution, and we use TMDLs to
21 develop plans for reducing pollution, and to help
22 restore the water body to achieve its best uses,
23 such as fishing, or as a source of drinking water.
24 These best uses are established by DEC when
25 we classify New York waters under the federal Clean

1 Water Act, and set standards and guidance values fo
2 a variety of pollutants to protect those uses.
3 The good news is that, since 2005, the
4 percentage of water bodies that meet these uses has
5 improved, from 66 percent, to 70 percent.
6 DEC's efforts must often account for the
7 reality that New York's infrastructure is aging, an
8 the investment needed to upgrade these systems is
9 tremendous.
10 Wastewater-treatment plants represent a major
11 source of pollution in our waterways.
12 Many of those treatment plants were
13 originally built with federal grants in the 1970s,
14 and since that time, the federal government has
15 transitioned primarily to providing funding for
16 loans, not grants.
17 New York has long had one of the most
18 successful, if not the most successful, clean-water
19 and drinking-water state revolving funds in the
20 country.
21 With it, we've invested nearly $20 billion of
22 our own infrastructure resources to the
23 Environmental Facilities Corporation, including mor
24 than a billion dollars a year over the last
25 five years.

1 Even when EFC's funding and financing comes
2 in the form of low- or no-interest loans, our
3 communities cannot often undertake the needed
4 investment.
5 And that's why the $400 million that the
6 Legislature and the Governor secured through the
7 Water Infrastructure Improvement Act is so critical
8 These grants, coupled with the low- and
9 zero-interest loans offered through the SRS have
10 leveraged millions in projects.
11 I want to thank Senator O'Mara and
12 Assembly Member Englebright for their leadership in
13 advancing this program.
14 But New York State can't do it all alone,
15 given the scale of the backlog. The federal
16 government must, once again, provide grants to
17 states to accompany loan programs.
18 With the record $300 million EPF that we
19 secured in partnership with the Legislature last
20 year, DEC is also able to provide 28 million in
21 funding through the water-quality improvement
22 program and the non-point-source pollution program,
23 to support projects in disinfection wastewater,
24 address runoff, and improve aquatic habitats.
25 New York is home to an impressive network of

more than 7500 lakes, 70,000 miles of rivers and streams and coastal habitats, and we protect it all through the work of the EPF.

Through the record-setting EPF, we look forward to advancing further open-space protections across the state. Open-space protection is essential for protecting water at its source.

In Long Island, where the drinking water supply is below the surface, DEC has a number of specific initiatives underway.

First, in partnership with the Long Island Regional Planning Council, we've started work on th Long Island Nitrogen Action Plan that you funded.

Second, we started work, with the USGS, on a comprehensive Long Island groundwater study that Governor Cuomo announced this year.

Third, we've been implementing the Long Island pesticide-pollution prevention plan, an are in the midst of a groundwater study on mulch piles.

Lastly, we're working with Nassau and Suffolk counties to reduce nitrogen pollution by dedicating hundreds of millions of dollars to sewering projects and plant upgrades.

I look forward to discussing these with you

1 in greater detail next Monday.
2 When water contamination is caused by
3 hazardous materials, which is PCBs, the state
4 superfund and brownfield cleanup programs are our
5 primary tools for cleaning up the contamination.
6 Last year, working with you, we assured the
7 viability of these programs by reauthorizing
8 superfund with another $1 billion for the next
9 10 years.
10 We also extended the brownfields tax credits
11 program through 2025.
12 These programs are key to addressing
13 contamination caused by our industrial past, and
14 they also encourage the private sector to clean up
15 impacted sites and put them back to productive use.
16 The prime example of the success of our
17 superfund program is the cleanup of Onondaga Lake.
18 Once considered the most polluted lake in the
19 nation, it is now making a heralded comeback.
20 We have achieved this through superfund, by
21 holding Honeywell and other responsible parties
22 accountable for the mess they made, and by
23 working in partnership with Onondaga Nation,
24 Onondaga County, local municipalities, and citizens'
25 groups.

1 The collaborative efforts to improve water
2 quality and restore degraded habitat have borne
3 fruit for the local economy.
4 I saw this firsthand this past weekend during
5 the second Bass Master event of the year that we
6 hosted in the lake, which we combined with a free
7 fishing event for local kids.
8 This is proof-positive that superfund can
9 transform the fortunes of a community.
10 No issue has been more at the forefront of
11 late than the recent finding of PFOA in drinking
12 water.
13 PFOA is one over 80,000 contaminants not
14 regulated by the EPA in drinking water.
15 Through the Governor's water quality
16 rapid-response team, which Dr. Zucker and
17 I co-chair, DEC is actively responding to PFOA and
18 PFOS contamination in Hoosick Falls, Petersburgh,
19 Newburgh, Suffolk County near Gabreski Air National
20 Guard Base.
21 In the Hoosick Falls area, we've accomplished
22 much in just a few short months. Since
23 November 2015, DEC has undertaken the following
24 actions:
25 It became the first state in the nation to

1 list PFOA as a hazardous substance.
2 This enabled us to declare the Saint-Gobain
3 site and the state superfund site only two days
4 after listing PFOA as a substance.
5 We're holding the polluters accountable,
6 Saint-Gobain and Honeywell, by placing them under
7 consent orders, and to investigate and remediate
8 their contamination.
9 We've sampled soil, gardens, landfill
10 leachate, and the Hoosick River and its tributaries,
11 and we've installed more than 830 individual
12 treatment systems, something that's never been done,
13 this scale, this fast, anywhere.
14 In Petersburgh, we listed Taconic Plastics as
15 a state superfund site on May 19th.
16 Taconic is now in the process of designing a
17 treatment system for the town water supply, with DE
18 and DOH oversight.
19 DEC and Rensselaer County are also sampling
20 private wells, and installing POET systems where
21 people request them.
22 And, in July, Governor Cuomo signed
23 legislation, sponsored by Senator Marchione and
24 Assembly Member McDonald, that will make it easier
25 for people impacted by superfund sites to bring

1 legal actions against polluters.
2 Our responses in Hoosick and Petersburgh are
3 good examples of how DEC works closely with DOH in
4 the intersection of drinking water.
5 Our role is distinct from DOH, which is
6 charged with regulating contaminants in drinking
7 water, but DEC routinely works together with the
8 department when an identifiable pollution site
9 impacts a water supply.
10 As part of the rapid-response team's review
11 of the EPA's records from 2014 under the UCMR
12 program, we determined that PFOS containing
13 firefighting foam from the Stewart Air National
14 Guard Base had impacted the city of Newburgh's wate
15 supply.
16 We were able to quickly connect the city's
17 water supply to New York City's Catskill Aqueduct
18 while we designed and construct a permanent
19 treatment system.
20 We discovered a similar situation in
21 Suffolk county near the Gabreski Air National Guard
22 base, also by reviewing the UCMR data on file with
23 the EPA.
24 DEC and DOH are now working with
25 Suffolk County and the Suffolk County Water

1 Authority to get impacted private-well users
2 connected to the municipal water supply, free of
3 charge.
4 The rapid-response team also sent surveys to
5 2500 entities across the state that may have used
6 PFOA or PFOS. This includes manufacturing plants,
7 fire departments, airports, chemical bulk-storage
8 facilities, and other facilities.
9 We're currently compiling the results of
10 these surveys.
11 We have recently identified priority areas to
12 sample, and are now commencing field work to
13 determine if public and private water samples and
14 water supplies are impacted.
15 It's important to make this point:
16 The State will not simply wait for EPA to act
17 to expand the UCMR program.
18 We're continuing to work with our local
19 partners to find and implement clean-water drinking
20 solutions, and, the rapid-response team is
21 identifying other gaps in current policies,
22 protocols, and data, and developing recommendations
23 on how to address those, which may, indeed, include
24 legislative proposals.
25 In closing, I want to leave with you this:

1 DEC's mission is broad and vital, and our
2 3,000 dedicated professionals are among the best in
3 the business.
4 We're charged with protecting the state's
5 environment and all of its residents, and under my
6 watch, I intend to carry out my duties by leaning
7 forward, by bringing polluters to justice, and by
8 ensuring that every community in the state has the
9 clean air, clean water, and clean land that they
10 deserve.
11 Thank you for the invitation to testify
12 today, and I look forward to your questions.
13 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
14 much.
15 I'd like to note that we've been joined by
16 Assembly Member Tom Abinanti.
17 First question: When can we expect to see
18 the documents and correspondence that we previously
19 requested?
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
21 department has, I believe, forwarded those over.
22 ASSEMBLYMAN GOTTFRIED: Just, before you talk
23 further, do you swear that the testimony you will b
24 continuing to give is true?
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yes.

1 ASSEMBLYMAN GOTTFRIED: Thank you.
2 COMM. HOWARD A. ZUCKER, M.D., J.D.: Those
3 documents should have been forwarded over, and I'll
4 check to be sure that they're there.
5 I believe that they were sent.
6 ASSEMBLYMAN ENGLEBRIGHT: Okay.
7 Thank you.
8 I have some other questions, but that one,
9 regarding timeliness, and so forth, I thought shoul
10 to be first question.
11 What specific actions, on the part of
12 plastics' manufacturers, such as Saint-Gobain and
13 Taconic, led to the PFOA groundwater contamination;
14 and were such activities in violation of any DEC
15 permits, such as SPDES (the state
16 pollutant-discharge elimination system)?
17 COMM. BASIL SEGGOS: I can handle that.
18 The use of PFOA was integral to the process
19 of putting Teflon on certain materials.
20 From what we've come to understand, what
21 escaped the facility, whether it was through air,
22 water discharges, was done on a regular basis,
23 possibly over 40 years.
24 We had seen PFOA as, largely, an unregulated
25 contaminant nationwide. It was entirely unregulate

1 nationwide.
2 In New York State, PFOA was not a listed
3 substance that was regulated by DEC, and over the
4 years, PFOA entered the drinking water, the
5 groundwater system, through, often, un-permitted
6 discharges, and through the dumping across several
7 areas in Rensselaer County.
8 ASSEMBLYMAN ENGLEBRIGHT: When was the last
9 time that Saint-Gobain and Taconic were subject to
10 SPDES and air-permit inspections?
11 And are they subject to DEC's self-audit
12 policy?
13 COMM. BASIL SEGGOS: We regularly test the
14 air emissions at both facilities.
15 I'm happy to report that the most recent
16 tests we've conducted over the last year have shown
17 Taconic to be in compliance, as well as
18 Saint-Gobain.
19 Currently, Saint-Gobain does not discharge
20 directly to a waterway. They discharge into a sewe
21 system. They are also no longer using PFOA at the
22 facility.
23 So our understanding of the contamination at
24 that plant, is it had escaped over the years into
25 the groundwater underneath the plant.

1 Nonetheless, we are routinely inspecting both
2 facilities under all aspects of the law.
3 ASSEMBLYMAN ENGLEBRIGHT: So they didn't have
4 a SPDES permit, then?
5 COMM. BASIL SEGGOS: Correct.
6 ASSEMBLYMAN ENGLEBRIGHT: Using State
7 authority, Minnesota, West Virginia, and New Jersey
8 had PFOA drinking-water criteria in place, even
9 before the EPA enacted its 2009 health advisory.
10 Is there anything that would have prevented
11 New York from adopting its own standard, rather tha
12 waiting for the EPA?
13 And, if not, why didn't New York take similar
14 actions?
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: So we
16 followed the guidelines of EPA.
17 There's a -- and this is, as I mentioned in
18 testimony, a new and evolving area.
19 So when we looked at the unregulated
20 contaminants returned to what their advisory was in
21 2009, which said do everything to reduce exposure.
22 ASSEMBLYMAN ENGLEBRIGHT: Well, does New York
23 State plan on taking actions that are analogous or
24 similar to these other states?
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: The --

1 you know, I believe that these kind of issues are
2 more of a national issue when it comes to levels of
3 contaminants of this nature.
4 This is something which we have viewed as an
5 issue that's much more of a national issue rather
6 than just a state issue.
7 The issues that I mentioned are the things
8 that we are doing within the state. As I mentioned
9 in the testimony, we are moving forward aggressivel
10 on looking at the issues of unregulated
11 contaminants.
12 As I mentioned, if the federal government
13 doesn't do that, we will move forward on that.
14 ASSEMBLYMAN ENGLEBRIGHT: I think it's pretty
15 important because, very often, things happen that
16 are uneven from state to state.
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: So may I
18 add that -- that, also, that when there was -- the
19 numbers you mentioned, it was Governor Cuomo who
20 joined with the governor of New Hampshire and
21 Vermont, and sent the letter down to EPA to try to
22 get a national standard.
23 That's how we, ultimately, have the 70 parts
24 per trillion right now.
25 ASSEMBLYMAN ENGLEBRIGHT: Does the DEC plan

1 to require SPDES and other permits, such as air
2 permits, to disclose other emerging contaminants?
3 COMM. BASIL SEGGOS: I would certainly look
4 on that on a case-by-case basis.
5 Right now, we have a variety of contaminants
6 that we track and require controls at facilities
7 that are SPDES-permitted.
8 As the emerging contaminants become more --
9 more apparent, or if we determine that, in the
10 interests of protecting the environment or public
11 health, we would need to regulate those
12 contaminants, as we did with PFOA, then we would
13 take steps to, accordingly, build those into our
14 permits.
15 ASSEMBLYMAN ENGLEBRIGHT: So you're only in a
16 reactive mode, not in a proactive one?
17 I mean, the -- the Department of Health
18 entity, it seems to me, should be receiving copies
19 of emerging contaminants from the EPA, and getting
20 that, to the extent possible, ahead of the issue.
21 COMM. BASIL SEGGOS: I think as Dr. Zucker
22 testified, as part of the rapid-response team that
23 we're putting together, and we have put together
24 right now, we are being proactive; we are looking
25 ahead, we are looking at the next contaminants of

1 concern, and intend to adapt our regulations and th
2 State's posture on contaminants of concern.
3 And that's absolutely something we will be
4 doing.
5 COMM. HOWARD A. ZUCKER, M.D., J.D.: And we
6 are looking at the unregulated contaminants that ar
7 in New York State, and that's what I mention in the
8 testimony, proactively.
9 ASSEMBLYMAN ENGLEBRIGHT: Are you planning on
10 establishing public-health goals for likely
11 contaminants, such as perchlorate?
12 California, for example, has gotten ahead of
13 that, not waiting for a national standard.
14 COMM. HOWARD A. ZUCKER, M.D., J.D.: I'm not
15 sure I understand your question.
16 ASSEMBLYMAN ENGLEBRIGHT: The thrust of the
17 question is, basically, are we going to try to
18 establish public-health goals based upon actual
19 analysis --
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yes,
21 I --
22 ASSEMBLYMAN ENGLEBRIGHT: -- of suspected
23 major contaminants --
24 COMM. HOWARD A. ZUCKER, M.D., J.D.: --
25 right.

1 If there's a contaminant that is something of
2 concern --
3 ASSEMBLYMAN ENGLEBRIGHT: -- that may not yet
4 be certified as, you know, something that is a
5 problem?
6 We have a galaxy of potential problems.
7 If you were astronomers, you would want to
8 know which of those bodies out there had the chance
9 of striking earth.
10 Not all of them are going to do that, but
11 you'd want to know which ones are a threat.
12 And, so, you wouldn't just stand and look at
13 the sky and say, gosh, it's too much. I can't
14 really decipher what to do next.
15 What are we going to do next?
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: Right.
17 So, we work with CDC and other federal
18 agencies, look at the science, understand what the
19 data shows, and approach that.
20 And if there's a problem there, we'll move
21 forward to address it and make sure that the public
22 is protected.
23 If there's a problem of elevation of any
24 level, we will do what we need to do to protect the
25 public on that, going forward, on all positions.

1 ASSEMBLYMAN ENGLEBRIGHT: All right. I'm
2 going to have some other questions, but I'm going t
3 defer right now to my colleague Mr. Gottfried.
4 ASSEMBLYMAN GOTTFRIED: Thank you.
5 Commissioner, thank you, and
6 Commissioner Seggos, for coming again.
7 I'm going to ask a lot of questions that will
8 be focused on the Hoosick Falls situation, but
9 I want to stress to you and to people from other
10 communities that it's not that the Hoosick Falls'
11 situation matters more than any other.
12 It is one where we have much more of a body
13 of information, and I think can be a very useful
14 case study.
15 You know, here was extensive documentation of
16 the PFOA -- PFOA's health effects coming not only
17 from studies following the DuPont litigation that
18 came out in 2012, but New Jersey set standards in
19 '07, EPA had a draft health advisory as far back as
20 '05.
21 When did the health department become aware
22 of all of this documentation about PFOA?
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
24 PFOA we recognized is a hazardous substance, the EP
25 made note of that in 2001.

1 The literature out there we have followed
2 since the time of being informed that it was a
3 hazardous substance in '01.
4 As the profile advisories came out by the EPA
5 in 2009, we were aware of that, and moved forward t
6 take the necessary precautions at that point.
7 ASSEMBLYMAN GOTTFRIED: So the data about
8 health effects that came out of the DuPont-ordered
9 studies and other data, you were aware back when
10 that --
11 COMM. HOWARD A. ZUCKER, M.D., J.D.: So it
12 was an unregulated contaminant.
13 So when the EPA put forth this Unregulated
14 Contaminant Monitoring Rule, and that's been, now,
15 in its third session; so, five years, and we can go
16 back 15 years on that, we have been looking at the
17 data that comes forward from there.
18 The provisional advisory that I'm referring
19 to is the 2009 advisory that the EPA put forth, and
20 we've been monitoring specifically, following those
21 guidances at that point.
22 ASSEMBLYMAN GOTTFRIED: Okay, but the data
23 about health effects -- I'm now asking about scienc
24 data, not regulatory action -- the data out there
25 that Michael Hickey said it took him five minutes o

1 Google to find, was the health department aware of
2 that before Michael Hickey was?
3 COMM. HOWARD A. ZUCKER, M.D., J.D.: We are
4 aware that there are health associations between
5 PFOA and health effects from PFOA.
6 That, we've known.
7 ASSEMBLYMAN GOTTFRIED: Back before you were
8 hearing from Michael Hickey?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: Brad, do
10 you want to handle that?
11 DEP. COMM. BRAD HUTTON: Yeah, I think the
12 important thing is to note that, with respect to
13 PFOA and PFOS, it wasn't until the third round of
14 the Unregulated Contaminant Monitoring Rule, in 201
15 to '15, that systems began collecting data on this
16 specific unregulated contaminant.
17 So I think, while EPA was aware because of
18 other parts of the country, it really wasn't until
19 water systems in New York, the few that were
20 included in UCMR 3 were included in 2013-2015, that
21 we began really focusing on that contaminant.
22 ASSEMBLYMAN GOTTFRIED: But the information
23 about its hazardous nature, were you aware of that
24 before 2013, the information that was publicly
25 available on the Internet?

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
2 information was known to the team.
3 ASSEMBLYMAN GOTTFRIED: Okay.
4 So in August of '14, when
5 Kimberly Evans Magee of the department notified the
6 County that PFOA is an unregulated contaminant, and
7 that Hoosick Falls, therefore, is, quote, not
8 required to conduct any remedial activity, if
9 detected, at the time the DOH said that to the
10 County, you know, if there's no legal requirement,
11 so, end of story, at that point, the department kne
12 what a health hazard it was.
13 Whether it had been recognized
14 governmentally, the department was aware of that
15 data; correct?
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: The --
17 what we knew is the associations between health
18 effects of PFOA and the science that's out there.
19 The question -- the e-mail that you refer to
20 is, the question was, specifically, what needs --
21 what reporting recording needs to be done?
22 And that was what was asked.
23 ASSEMBLYMAN GOTTFRIED: And when you were
24 asked that, did the department think to say, by the
25 way, the law may not require you to do something,

1 but, you should know that it causes cancer, and
2 that -- and New Jersey has a very strict guideline,
3 and Minnesota, West Virginia, et cetera?
4 Did the department tell the people, the local
5 government, anything other than, you're under no
6 legal obligation, and as the state's doctor, that's
7 all we're going to tell you?
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
9 the first part of that was, that -- remember, this
10 was information that was provided to the Village,
11 and then the information to us, from a resident who
12 did the sampling.
13 We provided the information, that that needed
14 to be confirmed.
15 We also provided them information of what
16 health advisories are, and what needs to -- that yo
17 need to work to decrease your exposure to PFOA.
18 ASSEMBLYMAN GOTTFRIED: So in August of 2014,
19 the department said to Hoosick Falls' authorities,
20 yes, there are -- there are health problems with
21 this level of PFOA, and you should be reducing the
22 exposure?
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: So I'm
24 going to ask Dr. Wilson to respond because he was
25 there at the beginning, at that moment in time.

1 DR. LLOYD WILSON: So, just, you're supposed
2 to ask me...?
3 ASSEMBLYMAN GOTTFRIED: Oh, yes.
4 Do you swear that testimony you're about to
5 give is true?
6 DR. LLOYD WILSON: Yes, I do.
7 So let me just back up a little bit, just so
8 you understand where I'm coming from.
9 I'm a little stressed. This has been a very
10 tiring and long process.
11 But I also welcome the opportunity to talk
12 about drinking water, because I think, as a state,
13 and as a nation, we're uneducated on a whole.
14 And, so, I hope we are able to move forward
15 in a very positive fashion on how to improve a
16 system that's dealing with a very complicated issue
17 So to answer your question, I think you need
18 to understand the normal regulatory process.
19 And I don't mean to -- bureaucracy is not
20 really my thing, even though I work. I'm a
21 scientist by training.
22 The process is, if a water supply that's
23 regulated under our regulations, which, for the mos
24 part, derived from the State Drinking Water Act of
25 the '70s, what happens is, that water supply report

1 to our county health department.
2 Our county health department then turns to us
3 for guidance, expertise, when we're dealing with an
4 issue that we're not -- they're not familiar with,
5 that's, quote, not in the norm.
6 So this was an unregulated contaminant, not
7 monitored through any set program, like EPA's UCMR.
8 So they have a report of a resident.
9 So those e-mails in the very beginning, when
10 people read them, I know people have read them as,
11 we didn't care. We just -- you know, we were
12 saying, no problem, it's not regulated.
13 That's really not in the spirit of what
14 those e-mails were.
15 The spirit of those e-mails were, let's
16 clarify the regulatory requirements.
17 But I think, as you look through our actions,
18 through the whole course of the event, we never,
19 ever, thought that we shouldn't do something about
20 it.
21 The very first thing, and you can understand
22 this, we get reports from all over the state of a
23 resident concerned about a contamination.
24 It's not a question of the integrity of the
25 individual making that report.

1 It's a question of, if I asked one of my
2 relatives to go collect a sample, and they did it,
3 and they submitted it to a lab, I have no
4 understanding what the QAQC is on that sample,
5 I have no understanding of whether that sample was
6 collected properly, and whether it will give a
7 result that actually reflects what's in the water.
8 It could just be a mess.
9 So the very first thing in our process is to
10 ask that the water system collect samples to verify
11 the reports, to gain information.
12 And even for regulated contaminants, we ask
13 for two rounds to have that occur.
14 And that's what all that early e-mail is
15 about, is: What are the regulatory requirements?
16 And then, secondly, what should we do to go forward?
17 The very first thing that should be done to
18 go forward is verify, what is in the water, or what
19 is not in the water?
20 And that was what those early e-mails do.
21 ASSEMBLYMAN GOTTFRIED: So in August of '14,
22 was Hoosick Falls' water system told that this was
23 something they should be concerned about, and that
24 they should, therefore, be doing quality --
25 high-quality systemic sampling, and that that might

1 lead to the need for remediation?
2 DR. LLOYD WILSON: I do not know exactly when
3 that was said to them, but I do know that, in
4 September, October, that clearly was a message we
5 were giving to them.
6 And, again, we were working through the
7 County.
8 So the counties know the systems in their
9 county better than we do here in Albany, and so the
10 have the relationship with the water-system
11 operator.
12 And they, rightfully, are turning back to us
13 for guidance on something that's outside of the
14 normal rules and regulations.
15 And so, that dynamic; so there's
16 communication from us, through the County, back to
17 the Village.
18 But I certainly know that they sampled in
19 October and November, as per what we suggested.
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: Right,
21 so we repeated those tests in October, we repeated
22 the tests in November, to confirm; to do the two
23 confirmatory tests.
24 ASSEMBLYMAN GOTTFRIED: What is the
25 department's legal responsibility when it gets a

1 report like that?
2 What is its moral and professional
3 responsibility?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
5 responsibility is to work with the County and work
6 with the Village, to provide them with the
7 information, and to share with them, what are the
8 recommendations at -- or, the advisories set forth
9 at a national level, if there is a national health
10 advisory, to tell them to reduce exposure to PFOA.
11 And that's exactly what was done, once it was
12 confirmed that they do subsequent tests done at the
13 end of 2014.
14 And then to work with -- to work to assess
15 the situation, to inform the public, and to work to
16 decrease PFOA in the water supply.
17 ASSEMBLYMAN GOTTFRIED: And is the -- is that
18 testing in the fall of '14, is that what led to the
19 department and the County notifying EPA in December
20 of 2014 about PFOA?
21 COMM. HOWARD A. ZUCKER, M.D., J.D.: In
22 December 2014, EPA Region 2 was informed about what
23 the tests showed from -- what the confirmatory tests
24 showed.
25 ASSEMBLYMAN GOTTFRIED: Okay.

1 Now, in November of 2015, Saint-Gobain
2 started making bottled water available to people in
3 Hoosick Falls, and, I gather, began spending about
4 $2 million, I think, on a filtration system for the
5 village.
6 How did that come about?
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: So we
8 actually worked with Saint-Gobain to guarantee that
9 the bottled-water system would be in place, and tha
10 was solidified in October of 2015, the same time we
11 were working with establishing a filtration system.
12 So we've been working all along, I mean, the
13 issue here, as we've jumped to November 15th from
14 2014.
15 But the entire period of time of 2015, there
16 was a tremendous amount of work that was being done
17 to identify the source, to figure out what kind of a
18 procedure, or what would need to be done, to
19 alleviate the PFOA that was out there.
20 We needed to find out, and Dr. Wilson can
21 talk to this further, about what kind of system,
22 whether it was a first osmosis system, adding
23 something to the pipes, or a granulated
24 activated-carbon system.
25 In addition to that, we also needed to find

1 out whether this was actually in the water or
2 whether it was part of the system in general, that
3 pipes that were put in place.
4 We worked with the Village, we spoke with the
5 mayor.
6 Over that course of time, you will find that
7 there are many communications, and the village mayo
8 himself was saying that he -- in his letters to the
9 community, saying that they we were working closely
10 with the Department of Health to alleviate this
11 problem.
12 So there was much being done during that
13 window of time, from when we jumped from 2014, all
14 the way to 2015.
15 ASSEMBLYMAN GOTTFRIED: Okay.
16 Now, in November of 2015, EPA wrote to
17 Hoosick Falls, with a copy to the department, sayin
18 that the concentrations in the water in -- from man
19 sites were over 600 parts per trillion, and that
20 that exceeded the short-term exposure concentration
21 level of 400 parts per trillion, and that -- and
22 said that this suggests the need to discontinue use
23 of the water, and that these amounts can -- may
24 cause adverse health effects.
25 When did the department learn that the

1 result, the concentration levels, were above 600?
2 COMM. HOWARD A. ZUCKER, M.D., J.D.: So I
3 just want to -- I'll answer that, but I just want t
4 confirm that there were inconsistencies there with
5 EPA, and what you're mentioning about those letters
6 There was inconsistencies back, dating all
7 the way -- around that time, dating from November o
8 2015.
9 Your question of when we learned about the
10 level; we learned about the level in November and
11 December of 2014, and that's when we took the
12 actions to decrease the PFOA that was in the water,
13 and then moved forward to do whatever we could to
14 decrease the PFOA with a filtering system.
15 ASSEMBLYMAN GOTTFRIED: Now, when you saw the
16 letter from the department -- I'm sorry, from EPA i
17 November of '15, talking about the need to avoid
18 using that water, did the department seek
19 clarification about what that meant, or --
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: So this
21 is where there's the -- as I mentioned, the
22 inconsistencies.
23 EPA, in 2009, issued an advisory that said
24 action should be taken to reduce exposure to
25 unregulated contaminants.

1 The letter of November 2015 that was sent by
2 Region 2 references something which was no longer -
3 for a fact sheet of EPA back earlier in -- two year
4 back, in 2014, which then no longer said anything
5 about using a different source of water.
6 And, in fact, if you look now at 2016, the
7 EPA health advisory for PFOA and PFOS does not brin
8 that up either. It goes back to the language of
9 2009.
10 So this sudden 2015, November, letter which
11 references something which no longer is referenced
12 or in any other data, our team actually inquired
13 about this, to try to figure out, why was there suc
14 an inconsistency in there?
15 And we could not actually get an answer from
16 the EPA about that exact issue. And they said it
17 must be, as I understand it -- and Lloyd can
18 probably respond to this a little bit more -- that
19 we couldn't get an answer from them as to why that
20 sudden change.
21 So the reference that you make in the letter
22 of November 2015 cites a statement in a document
23 that, one month later, was removed from the EPA
24 document.
25 So they have a fact sheet in February 2014

1 that says something that was picked up by the
2 Region 2 administrator. And then, in March 2015,
3 that same statement is gone, and it was never put
4 back in; and it was never put back in, even in the
5 2016 -- May 2016 advisory, which we now use.
6 ASSEMBLYMAN GOTTFRIED: So you're saying --
7 are you -- what is it that EPA stopped saying in
8 March of 2015?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
10 you had mentioned about -- to not to use the water,
11 you were mentioning in your question.
12 ASSEMBLYMAN GOTTFRIED: Yeah.
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: And
14 they're referencing back to that, and they're
15 referencing back to a fact sheet: the issue is to
16 decrease the PFOA.
17 Brad, did you want to add something?
18 DEP. COMM. BRAD HUTTON: Yeah, I think the
19 point Dr. Zucker was --
20 ASSEMBLYMAN GOTTFRIED: Just, again, do you
21 swear that your testimony is true?
22 DEP. COMM. BRAD HUTTON: I sure do.
23 ASSEMBLYMAN GOTTFRIED: Yeah, thank you.
24 DEP. COMM. BRAD HUTTON: Thank you.
25 -- I think the point here with the advisory

1 is, is that when EPA finally issued their lifetime
2 health advisory in May 2016, they, once again, did
3 not have any statements in there, that if there wer
4 levels above that new lifetime health-advisory
5 level, that residents should not drink the water.
6 ASSEMBLYMAN GOTTFRIED: But in no -- I've
7 seen several documents from EPA in that period,
8 addressed to The People of Hoosick Falls, and to th
9 department, saying that, if levels are above 400,
10 people should not be consuming that water.
11 Sometimes they say, don't drink that water
12 until the level comes down.
13 Sometimes they just say, don't drink that
14 water.
15 Obviously, if the level comes down, that
16 statement wouldn't apply to that water anymore.
17 I haven't seen any document, in the time
18 period we're talking about, in which EPA says it's
19 okay to drink water at 400.
20 There does come a point where they say,
21 actually, for short-term exposure, it's 100. And,
22 eventually, they get around to saying, apparently,
23 that, for lifetime exposure, or long-term exposure,
24 it shouldn't be above 70 parts per trillion.
25 But when the department -- I mean, when the

1 department saw EPA saying, you've got 600 parts per
2 trillion, you shouldn't be drinking more than
3 400 parts per trillion, did the department contact
4 EPA and say, what are you talking about?
5 COMM. HOWARD A. ZUCKER, M.D., J.D.: So as
6 I mentioned before, we contacted the EPA regarding
7 the inconsistencies there.
8 But I think it's important to discuss this
9 issue of, when the EPA issues a health advisory --
10 and you will find that in the EPA documents
11 themselves, it states that these health advisories
12 are issued with a large margin of protection -- and
13 your goal at that point is to decrease your PFOA
14 exposure.
15 The level is not a bright line.
16 I think it's also referencing that, in other
17 states in the nation, including Colorado, Alabama,
18 and Pennsylvania, which are other EPA regions, both
19 2, 3, and 4, there are documents that the EPA had
20 put out and -- regarding the drinking of the water
21 in Colorado, and this was just this year, it says
22 concentrations of PFCs above, you know, advisories
23 may be used for drinking, bathing, and all indoor
24 and outdoor activities.
25 I'm quoting from their statement.

1 And then -- but only three months earlier,
2 the Region 2 area said, it is recommended to use an
3 alternative drinking source.
4 And, similarly, there's -- in Pennsylvania,
5 in 2015, Region 3, makes a similar statement, that
6 health-advisory levels are designed to have a
7 significant built-in cushion of protection to
8 account for uncertainties related to toxicity and
9 other sources of exposure.
10 And the same in Alabama, which is Region 4,
11 the provisional health advisories, I'm quoting
12 again, "may cause adverse health effects from
13 short-term consumption."
14 And these advisories are all, what I'm saying
15 is, inconsistent.
16 So Region 2, Region 3, Region 4, and Region 8
17 all have different recommendations that are put
18 forth.
19 ASSEMBLYMAN GOTTFRIED: Okay, but in
20 New York, the department appears to have been
21 concerned enough about drinking this kind of water,
22 that it was working with Saint-Gobain to be
23 providing bottled water and starting a filtration
24 process.
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: So --

1 ASSEMBLYMAN GOTTFRIED: You weren't trying --
2 you weren't cajoling them, or whatever, to do that
3 just for the fun of it. There was a reason.
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: -- we
5 were working with Saint-Gobain to put in -- well,
6 two things:
7 One is, a filtering system and the bottled
8 water.
9 We were working on identifying, what's the
10 best kind of system?
11 We figured out that it was a granulated
12 activated-carbon system.
13 We went forward --
14 ASSEMBLYMAN GOTTFRIED: Right, but why bother
15 if there's no health problem?
16 Why were you doing that if, somewhere, you
17 didn't know, from the kind of information you could
18 Google in five minutes, that this level of PFOA is
19 really bad?
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
21 level -- and I think I have to bring this point bac
22 to the issue of the margin of protection that's put
23 forth.
24 We recognize there's an association between
25 PFOA and health effects.

1 But as I mentioned, following the guidelines
2 they put forth, if you look at the EPA and what the
3 say, is when you have a health advisory that's put
4 into place, you don't put a health advisory in --
5 where the health effects occur at the level of a
6 health advisory.
7 So what you -- when you have a health
8 advisory, the goal at that point is to do everythin
9 possible to decrease the exposure to PFOA.
10 Which is exactly what we were doing in the
11 effort to put in a filtering system: identify the
12 source, and put in the filtering system.
13 ASSEMBLYMAN GOTTFRIED: But the
14 Hoosick Falls' water was 50 percent above that
15 level.
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: Right.
17 So I think when --
18 ASSEMBLYMAN GOTTFRIED: And, again, I assume,
19 if you were pressing for bottled water and
20 filtration, it was for a reason. You were concerne
21 about something.
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: So -- so
23 here -- first of all, about this "50 percent above,
24 and when you look at numbers, and when you get into
25 a whole process of numbers, but when these

1 advisories are set, they start with a level, an
2 animal model, at 110,000. And then they build in,
3 they convert it into, what would be for humans, and
4 then they take into account high-risk populations,
5 and they keep dividing it down.
6 There is a large margin of protection that's
7 put into place. So once it crosses that level, the
8 goal at that point is to start to (1) identify the
9 source, and (2) figure out how to remove it.
10 Then we were working with Saint-Gobain, and
11 we realized that this is another thing that we coul
12 do at that point in time.
13 But I think we've got to go back to the issue
14 of what the EPA -- how a health advisory is set,
15 and, also, use the guidance and the information tha
16 is provided to us by our national partners.
17 ASSEMBLYMAN GOTTFRIED: Now, in early
18 December of '15, the health department put out a
19 fact sheet to Hoosick Falls, that, in the second
20 line, it says, "Health effects are not expected to
21 occur from normal use of the water."
22 And later in that document there's a Q&A,
23 where it says, "Are health effects expected, given
24 the PFOA levels found in Hoosick Falls" -- "in
25 Hoosick Falls' public water system?"

1 And the answer to that question is a one-word
2 sentence, "No."
3 Now, it's followed by a few more sentences.
4 But in early February, the answer to the
5 question given by the health department, "Are healt
6 effects expected, given the PFOA levels found in th
7 Hoosick Falls' water system?" the answer is, "No."
8 How could the department say that, given all
9 the information that the department had, going back
10 several years, that was fully available to the
11 public, and, given EPA's statement, that you
12 shouldn't -- in a health advisory, that said you
13 shouldn't be drinking the water in Hoosick Falls?
14 ASSEMBLYMAN ENGLEBRIGHT: So, again, one part
15 of that is that -- in response to the second part o
16 what you mentioned, the EPA is referencing somethin
17 which we have --
18 Sorry.
19 ASSEMBLYMAN GOTTFRIED: I'm sorry.
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: -- the
21 EPA is referencing something which was a document,
22 which we cannot find why they had that, and then
23 they removed that fact, all the way up to 2016.
24 Regarding these numbers, we also do our own
25 risk assessments as well, looking at the

1 information, and we did do a risk assessment on tha
2 as well.
3 Brad, did you want to add something?
4 DEP. COMM. BRAD HUTTON: Yeah, I wanted to go
5 back to the fact that when we are asked why we did
6 what we did, the issue is that, EPA, their
7 expectations, the way that they handle this same
8 situation in other communities around the nation, i
9 very similar.
10 When you look at EPA Region 3 in
11 February 2015, which is an area near Pennsylvania,
12 they have a very similar statement, and this is
13 something I quote right from an EPA document:
14 "Health-advisory levels are designed to have
15 a significant built-in cushion of protection to
16 account for uncertainties to toxicity and other
17 sources of exposure."
18 Very similar statement in another part of the
19 country, EPA Region 4, the spring of 2013, in a ver
20 similar situation of PFC contamination near Decatur,
21 Alabama, this is a statement, again from EPA:
22 "Provisional health advisories, are the
23 concentrations of PFOA or PFOS in drinking water
24 that will not cause health effects from short-term
25 consumption."

1 So when you ask us, Senator Gottfried --
2 ASSEMBLYMAN GOTTFRIED: That mean --
3 DEP. COMM. BRAD HUTTON: -- if we were --
4 ASSEMBLYMAN GOTTFRIED: Excuse me, excuse me.
5 SENATOR HANNON: Let him answer.
6 ASSEMBLYMAN GOTTFRIED: All right.
7 Continue.
8 DEP. COMM. BRAD HUTTON: When you ask us if
9 we expressed concern to EPA Region 2 at the positio
10 they were taking, we absolutely did.
11 And in the weeks leading up to Ms. Enck's
12 letter to the community, issuing a "Do Not Drink,"
13 we said, wait a minute. That is exactly what --
14 what we've been doing is exactly what EPA is doing
15 in other regions of the country.
16 And, furthermore, we have bottled water in
17 place. We've secured a commitment from Saint-Gobai
18 to actually provide bottled water.
19 Why are you going to issue a letter, stating
20 "Do Not Drink," when the water's already been put i
21 place by us?
22 ASSEMBLYMAN GOTTFRIED: Well, first of all,
23 was your expression of concern to EPA, objecting to
24 them saying you shouldn't drink water above 400
25 parts per trillion, was that objection expressed

1 either in postal or e-mail?
2 And, obviously, my next question is, can
3 I have a copy of that?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: We'll
5 find out how it was expressed. We'll find out.
6 ASSEMBLYMAN GOTTFRIED: And EPA is not the
7 only source of scientific information.
8 The department was aware of the information
9 gathered by coming out of the DuPont settlement
10 study, and other studies. I mean, you've said you
11 were aware of all that.
12 So even if EPA in other regions wasn't saying
13 that, wasn't it clear to the department that you
14 shouldn't be, on a long-term basis, drinking
15 600 parts per trillion?
16 You know, maybe if I'm visiting Hoosick Falls
17 for the day and I drink water from the tap, that's
18 not going to give me cancer. That's what
19 "short-term exposure" means.
20 But if I'm drinking that water every day for
21 decades, shouldn't that be a matter of concern?
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: So I
23 think that you bring up the issue of corporate
24 polluters.
25 And the fact is, there is a company that had

1 been polluting the community for decades.
2 And our job, once we found out that there was
3 a problem, was to figure out how -- where the sourc
4 was, what the problem was, and to eliminate it.
5 And that was the purpose of the filtering
6 system, and we moved in there quickly.
7 I hear you, that decades of exposure --
8 ASSEMBLYMAN GOTTFRIED: But that's -- but if
9 you understood that it was a problem, a problem
10 worth making somebody spend a lot of money to
11 provide bottled water and filtration; if you
12 understood it was a problem, why were you telling
13 the people of Hoosick Falls that there was no reaso
14 to expect health effects from drinking the water
15 with levels that high?
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: We
17 always said there's an association between PFOA and
18 health effects.
19 That's not what -- we have not said that.
20 We've said there was an advisory, and that
21 there's a calculated large margin of protection
22 that's put into place.
23 ASSEMBLYMAN GOTTFRIED: The December 2015
24 fact sheet says that the Department of Health had
25 its own mathematical models that suggested differen

1 levels that should be used.
2 What were those levels?
3 And, can we have a copy of that methodology
4 and the models and the results?
5 And did you share that methodology and those
6 results, either with the EPA or with independent
7 organizations concerned about this sort of thing, t
8 get their reaction to your models?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: So,
10 first, yes, we can share with you how we came about
11 those assessments.
12 And, on those levels, regarding the sharing
13 it, I'm going to turn to Lloyd Wilson and the team
14 as to whether we can share.
15 ASSEMBLYMAN GOTTFRIED: And, by the way, when
16 you say you'll share it with us, the last time we
17 asked for information was, I think in April, and we
18 sort of got it last night. Right? And we got hard
19 copy, not electronic, so it's hard to share. And a
20 large block of it was actually unreadable.
21 I assume that information is something that
22 you could provide to someone later today.
23 I would hope I would be one of the people you
24 would provide it to later today.
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: All

1 right. We will work on that. Make a note to
2 myself.
3 And, Lloyd, did you want to add anything?
4 DR. LLOYD WILSON: I just want to -- I'd like
5 to reiterate that all of those measures were in
6 place before we got the letter from EPA, which was
7 part of the reason why we were confused.
8 Why were they saying to do these things when
9 we were already doing them?
10 So I think that's a very simple thing, just a
11 part of the confusion, and a lot of the phone calls
12 that were made by our toxicologists.
13 Drinking water, as I said before, is very
14 complex, so it requires a team of individuals.
15 So the toxicologists/risk assessors called
16 the risk assessors from EPA Region 2.
17 They also called the EPA headquarters.
18 They followed up with calls after all of
19 that, in December, and more recently.
20 And everything points back to, there's
21 uncertainty as to why EPA ever put that in that one
22 fact sheet that says "the short-term."
23 The person who originated that's deceased.
24 And, there's been recognition verbally to us
25 that they don't know why they put that there.

1 But I really want to stress the main thing
2 was --
3 ASSEMBLYMAN GOTTFRIED: Who at EPA said that?
4 DR. LLOYD WILSON: -- we had a bottled-water
5 program --
6 ASSEMBLYMAN GOTTFRIED: Excuse me, excuse me.
7 Who at EPA said they don't know why they put
8 the 400 parts per trillion in a document?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yeah,
10 I'm going to ask Nathan Graber to come up, because
11 he was involved in those calls.
12 ASSEMBLYMAN GOTTFRIED: And, Dr. Graber, do
13 you swear the testimony you're about to give is
14 true?
15 DR. NATHAN GRABER: Yes, I do.
16 ASSEMBLYMAN GOTTFRIED: Thank you.
17 DR. NATHAN GRABER: All right. So I just
18 want to try to clarify a little bit, some of the
19 information that you're presenting to us. And the
20 questions, I think they're good questions.
21 But I want to point out that we did have many
22 discussions with EPA.
23 I don't know that those are documented.
24 E-mails are written correspondences.
25 But we certainly discussed with them the

1 concerns that we had with some of the approaches
2 that they were taking over that time.
3 The first thing, I think, and Dr. Wilson
4 pointed this out, is that we couldn't understand wh
5 they were demanding that we put things in place tha
6 we had already had worked to put in place.
7 And I think this speaks to your question
8 about, well, if we're saying in our fact sheet, "we
9 don't expect health effects to occur," why are we
10 working to put all these things into place?
11 And the determination, that we didn't expect
12 health effects to occur, that's based on valid,
13 scientific, risk-assessment approach to assess what
14 the risk for health effects is.
15 And it was determined that the risk for
16 health effects was low.
17 That being said, we were also advising people
18 to reduce exposures.
19 We were advising people to drink bottled
20 water, which we had set up and put in place prior t
21 the letter we received from EPA.
22 And, we were working with the Village and
23 with Saint-Gobain to install a carbon filtration
24 system to remove the PFOA from the drinking water.
25 I think the other -- the other thing that

1 I just want to bring up is that, the statement made
2 by the EPA, regarding the risk for health effects
3 should you exceed a health advisory, was
4 inconsistent with anything else that EPA has writte
5 about with a health advisory before.
6 They were treating the health advisory like
7 a -- sudden, like, bright line, above which people
8 would get health effects.
9 I mean, we understand the science is out
10 there; the science is out there demonstrating the
11 associations between PFOA exposure and health
12 effects, and we worked towards reducing those
13 exposures.
14 We worked towards getting the bottled water
15 in place. We worked towards getting the granular
16 activated-carbon.
17 We also worked towards assuring that that
18 granular activated-carbon system didn't just delive
19 water below the health advisory, but delivered wate
20 at levels -- that contained levels of PFOA that wer
21 non-detect by our laboratory.
22 So the reason why we did that's because we do
23 understand that there is uncertainty in the science.
24 And that uncertainty in the science means that, eve
25 though we think the risks for health effects may be

1 low, there is some risk, and, we may learn more in
2 the future, going forward.
3 So this is -- I don't know if this answers
4 entirely your question, but, I just want to point
5 out that we did have discussions with EPA during
6 that time period, to try to understand why they wer
7 saying the things that they were saying, and making
8 the decisions that they were making.
9 And we wanted to align ourselves with EPA in
10 that process. In order to do that, we needed to
11 understand why they were doing what they were doing
12 ASSEMBLYMAN GOTTFRIED: Okay.
13 Now -- excuse me, Dr. Graber, you said you
14 have scientific information showing that the risks
15 are very low.
16 Could you send that to me?
17 DR. NATHAN GRABER: So as the Commissioner
18 said, we can provide you with the background on how
19 we made that determination.
20 ASSEMBLYMAN GOTTFRIED: You can, and you
21 will?
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: We will
23 get the data to you.
24 ASSEMBLYMAN GOTTFRIED: The legislation that
25 you're talking about, requiring small systems to

1 test, does New York have existing statutory
2 authority to regulate substances like this going
3 into the water?
4 And if we don't have that statutory
5 authority, should we?
6 COMM. HOWARD A. ZUCKER, M.D., J.D.: So
7 New York has -- the private wells are regulated --
8 sometimes regulated at the local level in
9 New York State.
10 And the proposed legislation is to require
11 that all private wells be tested upon the sale of
12 property. That's what I was talking about in the
13 testimony.
14 ASSEMBLYMAN GOTTFRIED: Right, but does
15 either the health department or DEC at this point
16 have authority to require a water system, large or
17 small, either one, to not have a particular
18 concentration of a substance, even if it isn't
19 regulated by EPA?
20 And if you don't have that statutory
21 authority, should you?
22 ASSEMBLYMAN ENGLEBRIGHT: So I'll check on
23 the statutory authority and the levels.
24 COMM. BASIL SEGGOS: Yes, DEC's authority, we
25 don't have authority to regulate what goes into

1 drinking-water systems.
2 We have the authority to regulate cleanups.
3 Just so you are aware.
4 ASSEMBLYMAN GOTTFRIED: Thank you.
5 ASSEMBLYMAN ENGLEBRIGHT: We have been joined
6 by Assemblymember Gantt and
7 Assemblymember McDonald.
8 And I should, before moving to my left, and
9 what we're going to do is, go down the line,
10 beginning with --
11 SENATOR HANNON: We're going to go over to
12 the Senate. Okay? That's what we're going to do.
13 ASSEMBLYMAN ENGLEBRIGHT: If that's what you
14 would prefer, then that's what we will do.
15 All right. We'll come back,
16 Mr. McDonald -- Mr. McLaughlin, and begin
17 with you, and move down the line.
18 And then there will be -- because we have so
19 many members, there will be a certain choreography
20 that we'll have to have, so that the members who ar
21 sitting elsewhere will be able to come to the
22 microphone.
23 But while we're working the choreography out,
24 let me hand the podium over to the Senate.
25 SENATOR HANNON: Senator DeFranciso.

1 SENATOR DeFRANCISCO: I would just like to
2 ask very succinct questions, and get very succinct
3 answers.
4 A lot of people here want to speak, and the
5 like.
6 And I want to put to bed these questions that
7 were just asked, that I had asked in Hoosick Falls.
8 There is little question that you've said
9 repeatedly, and I'm talking to Dr. Zucker now, that
10 there has been confusion.
11 Let's assume, for the purpose of my
12 questions, that there is a different rule in every
13 state of the union. And if you want to even go
14 further, let's just say there's a different rule fo
15 every EPA administrator, or, that they're totally
16 incompetent.
17 Let's just take EPA out of this.
18 I'm not looking for fault. I'm trying to
19 look for what our response was.
20 There's no question that it was a good thing
21 to deal with the companies, to try to get water
22 there, to get a filtration system, et cetera,
23 et cetera.
24 But what I can't understand for the life of
25 me, when you talk about this confusion, you also --

1 the EPA came out with a "Do Not Drink The Water" in
2 December of 2015.
3 And at the end -- '16-- no, it's '15, and
4 you -- and the Department of Health and their fact
5 sheet said it's okay to drink, after --
6 I don't care what the EPA said.
7 -- after you've already felt it so
8 important, that you're getting water there, you're
9 bringing in a filtration system, you're trying to
10 protect the residents.
11 Tell me, how did the EPA fool you into saying
12 "Do Not Drink The Water"?
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: When the
14 EPA put out their information and said, "Do Not
15 Drink The Water," the next day, we complied with
16 that, in December.
17 We were moving forward to, as I said before,
18 decreasing exposure. And when they said that, we
19 complied.
20 SENATOR DeFRANCISCO: But the fact sheet for
21 the benefit of the residents was not changed at all
22 "The water is okay," according to the State
23 of New York Department of Health.
24 Is that fair to say?
25 That never was changed.

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: What was
2 said was, that there was an association between
3 health effects and PFOA, and that we were following
4 what the EPA had put forth.
5 And as I mentioned before, there was some
6 confusion in that. And when the confusion was put
7 forth, we tried to get that clarified.
8 SENATOR DeFRANCISCO: Doctor, I don't think
9 there's anybody that can read the English language,
10 that can get -- confuse the edict, or the
11 determination, from the health department, that
12 if -- the water is not dangerous to people, in that
13 fact sheet.
14 I mean, can you -- is there any other
15 interpretation, no matter how confusing this
16 incompetent EPA is?
17 What other conclusion can you draw from that?
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: The fact
19 sheet was provided to give the community as much
20 information as we could about PFOA.
21 I will admit that, as mentioned in the week
22 before -- last week's testimony, when there was --
23 when Senator Hannon brought up it was unclear, that
24 that fact sheet probably could have been clearer fo
25 the public.

1 SENATOR DeFRANCISCO: Okay. So now we're at
2 the point where -- and you said you were going to
3 get us stuff.
4 But somebody there, maybe the fella in the
5 far left here -- I'm sorry, I missed your name --
6 maybe somebody could at least tell me, generally,
7 what was your analysis that led you to the
8 conclusion, before the EPA was so confused, what wa
9 the analysis within your department that determined
10 that you would be able to say that the water is
11 safe?
12 What was the methodology? What sources did
13 you use?
14 I don't care if it's X parts per trillion.
15 I want to just know what sources you went
16 after.
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: So we
18 will -- I'll have the team walk you through that.
19 But I want you to understand that, as
20 I mentioned it, there was a provisional advisory.
21 These have large margins of protection.
22 We were looking at the numbers that were in
23 the community at that time, and did our assessment.
24 But I will have the team give you --
25 I understand what you're asking for.

1 I'll have the team give you the specifics of
2 how they broke that down.
3 I can tell you about the margin of
4 protection, and how we get the number of "400."
5 But, the specifics you're asking, Nat?
6 DR. NATHAN GRABER: So the process that we go
7 through, is to understand -- when we receive result
8 from a drinking-water system, is to understand how
9 those levels fit into the interpretation of the
10 health advisory, or the science that was used to
11 develop the health advisory.
12 And the sort of -- the process that we go
13 through to characterize the risk is one that's used
14 not just by us, but also by the EPA.
15 And we just started with the same science
16 that the EPA used, and calculated up, to see what
17 the degree of risk would be associated with the
18 levels of PFOA in the drinking water.
19 I don't want to try to go into too much
20 detail, I think, at this point, but I -- you know,
21 I think it's important to understand that the healt
22 advisories are not set at health-effects levels.
23 And that's something that EPA agrees with,
24 and the EPA has characterized health advisories in
25 the same way.

1 And the determination, or the conclusion,
2 that was in the fact sheet was based on that same
3 scientific, valid approach that -- not just that we
4 use, but also that the EPA would use.
5 SENATOR DeFRANCISCO: All right.
6 I'm very close to the end here because
7 I don't want to belabor this.
8 But I think it's important to -- is it fair
9 to say that whatever that analysis was, how you
10 described it, whatever documents are going to be
11 provided, that you had already demanded bottled
12 water be used; you already started changing the
13 filtration system in some areas of Hoosick Falls?
14 So is it fair to say you didn't really rely
15 on that science that gave you the opportunity to sa
16 the water is fine?
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: The goal
18 is to always reduce the PFOA exposure down.
19 We recognize that, even at a level of 400,
20 the health-advisory level, as it says in the EPA,
21 you should take actions to reduce exposure.
22 Included in that's the filtering system.
23 So when it crosses that advisory, and as
24 I mentioned before, and there's a large margin of
25 protection built in there, but, still, when you've

1 crossed that advisory, you need to work to decrease
2 it.
3 And these are the steps that were taken, and
4 working on the filtration system was the first thin
5 in place.
6 SENATOR DeFRANCISCO: Last question: Isn't
7 it part of working to reduce the exposure, telling
8 the general public that it ain't safe to drink?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: We
10 worked with the Village, and they provided
11 information about the exposure, and that we're
12 working to decrease the exposure.
13 I think that it comes back to this whole
14 issue about margin of protection.
15 And I think what I'm hearing is that,
16 there's -- at 400, once you cross over 400,
17 suddenly, you've crossed a bright line.
18 And that's not the case.
19 The reason these are designed this way is so
20 that, once you cross over that amount, you can star
21 working to decrease the PFOA.
22 SENATOR DeFRANCISCO: So you won't even
23 concede this basic point, this basic point being:
24 There is at least a contradictory message coming ou
25 from the Department of Health, number one, and your

1 guidance, or your fact sheet, it's okay to drink th
2 water?
3 Number two, we're getting clean water in
4 bottles. We're getting this, that, and the other
5 thing happening in Hoosick Falls.
6 That's not at least contradictory for the
7 notification to the residents?
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: The -- a
9 problem -- as I've said, the advisory, once we put
10 the advisory out -- once the EPA has -- puts the
11 advisory out, the goal here is to decrease the
12 exposure.
13 You can cross a level-- I can use examples of
14 other issues in -- you know, as a doctor, in
15 clinical medicine, you cross a level. It doesn't
16 mean, once you cross that level, the minute you
17 cross the level -- pick your cholesterol level --
18 suddenly, there is a problem.
19 The goal, then, is to decrease -- do
20 everything you can to decrease that level.
21 And that's what we were doing. Once the
22 advisories happened, we worked to decrease that
23 exposure.
24 And that advisory was set by the PFOA -- at
25 the EPA for PFOA of 400. Then it was 100, and then

1 it was 70.
2 And we followed them all along on this.
3 Regarding the water, when EPA said, you know,
4 "don't drink the water," we followed them 24 hours
5 later with -- remained consistent with them.
6 SENATOR DeFRANCISCO: I give.
7 [Laughter.]
8 ASSEMBLYMAN ENGLEBRIGHT: Thank you, Senator
9 Hannon.
10 And let's go to some questions from
11 Member McLaughlin.
12 ASSEMBLYMAN McLAUGHLIN: Thank you.
13 Chairman Englebright and Chairman Gottfried,
14 thank you for this, and to the Senators as well.
15 You know, it's distressing to me that, after
16 being given ample notice to provide this Committee,
17 this Legislature, with documentation that was
18 requested, that you still don't have it.
19 I find that to be pretty disrespectful to the
20 people of New York State and to this Committee.
21 You had plenty of time to provide it.
22 You have yet to provide that.
23 Is there a reason why we don't have it when
24 it was asked for weeks and weeks ago?
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: I will

1 look into the timing of that. I believe that it's
2 been forwarded.
3 ASSEMBLYMAN McLAUGHLIN: You believe, what?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: It's
5 been sent.
6 ASSEMBLYMAN McLAUGHLIN: It's been sent by
7 last night?
8 Last night. Okay.
9 And once again, you know, we got another --
10 it just seems to me that -- well, it seems to me
11 that we're intent again on blaming the EPA, and
12 taking absolutely no responsibility for any of this,
13 in Hoosick Falls.
14 And there's a nice game going on between,
15 you're going blame the EPA, and then push
16 responsibility onto the Village, which is a small
17 village; and, meanwhile, the DOH just continues to
18 say, we didn't do anything wrong.
19 So it's distressing to hear that.
20 And it's going make for a fairly long day,
21 and some pretty intense questioning, because you ca
22 see, I don't think that the members up here are
23 quite buying the fact that the DOH holds no
24 responsibility in this.
25 Now I'm going to dig into a couple of things.

1 And, Dr. Wilson, I just want to point out,
2 you said you were stressed and tired.
3 I just want to point out that "stressed and
4 tired" is the parents of Hoosick Falls when they
5 opened up the envelopes and saw the blood-level
6 numbers of their children.
7 [Applause.]
8 ASSEMBLYMAN McLAUGHLIN: That's stress,
9 that's tired.
10 So excuse me if I don't have much any
11 sympathy for your stress.
12 I have an entire community that's stressed.
13 DR. LLOYD WILSON: I was not looking for --
14 [Applause.]
15 DR. LLOYD WILSON: -- I was not looking for
16 sympathy.
17 I just wanted to make sure -- if I said
18 something that insulted somebody by accident, it wa
19 because of being stressed, not because I was lookin
20 for sympathy.
21 I do not have any sense that I deserve any
22 sympathy.
23 ASSEMBLYMAN McLAUGHLIN: Thank you.
24 DR. LLOYD WILSON: That's -- I really don't
25 like that question.

1 ASSEMBLYMAN McLAUGHLIN: So it wasn't a
2 question. It was a statement.
3 And what -- you know, the other thing you
4 just said, "if you offended anybody by saying that.
5 What's offensive to the people of
6 Hoosick Falls, just so you all know, they're sittin
7 right there, denying anything that went wrong here.
8 What's offensive, is that for 18 months, they
9 were not told that their water was tainted.
10 Now, Dr. Zucker, here's a question.
11 You have a law degree; correct?
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yes,
13 that's correct.
14 ASSEMBLYMAN McLAUGHLIN: You have a medical
15 degree; correct?
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: That is
17 correct.
18 ASSEMBLYMAN McLAUGHLIN: Did you feel any
19 legal obligation to inform the people of
20 Hoosick Falls that their water exceeded EPA
21 guidelines at the time you knew it?
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: Assembly
23 man, you know, I take issue to some of your
24 statements.
25 Number one, the Village.

1 We worked closely with the Village.
2 Our team was out there in the village. We
3 worked three days a week, working with them,
4 regarding biomonitoring, regarding testing,
5 regarding questions. We brought in outside experts
6 You know, I think I sense that there is much
7 anxiety and stress in the community. It's palpable;
8 and it's appropriately palpable that they feel
9 worried about their water.
10 And, I understand.
11 I've had an opportunity to speak with members
12 of Hoosick Falls when I was out there. I had an
13 opportunity to have dinner with a family of three
14 generations of Hoosick Falls.
15 So I think when you say that we didn't care
16 about the village, that's --
17 ASSEMBLYMAN McLAUGHLIN: I didn't say that.
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: You said
19 that --
20 ASSEMBLYMAN McLAUGHLIN: I asked, if you felt
21 that you had a legal obligation to inform the peopl
22 that their water exceeded EPA guidelines at the tim
23 you knew it?
24 COMM. HOWARD A. ZUCKER, M.D., J.D.: We
25 followed the guidelines. And when it exceeded, we

1 worked with the County and with Village.
2 And there are letters from the mayor of
3 Hoosick Falls to the community saying that we are
4 working with them, to be sure that they know that
5 we're doing everything to decrease the PFOA.
6 So we were doing that.
7 And there are letters and there are
8 communications with them all through the end of 201
9 and all through 2015.
10 ASSEMBLYMAN McLAUGHLIN: But you never took
11 action yourself or your department.
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: We took
13 action.
14 ASSEMBLYMAN McLAUGHLIN: No.
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: We took
16 action.
17 ASSEMBLYMAN McLAUGHLIN: No, no, no.
18 There was a letter sent out in a water bill.
19 Almost every person in here is going to open
20 the water bill, look at how much they owe, and they
21 pay the water bill. They're not going to go throug
22 it.
23 And I read every one of those letters that
24 were in the water bill, and not one of them was all
25 that alarming. Okay? It was not.

1 So you felt no legal obligation to issue a
2 "Do Not Drink The Water" advisory? You felt no
3 legal obligation do that?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: So,
5 first, that's not correct.
6 "The Village has been in constant
7 communication" -- I'm reading from the mayor --
8 "with the Rensselaer County and New York State
9 Department of Health, and each has been very
10 supportive of our efforts to learn how to mitigate
11 and minimize the amount of PFOA in our finished
12 water."
13 This is written in March of 2015.
14 ASSEMBLYMAN McLAUGHLIN: I'm aware.
15 Did you take any action yourself to notify
16 the public?
17 Did you say, don't-- let me ask you a
18 different -- this one's simple.
19 Would you have let your mother drink that
20 water for 18 months?
21 [Applause.]
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: You
23 know, the water in 2015, they had been drinking --
24 the concern is drinking it for decades.
25 And I think we're not asking the correct

1 question.
2 The correct question is: Why; why, for
3 decades -- for years and decades, the County was --
4 the Village was subjected to the pollution from a
5 corporate polluter?
6 That's what the issue is here.
7 When we found out about this, we went in
8 there and worked to decrease the PFOA that was
9 there.
10 ASSEMBLYMAN McLAUGHLIN: 18 months the people
11 weren't notified.
12 That's a huge problem, Dr. Zucker, and you
13 want to avoid it. But it is a major problem for th
14 people of Hoosick Falls.
15 [Applause.]
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: Assembly
17 man, I take issue with that.
18 When we learned about this in August, and
19 I feel -- I absolutely feel for the community.
20 Like I said, I have spoken with them, I've
21 been there, and I recognize this; so I really do.
22 But you're asking a question regarding what
23 the department -- when did the department go out
24 there and do things?
25 Once we learned about this in November -- in

1 October, November, once it was confirmed, we went
2 forward and we moved to figuring out what you could
3 do to decrease the PFOA, and we followed what the
4 recommendations were at 400. And we've spoken abou
5 the margin of protection, all of this.
6 So we can come back to the issue, but I've
7 answered that question before.
8 ASSEMBLYMAN McLAUGHLIN: You knew in August
9 of '14; correct?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: No, in
11 August -- sorry, in August of '14, a committed and
12 dedicated resident sampled the water.
13 And I applaud him for his efforts in what he
14 did. And I believe he uncovered a rock, and we are
15 sitting here because of what he has done to look at
16 water.
17 So, kudos to him on that.
18 However, as a scientist, we need to confirm
19 that. And we moved forward to confirm that in
20 October and in November.
21 And we did just that.
22 ASSEMBLYMAN McLAUGHLIN: In January of 2016,
23 you stated that the State of New York would set a
24 new level for PFOA within weeks.
25 Did that ever occur?

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: In
2 January of 2016 --
3 ASSEMBLYMAN McLAUGHLIN: -- you stated
4 multiple times that the State of New York would set
5 a new level for PFOA within weeks.
6 Has the State of New York ever set a new
7 level for PFOA?
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: This is
9 a national issue --
10 ASSEMBLYMAN McLAUGHLIN: That's not my
11 question, Doctor.
12 You stated that you would set a new level
13 within weeks, in January.
14 I know it's a national issue. It's showing
15 up in states all over the nation.
16 But I'm asking you, as the head of a
17 department, as the guardian of public health in
18 New York, did you ever set a new level for PFOA?
19 COMM. HOWARD A. ZUCKER, M.D., J.D.: As I
20 said before, we looked at this, we realized that
21 this needs to be a bigger issue. And three
22 governors -- Governor Cuomo, with the governors of
23 New Hampshire and Vermont -- turned to the federal
24 government.
25 Certain things need to be at a national

1 level.
2 We did this with many other areas.
3 I know you're going say it should be
4 New York, but I can turn to some other areas.
5 I can turn to the issue, when it comes to
6 safety; for example, the FAA.
7 Use that as an example.
8 The federal government sets certain levels
9 for certain things, and this is one of those things
10 Water crosses state lines. It's different.
11 ASSEMBLYMAN McLAUGHLIN: You're incorrect,
12 and you're talking to a commercial airline pilot.
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: No, I'm
14 talking about the hours --
15 ASSEMBLYMAN McLAUGHLIN: The FAA is national
16 air space.
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: -- I am
18 talking --
19 ASSEMBLYMAN McLAUGHLIN: You have vast
20 authority to set regulations and policy.
21 And let me take a second back, you want to
22 talk about a national policy.
23 The EPA has repeatedly stated that fracking
24 is safe, yet you stepped outside and beyond the EPA
25 guidelines and issued a dictum that we would not

1 frack.
2 Now, how can it be that you ignore the EPA's
3 guidelines there and say, we're going to go beyond
4 that and not frack?
5 COMM. HOWARD A. ZUCKER, M.D., J.D.: These
6 are completely different issues.
7 ASSEMBLYMAN McLAUGHLIN: They're not
8 completely different.
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: They are
10 completely different issues here.
11 ASSEMBLYMAN McLAUGHLIN: How?
12 The EPA stated --
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: One is
14 about the issue of something --
15 ASSEMBLYMAN McLAUGHLIN: The EPA stated it
16 was safe to frack. Right?
17 There is extensive -- there is conflicting
18 data, of course, like anything, but, they stated
19 that it was safe.
20 You stepped beyond that and went beyond it
21 and said, we're not going to frack in New York.
22 Whether that was at Governor Cuomo's behest
23 or not, I don't know. I suspect it was.
24 But you -- the fact is, you ignored the EPA
25 there.

1 And, here, you also ignored them and went
2 beyond their guidelines.
3 And at one point you talked also, Doctor,
4 about this is not a bright line. Right?
5 But it's not up to you to build in the margin
6 of safety.
7 The EPA already did that.
8 Because, if it was up to you, and DOHs around
9 the states, then everybody would have a different
10 level.
11 So the EPA built the margin of safety in.
12 Beyond that safety, I think I can speak for
13 my constituents in Hoosick Falls when I say, they
14 had a right to be notified, and you did not do it.
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: Assembly
16 man, in March of 2015 you were contacted.
17 ASSEMBLYMAN McLAUGHLIN: Yes, I was.
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: And you
19 did not respond to the community in that sense at
20 that moment in time.
21 ASSEMBLYMAN McLAUGHLIN: Incorrect.
22 Incorrect.
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: You were
24 notified --
25 ASSEMBLYMAN McLAUGHLIN: Incorrect.

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: -- in
2 March of 2015.
3 ASSEMBLYMAN McLAUGHLIN: Yep.
4 And you're under oath, just stating something
5 incorrect.
6 COMM. HOWARD A. ZUCKER, M.D., J.D.: As
7 I understand --
8 ASSEMBLYMAN McLAUGHLIN: I did respond.
9 You know what the response was?
10 They asked if we could get a couple of
11 million dollars for a treatment system.
12 They asked myself.
13 They asked Senator Marchione.
14 They asked County Executive Jimino.
15 They asked Congressman Gibson.
16 They asked Senator Schumer and Gillibrand.
17 ASSEMBLYMAN ENGLEBRIGHT: That's right.
18 ASSEMBLYMAN McLAUGHLIN: And the response
19 from all of us was the same: No, there is no money
20 for that.
21 That was the response from all of us.
22 So, yes, I did respond.
23 ASSEMBLYMAN ENGLEBRIGHT: I would just like
24 to make a couple of observations here.
25 I know that there is strong feelings held in

1 the audience, but, please, this is a hearing, not a
2 sports event; and, so, no cheering and/or
3 participation.
4 Thank you.
5 And, secondly, to the extent possible, let's
6 try to stay within the format of the hearing, with
7 questions and answers between the panel and members
8 And, thirdly, I am just informed that the
9 federal government has declared Hoosick Falls a
10 federal superfund site.
11 That that has just broken. That news has
12 just broken.
13 ASSEMBLYMAN McLAUGHLIN: Thank you, Chairman.
14 ASSEMBLYMAN ENGLEBRIGHT: I will turn the
15 forum back over to Mr. McLaughlin.
16 ASSEMBLYMAN McLAUGHLIN: Dr. Zucker, at what
17 point, at what level of PFOA, would you have
18 notified the public; would you have felt an
19 obligation to come forward?
20 Would it have been 50,000? Because that's
21 where New York State was.
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
23 public was -- we worked with the Village.
24 We told them they exceeded with the
25 exceedance of 400. We said we needed to do

1 everything to decrease the amount of PFOA in the
2 water. We need to find the source and decrease it.
3 ASSEMBLYMAN McLAUGHLIN: Understood, but,
4 again, not my question.
5 At what point would you have notified the
6 public?
7 Is there any point below 50,000 parts per
8 trillion where you would have notified the people o
9 Hoosick Falls not to drink the water?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: We spoke
11 with, not directly the people of Hoosick Falls back
12 at that point, but we spoke with the County and the
13 Town, saying that there is an exceedance.
14 And as I mentioned, in the letters that have
15 been put forth by the Village to the community,
16 saying there's an exceedance.
17 That's how we work with the counties and the
18 towns.
19 ASSEMBLYMAN McLAUGHLIN: Understood.
20 You have a very small village with taxed
21 resources up there.
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yes,
23 I understand.
24 ASSEMBLYMAN McLAUGHLIN: You have a lot of
25 folks up there, Doctor, that don't even have

1 Internet.

2 As short as a week ago, when the Senate held

3 their hearings in Hoosick Falls, there was testimon

4 from a resident whose father lives in downtown

5 Hoosick Falls, that did not know; and that's becaus

6 he probably doesn't have Internet. Nobody knocked

7 on the door.

8 What steps did you as a Department of Health

9 Commissioner take, or Commissioner Seggos take, or

10 Department of Emergency Services take, to get out

11 there and go door-to-door, and knock on every door

12 in that village, there's not that many of them, to

13 make sure the people knew?

14 Because this is a whole other issue, but we

15 have a real communication problem up there. You

16 have very rural areas up there.

17 COMM. HOWARD A. ZUCKER, M.D., J.D.: We were

18 out there. We were out there three times a week.

19 We had town meetings in the armory.

20 We worked with the community.

21 There were many times we worked closely with

22 the mayor.

23 We worked closely, particularly,

24 subsequently, when we were doing more testing.

25 I personally was out there. I spoke to the

1 people in the community as well.
2 Brad, did you want to add something?
3 DEP. COMM. BRAD HUTTON: Yeah, I think it's
4 helpful to remember that the requirement under the
5 federal rules for unregulated contaminants is that,
6 the water system needs to put this in their annual
7 water-quality report, which was unacceptable to us.
8 That's the requirement that EPA has.
9 So we advised the water system to notify
10 residents.
11 They did so three times in water bills, and
12 provided updates, as I know you're aware.
13 We attended public meetings repeatedly over
14 the course of that time frame.
15 We pursued the testing of private wells,
16 installed more than 900 POET systems.
17 We had been in the community, routinely,
18 right from the beginning, Assemblyman, and
19 Dr. Wilson was there throughout the time, advising
20 the water system, advising the residents, working t
21 reduce exposure in the public water systems.
22 And we're really proud of the effort
23 undertaken to work to do that.
24 ASSEMBLYMAN McLAUGHLIN: There was no
25 reduction in exposure to the public water system

1 until the well -- until the filtration system came
2 online.
3 Until then, the PFOA-filled water was flowing
4 through those pipes.
5 So, why, if you knew, and, why, if you knew
6 that there was, you've said "health effects," I say
7 "probable links to cancer," which the CH study
8 definitively declares that there's probable links t
9 innumerous cancers and diseases, if you knew that,
10 why didn't you just immediately say, look, we don't
11 even really know what this stuff is or does yet, bu
12 we're going to find out; and until then, we want yo
13 on bottled water?
14 Why did 18 months elapse?
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: I'm
16 going to answer that, but your first statement, I
17 want to clarify it, and I'm going to ask Dr. Wilson
18 to refer about when you were talking about the
19 levels, and how long they were until they came back
20 down.
21 DR. LLOYD WILSON: So the -- it's good to
22 kind of put the time frame together on all of this,
23 because you're asking questions about the time.
24 So, in October, November, the Village does
25 what is the right thing; they take two rounds of

1 samples.
2 We get the results.
3 Now, we're integrating information. It's not
4 just simple, when did this start? or when this did
5 stop?
6 Information is being integrated the whole
7 time through this whole process.
8 So one of the first things is, well, the
9 Village should be telling people that something is
10 going on.
11 And I think there's evidence, you know,
12 you've already cited it, but there's some other
13 things that happened as well.
14 They have a water-advisory committee set up
15 in January.
16 Then they -- also, you can look at the
17 village board minutes. You see it on the village
18 board that the water issue is now being discussed.
19 If you look at the popular press in
20 January 2015, there is an article in the
21 "Tri-Record" (ph.), and elsewhere, about the fact
22 that there was contamination.
23 The normal mechanism is that the water supply
24 is doing the communication with the residents: Thi
25 is what's happening.

1 We're going through that process, and from
2 what we're seeing, it looks like communication
3 efforts are ongoing.
4 They update the Village in April.
5 They send another one in August.
6 So from our perspective, the Village is doing
7 what should be done; and that's, provide the
8 citizens of Hoosick Falls information.
9 By the way, that's being confirmed by
10 articles in the popular press.
11 So it's not like somebody's hiding anything,
12 or anybody's keeping it quiet.
13 So that's happening.
14 So, in December, now we got the results. We
15 know that there's PFOA in there, somewhere in the
16 range between 150 and 400 -- or, excuse me, 540.
17 So, it's a range.
18 Some of it's below, some of it's above.
19 Looking at EPA guidance, what's the first
20 thing that should be done? Let's reduce the levels.
21 So, immediately, we start thinking about how
22 that can happen.
23 And the Village is engaged in those
24 discussions. They've hired a consultant to work on
25 that.

1 We're giving them the knowledge that we have
2 so that they can move forward as fast as is the
3 possibility.
4 In January and February, they're doing two or
5 three things.
6 They tried an experiment to see if they could
7 get the levels reduced immediately, adding an
8 aggregate, for lack of better words.
9 It doesn't work.
10 They tried switching just to Well 3 which had
11 the lower levels.
12 Unfortunately, they couldn't sustain the
13 system just on Well 3.
14 When we looked through --
15 ASSEMBLYMAN McLAUGHLIN: Excuse me.
16 When was this? This was December?
17 When was this?
18 DR. LLOYD WILSON: They went to Well 3 in
19 December of '14.
20 ASSEMBLYMAN McLAUGHLIN: Uh-huh. Of '14.
21 DR. LLOYD WILSON: So, again, we have values
22 between 150 and 540.
23 We straddling that number, that "400" number.
24 It's not a bright line. There's a large margin of
25 protection, but, let's get the stuff out of the

1 water.
2 So we got to figure out where the source is.
3 So while we start figuring -- trying to
4 figure out what the source is, and there's a couple
5 possibilities.
6 It could be, we all live in a world where
7 Teflon and Teflon-related products are in every roo
8 of our life.
9 So it's possible some of the pump components.
10 They had new microfilters to deal with microbial
11 contamination, and they were put in in 2009.
12 We had to evaluate whether those this
13 microfilters had materials on them.
14 So we go through this systematic approach,
15 while at the same time, simultaneously, start
16 exploring ways to remove it, because it doesn't
17 matter exactly where the source is, we're still
18 going to have to remove it.
19 And so we got both of those efforts happening
20 in January and February and March.
21 By the end of March, we can't find a quick
22 fix.
23 We can't find there's a pump leading to the
24 issue.
25 We can't just add a coagulant and find out

1 that it settles out.
2 We can't -- the river; the river was a
3 potential source.
4 The river was monitored.
5 We can't -- the river wasn't the source. We
6 knew that.
7 So we've gone through all of those
8 evaluations, doing all of this work, in consultatio
9 with the Village.
10 The Village, as the owner of the supply, is
11 doing the work.
12 And at the same time, now it's clear that we
13 want to work on a treatment system. There's two or
14 three systems that could work.
15 Reverse osmosis.
16 The Village does a field trip to a nearby
17 reverse-osmosis system.
18 They start entertaining the idea of GAC.
19 From our work, it looks like GAC is the most
20 feasible method and that they should work forward
21 with that.
22 So they send water in that January, February,
23 March, time period down to Pittsburgh, to the
24 company, to have it tested. Actual 50-gallon, coul
25 be 55, whatever the gallons were, they were sent

1 down to Pittsburgh, and to run through a GAC testin
2 program to see if it would be effective.
3 You've got to evaluate each water on its own.
4 All right? We couldn't just say that, because it
5 worked elsewhere, it would work here.
6 Different components might make that carbon
7 different efficiencies.
8 So all of that's going on.
9 And by the time we get to the end of March
10 and April, we're, like, it's very clear it's
11 groundwater contamination.
12 It's not a component.
13 It's not a chemical being added to the
14 system.
15 That's something else we had to worry about.
16 You know, as I said, water systems are really
17 complex.
18 You have a source to worry about.
19 Then you have the transmission line from the
20 source to the treatment plant.
21 Then you have the treatment plant.
22 You have the, treatment-plant, people are
23 adding chemicals, removing chemicals.
24 You got to understand what's going on there.
25 Then it goes into a distribution system.

1 Who knows what's going on with the
2 distribution system.
3 So it's not an easy thing.
4 At the end of March, early April, we're,
5 like, hey, it's clearly groundwater.
6 We tell DEC, and we're now, like, okay, what
7 is the remaining issue?
8 The remaining issue is, it's very clear that
9 there is contamination in this public supply.
10 We're following EPA's guidance.
11 The one thing that's really sitting out there
12 that's not being addressed, is private wells.
13 And so we start saying, we better start
14 worrying about private wells.
15 And, so -- and I know, you know, this is an
16 unfortunate thing in life, that there is some steps
17 that we have to take.
18 We just couldn't turn to our labs and say,
19 hey, we want to do sampling April 2nd.
20 We had to confirm with EPA, and confirm with
21 the environmental-laboratory approval programs, tha
22 we could have the authority to use our lab.
23 So we had to check with our own regulations,
24 with EPA's regulations; and we do that.
25 We also have to make sure that we have the

technical know-how.

Luckily, our Wadsworth Center is a great lab, and they had been doing PFOA.

They weren't certified by EPA, and that was part of the issue as to whether we could use them o not.

And so we had all those discussions.

We had to get the resources.

By the time we get it all lined up, it's June 3rd or 4th, and we go sample the private wells.

And so I guess where I'm going with this is, we were following EPA's guidance.

We understood the margin of protection.

We saw that the Village was putting things out.

And, yeah, if you want to know where one place could be improved, that I've seen, is the landlords. All right?

The landlords get the information with their water bill and may not share it with the tenants.

That is something that needs to be addressed somewhere. It's not just a Hoosick Fall's issue.

So we see communications going on.

We see that we're following EPA's guidance.

We see that the Village is making every

1 strong effort to figure out how to solve the
2 problem, and we're giving them assistance as much a
3 we can.
4 We offered to do the sampling in June because
5 it's expensive.
6 The Village has spent ten grand already on
7 sampling analysis, and that's a lot of money for
8 that village.
9 So we spent ten grand doing analysis in June.
10 And, by the way, everybody knows what
11 happened: we found PFOA in private wells.
12 We didn't give up.
13 We didn't give up.
14 We did test the school at that time, and we
15 got a non-detect, which was great news.
16 But we found PFOA contamination in a greater
17 area than we anticipated, and so we had to sit back
18 and think about, why are we seeing it in so -- it
19 doesn't make sense.
20 So we come up with another sampling plan, and
21 this time we expanded.
22 Instead of being along the corridor of
23 Route 22, and there was a logical reason for to us
24 go there -- and I've already taken too much time, s
25 I won't go into it -- but we decided that the

1 Corridor 22 was kind of the most likely place for u
2 to find private-well contamination. But, we found
3 it further north and further south than we
4 anticipated.
5 We didn't say, okay, let's hide it.
6 We said, you know what? We better go all the
7 way on the other side of the village to the
8 northeast, we better go up to the northwest, and we
9 better go all the way over to the east.
10 And we did.
11 And, lo and behold, we found low levels,
12 10 parts per trillion now, in those areas.
13 But we didn't say, wow, oh, that's 10 parts
14 per trillion. It's below the 400. No issue.
15 We said, no, there's something going on here
16 that needs to be followed up on. We better do more,
17 to understand whether that "10" is representative o
18 all of those areas, or whether that "10" is just an
19 indication that we're on the fringe of a source tha
20 we still don't understand, and we still don't.
21 And so we did all of those things.
22 And, you know, it's all with the
23 understanding, you know, I hate to say this, but,
24 every one of you, every time you drink water, you
25 have a contaminant in it.

1 I don't know how much it is, I don't know the
2 levels, I don't know the health risk; but every
3 single time we drink water.
4 If you were to drink pure water, it would be
5 unhealthy for you.
6 Pure water would not -- it wouldn't taste
7 good, so none of us would do it. All right? None
8 of us would do it. We would go "Yuck," and throw i
9 out.
10 ASSEMBLYMAN McLAUGHLIN: Doctor, I got you.
11 But during that entirety of the bulk of what
12 you just went over, timeline-wise, the fact is, tha
13 the people of Hoosick Falls were denied vital
14 information that they needed.
15 They were not on bottled water until November
16 of 2015.
17 So, yes, they got some information.
18 But listen, there's nobody --
19 Senator DeFrancisco pointed it out, rightly so,
20 you can't read the English language and really get
21 enraged about it. You wouldn't get fired up with
22 those letters.
23 Do you think maybe the Village -- this is a
24 small village, with a part-time administration doin
25 the best they can.

1 Do you think maybe they were confused by the
2 guidance they were getting from you?
3 Because you stated you were confused by the
4 EPA.
5 I don't know how.
6 It's pretty clear that "400" was the
7 guideline, but you've repeatedly said you're
8 confused.
9 Do you think maybe the Village got confused
10 by the guidelines they were getting from you, or th
11 guidance they were getting?
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: I think
13 the communication to the Village through the --
14 well, first, I'd like to say one thing.
15 I'd like to say, what you just heard from
16 Lloyd is the dedication and the commitment of our
17 team, and Lloyd is just one of many who were out
18 there in the village constantly throughout the
19 winter, and throughout the year prior to that,
20 working on this.
21 So when one says that we weren't engaged in
22 those 18 months, that's not true at all, as you hav
23 you've just heard. We were actively engaged.
24 In response to the question, we communicated
25 with the Village about this information.

1 I understand this is a complex subject, and
2 I understand the confusion, but as I said, we were
3 working aggressively to address this problem.
4 ASSEMBLYMAN McLAUGHLIN: Last question:
5 The -- do you have documentation that shows
6 you speaking with Saint-Gobain about setting up the
7 bottled-water delivery?
8 Because as far as I know, Mayor Borge really
9 did a good job, taking the lead, trying to get them
10 to handle that situation.
11 And I've seen pushback from the EPA, that was
12 critical of your department, saying that you were,
13 in fact, letting the Village handle too much of
14 this.
15 So, who set up the bottled-water delivery
16 program?
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: So,
18 number one, worked with the Village on this.
19 The testing in June was done by us, by the
20 State. That was our testing that came back later i
21 the summer.
22 Regarding the question of documentation,
23 I would have to look into this, but -- I don't want
24 to make a prediction, but I'm sure there's
25 communication documentation on this. But I know ou

1 team was working with Saint-Gobain, and the Village,
2 together, to move forward on this.
3 ASSEMBLYMAN McLAUGHLIN: I have one last one,
4 and I'll probably be back.
5 During this entire time, which I firmly
6 believe was a failure to protect the citizens of
7 New York State, during this time, Governor Cuomo ha
8 a 90-day e-mail-deletion policy in place.
9 Were any of your e-mails between the EPA, the
10 Village, and/or the County deleted as a result of
11 that policy?
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
13 number one, I take issue with your statement that i
14 was a failure.
15 It was no failure at all.
16 We worked diligently on this, as you've just
17 heard.
18 So I will have to take issue with saying that
19 this was a failure on the part of the department.
20 Regarding the e-mails, the e-mails are always
21 around, as far as I know.
22 ASSEMBLYMAN McLAUGHLIN: How are they around
23 if we were under a 90-day policy?
24 COMM. HOWARD A. ZUCKER, M.D., J.D.: What?
25 ASSEMBLYMAN McLAUGHLIN: Were you purging

1 e-mails at any time during that -- during this time
2 frame?
3 COMM. HOWARD A. ZUCKER, M.D., J.D.: I can
4 answer, my e-mails, my e-mails are there.
5 I mean, I'm sure if you look through --
6 ASSEMBLYMAN McLAUGHLIN: So were you not
7 following the Governor's policy?
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: My
9 e-mails, whatever -- you know, I don't do the ITS.
10 My e-mails, I mean, I answer. If someone
11 sends me something, I reply.
12 It's not like I then remove them.
13 So they're there.
14 ASSEMBLYMAN McLAUGHLIN: 90 days later?
15 I mean, there was a policy in place, was
16 there not?
17 You were Commissioners, you should be aware
18 of the policy.
19 COMM. HOWARD A. ZUCKER, M.D., J.D.: We
20 have -- the e-mails -- I guess you're referring bac
21 to the e-mails with the EPA, because that's what
22 you're asking about?
23 ASSEMBLYMAN McLAUGHLIN: No, I'm really
24 referring to any and all e-mails, and whether any o
25 them were subject to that deletion policy.

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: I can't
2 answer that question.
3 I know, when it comes to ITS, there's
4 information in there, and I respond to it.
5 ASSEMBLYMAN McLAUGHLIN: Thank you.
6 Back to Senator Hannon.
7 SENATOR HANNON: Senator Marchione.
8 SENATOR MARCHIONE: Thank you.
9 I don't think I'll ask questions relative to
10 the time frame because there's been so many
11 questions asked.
12 But relative to notification, I do think
13 there's a lack of notification.
14 I think there is a lack of knowing who is
15 supposed to notify.
16 And I would ask, in the Governor's
17 rapid-response team, that that be nailed down.
18 I think -- and you weren't here last time,
19 but when the county health director talked about
20 notification, I asked if there was an E-911 system
21 in place. There can be a reverse message.
22 And I think what works well with that, is
23 that people who are renters, for emergency purposes
24 they're in that system.
25 So we get beyond what you talked about, that,

1 of course, is of serious concern, renters not
2 getting notification, people outside of the water
3 district not getting notification.
4 I think that, in the future, and part of a
5 policy, I would hope consideration would be given,
6 if there is a 911 system in place that can reverse,
7 that information should be sent.
8 There should be guidelines that talk about
9 whose responsibility it is, who writes the message,
10 and how we get that out as quickly as we possibly
11 can to people in an affected area.
12 I will tell you that when we had our water
13 wells where I live, with Troy's system going down,
14 and we were, you know, having problems with water,
15 our supervisor was on the phone with us at least
16 once or twice a week, letting us know where they
17 were, what was coming next, how to go about getting
18 water.
19 So I think if you -- if we can look at that
20 notification process, so this doesn't occur again,
21 I think that would be a really good place for us to
22 begin.
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: I hear
24 you.
25 And as we mentioned before, this is a new and

1 evolving area, and there's a lot to learn.
2 SENATOR MARCHIONE: Okay.
3 Secondly, in your data that you have, that
4 you're going to be sharing, Doctor, about the
5 analysis you did over the 400 parts per trillion,
6 one of the real concerns I have for future, because
7 it's too late for now, but, future, is the word
8 "short-term exposure."
9 Not knowing whether it was short-term or
10 long-term exposure at that particular point, I thin
11 it's dangerous to say it's okay to drink the water,
12 or, this is, you know -- I just think that's very
13 dangerous, because we don't know, when EPA gives us
14 a short-term exposure limit, that we automatically
15 believe that it's short-term.
16 So I would caution, in the future, on
17 short-term exposure, and ask if your data analysis
18 was based on a short-term or a long-term model?
19 COMM. HOWARD A. ZUCKER, M.D., J.D.: Brad, do
20 you want to answer that?
21 DEP. COMM. BRAD HUTTON: This hasn't really
22 come up yet, Senator Marchione, but I think it's
23 worth noting a little bit more about the provisiona
24 health advisory that EPA issued.
25 So, you know, there's really two things that

1 EPA does.

2 Either they issue a regulatory level, and

3 that's something that's legally enforceable; or,

4 more often, where they don't establish a regulatory

5 level, they issue a health advisory.

6 Now, typically, when they do that, they issue

7 a 1-day health advisory, a 10-day health advisory,

8 or a lifetime health advisory.

9 However, with this 2009 health advisory for

10 PFOA, PFOS, they didn't do that. It deviated.

11 It wasn't a 1-day, it wasn't a 10-day, it

12 wasn't a lifetime.

13 They labeled it "provisional."

14 There were lots of questions that I think

15 everyone in the water community had about, well,

16 what does a "provisional" mean?

17 And it was only years later, when EPA took

18 actions that were surprising to us, that they began

19 using the term "short-term," and "weeks," "months."

20 You won't find that in the 2009 provisional

21 health advisory.

22 SENATOR MARCHIONE: Just some further

23 questions.

24 I brought this up at our last hearing, and

25 I don't want to repeat, but I have a concern about

1 the -- 2005, Taconic Plastic, where they actually
2 put a water-filtration system into their facility.
3 What prompted them to test their water?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: So I'm
5 going turn this over to Basil.
6 COMM. BASIL SEGGOS: Senator, I can't tell
7 you what happened back in 2005, what may have
8 prompted them to test their water.
9 There was knowledge at the time, and this is
10 along the same timeline as the DuPont situation,
11 some burgeoning national awareness about PFOA.
12 I do not know why they tested their water or
13 their effluent, but they, obviously, found a
14 problem.
15 SENATOR MARCHIONE: And I understand that
16 they put in a water-filtration system, which, of
17 course, was tested -- had to be tested before.
18 I mean, what were they testing for?
19 I mean, if there's -- if it's still on a
20 provisional PFOA list, the plant itself was testing
21 and put a filtration system in --
22 I mean, I know you were not there at the
23 time, but I'm sure that there should be some
24 records.
25 -- didn't that spark a light into some

1 department of health, DEC, someone, to say, we have
2 an issue here?
3 And then they went on and bought five or six
4 homes in the area, but the residents weren't
5 notified.
6 I don't know if the Town was notified.
7 I'm assuming the County had to be involved
8 somehow.
9 But, I just -- it leaves me baffled that,
10 certainly, we should be concerned about an 18-month
11 period of time.
12 We're talking 11 years now, that this could
13 have been viewed, if 11 years ago, when they knew
14 enough that there was an issue, that something be
15 done at that point.
16 Do you have documents in your file relative
17 to that situation, and may I request a copy of
18 those?
19 COMM. BASIL SEGGOS: We don't have
20 documentation, at least I haven't seen any yet, tha
21 reflects any decision-making or any deliberative
22 discussions about DEC and the company at that time.
23 What we did find was almost, like, work
24 orders for the installation of the system, the
25 county department of health that, I believe,

1 overseeing some of those installations, the one at
2 the plant.
3 There was actually five houses around the
4 plant that they actually owned, for their own
5 workers.
6 SENATOR MARCHIONE: Did they own before or
7 after they had a water issue? Do you know that?
8 Did they purchase --
9 COMM. BASIL SEGGOS: I was under the
10 impression that they owned the homes before.
11 SENATOR MARCHIONE: Okay, okay.
12 I was advised they bought them after, but
13 I'll check.
14 COMM. BASIL SEGGOS: Okay, that might be the
15 case.
16 SENATOR MARCHIONE: I'll check that out
17 myself.
18 Also, the Berlin school --
19 COMM. BASIL SEGGOS: Yes.
20 SENATOR MARCHIONE: -- it's five miles away
21 from the site.
22 Do you have any idea how the -- how did -- do
23 you have any idea how it's traveling that far?
24 I know it's only 10 parts per trillion, but,
25 it is traveling.

1 Can you say how that's traveling?
2 COMM. BASIL SEGGOS: I don't think we know
3 how the low levels of PFOA have gotten into the
4 village system.
5 There, again, they are very low levels, well
6 below the 70 parts per trillion.
7 You know, as we've seen, PFOA has popped up
8 in a number of spots around Rensselaer County
9 because of illegal dumping.
10 But as Dr. Zucker's also testified, there can
11 be contamination internally in systems.
12 You know, Teflon tape, which is very common
13 in plumbing systems -- I have them in my house, I'm
14 sure -- was installed all over the place at the
15 time.
16 So it could be what we're seeing, frankly, in
17 the school system, or elsewhere, is related to
18 internal contamination.
19 Nonetheless, as you raised last week, you
20 wanted an update on where we were with the school
21 system.
22 SENATOR MARCHIONE: Right.
23 COMM. BASIL SEGGOS: Happy to report, as of
24 yesterday, the entire school is on coolers today,
25 and by early October they will have a POET system i

1 place.
2 As a preventive measure, even though the
3 levels are low, we have gone the extra step and are
4 installing that system.
5 SENATOR MARCHIONE: And I'm very grateful for
6 that.
7 It was a very serious concern, of course, to
8 people that their elementary children are going to
9 school there.
10 So I want to thank you publicly for doing
11 that, and getting that in before the school started.
12 Just one further question:
13 Some of my residents have been talking about
14 a range of PFCs, that when the wells were tested,
15 that they were tested beyond just the PFOA, but
16 other PFCs.
17 Residents are requesting, that if they had
18 other PFCs in their well, could there blood be
19 sampled for those PFCs as well?
20 DR. LLOYD WILSON: Sure.
21 If you look at the Village website, you'll
22 see that we've been sending data on the public
23 system, basically, every two weeks we've been
24 sampling.
25 And you'll see that that analysis has six

1 PFCs, total, not just PFOA.
2 And, a lot of the PFC testing done of the
3 private wells, once DEC was involved, and so on, wa
4 done using Test America, and they also analyzed for
5 some of those other PFCs.
6 So one thing I really want to make sure that
7 everybody understands is that, those other PFCs
8 include -- everybody knows the acronym C-8 --
9 there's a C-4, there's a C-6, there's a C-7, there'
10 two C-8s, and one C-9 in that analysis.
11 And the carbon filter is removing all of
12 them.
13 So I just want to make sure everybody
14 understands that.
15 SENATOR MARCHIONE: I am glad to hear that,
16 because there was a question, whether or not all of
17 the PFCs were being removed, or just PFOA.
18 I think people who live there, though, if
19 they had -- when their well was tested, you know,
20 they had the other PFCs, they really have a
21 concern about what's in them, and what those number
22 are.
23 And they said to me that, while -- when their
24 blood was taken, additional blood was taken.
25 So that that could be something that could be

1 provided to them.
2 So I'm asking if that could be done for
3 people whose wells contained more than just the
4 PFOA.
5 COMM. HOWARD A. ZUCKER, M.D., J.D.: Okay.
6 Great.
7 SENATOR MARCHIONE: The second thing I'd like
8 to say is, thank you; I understand you're setting u
9 another blood testing for the first round in
10 Hoosick Falls.
11 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yes.
12 SENATOR MARCHIONE: And now I want to push
13 it, and ask if you could do the same so that
14 Petersburgh doesn't have to travel.
15 If you would be willing to set up a second
16 last round, one in Petersburgh, and one in --
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: We can
18 do that.
19 SENATOR MARCHIONE: Thank you, Commissioner.
20 I don't have any further questions.
21 SENATOR HANNON: Thank you, Senator.
22 Assemblyman Englebright.
23 ASSEMBLYMAN ENGLEBRIGHT: Thank you, Senator.
24 Assemblywoman Schimel.
25 ASSEMBLYWOMAN SCHIMEL: Yes, thank you.

1 Thank you for your testimony this morning.
2 I have two questions, if you'll indulge me.
3 The first one, it speaks to a little of what
4 Senator Marchione said about biomonitoring.
5 If you can clarify a little bit, I know on
6 your website, on the DOH website, it cites that
7 there's a two to four half-life of the PFOA blood
8 levels; so you average it, three years.
9 Is there going to be this aggregate
10 longitudinal study that can study it over time, and
11 will it be compared?
12 One thing that I'm -- there's already
13 existing evidence in Ohio, in West Virginia.
14 Are they showing that depletion, if you will,
15 of half-life of the blood levels in those areas?
16 And can they be compared to a study that's
17 being done in New York?
18 And can you talk about that?
19 COMM. HOWARD A. ZUCKER, M.D., J.D.: So the
20 half-life is two to four years, and that's somethin
21 which is looked at, the science, and that's the
22 period of time it would take.
23 And we've learned much from Hoosick Falls'
24 blood testing. As a matter of fact, it's one of th
25 largest biomonitoring programs ever done on this

1 issue.

2 We, CDC, and others, have been looking at

3 this as well.

4 And once we have more information, we'll

5 share it with everyone, not just in Hoosick Falls,

6 but in the state.

7 ASSEMBLYWOMAN SCHIMEL: Can you -- is this

8 going to be a longitudinal study over a period of

9 time, till the so-called "end of the half-life" of

10 it in the system of the communities involved?

11 COMM. HOWARD A. ZUCKER, M.D., J.D.: So this

12 is something which, because it's so new, the CDC,

13 the agency for toxic substances and disease

14 registry, looks at these issues.

15 And they -- we are working with them to

16 figure out, what is the best way to go forward in

17 testing for biomonitoring, and whether you test

18 again in two years?

19 And, again, we want to make sure it is

20 consistent, because it's not just an issue in

21 New York, but across the country.

22 So we'll be able to get that information and

23 share it once we get that from them as well.

24 ASSEMBLYWOMAN SCHIMEL: So it is being

25 considered, that there could be a long-term study -

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: Addition
2 al tests --
3 ASSEMBLYWOMAN SCHIMEL: -- in New York State?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: Addition
5 al tests, or something.
6 We'll look and we'll see what the federal
7 government says about it.
8 ASSEMBLYWOMAN SCHIMEL: Okay. Thank you.
9 And another question, again,
10 forward-thinking, about the rapid-response team:
11 Listening to the testimony, and I did have
12 the -- listen as well to the Senate hearings --
13 And thank you for testifying again, and all
14 my colleagues that are here on this important issue
15 I'm from Long Island, so I'm uniquely aware
16 of all that's going on in terms of contamination on
17 Long Island. But -- so it's statewide.
18 -- going forward, though, for this
19 rapid-response team, which is in formation, if you
20 will, but it is working, what is the relationship -
21 the future relationship going to be between the
22 state and federal government on the PFOA and other,
23 "other," unregulated contaminants, in terms of
24 setting a threshold of these contaminants?
25 Like, e whose risk assessments will you be

1 relying on?
2 Is there a confidence level in the federal
3 government?
4 Or, how is that going to be worked out?
5 COMM. HOWARD A. ZUCKER, M.D., J.D.: Right.
6 So this responds to the letter that
7 Commissioner Seggos and I sent today to EPA, about
8 looking at these unregulated contaminants, and
9 asking the EPA to address this.
10 And, if not, we, as the State, will address
11 that and move forward with this.
12 Because, you're correct, this is not an issue
13 just in Hoosick Falls, and it's all these other
14 areas that I mentioned in my testimony, and other
15 parts on the Island and elsewhere in the state.
16 ASSEMBLYWOMAN SCHIMEL: But will -- is the
17 federal government part of the rapid-response team
18 formation?
19 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
20 rapid-response team is part -- Governor Cuomo asked
21 us to move forward, to get out there, to look at
22 issues that are out in the community, to actually b
23 proactive.
24 And, also, look at communities, that there
25 may actually be a concern of some contaminant -- it

1 doesn't have to be PFOA -- some other contaminant;
2 get in there, measure it, look at what's there, and
3 figure out to remediate the problem that's there.
4 And so that's a very proactive stance.
5 That's a New York State initiative.
6 ASSEMBLYWOMAN SCHIMEL: But is it fair to say
7 that the feds are not -- no one is sitting on that
8 from the federal government? It's just totally --
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: Not on
10 the New York State rapid-response team.
11 ASSEMBLYWOMAN SCHIMEL: All right.
12 Thank you very much.
13 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
14 Senator Hannon.
15 SENATOR HANNON: Senator Hoylman.
16 SENATOR HOYLMAN: Thank you, Mr. Chair, and
17 thank you to my colleagues.
18 And it's good to see the Commissioners and
19 their team back again.
20 I had an opportunity to ask you questions
21 last week, so I'll be brief.
22 First, in connection with our own
23 proceedings, I'm grateful that our colleagues have
24 decided to subpoena an important party to this
25 conversation. Obviously, Saint-Gobain itself shoul

1 be here at these hearings.
2 So I'm looking forward to hearing
3 responses from them, and, hopefully, Honeywell
4 and Taconic Plastics as well.
5 Honeywell says that they don't want to be
6 here because of pending lawsuits.
7 Well, frankly, I don't have any sympathy for
8 them in connection with that.
9 So I hope they'll be at our hearing table
10 soon.
11 There's also an issue, I just wanted to
12 raise, Mr. Chair, about whether the Committees --
13 the Joint Legislative Committees will be conferring
14 immunity, in accordance with Section 50.20 of the
15 Criminal Procedure Law, when it comes to the
16 subpoenas.
17 We can follow up with that later.
18 But I wanted to kind of step forward and talk
19 about your legislative proposals that you've
20 outlined, Commissioner Zucker; specifically, in
21 connection with the unregulated chemicals and the
22 contaminant-chemical list.
23 Now, the unregulated chemicals is about
24 80,000; correct?
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: Correct.

1 SENATOR HOYLMAN: How many chemicals on the
2 contaminant-chemical list that the EPA issues?
3 COMM. HOWARD A. ZUCKER, M.D., J.D.: There's
4 90 on that.
5 SENATOR HOYLMAN: 90.
6 COMM. HOWARD A. ZUCKER, M.D., J.D.: Around
7 90, yeah.
8 SENATOR HOYLMAN: And so it is conceivable
9 that your department, with its battery of scientist
10 and experts, could be reviewing that
11 contaminant-chemical list on a regular basis?
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: Correct.
13 We are doing that, yes.
14 SENATOR HOYLMAN: You're doing that.
15 I just wanted to point that out.
16 It's something that I've actually called for
17 in legislation, that you look at it in a periodic
18 manner. And I'm glad you're committing to that.
19 In connection with private-well testing,
20 Assemblymember Jaffee and I carry legislation,
21 S.7287, to require private wells to be tested befor
22 the sale of property.
23 And thank you for your action in that regard.
24 I encourage you to look at the
25 Assemblywoman Jaffee's legislation on that.

1 And then, finally, when it comes to -- when
2 it comes to lead pipes, and I'm encouraged by the
3 Governor's announcement of testing in schools, but,
4 we have lead pipes throughout the state, obviously.
5 What about youth centers, synagogues,
6 churches, other places where lead is likely to come
7 into contact with children in these different
8 settings?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: I think
10 that's something we should look at as well.
11 Yeah, we'll look at that.
12 SENATOR HOYLMAN: And I think part of the
13 problem is, is that we don't know where the lead
14 pipes even are, because there's really been no
15 census.
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: I mean,
17 I will say one thing, that, you know, kids spend so
18 much time of their day in a school, and that's
19 really something we should tackle first, given the
20 amount of hours that they're there, and,
21 consistently throughout a whole year.
22 SENATOR HOYLMAN: Well, I just wanted to
23 thank you.
24 I have been brief.
25 And I'm glad my colleagues have convened this

1 meeting, and thank you for your attention.
2 SENATOR HANNON: Thank you.
3 Assemblyman Englebright.
4 ASSEMBLYMAN ENGLEBRIGHT: Thank you,
5 Senator Hannon.
6 Assemblywoman Hunter.
7 ASSEMBLYWOMAN HUNTER: Thank you, Mr. Chair.
8 My concern is related to comments that
9 Assembly Member Gottfried made, relative to
10 establishing public-health goals.
11 And, Dr. Zucker, you had made reference to
12 corporate polluters.
13 I represent an area in Syracuse. I represent
14 urban, suburban, rural, and an Indian reservation.
15 And we have situations currently now,
16 Onondaga Lake, DEC Commissioner knows about.
17 We have Ley Creek, which is now a superfund
18 site.
19 We had Coyne Textile which closed its doors,
20 that was -- had current issues with their monitorin
21 wells, and needed remediation.
22 We have several brownfields in the area, and
23 we have a closed metal-scrapper who just closed up
24 shop and left.
25 One of the questions, probably sounding maybe

1 ridiculous in wanting to know, how long does it tak
2 for contamination to get into drinking water?
3 You talked about the 80,000 unregulated
4 chemicals.
5 I'm just trying to figure out, like, what is
6 a future process for Rust-Belt cities, like
7 Syracuse, and many others?
8 How do we not become the next Hoosick Falls,
9 one day away, one town away, from having this
10 problem when businesses close?
11 Who monitors, that says, the contamination
12 isn't happening today, but in five years, now we
13 have these issues?
14 In 10 years, when Crucible, you know, has
15 polluted, or Allied Chemical, or whomever it may be
16 then what?
17 What is the future steps?
18 COMM. BASIL SEGGOS: That's a good question,
19 a big question; obviously, one we wrestle with all
20 the time.
21 City of Syracuse's water supply is,
22 obviously, in good shape. It's a public reservoir
23 system, so we're not drawing, thankfully, from the
24 lake or any of those polluted sites you referenced.
25 Last year, what we were able to accomplish,

1 frankly, with the Legislature, on reforming the
2 brownfields cleanup program, as well as the
3 superfund program, extending another 10 years, and
4 putting a billion dollars into it.
5 Those will allow to us continue making
6 these -- frankly, these transformational projects a
7 reality in many of upstate cities, and downstate
8 cities. I mean, this is a statewide issue.
9 We've had great success in the Syracuse area
10 on a couple fronts you've mentioned.
11 Certainly, Onondaga Lake being one of the
12 most referenced in my testimony, one of the most
13 noteworthy. And the fact that we can have now
14 fishing tournaments on the lake, and think about a
15 day when we can swim in that lake, is pretty
16 remarkable.
17 But you're right, there are raw steel, other
18 businesses, in the area, of either -- where they've
19 left or gone belly-up, and they've left behind toxi
20 contamination.
21 Any remediation of those sites, DEC is going
22 to apply the most rigorous standards to make sure
23 that the site is worthy of future uses.
24 So whether it's residential property, a park,
25 a future business, we've got extensive -- thanks to

1 working with the Legislature over the years,
2 extensive laws, and within our department,
3 regulations, that govern the cleanups, that allow u
4 to go after the polluters when they're identifiable,
5 so we recover our costs, which is important.
6 And we work really well with the Department
7 of Health to ensure that any of the decisions we
8 make on the cleanup side are going to be protective
9 of public health.
10 So it's sort of -- you know, I realize your
11 question is a very big one, but the good news is, i
12 that we have really solid tools right now to addres
13 some of these contamination issues that are a
14 reality across the state.
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
16 addition, also, Syracuse is part of the UCMR 3 as
17 well, which is a large system.
18 ASSEMBLYWOMAN HUNTER: Dr. Wilson, you did
19 make mention about the landlords, which most people
20 who know me knows that that is a huge concern of
21 mine in Syracuse. It affects a lot of people who
22 live in poverty.
23 And I'm just trying to wonder, while we're
24 talking about advancing legislation for private
25 wells, would you be willing to advance legislation

1 relative to mandating landlords to monitor their
2 water before they rent apartments?
3 COMM. HOWARD A. ZUCKER, M.D., J.D.: It's
4 part of the legislation, about renters, when --
5 ASSEMBLYWOMAN HUNTER: Personal landlords.
6 Not in just New York City, but statewide.
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: I'll
8 look into that.
9 ASSEMBLYWOMAN HUNTER: Okay.
10 Thank you.
11 ASSEMBLYMAN ENGLEBRIGHT: Senator Hannon.
12 SENATOR HANNON: Senator Krueger.
13 SENATOR KRUEGER: I thought I had a little
14 more time to finish the sandwich.
15 Sorry.
16 So going back, not to Hoosick Falls, but to
17 the sub-issue of PFOA, and you were just answering
18 some questions about the many other kinds of
19 chemicals that may, in fact, be out there
20 contaminating our water.
21 But we know, I believe from your testimony,
22 and I wasn't at the last hearing, I was just
23 listening, so I'm not sure which of the two
24 Commissioners testified, that there was a list of
25 2500 potential sites where PFOA might be found in

1 the water in New York State. And I believe you may
2 have sent out, I'm not sure which department,
3 surveys to over 150 of those companies or sites.
4 So help me understand, what are we doing to
5 make sure the people who are drinking water from
6 those 2500 other locations in New York State can
7 rest assured that, either through rapid-response, o
8 taking action on their own part, bringing it to the
9 State, that they aren't facing the exact same
10 problem, they just don't know it yet.
11 COMM. BASIL SEGGOS: So let me start, and
12 I'll let Howard follow.
13 Just to clarify, it's not 2500 sites around
14 the state that has contamination.
15 It's 2500 users, potential users, of PFOA
16 over the years.
17 So PFOA and PFOS; firefighting foam,
18 industrial users, anyone that made teflon, and
19 anyone that touched those products.
20 So we were able to gather information within
21 our databases of who was using that material over
22 time. We then sent the surveys out to all 2500, an
23 are now getting the results back from those.
24 We're going have to cross-reference those
25 against the next set of data points, which is the

1 actual water sources, and then we're going have to
2 start testing water sources to see if they're a
3 problem.
4 So some of that is actually underway right
5 now.
6 And if you can weigh in on that, that would
7 be helpful.
8 DR. LLOYD WILSON: So as part of the water
9 quality rapid-response team, we've been taking the
10 information on the surveys, looking at the location
11 of our public water supplies, and identifying areas
12 or systems that we think might be at the greatest
13 risk for contamination.
14 And with that priority scheme, we're going to
15 move forward.
16 So, it's just one of the activities we've
17 been doing.
18 And as the Commissioner indicated, we have
19 actually initiated some of sampling already.
20 SENATOR KRUEGER: So people talk about, sort
21 of, the hero of Hoosick Falls who brought the issue
22 to the attention.
23 If I am a person who lives near one of these
24 other 2500 sites, is there a mechanism by which
25 I can start the ball rolling, to make sure somebody

1 is checking the water-contamination level in my
2 area, in my municipality?
3 Because I'm assuming many of these 2500 other
4 locations where these chemicals have been used at
5 some point in history probably also are in other
6 municipalities of less than 10,000.
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: So let
8 me ask Lloyd to give an example of one of the thing
9 we have already done on this, which would parallel
10 what you're asking.
11 DR. LLOYD WILSON: So let me just back up.
12 The 2500 are being surveyed. Not all of them
13 are coming back, indicating they used PFOA or PFOS.
14 The other piece of information is, where are
15 there public water supplies in relation to those
16 that do say yes?
17 And, you know, for instance, if we said that
18 Facility A in Bethlehem --
19 Since everybody knows Bethlehem. Right?
20 Okay.
21 South of Albany.
22 OFF-CAMERA SPEAKER: There is no Facility A
23 in Bethlehem, FYI.
24 DR. LLOYD WILSON: I was trying to give a
25 geographic reference.

1 SENATOR KRUEGER: The non-contaminated area
2 called "Bethlehem."
3 DR. LLOYD WILSON: Right, right.
4 SENATOR KRUEGER: Thank you.
5 DR. LLOYD WILSON: And so, then, if we find a
6 public water system that's upstream, and they're
7 using the river, then we know they're not going to
8 be a concern.
9 So there are many factors going into
10 evaluating the information, to identify and
11 prioritize.
12 So that's what I was trying to get at.
13 And my apologies to Bethlehem.
14 So, we're doing that.
15 We're getting the information we know on
16 groundwater flow, when that's available.
17 We're getting information on surface waters,
18 which way are they flowing?
19 And then, you know, the question of, how much
20 was used, for how long?
21 And all that information is being integrated.
22 Then we are looking at whether they were
23 already tested under the UCMR, or not.
24 And I guess I would caution having everybody
25 running out and doing testing because, like at

1 Hoosick Falls, we're going to ask the water system
2 to go back and do the testing again, people that
3 know how to do the testing, so that we're -- we've
4 got reliable results right up front that we have
5 confidence in it right from the start.
6 So we have, as indicated, Gabreski down in
7 Suffolk County.
8 I have been in communication with the
9 Suffolk County Health Department folks on two or
10 three other places that have undergone testing.
11 One that was identified through the UCMR,
12 Hampton Bays, and we worked with them to take
13 correction at the water district.
14 But subsequent to that, working with the
15 County, there's some thought about some private
16 wells.
17 And this is just one example.
18 So we're moving on doing all of this work.
19 SENATOR KRUEGER: And -- so you've sent out
20 surveys and you're following through.
21 What if the company that was using the
22 products we now know to be dangerous no longer
23 operates, who are you surveying; who are you trying
24 to find out the information from?
25 COMM. BASIL SEGGOS: Well, if there's a group

1 of the 2500 that no longer exists, and their prior
2 use is apparent, and may be close to a water supply,
3 that would score that high on the list and we would
4 get out there quickly and do sampling, regardless o
5 whether or not they existed.
6 That superfund, thankfully, allows us to do
7 that.
8 SENATOR KRUEGER: And what if you've sent out
9 the survey because the company does exist, but they
10 don't answer?
11 COMM. BASIL SEGGOS: Well, then, we would
12 come calling.
13 Let me just add that the survey isn't the
14 end-all. It is just another piece of information i
15 terms of being prioritized.
16 For those that have not responded and/or have
17 even said no, if, for instance, there's a well,
18 basically, on the property, it still, probably,
19 would have a high priority.
20 Just, we want to be thorough.
21 And what we're doing right now is, doing work
22 to kind of test whether our prioritization scheme i
23 working.
24 SENATOR KRUEGER: And because, again, this is
25 just one set of chemicals, and then we have learned

1 there are a lot of chemicals, and this is a new
2 concept of the rapid-response team.
3 How -- just staying with these two chemicals
4 for now, how long will it take you to complete the
5 work you think you need to do on those 2500
6 hypothetical locations that may reduce down to some
7 lower number?
8 How many have you gotten through already?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: Again,
10 we would, ultimately, want to test all of them.
11 We're going to prioritize. We'll work with
12 the areas where we're most concerned, as you brough
13 up some issues of, what about a plant or an area
14 that there was some kind of chemical, and we'll kee
15 moving forward on that, and we'll do it quickly.
16 And if there's any concern, we will
17 immediately go into that area first.
18 SENATOR KRUEGER: And going back to my
19 question about, if people are concerned and they
20 want you to come in sooner than later, there was
21 some concern raised in a previous, I think, press
22 report, that a phone number that was made available
23 to the public, nobody answered, or -- and there was
24 no message machine.
25 So have we solved that problem?

1 So if I am located in X town, I remember,
2 because I'm 97 years old, that the so-and-so plant
3 used to be here, and now my whole family is worried
4 about, gee, we sound a lot like Hoosick Falls, but
5 the company is not here anymore, is there a phone
6 number that now I can call to trigger a response?
7 COMM. BASIL SEGGOS: We have a 24/7 phone
8 number staffed by dispatchers. It's a "Report a
9 Polluter" hotline.
10 We can use that, and we have been using that,
11 for calls.
12 There are other individuals who can also be
13 called.
14 But I'll give you the number right now, for
15 the record.
16 It's 844-DEC-ECOS. E-O-C-S (sic).
17 And that's 844-332-3267.
18 So anyone who has any indication of PFOA,
19 PFOS, problems, they should just be calling us. An
20 that's true not just for PFOA, but PFOS, but all
21 dumping, all tips that we get.
22 SENATOR KRUEGER: So we spent a lot of time
23 talking about those two chemicals, PFOA and PFOS,
24 really because of the current crisis in one specifi
25 group of towns.

1 Are there much more dangerous chemicals that
2 are also high up on your priority list of who we
3 need to get to first, now that we're learning so
4 much more about what the problems potentially are i
5 so many of our communities?
6 COMM. HOWARD A. ZUCKER, M.D., J.D.: I mean,
7 there are a lot chemicals out there to address.
8 Some are regulated. Many that are, obviously,
9 unregulated.
10 We're looking at them.
11 Our team will look at the -- again,
12 prioritize which ones, in order.
13 But I hear what you're asking about, what are
14 the other ones that have risks?
15 And if there's anything with a high risk,
16 we'll go after it.
17 SENATOR KRUEGER: And who's -- I know we
18 talked about there was the EPA data on, I think,
19 90 chemicals, or there was 90 on their list.
20 Do we, in fact, then use their science; that
21 they have a hierarchy within that list of danger?
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: They
23 have the science --
24 Did you want to talk to that?
25 DR. LLOYD WILSON: So I think you're talking

1 about the contaminant-candidate list.
2 SENATOR KRUEGER: That was the term. Thank
3 you, Doctor.
4 DR. LLOYD WILSON: Yeah, CCL.
5 And the UCMR parallels the CCL.
6 So what EPA's process is, there's the
7 universal chemicals, and we've talked about eighty
8 to eighty-five thousand registered through the toxi
9 act -- the Toxic Substance Control Act.
10 But, really, when you talk about
11 drinking-water contaminants, you really need to
12 throw in the natural things as well, and so you can
13 make that number much larger.
14 So that's, in the CCL process, considered the
15 universe. And they go through a process, looking a
16 health information, the occurrence data, production
17 data, disposal data; all sorts of information like
18 that.
19 Quite honestly, I actually advocated that one
20 of the things that EPA use, I talked to EPA folks
21 about this, is they use the biomonitoring data from
22 CDC.
23 If they're finding it in our blood, then it's
24 probably something that we should be worried about.
25 I'm not the only one, by any means. It's not

1 my idea. But I certainly voiced that to CDC, that
2 they take this universe and bring it down to the
3 CCL. And then from the CCL, kind of do another
4 process, where they say, all right. We now have
5 this group of 30 that we really want to go out and
6 get more occurrence data on.
7 And so we have, over the years of that
8 agency, provided input into the EPA on that process
9 It is -- you know, in all fairness to EPA, it
10 is a maturing process.
11 It all came out of the '96 Safe Drinking
12 Water Act amendments.
13 So, that's 15 years old, you know, give or
14 take a few years. And they're on their third one.
15 They just started the process for the fourth.
16 The first two really didn't find anything as
17 a result of those two. And there was a government
18 Accounting Office report that knocked EPA for the
19 UCMR 1 and 2, not really providing a lot of good
20 information and forwarding the drinking-water
21 protection in our county.
22 To EPA's credit, they made some amendments,
23 and those amendments have found issues, like PFOA.
24 And we're dealing with that right now.
25 But, you know, we got the UCMR program out

there to do the monitoring, and now we're trying to play a little bit of catch-up on what to do about things that we're finding.

And this is part of the, I think, maturation process that's happening here as we go through this UCMR, CCL, process.

And so I think what we're saying on the state level is, you know, the Governor's saying, get the water quality rapid-response team, get involved; start thinking about things that are not regulated, when you -- when, you know, the EPA has to worry about things on a national front.

The PFOA, clearly, is across the country.

But then we have to start worrying about whether there's something more local to New York, or, there's other contaminants that haven't hit the a radar, for whatever reason.

So this is a very much -- why I was going back to about being complex and needing a team.

You need people who have the current data.

You need people who have an understanding of what treatment systems work and do not work in term of removal.

You need to understand what is being discharged into the environment.

1 You need the toxicologists to make the
2 evaluations.
3 And to tackle all of these, I mean, we just
4 said 85,000, it's clearly going to go for a long,
5 long time.
6 And as processes change, the contaminants
7 change, and we have to stay on top that.
8 So it is a very intensive, complicated
9 effort.
10 I'm sorry to say this, but I lost what the
11 first part of your question was.
12 SENATOR KRUEGER: I have to go back to the
13 first part of my question also, about the actual
14 prioritizing of which chemicals you go and look at
15 first, when you have limited resources, but people
16 going out there.
17 I'm assuming, when you're sending out a
18 rapid-response team, you're not just looking at one
19 or two chemicals, and you're looking at an
20 across-the-board analysis.
21 DR. LLOYD WILSON: Yes.
22 So if you can't tell, I also have a faculty
23 position at SUNY Albany, and so you're getting me a
24 little bit into my professor mode.
25 So, you know, the integration of occurrence,

1 health-effects information, what's being used, and
2 what will be used in the future, and there's no
3 absolute quantitative way to rank at this point.
4 There is a professionalism and qualitative
5 assessment going into that.
6 One of the things in the '96 Safe Drinking
7 Water Act was a program called the "source-water
8 assessment program."
9 EPA recognized in '96, and this really speaks
10 to the maturing of our drinking-water program, up
11 into '96, there was no national database on where
12 all the sources of our drinking water were coming
13 from.
14 And so the '96 amendments required the states
15 to produce source-water assessments for every publi
16 water supply throughout the country.
17 That was our first inventory. That's only,
18 again, 15, 20 years ago, however you want to look a
19 it.
20 Part of those assessments, they were to
21 categorize land use.
22 So if there was agricultural use, then you
23 would be worried about contaminants associated with
24 agricultural use.
25 If the land use was industrial, then you

1 would worry about industrial-type pollutants.
2 And so that was one thing they did.
3 Then they actually inventoried, you know,
4 what industry was there, what other potential
5 sources of contamination were there.
6 Then they looked at the location of the
7 intake, or the quality of the groundwater well bein
8 used to pull the water out of the ground, and they
9 said, well, this intake is really close to those
10 discharges, so it's susceptible.
11 So in a qualitative way, they ranked places
12 as to whether they were susceptible or not to
13 contamination.
14 As part of the rapid-response team, we're
15 going back to those and looking at them, and those
16 are for everything. They don't just focus in on
17 PFOA or PFOS.
18 The federal government funded that work in
19 the source-water assessment program, and it was an
20 extensive effort, and it was a very good effort.
21 But the follow-up on it, everybody at every
22 level of government knows it could have been better.
23 There just wasn't any funding for it. There
24 was no follow-up.
25 But the source-water assessments were to be

1 provided back to the villages, to the towns, to the
2 municipal systems, to the private public water
3 systems, and they were to use that information, and
4 look at their own vulnerabilities, because,
5 ultimately, the water system is the one that's
6 responsible for providing the water.
7 So they were to look it and see what they
8 could take on the local level.
9 And to the degree that we could provide
10 expertise and help them in the system, and
11 understanding what those assessments meant, and wha
12 they could possibly do, we've tried.
13 So that is one of the things.
14 And this, again, is a long answer to your
15 question about other chemicals, how they're being
16 brought into the system.
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: I just
18 want to add one other thing.
19 We need to make sure, you have to have a
20 reliable test.
21 It's worth mentioning, though, PFOA, when we
22 started with this whole issue with PFOA, there were
23 only 13 labs in the entire North America that could
24 run PFOA tests.
25 And so we, ultimately, got our lab here at

1 Wadsworth to be able to run these tests.
2 But these are complicated tests, not like the
3 straightforward tests that we usually do.
4 SENATOR KRUEGER: And talking about the sort
5 of breadth of the issue, and this hearing is
6 supposed to be about water-quality issues for the
7 state of New York, in 2008, DEC put out a report on
8 New York's wastewater-infrastructure crisis. And
9 that was, I guess, 8 years ago, almost 9 years ago.
10 And then DEC was projecting 36 billion over
11 next 20 years needed to assure our water
12 infrastructure being protected and brought up to
13 date. And it talked about, a quarter of the
14 610 facilities in New York are already operating
15 beyond their life expectancy. And that was, again,
16 8 years ago.
17 You talked about, in that report, the
18 detailed issues. We could expect to have growing
19 problems in New York if we didn't address it.
20 We have had advocacy groups writing more
21 recent reports.
22 And we also have the state comptroller
23 putting out a report in 2014, based on the 2012
24 fiscal-year data, talking about that revenues have
25 not kept pace with the increasing costs. And that

1 they put out an annual estimate in infrastructure
2 need, for water and sewer, of 1.5 billion, with 201
3 spending of 300 million.
4 So are we actually creating all of these
5 problems for ourselves, and we should expect it's
6 gonna keep getting worse, because our water
7 infrastructure wasn't adequate, again, by your own
8 agency's reports, 8 years ago, and it looks like,
9 and sort of smells like -- a bad pun about water --
10 that it's actually getting worse, and we're reaping
11 the problems from not having addressed the
12 underlying fundamental issue?
13 COMM. BASIL SEGGOS: Well, I don't think
14 there's anyone in this room, Senator, who would
15 disagree that wastewater infrastructure is a really
16 pressing issue, not only in New York State, but
17 nationally.
18 I mean, we had the benefit in the 1970s of
19 the federal government injecting a huge tranche of
20 money into the states, grant money, for the
21 construction of these facilities and the lines --
22 the distribution lines.
23 Since then, they've transitioned from
24 grant-making, which we love, to loans, which are
25 harder to give out to munies who may indeed be

1 cash-strapped, generally.
2 We've had a great program in New York State
3 over the years.
4 As I mentioned in my testimony, I think the
5 leading program in the U.S. on loan-making, through
6 our Environmental Facilities Corporation, has been
7 fantastic.
8 $20 billion over the last X number of years.
9 A billion dollars a year over the last five.
10 It's a well-subscribed program.
11 Two years ago, we all worked together with
12 the Governor and you-all to launch the Water
13 Infrastructure Improvement Act.
14 We doubled down on that this year. Right?
15 We injected, literally, doubled the amount of
16 funds in that program, a $400 million program.
17 We've been getting those dollars out the
18 door.
19 Those are well-subscribed programs, and we've
20 been getting the dollars out the door as quickly as
21 possible.
22 And, in fact, just made a recent
23 announcement, a $175 million announcement, last
24 month.
25 Those grants that we've been able to put out

1 are helping to turn the tide, I will say that.
2 Each grant dollar gets out there, it's gonna
3 leverage the loan dollars that we're able to
4 provide.
5 It's going to leverage private dollars that
6 munies are able to find.
7 The $175 million in grants leveraged, you
8 know, $710 million in total projects.
9 So I think that it is -- it would be accurate
10 to say, we stepped up two years ago when we saw the
11 problem coming, got our forces together during the
12 budget process, and put the state on a path towards
13 repairing some of this badly-needed infrastructure.
14 SENATOR KRUEGER: And is that money -- this
15 is my last question, because I know I've taken a
16 while.
17 Are those funds being prioritized for either
18 (a) the areas where we know we're seeing the
19 greatest amount of contamination, and (b) do these
20 funds, and can these funds, get to those small
21 municipalities, such as Hoosick Falls, who are ofte
22 the least likely to be able to do any kind of match
23 at the local level, and, also, the Rust-Belt cities
24 as my colleague from Syracuse referenced before?
25 Because I sit through all of the budget

1 hearings and I hear, in detail, the dilemmas of our
2 smallest communities and our oldest cities, where
3 they, literally, don't have the funding within thei
4 own budgets to do anything but emergency response.
5 And I think that all of you at this table in
6 front of me would agree today, we really don't want
7 to approach water crises from the "emergency
8 response after the fact" perspective.
9 COMM. BASIL SEGGOS: Right.
10 Well, in terms of getting the dollars out,
11 munies have to come to us to apply.
12 And, thankfully, we've been able to
13 communicate the availability of the program, and
14 it's been, again, as I mentioned, well-subscribed.
15 Several years ago, the -- through the
16 Department of Health, EFC was able to give a
17 $7 million grant to the Village of Hoosick Falls to
18 upgrade their water-infiltration plant. That was,
19 I think, in 2013.
20 An example of a small municipality that was
21 able to get a low-interest or no-interest loan.
22 I'll just give a quick example of a
23 municipality that I dealt with directly in the last
24 few months, which was the City of Amsterdam and its
25 wastewater problems. They had a broken sewage line

1 which was leaking into a creek.
2 They had, thankfully, applied for the
3 WIA grant, and we were able to announce that they
4 were the recipient of the grant just a few weeks
5 later, and that helped to solve that problem.
6 Again, a small municipality, they come to us.
7 We do our best to market it.
8 Our Environmental Facilities Corporation and
9 DEC work very well with the munies, typically, on
10 all of their asks in this program.
11 And it's -- you know, the grants are
12 distributed, based on a widely-accepted scoring
13 system, that helps to prioritize the pollution that
14 may be coming from their plants into the waterways
15 that may be subject to it, as well as a number of
16 other factors, including hardship of the
17 municipality's ability to pay and take loans, and s
18 forth.
19 But it is a well-run program, and, certainly,
20 thankful that we were able to come together on that.
21 If I could just correct one thing that was
22 said earlier, Assemblyman Englebright?
23 So you mentioned that the EPA announced today
24 that they've declared Hoosick Falls a superfund
25 site.

1 It's actually not accurate.
2 Back in January, I think January 15th, we
3 sent a letter to EPA, requesting they nominate the
4 Saint-Gobain facility on McCaffrey Street as a
5 superfund site.
6 So the announcement today is that they will
7 be moving that nomination forward.
8 The decision on that won't -- wouldn't come
9 for another six months. So the actual declaration
10 of a superfund site won't be until about six months
11 from now.
12 By contrast, I'll tout our activities.
13 In late January, after declaring PFOA a
14 hazardous substance, two days later, we were able t
15 list the Saint-Gobain McCaffrey Street site as a
16 state superfund site, which has enabled us to do
17 everything we've done since then, on investigation,
18 remediation, POET installations, and everything els
19 that we've been doing over the last few months.
20 Just to clarify where the state superfund
21 process is different than the federal superfund
22 process.
23 SENATOR HANNON: Let me jump in.
24 Commissioner, let me jump in.
25 Just, would you clarify what the financial

1 implications are of the state declaration of a
2 superfund site and the federal declaration of a
3 superfund site, in terms of, where the money will
4 come, and who will be responsible.
5 COMM. BASIL SEGGOS: Sure.
6 Well, both superfund programs have the same
7 objective in mind: Let's do a cleanup, and then go
8 back to the companies to have them pay, either the
9 State or the federal government, for the cost
10 expended.
11 We have many superfund sites over the years
12 where the State and federal have both had
13 designations in place on the same site, and they've
14 been able to effectively work out a -- you know, to
15 limit the Venn diagram to a minimum, and ensure tha
16 the amount of work being done is being done in a
17 coordinated way.
18 So that's why, in Hoosick Falls, we saw that
19 it would be worthy and needed to have federal
20 resources in play, in addition to the State
21 resources we knew we would be able to bring.
22 So it's not like -- it's almost -- it's not
23 like a doubling-down on the costs out there. There
24 would be a coordination on the projects that are
25 undertaken, and then the cost recovery would be

1 allocated accordingly.
2 Does that make sense?
3 Okay.
4 Sorry to have --
5 SENATOR KRUEGER: That's all right. That was
6 my final question.
7 Thank you.
8 Thank you, Senator.
9 SENATOR HANNON: Assemblyman.
10 ASSEMBLYMAN ENGLEBRIGHT: I'd just like to
11 mention that Assembly Member Titone has joined us.
12 And I would like to call at this time on the
13 Ellen Jaffee.
14 ASSEMBLYWOMAN JAFFEE: Thank you very much.
15 And thank you for having this conversation
16 with us today. This is so essential for our
17 communities.
18 More than 10 years ago -- I don't remember,
19 it could be 10, at least 12 years ago, maybe
20 14 years ago, I was a county legislator in
21 Rockland County, and there were a couple of issues
22 regarding wells and contamination, especially when
23 someone bought a new home, and found out that the
24 family was drinking contaminated water.
25 So I actually introduced, and it was passed,

1 legislation establishing requirement, that when you
2 sell your home, you have to have your -- and you
3 have a private well, that you have your well tested.
4 And what was interesting about that, is that,
5 not long after we passed the legislation and it was
6 in effect, there were several situations that
7 occurred one area. There was contamination noted,
8 and so they had to test the wells in that entire
9 neighborhood, and they had to respond to the
10 concerns.
11 And, secondly, a couple of years beyond that,
12 there was an issue in terms of a multi-family home,
13 and they were testing, and they discovered that
14 there was contamination.
15 And, you know, I don't know what has happened
16 since then.
17 But I have been sponsoring this legislation,
18 my private-well testing bill, for a number of years
19 now, hoping that we could make a difference in
20 New York State, especially for those who had privat
21 wells, because there is an assumption, at least
22 there was an assumption for so many years, that a
23 private well would be safe.
24 And I think it was Hoosick Falls, where the
25 gentleman who owned that home, tested his well, and

1 that's when they discovered that there was a
2 problem.
3 So I'm pleased that you're, Commissioner,
4 moving forward, and suggesting, as is the Governor,
5 the recommendation that we have a private-well
6 testing law in New York State, and include the
7 multi-family homes as well, because that is
8 essential, and will certainly make a difference.
9 And within the context of my law, it also
10 asks the Department of Health to really establish
11 the regulations and the standards for the testing o
12 the water.
13 And given the circumstances now, this is
14 something that will be extremely important.
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: Thank
16 you for being the sponsor of this "well testing"
17 bill.
18 I really appreciate it.
19 ASSEMBLYWOMAN JAFFEE: Well, I think it is
20 essential, and especially now, given what we've
21 discovered around the state.
22 It is something that I know that we're
23 looking forward to moving forward in the next
24 session, and having this established, and provide
25 this kind of assistance that's also noted here for

1 those that need that kind of support and assistance
2 And I think that's essential, and I thank you
3 for that.
4 I know it will be challenging.
5 After we passed it in Rockland County,
6 Assemblyman Abinanti, who was also a legislator at
7 the time in Westchester, picked that up, and
8 Westchester also passed it.
9 So I think that a good idea would be, as we
10 move forward, also to have conversations with two
11 counties, to see if there are any tweaks that we
12 need to, you know, consider, some of the issues tha
13 may have occurred in there.
14 So I would be glad to move forward and have
15 those conversations as well.
16 But thank you very much, and I think it will
17 make a huge difference for our families.
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: Thank
19 you. We appreciate it.
20 ASSEMBLYMAN ENGLEBRIGHT: Senator.
21 SENATOR HANNON: Senator O'Mara.
22 SENATOR O'MARA: Just a point of perspective
23 here, on the -- following up on our hearing in
24 Hoosick Falls last week, where we went 10 hours wit
25 that, and you were at that one as well, so I'm not

1 going to rehash the questions that I went through
2 there, other than to follow up on one point that
3 I made there, and that is the relationship and
4 cooperation between EPA, Department of Health, DEC.
5 You know, last week at the hearing, there was
6 a letter that both Commissioners penned and dropped
7 to Judith Enck, the Regional Commissioner of EPA, a
8 the time of the hearing.
9 Then throughout the hearing, EPA Regional
10 Director Judith Enck was communicating with the
11 press and the media, commenting on everything that
12 was being testified at that hearing last week, yet
13 refused to appear and testify herself at that
14 hearing.
15 Has continued to refuse to be here today and
16 testify at this hearing for us.
17 And I think that would have been a much more
18 effective dialogue for all of us, and those
19 watching, to be able to get her perspective on this.
20 But, yet, here we are again today, and
21 there's another letter issued by you guys to the
22 EPA. And now there's this federal superfund moving
23 the nomination forward today.
24 So, it doesn't appear to me that these
25 relations between EPA and Department of Health and

1 DEC, between the State and the feds, are improving.
2 And what I really want to know, and I know
3 that the residents, certainly, of the Hoosick Falls
4 community, are extremely frustrated over this
5 finger-pointing back and forth.
6 And what are we doing to improve these
7 relations?
8 We have limited resources at both levels of
9 state and federal government. We need to work
10 together on these things.
11 How do we improve that, going forward, that
12 relationship?
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
14 I think that -- well, one, I agree that
15 collaboration is critical to the success of this,
16 and anything else that we're doing.
17 We've reached out to EPA, we did receive
18 letters back.
19 We wish they were here today, and I think the
20 dialogue would have been better, and had a chance t
21 answer some of the questions that have been raised.
22 We -- I think as I mentioned before, the
23 inconsistencies at the end of 2015 caused the
24 confusion that we had. But in years past, we were
25 able to have a better relationship on some of these

1 issues.

2 SENATOR O'MARA: Do you have any explanation

3 from EPA?

4 I know the state Department of Health didn't

5 act in issuing a "do not drink" order.

6 EPA was aware of the situation over this

7 18-month, to 12-month, period that we're discussing

8 about.

9 Any explanation, the EPA, as to why they

10 didn't issue a "do not drink" order earlier?

11 COMM. HOWARD A. ZUCKER, M.D., J.D.: This is

12 a question again for them.

13 I can say that our team had been in touch

14 with EPA. They knew what we were doing.

15 They didn't bring anything to us saying that

16 you should issue a "do not drink" order earlier in

17 2015.

18 And then, in November of 2015, as we all

19 know, they issued this letter.

20 So I think this is a question, really, for

21 them.

22 SENATOR O'MARA: Well, I think that we need a

23 much more wholehearted effort on behalf of the both

24 of you and your departments, and the State, and wit

25 our federal representatives, to make sure that we

1 get this cooperation, going forward, that we need,
2 to not get in these situations.
3 Because I think we could have, and probably
4 should have, acted sooner in this case, at least
5 giving warnings out there for people to make their
6 own determination of whether they wanted to continu
7 drinking the water or not during that period, at a
8 minimum.
9 And I do want to turn the topic, for just a
10 second, to the "school testing for lead" legislatio
11 that the Governor signed yesterday.
12 And as an example of the ability of your
13 department to act quickly, when motivated to do so,
14 regulations were issued today, I believe, and filed,
15 that are now effective, and guidelines for the
16 testing of school water.
17 So I assume you've been working on those
18 since legislation was passed, knowing that it was
19 something that, certainly myself and
20 Assemblywoman Lupardo, who's here with us today,
21 championed in the Legislature. And the Governor's
22 Office and the Department of Health, and Education,
23 got involved in the final negotiations of that
24 legislation.
25 So in the past 2 1/2 months, you've been able

1 to come up with regulations for the testing of that,
2 and I commend you for doing that.
3 I wish we could see a quicker response on
4 other issues, such as we're here mainly about today.
5 But, on the lead testing, you've come out
6 with a standard of 15 parts per billion.
7 And here in Hoosick Falls it's a different
8 chemical, different, whatever, in the water. We're
9 talking about parts per trillion in the water, whic
10 I think is a much smaller quantity.
11 What did the standard of 15 parts per billion
12 come from?
13 How did the Department of Health come up with
14 that standard?
15 DEP. COMM. BRAD HUTTON: There's an existing
16 EPA action level of 15 parts per billion, so it's
17 that action level.
18 SENATOR O'MARA: Okay. So, are we going to
19 find ourselves here a year or 18 months from now,
20 arguing about "15 parts per billion" action level,
21 and whether that was too high or not, or too low?
22 COMM. HOWARD A. ZUCKER, M.D., J.D.: I think
23 the one thing about -- I think one of the great
24 things about lead, it's a regulated contaminant.
25 We've had a lot of research on lead over decades

1 that we've learned, and so I think there's a lot of
2 science on that -- at that point.
3 And I think a lot of these unregulated
4 contaminants, particularly PFOA, is evolving. And,
5 hopefully, we will be able to get to the point wher
6 we have answers as clear as we do on lead.
7 SENATOR O'MARA: I think it was astonishing
8 to most people that that type of testing hadn't bee
9 required in schools, or any other buildings. And
10 there's been, certainly, suggestions that the
11 testing should be broader, or different types of
12 facilities.
13 I think the starting point of schools is a
14 good first step, and we need to look further.
15 And we certainly look to your guidance and
16 the DEC's guidance on what type of facilities this
17 type of testing should be, potentially, mandated in.
18 It's certainly expensive, and we've gone to
19 great lengths to try to cover those costs in the
20 legislation, but it is an example of how quickly we
21 can act, and we should be acting, in response to
22 these issues.
23 I mean, this is something that moved through
24 the Legislature in one session, which is, largely,
25 unheard of for any issue.

1 And then to have the department come out with
2 regulations the day after the Governor signs the
3 bill, it's all good, in this instance.
4 But I would like to see it better in many
5 other instances as well.
6 Thank you.
7 ASSEMBLYMAN ENGLEBRIGHT: I would just like
8 to acknowledge, and apologize for not having
9 previously recognized, Assembly Member Lupardo and
10 Assembly Member Lopez, both of whom have been here
11 right from the beginning.
12 So, I'm sorry that I didn't glance in your
13 direction, but I did want to acknowledge your
14 presence.
15 And Carrie Woerner is next.
16 ASSEMBLYWOMAN WOERNER: Thank you very much.
17 So, in early August, PFOAs were found in
18 Cambridge and White Creek, which are quite a fair
19 distance from the original plant sites where the
20 contamination was thought to occur.
21 So my question is: Have you determined how
22 those chemical contaminants might have migrated to
23 wells that are so far away from the contamination
24 site?
25 COMM. BASIL SEGGOS: Assemblywoman, I don't

1 believe we've determined exactly how they could hav
2 migrated to that point, that far.
3 I mean, it is downstream, down-gradient, in
4 the Hoosick Valley, from both Hoosick Falls and
5 Petersburgh.
6 While we know that the levels of
7 contamination in the river are very low, to near
8 non-detect, there may well have been some
9 groundwater pathways that we need to investigate.
10 The -- we are working on -- you're
11 referencing a couple of hits. We are working on
12 installing treatment systems, and maybe we already
13 have installed treatment systems on those
14 facilities.
15 ASSEMBLYWOMAN WOERNER: Yes, thank you for
16 being so efficient at getting those treatment
17 facilities installed.
18 So given that we don't actually know how the
19 PFOAs got to those wells, and are there other --
20 should we be anticipating that those groundwater
21 pathways may have taken the PFOAs to other parts
22 of southern Washington County?
23 COMM. BASIL SEGGOS: At this point, I would
24 say it is too early to tell.
25 I would imagine that -- I'm not a scientist,

1 but I would imagine that the pathways, if there are
2 any, or, if it's related to local dumping, if there
3 are pathways, it would have been limited to the
4 valley floor itself.
5 Some conjecture, but perhaps Martin, my
6 deputy commissioner for remediation, has some
7 thoughts on that.
8 You've been active on this.
9 DEP. COMM. MARTIN BRAND: Sure.
10 Perhaps the Assemblyman can do me the honors?
11 ASSEMBLYMAN GOTTFRIED: Oh, sorry.
12 Do you swear the testimony that you're about
13 to give is true?
14 DEP. COMM. MARTIN BRAND: Yes.
15 ASSEMBLYMAN GOTTFRIED: Thank you.
16 DEP. COMM. MARTIN BRAND: Thank you.
17 As the Commissioner said, we're actively
18 investigating those communities right now.
19 Actually, we've been out in the field the
20 last few days. We were out there last week, took a
21 number of samples in the tributaries and in the
22 rivers.
23 And we'll be out there again this week,
24 taking additional samples, and, of course, we're
25 sampling private wells.

1 Right at the moment, again, we don't really
2 have a good sense of what the potential source area
3 are there.
4 It could be some sporadic legal dumping.
5 That is one possibility.
6 We are also looking at a mechanism where the
7 river itself changed its levels and flooded at
8 certain times. So that's a possible source as well.
9 But we're continuing to sample, and we're
10 sampling out there right now.
11 ASSEMBLYWOMAN WOERNER: And there will be
12 reports that are gonna be available to us and to th
13 public that will identify, whatever those results
14 are, whether you found it or not, we'll know what
15 the testing results are?
16 DEP. COMM. MARTIN BRAND: Absolutely.
17 ASSEMBLYWOMAN WOERNER: Thank you.
18 Turning your -- turning my attention to a
19 different topic, Commissioner Seggos, I would like
20 to thank you for your recent call for the EPA to
21 require additional cleanup of the PCBs in the
22 Hudson.
23 It is a true statement that it will be
24 generations before anybody will be able to eat fish
25 that comes out of the Hudson River.

1 You can't swim in the Hudson River.
2 You shouldn't irrigate your fields with water
3 from the Hudson River, and you certainly can't drin
4 the water.
5 So there is definitely more work to be done
6 there.
7 But in particular, my concern today has to do
8 with the flood plains.
9 So the flood-plain assessment has yet to be
10 done, and no mitigation plans have yet to be put in
11 place, based on that assessment for the food plains.
12 There are whole school districts which lie
13 within the flood plains, we have farms in the flood
14 plains, we have neighborhoods and communities in th
15 flood plains, we have a national park in the flood
16 plains.
17 And one of the things that my constituents
18 are concerned about, and by extension, so am I, is
19 that the definition of where the "cleanup areas"
20 might be, be done in a very thorough manner so that
21 we don't miss a potential site of contamination in
22 the flood-plain areas.
23 So I would ask you if you could reflect for a
24 few minutes on what role the DEC imagines taking to
25 ensure that the process of identifying problem area

1 in the flood plains, and establishing a thorough an
2 timely cleanup plan, is done.
3 COMM. BASIL SEGGOS: Thank you for raising
4 that.
5 Yes, absolutely, we have been thoroughly
6 involved over the last two years on the flood
7 plain -- two, three years, if not long before that,
8 but very active in the last two, three years on the
9 flood-plains issue.
10 We've been -- it's an EPA-lead project.
11 We have been pushing the EPA to go as fast
12 and far possible on all of the properties that you
13 have referenced. It's actually 1800 properties.
14 We want -- we have seen in the last year and
15 a half or so, several interim steps taken to remove
16 hotspots and close down certain spots while there
17 were cleanups of some of the worst conditions on th
18 flood plain.
19 The cleanup, necessarily, will take some
20 time, but we want to see it all done very quickly.
21 I just want to, if I may, correct one thing
22 about the Hudson.
23 It is safe to swim in the Hudson River.
24 There may be advisories after rain events.
25 It's safe to fish in the river. I would do

1 catch-and-release. But, you know, there are
2 guidelines on that.
3 ASSEMBLYWOMAN WOERNER: Well, of course it's
4 safe to fish there. You just can't eat what you
5 catch.
6 COMM. BASIL SEGGOS: Exactly, exactly.
7 ASSEMBLYWOMAN WOERNER: And we do have
8 subsistence fishermen, particularly downstream --
9 or, downriver, who fish on a regular basis, even
10 though it is posted.
11 COMM. BASIL SEGGOS: I couldn't agree more.
12 And, in fact, you know, when we concurred
13 with the 2002 record of decision on the cleanup, we
14 had anticipated at the time that it would be a
15 generation, perhaps, before the river would be trul
16 clean enough to eat fish out of.
17 The data that we're seeing now out of "NOAA,"
18 sister agency of the EPA, the federal National
19 Oceanographic and Atmospheric Administration, has
20 done very compelling studies on fish contamination
21 in the river.
22 And it has found that it will be
23 generations -- not generation, but generations --
24 before we'll see a cleanup.
25 So you're absolutely right that, right now,

1 the trajectory we're on may not be acceptable. And
2 that's why we've been pushing the EPA, as part of
3 their five-year review process, to take a hard look
4 at that data, and not rubber-stamp the process; not
5 rubber-stamp the cleanup as being done.
6 We don't believe that it is.
7 ASSEMBLYWOMAN WOERNER: Thank you,
8 I appreciate that, because I too think that the
9 cleanup isn't done. And that to have multiple
10 generations be -- it will now take multiple
11 generations to eat the fish out of the river, has -
12 it is not sufficient.
13 It used to be a vibrant fishing economy, and
14 it is now no longer any kind of fishing economy.
15 COMM. BASIL SEGGOS: You're right.
16 ASSEMBLYWOMAN WOERNER: And that's not --
17 that's bad -- it's bad for business, and it's
18 certainly bad for people's health.
19 So I appreciate your efforts to keep the
20 attention focused on the need to continue to cleanu
21 in Hudson.
22 And then I have one last question, and this
23 one is for Commissioner Zucker.
24 You know, we talked about the
25 80,000 unregulated chemicals.

1 And industry, particularly advanced
2 manufacturing, is a very chemical-intensive process.
3 As a state, we are working hard to establish
4 an advanced-manufacturing economy, particularly in
5 parts of the state, like the capital region.
6 And having sat on a planning board, I'm very
7 confident that we have a SEQR process that requires
8 the environmental -- potential environmental impact
9 be identified up front.
10 But, nonetheless, the science follows the
11 technology.
12 So it will be decades before the science
13 catches up to say, the chemical that was used today
14 had some sort of health issue.
15 So my question for you is: Are you using the
16 data that's available to you today, in terms of
17 health outcomes; cancer diagnoses, other kinds of
18 auto-immune diagnoses, that are known to have an
19 environmental nexus?
20 Are you using -- are you tracking that data,
21 and then periodically looking at it over a
22 longitude -- over a period of time, to say, you kno
23 what? We're spotting a hotspot here, and maybe we
24 should proactively look at what's going on there?
25 Are there industries there?

1 Are they using chemicals?
2 How are they handling the chemicals?
3 Were there any spills?
4 So that you are not waiting the 20, 25 years,
5 and you're not waiting for some motivated citizen t
6 test their water to uncover a problem for you.
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: So we
8 can match -- unfortunately, the State monitors
9 instance of cancer across the state as part of what
10 our Office of Public Health does. So we can match
11 this up, and look, and sort of look at the map of
12 that information, and compare it to the map of
13 contaminants that come up.
14 I agree with you that, you know, some of the
15 science -- some of the science information comes up
16 later.
17 And that's why we're also working with the
18 CDC and others to try to figure out, what's the
19 latest they have, not just here in New York, but
20 across the country?
21 ASSEMBLYWOMAN WOERNER: And that data that
22 you are able to look at, are you maintaining it on
23 current basis --
24 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yes.
25 ASSEMBLYWOMAN WOERNER: -- so if I were to

1 look at that data, I would see current information?
2 COMM. HOWARD A. ZUCKER, M.D., J.D.: Yes.
3 Data, the cancer registry that we have in the
4 state, that's in our department, is up to date. An
5 we get it every year, and we track it.
6 ASSEMBLYWOMAN WOERNER: Okay. And so you do
7 have a process by which you and, say,
8 Commissioner Seggos are sitting down and saying, le
9 me show you what we looked at?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: Right.
11 If something -- if there's a hotspot,
12 something lights up, as to why is there more cancer
13 in this area versus somewhere else, we'll sit down
14 and start to look and see, what are the causes? not
15 only just environmental, but what are the other
16 possible causes of this as a cause -- as a --
17 ASSEMBLYWOMAN WOERNER: And can you share
18 with us an example of something in the last few
19 years where that has happened?
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: Sure.
21 Brad, do you want to -- you have the
22 registry; right?
23 DEP. COMM. BRAD HUTTON: Yes.
24 I was just going to explain that, through
25 previous legislation called the "Cancer Surveillanc

1 Improvement Initiative," we've actually undertaken
2 pretty exhaustive effort of doing state-of-the-art
3 geo-coding, to map the incidents of cancer at
4 varying levels of geography, and map it compared to
5 the known environmental contamination sites, and
6 have looked at that across the state.
7 And, did an extensive effort several years
8 ago to educate those communities about what the map
9 meant and what they didn't mean.
10 So I think we've actually led the nation in
11 sort of using our gold-standard cancer registry,
12 along with the extensive environmental contaminatio
13 sites, to do just, I think, what you're proposing.
14 ASSEMBLYWOMAN WOERNER: And have you -- so
15 you didn't mention Fort Edward and General Electric
16 in your list of communities that are noted for
17 having environmental contaminants, but, that is
18 probably one of the biggest ones.
19 So my question is: Have you used the
20 cancer-registry data to assess the instances of
21 cancer in Fort Edward, and taken any steps to
22 address that?
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: We can
24 go back and look at those numbers.
25 ASSEMBLYWOMAN WOERNER: Thank you.

1 That's all.
2 SENATOR HANNON: Senator Richie.
3 SENATOR RITCHIE: As someone who represents a
4 very rural district, hardly a week goes by that
5 I don't get a call from a municipality with either
6 water or wastewater issue. And the price tag on
7 most of those projects are so astronomical that it
8 scares a municipality, and I don't really know wher
9 to turn.
10 And most are operating on such a small
11 margin, a lot of them have applied, and they're not
12 eligible for resources from the State, whether it b
13 a loan or a grant.
14 Do you have any plan on how we can address
15 the situation?
16 If there's that much need in just my
17 district, I really can't imagine how much need ther
18 is across the state.
19 COMM. BASIL SEGGOS: Well, Senator, I would
20 certainly start by saying that, you know, if any of
21 your municipalities are having issues getting grant
22 and loans, if they aren't aggressively calling us,
23 and calling the EFC -- Sabrina Ty is the president
24 of EFC, I'm chair of the board there -- they should
25 call aggressively and regularly, to try to figure

1 out what in their application process might be
2 making them score below their counterparts elsewher
3 around the state.
4 So I'd offer that.
5 I certainly know your district very well.
6 I'm up there all the time, and I know some of the
7 wastewater issues that they're facing.
8 So, look, every year we sit down during the
9 budget process, and at least in the last two, and
10 map out how to spend the monies allocated under the
11 Water Infrastructure Improvement Act.
12 We've been able to make some modifications to
13 that over the past year, and the program has been
14 running well, as I was telling Senator Krueger.
15 If there are other modifications we need to
16 make to it, then I would certainly -- well, my staf
17 would certainly entertain that, and I certainly
18 would as well.
19 We -- also, just so you're clear, we have
20 other grant programs, and we try to promote this a
21 lot. Under the environmental-protection fund,
22 which, again, we boosted recently, there are pots o
23 money.
24 The water-quality improvement program is one
25 line of the EPF, where we're able to turn around

1 dollars, I think it's $19 million now, per year, in
2 a similar fashion of grants out to communities.
3 It's competitive, but we can get it out there
4 as well.
5 So it's not just the WIA program. We have
6 EPF as well.
7 But I really want to encourage your
8 municipalities, your supervisors and mayors, to cal
9 us on a regular basis, and figure out how to get
10 into the process, because sometimes it's a matter o
11 communication, and not filling out the form all the
12 way.
13 And that's unfortunate when that happens.
14 SENATOR RITCHIE: And I think that's one of
15 issues, especially for the small municipalities tha
16 may need it more than the others. They don't have
17 anyone on staff that can complete the application,
18 and I think that factors in.
19 So if there's one thing that I could ask, if
20 there's somebody, somewhere, that could help the
21 municipalities, even if they were to go out and hel
22 them complete the application.
23 A lot of times, they are part-time
24 individuals, this is their second job, and they
25 really have no idea how to fill the paperwork out.

1 And I think that's hurting their score when
2 their application goes in.
3 In another topic that's close to this is, my
4 area certainly has -- experiences very harsh
5 winters.
6 We've had issues with road salt and
7 contamination in the water system.
8 So can the department tell me -- the
9 Department of Health, if road salt is dangerous in
10 drinking water to the health of residents?
11 COMM. HOWARD A. ZUCKER, M.D., J.D.: So the
12 issue with the road salt is, is it dissolves and
13 runs into the groundwater. And for most people, th
14 issue of salt isn't in the drinking water, but it
15 won't pose a threat to most people.
16 However, those, obviously, with heart
17 problems or who need to be on a low-salt diet, thos
18 individuals where it's much more of a concern, and
19 those are the people who would be much more apt to
20 have an alternate source, an alternate water source
21 SENATOR RITCHIE: And I have heard from some
22 local residents that there are concerns that arseni
23 and some other chemicals are part of the road salt.
24 Now, is that -- is the road salt different
25 per location that's using it, or is it, across the

1 board, the same composition?
2 COMM. BASIL SEGGOS: I might defer to Martin
3 who might know more about it, he's a geologist.
4 The composition of road salts, my sense is,
5 you're going to have different constituents in the
6 road salt statewide, probably. It's mined from
7 different locations.
8 But I have not heard the concerns expressed
9 about arsenic.
10 DEP. COMM. MARTIN BRAND: We haven't heard
11 that particular concern, but, if you have a
12 particular incident, please let me know and we can
13 look into it.
14 Yes, road salt isn't just homogenous. There
15 might be different compositions in road salt.
16 But, normally, the testing we do, we pick up
17 other parameters as well when we're doing the
18 testing. We wouldn't just test for sodium, for
19 example, or the chlorides. We would test for other
20 type of parameters as well, so that would pick up
21 any other concerns.
22 SENATOR RITCHIE: Does the DEC monitor the
23 road-salt situation in certain areas?
24 Is that something that you would monitor
25 also?

1 COMM. BASIL SEGGOS: Let me start.
2 Road salt, obviously, is a concern for human
3 health, and when it gets into the water, it can be.
4 Certainly, an environmental concern as well.
5 I mean, we have to balance the impacts of
6 road salts on the ecosystems, versus icy roads and
7 drivers who are in peril.
8 So we've been working on that for a long
9 time, particularly around Lake George and the
10 Adirondacks, you know, areas that are very sensitiv
11 for road salts, and have been studying these, in
12 partnership with nonprofits and other institutions.
13 We don't have a road-salt testing program,
14 very large, statewide, but we know where there are
15 issues, and we usually work with local partners to
16 identify their data, and then create solutions base
17 on that.
18 Do you have anything to add to that, Martin?
19 DEP. COMM. MARTIN BRAND: Well, I would just
20 add that we work closely with the Department of
21 Transportation, both on the state and federal level,
22 to look at the issues, because, obviously, they hav
23 more information, and are part of that program.
24 I also want to mention, as part of the water
25 quality rapid-response team, we're looking at

1 salt-intrusion issues as well, sort of revisiting a
2 old problem that we've known about for a long time,
3 but looking at it with some fresh eyes and some
4 fresh resources.
5 So we are looking at salt quite closely right
6 at the moment.
7 SENATOR RITCHIE: So I would appreciate it if
8 you could relay that information as you're acquirin
9 it, because it is something that has been an issue
10 in my district.
11 But that being said, I want to thank both
12 Commissioners for their help on the situation. And
13 I think we're getting to a good place now, and
14 I want to make sure we continue to get across the
15 finish line.
16 So, thank you.
17 COMM. BASIL SEGGOS: Thank you.
18 ASSEMBLYMAN ENGLEBRIGHT: Assembly Member
19 Stec, Ranker of our Committee.
20 ASSEMBLYMAN STEC: Thank you, Chairman.
21 And, good afternoon.
22 I appreciate everyone's testimony so far.
23 I've got a few questions, I want to circle
24 back to the PFOA issue in Hoosick Falls;
25 specifically, regarding the timeline with sampling.

1 Now, my understanding was, there was a local
2 resident that had a concern, and took their own
3 sample in, approximately, August of 2014.
4 And then I heard here today, there was talk
5 of further samples being taken in the October,
6 November, 2014, timeframe.
7 Who took those? Was that a local water
8 providers?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: That was
10 done by the County or the Village.
11 ASSEMBLYMAN STEC: Okay.
12 And then the only other mentioning I heard of
13 sampling was June of 2015, and that was done by you
14 department?
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
16 Department of Health.
17 ASSEMBLYMAN STEC: Was there any other
18 sampling done between November of '14 and June of
19 '15?
20 That gap is, I guess, where I'm going.
21 COMM. HOWARD A. ZUCKER, M.D., J.D.: So there
22 were additional samplings in January done by the
23 Village, but based on our advice to repeat it. And
24 February. January and February.
25 ASSEMBLYMAN STEC: So from January to June,

1 there were no other samples taken?
2 Why the June sample?
3 COMM. HOWARD A. ZUCKER, M.D., J.D.: Right,
4 so there was one done in February.
5 When it came back -- and, first, just
6 recognize, at that point in time, to get these
7 results back, it took a period of weeks.
8 ASSEMBLYMAN STEC: Well, that's my next set
9 of questions; but, okay.
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: So
11 that's one thing.
12 And then when we recognized that this level
13 was up, and we started to say, well, we need to fin
14 one alternative source of water, or a filtering
15 system, or something that we -- that we could do th
16 filtering system, put in place, I should say that.
17 And then we recognized that maybe this goes into th
18 private wells.
19 And so at that point, we came in and we
20 stepped in to start looking at more than just the
21 site of the public water system.
22 And that was -- that's what we got involved.
23 Lloyd, did you want to add anything more on
24 this?
25 DR. LLOYD WILSON: No.

1 I think that's -- well, just to repeat a
2 little bit of what we said before:
3 In October and November of '14, the purpose
4 of the sampling was primarily to document whether
5 there was contamination present or not.
6 And just for a matter of record, we've never
7 actually seen the results from the individual.
8 That's another reason why we would sample on
9 our own.
10 We heard of a reported results. Whether we
11 saw that or not, it didn't matter.
12 The protocol, because the sampling, if you do
13 it wrong, you're going to get wrong results.
14 And so, the lab analysis, you can get very
15 thick pages of QA/QC work, but, if the person doing
16 the sampling doesn't do it right, it doesn't matter.
17 All the QA/QC work in the lab is for naught.
18 It's garbage in, garbage out.
19 So you got to make sure that the sampling
20 part is done properly.
21 And so, that October, November, was done to
22 do that.
23 Then in January, and February, we were
24 starting two, basically, paths of work. They were
25 going simultaneously.

We have it in the system.

What's the source?

If we can find the source, and it's an easy source to correct, we can fix it immediately.

And we were hopeful that that would happen.

It didn't.

Obviously, very sadly, it didn't.

But we were looking for maybe a component of the water system.

We were looking maybe at chemical feed.

We also did one or two little things to see if adding a chemical would remove it, and just to see what was going on.

There was testing going on in that realm.

When that information was all integrated by at the end of March, we knew we had a groundwater problem.

And, so, two questions were kind of sitting there.

In January and February and March, some of that work that was also going on was, the Village, with guidance from us and with guidance from their own consultant, was looking to see what treatment systems were available to treat the water.

And, everybody was leaning towards going to a

1 GAC system.
2 So they took some water from Hoosick Falls,
3 drove it down to Pittsburgh, and tested it on a GAC,
4 what they call "isotherm studies," to show that the
5 very specific water from Hoosick Falls, how it
6 would -- how GAC would perform on that very specifi
7 water.
8 And so that was coming in April or so of the
9 spring of 2015.
10 So by the time we got to the April and May
11 time frame, we had clearly identified that it was
12 groundwater, we clearly had identified that it
13 wasn't something in the treatment system adding
14 anything to it, we clearly had identified that GAC
15 would be the way to move forward.
16 The remaining question was, okay, we know
17 groundwater is contaminated. What about private
18 wells?
19 And, so, we knew that the Village was
20 stressed financially, because that testing was ten
21 to fifteen grand, easily.
22 We went through -- I said this earlier, that
23 we went through this process, checking with EPA,
24 with their own environmental-laboratory approval
25 program, because there are regulations on who and

1 how to sample, and what methods need to be used, an
2 it was a little uncertain as to whether we could
3 actually use our own lab.
4 And, we went through that; and by the time we
5 got all of that set, and we wanted to make
6 arrangements with people to sample -- we don't want
7 to just show up on people's door and surprise
8 them -- by the time all of that happened, it was
9 early June.
10 And we sampled with the main purpose, the
11 main purpose, of trying to figure out whether there
12 was contamination in private wells, as well as the
13 public supply.
14 We also did a little work on the public
15 supply, to give another data point, to see where
16 things were.
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: And in
18 addition to that, we also were working with our
19 Wadsworth lab to do the testing, to figure out how
20 we can do the tests, so it did not have to be sent
21 out to elsewhere.
22 ASSEMBLYMAN STEC: Did the EPA draw any
23 samples? Or is it unusual that they didn't draw
24 samples, if not?
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: This was

1 done by the department in the summer, at that point
2 ASSEMBLYMAN STEC: No, but would the
3 Department of Environmental Protection Agency, is
4 it -- did they draw any samples, the EPA?
5 COMM. HOWARD A. ZUCKER, M.D., J.D.: No, they
6 did not.
7 ASSEMBLYMAN STEC: And is that typical,
8 though, I mean, they wouldn't come to draw samples?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: Not
10 that --
11 ASSEMBLYMAN STEC: Not -- all right.
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: -- not
13 normal.
14 ASSEMBLYMAN STEC: Now, what is involved in
15 the analysis?
16 You had mentioned that it takes some time.
17 You get a bottle of water.
18 I imagine -- and -- I mean, if you could go
19 in a little bit to the sampling?
20 I mean, did you draw dozens of, you know,
21 samples from all over?
22 And what took so long in -- you know, from
23 drawing it, to getting an answer?
24 COMM. HOWARD A. ZUCKER, M.D., J.D.: Sure.
25 The actual sampling, I'll have Lloyd answer.

1 But regarding the actual testing of this, the
2 equipment needed to be prepared, retrofitted.
3 Wadsworth has a phenomenal -- we have a
4 phenomenal lab in the state.
5 Number one, we had to make sure that we had
6 the authority to do that, because, you know, you
7 can't just take a piece of equipment and say, we're
8 going to run it for something else.
9 We did have a piece of equipment that could
10 possibly run it, but then it needed to be,
11 basically, retrofitted, because the amount of PFOA,
12 since it's in so many different products and pipes,
13 and we're talking about parts per trillion, we
14 wanted to be sure that there's no way that this is
15 gonna -- there's going to be any parts per trillion
16 come up in the equipment.
17 So that took a period of time to do.
18 And the goal here was, as Lloyd mentioned,
19 there was a cost to this, and we didn't want the
20 Village to bear that cost, and there was also a tim
21 involved.
22 And what we were finding was, it was taking a
23 period of time to get these results back.
24 And we wanted to do it inside, you know, the
25 state, in our own lab, where we could have some

1 controls of getting this done relatively quickly.
2 Regarding the actual sampling at the site,
3 I'm going to turn it to Lloyd because he was out
4 there in the field.
5 DR. LLOYD WILSON: So, sampling; you'll see,
6 you know, different guidance on how to go about the
7 sampling.
8 There's some guidance out there, that you
9 shouldn't wear clothes that haven't been washed
10 seven times, because if you're wearing something
11 with Gortex or other materials, it might be putting
12 some PFOA into the sample.
13 You know, parts per trillion, you just think
14 about that concept: What is a part per trillion?
15 You're talking about one molecule out of a
16 trillion molecules, that's what we're trying to
17 measure.
18 So if you have a dust particle from the
19 clothing or something that has PFOA go in the water
20 you're going to get a hit.
21 So we started the sampling in June of 2015.
22 We were going on to something that our
23 department hadn't done, and so we wanted to make
24 sure that, you know, it be scientifically sound, an
25 to be really sure of what the information.

1 Very often --
2 I'm sorry it takes a little bit to get into
3 these things.
4 -- but people often will call and say, I want
5 my water tested.
6 They won't say for what or why.
7 And the question is: Well, what do you want
8 the data to do?
9 What do you want that information; what are
10 you trying to gain?
11 And so what we were trying to gain was,
12 whether private wells in that area were tested.
13 The reason that I take that sidebar is this:
14 The UCMR data had a reporting limit of
15 20 parts per trillion.
16 All right?
17 So any value between -- less than 20, the EPA
18 would say, we didn't find any PFOA. There was
19 nothing below 20 parts per trillion.
20 Our lab told us they were going to have a
21 reporting level of 2 parts per trillion.
22 The data sets that we were familiar with
23 didn't go to that low level. All of the UCMR data
24 was on 20.
25 So we were a little unsure, because it was a

1 new experience.
2 If I went out and tested any private well --
3 forget the Hoosick Falls area -- but I went to any
4 private well in the state, based on the wiring, the
5 components, other things used in the well, whether
6 there could be a 2 or a 3 or a 4 or a 5 parts per
7 trillion in that well as a result of those
8 components, because all of those possibly have
9 Teflon-type materials used in them.
10 So we did a -- we tested the minimum number,
11 because we had limited resources.
12 We had the ability, in consultation with the
13 lab, to do 20 samples -- roughly, 20. I forget the
14 exact number.
15 So, we did the minimum number to set a
16 baseline.
17 We tested three wells, three private wells,
18 outside of Hoosick Falls, that we had no
19 anticipation of finding PFOA.
20 And we didn't.
21 And the significance of that is this:
22 Is that when we went and did the testing, and
23 we found a 10 part per trillion in Hoosick Falls, w
24 could say, there's something unusual about this wel
25 in Hoosick Falls, because it's in Hoosick Falls; no

because of some component in the well construction, because we did those three other wells outside of the area.

Now, any statistician will tell you a sample size of three is pretty sketchy.

You know, we would prefer ten or fifteen, but we didn't have the lab capacity, and the real question was, was there contamination in the privat wells?

So we focused our sampling on private wells, and we didn't do three houses in a row, or four houses in a row, whatever it was.

We went, one up here, one way down here, and a couple in the middle where we thought was the mos likely spot to have contamination, with the idea that if we did get it, and this goes to my point of when do you sampling, you want to know how you're going to analyze the data.

And what we wanted to know is, was there contamination in the area that we thought was most likely?

That's why we had the heaviest concentration of samples in this one little area.

But we also had samples further to north and further to the south, with the idea that we might b

able to define the bounds of the contamination.

So that wasn't what our plan was, and that's what we did in June.

When we got the results back in late July, and in early August, the results said something a little more to us than we anticipated.

It said we had contamination further away from the areas that we thought were most likely, bu it also was in other places.

And as I indicated before, it was because of that, we went back to the Village and the Town, we also went and talked with the individual homeowners that we sampled, and told them what the results were.

And then we said, okay, we can't stop here. We have to go figure out where we got contamination to the north and south, further than we expected. We better go to the northeast, we better go the northwest, we better go to the east, and other places.

And when we did that in November, and we got those results back, again, we got values of 10.

And if we has hadn't done that baseline work up front, we might have said, well, we don't know. Maybe this is just typical of wells.

1 But because we had done that baseline,
2 because we had gone about it systematically, we wer
3 able to say, we know this is something unique to
4 Hoosick Falls.
5 Unfortunately, it's actually been in other
6 communities as well too.
7 But we know that this is something, and we
8 need to keep going.
9 If we had just gotten that 10 without doing
10 that thoughtful process of developing a sampling
11 plan and how to approach this, we may have had a
12 different interpretation of those ten.
13 They were way below any health-guidance
14 value, they were below the current health-guidance
15 value, but they just really shouldn't be there.
16 And we wanted to know what the source was.
17 And maybe they were 10, but maybe five houses away
18 would be 100. We didn't know.
19 So we just kind of built.
20 And this was going back to one of the earlier
21 questions.
22 When we find an area of contamination, the
23 logical progression, and this isn't necessarily
24 written anywhere, but it is what the industry does
25 in terms of the enviromental movement, we go to tha

1 source and we start working our way outward, and we
2 work our way outward until we get to levels that ar
3 no longer an issue.
4 And we did that at Hoosick Falls.
5 The information we had was, the public supply
6 was contaminated.
7 So where are we going to go?
8 We didn't have the resources to put in a
9 groundwater-monitoring well.
10 We knew we could sample private wells.
11 By the way, the more important things, people
12 were drinking the water from private wells. We nee
13 to know what's in them.
14 And so we went to the area that we thought
15 would be the most likely to show contamination, and
16 we started working our way out.
17 And, we have the laboratory time to process,
18 as the Commissioner indicated.
19 All it takes is the wrong fitting on a gas
20 line that's used in the mass-spec'd instruments,
21 that has a little bit of Teflon-type product it in,
22 and the results are going to give you a 5 to 15 to
23 a 20.
24 And so the lab had to make sure all of those
25 components.

When I go sample in the field, I take water from the lab, I go out in the field with the water from the lab and I pour it into my sample container

And I take that back to the lab to see whether that process, because we're talking about 5, 10, 15, 20, 50 parts per trillion.

By the way, here, Commissioner, here's some water.

So you know, it's -- you know, people have -- you're getting me going again.

For many, many years we have thought drinking water is free.

We started to change our thinking about that in the '90s, but it really still hasn't hit home.

I go to the water fountain out here, it's free, I'm gonna drink it.

Drinking water requires a lot of work.

The sampling is just a small component, and it has to be done right. It's why the verification process is in place.

The verification process is in place if we have an exceedance of a contaminant level for which we have a standard.

We get a hit, something above the standard, the next thing is to go sample it and make sure

1 that's true.
2 I don't care, any test you take, there's
3 always a 5 or so percent chance you're going to
4 fail. It just happens, and you don't know why. Yo
5 never know why.
6 ASSEMBLYMAN STEC: Dr. Zucker, one more quick
7 question.
8 I, too, as several others have mentioned, am
9 concerned about the speed of the public
10 notification.
11 I think others have beaten the, you know,
12 finger-pointing as to who may be to blame.
13 But, broad strokes, I think that we could
14 have done a much better job, somebody could have
15 done a much better job, alerting the public.
16 So I'm concerned with that, but, I think
17 that's been hit on enough today.
18 But I want -- the other major concern that
19 I had, is I'm concerned with the lack of speed of
20 getting the Committee the documents that have been
21 asked for.
22 And I'm just wondering if you could elaborate
23 on, you know, why?
24 And if they were sent last night, I mean,
25 they were only sent last night because of today's

1 meeting.
2 So, you know, could you elaborate as to what
3 the difficulty is here?
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: I need
5 to look into that, but I will get back to you about
6 what transpired on that.
7 ASSEMBLYMAN STEC: I appreciate that.
8 Thanks.
9 Thank you, Chairman.
10 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
11 Senator.
12 SENATOR HANNON: Senator Little.
13 SENATOR LITTLE: Thank you very much.
14 And, thank you for all the information today,
15 and, certainly, thank you for your rapid response i
16 White Creek. And I will see you next week at that
17 one.
18 But I certainly have learned a lot about
19 water; and thank you.
20 My question is for Commissioner Seggos, and
21 someone mentioned road salt, which brought me to
22 salt contamination.
23 We've had a horrible case of salt
24 contamination in the town the Dannemora. DOT is
25 going to correct it, and DEC has been involved.

1 You know, it's taken longer to correct it
2 than we had hoped, but it is on schedule.
3 But, a lot of my towns, and I'm trying to
4 help them when there is a need for funding, for sal
5 sheds, so that we can prevent this kind of thing
6 that happened in Dannemora.
7 The contamination was from a salt shed, an
8 old salt shed.
9 Do you, or can you, put out how to do it?
10 Can you put out guidelines how to build salt
11 a shed?
12 I have them, one town did it for $11,000.
13 I talked to a town the other day, it's going
14 to be $1.2 million.
15 So what I'm looking for is some real good
16 designs: This is a salt shed for this size of a
17 town, and this would protect the water there.
18 Because in most of these rural towns, they
19 are on wells.
20 And I will say that, as we go forward in the
21 testing of wells, that we are very careful, and mak
22 sure that we're only testing for things that are
23 really, really critical, because if you get too far
24 into the weeds and some of the testings Dr. Wilson
25 said, there are things in water that we're all

1 drinking and you would have people unable to sell
2 their homes when they got to that point.
3 And that's the fear I have.
4 So -- and the other thing is, I'm glad you
5 corrected that you can swim in the Hudson River,
6 since my district has several beaches on the
7 Hudson River, and several communities whose drinkin
8 water comes from it.
9 So, thank you.
10 COMM. BASIL SEGGOS: Thank you.
11 And, Senator, yes, in terms of designs for
12 salt-storage sheds, we may not have that expertise
13 necessarily in-house, but I'll look into it. And
14 between our various agencies we'll have --
15 SENATOR LITTLE: Between you and DOT, you
16 should be able to come up with a model.
17 COMM. BASIL SEGGOS: -- perhaps there's a,
18 you know, sort of a uniform design that we can put
19 out there, and some guidance about. How to put it
20 up, and control stormwater around it.
21 SENATOR LITTLE: I think that would be a
22 great idea, because, otherwise, they're all over th
23 place.
24 COMM. BASIL SEGGOS: Yep, happy to do that.
25 SENATOR LITTLE: Okay. Thank you.

1 Thank you.
2 SENATOR HANNON: Assemblyman.
3 ASSEMBLYMAN ENGLEBRIGHT: Assemblyman
4 Skartados.
5 ASSEMBLYMAN SKARTADOS: Thank you,
6 Mr. Chairman.
7 And thank you, Commissioners, for your
8 testimony here today.
9 I represent parts of Dutchess, also in
10 Orange, and every single one of my communities has
11 access to the Hudson River.
12 So, first, I'd like to thank you.
13 I represent the heart and soul of the
14 environmental movement; the Pete Seeger country,
15 rather.
16 So I appreciate, Commissioner, your efforts,
17 and the Governor's pronouncements, about the
18 importance of continuing to clean up the
19 Hudson River with the PCBs, and pulling out on them
20 to continue on that effort.
21 So I appreciate that.
22 COMM. BASIL SEGGOS: Thank you.
23 ASSEMBLYMAN SKARTADOS: Second, I also
24 represent the city of Newburgh.
25 And today we have heard a great deal about

1 Hoosick Falls, but I think the city of Newburgh is
2 not far behind.
3 And so I have a few questions, given the
4 constraints of time, so I'll be very brief.
5 Right now, as you know, the State is
6 providing a -- PFOA blood testing for Hoosick Falls,
7 as well as Petersburgh.
8 The question is, why not Newburgh?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: So,
10 first, yes, you're correct, there are issue in
11 Newburgh.
12 It's the UCMR 3, we've -- has identified PFOS
13 detections there.
14 We have proactively sampled to confirm those
15 levels of PFOS.
16 The issue is, as I mentioned before, that we
17 are working with CDC on trying to figure out exactl
18 the monitoring -- the biomonitoring, what are the
19 next steps? so we have a better understanding.
20 The key thing was to make sure that we got
21 the city into a -- onto a backup supply, which we
22 did. And we'll be installing the granular
23 activated-carbon system in October of 2017.
24 So then it comes back to the question of some
25 of the testing.

1 And as we realized, you know, Hoosick Falls
2 was one of the first areas where a lot of this issu
3 across country, and we've learned a lot from the
4 biomonitoring there.
5 But since this is a national issue across
6 many areas, the goal is to work with our colleagues
7 at the CDC to find out, what are the best ways to
8 move forward on a biomonitoring program for them?
9 ASSEMBLYMAN SKARTADOS: Well, you know,
10 I would appreciate it if we did something, because
11 regardless of what the levels may be, obviously,
12 these people have gone through very difficult times.
13 And, you know, it's hard for me to go back
14 and say to them, you know, you just didn't get
15 enough poison in your water; therefore...
16 You know?
17 So -- and by the way, I do appreciate all the
18 cooperation and collaboration between the State and
19 the federal government, and the forum that you guys
20 put together in the city of Newburgh and letting th
21 people know.
22 This was an excellent approach, and so I'm
23 very grateful for that.
24 And so whatever we can do, I would
25 definitely, you know, worry about the cost, and

1 who's responsible, and so on, afterwards.
2 In addition, Commissioner Seggos, the
3 July 2016 Riverkeeper report, titled "A Case Study
4 and Call for a Comprehensive Source-Water
5 Protection," identifies inaccuracies in the city of
6 Newburgh's source-water assessment map, in that it
7 doesn't include Lake Washington, which is the city'
8 primary water supply.
9 So are you familiar with this omission?
10 And, do you support updating the map to
11 include all current and potential sources of water
12 pollution to the city of Newburgh's water
13 assessment?
14 COMM. BASIL SEGGOS: I'm not familiar with
15 the Riverkeeper letter.
16 I'll tell you this: We have a huge body of
17 knowledge right now about the contamination threats
18 to the city of Newburgh's water supply.
19 Based on the UCMR data we've all been talking
20 about that EPA had received back in 2014, we were
21 able to identify a problem within the
22 Lake Washington watershed.
23 We got out there in the spring of this year
24 and sampled aggressively back to where we thought
25 this PFOS, which is typically firefighting

1 foam-related to sample, where it may have been
2 coming from.
3 And our suspicions were accurate, that PFOS
4 was coming out of the air national guard base.
5 So as you know, since then, working very
6 closely with the City, we have put in place a very
7 aggressive and responsive plan.
8 We've transitioned the city from
9 Lake Washington, which had, at the time, levels
10 below the EPA standard, which has since been
11 lowered, we transitioned them from their
12 Lake Washington, over to the -- quickly, for
13 Browns Pond, which was an alternate supply.
14 And then, now, more permanently, into the
15 Catskill Aqueduct, which, fortunately, runs fairly
16 close to that -- to that facility.
17 Our long-term plans are to continue to rely
18 on the Catskill Aqueduct, but also to make use of a
19 granulated activated-carbon system, a GAC system,
20 that we are installing -- the State's paying for an
21 installing in the city. That will help the city ge
22 through any blips that they have on supply from the
23 Catskill system, as you know, which is being taken
24 offline in a couple of years for maintenance.
25 So, in short, you know, we have gone,

1 light-years, very quickly in Newburgh, based on dat
2 that we were able to find through the rapid-respons
3 task force.
4 And our understanding of the pollution levels
5 in the watershed is now very strong, based on the
6 sampling that we did.
7 So, you know, Martin was -- actually, he's
8 new with me, but was the regional director, as you
9 probably know, for DEC down in Region 3, and
10 spearheaded a lot of the original work on that.
11 So, I'm thankful for his work.
12 Do you want to add something?
13 DEP. COMM. MARTIN BRAND: I do.
14 COMM. BASIL SEGGOS: Okay.
15 DEP. COMM. MARTIN BRAND: Back to the
16 source-water assessment and the watershed
17 assessment, we would agree that the current
18 assessment is now out of date; it's an older
19 assessment.
20 Again, I think Dr. Wilson mentioned the early
21 program, where all these source-water assessments
22 are done around the state.
23 This one probably dates back to early 2000.
24 So I have looked at the Riverkeeper report,
25 and we don't disagree that some updating could be

1 done as part of the source-water assessment program
2 We did mention that, as part of the water
3 quality rapid-response team, we're going to be
4 looking at -- with fresh eyes, at that
5 water-assessment program.
6 And I also know that part of our group at
7 DEC, we have the Hudson River Estuary Program,
8 I know you're very familiar with. And they have
9 already had discussions with the City of Newburgh
10 about what they can do to help out with the
11 water-assessment program in Newburgh.
12 So we would be very happy to assist in that
13 program, and, of course, incorporate the various
14 watershed-interest groups that are there, that are
15 very interested in this as well.
16 So we would love to move forward on that.
17 As you know, our primary focus has been these
18 rapid-response kind of actions in Newburgh.
19 We've had tremendous cooperation, as you
20 mentioned, from the City, from the mayor's office,
21 and from the city manager's office, and we really
22 appreciate that.
23 So that has been our primary focus.
24 But as we move forward, we would love to look
25 at some of the longer -- long-term protection

1 strategies that we can bring to bear, so we move
2 forward in a positive way and proactive way to
3 protect that watershed, moving forward.
4 COMM. BASIL SEGGOS: I just want to add,
5 I mean, the Newburgh story, I just want your
6 constituents to know, and from our perspective, the
7 Newburgh story, and our response to it, is a -- was
8 a very aggressive one and a very quick one.
9 I mean, we took what was data that had been
10 sitting around at the EPA, not doing -- no one doin
11 anything about it, frankly, for a couple of years,
12 we turned that data around very quickly into a
13 solution within, you know, a month and a half,
14 giving a large city a clean supply of water.
15 So it's a good story, and I'm proud of the
16 State's response on that.
17 ASSEMBLYMAN SKARTADOS: And so am I,
18 Commissioner. I mean, I appreciate it.
19 The State has cooperated fully, and that's
20 why I think there are just some loose ends,
21 obviously, that we need to tie up, and assure the
22 people of Newburgh that what they're drinking now i
23 safe, and that their future water supply will be in
24 place.
25 Just one more question, concerning the

1 Washington Lake.
2 And I believe City Manager Michael Ciaravino
3 is in the audience, and I'm sure he will be
4 testifying, and I'm looking forward to his
5 testimony.
6 But some time ago, Mr. Ciaravino had sought
7 the advice of the DEC about pumping contaminated
8 water from Washington Lake and bringing it down to
9 safe levels, so that the hundreds of thousands
10 downstream -- the homes downstream, rather, aren't
11 at risk of a dam failure, especially with hurricane
12 season approaching us.
13 Obviously, Washington Lake has not been used,
14 the water is not being used, the levels have been
15 increased.
16 So the question is: Have you provided any
17 expertise or any advice as to how we're going to
18 handle that situation?
19 COMM. BASIL SEGGOS: Yes, we have,
20 absolutely.
21 And I just want to make clear we weren't
22 advised of this problem.
23 We were aware of -- that this issue of water
24 levels in the dam would be something we would have
25 to address. And we've been working very closely

1 with the city manager, the City, and all of our
2 partners, trying to make sure that happens quickly.
3 So I do have some good news to report, if it
4 hasn't already been made public yet, but I believe
5 it has.
6 We have teams out there, literally, right now
7 who are preparing for that drawdown.
8 We intend to pump water out of
9 Lake Washington, through a carbon system, similar t
10 what we're doing in Hoosick Falls for drinking.
11 We're actually going to run Lake Washington
12 water through a carbon system to remove the PFOS to
13 non-detect before discharging it into Silver Stream
14 That will be done very quickly.
15 We will succeed in drawing down the reservoir
16 sufficiently enough to account for any storms that
17 would come through.
18 Obviously, right in our thinking now,
19 particularly with the hurricane that nearly came up
20 the coast this weekend, we've been, you know,
21 planning for this now for a while, and I'm proud to
22 say we're ready to do it.
23 ASSEMBLYMAN SKARTADOS: So I know that the
24 State has declared the situation there a superfund.
25 What are the chances that the federal

1 government will pursue it and do the same?
2 COMM. BASIL SEGGOS: I can't speak for the
3 federal government.
4 I can just tell you, our designation of the
5 air national guard base as a superfund site is a
6 powerful step forward.
7 We've had good cooperation from the air
8 national guard.
9 I don't want to paint them as, somehow,
10 recalcitrant.
11 They are -- they understand that they are the
12 responsible party, and we intend to hold them
13 accountable for the damage they created in the city
14 of Newburgh, and do that as expeditiously as
15 possible.
16 And if there is room for the federal
17 government to help out in that, I'll leave it to
18 them.
19 ASSEMBLYMAN SKARTADOS: Well, thank you very
20 much for your testimony, as well as your assistance
21 for the city of Newburgh.
22 I appreciate it very deeply.
23 COMM. BASIL SEGGOS: Thank you very much,
24 Assemblyman.
25 ASSEMBLYMAN ENGLEBRIGHT: Senator, back to

1 you.
2 (Discussion among the Senators.)
3 SENATOR HANNON: Go ahead, Assemblyman.
4 ASSEMBLYMAN ENGLEBRIGHT: Assemblywoman Fahy.
5 ASSEMBLYWMAN FAHY: Thank you.
6 Thank you, Mr. Chairman; and thank you for
7 hosting these hearings.
8 I have a feeling we'll have a -- be heading
9 for a few more, given the enormity of the issue
10 that's been discussed today.
11 And thank you to both Commissioners for being
12 here today.
13 Just a couple comments on a couple of
14 questions.
15 One, I do want to join my colleagues in
16 saying, thank you, for moving on the one that the
17 Governor signed, the lead-pipe testing in the
18 schools.
19 I'm very proud to have co-sponsored that, and
20 I'm very pleased that you're moving rapidly to begi
21 that testing, and moving on that.
22 I also want to join my colleagues in thanking
23 you, Commissioner, for your statements regarding th
24 Hudson River.
25 I represent Albany and a few surrounding

1 towns here, so I, too, am very concerned that the -
2 and couldn't agree more with you that the cleanup i
3 not done.
4 So thank you for your assertiveness there.
5 A couple of questions, and starting with a
6 comment that you had made, Commissioner Seggos, in
7 terms of the recommendations in your testimony.
8 You mentioned that the consent order, in
9 terms of some of the follow-up, and is being done
10 right now, that the consent order has been issued,
11 to investigate and remediate the contaminants with
12 regard to Saint-Gobain and Honeywell.
13 Can you elaborate a little more on that, on
14 what exactly that consent order entails?
15 And, if other companies are -- will also be
16 subject to that, such as DuPont and some of the
17 other companies named today?
18 And then also address, if you will, the
19 long-term liability.
20 We've all talked about the risks and the
21 long-term consequences, which, at this point, are
22 rather unpredictable, or, we're still learning more
23 Can you talk about that, and elaborate again
24 on what the consent order means?
25 Thank you.

1 COMM. BASIL SEGGOS: Sure.
2 Well, consent orders, you know, it's a
3 negotiated document between parties.
4 So we negotiated with Saint-Gobain and
5 Honeywell, to ensure that they were on the hook for
6 this first stage of investigation, and any of the
7 interim measures that have been put in place thus
8 far, such as the GAC system on the supply, and othe
9 interim measures that we were able to establish.
10 That's also -- the consent order also
11 mandates the companies devise a cleanup plan.
12 That cleanup plan would then -- effectively,
13 becomes what's called "a record of decision."
14 That goes out for public comment -- it will
15 go out for public comment, and it will be the
16 legally-binding document that holds the company
17 accountable for the cleanup as long as it takes.
18 So that's, effectively, the consent order.
19 As to other parties, we certainly acknowledge
20 that there may be other -- there are many other
21 potentially responsible parties as far as the
22 superfund cleanup is concerned in Hoosick Falls.
23 Our investigation there is by no means
24 complete.
25 In terms of long-term liability, we see our

1 role here as staying in Hoosick Falls, through
2 superfund, and through the cleanup, until the job i
3 done.
4 So that means holding the polluters
5 accountable for every dime that the State spends.
6 That means looking for ways to improve the
7 process -- improve the cleanup over time, as we
8 learn about other dumping sites, fold those dumping
9 sites in the cleanup plan.
10 And it means expanding it, if necessary, into
11 other areas.
12 That's the great benefit of a superfund, is
13 that it keeps the State as a very active party over
14 time, but keeps the polluters on the hook for the
15 problems they've created.
16 ASSEMBLYWMAN FAHY: Including to the
17 individual residents, the health consequences that
18 they may face as a result of the exposure that they
19 may have had here, or is it just with regard to the
20 cleanup?
21 COMM. BASIL SEGGOS: Superfund pertains more
22 to the cleanup.
23 When it comes to individual liability or
24 individual issues, as you know, those are usually
25 civil-litigation subjects, so the subjects litigate

1 in court between private parties.
2 The Governor signed this year the extension
3 of the statute of limitations bill --
4 ASSEMBLYWMAN FAHY: That Assemblyman
5 McDonald, yes, sponsored.
6 COMM. BASIL SEGGOS: -- which is going to
7 enhance the rights of locals to hold the polluters
8 accountable for any damage they may have personally
9 ASSEMBLYWMAN FAHY: Okay. Thank you. And
10 that's helpful.
11 With regard to -- actually, this was alluded
12 to earlier, but there was a study that's come up
13 here a couple of times, including during our budget
14 hearings, a study done under the prior
15 administration by DEC. I think the upcoming storms,
16 or something to that effect.
17 And it talked about what the long-term costs
18 over the next 20 years.
19 And at that point, again, this was under the
20 Paterson Administration, $36 billion was estimated
21 at that point on just what was needed, or estimated
22 to be needed, over the next 20 years for wastewater
23 treatment and infrastructure.
24 So that's, again, another -- the enormity of
25 this issue is quite sobering.

1 Do you have any updates on that study, do you
2 have any projections, on what we may be facing on -
3 in terms of our infrastructure needs?
4 We've heard about a few different towns here.
5 We know this is a national problem.
6 We know the feds used to be a little more
7 aggressive. As I think you mentioned, what used to
8 be grants to states are now more loans to states.
9 But if you can give us an update on any --
10 either Commissioner, in terms of what we might be
11 facing here, in terms of cost for the infrastructur
12 in places that we don't know of at this point?
13 COMM. BASIL SEGGOS: Well, I'll tell you
14 Assemblywoman, we haven't updated the study, but we
15 know it was a conservative estimate at the time.
16 So, look, our focus hasn't been to quantify.
17 It's been to get resources out there as quickly as
18 possible. That's what we've been doing.
19 Working with you, as you know, the
20 WIA funding pot didn't exist 2 1/2 years ago. Now
21 it does.
22 And we're pouring enormous resources into
23 water and wastewater projects across the state.
24 I mean, our -- as I mentioned earlier, also,
25 our loan program is extremely robust. The best in

1 the country.
2 The grant programs are helping to augment the
3 loan programs, which is then generating huge projec
4 amounts now, statewide.
5 So, I know we're chipping into that, to the
6 figure.
7 We all acknowledge it's enormous, and we all
8 acknowledge that it must be done. And we certainly
9 want the federal government to step up.
10 You know, the 1970s, those were good days
11 when --
12 ASSEMBLYWMAN FAHY: Evidently.
13 COMM. BASIL SEGGOS: -- funds were coming out
14 of the feds for projects like this, grant funds.
15 We would like to see another -- a return to
16 that when the federal government acknowledges that
17 environmental infrastructure is just as important a
18 anything else.
19 ASSEMBLYWMAN FAHY: Thank you.
20 And thank you, again, Mr. chairman.
21 I will be -- I would welcome, and will look
22 forward to, hearing more on this especially.
23 I know this is the time of year when you are
24 preparing your budgets.
25 And I do think this is an important issue

because, while I so appreciate all you have done to look at a few areas that we do know about, given al the reading, given what we've heard today, I think we're just -- it sounds as if we're almost beginnin to scratch the surface.

So I do think this will be an issue I'd look to see aggressively addressed again as we approach the budget.

Thank you.

COMM. BASIL SEGGOS: Thank you.

ASSEMBLYWMAN FAHY: Thank you, Mr. Chairman.

ASSEMBLYMAN ENGLEBRIGHT: I just want to commend you, Commissioner, for mentioning the great need that we to have our federal funding reinstated

There's a whole history there. I won't go into it now.

But I'm glad that you touched on it, and put it as a part of the record of this hearing, because it is the federal Clean Drinking Water Act, one of the major laws ever passed relating to public health, that you're really referring to.

They not only passed the law, but they enabled it with funding. And then, gradually, they took it away, and left it to the states.

And that wasn't the original pact.

1 The original deal was, it was a partnership,
2 and that that partnership was proportional.
3 And they have more money than we do.
4 And that proportionality has been turned
5 upside down over time.
6 So thank you for putting that on the record.
7 Our next speaker, Brian Kavanagh.
8 ASSEMBLYMAN KAVANAGH: Thank you.
9 And thank you to all of our Chair people
10 today for holding this hearing.
11 And thank all of you for your stamina as
12 we're winding down the fifth hour of this hearing.
13 I just want -- a few people have commented on
14 this, but I do want to comment on -- I mean, there'
15 a lot that we -- I think a lot of us would like to
16 focus on some of the things other than what we've
17 talked about today.
18 I would like to focus, I think, on
19 longer-term solutions, some of the legislation the
20 Administration's talking about.
21 And we would also, I think, and I agree with
22 what Commissioner Zucker said earlier, that ultimat
23 responsibility for the contamination we've seen
24 should be with the industry that contaminated for
25 decades.

1 And my colleague who represents most of my
2 constituents in the Senate, Senator Hoylman, has
3 been pushing for subpoenaing some of the private
4 parties that have been reluctant to testify today.
5 And I certainly support that. We should be
6 going after that.
7 It's been hard do that in this context for
8 two reasons:
9 One is, the sense that, although the
10 Legislature has been seeking information on this,
11 the agencies have been reluctant to provide it.
12 And, Commissioner Zucker, if anyone, whoever
13 on your staff, or whoever decided not to provide
14 information requested in writing to this Committee,
15 until the night before, and does not seem to have
16 fully informed you of that decision, or the basis o
17 that decision, so you're going to look into it afte
18 today, did not do you a service.
19 As Chairman Englebright noted, that seems,
20 like, even if we got all the information last night
21 I think Chairman Gottfried said some of it was
22 unreadable.
23 But in any case, it certainly seems very
24 likely to necessitate additional hearings, because
25 we certainly haven't been able to go absorb that

1 information by today, and it seems unlikely we're
2 going to have absorbed it by Monday, which is the
3 next scheduled hearing.
4 So just -- I would just emphasize, I hope
5 that this Committee does not need to -- these
6 Committees do not need to be resorting to subpoenas
7 of executive agencies in this case.
8 But it really is troubling, you know,
9 we've -- these hearings have been a long time in
10 coming.
11 I think there's been some discussion with the
12 Administration when to hold the hearings and what
13 these hearings might look like.
14 It's very troubling that we can't just get
15 basic information in writing in advance.
16 I would also just say the -- this question of
17 the -- Commissioner Zucker, you've said in
18 various -- at least been quoted in media outlets,
19 that you would have done nothing different with
20 respect to public notice.
21 This issue has been -- you know, it's getting
22 kicked around quite a lot today.
23 But it's hard -- just to -- just so we all
24 understand: In November 2015, the EPA issued a
25 "Do Not Drink" order. And the state officials

1 criticized the decision to issue that order as
2 alarmist and of concern.
3 Is it -- do you believe -- actually, let's
4 start now.
5 Hoosick Falls' water; what is the status
6 right now in terms of the drinkability of water in
7 Hoosick Falls?
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: Hoosick
9 Falls right now is non-detect.
10 ASSEMBLYMAN KAVANAGH: And that's because of
11 the filtration issues you've addressed. Okay.
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: And the
13 POET systems, and everything else.
14 ASSEMBLYMAN KAVANAGH: And what you -- based
15 on what you know now, before those filtration
16 systems in place, was it appropriate for people to
17 be drinking the water in Hoosick Falls?
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
19 provisional advisory of "100" is exactly what we
20 follow. And as I mentioned before, there's a large
21 margin of protection in there. And the goal is to
22 decrease your exposure.
23 So --
24 ASSEMBLYMAN KAVANAGH: I've been here for
25 five hours too, and I've heard all this.

1 I just -- and I -- are you saying that the
2 Department of Health does not have an opinion
3 independent of the EPA on the subject? Or that --
4 COMM. HOWARD A. ZUCKER, M.D., J.D.: We -- so
5 I know that you're trying to get like it's a yes or
6 a no.
7 And the issue --
8 ASSEMBLYMAN KAVANAGH: That's what I'm trying
9 to get, yes.
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: I know
11 what you want.
12 -- but the thing is, that these advisories --
13 you work with the advisories. And when you see
14 something that's elevated, you recognize that
15 because there's a large margin there --
16 ASSEMBLYMAN KAVANAGH: Did the EPA make a
17 mistake when they issued a "Do Not Drink" order?
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: So going
19 back to the "Do Not Drink" -- the letter from
20 November 2015, which is what you're referring to, i
21 that letter -- prior to that letter, back in 2009,
22 there was no -- there was a recommendation of, lowe
23 your exposure. It didn't say, don't drink the
24 water.
25 And we can go back to all the stuff, and what

1 other states were doing.
2 But then, in 2014, they had a fact sheet. In
3 that fact sheet there's one statement.
4 And then, in 2014, March, one month later,
5 February to March, it was removed.
6 And the reason I bring this up is because,
7 the letter you're citing for November 2015 pulls a
8 sentence from a fact sheet, which is put in there,
9 and it's not consistent with what the EPA said then,
10 or --
11 ASSEMBLYMAN KAVANAGH: Commissioner, only
12 because we have a whole lot of people, and maybe a
13 lot watching at home, I'm not -- but we're in
14 five hours.
15 I've been here since 11 a.m.
16 There is a transcript of everything you've
17 said and everything I've said and everything else
18 everybody has said.
19 I don't want to belabor this, but, it's
20 just -- are you telling us that the Commissioner of
21 the Department of Health does not have an opinion
22 about whether people should drink the water in
23 Hoosick Falls? Or whether -- based on what you kno
24 now.
25 I'm not -- we will --

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: My
2 concern would be, we have an advisory. I would
3 follow the advisories they put forth, whether it's
4 on this issue or something else.
5 I recognize, just looking at the numbers, and
6 looking at the science, and say, you know, you
7 wouldn't put an advisory out there at 400, and
8 expect at 402, there's a problem.
9 You design these, and even the EPA says this,
10 and there are scientists, and the way they develop
11 these advisories, by looking at the science across,
12 you know, many studies; by the animal studies, huma
13 studies, research, they come up with an advisory so
14 that there is enough of a buffer, so that the minut
15 something crosses over something, you can start to
16 do what Lloyd, Brad, Nathan, what we've been
17 speaking about, is: Get in there, try to find the
18 source, and develop a filter, or find a way to solv
19 the problem.
20 If you have an advisory that's sitting there,
21 and the minute you cross that number, there's a
22 problem, there's a health effect, because of the
23 health advisory with that number, it doesn't make
24 sense.
25 ASSEMBLYMAN KAVANAGH: Okay. I don't want to

1 belabor this.
2 I would note that we're not talking about the
3 minute you're crossing over.
4 We're talking about after you've done all the
5 steps that have been thoroughly articulated today.
6 You've gone in, you've determined that it's
7 above the threshold, you've determined that it's
8 groundwater, you decided it's time to devise a
9 system, you then are proceeding to the wells.
10 And yet -- you know, I haven't heard anybody
11 else, in public or anybody else at this hearing,
12 suggest that, at that moment, it wouldn't be a good
13 idea to advise people -- advise the public, and not
14 just either federal or city or local agencies that
15 it should be addressed.
16 And just like that, are there other -- are
17 there other localities, other water systems, that
18 are in that circumstance right now in New York,
19 where you have determined that there are
20 contaminants, like the PFOA, that are above the
21 thresholds, where you are currently -- you've
22 decided to work on ways of getting those
23 contaminants out, you're discussing bottled water,
24 and you have not yet notified the public that that
25 exists?

1 Is that happening now?
2 COMM. HOWARD A. ZUCKER, M.D., J.D.: Not that
3 we have PFOA, that we know of at this point in time,
4 elevated levels of PFOA, where it is above the
5 advisory.
6 ASSEMBLYMAN KAVANAGH: But you're telling us
7 that if you had a locality with levels that you had
8 determined to be in place by March of 2015, June of
9 2015, you would not notify the public today?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: No, what
11 we would do is, we would do exactly what we did
12 before.
13 We would work with whatever the community is.
14 Say that there's an exposure in your community of
15 PFOA. You need to inform the community, which they
16 do, because they do this all the time with anything
17 in the water. And then we would work to find the
18 source, and to do whatever we can to eliminate the
19 source.
20 ASSEMBLYMAN KAVANAGH: Okay. And would you
21 acknowledge that, in this particular community, the
22 general public does not seem to have been adequatel
23 informed?
24 I mean, you mentioned some -- one of your own
25 staff suggested that there might be an issue with

1 landlords being noticed, but not renters.
2 I mean, if I'm drinking the water in my tap,
3 and I'm a renter, and nobody is telling me because
4 I don't get a water bill, that seems like --
5 I just -- I don't -- I feel like we probably
6 wouldn't be talking about this in hour five.
7 But there seems -- there's a very odd -- you
8 seem to be -- you and your agency seem to be unique
9 in this notion of -- that at the point where you've
10 determined that there's a situation that requires
11 this very substantial remediation effort, the
12 general public should not be notified.
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: No, the
14 public was notified of the fact that there was PFOA
15 We worked with them -- that's what I'm
16 saying, we worked --
17 ASSEMBLYMAN KAVANAGH: By your agency?
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: No.
19 We worked with the County and the Village.
20 It's the --
21 ASSEMBLYMAN KAVANAGH: And if they choose not
22 to notify --
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: No, but
24 I believe that the -- and we have to check this --
25 I believe that the Village had contacted everyone i

1 the community. There was information provided
2 directly to the residents.
3 And I do know, from the letter that the mayor
4 of the village sent, that I read, saying, we're
5 working with the State regarding the exposure of th
6 PFOA.
7 The exact number --
8 ASSEMBLYMAN KAVANAGH: And you shouldn't
9 drink the water?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: And he
11 explained that he was working with us.
12 It goes back to this issue of advisories.
13 And I know -- I know we've gone back and
14 forth on this, but the issue is that, the advisorie
15 are set, and they're designed with a large margin o
16 protection, so that the minute something comes up
17 and you see it, you have time to start to go in
18 there and to put in place a system. Find the
19 problem and put in a system.
20 It would be foolish to have something where,
21 the minute that number is there, there's a problem
22 with that number.
23 ASSEMBLYMAN KAVANAGH: Again, I know we're
24 not talking about "the minute."
25 It seems like over a year of process.

1 I actually do, with respect to my colleagues,
2 unless you have something --
3 DEP. COMM. BRAD HUTTON: I think,
4 Assemblyman, you asked if there's other communities
5 You know, I would refer back to a community
6 that Dr. Zucker referenced earlier, in
7 Colorado Springs. This is in February of 2016, a
8 community that had elevated PFCs and --
9 ASSEMBLYMAN KAVANAGH: Is that a
10 New York State community?
11 COMM. BASIL SEGGOS: -- I'm going to refer to
12 public statements that EPA made with respect to --
13 ASSEMBLYMAN KAVANAGH: I am not --
14 DEP. COMM. BRAD HUTTON: -- where they
15 said --
16 ASSEMBLYMAN KAVANAGH: I am not asking --
17 DEP. COMM. BRAD HUTTON: -- that the water
18 was --
19 ASSEMBLYMAN KAVANAGH: -- just, with all due
20 respect, I am not asking about EPA and their
21 efficacy in other states, or even in this state, fo
22 the moment. We've talked about that, and we have a
23 limited amount of time.
24 We've talked a lot about water testing, and
25 less about blood testing.

1 My colleague Mr. Skartados mentioned this.
2 How are you determining where blood testing
3 is appropriate?
4 And when will there be a yes-or-no
5 determination whether blood testing is appropriate
6 in a city -- in a place like Newburgh?
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: So on
8 the "when," there's, first, now, if anyone wants to
9 have their blood tested and they haven't, obviously
10 we will be out there again, as the Senator asked, t
11 be sure that we go out to Petersburgh. And we will
12 do that.
13 So that's the "when" for testing now.
14 Then the question of, when in the future?
15 that's where we're working with CDC, to get the
16 recommendations that they have about, should you
17 retest in two years, or four years?
18 So the reason I can't say, well, we're going
19 to be back there in a year, first of all, the
20 half-life of this is two to four years.
21 We need to -- there needs to be the science,
22 and we need to figure out what the science shows.
23 ASSEMBLYMAN KAVANAGH: Yeah, but did
24 I misunderstand?
25 I thought you have yet to make a

1 determination about whether blood testing is
2 appropriate in Newburgh.
3 COMM. HOWARD A. ZUCKER, M.D., J.D.: But what
4 I'm saying is, that the testing was done -- the
5 biomonitoring testing was done in Hoosick and in
6 Petersburgh.
7 We will continue to sample for those who have
8 not been tested in --
9 ASSEMBLYMAN KAVANAGH: But not in Newburgh?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: Oh,
11 sorry. I didn't realize your question was about
12 Newburgh.
13 ASSEMBLYMAN KAVANAGH: And I realize it's
14 been a long day, but I said three times, "Newburgh.
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: I got
16 it.
17 So with regards to Newburgh, the issue here
18 is that we have more data now, we have more
19 information, the federal government and the CDC hav
20 more information.
21 They put out a statement, by their agency for
22 toxic substances and disease registry.
23 We worked with them; we've called them.
24 I will call them again, because one of the
25 other Assembly members asked about what else we can

1 do.

2 I will call them myself this week to find

3 out, is there any update of when -- what would be

4 your recommendation regarding future testing of

5 communities that have been exposed to PFOA, and,

6 obviously, testing for those who have already been

7 tested, for example, in Hoosick Falls and --

8 ASSEMBLYMAN KAVANAGH: Okay. Because we

9 would like to be able to rely on our state agencies,

10 like, if word doesn't come back from CDC or some

11 other federal agency that that a decision is made

12 based on the best available information.

13 So it's a concern, again, that maybe --

14 COMM. HOWARD A. ZUCKER, M.D., J.D.: I hear

15 you.

16 I absolutely hear you.

17 And the highest priority at the point, let's

18 get it out of the water.

19 And that was what we did with the water

20 quality rapid-response team. And we're out in

21 there, and we've done this, as the Commissioner had

22 mentioned. And we work with the other parts as

23 well.

24 ASSEMBLYMAN KAVANAGH: Okay. In terms of --

25 we -- you talked about asking for additional

1 guidance from the EPA, and additional regulatory
2 activity from the EPA, on water systems related to
3 various chemicals.
4 Just, there are eighty to eighty-five
5 thousand unregulated chemicals in America.
6 There are 90 that are on a list. Those
7 are -- that's the "CCL" list? The contaminant
8 candidate list?
9 COMM. HOWARD A. ZUCKER, M.D., J.D.: The
10 candidate list. Correct.
11 ASSEMBLYMAN KAVANAGH: And the EPA has
12 legislative authority to require testing for 30 of
13 those at any given time?
14 Is that the status quo?
15 COMM. HOWARD A. ZUCKER, M.D., J.D.: Lloyd,
16 do you want to answer that?
17 DR. LLOYD WILSON: Sure.
18 So the UCMR program takes the information
19 from the contaminant candidate list.
20 ASSEMBLYMAN KAVANAGH: Which I'm -- I'm just
21 trying to get a sense of scope.
22 So there are 90 on the CCL?
23 DR. LLOYD WILSON: Yep.
24 ASSEMBLYMAN KAVANAGH: And at any given time,
25 through this UCMR process, they designate 30 that

1 they're requiring testing of water systems that
2 serve more than 10,000 people.
3 Is that the -- that's the basic regulatory
4 structure now?
5 DR. LLOYD WILSON: It's a five-year --
6 ASSEMBLYMAN KAVANAGH: Every five years they
7 designate which 30 chemicals they can require
8 testing.
9 Beyond that, and two of them are not actually
10 chemicals, but biocontaminants --
11 DR. LLOYD WILSON: That's correct. Yes.
12 ASSEMBLYMAN KAVANAGH: Okay.
13 -- what is your process for reviewing whether
14 the right chemicals are being tested for in
15 New York State?
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: So we
17 will -- well, the first part is, that we will go in
18 there and look at any of the unregulated
19 contaminants if there's an issue raised by the
20 community. And we look at the list that the EPA
21 puts out for New York, and we go through it.
22 That's how some of the areas we've spoken
23 about earlier were detected and picked up.
24 We'll go in there, and follow up in that
25 area.

1 ASSEMBLYMAN KAVANAGH: And how would a
2 community -- I mean, I'm from New York City, and
3 I think we have a water system that serves almost
4 half the state, and I think -- at least half the
5 population of the state. And I think we have some
6 fair -- we have various testing that goes on there,
7 but across these water systems.
8 When you say "raised by the community," that
9 means a water system as detect -- the people who ru
10 the water system have detected somebody (sic), or
11 you mean some enterprising individual like this
12 gentleman from Hoosick Falls who tested?
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: So we
14 work with the public water systems.
15 Lloyd, do you want to go into detail?
16 DR. LLOYD WILSON: So it's an iterative
17 process.
18 We talk with DEC all the time.
19 We have a standing meeting with the division
20 of water.
21 The division of remediation at DEC has
22 constant communication with our bureau of
23 environmental-exposure investigation. Those are th
24 hazardous waste-site guys, for the lack of better
25 words.

1 And so through those discussions, we identify
2 issues that we think might be something that we nee
3 to work on.
4 We participate, and follow, the EPA CCL
5 process and the UCMR process to get an understandin
6 of what the feds are doing and what they are
7 monitoring.
8 So this is one of the areas that the water
9 quality rapid-response team is looking at: Is ther
10 something here that we can build on to help
11 New York?
12 ASSEMBLYMAN KAVANAGH: Sorry, I was
13 conferring with the Chair there.
14 So do you have the legal authority to require
15 testing of anything that's not currently on the --
16 that is not on the 30 -- the UCMR list?
17 DR. LLOYD WILSON: So to the best of my
18 knowledge, we don't have the legal authority just t
19 require testing for the sake of testing.
20 We would have to have good evidence that
21 there is a reason to be concerned about a specific
22 chemical at a public water supply.
23 ASSEMBLYMAN KAVANAGH: And then you could
24 require testing for that chemical at that water
25 supply?

1 DR. LLOYD WILSON: At that point, we would
2 have to have good reason to believe -- the regulate
3 things are monitored for already.
4 Just to make sure that we're talking about
5 unregulated things at this point.
6 ASSEMBLYMAN KAVANAGH: Meaning the
7 30 chemicals?
8 DR. LLOYD WILSON: Correct.
9 ASSEMBLYMAN KAVANAGH: So there are another
10 80,970 chemicals that are not (indiscernible)?
11 DR. LLOYD WILSON: As I said earlier. I think
12 there's actually a larger number than that.
13 ASSEMBLYMAN KAVANAGH: Right. Okay.
14 And -- so do you need -- when you say you
15 don't have the authority, is that because there's a
16 preemption issue, or because state legislative
17 authority isn't there?
18 Like, if we wanted our state do something
19 more robust than what's going on in the rest of the
20 country, you don't have the legal authority do that
21 right now, you're saying?
22 DR. LLOYD WILSON: As I believe it, we do
23 not.
24 This is something the water-quality task
25 force is looking at.

1 ASSEMBLYMAN KAVANAGH: And you would need
2 state legislative authorization to do that? Or are
3 you suggesting that the State itself does not have
4 the ability to do that, given federal preemption
5 issues or other issues?
6 And if you don't know today, that's fine.
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: We would
8 need a state statute, as I understand it.
9 We could check with our lawyers.
10 ASSEMBLYMAN KAVANAGH: State legislative
11 authority.
12 And that -- there's no state legislative
13 authority in the package of legislation that you've
14 talked about that addresses that particular questio
15 of, which chemicals we are testing for in the state
16 currently. Is that right?
17 DR. LLOYD WILSON: To the best of my -- yes.
18 ASSEMBLYMAN KAVANAGH: Okay.
19 And the issue of small water systems, you
20 are -- so systems under that -- that serve under
21 10,000 people, basically, have no requirement of
22 testing at all?
23 DR. LLOYD WILSON: So I just want to go back.
24 I started to go down this path.
25 For regulated contaminants, there is a

1 monitoring schedule, testified in here (indicating)
2 ASSEMBLYMAN KAVANAGH: And how many regulated
3 contaminants are there?
4 DR. LLOYD WILSON: Roughly, 100.
5 ASSEMBLYMAN KAVANAGH: Okay. There are,
6 roughly, 100.
7 And the -- and among those -- and the 30 CCL
8 are a subset of those regulated contaminants-- no,
9 they're all unregulated?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: Unregula
11 ted.
12 DR. LLOYD WILSON: They're all unregulated.
13 ASSEMBLYMAN KAVANAGH: So there's 100 --
14 there's 90 or 100 chemicals that are regulated, and
15 there's another 30 that can be added, even though
16 they're generally unregulated?
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: 30 per
18 the cycle, every five years.
19 It's 30 per cycle, of five years.
20 So it's been in the third cycle, so that's
21 how we get to 90.
22 ASSEMBLYMAN KAVANAGH: And on the issue of
23 smaller water systems, they are not -- basically,
24 there is currently no requirement for unregulated
25 chemicals to be tested there?

1 COMM. HOWARD A. ZUCKER, M.D., J.D.: That's
2 correct.
3 ASSEMBLYMAN KAVANAGH: And you've suggested
4 that the EPA add those?
5 COMM. HOWARD A. ZUCKER, M.D., J.D.: Correct.
6 And if not, then we will.
7 ASSEMBLYMAN KAVANAGH: And you would --
8 meaning -- and what would that take us; is that an
9 administrative thing, or legislative?
10 COMM. HOWARD A. ZUCKER, M.D., J.D.: That
11 would be legislative.
12 ASSEMBLYMAN KAVANAGH: Okay. So you will be
13 proposing legislation.
14 Why wouldn't we just propose -- why would we
15 wait for the EPA do that? Why wouldn't we just
16 propose that at the state level?
17 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
18 in -- again, this is what I was trying to -- it's a
19 national issue, because -- because it's a national
20 issue, we try to have something more consistent.
21 But if they're not going to do it, then we
22 will do it.
23 ASSEMBLYMAN KAVANAGH: We, unfortunately,
24 don't have much -- and four months from now, we may
25 have a new president who may have different opinion

1 about these issues.
2 But, again, I would strongly urge that we
3 sort out what that would look like now, and not wai
4 till the spring, when we decide the EPA isn't
5 gonna -- isn't going to act.
6 On Environmental Facilities Corp, you
7 mentioned you have $175 million (indiscernible).
8 Is there an assessment of the overall unmet
9 need for improving -- capital improvements in water
10 systems that's supposed to come from out of that EF
11 money?
12 COMM. BASIL SEGGOS: There is the standing
13 study in 2008 which estimates the overall need
14 statewide.
15 ASSEMBLYMAN KAVANAGH: And what is that
16 estimate?
17 COMM. BASIL SEGGOS: $36 billion.
18 ASSEMBLYMAN KAVANAGH: Okay. And so we spent
19 $175 million, you know, which is a nice number to
20 get out the door, but a small fraction of all the
21 work --
22 COMM. BASIL SEGGOS: Well, I think, quite
23 frankly, that undercuts the work we've been able to
24 do to launch a very successful program this year.
25 ASSEMBLYMAN KAVANAGH: I'm not knocking it.

1 I praised it when you did it. And I'm
2 just --
3 COMM. BASIL SEGGOS: It's $175 million, just
4 so you're aware, but it leverages a total project o
5 $710 million.
6 ASSEMBLYMAN KAVANAGH: So we get to almost up
7 to a billion?
8 COMM. BASIL SEGGOS: It's almost a billion a
9 year. So it's pretty good.
10 ASSEMBLYMAN KAVANAGH: It's pretty good.
11 Okay.
12 COMM. BASIL SEGGOS: It's actually one of the
13 best.
14 ASSEMBLYMAN KAVANAGH: Is the issue of tax
15 caps that are preventing localities from spending
16 money?
17 Is it -- is this -- if they spend money in
18 this program, does it have to go within the tax cap
19 of the locality?
20 COMM. BASIL SEGGOS: I believe it does.
21 ASSEMBLYMAN KAVANAGH: Okay. So if -- if a
22 locality is approaching the tax, they would either
23 have to take some special steps to do this under th
24 tax-cap law, or, choose not to do this, choose some
25 other part?

1 COMM. BASIL SEGGOS: I think that's accurate.
2 I'm not an expert in the tax cap, but
3 I believe that's the case.
4 ASSEMBLYMAN KAVANAGH: All right.
5 Just one more brief question.
6 Road salt was touched on a couple of times.
7 I've heard different answers on this question
8 that was asked.
9 Is fracking waste -- is it currently
10 permissible to use fracking waste for salting roads
11 in the state?
12 COMM. BASIL SEGGOS: I'm glad you asked that
13 question.
14 No fracking waste is being dumped in
15 New York State. And those who perpetrated that are
16 just flat wrong.
17 ASSEMBLYMAN KAVANAGH: I've heard
18 (indiscernible).
19 So you're just -- for the record, you are
20 saying that in no -- no one is legally using
21 fracking waste anywhere in the state to salt roads?
22 COMM. BASIL SEGGOS: As you know, there is no
23 high-volume hydraulic fracturing going on in
24 New York.
25 ASSEMBLYMAN KAVANAGH: Yes.

1 COMM. BASIL SEGGOS: It's going on in other
2 states.
3 No waste from those states is coming into
4 New York.
5 ASSEMBLYMAN KAVANAGH: The waste is not
6 coming here; therefore, it, obviously, can't be
7 spread on the roads, is what you're saying?
8 COMM. BASIL SEGGOS: Right.
9 ASSEMBLYMAN KAVANAGH: Okay. Thank you.
10 And thank you for the indulgence of the many
11 other members.
12 ASSEMBLYMAN ENGLEBRIGHT: Thank you all for
13 your patience.
14 I know that it's been a long day, but we do
15 have one more panel member up here, if you can push
16 through. Appreciate it.
17 And, so, Mr. Abinanti has some questions.
18 ASSEMBLYMAN ABINANTI: Thank you.
19 Thank you to my colleagues for posting this
20 hearing, and thank you all for joining us today.
21 I will try to get right to the point.
22 Number one, I am very concerned that
23 New York State does not seem to have a coherent
24 water policy.
25 California has passed a statute, and I plan

1 to introduce a similar statute, to guarantee every
2 member of the community of the state of New York th
3 right to clean, affordable drinking water.
4 And I got to tell you, gentlemen, listening
5 today, I'm not any more comfortable that we're goin
6 into the right direction than I was before I walked
7 in.
8 I am not hearing that we're planning.
9 I hear the words over and over again
10 "proactive," rather than "reactive."
11 But to me, relying on the EPA, and setting up
12 a response team, is reactive, not proactive.
13 To me, "proactive" is having a monitoring
14 system, setting up statewide standards that everyon
15 has to meet, and then preventing problems.
16 That, to me, is "proactive."
17 I know Commissioner said that access to clean
18 drinking-- a doctor said, access to clean drinking
19 water is the defining issue of our time. And the
20 Commissioner said clean water is critical for publi
21 health, our economy, and the environment.
22 I could not agree more.
23 But I just don't see where it's coming from
24 this Administration that we're going to do anything
25 different in the future.

1 I haven't heard anything.
2 And what I'm talking about is, number one, it
3 seems to me that we need a new system.
4 Relying on the locals and private companies
5 to ensure clean drinking water is a thing of the
6 past. That's why we have the problems.
7 They don't have the resources.
8 They don't have the ability to do it.
9 Secondly, relying on the EPA is either naive
10 or an attempt to avoid -- is an abdication of
11 responsibility.
12 We all know that the EPA is subject to the
13 pressure from states very much different from
14 New York.
15 We just watch what's going on with the Clean
16 Water Act, and how the Supreme Court cut it back,
17 and states are trying to take power away.
18 And for to you come in here and say that the
19 EPA is the protector, I'm not sure why we have you
20 guys.
21 You're the ones who are responsible for
22 protecting the people of the state of New York, not
23 the EPA.
24 And, lastly, I don't see what we're doing
25 different.

1 I don't see any proposals from you -- any
2 legislative proposals.
3 The proposal that Ellen Jaffee has put on the
4 table, and we've passed over and over again, is ver
5 nice, and it's necessary, but it's not sufficient.
6 So I'm going to come back to you, and just
7 ask you to start off with, either of you, tell me,
8 do we need a new system in New York?
9 Do we have to set up a new system so that the
10 State of New York guarantees clean, affordable
11 drinking water?
12 Because I will tell you, in my community,
13 drinking water is very expensive.
14 In other parts of my community, they don't
15 have sufficient -- and this is Westchester County,
16 they don't have sufficient enough water to put out
17 fires.
18 In other parts, we have private companies
19 that are outrageously expensive and are rationing
20 water.
21 We have a broken system.
22 What are we doing about it?
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: Assembly
24 man, I respectfully disagree with what you're
25 saying, that we're not proactive.

1 We've been extremely proactive. And we have
2 put forth the issue of the UCMR.
3 We said we sent a letter to --
4 ASSEMBLYMAN ABINANTI: Sorry, if I may,
5 I don't want to waste time.
6 I don't want to hear anything about the UCMR.
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: Okay.
8 ASSEMBLYMAN ABINANTI: You're asking -- why
9 can't you raise those standards yourself?
10 Why can't you just come out and say, the EPA
11 won't do it. We're going do it in New York and tak
12 the lead?
13 COMM. HOWARD A. ZUCKER, M.D., J.D.: We did.
14 If they don't, we will. And that's what we
15 said --
16 ASSEMBLYMAN ABINANTI: Somebody asked you the
17 question before, and you never answered it: Have
18 you yet raised the standard?
19 And you said, no, we pressed -- you, in
20 effect, said, no, we're pressing the EPA to do it.
21 COMM. HOWARD A. ZUCKER, M.D., J.D.: What we
22 said is, if they don't do it, we will do it.
23 ASSEMBLYMAN ABINANTI: Well, how long are we
24 gonna wait for the EPA?
25 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well, we

1 sent them the letter today. And I can assure you
2 that --
3 ASSEMBLYMAN ABINANTI: We knew this problem,
4 how long ago?
5 And you're talking only about one -- you're
6 talking about PFOA.
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: No, I'm
8 talking about all the UCMR.
9 ASSEMBLYMAN ABINANTI: I am talking about all
10 of the other problems in the state of New York.
11 COMM. HOWARD A. ZUCKER, M.D., J.D.: All of
12 the UCMR; all the unregulated contaminants.
13 So that's one.
14 We have the water quality rapid-response
15 team. That's another proactive thing that we're
16 doing.
17 ASSEMBLYMAN ABINANTI: How is that proactive?
18 That's responding to a situation that's
19 already occurred.
20 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
21 it's proactive because, if there's -- we have a
22 state, we have a lot of concerns around
23 environmental, a lot of companies that were there.
24 If there's a concern, we are proactively
25 looking in the communities to see where there's a

1 problem, where there was a plant.
2 If there's something there, we will go out
3 there --
4 ASSEMBLYMAN ABINANTI: If there's something
5 there.
6 Are you now -- is there a system now, where
7 you're going out to look at every one of our big
8 companies that has contaminants, of any type,
9 throughout the entire state of New York, to see
10 where -- if they're affecting wells, and if they're
11 affecting groundwater, or above groundwater?
12 Is the EP -- I see on the website, you
13 proudly talk about all the inspections you do.
14 You do 60 wells a year.
15 Big deal.
16 I mean, what are we doing to ensure that we
17 don't have these situations more and more and more?
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: So I
19 think that brings back what -- the issue that the
20 government has raised about private wells. And tha
21 we're moving forward to look at the private wells,
22 so that if someone sells their home, we can --
23 ASSEMBLYMAN ABINANTI: I passed that
24 legislation in Westchester County, okay, the year
25 after Ellen Jaffee passed it in Rockland County.

1 And it would have been nice to have -- we
2 appreciate your supporting that, but that's not a
3 policy.
4 What are we doing on a statewide basis to
5 make sure that we're gonna look at this whole issue
6 and come out with a new policy to guarantee drinkin
7 water?
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well, we
9 are (indiscernible).
10 We have the regulations for -- well, we have
11 the regulated contaminants, and I just mentioned al
12 these unregulated contaminants. We will monitor
13 them.
14 I understand you're saying, well, why are you
15 waiting for the federal government?
16 We sent a letter. If there's no response
17 quickly, we will intervene and we will do this.
18 ASSEMBLYMAN ABINANTI: Do we need a Clean
19 Water Act for the state of New York?
20 Do we need our own piece of legislation to
21 empower all of you to do what the federal governmen
22 says it's requiring done in the Clean Water Act?
23 COMM. HOWARD A. ZUCKER, M.D., J.D.: We have
24 legislation. We are moving forward on this, we are
25 introducing other legislation.

1 I mentioned the lead testing in schools.
2 That's another issue that we're moving
3 forward to tackle, which --
4 ASSEMBLYMAN ABINANTI: How are we preventing
5 lead from going into the water in the first place?
6 Once you found it in the schools, that means
7 kids have been drinking it, that means kids are
8 already damaged. And now we're gonna have to
9 replace the pipes.
10 How are we gonna solve the problem in
11 advance?
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: You
13 know, I take issue on the fact that kids are
14 damaged.
15 We look at these numbers. There are numbers
16 out there when it comes to lead.
17 We are going look at all the pipes in all of
18 the schools to be sure that they meet -- they fall
19 below --
20 ASSEMBLYMAN ABINANTI: Who's the "we"?
21 COMM. HOWARD A. ZUCKER, M.D., J.D.: They
22 will provide samples.
23 We will make sure there are samples that need
24 to be provided.
25 ASSEMBLYMAN ABINANTI: And who's paying for

1 this? The local property taxpayers.
2 COMM. HOWARD A. ZUCKER, M.D., J.D.: No,
3 no -- Brad, do you want to?
4 DEP. COMM. BRAD HUTTON: Schools will be
5 eligible for State aid through the state education
6 department?
7 ASSEMBLYMAN ABINANTI: And that's going to be
8 on the basis of the education department.
9 Is it going to be a dollar-for-dollar
10 replacement? Or is it on the existing the funding,
11 which gives my communities 5 percent of their
12 budget?
13 Is the State going to pay for this?
14 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well, we
15 will look at the issues of funding.
16 We've always committed to making sure the
17 public's safety is taken care of, and we will find
18 whatever -- we'll make sure --
19 ASSEMBLYMAN ABINANTI: Districts are paying
20 for 100 percent of it, and they're getting nothing
21 back.
22 I've had several school districts that have
23 already done it, because they're the ones that can
24 afford it.
25 The ones that can't afford it aren't doing

1 it.

2 COMM. HOWARD A. ZUCKER, M.D., J.D.: Okay.

3 ASSEMBLYMAN ABINANTI: Do you believe that we

4 have enough statutes right now to ensure that those

5 that handle the drinking water locally do, in fact,

6 adhere to the standards that we have?

7 I mean, you have a private water company.

8 It's not in their interest to report that there's a

9 problem with the water. Correct?

10 Because if they do, they're out of business.

11 COMM. HOWARD A. ZUCKER, M.D., J.D.: We are

12 looking -- that's what I said. We looked at -- on

13 the unregulated contaminants, we look at this.

14 We look at the reports that come in, the

15 information they provide to EPA. We look at

16 those --

17 ASSEMBLYMAN ABINANTI: But do you do any

18 sampling to make sure that what's being reported to

19 you is, in fact, accurate?

20 COMM. HOWARD A. ZUCKER, M.D., J.D.: You

21 know, we could -- I'd be happy to sit down and go

22 through all this offline, all the details of exactl

23 what we're doing, and where we're -- where we're --

24 ASSEMBLYMAN ABINANTI: No, I think this is

25 important.

1 This is public policy, because we may need
2 new statutes.
3 Do we need criminal-liability statutes to
4 match the civil-liability statute that we just
5 passed?
6 Somebody want to respond?
7 COMM. HOWARD A. ZUCKER, M.D., J.D.: We will
8 sit down, look at these -- the whole goal here is,
9 obviously, to make sure the water is safe, or -- an
10 there's no, you know, contaminants in there.
11 ASSEMBLYMAN ABINANTI: So you don't have an
12 opinion as to whether we need criminal statutes to
13 match the civil-liability statute?
14 COMM. HOWARD A. ZUCKER, M.D., J.D.: I'm not
15 going to get into an issue discussion of legal, you
16 know, whether it's criminal or civil statutes on
17 this.
18 ASSEMBLYMAN ABINANTI: Who regulates
19 drinking-water providers today, like private
20 companies?
21 Last time I looked it was the PFC. I'm not
22 quite sure.
23 Do either of your departments regulate
24 private companies that distribute drinking water?
25 ASSEMBLYMAN GOTTFRIED: State your name, and

1 do you swear that the testimony you're about give i
2 true?
3 DR. ROGER SOKOL: Roger Sokol.
4 And, yes, I do.
5 ASSEMBLYMAN GOTTFRIED: Thank you.
6 DR. ROGER SOKOL: Assemblyman, regarding your
7 question about private water companies:
8 Yes, private water companies, they do report
9 to the Public Service Commission.
10 But in terms of their responsibility, in
11 terms of state sanitary code, yes, they are require
12 to follow the state's sanitary code, as well as any
13 other municipal public water system.
14 ASSEMBLYMAN ABINANTI: Does anybody check to
15 make sure that their reporting is, in fact,
16 accurate, and they're not -- who's looking to -- do
17 you do water samples to make sure that, in fact,
18 what they're doing is accurate?
19 DR. ROGER SOKOL: In fact, yes, they do,
20 Assemblyman.
21 These private water companies are required to
22 make use of New York State-certified laboratories
23 that are certified through the
24 environmental-laboratory approval program.
25 Our local health departments that they report

1 to review their monthly operation reports.
2 There is occasional surveillance sampling
3 that does take place, even of private water
4 companies.
5 So there is adequate oversight of the private
6 public water systems, as well as the municipal
7 public water systems.
8 ASSEMBLYMAN ABINANTI: Do we have any
9 regulation of the prices of water?
10 DR. ROGER SOKOL: We, the New York State
11 Department of Health, does not regulate the price.
12 ASSEMBLYMAN ABINANTI: So that's the Public
13 Service Commission?
14 DR. ROGER SOKOL: That would be the Public
15 Service Commission.
16 COMM. HOWARD A. ZUCKER, M.D., J.D.: Okay.
17 All right I -- you had other things, but
18 we're short on time, so I'm just going to -- as you
19 can see, I'm not happy with the answers that I've
20 heard today. And sorry if I'm jumping all over you
21 but I don't want to hear about Hoosick Falls and th
22 reaction that you -- that we've heard a dozen times
23 I'm just very concerned, that I don't believe
24 that we are doing what we need to do to preserve
25 drinking water in the state of New York.

1 And, certainly, the little bit of money we're
2 talking about, that we're bragging about, that we'v
3 put into infrastructure is way, way too small.
4 We should be spending the $36 billion today,
5 and not spending it in little dribs and drabs, and
6 saying we're doing great things, because our system
7 are falling apart, and in many cases, they don't
8 even have systems.
9 So thank you for coming today, and, we'll see
10 where we go from here.
11 ASSEMBLYMAN ENGLEBRIGHT: Thank you,
12 Mr. Abinanti.
13 I just want to make an editorial comment
14 here.
15 Commissioner Seggos did mention the missing
16 partner at the federal level.
17 And I think your final comments pointed in
18 the same direction.
19 We have made dramatic -- under this governor,
20 and under this Legislature, made dramatic new
21 improvements in the level of investment.
22 Proportionally, though, we used to get
23 90 percent of the federal infrastructure monies tha
24 were linked to the federal Clean Drinking Water Act
25 And those have, virtually, disappeared,

leaving the State to try to deal with this, even doubling it, as we did this year.

As Mr. Abinanti correctly points out, it's just not enough. We need to find another way.

And, quite frankly, we need to be talking to our federal representatives, because that gaping hole that was created over these years, they need t step back into that vacuum.

But all of these points are well-taken.

Mr. Titone also has some questions, so let me go to him now.

Mr. Titone, Matt Titone, from Staten Island.

ASSEMBLYMAN TITONE: Thank you, Chairman.

And I promise, Commissioner, I will not comment on any of the programs to sterilize deer on Staten Island.

[Laughter.]

ASSEMBLYMAN TITONE: Not today, anyway.

COMM. BASIL SEGGOS: Thank you, Assemblyman. Or the turkeys.

ASSEMBLYMAN TITONE: Right, or the turkeys.

I just --first, an observation.

Commissioner, earlier in the testimony, you insisted that there was no failure on the part of government with respect to notification, and the

1 processes that we have in place right now, and mayb
2 that's so.
3 But I want to assure you that the people in
4 front of you, and many of the people behind you,
5 sense that there is a terrible problem.
6 And we feel that -- and I can speak for
7 myself, and many of the frustration is that we --
8 I feel that we're -- there is no admission on your
9 part that there's a problem.
10 And that, in my mind, says that we're not
11 going to have a solution until that first step is
12 taken.
13 You know, what I've heard so far is that,
14 well, we're going to see what the federal governmen
15 may or may not do. And once we have that in place,
16 then we'll decide whether or not we're going to tak
17 that action, or maybe we won't take that action.
18 So I feel like we haven't really had some
19 hard, firm answers from your end, and I'm hoping
20 that those will come shortly.
21 With respect to proposing legislation on your
22 end, I think that's a great idea. But, you know,
23 I've seen this movie before, where there's a progra
24 bill that comes out. Sometimes it's released with
25 great fanfare and lots of media attention.

1 But when that -- that bill, when it comes to
2 the Legislature, we see that there are components
3 that are missing, things that we've initially
4 wanted, but we don't see it.
5 For example, you know, we talked about
6 Assembly Member Jaffee's bill about private-well
7 testing.
8 And in that bill, you know, it's very clear
9 that there will -- mandates absolutely no waivers.
10 That, you know, the seller cannot, you know,
11 waive, you know, to the buyer, testing of the well,
12 you know, for a $200 rebate, or things of that
13 nature.
14 So my question is:
15 How much input, when you're going to propose
16 this legislation, will you be working with us?
17 Or is this something that's going to be done
18 in a vacuum where, then, to much fanfare to the
19 media, we have proposed these broad, sweeping
20 changes?
21 The Legislature looks at it, rejects it, and
22 then, all of a sudden, you guys are saying, well, w
23 proposed legislation, but the Legislature --
24 legislators won't move on it.
25 How much input will we have for these program

1 bills that you're saying that you're going to be
2 doing?
3 COMM. HOWARD A. ZUCKER, M.D., J.D.: So,
4 first, there is a hardship waiver that was put in
5 for these -- this issue.
6 ASSEMBLYMAN TITONE: That's a hardship.
7 But there's also, I want to be clear, that
8 even when there's isn't a hardship, the Jaffee bill
9 says "no waivers."
10 It's absolute. You can't buy your waiver.
11 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well,
12 we -- we -- well, that's what we have on this one,
13 is there's a hardship waiver.
14 The opportunity to hear from all of you and
15 your thoughts about this is helpful for us as we
16 move forward on introducing legislation.
17 I welcome a chance to sit and talk to you
18 about this, and some thoughts that you may have, as
19 we move --
20 ASSEMBLYMAN TITONE: Well, it's not just me,
21 but, you know, a number of members here, you know,
22 who sit in the Environmental Conservation Committee,
23 with Steve -- under Steve Englebright's
24 chairmanship, that have many, many bills that we
25 pass in the Assembly, and they don't seem to move

1 further.
2 So how -- I mean, I really hope that it's not
3 just me or Ms. Jaffee, but it's, you look at very
4 comprehensively, what we're looking to accomplish i
5 the Assembly and take that to mind.
6 Because I don't want to hear, well, we
7 introduced a bill, but the Assembly won't pass it.
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well, I
9 will say one thing, that I think just the fact that
10 we've been here, and in previous testimony, and man
11 people from the community, and everyone else who's
12 testified, we all recognize that this is such an
13 important issue about water, and we're going to mov
14 forward on it.
15 We're going to move forward on it, and,
16 hopefully --
17 ASSEMBLYMAN TITONE: Okay.
18 And since we're talking about, you know,
19 being proactive rather than reactive, you know,
20 today we had the Lupardo bill that was signed into
21 law -- today or yesterday, with respect to lead
22 in -- testing lead in our school water.
23 What are you going to do with respect to the
24 potential for manipulating those results?
25 For example, if I'm a school and I know I'm

1 going to be tested on Wednesday, on Tuesday I can
2 run my water for two hours, clean out those pipes.
3 Come Wednesday, I'm going to have a result that may
4 be very different had you tested on Monday.
5 So, that --
6 COMM. HOWARD A. ZUCKER, M.D., J.D.: There's
7 contingency built into the regulations on this to
8 prevent that from happening.
9 Brad, do you know the regulation?
10 DEP. COMM. BRAD HUTTON: Yeah.
11 I mean, so the regulations specify the number
12 of hours that the water -- it's between 8 hours and,
13 24, Dr. Graber?
14 DR. NATHAN GRABER: 18.
15 DEP. COMM. BRAD HUTTON: 18.
16 Between 8 and 18.
17 So I think we're aware of that concern, and
18 we've specified the parameters for collection withi
19 the emergency regulations that were issued.
20 ASSEMBLYMAN TITONE: So in place right now,
21 there's a prohibition of manipulating data with
22 the -- what's called "flushing," I think it's
23 called?
24 DEP. COMM. BRAD HUTTON: Correct.
25 ASSEMBLYMAN TITONE: Flushing.

1 So there is a prohibition of flushing?
2 COMM. HOWARD A. ZUCKER, M.D., J.D.: That's
3 correct.
4 ASSEMBLYMAN TITONE: And is the City of
5 New York aware of that?
6 COMM. HOWARD A. ZUCKER, M.D., J.D.: We can
7 check with them. I'm sure -- we'll make sure --
8 yeah, we'll make sure that they are.
9 ASSEMBLYMAN TITONE: Because that's
10 problematic in the city, because they are doing tha
11 in our schools.
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: We
13 will -- I will look into it.
14 ASSEMBLYMAN TITONE: I look forward to you
15 getting back to me on what you find out.
16 Thank you.
17 ASSEMBLYMAN ENGLEBRIGHT: We have
18 Mr. McDonald, who had to step away briefly. He
19 left the reservation when he left.
20 He does have a question.
21 John McDonald.
22 ASSEMBLYMAN McDONALD: Commissioner, thank
23 you for your commitment today in answering all the
24 questions.
25 I know sometimes it gets a little testy, and

1 that's part of the process.
2 And, you know, Dr. Zucker, when you first
3 started off talking about this whole issue of the
4 unregulated chemicals, it really hit home with me
5 because, all along I've been saying, you know, as a
6 former mayor, geez, we never really tested for this.
7 Obviously, there's causal relationships;
8 we're concerned about the impact it has on health.
9 But I call my local community, and many of
10 them don't even test for it by any stretch of the
11 imagination.
12 So I'm glad to see that we're trying to
13 encourage other levels of government, at the higher
14 levels, to, kind of, let's tighten up the standards.
15 And, I'm sorry, the gentleman in the
16 middle...?
17 DR. LLOYD WILSON: Lloyd.
18 ASSEMBLYMAN McDONALD: Lloyd, I really --
19 these hearings, although they can be testy at times
20 the fact that we were able to get a very long
21 chronology of all the efforts that have been
22 going -- ongoing to really diagnose the problem,
23 it's appreciated.
24 No one really enjoys this whole situation,
25 but it's appreciated to see the effort that the

1 agencies have gone through in this whole process.
2 And I think Senator Marchione mentioned,
3 probably three hours ago at this stage of the game,
4 about another round of blood testing is going to be
5 done in Hoosick Falls, which is appreciative.
6 And I will say, I do believe that the State's
7 response, once we really understood the gravity of
8 everything, has been tremendous.
9 One of the concerns I have -- because I think
10 at one point during today's discussions, there was
11 reference back to, maybe 10 or 20 years ago, that
12 these polluters have been polluting the community.
13 And one of the concerns that I have --
14 And I don't represent Hoosick Falls, but I do
15 represent Rensselaer County, and we're in the same
16 viewing area, so I am very sensitive to the issues.
17 -- is that there are many people who have
18 lived most of their life there.
19 May have left to go to college, may have left
20 to move to another part of the country, within the
21 last year or so.
22 Is there any outreach going on to give them
23 the opportunity to have this -- these blood levels
24 tested as well?
25 You know, I think, particularly as we enter

1 into the end of the year, Thanksgiving and
2 Christmas, a lot of people come home for the
3 holidays. And it's probably not the most rewarding
4 thing to do; but on the other hand, it might be the
5 most important thing that they do.
6 Is that something that the department is
7 considering as we --
8 COMM. HOWARD A. ZUCKER, M.D., J.D.: We
9 actually were doing outreach when we were doing the
10 biomonitoring, and speaking to people, particularly
11 for this issue, for those who had left the
12 community, and lived there for five, six, seven,
13 however many years.
14 So that was a concern, to make sure we
15 tracked them as well.
16 ASSEMBLYMAN McDONALD: Okay. And so that
17 invitation is still going to be out there as we go
18 through the next round testing as well?
19 COMM. HOWARD A. ZUCKER, M.D., J.D.: Correct.
20 ASSEMBLYMAN McDONALD: Good.
21 Thank you very much.
22 ASSEMBLYMAN ENGLEBRIGHT: I would like to
23 yield at this time to Senator Hannon, who has some
24 thoughts.
25 SENATOR HANNON: As usual, I save them up for

1 the end.
2 But before this, I want to visit, on behalf
3 of Senator Larkin, the question of Newburgh, and th
4 question I know that he has on behalf of the
5 residents there, requested the ability to get their
6 blood tested.
7 And I don't think there's been an affirmative
8 response to that.
9 And I just wondered what the status of that
10 may be, and if there is any timeline for that
11 response?
12 COMM. HOWARD A. ZUCKER, M.D., J.D.: Well, I
13 will work to get an answer, specific answer, of the
14 timeline, as I mentioned, regarding looking at what
15 ATSDR is recommending on sampling -- PFOA sampling.
16 And I will -- after this testimony, will go
17 and try to get some information as to how quickly
18 they'll have an answer on this, and provide that
19 back to you, to the Legislature.
20 SENATOR HANNON: It's been asked several
21 times, and especially as the fact that you've been
22 so proactive in doing it in Hoosick Falls.
23 I'm not going to go through the number of
24 different things that we've gone through after two
25 hearings, and we've probably been together on this

1 almost ten hours, but I have a number of un--
2 somewhat unrelated things.
3 First of all, Commissioner Seggos, the
4 consent order that you've entered into with
5 Saint-Gobain, and I think also with Taconic?
6 COMM. BASIL SEGGOS: With Honeywell.
7 SENATOR HANNON: With Honeywell, on behalf
8 of...?
9 COMM. BASIL SEGGOS: No. Honeywell and
10 Saint-Gobain are on the same consent order.
11 SENATOR HANNON: Yes, they're the same.
12 But --
13 COMM. BASIL SEGGOS: We're pursuing a consent
14 order with Taconic.
15 SENATOR HANNON: Okay. I would simply ask
16 that the Committees get a copy of the consent
17 orders. I presume they're all public documents?
18 COMM. HOWARD A. ZUCKER, M.D., J.D.: Sure.
19 Yes.
20 SENATOR HANNON: That would be of assistance,
21 because the Health Committee and the -- of the
22 Senate and the Environmental Committee of the Senat
23 have issued subpoenas to those companies. It's a
24 long, slogged process. There's lengthly (sic)
25 interrogatories.

1 And to the fact that you might have
2 information on those consent orders, even -- and
3 because they're negotiated, I would like to get
4 those for our records, and for our -- for further
5 consideration.
6 COMM. BASIL SEGGOS: Good.
7 SENATOR HANNON: The -- and if you would, as
8 you're going through the superfund site list, and
9 you're pursuing other potentially responsible
10 parties, the Committees would like to be on that
11 list so that we could follow the sometimes
12 lengthly (sic) proceedings that are involved with
13 the superfund.
14 COMM. BASIL SEGGOS: Will do.
15 SENATOR HANNON: You had talked about going
16 through the potential sites of use of PFOA, and
17 products using PFOA, throughout the state.
18 Is there any thought right now of giving us
19 some warning to the places where that use may be,
20 and saying to them, by the way, there is a great
21 concern about this in different places; and, at
22 least alerting them to not just responding to your
23 survey questions, but alerting them to the usage of
24 this?
25 COMM. BASIL SEGGOS: No, I think, absolutely,

1 when we have indication that there may be a problem
2 we will be immediately notifying.
3 That's what we did, frankly, in Newburgh.
4 SENATOR HANNON: Well, not in just a problem.
5 I mean, you made mention, and I had heard
6 from people before in Hoosick Falls, about the use
7 of Teflon in tapes that would seal pipes.
8 In fact, when we were going over with the
9 geologist, the question of testing for PFOA, they
10 noticed that -- and I see the doctor said this
11 before -- if you have Teflon in the pipes, that
12 could adversely affect the result of the water
13 tests.
14 So I'm just thinking, should we not now be
15 saying to people, be cautious if you can?
16 COMM. BASIL SEGGOS: Well, if the public has
17 a right to know, we want to fulfill that obligation
18 as quickly as possible.
19 SENATOR HANNON: Well, and this comes down to
20 the question of the responsibility of the State,
21 whatever department it may be, to give notice to
22 people who may be affected, to the extent they have
23 that notice.
24 I'm not talking about getting notice from
25 public water supply to a county, to the State.

1 I'm talking about, now, there's a certain
2 amount of more than a little suspicion. We're
3 getting close to conviction. Maybe the levels are
4 even now too high, because there are other people
5 saying we should go below 70 parts per billion.
6 But we should be -- should we not be putting
7 out some alert, health alert?
8 COMM. BASIL SEGGOS: Well, I wouldn't
9 necessarily call it a "health alert" unless we had a
10 suspicion that there was a health problem.
11 What we will do, and we want to do, is get
12 the information out there as quickly as possible,
13 when it's real information, and not just a
14 suspicion.
15 And that's something we will do very quickly.
16 SENATOR HANNON: All right, well -- but your
17 own testimony was, there is PFOA in Teflon; and
18 Teflon is used in tape, tape is used in sealing
19 pipes. You know, when you put even a showerhead in
20 you're using that to put the showerhead on.
21 So I would simply say, I think it's evident.
22 Commissioner -- Commissioner Zucker, the
23 drilling.
24 Well, I've actually -- at one point, the
25 licensing the wells, passed the Senate.

1 But I went through a very elaborate
2 preparation for the Hoosick Falls hearings with the
3 geologist, the young lady who testified there.
4 And because I was only familiar with the
5 geology of Long Island, its aquifers, which turn ou
6 to be relatively simple compared to when you're
7 dealing with glacially-created valleys and drumlins,
8 and things like that.
9 And it turns out that the drillers, we now --
10 somebody now licenses drillers -- private-well
11 drillers in this state.
12 And the point was made that you can be a lot
13 more certain as to what's happening to contaminants
14 flowing beneath the surface, especially PFOA, which
15 turns out to have, especially, staying power,
16 compared to other things, even something like
17 gasoline.
18 And -- but if you have information about the
19 geology, where the well was drilled, you have far
20 more information than you get from just testing the
21 water, because the contaminants, especially PFOA,
22 can change from one year to the next, and a test in
23 2016 may not be good in 2020.
24 So that as you go through the questions of
25 proposing legislation, and we're thinking about it

1 too, because that's the reason we're continuing to
2 have studies, I think there needs to be a real sens
3 of what we're going to get out of that information,
4 what we're going to get out of the wells, and what
5 we're going to do for a given area.
6 Even some will say, well, there's nothing
7 there in the well.
8 Maybe that's false security, because it may
9 change in a given year.
10 I simply want to say, as we will continue --
11 we'll be continuing in regard to this.
12 I offer, if you want to make any comments,
13 you've had patience, and a tough set of questions.
14 I don't know that any of the legislators have
15 held back in any way.
16 But I thought I'd just give you the
17 opportunity, if you want to finish with any closing
18 thoughts, Commissioner Zucker, Commissioner Seggos.
19 COMM. HOWARD A. ZUCKER, M.D., J.D.: Sure.
20 I just want to thank you for having the
21 opportunity to share the information, not only of
22 what we have done in Hoosick Falls, but also what
23 we're doing proactively across the state.
24 And I just say to the people of Hoosick Falls
25 here, we will be here for you as we move forward on

1 this, and hope to get as many questions answered,
2 and be available to the community.
3 Thank you.
4 COMM. BASIL SEGGOS: I would certainly echo
5 that.
6 DEC and I, we are grateful for the
7 opportunity to talk about the work we've done, and
8 to answer your questions; they're fair questions.
9 And we, also, are not going anywhere until
10 the job is done.
11 I mean, it's our responsibility to make sure
12 the environment's protected, and the people of
13 New York are protected, and all the residents and
14 visitors are protected.
15 And I take that job very seriously, and we'll
16 stay here until the job's done.
17 So thank you for having us.
18 And we look forward to continuing this with
19 you on Monday in Long Island.
20 SENATOR HANNON: Well, I thank you.
21 I would, specifically, to the two situations
22 we have, the situations of PFOA, we have been
23 considering a lot of possible items of legislation.
24 Senator Marchione has made numerous
25 recommendations.

1 And so we'll look forward to this between now
2 and the commencement of the legislative session.
3 And, all along, obviously, I think the court
4 of public opinion is going to demand it, to budget
5 resources to this whole environmental area.
6 Thank you.
7 COMM. BASIL SEGGOS: Thank you.
8 ASSEMBLYMAN ENGLEBRIGHT: We're getting ready
9 to wrap up the first of nine panels here.
10 So I just want to say thank you for your
11 patience, with your sharing of information.
12 I am going to again ask that you please
13 provide the documents that we have requested.
14 Sending them over in coded form; we got about
15 50 pages last night that were just data, with codes,
16 that you need a Rosetta Stone to even begin to
17 penetrate.
18 That wasn't helpful on the night before this
19 hearing.
20 But, you're telling us that you are going to
21 share that information that we requested, and I'll
22 take that at face value, and thank you again for
23 sharing.
24 This isn't just a hearing. It's also
25 televised, and it is an education process for our

1 general public.
2 So I just want to thank you for sharing, and
3 helping in that information, and learning experienc
4 in every way.
5 And we'll see you on Monday.
6 And we will take a five-minute,
7 "five-minute," break, stretch your legs, and we wil
8 resume.
9 We have eight more panels.
10 COMM. BASIL SEGGOS: Thank you.
11 COMM. HOWARD A. ZUCKER, M.D., J.D.: Thank
12 you.
13 (A recess was taken.)
14 (The hearing resumes, on the record.)
15 ASSEMBLYMAN ENGLEBRIGHT: Let us begin.
16 If you could recapture your seat, and we'll
17 try to recapture the momentum.
18 Our next panel includes the Honorable
19 Keith Batman, Chairman of the Cayuga County
20 Legislature;
21 The Honorable David B. Borge, Mayor of the
22 village of Hoosick Falls;
23 The Honorable Alan Webster, Supervisor of the
24 town of Petersburgh;
25 And Michael G. Ciaravino, City Manager of the

1 city of Newburgh.
2 Gentlemen, welcome.
3 Can we take you in that order that I just
4 read?
5 Let's start then with the Honorable
6 Keith Batman from the Cayuga County Legislature.
7 DAVID B. BORGE: Thank you.
8 ASSEMBLYMAN GOTTFRIED: For efficiency, do
9 each of you swear or affirm the testimony that
10 you're about to give is true?
11 KEITH BATMAN: I do.
12 DAVID B. BORGE: I do.
13 ALAN WEBSTER: I do.
14 MICHAEL G. CIARAVINO: I do.
15 ASSEMBLYMAN GOTTFRIED: Okay.
16 Thank you.
17 KEITH BATMAN: Although I admit, I was a
18 little worried, when you started the process before,
19 you said, to give "the right answer."
20 And I was concerned what the right answer
21 would be, but I think it's "yes."
22 ASSEMBLYMAN GOTTFRIED: "Yes." Correct.
23 KEITH BATMAN: Well, I'm Keith Batman.
24 I appreciate the opportunity to be here
25 today.

1 I'm Chair of the Cayuga County Legislature.
2 You know, knowing the focus of this, I had
3 thought about just sending my testimony in writing,
4 but I decided that coming in and showing my face an
5 spending some time with you, and I have spent a lot
6 of time with you so far today, that it might make a
7 difference in terms of remembering and hearing what
8 I have to say.
9 I also thought that it might help, if you go
10 home and you tell your children, your grandchildren,
11 and other people that you knew, that you heard from
12 "Batman" today.
13 [Laughter.]
14 KEITH BATMAN: So with that in mind, I want
15 to take a little different tact than we've had so
16 far today.
17 My testimony isn't focused on a specific
18 contamination or immediate challenges to health, bu
19 on an alarming trend, and as a caution and a call t
20 action.
21 My concern is that our next hearing not be
22 about, and not focus on the question of, how and wh
23 did we not do more to save the Finger Lakes?
24 So with that in mind, let me tell you a
25 little about Cayuga County.

Cayuga County is located in the middle of the New York State Finger Lakes Region, and we consider ourselves fortunate to have abundant water resources.

The county is bordered by Skaneateles Lake on the east, Cayuga Lake on the west, and Lake Ontario on the north.

Owasco Lake is wholly within the county's borders.

Overall, we have 133 miles of shorelines of lakes and ponds.

In recent years, we have become alarmed with the significant degradation of water quality seen throughout our county.

Blue-green algae bloom, the growth of weeds, increased sedimentation, and the presence of invasive species plague many of our water bodies.

As a result of this degradation, we're experiencing detectable levels of toxins associated with harmful algae blooms in our rural water supplies and elevated levels of disinfected product in our treated drinking water.

Our public water systems have to spend additional funds to treat this water to meet New York State requirements.

1 County residents complain that the drinking
2 water has an unpleasant taste and odors, and this i
3 particularly disheartening, since the City of
4 Auburn, the primary water supply for the county, wo
5 the New York State Tap-Water Taste Contest in 1997.
6 Swimming and boating has become unappealing
7 due to the excessive weed growth.
8 Our local health department this year closed
9 bathing beaches, and issued several warnings to the
10 public to avoid contact with many of our lakes
11 experiencing blooms of blue-green algae.
12 Unfortunately, this is becoming commonplace.
13 Rotting weeds washing up on our shorelines,
14 creating unsightly views and giving off disagreeabl
15 odors.
16 Invasive species, such Asian clams, zebra
17 mussels, Eurasian Watermilfoil, and water chestnut
18 have been found in our lakes.
19 These compete with our native plants and
20 animals and disrupt the ecological balance, and
21 often result in unforeseen negative consequences.
22 One area of particular concern in
23 Cayuga County is the impact of manure application.
24 In recent years, the application of manure
25 has contaminated both groundwater and surface water

1 polluting both private and public water sources.
2 New York's current regulations have failed to
3 prevent these occurrences, and, most likely, will
4 fail to prevent them in the future.
5 In response to this concern -- excuse me.
6 In response to the concern expressed by the
7 public over water-quality issue, Cayuga County
8 created a manure-management working group to
9 consider the issues and activities associated with
10 the storage, application processing, and transport
11 of manure, and recommended policies and guidelines
12 aimed at minimizing the negative impact of water
13 quality.
14 The Cayuga County Legislature recently
15 adopted a manure-management working group's 14-poin
16 agenda for action that was created as a result of
17 the public -- excuse me again -- is a
18 public-outreach process that has included many
19 farmers and non-farmers alike.
20 We're moving forward to implement these
21 action items, and we hope to see some improvement i
22 our water quality.
23 We are also working locally, trying to make
24 an impact on sedimentation and invasive species,
25 through inner-agency cooperation in the development

of voluntary action items that we hope to encourage.

That being said, there is often difficulty making real change through voluntary measures alone.

The history of public health and environmental protection teaches us that not all will choose to participate in implementation of voluntary measures, thereby making it difficult for others who may want to participate to do so, as it puts them at a competitive disadvantage.

We have committed local resources to protect water quality in Cayuga County, but it's not enough.

Current New York State regulations are inadequate to prevent the nutrient and sediment runoff, and DEC staffing is insufficient to enforce the regulations that are in place.

According to our agricultural community, funds are needed to implement best practices, and our municipalities need assistance to address stormwater.

Field personnel and expertise are needed to help to combat the spread of invasive species.

More importantly, this may be the time to reevaluate the role of state agencies as they pertain to the implementation of local solutions to local problems impacting our water sources.

1 In our experience, these agencies have
2 impeded our ability to address the water-quality
3 challenges that we face.
4 We would be happy to sit down with you and
5 discuss our ideas on how state agencies can better
6 partner with us in finding solutions that will work
7 in our particular circumstances.
8 We're requesting an urgent response by
9 New York State government to provide the leadership
10 needed to reverse the impact of Cayuga County's
11 water resources.
12 Protecting the water quality of both surface
13 and groundwater is the priority for our residents,
14 and essential to our health, livelihood, and
15 wellbeing, now, and in the future.
16 And I appreciate the opportunity to spend
17 these few minutes with you.
18 Thank you.
19 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
20 much.
21 Honorable David Borge, Mayor of the village
22 of Hoosick Falls.
23 Did I pronounce your name correctly?
24 DAVID B. BORGE: Borge.
25 ASSEMBLYMAN ENGLEBRIGHT: Borge.

1 DAVID B. BORGE: Borge, right.
2 ASSEMBLYMAN ENGLEBRIGHT: The forum is yours,
3 sir.
4 The forum is yours, the microphone is on, and
5 we would like to hear your thoughts.
6 DAVID B. BORGE: Thank you.
7 Good afternoon.
8 My name is David Borge, and I have the
9 distinction of being the Mayor of the village of
10 Hoosick Falls.
11 Thank you for inviting me here today.
12 As many of you likely know, I have provided
13 testimony at last week's hearing in Hoosick Falls.
14 Those comments primarily focused on how
15 village officials first learned of the potential
16 presence of PFOA in our municipal water and our
17 municipal water supply, and what we did as a result.
18 I reviewed the information we received from
19 county, state, and federal officials, and I informe
20 you of steps the Village took to negotiate with
21 Saint-Gobain to obtain free bottled water for
22 residents and a treatment system to remove PFOA fro
23 our drinking-water supply.
24 I would be happy to answer any questions
25 about that testimony today.

1 But, rather -- but rather than repeat the
2 facts that I reviewed last week, I would like to
3 focus my comments today on what regulators might do
4 in the future when -- notice I said "when," and not
5 "if" -- when another community faces the challenges
6 of finding an unregulated toxic chemical in its
7 drinking water.
8 In the summer of 2014, the village board
9 didn't understand what PFOA was.
10 We didn't know how to test for it because our
11 water supply wasn't required to do so.
12 We did the only thing we knew what to do --
13 that we knew how to do: We contacted the county
14 health department; and, in turn, the County
15 contacted New York State.
16 County and state regulators couldn't be more
17 clear: New York State didn't classify PFOA as a
18 regulated contaminant, so no testing was required o
19 the village municipal water supply to determine if,
20 in fact, PFOA was present at elevated levels.
21 Of course, as you know, the village board was
22 uncomfortable with closing the door on further
23 investigation.
24 We also took the five minutes that
25 Mr. Hickey did to review online information about

1 PFOA.
2 We sought EPA's provisional health advisory,
3 and we saw the information available from our
4 neighbors in Parkersburg, West Virginia.
5 So we collected water samples on our own, and
6 the results indicated levels of PFOA in the drinkin
7 water above the EPA's health advisory.
8 We soon learned that, because PFOA was
9 unregulated, no county, state, or federal funding
10 was available to us; not for bottled water, not for
11 a pilot study to evaluate treatment options, and
12 not, ultimately, for a treatment system.
13 Doors were closed to us left and right.
14 So we turned to Saint-Gobain for the
15 company -- the company that assume -- that we all
16 assumed to be responsible for the contamination.
17 Fortunately, in this case, Saint-Gobain
18 quickly became a willing partner, and in less than
19 year, had agreed to provide bottled water and find
20 treatment system for the village's water-treatment
21 plant.
22 Now, a year may sound like a long time, but
23 we were pressing forward deliberately and
24 methodically.
25 Finding a lab that was qualified to test for

1 PFOA was a challenge; plus, no regulator was willin
2 to -- was telling us that residents should not be
3 drinking the water.
4 Imagine, however, a different scenario, where
5 the responsible party doesn't accept responsibility
6 refuses to discuss the issue, refuses to conduct an
7 investigation on its own property, shuts all doors
8 and creates roadblocks at every turn.
9 How long would residents drink contaminated
10 water under such a scenario?
11 How much exposure would occur?
12 How high would PFOA levels in residents'
13 blood be?
14 All because the federal and state governments
15 aren't providing clear guidance on what a community
16 should do in the face of unknown contamination, and
17 potentially responsible party is unwilling,
18 "unwilling," to accept responsibility.
19 The actions of state and federal officials
20 over the course of the last week are further
21 evidence of our experiences over nearly the last
22 two years.
23 Agencies have a difference of opinion, and
24 our community is stuck in the middle.
25 It doesn't have to be this way, nor should

1 it.
2 Why couldn't New York State reach out to
3 their counterparts at EPA early in this crisis and
4 have a face-to-face discussion about what the
5 Village ought to do?
6 Not truncated e-mail correspondence, but a
7 meeting, a discussion, to determine what they
8 collectively recommend the Village should be doing.
9 If New York State didn't understand the steps
10 that needed to be taken in light of EPA's
11 provisional health advisory, why wasn't such a
12 meeting held in 2015 to discuss it?
13 Village and town officials would have
14 welcomed such a meeting and would have participated
15 if asked.
16 Now, you might ask why the Village didn't
17 call such a meeting themselves.
18 Well, frankly, at the time, we didn't see the
19 need.
20 New York State, DOH, was assisting us with a
21 pilot study to evaluate treatment technologies that
22 might reduce PFOA in the drinking water.
23 EPA at the time, to the best of our
24 knowledge, really was not involved.
25 We were contacting everyone we could think of

1 to obtain funding for bottled water and a treatment
2 system.
3 We involved state and federal elected
4 representatives.
5 Progress was being made, albeit slowly.
6 We were surprised to learn in a news article
7 this week that EPA had urged New York State to issu
8 a no-drink advisory for the village sometime during
9 the fall in 2015.
10 While this may have occurred, we could find
11 no evidence of such a communication, and we were
12 certainly not made aware of any communication, not
13 by the State, and not by EPA's attorney who
14 contacted me in early November of 2015.
15 Nothing about a no-drink advisory was
16 mentioned to village trustees, until we received a
17 letter from EPA on November 24, 2015, the day befor
18 Thanksgiving.
19 Further, we questioned why it took so long
20 for EPA to issue its own no-drink advisory.
21 In the absence of New York State and -- in
22 the absence of New York State Department of Health
23 issuing one, we feel that EPA could have issued suc
24 a notice.
25 EPA didn't issue a clear directive until

1 mid-December.
2 Obviously, this confusion, this
3 finger-pointing, can't be allowed to happen again.
4 We are hopeful that, as a result of these
5 hearings, a process of -- a process or a guidance
6 document can be developed for communities to follow
7 if they are facing a situation similar to what we'v
8 had to face.
9 At a minimum, this guidance should answer the
10 following questions:
11 Who should be notified when elevated levels
12 of an unregulated compound are believed to be
13 present in the drinking water?
14 If sampling for this compound isn't performed
15 on a routine basis, should samples be performed to
16 confirm the chemical's presence?
17 If so, what funding is available for a
18 community to obtain the samples?
19 How should a laboratory be identified to
20 perform the sampling?
21 Can New York State perform the sampling
22 instead?
23 Who specifically can a community work with to
24 learn more about the unregulated chemical and the
25 potential risks posed to local residents?

1 How will EPA and New York State work together
2 to determine the next steps in the investigation?
3 Which agency will have primary responsibility
4 for working with the community during this
5 investigation?
6 Should an alternate water supply be
7 established for residents? If so, where would the
8 funds be available?
9 Who will establish the program with a vendor
10 and develop the program details?
11 How much water should be made available to
12 residents to ensure that they receive an ample
13 volume?
14 Is it acceptable to continue showering or
15 bathing in the contaminated water? If so, why?
16 If a no-drink advisory is promulgated, what
17 does that mean for pets and farm animals?
18 Is it acceptable for residents to continue
19 using the contaminated water for irrigation? for
20 swimming pools? for hot tubs?
21 Should a permanent alternate water supply be
22 evaluated?
23 Is funding available for a community to hire
24 its own team to investigate this issue, to find the
25 treatment, to deal with potentially responsible

1 parties and the regulators, and to keep residents
2 informed?
3 What information should be provided to
4 residents about unregulated chemicals?
5 It's likely there are a multitude of issues
6 that could arise when a strange unknown contaminant
7 is detected in drinking water.
8 I have attempted to name just a few.
9 Village officials would be happy to assist in
10 the development of such a guidance document, so no
11 community will be in the uncomfortable, unfortunate,
12 and potentially hazardous position that the village
13 of Hoosick Falls found itself to be.
14 Last week, we had a Senate hearing at our
15 local school, and there was a lot of testimony that
16 was given.
17 During that time, I neglected to thank our
18 local district legislatures for their support.
19 In particular, I want to thank
20 Senator Marchione, who's been involved very, very
21 early on.
22 I want to thank Assemblyman McLaughlin for
23 his persistent advocacy.
24 And I want to thank Rensselaer County
25 Executive Kathy Jimino for her support, through the

1 county health department, and, also, just her
2 ongoing support.
3 This has been a tough road for all of us, but
4 we are going through this road, we are traveling
5 this road.
6 Throughout the testimony this morning
7 I heard -- and I hope you'll indulge me just for a
8 moment -- I heard:
9 "We don't want to be the next Hoosick Falls."
10 "We don't want to be the next Hoosick Falls."
11 I get that, I truly do.
12 Hoosick Falls has been drinking clean water
13 since March, totally non-detect.
14 Hoosick Falls is a great place to live, a
15 great place to be.
16 Let's learn as we move forward.
17 And if we can prevent another community from
18 having to go through everything that we did, or at
19 least significantly crunch down the time frame, and
20 I think steps were taken in that direction, I think
21 we're off to a good start.
22 But if we could do that, then that's an
23 effort very well worth taking.
24 Thank you.
25 ASSEMBLYMAN ENGLEBRIGHT: The Honorable

1 Alan Webster, the Supervisor of the town of
2 Petersburgh.
3 Sir.
4 ALAN WEBSTER: Thank you.
5 Before I begin, I would like to make just one
6 observation.
7 After having sat through five hours of very
8 informative information, one thing that I thought
9 was extremely telling, and chilling at the same
10 time, one comment that was made, which, to me,
11 illustrates why we are here, and why, undoubtedly,
12 we will be back again: The mention of science
13 following technology.
14 We have 80,000-plus unregulated chemicals.
15 And when you have that formula, that isn't a good
16 formula for success.
17 I had some alternative comments to make.
18 Several people from multiple communities came
19 to me and requested that I read what I read at the
20 Senate hearings last week.
21 I thought, perhaps, it was because of the
22 brevity of what I read, but I believe it might have
23 resonated a bit more than that.
24 So, thank you.
25 On behalf of the residents of Petersburgh,

1 I would like to thank you for this opportunity to
2 give voice to our concerns regarding PFOA
3 drinking-water contamination in our community.
4 The importance of these hearings is critical
5 in determining what happened, and ensuring that
6 situations such as this do not arise again.
7 There is, and should be, much talk about
8 accountability when it comes to this issue.
9 There are those who hold the industries
10 involved as solely responsible.
11 Others lay blame on the agencies assigned
12 responsibility for the regulating and overseeing of
13 the chemicals involved.
14 Still others will place accountability on the
15 elected officials responsible for providing adequat
16 funding and staffing for those agencies to
17 effectively do their jobs.
18 And there are those who will place the blame
19 on some or all of the aforementioned.
20 But I would like to provide you a few
21 examples of the accountability that I, as Superviso
22 of the town of Petersburgh, face every day.
23 I am accountable to the young mother who
24 comes to me angry that she has forever lost the
25 intimacy of nursing her newborn child, who speaks

1 with fear of even bathing that child.
2 I am accountable to the homeowner about to
3 retire, and downsize, fearful that she will be
4 unable to do so because of uncertainties over the
5 saleability of her property.
6 I am accountable to the worker who calls me
7 late at night, unable to sleep, fearful that their
8 job will be lost or moved.
9 "You can't let that happen," they tell me.
10 "How will I pay my mortgage? How will I feed and
11 clothe my children?"
12 I am accountable to the parents who raised
13 their children, their now-grown children, in this
14 community, and now live in fear of the damage that
15 might have been done to them.
16 And I am accountable to the individual
17 mourning over the loss of a loved one, forever
18 wondering about the illness that took their life.
19 This is the reality that we live with daily.
20 In our -- and in our world, we rarely deal
21 with numbers.
22 In our world, we deal with names, we deal
23 with faces.
24 And, so, while we determine what got us here,
25 we need to remember that we are here, and this

1 brings us to all -- this brings us all to a new
2 accountability, for now it is a matter of making as
3 right as possible what has been done.
4 With this, there can be no excuses, no
5 finger-pointing, and repairing what has been done.
6 There can be no more damage inflicted on
7 those who have suffered so much already.
8 We need the reparations done correctly.
9 We need a clean and sustainable water source,
10 and we need an infrastructure that will ensure this
11 water is safely delivered to our residents.
12 We need the guarantee of a stable economic
13 base, where workers are not fearful of losing their
14 jobs, and homeowners can rest assured of the
15 stability of their property values, and where new
16 growth can occur.
17 We need the assurance of long-term medical
18 monitoring.
19 Let me repeat that: We need the assurance of
20 long-term medical monitoring.
21 It is not hyperbole to say that the world is
22 watching what is happening here today.
23 In a very real sense, the world is watching,
24 for there are tens of thousands of communities
25 asking, what chemical is next, and is it going to b

1 us?
2 And if it is them, they're looking to see how
3 they will be treated, how things will be made right
4 for them.
5 There is opportunity here to begin the
6 process of making things right.
7 I emphatically urge all parties involved to
8 make that happen.
9 Last night I sat through a two-hour meeting,
10 a wonderful meeting, run by the citizens of the tow
11 of Petersburgh.
12 In attendance were elected officials, elected
13 representatives of those officials, there were
14 representatives from DEC, DOH, Rensselaer County
15 Department of Health, EPA, AGs and Markets.
16 The meeting was instructive, informative.
17 We had a wide cross-group of residents asking
18 a variety of questions.
19 Responses were given sincerely.
20 I could detect several things in that.
21 We were appreciative of everyone who gave
22 their evening to be there.
23 But we also had concerns, we had fears, that
24 as soon as the doors closed last night, we would be
25 back where we were before that meeting began.

1 Today I think, and the last hearing
2 illustrated, in many ways, that fear.
3 The finger-pointing: It's their fault.
4 Blame them. They did it. He did it. She did it.
5 I think we need to put an end to the war of
6 the pronouns, and begin to deal with just one, and
7 that is "we."
8 "We" have a problem, "we" need to fix the
9 problem where it all exists, and "we" need to make
10 sure that it doesn't happen again.
11 Thank you.
12 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
13 much.
14 The Honorable Michael G. Ciaravino, City
15 Manager of the city of Newburgh.
16 Sir.
17 MICHAEL G. CIARAVINO: Thank you, members of
18 the Assembly.
19 Thank you, members of the Assembly, Senators,
20 Assembly Members; particularly, Senators Hannon,
21 O'Mara, Assembly Members Gottfried and Englebright,
22 for calling these hearings, as well as
23 Senators Larkin and Assembly Member Skartados for
24 advocating on behalf of the city of Newburgh.
25 The city of Newburgh is situated about

1 equidistant between New York City and Albany.
2 We're the only deep-water port between these
3 two great locations.
4 It's a place where the sweet and the salt
5 water meet.
6 And through a historic scouring, we now have
7 a tremendous asset in the city of Newburgh.
8 In addition to people and resiliency of them,
9 we have a police department that's being regarded
10 now as one of the Cinderella police forces in the
11 state of New York, by no less than
12 Commissioner Green (ph.).
13 We have gone, in the Ferguson era, into a
14 progressive way in meeting the community's needs
15 with the police-community relationship.
16 In addition, as one of the great assets of
17 our city, is Washington Lake.
18 In this era of increasing fresh-water
19 scarcity, we fully expect in the next century that
20 Washington Lake is going to be a key economic
21 development tool for the city of Newburgh.
22 We anticipate it, we will bank on it, and we
23 want to plan for it.
24 And it's around this discussion of what it
25 is, it's in our hopes and aspirations that I want t

1 frame our experience with this water crisis.
2 I have heard Mayor Borge's experience in
3 Hoosick Falls.
4 In many ways, the city of Newburgh made core
5 decisions based upon a lot of the ambiguity that
6 surrounded the direction that the Mayor of
7 Hoosick Falls and the community received as it
8 related to the water quality.
9 Before the beginning of this year, I could
10 not have ever pronounced "perfluorooctane
11 sulfonate," also known as "PFOS."
12 At the time the EPA considered PFOS to be an
13 emerging contaminant, not subject to federal
14 regulation, it was described as being extremely
15 persistent in the environment, resistant of typical
16 environmental degradation.
17 Sampling done in 2014 identified PFOS as a
18 contaminant, but at levels that were below the
19 then-existing EPA short-term health advisory of
20 200 parts per trillion.
21 In March 2016, the DEC resampled, and then
22 advised the City of the continued presence of PFOS
23 in the water supply.
24 And although the levels were still below
25 200 parts per trillion, at the time, we were

1 measuring at 150 parts per trillion.
2 Reading up on the medical science behind
3 PFOS, just the mere fact that it's measured in part
4 per trillion seems to speak to its potency as a
5 cancer-causing agent.
6 And so we began to seek direction in terms of
7 what this meant and how we should act upon it.
8 There are many other steps, but, ultimately,
9 it resulted in the awareness that we were not
10 getting straight direction from either the federal
11 or the state agencies.
12 And that while we understood that we had a
13 very potent, caustic, toxic substance, the City of
14 Newburgh needed to act.
15 Again, not only referring to Hoosick Falls,
16 but also Flint, Michigan, I made the call to declar
17 an emergency on May 2, 2016, requiring the city to
18 restrict its water usage, and give broad powers to
19 the City and all agencies to act; to switch to
20 alternative source waters that were free of the
21 PFOS.
22 On that particular day, after a tremendous
23 amount of hard work, weeks leading up to it, we
24 switched from Washington Lake over to Browns Pond.
25 We were fortunate, in that we had an

1 alternative source of water, but it was a very
2 finite source of water, as we soon drained that
3 lake -- that pond down to levels that were
4 threatening to stress the aquatic life and
5 amphibious life in that pond.
6 Fortunately, again, we are located by the
7 Catskill Aqueduct, and we were then able to switch
8 to the Catskill Aqueduct.
9 In the interim period, in May of 2016, the
10 EPA also set the new long-term provisional health
11 advisory at 70 parts per trillion, which really
12 helped to make the team and the City of Newburgh
13 feel vindicated when they declared the emergency.
14 So in June of 2016, we ultimately switched
15 over to the New York City DEP's Catskill Aqueduct.
16 Now, I just want to bookmark for a moment,
17 that the Catskill Aqueduct is due for repair, which
18 is scheduled ahead of the Delaware Aqueduct repair.
19 We want to repair -- New York City wants to
20 repair the Delaware Aqueduct first, so that we can
21 then be used to feed the water supply of three
22 communities in that area, while they then go and do
23 the more laborious work on the Delaware Aqueduct.
24 And that will come into play here shortly in
25 what I'm laying out for the Committee.

1 And then, ultimately, in August of 2016, the
2 DEC declared the air national guard base at
3 Stewart Airport a state superfund site.
4 I do want to focus on some of the actions
5 that the agencies -- New York agencies have taken
6 that we believe were successful.
7 The Governor's task force, comprised of both
8 the DEC and the DOH, clearly defined the presence
9 and concentration of PFOS in Washington Lake,
10 Silver Stream, and at discharge points at the air
11 national guard base.
12 At one area, called "Rec Pond," near the air
13 national guard base, the measures are in the levels
14 of 5,900 parts per trillion for PFOS.
15 As of this day, that water still flows down.
16 We had to close our diversion gate at
17 Washington Lake, for reasons that I'll explain
18 momentarily.
19 But that water carrying those loads are going
20 down Silver Stream, to the Moodna Creek, ultimately,
21 to the Hudson River, and to points beyond in the
22 Atlantic Ocean.
23 With the cooperation of the New York City
24 DEP, we were able to switch over to the
25 Catskill Aqueduct water within several weeks.

1 We changed our filtration panels, our testing
2 panels, to match the chemistry in the Catskill's
3 water.
4 And we're very pleased to report that, since
5 March -- or, excuse me, since May of 2016, we have
6 tested negative, PFOS-free, in our water, simply
7 because we shut down Washington Lake, one of the ke
8 resources for the city of Newburgh.
9 The DEC, in the interim period, has agreed to
10 reimburse the City for the cost of the
11 Catskill Aqueduct water, until such time as the
12 aqueduct is then taken offline, which is estimated
13 to be in October of 2017.
14 Other successes:
15 The DEC has undertaken a design and
16 construction of a directed pipe connection from the
17 aqueduct to our filtration plant, to ensure that ou
18 source water can be transmitted efficiently,
19 especially through the winter months.
20 The DEC has also agreed to undertake the
21 design and construction of a granulated
22 activated-carbon water-filtration system, to enable
23 the City to resume the withdrawal of source water,
24 at some point, from Washington Lake, when the
25 Catskill Aqueduct is shut down.

1 The DEC has also undertaken the installation
2 of a portable granular activated-carbon filtration
3 system, to enable the City to pump water out of
4 Washington Lake.
5 So since we're no longer using
6 Washington Lake, the freeboard has continued to ris
7 in Washington Lake.
8 This is a high-hazard, Class C earthen dam
9 built over 150 years ago, and the spillway is
10 inadequately designed to accommodate the volumes of
11 water, based on the rates at which the water is
12 rising.
13 We have telemetry at Washington Lake that
14 shows that, at the point that I declared the
15 emergency, and, thus, shut off Washington Lake from
16 being utilized as a city source of water, that wate
17 has risen steadily and precipitously towards the
18 2-foot line, in which point where you start spillin
19 over.
20 The risk is that, once we overcome the
21 capacity of the spillway, it's going to rise
22 further; and once it crests the earthen dam, it
23 could, ultimately, cause washout.
24 The DEC, again, as a success, is working now,
25 feverishly, to establish this mobile granular

1 activated-carbon filtration unit, so that as we pum
2 the water out of Washington Lake, we're not going t
3 discharge on to our neighbors in the town of
4 New Windsor what has befallen us from
5 Stewart Airport.
6 Just for a topography, Stewart Airport is
7 approximately 150 feet below Washington Lake.
8 And for a matter of history, and something
9 that we're still looking for, is the comprehensive
10 reportage from both federal agencies, as well as
11 state agencies, to tell us what has been dumped, an
12 what has been going on at the Stewart Air Force --
13 Air Base.
14 We understand that it's not only PFOS that we
15 should be concerned about.
16 This has been an historic dumping ground for
17 well over 50, 60, 70 years, and as one of the
18 Senators referred to earlier this morning, I believ
19 the term was, that there's a "galaxy of
20 contaminates."
21 And right now, all we're really looking at
22 and talking about is PFOS.
23 And so it looks like a narrow pinprick of a
24 hole from which we are shielding ourselves from
25 other critical data that may ultimately impact,

1 both, the health questions we want to ask, as well
2 as long-term monitoring protocols required for the
3 city of Newburgh's residents that have been drinkin
4 this water for a very long time.
5 It is an understatement to say that there has
6 historically been a lot of distrust in government,
7 municipal government, and beyond in the city of
8 Newburgh.
9 It is also very important to emphasize that
10 we are rebuilding that trust.
11 And at the very moment this PFOS crisis has
12 befallen us, we are expected, as local leaders, to
13 speak the truth, to ask the harsh questions, withou
14 regard to politics, and without regard to how this
15 is ultimately going to be handled.
16 We are starting to get a sense that there's
17 going to be a bit of a ping-pong between the federa
18 agencies and the state agencies.
19 Indeed, nationwide, to the extent a lot of
20 this contamination seems to originate from military
21 airports, this is just the point of which people ar
22 starting to start their engines and rev their
23 engines.
24 And so while the city of Newburgh has
25 benefited from Hoosick Falls, many others may

1 ultimately benefit from the experience that the cit
2 of Newburgh has, with regard to how it is treated b
3 both the federal and state agencies.
4 We simply want to know what else may be in
5 our water, what else may be in our waterbeds, our
6 sediments beds.
7 We are concerned that we may, ultimately,
8 still have a contaminated vessel, which is
9 Washington Lake, which is our core, "core," asset
10 for this city, for the community, going forward.
11 And all we're going to be told is that, well,
12 you have the filtration system, you shouldn't worry
13 about the long-term permanent damage.
14 We want Washington Lake cleaned up. We want
15 it restored to what it should have been but for thi
16 contamination that has landed on the city of
17 Newburgh for an indeterminate amount of time, but
18 which we fully expect goes well beyond two or three
19 decades.
20 We understand that there's a closed municipal
21 landfill there from the town of Newburgh.
22 We understand that there are private
23 entities, we understand that there are public
24 entities.
25 It is very important for us to emphasize to

1 this panel, that what distinguishes Newburgh, we
2 believe, from Hoosick Falls, the term earlier today
3 was "corporate polluters."
4 It is in this instance we believe that it may
5 also be land owned and/or operated by the State of
6 New York that's also involved in this.
7 And so while we have no reason to question
8 the integrity of Mr. Brandon and his team, we know
9 that in any other analysis, where someone ultimatel
10 has the possibility of having to pay out sizable
11 damages, that they shouldn't necessarily be in
12 charge of conducting the testing or doing any
13 other -- the measures that ultimately may impact
14 their pocketbook.
15 Similarly, we understand that is a dilemma
16 because -- and also at the federal agencies, there
17 is the federal liability from the Department of
18 Defense standpoint.
19 What we have been told thus far, is there is
20 no independent agency, short of, perhaps, the
21 litigation system itself, which will enable us,
22 going forward, to discern the truth.
23 The problem for the City of Newburgh is that
24 we operate on razor-, razor-thin margins.
25 Many of you may recall a number of years ago,

1 the city was near bankruptcy before draconian
2 measures were implemented, that I'm proud to tell
3 you today, have us on stable financial footing,
4 going forward.
5 But we do not have the capacity to be able to
6 wait out extensive, long-term litigation while we
7 wait to be reimbursed.
8 And so while we are being reimbursed for the
9 New York City DEP water, we're concerned about the
10 actual expenses we've thus incurred, in the amount
11 of $157,000, that we expect, by at the end of this
12 year, could go as high as 276,000.
13 We're also concerned that with hurricane
14 season upon us, despite the rate at which we're
15 discharging that water, we also have the continuing
16 discharge from the airport.
17 And since we closed our diversion gate to
18 reduce the water, the freeboard that's rising in
19 Washington Lake, that water that's being
20 contaminated at a rate of 5,900 parts per trillion
21 at the airport is going straight down Silver Stream
22 to the Moodna, and beyond.
23 We know -- we've been told that there are
24 wells downstream in the town of New Windsor.
25 We do not want to see these wells be

1 contaminated.
2 And what we would ask for, is the same mobile
3 granular activated-carbon filtration technology
4 that's utilized at Washington Lake to reduce the
5 freeboard, could also be mobilized at Rec Pond,
6 which is the source of some of the highest
7 contaminants up by the airport.
8 This would at least protect the town of
9 New Windsor. It would ultimately protect the
10 Hudson River and the Atlantic Ocean.
11 I heard a question, Assemblyman McLaughlin
12 earlier, that was posed about testing, blood
13 testing, for the residents of the city of Newburgh.
14 And I will tell you that I have played and
15 replayed the answer you were given, and I'm still
16 not clear as to why we need to wait for any federal
17 agency to initiate this testing.
18 Again, going back to the historic distrust in
19 the city of Newburgh, there is a narrative that's
20 being asked, is that:
21 Why is other communities getting the testing
22 and the city of Newburgh isn't?
23 What is it that makes our community
24 different?
25 What isn't it that this contaminant that we

1 have found in our water source doesn't immediately
2 call for absolute action to get the testing we need,
3 to get the long-term monitoring?
4 Back in July of 2013, I posed this request to
5 Dr. Zucker, the Commissioner of New York State
6 Department of Health.
7 Many of our council members are being asked
8 by the residents, whether the City or the State is
9 going to offer blood testing and the
10 health-assessment programs to help residents
11 understand the significance of the exposure they've
12 already experienced.
13 At the public-health meeting sponsored by the
14 EPA recently, many residents asked the same
15 question.
16 We have emotional testimony, one from a
17 member of our engineering department, not someone
18 that's flown the flights of logical fancy.
19 He basically said, both of his children,
20 gestated, drinking the water in the city of
21 Newburgh. That their mother drank the water, and
22 wants to know how can they get tested?
23 The answer at the time was, well, go talk to
24 your doctor.
25 The truth of the matter is, is that most

1 doctors don't know about PFOS.
2 Most laboratories in this area do not test
3 for PFOS.
4 We do not have laboratories presently.
5 I have made the offer, that we will make
6 municipal space, so help me, if it's in my own
7 office, so that we can do this testing.
8 And it's something that we are eager to get
9 started as quickly as possible.
10 We are under -- we understand from, actually,
11 one of our fire captains in the Newburgh Fire
12 Department, who's a chemist, that there are three
13 laboratories that may be able to assist, that the
14 local laboratory has been in contact with.
15 One is Vista Analytical Laboratory in
16 El Dorado Hills, California.
17 ALS Kelso, in Kelso, Washington.
18 And Pace Analytical Ormond, in Ormond Beach,
19 California -- or, excuse me, Ormond Beach, Florida.
20 The point is, is that I would like to see
21 this mobilized as quickly as possible before a
22 narrative of distrust is perpetuated in our
23 community.
24 And I would say that we welcome some
25 partnership with federal agencies.

1 But what we really want is action now.
2 We want action to immediately begin testing,
3 so that we can try and manage the question marks
4 that keep coming at us.
5 These are not irrational questions.
6 These are people that have been drinking the
7 water for 20 and 30 years.
8 Some residents have had family losses to
9 cancer in the past. Whether they're causally
10 linked, we do not know.
11 But a lot of unease and anxiety in our
12 community could at least be addressed if we are abl
13 to get the testing.
14 As I mentioned earlier, the City has $157,000
15 in unreimbursed costs.
16 The DEC has not yet committed to reimburse
17 the City for the out-of-pocket expenses related to
18 the contamination.
19 Also, the DEC has not been willing to tap
20 into the superfund to reimburse the City for its
21 response expenses. Explained to us that they prefe
22 to wait for the Department of Defense to give a
23 response.
24 In a city that has the kind of margins and
25 the reserve funds that can wait for that answer,

1 more power to them.
2 But in the city of Newburgh, we have a
3 problem with cash flow, and we need all of those
4 monies reimbursed as quickly as possible.
5 I want to back up and also mention that it's
6 not only the city of Newburgh's residents that are
7 asking for testing.
8 I speak on behalf of the firefighters that
9 have worked at Stewart Airport, that have trained
10 with this PFOS foam, firefighting foam, for the las
11 20 years, that have asked as well for the testing.
12 They have worked with this foam, they have breathed
13 it, they have had it on their skin.
14 And thus far, they have been given the same
15 response as firefighters up at Stewart Airport that
16 we the residents in city of Newburgh are being
17 given.
18 And as time goes on, the questions are only
19 going to get louder in the requests that's going be
20 made.
21 We do not have the funds. We do not
22 necessarily have the health-insurance coverage.
23 And more importantly, it is my impression,
24 after just the brief conversations with pediatric
25 specialists and others at St. Luke's Hospital,

1 that they're more than happy to help out. They jus
2 need the training for it as well.
3 I would love to be able to open the doors
4 at St. Luke's Hospital to the firefighters at
5 Stewart Airport who have been working with this
6 stuff and training with it for the last 20 years.
7 Presently, there is no agreement between
8 New York State and the Department of Defense to hav
9 the federal agency take responsibility for
10 remediation and reimbursement, and to re-memorializ
11 what the remedial measures may be.
12 The City has also requested to be permitted
13 to participate in the discussions between the DEC
14 and the Department of Defense. But, thus far, we
15 are being told that we will not be admitted to thos
16 discussions.
17 The City has also not received any
18 information from the Department of Defense yet on
19 how they plan to address the contamination on, both,
20 the designated portion of the airport, and the
21 watershed, which includes the Class A tributaries
22 and drinking-water reservoir.
23 I need to conclude my comments by just
24 speaking briefly on our watershed.
25 First of all, it's shocking to many of us

1 that our watershed has been misclassified.
2 The tributaries leading to our water system
3 themselves have been misclassified, as designated b
4 Class C and Class D streams; when, in fact, the
5 tributaries go straight to the primary source of
6 drinking water for the city of Newburgh.
7 One of the highest priorities, in my opinion,
8 is the apparent misclassification of tributaries to
9 Washington Lake, Silver Stream, and Bronze Pond.
10 The error, designating them as Class C or D
11 streams appears in SPDES Permit, New York
12 Number 00250457, for the Stewart Air National Guard
13 Base, for which a renewal application is still
14 awaiting action by the New York State Department of
15 Environmental Conservation.
16 Although I'm not certain regarding the number
17 of years of this critical oversight, I want to
18 inform this panel that the existing permit
19 incorrectly recites the receiving waters for the ai
20 national guard discharges as Class C or D, despite
21 the fact that most, if not all, of the discharges
22 come into the city of Newburgh's drinking water.
23 In addition, there are some direct
24 tributaries of Silver Stream upstream from the
25 diversion of Washington Lake that are also

1 incorrectly classified as Class B streams.
2 This is puzzling to us, because the NYDEC
3 maps correctly designate them as Type A streams,
4 and, yet, the SPDES permit has been allowed to be
5 incorrectly classified.
6 We believe, that if it were designated as a
7 Class A stream that it is, this whole mess maybe
8 would have been discovered a lot longer -- much
9 longer ago -- much -- much sooner than now.
10 Forgive me.
11 The other thing that is striking, that speaks
12 to possibly the work of this Assembly, going
13 forward, is the way in which our watershed generall
14 is managed.
15 The way I've explained it to my own son is
16 that, imagine a funnel, and at the bottom of the
17 funnel is Washington Lake.
18 Right now, this watershed includes the major
19 intersections of I-87 and I-84, very, very valuable
20 land that has been, in our opinions, developed,
21 without any regard whatsoever, no response
22 regulatorily, in a way that's effective for the cit
23 of Newburgh and its protection of its watershed.
24 Most recently, this would include a huge
25 warehouse that's in the process of being constructe

1 during this very crisis, at the intersections of
2 I-87 and I-84, that we believe are, effectively,
3 going to wipe out Patton Brook.
4 Patton Brook is a major stream -- a brook,
5 rather, that develops into the water that feeds
6 Washington Lake.
7 And at the end of the day, we're trying to
8 get a sense of:
9 What is our measure of damages?
10 What is our scope of damage, not only with
11 regard to how the watershed has been mistreated, bu
12 how the crucial asset for the city of Newburgh, tha
13 being Washington Lake, is not only going to be
14 remediated, but also, going forward, regulated.
15 We are told that it isn't just the city of
16 Newburgh that has a lake that's outside of its
17 municipal boundaries.
18 And that's a very important point for us.
19 The town of New Windsor and the town of
20 Newburgh actually occupy the land that encompasses
21 Washington Lake, which means, that when we want to
22 work on watershed, there is no regulatory
23 opportunity for us to do so with teeth, that is
24 enforceable, going forward.
25 And so just as the most latest construction

1 project threatens to wipe out Patton Brook, and we
2 don't have the finances to work on the legal
3 analysis to determine our full measure and scope of
4 damages, we find the city of Newburgh being
5 neglected in ways that treats a marginalized
6 population as not important enough to address this
7 issue.
8 And what we're asking for from this Assembly,
9 that we would ask for an outgrowth of this meeting
10 today to be, that when we talk about the watershed,
11 when we talk about the way water funnels down into
12 lakes throughout the state of New York, that you
13 would utilize the city of Newburgh as an example of
14 the antiquated way in which our regulations for
15 watershed maintenance throughout the state have bee
16 regarded, actually by our private legal counsel,
17 George Roddenhousen (ph.), "as Victorian," he says.
18 And we've agreed, the time is long, long
19 overdue for a comprehensive watershed-maintenance
20 program, watershed enforcement, watershed
21 protection, that will value the fresh-water bodies
22 throughout the state of New York, that many believe,
23 fresh water, not oil, is going to be the source of
24 conflict for the next century.
25 We should treat it as what it is, and we

1 should get in front of this and utilize this crisis
2 and this confusion as an opportunity to move
3 forward.
4 I would hope, as the most progressive state
5 in the union, where New York may have come from
6 behind, suddenly, we could lunge forward and
7 actually acknowledge these problems, have a
8 constructive dialogue with the federal partners
9 regarding their airports, as well as those that hav
10 nothing to do with federal agencies, and, for this
11 era, use this crisis to precipitate solutions to
12 what maybe the Three Mile Island or the Love Canal
13 was to other eras' leadership crises.
14 We want to have the SPDES permits corrected
15 at Stewart Air National Guard.
16 We want an investigation of stormwater
17 outfalls feeding Washington Lake.
18 We want maps that are accurate.
19 We would like the creation of an accurate
20 Washington Lake watershed map.
21 And, again, we request the New York State
22 Department of Health to assess the current threats
23 to our drinking-water sources.
24 We are aware that the New York State
25 Department of Health source-water assessment progra

1 was not funded on a continuing basis.
2 We would ask for that funding now.
3 Given the current PFOS-related damage, and
4 the increased vulnerability and sensitivity of our
5 watershed, which includes the mounting threats pose
6 by the development I mentioned earlier, we believe
7 that a focused, detailed, and updated plan is
8 needed, and an enforcement mechanism must be
9 immediately identified. "Immediately identified."
10 In 2005, the New York State Department of
11 Health was tasked in the source-water assessment
12 program, under the Safe Drinking Water Act, with
13 assessing threats to surface drinking-water sources
14 The assessment provided the City of Newburgh
15 is both inaccurate and badly out of date.
16 The City would deeply appreciate all of your
17 assistance, and that of the Department of Health, i
18 immediately performing an update to that assessment,
19 for use as a critical tool as we navigate forward
20 together through this drinking-water-contamination
21 crisis.
22 In closing, we want to thank you again for
23 taking the time to hear from us.
24 Consider us the guinea pigs.
25 We are the first ones in, but we are

1 certainly not going to be the last ones.
2 And we would absolutely hope that you would
3 treat the city of Newburgh as the visible,
4 prosperous, aspiring community, filled with hope,
5 and is going to indeed be like our police
6 department: be the Cinderella story in the
7 Hudson Valley.
8 We guarantee it.
9 Thank you.
10 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
11 Very compelling testimony.
12 I had questions.
13 You answered the questions.
14 The questions pointed in the direction of,
15 what should we do?
16 You have given us a menu.
17 You have given us, each of you, a prospective
18 that's extraordinarily thoughtful and meaningful.
19 So I just want to say, thank you.
20 I know some of my colleagues will want to
21 offer some questions and some thoughts as well, but,
22 going into that, I just say thank you for your
23 extraordinary testimonies.
24 Let me, in that I spoke first for Panel One,
25 let me yield -- if the Senator wishes, to yield to

1 Senator Hannon for their first question to this
2 panel.
3 SENATOR HANNON: Well, I've had a chance to
4 talk to Petersburgh, Hoosick Falls, not about
5 Cayuga Lake, although I think next week we will,
6 because of the hearing on Long Island, we will be
7 sharing the common problems of algae and the
8 pollution of the water.
9 Assemblyman Englebright will be a lot more
10 familiar with that than I.
11 I'm the only one in Long Island that has no
12 coastline.
13 But the point, City Manager Ciaravino, that
14 you make, first of all, I had asked directly of the
15 Health Commissioner to get back to me on doing the
16 blood testing for the residents, as you had.
17 Now, he didn't say yes or no, but, he has to
18 get back to me, and we will pursue that, because
19 that sounds to me like a very legitimate request,
20 and should move forward with it.
21 The second part is, within my own district on
22 Long Island, I have the Grumman/Navy site, which ha
23 just resulted. And we just passed legislation to
24 get the study, a major study, about all the
25 contaminants there.

1 There's no PFOA, but they have everything
2 else, from a -- from both the building and testing
3 of aircraft.
4 So I don't know what's down the road for you.
5 It could be pretty tough.
6 But that's been going on.
7 We also have just -- the result is, it's
8 going to take in the study, between $300 million an
9 $700 million to clean that up.
10 It's just incredible what can happen.
11 So it's obvious you've well-stated your case,
12 and it has to be absolutely pursued, and to see
13 where we can go for a community like yours.
14 MICHAEL G. CIARAVINO: Thank you.
15 SENATOR HANNON: I have nothing else.
16 ASSEMBLYMAN GOTTFRIED: Yeah, just, first of
17 all, in general, I think the communities you
18 represent should be very pleased with the quality o
19 their representation and leadership.
20 You clearly have been doing a very good job
21 on this issue, and did a very good job here today.
22 I have one question for Mayor Borge.
23 During the time when you were working with
24 Saint-Gobain and the health department to put in
25 place the bottled-water arrangements and the

1 filtration, and all of that, what I kept wondering,
2 as they were talking about that, was, if they're
3 putting out fact sheets that say there are no
4 anticipated health effects from drinking this water
5 why were they working on such elaborate efforts to
6 develop alternate water sources?
7 During that time, did -- or at any other
8 time, did you get any indication from the health
9 department, that the health department thought that,
10 in the absence of a filtration system, you shouldn'
11 be drinking the water?
12 Did they ever actually say that or write it?
13 DAVID B. BORGE: No.
14 No, we asked that question repeatedly, and we
15 were told again, from our own research that we did,
16 and talking with the health department, and we
17 worked very closely with both health departments,
18 both the state health department, as well as the
19 county health department, we knew from what we had
20 researched, and what information they had given to
21 us, that, long-term, this was not a good situation.
22 So we wanted to work toward that end in
23 eliminating it, but, repeatedly, we were told that
24 the water, on a short-term, again, was okay to
25 drink.

1 Had anyone told us to stop, we would have
2 stopped immediately, but we didn't.
3 That was not put forth, not until late
4 November of 2015, when the EPA came out with their
5 initial letter to me.
6 They also copied that letter in, the health
7 department -- state health department was copied in
8 on that letter.
9 We asked for clarification.
10 Shortly thereafter, and I would have to say
11 it was in the first or second week of December, the
12 EPA came out and said, definitely, do not drink.
13 And the health department said the same thing.
14 By that time, we had already put in place a
15 bottled-water alternative, as well as talking about
16 moving forward with a temporary GAC system.
17 ASSEMBLYMAN GOTTFRIED: Thank you.
18 And, Mr. Ciaravino, just sort of as a
19 detailed footnote, you were talking about
20 New York City doing -- repairing one aqueduct soone
21 than a different aqueduct in order to accommodate
22 the water needs.
23 Can you just say again which aqueduct is
24 which?
25 MICHAEL G. CIARAVINO: Yeah, actually, it's

1 our understanding that New York DEP has planned, fo
2 decades, to do comprehensive repairs to both the
3 Delaware Aqueduct and the Catskill Aqueduct.
4 ASSEMBLYMAN GOTTFRIED: Uh-huh?
5 MICHAEL G. CIARAVINO: The Catskill Aqueduct
6 needs to be repaired in order to provide water in
7 the region for the shutdown for the larger repair,
8 which will be the Delaware aqueduct.
9 We are concerned that, depending on how this
10 crisis unfolds, that schedule may be impacted by th
11 work that's going on related to the contamination i
12 the city of Newburgh, including the contamination
13 plume that's Washington Lake.
14 So that while the site itself at the
15 Stewart Airport has been declared the superfund
16 site, we have this plume.
17 We're concerned about the contaminants that
18 are in the beds of the lake.
19 We're concerned about the questions being
20 asked regarding the galaxy of contaminants, and wha
21 else might also be in that lake that may impact our
22 ability to switch over to Washington Lake once the
23 repair work is needed.
24 We are hoping to be able to utilize
25 Browns Pond.

1 We have commissioned a study from a
2 hydrologist to see if there's an opportunity for us
3 to drill water at Browns Pond, to at least provide
4 that redundancy for the New York City DEP during
5 their construction work.
6 And, thus far, the results are inconclusive.
7 We're looking at some possible other ways in
8 which we may be able to work along this area called
9 the "Jewelry Creek," that will enable us to capture
10 water from another watershed, so we're not
11 interfering with New York City's repair schedule.
12 We understand that this work is long overdue,
13 and it's critical for supplying the water needs of
14 New York City.
15 So as we're monitoring our own needs, we're
16 trying to look at other balls that are in the air.
17 This is a major one, and I'm sure it's being
18 captured by the State of New York, the DEC, as it
19 relates to their schedule.
20 They've moved very quickly to try and get a
21 GAC filtration unit situated for us in the city of
22 Newburgh.
23 There are a lot of unanswered questions, but,
24 we'll save those for another day.
25 ASSEMBLYMAN GOTTFRIED: Okay. So, for now,

1 you and New York City are working on --
2 cooperatively on the question of the timing of the
3 aqueduct work?
4 I mean, they're accommodating Newburgh's
5 need?
6 MICHAEL G. CIARAVINO: Yes, New York City DEP
7 has been very cooperative in supplying the water.
8 I mean, right now, we're using Catskill's
9 water. And, frankly, it's some of the best water
10 our residents have reported ever smelling coming ou
11 of their tap.
12 Before we blend back to any other source of
13 water, we want to look our constituents in the eyes
14 and tell them, your water is at least as pure as th
15 water we're getting from the Catskill Aqueduct.
16 ASSEMBLYMAN GOTTFRIED: Well, that's what
17 we've always said about the Catskill water, so --
18 well, good, good to hear that we're working well
19 together.
20 I mean, I'm from New York City.
21 If there comes a point where friction
22 develops, I hope you'll let us know.
23 MICHAEL G. CIARAVINO: Well, it may develop
24 in regards to the construction schedule, and the
25 city of Newburgh being restored to its position of

1 having a clean lake, and the city of Newburgh being
2 able to have the unanswered health questions
3 addressed in a manner that builds trust with our
4 community.
5 I cannot overemphasize, that while there are
6 other needs that we are trying to accommodate,
7 particularly this very important work with the
8 Catskill and Delaware aqueducts, we also have to
9 answer to our local constituents that are still
10 asking: What's in our blood? Is there something m
11 baby needs to be tested for?
12 And I keep giving the same answer, that we're
13 waiting. Maybe now, maybe later.
14 My residents do not want to hear that we
15 might be doing a partnering with the federal agency
16 or the CDC.
17 They want to know when it's going to happen.
18 And our community, including myself, are just
19 starting to lose patience on the medical-testing
20 question.
21 Thank you.
22 ASSEMBLYMAN GOTTFRIED: Thank you.
23 ASSEMBLYMAN ENGLEBRIGHT: Assemblyman
24 McLaughlin.
25 ASSEMBLYMAN McLAUGHLIN: Thank you very much.

1 Mayor Borge I have a couple questions for you
2 in a minute or two, but, City Manager Ciaravino,
3 just a quick question.
4 Has -- the blood testing is not underway?
5 Is it still being resisted?
6 I know you want it, you've asked for it.
7 MICHAEL G. CIARAVINO: Yeah, it's not
8 underway, Assemblyman.
9 ASSEMBLYMAN McLAUGHLIN: Right.
10 And I think I had read an article, where the
11 Governor had said he wasn't aware that you had aske
12 for it.
13 This was a while ago, so I'm sure he's aware
14 of it by now.
15 But, you had asked for it, and he wasn't
16 aware you had asked for it, and wanted to gather al
17 the facts.
18 Do you have any idea, at that point, what
19 facts he would be waiting to gather?
20 MICHAEL G. CIARAVINO: I do not.
21 ASSEMBLYMAN McLAUGHLIN: Yeah, okay.
22 So nothing yet.
23 Thank you.
24 Thank you for this great synopsis.
25 Mayor Borge, thanks for your overview as

1 well, and I know you've been through a lot up there
2 in Hoosick Falls.
3 So I just wanted to go over a couple things.
4 The bottled-water program was something you
5 were involved in early on. Right?
6 I mean, you were pretty intricately involved
7 with Saint-Gobain, getting that set up. Correct?
8 DAVID B. BORGE: Yes.
9 ASSEMBLYMAN McLAUGHLIN: What's your
10 opinion -- and I'm asking you to speculate, which i
11 difficult to do.
12 But, what would have happened if Saint-Gobain
13 had not agreed to provide bottled water? Where do
14 you think we'd be at this point?
15 DAVID B. BORGE: Well, that's a perfect
16 example of the bureaucratic catch-22 that we found
17 ourselves in.
18 And I don't want to oversimplify it by any
19 means, but, we were not out of compliance with
20 anything; therefore, whether it would be bottled
21 water or tanker, or anything else, we didn't qualif
22 for that because, technically speaking, we were in
23 full compliance.
24 Now, I spoke with Saint-Gobain early on, in
25 December of '14, and asked them if they would

1 provide bottled water initially.
2 Initially they said no; they wanted to wait,
3 they wanted to see some things.
4 But over the next few months I repeatedly
5 asked them.
6 And after they did their own sampling, and
7 then they came forward and said, "We are going to
8 fund the GAC system," I asked them again, and they
9 said, yes, they would provide bottled water.
10 So we were able to put that in place through
11 a local supermarket, which I think was the easiest
12 way --
13 And none of this was easy. I don't want to
14 give that impression.
15 -- but I think it was probably the most
16 practical way for residents to be able to pick up
17 water regularly.
18 ASSEMBLYMAN McLAUGHLIN: Right.
19 And any idea how many gallons have been
20 provided thus far?
21 I don't know if anybody's even keeping count.
22 DAVID B. BORGE: No, we are, we're tracking
23 that.
24 I honestly don't know, but, we started on
25 November 29, 2015, and here we are in September.

1 ASSEMBLYMAN McLAUGHLIN: Right.
2 DAVID B. BORGE: So I mean, it's quite a bit.
3 ASSEMBLYMAN McLAUGHLIN: Right.
4 And about 5 gallons a day -- if they want it,
5 up to 5 gallons a day.
6 DAVID B. BORGE: Up to 5 gallons.
7 And if people require more, they can get
8 more. And there were certain circumstances that me
9 that criteria.
10 ASSEMBLYMAN McLAUGHLIN: Did the State of
11 New York -- I think I know the answer's going to be
12 "no," because of what you had previously said, that
13 there was nothing out of compliance at that point,
14 but, I'll ask it anyway.
15 Did the State of New York -- the DEC, the
16 DOH, Department of Emergency Services -- ever offer
17 to help set up the water-delivery program?
18 Because that was a problem for a while, where
19 volunteers were taking care of it.
20 Was there any help offered from the State,
21 even after the bottled-water program was put in
22 place, to help you with the delivery of that water?
23 DAVID B. BORGE: No; but to be fair, I didn't
24 ask for any help at that point, because we did -- w
25 had a number of wonderful people that stepped

1 forward who volunteered to do that.
2 Now, Saint-Gobain has since come in and they
3 are taking over the responsibility for that.
4 ASSEMBLYMAN McLAUGHLIN: Great.
5 Going -- did you sense, in your dealings with
6 the DEC -- I'm sorry, the DOH, and maybe to a lesse
7 extent, the EPA, did you sense -- because it's been
8 reported that the Cuomo Administration resisted
9 sounding a public alarm, even though federal
10 regulators warned senior health department official
11 that people in Hoosick Falls should be alerted they
12 were drinking water that contained dangerous levels
13 of a chemical linked to cancer and other serious
14 health problems.
15 Those were according to documents.
16 And we've had a pretty good detailed synopsis
17 of that, that there was some pushback.
18 Did you get a sense of that on a day-to-day
19 basis, as things were moving along, that there was
20 resistance to inform the public on behalf of the
21 State Administration?
22 DAVID B. BORGE: No, not at all.
23 ASSEMBLYMAN McLAUGHLIN: Okay.
24 DAVID B. BORGE: We worked very closely with
25 DOH. And then DEC became part of that equation

1 probably in January, from that point, forward.
2 But all along, whether it was with State DOH
3 or the County, no, in total honesty, I cannot say
4 that.
5 ASSEMBLYMAN McLAUGHLIN: Okay. That's good.
6 Going forward, because as you had stated, and
7 many of us have stated, it's not a question of if,
8 it's when, this happens to another community.
9 We know, Newburgh, it happened, seemed like
10 right afterwards.
11 Petersburgh broke loose within weeks, it
12 seemed like, of Hoosick Falls.
13 It's gonna happen; it's gonna play out all
14 over.
15 And that's been part of a lot of our -- you
16 know, you included, a lot of people saying, we don'
17 want this to happen to another community.
18 But we know that it more than likely will.
19 In the instance where, you know, people are
20 going to need to go on bottled water -- and we had
21 some significant, I think, obstruction, or, not
22 clear answers, on when they should be notified,
23 earlier today.
24 But given the fact that we know there's going
25 to be instances where people go on bottled water,

1 and given your experience in dealing with that
2 distribution situation, how would you approach
3 handling it in a better way?
4 You have invalids, you have elderly, you have
5 people that, in our area up there, don't have
6 Internet, don't have, necessarily, the best
7 communication.
8 We know how rural it gets up there pretty
9 quickly.
10 So what would you suggest, knowing that a
11 small village is going to be overtaxed trying to
12 handle it?
13 Do you think the Department of Emergency
14 Services or the National Guard, or somebody, should
15 be stepping in to handle this distribution?
16 DAVID B. BORGE: Well, I think the first
17 thing we would have to do, and it took us a little
18 while, is to get a handle on just how wide the
19 distribution is.
20 When we started off, we were looking at,
21 maybe, a dozen people.
22 And then, word of mouth, and as we advertised
23 this service and got the word out there, more peopl
24 came forward.
25 So I think, in a proactive way, what a

1 community can do, particularly a smaller village
2 where, surely, everybody knows everybody, is I thin
3 we can start to take stock of that beforehand.
4 Let's get an idea of where people are. Who's
5 isolated?
6 You have a number of senior centers.
7 Rensselaer County has a senior center in
8 Hoosick Falls.
9 There are a number of different ways we can
10 start to get that information, and I think that can
11 become part of the local emergency-services
12 planning.
13 Because whether it's a contaminant in your
14 water, or, whether it's a hurricane, and you're
15 talking about three or four days, you may still hav
16 to get to reach people.
17 So, again, I think what we do is, we take
18 what we've learned from this experience, go
19 forward -- not waiting for the next emergency to
20 occur, but go forward and start gaining that
21 information.
22 Churches; the churches have been so helpful.
23 They have inroads; they know people.
24 The senior centers, all of those kinds of
25 things. Visiting nurses.

1 There are a number of ways to do it.
2 And, if necessary, certainly, you know, in an
3 overall total disaster, you might need the National
4 Guard, you might need something else like that.
5 But I think we could do a lot of that work
6 early on.
7 ASSEMBLYMAN McLAUGHLIN: Thank you.
8 I appreciate it.
9 Thank you.
10 ASSEMBLYMAN ENGLEBRIGHT: Okay. Over to the
11 Senate side.
12 SENATOR HANNON: Senator Marchione.
13 SENATOR MARCHIONE: Thank you.
14 Thank you all for your testimony.
15 It's really important for us to hear from all
16 facets of concerns, from PFOS, to PFOA.
17 My questions, though, are for Mayor Borge
18 first.
19 Mayor, I know that the State and yourselves
20 are looking for an alternative water supply so that
21 we can have a whole new water source here.
22 Can you tell me if you're having to wait to
23 find a water source until you can get grant funds,
24 or is this falling under the superfund money?
25 DAVID B. BORGE: I didn't hear the -- could

1 you just --
2 SENATOR MARCHIONE: Of course.
3 DAVID B. BORGE: -- are we waiting for funds?
4 SENATOR MARCHIONE: Are you waiting for --
5 I heard rumor that you had to wait until grant fund
6 were provided for you to study to get a new water
7 source.
8 I just want to confirm with you, is that
9 what's happening?
10 DAVID B. BORGE: No, that's not my
11 understanding at all.
12 SENATOR MARCHIONE: Okay, that isn't.
13 So you're moving forward with a new water
14 source, working with the DEC and DOH. They're
15 locating one now.
16 That couldn't be part of the superfund
17 monies?
18 Do they come out of superfund, and then look
19 for --
20 DAVID B. BORGE: I believe they're looking at
21 that.
22 I honestly don't understand all of the
23 technical aspects of where the funding would come
24 from, but I do know that DEC has been extremely
25 active in the area.

1 They have -- the last time I spoke with them,
2 they had about four potential sites, and what they
3 then have to do is test those sites.
4 I mean, it's one thing if you've got a creek
5 or a stream running through your property, but, is
6 it enough?
7 Is there enough capacity there?
8 How high is it?
9 What happens?
10 So they're doing all of those kinds of
11 things.
12 And I know that they've identified at least
13 three to four properties within the general area,
14 within the town of Hoosick, I believe.
15 SENATOR MARCHIONE: Do you have any idea when
16 that research work will be done?
17 DAVID B. BORGE: I do not.
18 I know there are several steps involved.
19 I certainly expect to get an update from DEC.
20 But I have been encouraged, they are working
21 on it, and it's moving forward.
22 SENATOR MARCHIONE: Okay, thank you, because
23 I wanted to confirm that, because I don't want -- i
24 we can do something, and we can talk to DEC, DOH,
25 Are you having issues with an alternative water

1 source?
2 First of all, I have a question on consent
3 order.
4 Do you have a consent order signed with
5 Taconic?
6 Has the State been working on a consent order
7 for you?
8 ALAN WEBSTER: There is no consent order
9 signed at this time, no.
10 SENATOR MARCHIONE: Is the State totally
11 responsible for getting that consent order?
12 ALAN WEBSTER: I didn't catch that.
13 SENATOR MARCHIONE: I said, is the State
14 totally responsible for getting that consent order
15 for you, for the town of Petersburgh?
16 ALAN WEBSTER: Yes.
17 SENATOR MARCHIONE: You have not had input
18 relative to the consent order?
19 ALAN WEBSTER: No.
20 SENATOR MARCHIONE: Are you looking to do a
21 separate consent order yourself for the town, or is
22 it going to be incorporated into one?
23 I know you did a separate consent order for
24 the village, for Village expenses.
25 DAVID B. BORGE: Well, what happened was,

1 it's included in the consent order.
2 The DEC and the State worked through, that
3 Saint-Gobain and Honeywell are required to work wit
4 the Village in good faith, within a particular time
5 frame, to go forward on the expenses that we have
6 put out, similar to what they're doing in Newburgh.
7 I mean, these are monies that we can't afford
8 not to have reimbursed.
9 But that became part of the overall consent
10 order for us.
11 SENATOR MARCHIONE: And is that going to be
12 part of your consent order as well --
13 ALAN WEBSTER: Yes, it is.
14 SENATOR MARCHIONE: -- so have you some
15 leverage?
16 ALAN WEBSTER: Yes, it is.
17 And in response to the new wells, that is the
18 issue that we are facing in Petersburgh. We have
19 inefficient well water as it is now, and it is
20 contaminated water.
21 And we have been looking for -- we have
22 grants out there. We have met with EFC. We have
23 met with rural water.
24 We have had multiple meetings. Our engineers
25 have been in contact.

1 And we have no funding to search for new
2 wells, and that's the frustrating part.
3 We are looking to expand our water district.
4 We have an infrastructure which is on the verge of
5 collapse on a daily basis.
6 We just had a 50,000-gallon-per-day leak
7 which forced us to tap into a contaminated well,
8 just to provide water for the residents to bathe an
9 shower with, basically.
10 And so that is the fragility of the situation
11 that we're in.
12 And just looking to get the funding to find a
13 clean water source, and you can imagine the
14 frustration of the residents of Petersburgh when
15 I go back to them and tell them:
16 Well, yes, we are a superfund site.
17 Yes, we have contaminated water, but, well,
18 we didn't score high enough.
19 You know, what else can I say to them? What
20 can I say to them?
21 SENATOR MARCHIONE: Why isn't Petersburg able
22 to tap into superfund money for these things?
23 Why are you needing to go to the normal grant
24 routine when you have the crisis that you have in
25 Petersburgh?

1 Has that been discussed?
2 ALAN WEBSTER: That's a good question, and
3 I don't have the answer, and we have asked that
4 question.
5 We have said, why?
6 There has to be funds out there, and why
7 can't we tap into those funds?
8 And, we have gotten no response.
9 SENATOR MARCHIONE: I guess I just question
10 why you can't tap into superfund.
11 And so it doesn't sound like we can get the
12 answer today.
13 So let's -- we'll need to work on that a
14 little bit, to see how we can go about getting you
15 some funds.
16 When you had this 50,000-gallon leak in your
17 system, how did you notify your residents that you
18 were having to turn to a source of water that was
19 further contaminated?
20 ALAN WEBSTER: We posted it everywhere we
21 could post it.
22 On our web page.
23 At all of the local sites: the post office,
24 town hall, the areas where people frequent.
25 Word of mouth was a major means as well of

1 getting that information out there.
2 SENATOR MARCHIONE: Thank you very much, both
3 of you, for all you've done.
4 ASSEMBLYMAN ENGLEBRIGHT: So I just want to
5 again express appreciation for the very thoughtful
6 presentations that you've each made.
7 I'd also like to just add a thought.
8 You really come to us, not just about
9 something that's thematically health-related or
10 thematically conservation-related.
11 You've come to us, talking about the
12 sustainability and liveability of your communities.
13 Obviously, health and conservation are
14 important to that, but if you were to summarize wha
15 you're really talking about, is whether your
16 communities would be livable, going forward.
17 And in the larger sense, that's what this
18 hearing is. And you have given us a synopsis of
19 that in a rather brilliant way.
20 I would like to invite all of to you stay in
21 touch with us.
22 This isn't a one-time hi, goodbye.
23 My number is in the book.
24 My colleagues and I are all uniformly
25 available to you.

1 So, please let us continue this dialogue.
2 Thank you very much for your comments here
3 today.
4 (All witnesses say "Thank you.")
5 ASSEMBLYMAN ENGLEBRIGHT: Our next panel,
6 Howard A. Freed -- Dr. Howard A. Freed, the former
7 director of the New York State Department of Health,
8 Center for Environmental Health;
9 And Mary Fran Wachunas, the county public
10 health director of Rensselaer County Department of
11 Health.
12 Welcome.
13 Please raise your right hand and repeat after
14 him.
15 ASSEMBLYMAN GOTTFRIED: Do you each swear or
16 affirm that the testimony you're about to give is
17 true?
18 DR. HOWARD A. FREED: Yes.
19 MARY FRANCES WACHUNAS: Yes, I do.
20 ASSEMBLYMAN ENGLEBRIGHT: Who would like to
21 go first?
22 Sir.
23 DR. HOWARD A. FREED: Okay.
24 Good afternoon, or good evening.
25 My name is Dr. Howard Freed.

1 In 2008 I was appointed the director of the
2 Center for Environmental Health, also known as
3 "CEH."
4 In New York State government, CEH is the unit
5 responsible for the evaluation of the health effect
6 of manmade chemicals, including PFOA.
7 The bureau of state government now involved
8 in the issues surrounding PFOA is CEH's bureau of
9 water-supply protection, which I directly supervise
10 my 3 1/2 years at DOH.
11 In my role as director, I worked to change
12 the institutional culture at CEH, from an agency
13 that found reasons to not act, to a culture that
14 would more aggressively provide public-health
15 protection.
16 It was a significant and daily challenge to
17 change a workplace culture that had been in place
18 for decades. I received much less than full suppor
19 from the staff in this effort.
20 In the field of respected physicians and
21 scientists evaluating the health effects of
22 environmental chemicals, there were two main school
23 of thought.
24 One, which has a tendency to downplay the
25 human-health effects of environmental chemicals,

1 I call the "minimizers."
2 Minimizers are concerned about unnecessarily
3 alarming the public, and believe it is an error to
4 take government action when a risk to human health
5 has not, in their judgment, been sufficiently
6 demonstrated.
7 The other school of thought takes a more
8 precautionary approach and uses a version of the
9 precautionary principle, which, essentially, holds
10 that regulators and other decision-makers
11 responsible for public health should act to protect
12 the public when there is evidence of harm, and not
13 wait for conclusive proof, especially when
14 conclusive proof is unlikely to become available in
15 the foreseeable future.
16 With these two schools of thought, there were
17 two ways to describe the current scientific
18 literature on the health effects of PFOA.
19 One minimizing the risks; the second more
20 precautionary.
21 As an example, both of the following very
22 different statements are true:
23 The first will be minimizing the health risks
24 of PFOA; the second, a more precautionary approach.
25 So, first, the minimizing statement.

1 "Human studies show that increased exposure
2 to PFOA might increase the risk for some health
3 effects, but those studies have scientific
4 limitations.
5 "Human studies are difficult to interpret,
6 and we cannot be sure that PFOA caused the observed
7 health effects."
8 Now a precautionary interpretation of the
9 same scientific literature:
10 "Studies, both in people and in animals, have
11 shown a link between PFOA exposure and kidney cance
12 and testicular cancer. There is distinct
13 probability that such an association exists."
14 And both of those statements are true.
15 Since its beginning, after the Love Canal
16 incident, CEH has adopted the minimizing approach,
17 which means trying to avoid governmental action,
18 unless a chemical has demonstrable risk, and the
19 risk of harm has been proven to CEH's satisfaction.
20 That has been the nature of CEH for many
21 years and through many administrations.
22 CEH's evaluation of PFOA in the Hoosick Falls
23 municipal water supply occurred in this minimizing
24 context.
25 The minimizing by of DOH, it's usually

1 subtle, and DOH never says anything untrue.
2 The scientists are highly professional and
3 know the peer-reviewed scientific literature.
4 DOH's minimizing the health risks is not in
5 changing or hiding facts, but in evaluating and
6 interpreting facts.
7 When there's nothing proven, CEH has always
8 emphasized scientific uncertainty over what many
9 others see as clear warnings of real risk to the
10 public.
11 DOH has informed the public that there are
12 studies associating PFOA with serious effects,
13 including cancer, and DOH has advised the public to
14 try to limit their intake of PFOA.
15 Those are facts.
16 The question before us today is not about the
17 facts.
18 It is about how CEH communicates health risks
19 to the public, and how DOH always downplays the
20 risks to the public, and always emphasizes the
21 scientific uncertainties of any paper that suggests
22 that environmental exposures may be causing major
23 health effects.
24 Here is an example from a DOH informational
25 brochure about their PFOA blood-testing program.

1 In the brochure, DOH poses the answers to the
2 following question:
3 QUESTION: "What do the studies show about
4 health effects and PFOA exposure?"
5 And DOH's answer: "Some human-health studies
6 have found associations between PFOA exposure and
7 health effects, and others have not.
8 "In addition, the studies that found
9 associations were not able to determine, with
10 certainty, if the health effects were caused by PFO
11 or some other factor."
12 That was the extent of DOH's answer about
13 what the scientific studies show on the health
14 effects of PFOA.
15 And in my judgment, that so emphasizes the
16 scientific uncertainty, and so underplays the risks
17 of PFOA, that it does not accurately reflect the
18 scientific literature.
19 Essentially, DOH said some studies have shown
20 risks, others don't; it's hard to say.
21 And that's true.
22 However, DOH answered the question as if the
23 2012 C8 scientific panel report did not exist; when
24 in fact, it was a groundbreaking, year's-long set o
25 studies on the health effects of PFOA in more than

1 60,000 exposed individuals.
2 The C8 science panel -- "C8" is another name
3 for PFOA -- the C8 Science Panel consisted of three
4 academic epidemiologists. It was funded by
5 DuPont, as part of the settlement of a
6 class-action lawsuit against DuPont for PFOA
7 contamination of drinking water in West Virginia.
8 The C8 Science Panel's report is one of the
9 most comprehensive studies of the health risks of
10 any toxic chemical ever conducted. The work is
11 currently the gold standard for assessing the healt
12 risks of PFOA.
13 The C8 panel concluded that, even though
14 there are scientific uncertainties, there is a
15 probable link between PFOA exposure and the
16 development of two types of cancer in humans: kidne
17 cancer and testicular cancer.
18 In a revised version of that same PFOA
19 blood-sampling brochure, DOH says, three times, tha
20 some studies have shown associations between PFOA
21 exposure and health effects, and others have not.
22 But DOH makes no mention at all of the fact
23 that, in animal studies, PFOA caused body-weight
24 changes, reduced survival, altered puberty, retarde
25 mammary-gland development, liver toxicity, kidney

1 effects, effects on immunity, and cancer.
2 Nor did DOH say that EPA's PFOA
3 risk-assessment review panel concluded that PFOA is
4 likely to be carcinogenic in humans.
5 Nor did DOH say that at least one large
6 epidemiological study suggests a probable link
7 between blood PFOA and kidney and testicular cancer
8 among members of the general population.
9 It's been emphasized repeatedly that there
10 are significant differences between the three
11 statements: PFOA causes cancer; PFOA is associated
12 with cancer; and PFOA is linked with cancer.
13 It's unclear whether those distinctions make
14 much practical difference to the residents of
15 Hoosick Falls.
16 Here is an analogy:
17 You're in a room and there's a plate of
18 cookies on a table.
19 Someone offers you a cookie.
20 Does it matter to you if the person says,
21 those cookies cause cancer of the kidney and
22 testicle; or, those cookies are associated with
23 cancer of the kidney and testicle; or, there is a
24 link between those cookies and cancer of the kidney
25 and testicle?

1 In any of those situations, do you want to
2 eat the cookies?
3 The question remains: How can it happen that
4 DOH knew the Hoosick Falls drinking water was
5 contaminated with PFOA for over a year, and did not
6 act?
7 Here is not how it happened:
8 DOH did not say, internally, the water that
9 the families of Hoosick Falls drink could cause
10 cancer. Let's not tell them.
11 That's not how it happened.
12 Here is how it happened:
13 Understandably, the people of Hoosick Falls
14 don't want PFOA in their water. But, as always, DO
15 policy, is that it is permissible to drink any
16 toxin, as long as the concentration does not exceed
17 its drinking-water standard.
18 For so-called "unregulated chemicals," like
19 PFOA, DOH follows what DOH calls the "UOC" (the
20 unspecified organic contaminant) "standard," which
21 essentially means, that if we know very little or
22 nothing about a particular contaminant, then it's
23 okay to drink it, as long as the concentration does
24 not go over 50,000 parts per trillion.
25 That's how the allowable limit for PFOA got

1 to be 50,000 parts per trillion.
2 And that explains how, six months after the
3 discovery of PFOA in Hoosick Falls' public water
4 supply, DOH declared that "It does not constitute a
5 immediate health hazard."
6 The Hoosick water did not exceed 50,000 parts
7 per trillion.
8 So as far as DOH was concerned, their
9 allowable limit was not exceeded, and that's why
10 there was no health-protective action out of DOH.
11 One problem with that, is DOH's cutoff is
12 nowhere near the cutoff of the regulatory agencies.
13 While DOH's upper allowable limit of PFOA is
14 50,000 parts per trillion, EPA's advisory limit was
15 400 parts per trillion.
16 Vermont's upper acceptable limit is 20 parts
17 per trillion.
18 So in the case of PFOA pollution, DOH's limit
19 of 50,000 was not exceeded, so they didn't act.
20 EPA's limit of 400 was exceeded, so they did
21 act.
22 The problems in CEH are not caused by
23 incompetence or corruption.
24 CEH staff is not complicit with industry,
25 they are not bought-off, and no one is telling them

1 to put their thumbs on the scale.
2 The CEH staff scientists are highly
3 competent, experienced, knowledgeable, and
4 professional.
5 CEH is filled with ethical and well-meaning
6 scientists, as is DOH.
7 It's just that they're minimizers in a
8 workplace where that is the dominant culture.
9 They can be wrong.
10 And in my judgment, by always minimizing the
11 health risks of environmental pollution, they are
12 wrong.
13 CEH staff has known about the much lower PFOA
14 health-advisory threshold recommended by EPA, but
15 dismissed the evidence as not strong enough.
16 At the time, they were aware that the
17 C8 studies concluded there was a probable link
18 between PFOA exposure and certain types of other
19 serious illness.
20 The situation was discussed internally, and
21 with the EPA.
22 It was, and still is, the opinion of many in
23 CEH that the dangers posed by PFOA have not been
24 proven to their satisfaction.
25 Unfortunately, always minimizing the risks of

1 ingesting toxins in drinking water is a pattern of
2 behavior doomed to fail the people of New York.
3 Routine reassurance cannot be justified in
4 the face of our profound scientific ignorance about
5 the health effects of long-term exposure to PFOA.
6 The public has a First Amendment right to
7 petition the government for a redress of grievances,
8 but until very recently, has had, virtually, no
9 ability to question or comment on CEH's work,
10 because CEH staff usually did not attend meetings
11 where they could be questioned, or, explain in
12 public how or why they came to their conclusions.
13 In closing, I have seven recommendations.
14 One: There should be a permanent, impartial
15 advisory panel of experts to review and advise the
16 commissioner of health about CEH public-health
17 standards and recommendations.
18 Two: CEH should adopt a precautionary
19 approach to protecting public health, such as, they
20 act to protect the public when there is evidence of
21 harm, and not wait for conclusive proof of harm,
22 when, especially, the situations where that is
23 unlikely to happen in the immediate or foreseeable
24 future.
25 In other words, as Dr. Courtney Carignan of

1 the Harvard School of Public Health has suggested,
2 "Let's treat the scientific studies finding harm as
3 if they are true, rather than the opposite."
4 Recommendation three: A medical-monitoring
5 program should be established for people who have
6 elevated PFOA levels in their blood, with the cost
7 borne by the polluter.
8 These people should be identified by making
9 blood PFOA testing widely available, and free to
10 concerned and exposed individuals.
11 Four: The medical-monitoring program should
12 be put in place and patterned on the thoughtfully
13 designed and exemplary program in New York State
14 established under the James Zadroga 9/11 Health and
15 Compensation Act of 2010.
16 Five: DOH should provide written
17 justification for its standard of acceptable intake
18 where those standards differ from those of other
19 regulatory agencies in multistate groups, including,
20 but not limited to, EPA, the World Health
21 Organization's International Agency for Research on
22 Cancer (IARC), and the Great Lakes Consortium for
23 Fish Consumption.
24 Six: DOH should require and fund continuing
25 professional education of CEH staff scientists, suc

1 as that provided through organizations like the
2 National Association of Environmental Professionals,
3 with the goal being to become nationally certified.
4 And, finally, seven: DOH should increase
5 transparency, and DOH should appear, when invited t
6 by public forums and meetings convened by local
7 and/or the media, to address health concerns caused
8 by exposures to toxins in our environment.
9 Thank you for the opportunity to submit
10 testimony.
11 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
12 much.
13 Mary Fran Wachunas.
14 MARY FRANCES WACHUNAS: Good evening,
15 Senators and Assemblymen.
16 My name is Mary Frances Wachunas, and I am
17 the Rensselaer County Director of Public Health.
18 To my left is Richard Elder. He is our
19 environmental director, and he has worked days,
20 hours, of working on this crisis that we've had in
21 our county; and I thank him very much.
22 I testified last week, and so I'm going to do
23 an abbreviated version of my testimony. You do hav
24 copies of it all.
25 My testimony today will explain the local

1 health department's role, responsibility, and
2 response to the PFOA water-contamination crisis in
3 Rensselaer County's village of Hoosick Falls, town
4 of Hoosick, and the town of Petersburgh.
5 Our goal throughout this water crisis has
6 been to limit the exposure of the unregulated
7 contaminant to the residents.
8 Rensselaer County's Health Department is a
9 full-service department, which means we operate an
10 environmental health division. We employ
11 47 employees, of which 11.5 FTEs are
12 environmental-health division, which includes
13 public-health sanitarians, public-health
14 technicians, assistant sanitary-code enforcement
15 officer, educators, and a part-time engineer.
16 All the environmental staff are qualified and
17 under the New York State Sanitary Code requirements
18 of education and experience.
19 The Rensselaer County Health Department, like
20 all other counties in New York State, adheres to an
21 implements all the state and federal regulations an
22 rules pertaining to public health; specifically, th
23 environmental health division enforces the
24 New York State and the Rensselaer County sanitary
25 code pertaining to restaurants, school food

1 services, daycare food services, temporary and
2 mobile food operations, agricultural fairgrounds
3 summer children's camps, public swimming pools,
4 bathing beaches, mobile-home parks, residential
5 lead-hazard assessment, temporary residency,
6 public-health nuisances, New York State Clean Indoo
7 Air Act compliances, public and individual water
8 supplies, sewage disposal, local laws of tattoo and
9 body piercing, and engineering-plan review of realt
10 subdivisions.
11 The local health department's responsibility,
12 as it relates to the oversight of public water
13 supplies, is to assure adherence to the laws and
14 regulations found in subpart 5-1 of the
15 New York State Sanitary Code.
16 The Rensselaer County Department of Health's
17 response to the PFOA water contamination in the
18 village of Hoosick Falls, town of Hoosick, and the
19 town of Petersburgh adhere to the directives and th
20 guidelines set forth by the state and federal
21 governments, as we work to assist in identifying an
22 addressing the contaminant in the village's public
23 water supply.
24 Our line of communication to the village and
25 town officials have been transparent, and continues

1 in that manner today.
2 Any information provided to us by the State
3 has been disseminated by this department in an
4 expedited manner.
5 The County's response to the Hoosick Falls
6 water crisis started in August of 2014, when we wer
7 advised by the Village of a potential water-quality
8 issue and their desire to sample.
9 Given the information presented, and the lack
10 of regulations specific to the contaminant PFOA, th
11 County consulted with the New York State Department
12 of Health as to how the Village should proceed with
13 sampling, and what requirements, recommendations, a
14 well as reporting requirements govern this sort of
15 situation.
16 Once sampling was performed by the Village
17 and results provided to the County, which was
18 October 2014, they were, in turn, shared with the
19 New York State Department of Health.
20 The results showed that all of the municipal
21 wells were well below the state's regulatory
22 threshold of 50,000 parts per trillion; however, th
23 main well did exceed the EPA's health-advisory leve
24 of then-400 parts per trillion.
25 A request on October 20, 2014, was made from

1 the County to the State to provide the village
2 officials with public-health language that could be
3 used in the Village's release of information
4 regarding the contamination to the residents.
5 The Village, at the recommendation of the
6 County, did take the well with the highest
7 concentration of PFOA offline, but due to
8 operational issues, that well had been brought back
9 online.
10 The village leadership was extremely
11 proactive in attempting to address the contaminatio
12 in the water supply, as well as seeking information
13 about the contaminant that could be shared with the
14 public.
15 We also would have liked to have shared
16 information with the public.
17 Hurdles during this time frame included lack
18 of established regulations from the state and
19 federal government on the contaminant, and lack of
20 readily-available language that could be shared wit
21 the public about any potential health impact of
22 PFOA.
23 Additionally, PFOA testing could only be
24 performed by a limited number of labs throughout th
25 country; and, therefore, simply performing PFOA

1 testing was problematic, with results taking up to
2 30 days.
3 The language requested of the State on
4 October 2014, regarding the potential health impacts
5 from PFOA exposure, was received by the County in
6 January of 2015, and it was immediately given to th
7 Village for their use as a tool to provide
8 information to the residents.
9 The only requirement from the State, to
10 release this information on the village's -- was in
11 the Village's annual water report.
12 The language from the State was very clear,
13 to indicate that the levels found in the village's
14 water supply did not pose any immediate health
15 hazard.
16 This became the operative language, up until
17 the EPA's letter to the Village in November 2015,
18 indicating that the consumption of water should
19 immediately be stopped.
20 However, from January 2015, until
21 Saint-Gobain agreed to install a filtration system,
22 the mayor and the village leadership continued to
23 seek financial and technical assistance on how to
24 adjust this contaminant found in the municipal wate
25 supply. This included correspondence with local,

1 state, and federal elected officials.
2 The County continued to be the intermediary
3 between the State and the Village until September o
4 2015.
5 At this time, the New York State Department
6 of Health assumed the lead role and the response,
7 minimizing the County's role.
8 This ultimately lead to the State declaring
9 superfund status in the area in January of 2016.
10 Once the "do not drink" recommendation was
11 made by EPA in November 2015, the County did
12 maintain its regulatory role pertaining to the
13 permitted local food-service facilities in the
14 village.
15 This included assuring that regulated
16 food-service operations were complying with the
17 EPA's guidance to reduce the exposure of potential,
18 and, in cases, the review and approval of individua
19 treatment systems for food-service facilities that
20 could not comply with the EPA recommendations
21 without filtration.
22 The County had been active throughout the
23 State's response, to attempt to provide local
24 insight, and bring to the forefront concerns of
25 exposure, not only from PFOA, but also from other

1 potential contaminants that may be introduced as
2 part of the treatment process, such as arsenic.
3 The County also provided significant manpower
4 in the document and oversight of the flushing
5 program of the municipal water supply once the
6 temporary water-treatment system was in place.
7 This included a total of 6 staff persons over
8 a period of 10 days.
9 In summary, when the Village sought
10 assistance from the Rensselaer County Department of
11 Health in identifying and quantifying PFOA, we
12 advised them of the regulatory standards, and
13 contacted the State to seek guidance on how to
14 adjust the situation.
15 We continued to assist the Village as they
16 sought solutions on the removal of this contaminant,
17 as well as obtaining health-risk information to be
18 disseminated.
19 To be clear, the County does not establish
20 drinking-water regulatory standards or create
21 public-health language, as we are bound by the
22 regulatory standards and health-risk language as
23 provided by the New York Department of Health.
24 However, utilizing the County's regulatory
25 role, we continued to oversee the facilities we

1 regulate, to limit potential exposure, based on the
2 EPA guidance, that included a change, from 400 part
3 per trillion, to 100 parts per trillion, in
4 January of 2016.
5 The County's role in Petersburgh began when
6 we were invited by the New York State Department of
7 Health to attend a meeting in response to
8 correspondence that was sent by Taconic to both DEC
9 and State Department of Health.
10 February 10, 2016, officials from the county,
11 DEC, and State Department of Health met with
12 Taconic Plastics to discuss the history of PFOA
13 contamination at their facility.
14 During the meeting, Taconic expressed
15 concerns that their facility may have contaminated
16 groundwater wells around their facility, as their
17 wells had previously tested positive for PFOA.
18 Given the State's ongoing response in
19 Hoosick Falls, it was determined that the State
20 could not immediately start testing in Petersburgh.
21 Given the collective desire by the State and
22 County and Taconic to immediately start a testing
23 program, the County offered to take the lead on the
24 sampling program, under the guidance and assistance
25 of the State.

1 Until our involvement in Petersburgh, the
2 county health department had never developed, nor
3 implemented, a PFOA-sampling program. And given th
4 lack of expertise and the regulatory standards,
5 assistance and guidance from the State Department o
6 Health and DEC was crucial.
7 A sampling plan was developed by the County,
8 and finalized on February 12, 2016, which included
9 sending out letters, offering sampling of wells for
10 properties within a half mile of Taconic.
11 During this time, the County worked to set up
12 the protocols and establish a relationship with the
13 lab that could perform samples collected by County
14 staff.
15 The first round of sampling was initiated by
16 the County on February 17th.
17 As was discussed at the initial meeting with
18 the State, County, and Taconic, the County would
19 initially absorb the cost of the sampling program,
20 with the expectation that Taconic would reimburse
21 for the cost of the laboratory testing.
22 Taconic has reimbursed the County for all of
23 the laboratory costs associated with the County's
24 testing in Petersburgh.
25 Additionally, given the concern that PFOA

1 contamination may also exist in other municipal
2 water supplies in the county, a program was
3 undertaken to sample these systems.
4 Fortunately, all samples taken of these
5 systems returned results below 20 parts per
6 trillion.
7 On February 19th, we were notified by the
8 New York State Department of Health that samples
9 that had been collected from the town of Petersburg
10 public water supply had a PFOA level of 98 parts pe
11 trillion, and the largest producing well had a leve
12 of 130 parts per trillion.
13 Based on an emergency meeting on the morning
14 of Saturday, the 20th of February, between the
15 county health department, the county executive,
16 New York State Department of Health, and the Town,
17 it was decided that a water-consumption advisory wa
18 going to be issued, urging residents to not consume
19 the municipal water.
20 Based on sampling outside that municipal
21 water district, indicating PFOA contamination in
22 private wells, bottled water was offered to all
23 residents in the town while sampling was being
24 performed to identify the areas impacted by PFOA
25 contamination.

1 To this date, bottled water remains available
2 to residents.
3 Additionally, the County worked with Taconic
4 to have a treatment system installed on a single
5 permitted food service within the town water
6 district.
7 As the County continued to sample, and
8 private wells were found to have PFOA levels above
9 the EPA's advisory level, Taconic agreed that any
10 property with a PFOA result over the health-advisor
11 level, initially at 100, and later lowered to a
12 long-term exposure of 70 parts per trillion, they
13 would receive a GAC treatment system.
14 We worked with Taconic and their contractor
15 on developing the generic design that would be
16 installed, as necessary, and the County oversaw
17 these installations and performed clearance
18 sampling.
19 This part of the program was developed in
20 coordination with both the Department of Health and
21 the State DEC, based on their experience in
22 Hoosick Falls.
23 A summary of the sampling program to date can
24 be found in your packets in Attachment A.
25 Now that the State has staffing available for

1 the Petersburgh sampling, because of lower staffing
2 requirements in Hoosick, the State has opened up th
3 sampling to the entire town of Petersburgh, as
4 opposed to the County's program, which moved from
5 the Taconic facility, outwards, in the direction of
6 the contamination, as found through the sampling
7 results.
8 The County worked with DEC and State
9 Department of Health, and will continue to be the
10 point of contact for the Petersburgh sampling
11 program.
12 The County continues to sample in the
13 designated area near the Taconic facility, and will
14 be coordinating the sampling with the State to
15 ensure that the two programs do not overlap each
16 other.
17 As you can see, the County's response to the
18 Petersburgh water contamination was slightly
19 different, based on a number of factors, including
20 the increased awareness of potential health impacts,
21 the additional information available, as well as th
22 fact that, due to the State's response in Hoosick,
23 they were unable to immediately address potential
24 PFOA exposure in Petersburgh.
25 In my opinion, the overall response of the

1 Hoosick Falls water crisis was affected by the lack
2 of regulations, both on the state and federal
3 levels, with regards to PFOA.
4 Their response to Petersburgh was different,
5 due to a more coordinated approach, and relying on
6 the information that had come forward as the
7 situation in Hoosick Falls progressed.
8 My concern, going forward, is that we in
9 government must have the appropriate level of
10 response and guidance regarding the large number of
11 unregulated contaminants, to ensure that the impact
12 of public health is minimized.
13 Because the potential impact of unregulated
14 contaminants is very broad, the research required t
15 determine their impact should logically be done on
16 national level.
17 This would eliminate the costly duplicative
18 efforts of doing this on a state-by-state basis.
19 Then, appropriately, and expedited,
20 communication must take place to ensure those who
21 are responsible for water quality at the local leve
22 have the guidance they need to ensure people are
23 only drinking safe and potable water.
24 And, Mr. Chairman, I share your concern
25 with the diminishment of funding from the higher

levels of government.

Public-health infrastructure on the local level has seen staffing and funding decrease throug the years, especially in the drinking-water enhancement grant.

In order for local health departments to continue complying with our state's and federal mandates, also addressing unforeseen events like th PFOA contamination, and more importantly, to ensure the health and safety of our residents is met, we need to enhance our public-health infrastructure.

I thank you very much for allowing me to testify today.

ASSEMBLYMAN ENGLEBRIGHT: Thank you, each, for your very thoughtful presentations.

They have stimulated a number of questions.

First, let me go to Mr. Abinanti.

ASSEMBLYMAN ABINANTI: Thank you, Mr. Chairman.

I just have one point.

Two of you who have made the same point, and maybe I missed it earlier, but, EPA says there's a problem if you have 400 parts per million.

DR. HOWARD A. FREED: Per trillion.

ASSEMBLYMAN ABINANTI: Per trillion.

1 And our DEC -- or, our Department of Health
2 says there is a problem if you have 50,000 parts pe
3 trillion.
4 DR. HOWARD A. FREED: That's right.
5 ASSEMBLYMAN ABINANTI: So their test is, it
6 has to be a concentration of approximately 125 time
7 more?
8 DR. HOWARD A. FREED: Yes.
9 ASSEMBLYMAN ABINANTI: And they're blaming
10 the EPA for not having a strong enough standard?
11 Is that what I heard them say this morning?
12 DR. HOWARD A. FREED: Yes, I think that is
13 what you heard.
14 SENATOR MARCHIONE: That's incredible.
15 Thank you.
16 ASSEMBLYMAN ENGLEBRIGHT: Senator Marchione.
17 SENATOR MARCHIONE: Thank you.
18 Dr. Freed, thank you for your testimony.
19 I listened to the "50,000 parts per trillion"
20 number in your testimony, and I wonder if you
21 believe that that 50,000 parts per trillion of a
22 contaminant is too high of a number?
23 And if you do, what number do you believe is
24 a more reasonable number for DOH to use as its
25 ceiling?

1 DR. HOWARD A. FREED: Yes, I do think it's
2 too high.
3 I also think it was set more than 25 years
4 ago, and hasn't changed in the light of any science
5 that has happened since then.
6 I'm certainly not an expert in setting these
7 levels.
8 There are mathematical formulas that they
9 use, a number of different factors that I don't kno
10 very much about.
11 I think it's fair to go with the CDC and EPA.
12 SENATOR MARCHIONE: Do they have a maximum as
13 well on unregulated contaminants?
14 DR. HOWARD A. FREED: Who is that?
15 SENATOR MARCHIONE: Do they -- EPA, CDC, do
16 they have a number for unregulated chemicals as wel
17 that are not yet reviewed?
18 And if so, do you know what the numbers are?
19 DR. HOWARD A. FREED: Yeah, I don't -- I'm
20 not sure.
21 SENATOR MARCHIONE: Okay.
22 DR. HOWARD A. FREED: I don't think that EPA
23 has any numbers like that.
24 I think that the POC, UOC, standard, that's
25 the "principal organic contaminant," or the

1 "unspecified organic contaminant", those levels are
2 the -- the terms come from New York State law, from
3 the Sanitary Code, Section 5-1.
4 And so I believe that that is primarily --
5 I haven't surveyed all this in the states, but
6 I believe it's primarily New York's.
7 And to the best of my knowledge it's not
8 EPA's.
9 SENATOR MARCHIONE: Do you know if any other
10 states have parts per trillion that are high like
11 New York State has, the 50,000?
12 Do you know how any of the other states look
13 at unregulated chemicals, or what numbers they may
14 have?
15 DR. HOWARD A. FREED: I don't know about all
16 the states.
17 Of the states that I do know about, the
18 allowable limits are lower than in New York.
19 SENATOR MARCHIONE: Do you know how much
20 lower, just as an example?
21 DR. HOWARD A. FREED: Well, New York State
22 allows 50,000 parts per trillion.
23 Vermont allows 20 parts per trillion.
24 SENATOR MARCHIONE: For all unregulated
25 chemicals?

1 DR. HOWARD A. FREED: Of PFOA.
2 SENATOR MARCHIONE: I understand that.
3 But of unregulated chemicals, do they have a
4 number like New York does, that any --
5 DR. HOWARD A. FREED: Yeah, that, I'm not
6 sure.
7 SENATOR MARCHIONE: Okay.
8 DR. HOWARD A. FREED: I don't know the
9 answer.
10 SENATOR MARCHIONE: I thank you for your
11 testimony, and I appreciate it.
12 And to the Department of Health, thank you
13 for everything that you've done for Hoosick Falls
14 and Petersburgh.
15 A tough situation, and I appreciate
16 everything that you did, and continue do.
17 ASSEMBLYMAN ENGLEBRIGHT: Thank you, Senator.
18 Mr. Kavanagh.
19 ASSEMBLYMAN KAVANAGH: I thank you both for
20 your testimony, and also your patience with our lon
21 proceedings today.
22 I just want to make sure I understand, that
23 the 50,000 parts per trillion is, basically, a
24 default standard in the absence of any other
25 standard for an unregulated chemical?

1 DR. HOWARD A. FREED: Did you say "default"?
2 ASSEMBLYMAN KAVANAGH: "Default."
3 DR. HOWARD A. FREED: Yes, that is right.
4 ASSEMBLYMAN KAVANAGH: Okay. And so barring
5 another -- any more specific chemicals -- a
6 chemical-specific standard, they just -- if it
7 doesn't exceed that, they -- their, sort of, formal
8 policy position is that, it's okay?
9 DR. HOWARD A. FREED: Yes.
10 ASSEMBLYMAN KAVANAGH: Okay.
11 DR. HOWARD A. FREED: You know, it's not
12 quite like I may have given the impression.
13 There is the UOC, and everything I said about
14 that and the 50,000 is true.
15 In the state sanitary code there is a listing
16 of other types of contaminants, different classes o
17 contaminants. I'm not sure how they got in there.
18 But the ones that are actually mentioned,
19 those are POCs; those are "primary organic
20 contaminants." I believe the upper limit of that i
21 5,000.
22 ASSEMBLYMAN KAVANAGH: Okay. So there's a
23 different, again, a sort of generic standard for
24 primary organic contaminants of 5,000. And then
25 others, 50,000 applies.

1 And --
2 DR. HOWARD A. FREED: And let me point out
3 one other thing, if I could.
4 What that means is that, if it's a known type
5 of chemical, it's in the public-health law, we know
6 something about those groups of chemicals, that the
7 upper allowable limit is 5,000 parts per trillion.
8 And if we know nothing about the chemical,
9 the limit is 50,000 parts per trillion.
10 ASSEMBLYMAN KAVANAGH: And I'm understanding,
11 50,000, you said it was sort of -- somewhat
12 unscientific process of getting to 50,000,
13 presumably, and you said it was a quarter century
14 ago.
15 It's sort of a proxy for kind of a small
16 amount? I mean, is that what roughly where --
17 DR. HOWARD A. FREED: Well, I'm not sure
18 I exactly understand the question.
19 It's a generic standard that they use when
20 there isn't enough information in the scientific
21 literature to make a judgment about what a safe
22 limit would be.
23 There are 80,000. They don't all --
24 ASSEMBLYMAN KAVANAGH: Is there some
25 scientific -- I mean, you know, they could use the

1 standard of, you know, one, or a trillion.
2 I mean, it's 50,000.
3 I mean, is there some scientific basis for
4 understanding that to be a common -- a reasonable
5 standard for lots of commonly-known substances?
6 I mean -- or is it just, kind of, you need to
7 have some number, so that number was sort of settle
8 upon a long time ago?
9 DR. HOWARD A. FREED: Well, it was not just
10 pulled out of the air.
11 I wasn't there.
12 ASSEMBLYMAN KAVANAGH: Okay.
13 DR. HOWARD A. FREED: It was early on in
14 CEH's history.
15 I do know the scientists that were there.
16 They would not just make stuff up. There was some
17 formula, that that's the way it came up.
18 I just don't know what the formula is.
19 ASSEMBLYMAN KAVANAGH: Okay. And the -- so
20 the question is: How does the agency then
21 incorporate additional information or regulatory
22 decisions of other agencies, like EPA, or perhaps
23 states?
24 And you're saying that, in this circumstance,
25 although DOH was certainly aware of the 2009

1 guidance from the EPA of 400, that they were kind o
2 functionally using that "50,000" standard with
3 respect to PFOA, anyway, until this sort of recent
4 review of that?
5 DR. HOWARD A. FREED: To the best of my
6 knowledge, the UOC of 50,000, it's never been looke
7 at again after it was set originally, as far as
8 I know.
9 ASSEMBLYMAN KAVANAGH: Okay.
10 That's very helpful.
11 Just in terms of Rensselaer's experience,
12 I don't know if you were here all afternoon, but
13 we've had a kind of complicated conversation going
14 on about who decides when the public should be
15 notified, and whose responsibility is it to then
16 notify the public.
17 I think the State testimony suggested, on the
18 one hand, that maybe it was EPA's responsibility to
19 decide whether that notification should happen, and
20 perhaps local counties' and localities' obligation
21 to notify the public.
22 Do you think that the residents of
23 Hoosick Falls were notified that the water there
24 should -- they should not drink the water at an
25 appropriate time in this particular circumstance?

1 MARY FRANCES WACHUNAS: Well, it shows the
2 evidence that they were not notified on time.
3 But what we do is, we -- when there's
4 especially an unregulated contaminant, like PFOA, w
5 do not employ scientists, researchers.
6 And so that's what we looked to the State,
7 who employ. And, also, they write the regulations.
8 And we looked to them for guidance of how to
9 deal with that, and also for the public-health
10 language.
11 They're the ones that write the language.
12 We're the ones that take it and disseminate
13 it.
14 So for a long time, we were asking the State
15 to write the language. And we received it in
16 January of 2015.
17 ASSEMBLYMAN KAVANAGH: Okay. But you're --
18 and you're -- but just based on what you know now,
19 you believe that notification of the public, you
20 know, when the EPA put out their "do not drink"
21 advisory, you think that was late in the process fo
22 whoever was responsible for it; that the public
23 should have been clearly notified before that point
24 that the water -- that they should not be drinking
25 the water?

1 MARY FRANCES WACHUNAS: Well, based on the
2 EPA's advisory of 400, and if the wells were over
3 400, then there should have been, you know, a healt
4 advisory.
5 But that's why, in Petersburgh, we had a more
6 immediate response.
7 We learned from Hoosick Falls, and, already,
8 the advisory was out there to the public. And so i
9 was easier to do a response to Petersburgh --
10 ASSEMBLYMAN KAVANAGH: And you weren't
11 notified at any point by the State Department of
12 Health or state agency that you should be telling
13 people not to drink the water?
14 MARY FRANCES WACHUNAS: Not at all.
15 ASSEMBLYMAN KAVANAGH: And we've heard --
16 we've had the Commissioner of Health say, in public,
17 that he would not do anything different than the
18 health department did in this circumstance.
19 And I, you know, mentioned that to him today,
20 and he didn't dispute that.
21 Do you think that the health department
22 should have stepped in more proactively and
23 notified, and, either, indicated more clearly to yo
24 that you should be notifying people not to drink th
25 water, or notified the public directly, earlier in

1 the process?

2 MARY FRANCES WACHUNAS: Our testimony will

3 show that we asked for State guidance right at the

4 beginning, and never received it until January of

5 2015.

6 So we then asked -- we were asking for that

7 guidance.

8 ASSEMBLYMAN KAVANAGH: And the guidance you

9 got was not sufficiently specific?

10 MARY FRANCES WACHUNAS: No.

11 ASSEMBLYMAN KAVANAGH: You both got the

12 guidance maybe later than you would have wanted.

13 But, also, when you got the guidance, it

14 seems -- my conclusion from your testimony was that

15 you -- the guidance itself was not specific enough,

16 and did not -- didn't raise the alarm in a way that,

17 in retrospect, you think it should have. Is that

18 fair?

19 RICHARD ELDER: So the guidance was very

20 specific to us, that their public-health language

21 was that the levels in Hoosick Falls, in fact, did

22 not create any public-health hazard.

23 And so that really, again, as the testimony

24 said, became our operative language, and that was

25 the response of the State: that there was no

1 public-health hazard with regards to the water.
2 ASSEMBLYMAN KAVANAGH: Yeah, and I don't want
3 to belabor that, but you think that was the wrong
4 guidance to be given at that point, based on what
5 you know now?
6 MARY FRANCES WACHUNAS: Uh-huh.
7 RICHARD ELDER: Right.
8 ASSEMBLYMAN KAVANAGH: Given -- I -- I really
9 appreciate your testimony, and the written versions
10 And I might have other questions if it were not so
11 late.
12 But we appreciate your testimony.
13 Thank you.
14 DR. HOWARD A. FREED: Mr. Kavanagh, I would
15 like to put a little asterisk by a couple of things
16 that I said, that I'm not positive about.
17 One thing that I'm not positive about is that
18 the UOC of 50,000 has never been reviewed.
19 I wasn't there for the whole 30 years.
20 It's true to the best of my knowledge.
21 But, you know, I don't want to be discredited
22 if it turns out that that's a wrong statement.
23 ASSEMBLYMAN KAVANAGH: I appreciate that.
24 DR. HOWARD A. FREED: And, similarly, with
25 the POC, UOC, being 5,000, 50,000, and if you don't

1 know about the chemical, your standard is 10 times
2 higher, I'm not positive about the POC being 5,000.
3 I have seen it in the state sanitary code,
4 but I'm not sure that it was up to date.
5 So I'm not sure that, if you don't know about
6 the chemical, you make it 10 times higher.
7 I'm not sure about that, and I'm not sure
8 about being reviewed.
9 I just don't want to be completely
10 discredited if either of those turns out to be not
11 true.
12 I'm a lot more sure about everything else
13 that I just said.
14 ASSEMBLYMAN KAVANAGH: With the indulgence of
15 the Chair, can I have just one quick follow-up
16 question, with an asterisk to the asterisk?
17 If the health department wanted to add more
18 chemicals to those lists, with lower standards,
19 that's just a rule-making action? They could just
20 add those to the code?
21 DR. HOWARD A. FREED: I don't believe they
22 can add it to the state sanitary code, which is a
23 law.
24 ASSEMBLYMAN KAVANAGH: Okay. So this is
25 not -- it's not -- so it's a statutory, so they

1 would have to propose that the Legislature adopt it,
2 and then go through the normal legislative process?
3 Is that --
4 ASSEMBLYMAN GOTTFRIED: Yeah, just a point of
5 clarification.
6 The "sanitary code" is a fancy name for the
7 Department of Health regulations.
8 It is regulations, not statute.
9 ASSEMBLYMAN KAVANAGH: So the health
10 department -- learning from our Chair here, the
11 health department could do -- could add standards,
12 as science develops, with the 50,000.
13 They don't need reg -- they don't need
14 statutory authority to add additional chemicals wit
15 additional standards to those lists that are
16 different than the 50,000?
17 ASSEMBLYMAN GOTTFRIED: Unless there's
18 something specific in the statute that says "no,"
19 yes, that would be within their power.
20 ASSEMBLYMAN KAVANAGH: Okay.
21 Well, again, thank you for your
22 clarifications, and for all of your testimony, and
23 all of the work you've all done in this area.
24 Thank you.
25 ASSEMBLYMAN ENGLEBRIGHT: Thank you.

1 Chairman Gottfried.
2 ASSEMBLYMAN GOTTFRIED: Yeah, first a couple
3 of questions for Ms. Wachunas.
4 So with respect to Hoosick Falls, at no point
5 did the health department say that people should no
6 be drinking the water until the PFOA concentration
7 comes way down? The department never said that?
8 MARY FRANCES WACHUNAS: Right.
9 ASSEMBLYMAN GOTTFRIED: And never -- and
10 never urged you to say that?
11 MARY FRANCES WACHUNAS: Right.
12 ASSEMBLYMAN GOTTFRIED: But -- and, you know,
13 that sort of came to a head in December of '15, two
14 months later, when much lower numbers for PFOA
15 became apparent in Petersburgh, but at which point
16 a -- I guess at that point, EPA had lowered their
17 "400" number to 100, and (b) and perhaps more
18 importantly, there was a world-notice furor going o
19 about PFOA in Rensselaer County.
20 At that point, am I right, that DOH did say
21 you should tell people not to drink the water?
22 MARY FRANCES WACHUNAS: Correct.
23 ASSEMBLYMAN GOTTFRIED: Okay.
24 On this whole thing about, there should be
25 national standard, I guess if I had my druthers, if

1 we had a nice standard, I would like that to protec
2 the people of Arizona and Alabama, as well as the
3 people of Manhattan and Rensselaer County and the
4 other 60 counties.
5 But almost everything that you and the health
6 department and the state health department do are
7 state statutes and state regulations.
8 If we relied on a national standard for what
9 vaccinations children should need, children wouldn'
10 need any vaccination, because the federal governmen
11 doesn't set those standards.
12 If we were deciding what diseases were
13 reportable, the state health department decides
14 that. You know, the CDC doesn't decide that.
15 And in all sorts of areas, when the state
16 chooses to be proud about being a national leader,
17 it becomes important for us to be a national leader
18 On this, apparently, it's important for us to
19 be a national follower.
20 Is my sense of the state-by-state nature of
21 most of what you work on, accurate?
22 MARY FRANCES WACHUNAS: That's correct.
23 But in this circumstance, with PFOA, I think
24 it would be to everyone's advantage if they had the
25 standard nationalized because, if you go from state

1 to state, it's a different level.
2 If I go to Vermont, it's 20 parts per
3 trillion.
4 Now in New York, it's 70.
5 And I think it would just -- from my
6 perspective, and I would imagine for our residents,
7 and our country, it would be better if the standard
8 was a national level.
9 ASSEMBLYMAN GOTTFRIED: Well, if it's a good
10 standard.
11 If it's a crummy standard, it would be better
12 if New York had a better standard. Better for
13 New Yorkers, anyway.
14 MARY FRANCES WACHUNAS: I think in -- whoever
15 makes the regulations, whether it's our state now,
16 if they decide, or -- or the national level, we nee
17 to be, you know, collaborative.
18 We need to have a scientific approach.
19 We need to look at the health of the
20 communities.
21 We need to embrace this, and to make a good
22 decision.
23 And it's been very confusing, and at least in
24 the community of Rensselaer, where we've gone from
25 400, to 100, to 70.

1 We need to have, in an expedited situation,
2 more concise message and delivery.
3 So if it takes a national level, or if it
4 takes a state level, I think we need to be on the
5 same track.
6 ASSEMBLYMAN GOTTFRIED: Okay.
7 A few questions for Dr. Freed.
8 And just, first of all, I enormously
9 appreciate your testimony and your seven
10 recommendations.
11 And I hope you won't be offended if we
12 plagiarize your work.
13 DR. HOWARD A. FREED: You have my permission,
14 Mr. Gottfried.
15 ASSEMBLYMAN GOTTFRIED: Yeah, thank you.
16 We do our best work, I think, plagiarizing.
17 I do, anyway.
18 The "50,000" number, as I understand it from
19 what you've been saying, and from your conversation
20 with Mr. Cavanaugh, is a number to be used until we
21 know more about a particular chemical.
22 And if, for example, with PFOA, a decade or
23 more ago it became apparent that a much lower
24 concentration should trigger action, then we ought
25 to be not using the "50,000" number, but use a

1 number that science tells us to use.
2 Is that --
3 DR. HOWARD A. FREED: Well, there's never a
4 clear-cut science level. It's always a judgment
5 call.
6 It isn't quite the way I would say it, that
7 the UOC is a temporary status until we know more.
8 We're not going to know more about tens of
9 thousands of chemicals, so they are likely to be
10 permanently in that UOC status.
11 More chemicals are put on the market in
12 commerce than we could make that judgment on.
13 ASSEMBLYMAN GOTTFRIED: Right.
14 DR. HOWARD A. FREED: So in one year, you
15 know, we couldn't keep up.
16 So the UOC, I think, is a reasonable thought,
17 a reasonable concept.
18 For example, when we were evaluating
19 hydrofracking, and we wanted to know what chemicals
20 they were going to use, or else we weren't going to
21 let them do it, and they gave us a list of, I think
22 it was about 600 chemicals, and basically said, you
23 know, we'll be using some of these. You know, we'l
24 be choosing from here.
25 And CEH had to say something, you know, about

1 that evaluation.
2 What happened was, CEH did not independently
3 do a literature search on all 600 chemicals and com
4 to an independent conclusion.
5 They just said, "Those are UOCs."
6 ASSEMBLYMAN GOTTFRIED: But, yes, many of the
7 UOCs we will never know more about.
8 But if, as with a chemical like PFOA, we do
9 develop a body of evidence, or find a body of
10 evidence, shouldn't we then be applying?
11 And if a body of evidence indicates that we
12 should be using a concentration number radically
13 different from 50,000, shouldn't we be following th
14 science there?
15 And, again, it may not be able to tell us
16 whether the number should be 400, or 411, but the
17 science can certainly tell us it should be way lowe
18 than 50,000.
19 DR. HOWARD A. FREED: Yes, I would agree with
20 that.
21 As time goes on, and more and more is learned
22 about PFOA, more and more is being learned about th
23 dangers of it, and it's perfectly reasonable to say
24 no, we're not going to apply the UOC anymore. And
25 we've got more information, and we're going to put

1 the level where we think it should be.
2 ASSEMBLYMAN GOTTFRIED: In the case of PFOA,
3 and Hoosick Falls in particular, what could or
4 should DOH have done differently to protect the
5 people of Hoosick Falls?
6 DR. HOWARD A. FREED: You know, that's a hard
7 question, because what DOH did was what they always
8 do.
9 So if you ask the question, "Well, how could
10 it happen?" the answer is, because that's what they
11 always do.
12 You know, they use the UOC, and if that is
13 not exceeded, they will not do anything.
14 ASSEMBLYMAN GOTTFRIED: Let me stress, not
15 what could they do? Because if they were
16 institutionally incapable of doing something, you
17 might say that.
18 What should they have done differently?
19 DR. HOWARD A. FREED: Well, I think
20 transparency is helpful.
21 When a water system -- a large water system
22 goes year to year. Every year they have to send ou
23 a list of the concentrations of a whole bunch of
24 chemicals that, you know, you wouldn't really like
25 in your water.

1 But they, under law, I believe, perhaps it's
2 reg, they send out, with the water bill, for
3 example, a list of, well, you have this much
4 cadmium, and this much cobalt, and this much copper,
5 and this much (indiscernible), and so on.
6 And, so, at least they would have to put it
7 on that list.
8 But I think everybody knows, and has been
9 pointed out, no one's reading that whole thing.
10 So it would be on DOH's shoulders.
11 And I think what they could have done
12 differently, is when they knew that EPA's level was
13 400, and they knew there was evidence in many
14 articles, multiple articles, in the literature, tha
15 it causes cancer, what they could have done is set a
16 lower limit, go with the EPA's limit.
17 I think it is reasonable that DOH go with
18 EPA's limits, not that they're that fantastic.
19 But it makes a certain amount of sense that
20 DOH just get out of the business of setting levels.
21 That is one reasonable way of --
22 ASSEMBLYMAN GOTTFRIED: They either get out
23 of the business or get into it.
24 DR. HOWARD A. FREED: Yeah.
25 ASSEMBLYMAN GOTTFRIED: Okay.

1 Can DOH -- "can," meaning legally -- can DOH
2 create its own standards for UOCs, such as PFOA, or
3 update the standard that it has?
4 DR. HOWARD A. FREED: I'm not a lawyer or an
5 expert in those regulations, so I'm really not sure
6 of the answer.
7 I believe that they can set lower limits,
8 but, you know, that's a set regulatory matter.
9 ASSEMBLYMAN GOTTFRIED: Okay. I think the
10 department told us that they are doing a study to
11 see if there is a cancer cluster around
12 Hoosick Falls.
13 It's my understanding that, in the State
14 Cancer Registry, they already have that data.
15 Is that your -- correct by your
16 understanding?
17 DR. HOWARD A. FREED: Yes, no, that is
18 correct.
19 DOH maintains, as was said, an up-to-date
20 cancer registry that has a list of, you know, where
21 what kinds of cancer, are happening.
22 I'm not sure if they break it down by ZIP
23 code or by county, one of those two, and they can
24 pull up that ZIP code and say, well, we had
25 17 carcinomas of the breast, and we had 14 brain

1 tumors.
2 They have all the data.
3 And they've been doing this for a long time.
4 They've been working, looking for cancer clusters
5 for a long time. For decades.
6 And to the best of my knowledge, they have
7 never found one -- they have never found one that
8 was proven to their satisfaction.
9 So I really don't want to go too far out on
10 the limb and predict the future, but I would be
11 really surprised if they find a cancer cluster in
12 Hoosick Falls.
13 That would be mind-boggling to me.
14 ASSEMBLYMAN GOTTFRIED: In addition to your
15 seven recommendations, what would you think as a
16 tool for changing the institutional attitude within
17 the department?
18 If we were to enact a statute, saying what
19 the standard ought to be, not that we would enact
20 the number "400," but that the standard should be i
21 there is reasonable evidence, either, you know,
22 however is derived, and, you know, from this, that,
23 or the other organization, do you think the State,
24 through setting a statutory line of thought to be
25 applied, that that would have a good effect?

1 DR. HOWARD A. FREED: Yes.
2 ASSEMBLYMAN GOTTFRIED: Okay. Thank you.
3 DR. HOWARD A. FREED: I could go on, but --
4 DOH, they don't want to break the law. They want t
5 go with the law.
6 But there is this other reality about
7 changing the culture of the place.
8 And I think if all of us in this room, and
9 anybody at home, thinks about their own workplace,
10 how hard would it be to change the attitudes in you
11 workplace of everybody?
12 ASSEMBLYMAN GOTTFRIED: Yeah, okay.
13 DR. HOWARD A. FREED: But it would help,
14 because they do want to follow the law.
15 And I think the more explicit the law is, the
16 more helpful it would be, because they are not goin
17 to follow the precautionary principle, unless they
18 are pushed, unless they have to.
19 ASSEMBLYMAN GOTTFRIED: All right. Okay.
20 Thank you.
21 Assemblyman Steve McLaughlin.
22 ASSEMBLYMAN McLAUGHLIN: Thank you.
23 And, Dr. Freed, thank you.
24 And Mayor Mary Frances, and Rich, thanks for
25 your testimony.

1 And for County Executive Jimino and
2 Deputy County Executive Myer (ph.), thank you for
3 being here as well, and your diligence in this
4 situation from the beginning.
5 I just have a couple of questions for you,
6 Mary Fran and for Rich, and one you're kind of
7 slightly involved in.
8 But, the water up in Petersburgh, the
9 distribution of that, is it -- what are the
10 residents getting per day?
11 Is it one gallon, or five?
12 I've kind of heard both.
13 Do you know?
14 I know it's not what you're handling, but do
15 you have any idea?
16 RICHARD ELDER: I don't know.
17 That's being handled by the -- was being
18 handled by the Town.
19 I believe now Taconic has taken that over.
20 ASSEMBLYMAN ENGLEBRIGHT: Sir, could you
21 state your name for the record?
22 RICHARD ELDER: Richard Elder.
23 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
24 ASSEMBLYMAN McLAUGHLIN: I'm sorry.
25 Okay. I didn't know if you would know that

1 one, or not. I was just curious, because I've hear
2 both numbers.
3 The folks in Hoosick Falls we know are
4 getting 5 gallons a day.
5 Who made the decision -- I know that there
6 was -- based on your testimony, Mary Fran, there wa
7 an emergency meeting on the 20th of February,
8 Saturday morning, county health, county executive,
9 DOH, and the Town. And then it was decided that
10 there's gonna be a water advisory put out.
11 So that was probably done in conjunction with
12 everybody. Right?
13 MARY FRANCES WACHUNAS: Uh-huh.
14 ASSEMBLYMAN McLAUGHLIN: No pushback from DOH
15 on that, obviously, because it got issued.
16 So it's just interesting to me that, you
17 know, we had such a problem getting that done in
18 Hoosick Falls. And then, in Petersburgh, there was
19 not the same pushback from the DOH.
20 Do you know why that was?
21 Or was it because of what they learned in
22 Hoosick Falls, do you think?
23 MARY FRANCES WACHUNAS: You would hope they
24 learned from that, the progress that came from
25 Hoosick Falls spilled into Petersburgh.

1 ASSEMBLYMAN McLAUGHLIN: Right.
2 MARY FRANCES WACHUNAS: And so, you know, we
3 knew that we needed to be more collaborative and
4 more transparent, and more communication.
5 So I really feel that, you know, we learned
6 in Hoosick Falls, and the State did not push back
7 meeting with us.
8 ASSEMBLYMAN McLAUGHLIN: So at that point,
9 what was the level?
10 Was it still 400, I think it was, right, in
11 February?
12 MARY FRANCES WACHUNAS: 100.
13 ASSEMBLYMAN McLAUGHLIN: 100 in February.
14 Okay.
15 Okay. Thank you very much. I appreciate it.
16 Dr. Freed, thank you for your testimony.
17 And, you know, listening to what you're
18 talking about, the culture there at DOH, it just
19 seems like they suffer from institutional arrogance,
20 or institutional elitism, where they have to have i
21 proven to them. In the face of all kinds of
22 scientific studies and all kinds of data, that if i
23 doesn't meet their standards, that they reject it.
24 Does that sound like an accurate description
25 of what goes on over there?

1 DR. HOWARD A. FREED: Yes.
2 Uh-huh, yes, that is it.
3 And that's one of the reasons that I would
4 suggest an independent panel of experts to advise
5 the commissioner of health, on an ongoing basis,
6 about CEH's regulations and restrictions.
7 ASSEMBLYMAN McLAUGHLIN: Well, I understand
8 your recommendation, and I don't necessarily
9 disagree. But I would just say, he's the
10 commissioner of health, he's supposed to set the
11 standard for his department.
12 And to ignore years of scientific study, and
13 then say that they're not, and then say that, well,
14 we're just following EPA guidelines, is maddening t
15 everybody behind you and in front of you.
16 And I know it's not your fault. You're not
17 there anymore.
18 I'm just saying that it is absurd to say that
19 you have this 50,000-part-per-trillion limit, and,
20 you know, the EPA didn't prove to us beyond a shado
21 of a doubt that we had to lower it; therefore, we'r
22 not going lower it. Then we're going to blame the
23 EPA for lowering it.
24 Do you understand how the people of
25 Hoosick Falls would just go crazy after hearing

1 that?
2 It's absurd, right, on its face?
3 It makes no sense at all.
4 And then to turn around and blame the EPA
5 over and over and over again, exceptionally
6 frustrating to hear.
7 Do you think, given the culture that you
8 worked in for a long time --
9 And I understand it is difficult to change a
10 culture -- God knows I try it around here all the
11 time -- but it's difficult to change a culture. It
12 is.
13 -- in your opinion, if Hoosick Falls' wells
14 were coming in at 49,000 parts per trillion, do you
15 think the DOH would have issued any advisory?
16 Or was the 50,000 the line that would have
17 absolutely had to have been crossed for them to eve
18 mention it?
19 Because it's hard to see at what level they
20 would have ever taken action if 400 didn't get it
21 done.
22 Do you think they would have said nothing at
23 49,000?
24 DR. HOWARD A. FREED: Yes, I think they would
25 have said nothing at 49,000.

1 ASSEMBLYMAN McLAUGHLIN: Do you know of any
2 other --
3 DR. HOWARD A. FREED: I don't know, of
4 course. I mean, we're guessing.
5 ASSEMBLYMAN McLAUGHLIN: -- no, right.
6 But, I mean, maybe it's logical, because they
7 didn't want to say anything at 400, they weren't
8 coming forward. They were pushing back, from all
9 we've seen.
10 DR. HOWARD A. FREED: It's a binary decision;
11 either they either tell the people, or they don't.
12 And, you know, they've got a line. Over it,
13 they tell the people; and under it, they don't.
14 ASSEMBLYMAN McLAUGHLIN: True, but -- that's
15 true. I agree with you.
16 However, the Commissioner sat there and said
17 there was no bright line. There was no bright line
18 for him of 400.
19 So --
20 DR. HOWARD A. FREED: You know, I think -- in
21 the sense, though, to be fair, I think that's right.
22 Any of these numbers are guesswork. Educated
23 guesswork, but guesswork.
24 So the difference between, you know, 300 and
25 500, we don't know what either of them do in the

1 future. And is no -- we know there's no straight
2 cutoff.
3 But, you have to do something, or not do it.
4 They use 50,000.
5 ASSEMBLYMAN McLAUGHLIN: Well, they use
6 50,000.
7 But you -- I don't want to put words in your
8 mouth, but you had said the "50,000" was sort of on
9 we don't know much about a chemical or a compound o
10 a contaminant.
11 DR. HOWARD A. FREED: That's right.
12 ASSEMBLYMAN McLAUGHLIN: That's accurate to
13 say?
14 DR. HOWARD A. FREED: Yes, yes.
15 ASSEMBLYMAN McLAUGHLIN: But -- and
16 Assemblyman Gottfried hit on this very well, but,
17 what about when we do know?
18 And in this case, we did know for a really
19 long time.
20 Is there an ethical, moral, legal, obligation
21 on behalf of the DOH to then act and lower it from
22 50,000?
23 Or can they just sit on their hands and say,
24 Didn't meet our standards, so we're going to leave
25 it at 50,000?

1 I mean, the C8 study's pretty clear that
2 there are probable links between numerous cancers;
3 but, yet, nothing. The DOH acts like that doesn't
4 even exist.
5 DR. HOWARD A. FREED: Or the argument is,
6 apparently, not strong enough to convince them.
7 ASSEMBLYMAN McLAUGHLIN: Correct.
8 DR. HOWARD A. FREED: And they are correct.
9 I mean, there's no precision. All these -- every
10 study in science, 100 percent, have scientific
11 limitations.
12 ASSEMBLYMAN McLAUGHLIN: Correct.
13 DR. HOWARD A. FREED: It's just a matter of
14 which limitations, and how big they are.
15 So, you know, that's correct.
16 And it is also, essentially, impossible to do
17 a study to find out if PFOA causes cancer in humans
18 because the only way to do it would be to do a
19 study.
20 To give, you know, half the citizens PFOA,
21 and don't give it to the other half, you know.
22 Watch them for 30 years, and prevent them from
23 having any other interactions, you know, that might
24 be confounding factors.
25 ASSEMBLYMAN McLAUGHLIN: Right.

1 DR. HOWARD A. FREED: So we'll never know.
2 We don't know, and we will never know.
3 And even if we knew for one, what about PFOA
4 plus this one?
5 What about PFOA plus those three over there?
6 We're stuck in a situation where we don't
7 know, and we are not going to know.
8 ASSEMBLYMAN McLAUGHLIN: Except for, we gave
9 everybody in Hoosick Falls PFOA for decades.
10 So I think there's some pretty good data to
11 be gleaned there.
12 And there was already a study done in
13 West Virginia and Ohio. Correct?
14 DR. HOWARD A. FREED: Yes.
15 ASSEMBLYMAN McLAUGHLIN: So we do have some
16 pretty decent studies.
17 I mean, if that's the excuse that DOH is
18 always going to use, then it's, just, you're never
19 going to get any movement from them, ever.
20 DR. HOWARD A. FREED: I believe that is what
21 has happened.
22 ASSEMBLYMAN McLAUGHLIN: Yeah, I agree.
23 Is there any acknowledgment from -- you know,
24 that "50,000" encompasses a lot of things. Right?
25 I mean, a lot of contaminants, a lot of chemicals.

1 But there's no real acknowledgment between
2 the level of toxicity, or whatever the right word
3 is, for these chemicals.
4 In other words, PFOA and PFOS are a whole
5 different animal than some of the other contaminant
6 listed. Right?
7 But they never seem to acknowledge that.
8 They just sort of lump them at the "50,000."
9 Is that true?
10 DR. HOWARD A. FREED: You know, I think that
11 that's true, but I wasn't there.
12 ASSEMBLYMAN McLAUGHLIN: Okay.
13 DR. HOWARD A. FREED: For the bulk of my
14 testimony, I know that that's right, because I was
15 there, I was in the room.
16 But particularly from the time that the PFOA
17 story hit the media, particularly from then till
18 now, I really know nothing about it. Just what
19 I read in the paper.
20 And so I'm not sure, trying to get too pinned
21 down of what they said or -- I just don't know.
22 ASSEMBLYMAN McLAUGHLIN: And is it your
23 opinion -- it may have been you, and I think there
24 were a few different folks, have reviewed the
25 current advisories or fact sheets that DOH is

1 putting out for the folks in Hoosick Falls and
2 Petersburgh.
3 And do you think they're still downplaying
4 this in their words?
5 It seems like they are to me, but --
6 DR. HOWARD A. FREED: Yes.
7 ASSEMBLYMAN McLAUGHLIN: Okay.
8 DR. HOWARD A. FREED: Yes, that is, in my
9 judgment, what they always do.
10 ASSEMBLYMAN McLAUGHLIN: All right, Doctor.
11 Thank you very much. I really appreciate your
12 testimony.
13 I was looking forward to hearing what you had
14 to say.
15 So, thank you. Appreciate it.
16 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
17 much.
18 And I just -- I want to make an observation.
19 First, at the bottom of your page,
20 Dr. Freed, it says that you've attempted, as part
21 of your career, to bring about change in the
22 workplace.
23 And you intriguingly say here, that you
24 received much less than full support from the staff.
25 So I would like to learn more about that

1 sometime, and I would invite you to come to lunch.
2 I would like to have some insight into that,
3 because I'm not aware of anybody else even having
4 tried.
5 And so I salute you.
6 Perhaps I'm wrong, though.
7 Are you aware of any place where the -- or
8 any institution or bureaucracy where the
9 "precautionary principle approach" model has been
10 implemented?
11 And if so, how's it worked out?
12 DR. HOWARD A. FREED: I don't really know.
13 There are experts in the precautionary
14 principle and its implementation.
15 Particularly world-famous one is
16 Dr. Landrigan at Mount Sinai. You know, they are
17 immersed into the studies of these things.
18 That I just don't know the answer to your
19 question.
20 ASSEMBLYMAN ENGLEBRIGHT: It's been done in
21 other places. They called it "defensive driving."
22 DR. HOWARD A. FREED: And Vermont's level is
23 20.
24 ASSEMBLYMAN ENGLEBRIGHT: Vermont is driving
25 defensively, in the metaphor of, driving a car, or

1 driving policy.
2 Certainly, it's a conservative
3 decision-making, as opposed to something that's mor
4 careless or radical.
5 But the words don't really adequately predict
6 what's going to happen, those words don't.
7 And what we have here, it seems to me,
8 especially this panel, is really illustrative.
9 Here we have a county that has done
10 everything it can, and more.
11 And I salute you as well.
12 But the whole scene has been a chaotic one,
13 because the approach that the entity that everybody
14 looks to takes -- does not include defensive drivin
15 at an adequate level.
16 And, it almost inevitably has led to the kind
17 of crisis, and changing statistical expectations.
18 As learning the -- uneven learning takes place,
19 there's an uneven implementation of policy that is
20 parallel to that.
21 That doesn't reassure a public at all, and it
22 compromises the appearance of everything for the
23 people, all of whom we have seen are good people wh
24 are involved here. They have all been compromised.
25 And, largely, to try to understand this, you,

1 basically, have to reread your testimony, because
2 that's how it happened.
3 There's a model for decision-making that is
4 ultimately flawed.
5 So how do we take your second recommendation,
6 which is to implement some changes?
7 How do we do that?
8 Can we do it as lawmakers?
9 Can we be validaters, as lawmakers, of what
10 you've offered to us as your professional advice,
11 Doctor?
12 DR. HOWARD A. FREED: Yes, definitely.
13 Definitely, it would help to have the law be
14 clear that that is what they are supposed to be
15 doing.
16 And, in terms of how they got that way, some
17 time shortly after Love Canal, Dr. Axelrod created
18 CEH. The first director, all the way through until
19 me, I know for a fact, that nobody believed in the
20 precautionary principle.
21 Zero.
22 But I was the first person to walk through
23 the door, and start talking about it.
24 ASSEMBLYMAN ENGLEBRIGHT: "Always error on
25 the side of safety."

1 My mom would say that whenever I would do
2 something stupid with my bicycle, or a football, or
3 something.
4 But always error on the side of safety; and,
5 yet, we don't see that as policy in our most
6 important agencies, for protecting the public's
7 health and wellbeing.
8 Thank you for your testimony.
9 You've been quite, quite helpful.
10 Thank you both.
11 Thanks to all.
12 Our next panel: Robert A. Bilott, and he's
13 an attorney, as a partner, in Taft, Stettinius &
14 Hollister, LLP;
15 And, David E. Engel, Esquire, also, of
16 Nolan & Heller, and counsel for Healthy Hoosick
17 Water.
18 Thank you for your patience, gentlemen.
19 It has been a very long day.
20 We look forward to hearing your thoughts.
21 ASSEMBLYMAN GOTTFRIED: Do you both swear or
22 affirm that the testimony you're about to give is
23 true?
24 ROBERT A. BILOTT, ESQ.: I do.
25 DAVID E. ENGEL, ESQ.: Yes.

1 ASSEMBLYMAN GOTTFRIED: Thank you.
2 ASSEMBLYMAN ENGLEBRIGHT: Oh, Mr. Bilott,
3 did I pronounce that correctly?
4 ROBERT A. BILOTT, ESQ.: Correct.
5 ASSEMBLYMAN GOTTFRIED: Please begin.
6 ROBERT A. BILOTT, ESQ.: Thank you, and good
7 evening.
8 I know it's been a long day, so I'm going to
9 try to keep my remarks a lot briefer than the last
10 time.
11 And as I think some of you know, I was here a
12 week ago in the first hearings that were held in
13 Hoosick Falls, and tried to give a brief outline of
14 some of the history -- some of the regulatory and
15 scientific history of PFOA, and how this community
16 got to be where it is today.
17 And, again, you know, although I'm a lawyer,
18 I'm not involved in the litigation here in
19 Hoosick Falls or New York.
20 But, over the last 16 years, my work with
21 PFOA has enabled me to gain an understanding of how
22 PFOA has been handled from regulatory and the
23 scientific side, and I'm hoping to kind of give the
24 Committee some insight into some of the key events
25 I think might be help as you go forward.

1 And, again, I've sat through today's
2 presentations as well, and what I'm going to try to
3 do is, I'm not going repeat what I said last week.
4 And I'm also -- I've submitted some written
5 testimony, and I'm going to deviate from that as
6 well.
7 I'm just going to try to hit some of the high
8 points of things that I think came up in some of th
9 discussions today, and some of the facts on the
10 science and the history that I think might be
11 helpful.
12 And, again, if you look back in the history
13 of this, at least I first got involved back in the
14 late 1990s. And we sent our first letter to
15 U.S. EPA in 2001, after we were involved with some
16 litigation with the Dupont company.
17 And in connection with that litigation, we
18 had found documents indicating that this chemical,
19 PFOA, was, in fact, toxic, appeared to be a
20 carcinogen.
21 And, you know, we've heard testimony today
22 about how PFOA is one of these unregulated
23 chemicals.
24 That doesn't necessarily mean that
25 information isn't known about a chemical like that.

1 What it means is, it hasn't been officially
2 brought into that regulatory system necessarily.
3 But this chemical, what we learned was, there
4 was a lot known about the chemical, dating back to
5 the early 1950s, in fact, and it wasn't, though,
6 that that information was not necessarily provided
7 to the U.S. EPA, or to the community that we found
8 out had been drinking the water for many, many
9 years.
10 And so you had this situation where the
11 regulatory process really hadn't been allowed to
12 begin on the chemical, because information had not
13 been provided to the regulatory agencies.
14 So after looking through this information, we
15 decided this was information, frankly, that
16 represented a public-health threat.
17 And I still believe having PFOA in your water
18 is a public-health threat, which is one of the
19 reasons that I'm here today, even though I'm not
20 involved with the Hoosick Falls litigation.
21 But when we provided that information to the
22 U.S. EPA, one of the things EPA did early on, was t
23 start with what they called a "priority review" of
24 the chemical, because, again, they were getting thi
25 information, reviewing it, and noticing, this is

1 information that we didn't necessarily have before,
2 let's look into this.
3 But I think it's important, and one of the
4 things I really didn't talk about last time, that
5 I think is -- I'm hearing today that may be of
6 interest is, the review that was done was done unde
7 the federal Toxic Substances Control Act, and this
8 was a statute that came out in 1976.
9 And this is the federal law that was
10 designed -- and I'm oversimplifying -- that it was
11 designed, in essence, to regulate new chemicals or
12 chemicals coming out onto the market, and potential
13 health threats.
14 And I'm oversimplifying, but that was the
15 basic gist of this law.
16 And what EPA -- when EPA was looking at the
17 data, they determined, looking at this data, there
18 seemed to be information that suggested a
19 substantial risk to human health, from the toxicity
20 data, and the fact that people were drinking it,
21 that they hadn't known before.
22 And they decided to look into possibly taking
23 action with this chemical under the Toxic Substance
24 Control Act.
25 Now, keep in mind, up to that point in time,

1 2002, the entire history of TSCA, there had only
2 been five chemicals that EPA had actually taken
3 action on under TSCA.
4 So this was a fairly unusual thing for EPA to
5 do.
6 And by 2003 -- and I talked about this a bit
7 in my last presentation -- but, by 2003, EPA
8 announced a very public process, to try to gather
9 information voluntarily about this chemical, not
10 only from the manufacturers, but those that were
11 using it in downstream, so to speak.
12 And in 2003 through 2006, efforts were made
13 by EPA at that point to try to collect information
14 voluntarily about:
15 Where is this material used?
16 Where is it released out into the
17 environment?
18 Where are the places that there might likely
19 be exposures?
20 Just keep in mind, we're talking about, it's
21 not just one chemical among 80,000, that they're al
22 the same.
23 This was a very unique chemical with some
24 unique and disturbing properties.
25 It was extremely biopersistent; meaning, it

1 was being found in blood supply, and not just blood
2 supplies in communities where there had been
3 exposure, but it was being found in blood supplies
4 across the country, and then, eventually, across th
5 globe.
6 And EPA was struggling with trying to figure
7 out, how is this happening; how is everyone getting
8 exposed to this?
9 So one of the very first things EPA was
10 trying to do, under the TSCA statute, was collect
11 that information.
12 Where is this -- where is it being used?
13 Where has it been released?
14 And, again, unfortunately, that didn't work;
15 three years, 2003 to 2006, trying to collect that
16 information voluntarily.
17 Again, things, like, where has firefighting
18 foam been used?
19 That was recognized back in the 2003 to 2004
20 time frame as an issue. All right?
21 What eventually EPA did, was get an
22 agreement -- and we talked about this last time --
23 to phase out the manufacturer of the chemical in
24 2006.
25 But -- and, again, that was a great thing to

1 do, but it didn't necessarily deal with the issue
2 about, what do you do with the PFOA that may alread
3 be out there, that's already possibly in dump sites
4 water supplies, across the country?
5 And, you know, we were encouraging EPA at
6 that time to go out and do sampling: blood sampling
7 water sampling, et cetera.
8 But, again, EPA was having to try to do this
9 with voluntary agreements by those that were
10 generating material, and it just didn't work. They
11 didn't get the voluntary agreements to do that.
12 Instead, the agreement was made, we're going
13 to phase out the manufacturer of the chemical over
14 the next 10 years.
15 And I was involved in litigation with people
16 that were drinking it on a daily basis.
17 And, you didn't have anything -- you didn't
18 have federal guidelines about what was "safe in the
19 water." We were dealing with states, Ohio and
20 West Virginia, that were not getting involved, and
21 were saying, We're going to defer to what U.S. EPA
22 does.
23 And at that point in time, U.S. EPA was
24 trying to get things done voluntarily, but there wa
25 no guideline.

1 We were forced, on behalf of that community,
2 to have to go through years of litigation.
3 And as you know, when we talked about last
4 time, and I don't want to go through all of this
5 again, but, eventually, through a settlement in tha
6 case, were able to get water-filtration systems tha
7 implemented the GAC systems. You've heard them
8 referred to as "GAC" today.
9 But this is old technology that's existed for
10 a long time, but we were able to get those installe
11 through the private litigation.
12 We set up what you've -- we've all been
13 talking about, and we talked to some extent about
14 this last week, the science panel.
15 This world-class, world-renowned panel of
16 three completely independent scientists, who had
17 studied all of the human-health data, do their own
18 study of 70,000 people, and determined whether or
19 not there are probable links between drinking this
20 in your water, at .05 parts per billion, or more,
21 and human disease.
22 Unlimited funds, they designed the best
23 studies -- and, again, I talked about this last
24 week, and I don't want to go into detail about all
25 of this again -- but that was a 7-year process, ove

1 $30 million spent, analyzing that data.
2 We had 69,000 people provide blood samples.
3 And, again, this is having to be done through
4 private litigation.
5 We did not have state agencies offering to
6 pay for blood sampling, or offering to do much of
7 anything. We were forced to do that through privat
8 settlement, through litigation.
9 But the benefit of that, is at the end of the
10 day, after all of that research was done, you had
11 independent science confirming this chemical, with
12 these levels in water, is, in fact, linked with
13 these diseases.
14 We've talked about the six diseases: two
15 forms of cancer, ulcerative colitis, thyroid
16 disease, preeclampsia, and high cholesterol.
17 Not only did we have that science-panel
18 process, but we also had, and I talked about this
19 last time, a separate medical panel of
20 world-renowned medical doctors who were also
21 independent.
22 Both sides picked these people and agreed
23 they were independent medical doctors, to look at
24 that data and decide, if people are exposed to thes
25 chemicals -- this chemical, I'm sorry, PFOA, in

1 their water, above .05, more than a year, and you
2 know they've got these risks of these six diseases,
3 what, if anything, what kind of testing ought to be
4 done, medical testing, to detect the onset of those
5 diseases?
6 That independent panel released a report a
7 couple of years ago. It's been posted. There's a
8 public website, C8MedicalMonitoringProgram.com,
9 where this independent panel outlined, here's the
10 type of testing that's available for folks who have
11 been exposed.
12 And under our settlement, we wanted to make
13 sure that this information was all made publicly
14 available, so anyone who's had this exposure, going
15 forward, would have access to it.
16 Those probable-link reports and that
17 scientific data has been posted for years.
18 Some of the probable links came out as early
19 as 2011, and they've been posted on the website.
20 The medical-monitoring report's been posted,
21 their conclusions, since at least 2014.
22 And so that data has been there.
23 And you may look at this and say, okay, well,
24 what happened with the EPA process after 2006?
25 Remember, that was -- what EPA had been doing

1 was under the TSCA statute.
2 Once the phaseout was done, essentially, the
3 process got shifted to the EPA's Office of Water.
4 And the Office of Water has explained that
5 one of the things that they have to do is, before
6 they can even decide to start regulating a chemical
7 like this, they have to determine that there is
8 widespread national occurrence of the chemical in
9 water supplies.
10 Well, keep in mind, remember we had been
11 asking for water sampling to be done at these
12 locations, identify the locations.
13 We didn't have that data.
14 The only places where this was coming, is
15 litigation was having to ensue to get
16 water-filtration systems.
17 So we are trying to encourage EPA to do that
18 sampling, and come up with guidelines.
19 And, again, EPA is saying, well, we have to
20 have data of occurrence.
21 And so then you see this process, and you've
22 heard talking about it, and we talked about it, and
23 it was talked about again today, the UCMR (the
24 unregulated contaminant monitoring) process.
25 Once those probable links came out in 2012,

1 all right, that data was there, the EPA finally put
2 PFOA on the list of things that public water
3 supplies are supposed to start sampling for.
4 And as you heard today, that doesn't apply to
5 all public water supplies; only certain ones.
6 Bigger public water supplies.
7 So that data didn't even start getting
8 collected until 2013/2014 time frame.
9 And as you heard, it gets supplied to
10 U.S. EPA.
11 And the U.S. EPA posted it on their website.
12 It had to be interpreted and downloaded to figure
13 out what it said. But, there was information a
14 couple of years ago, suggests this stuff is, in
15 fact, in water supplies across the country.
16 So, again, we were urging the U.S. EPA to
17 come up with a national guideline of what would be
18 an appropriate number in the water.
19 And, again, the science panel had found links
20 as low as .05 parts per billion.
21 And so you see that the U.S. EPA finally came
22 out in May of this year with their ".07 long-term"
23 guideline.
24 You know, and you've heard this discussion
25 about the history of these guidelines. We talked

about it last time.

The ".4" guideline, the 400 parts per trillion, again, that was short-term guideline.

There wasn't much confusion about that.

EPA posted it on their website, what "short-term" guidelines mean, versus "long-term."

So that short-term guideline was there, and then the long-term guideline came out.

And, again, one of the things we have been trying to stress here, one of the reasons we're still concerned, even at .07, is the nature of this chemical.

It's not as if you can simply say, if you're below .07, then that's fine to keep drinking that every day.

Because the chemical builds up every day that you drink it, eventually, you know, it will keep building up.

The concern is, that standard process of setting these kinds of safe levels may not necessarily be the process you use with a chemical like this, that's biopersistent.

And I really haven't heard much discussion about that today, the recognition of that unique concept with this chemical, and how that is

1 incorporated into this whole process.
2 Which is why you see, there are scientists
3 out there, there are others out there, that are
4 suggesting .07 may still be too high.
5 You may be looking at numbers that need to be
6 a lot lower than that because of this unique
7 biopersistent nature.
8 And I know I'm going too long.
9 But one of the things that -- there are a
10 couple of things I wanted to mention, that I heard
11 today.
12 There was some discussion of, gee, you know,
13 we're finding hits of PFOA in wells in the area tha
14 are far away and don't necessarily seem to be
15 connected by the way of the water flows, either
16 surface water or groundwater.
17 And there's a wealth of data that was
18 generated back in the Dupont litigation, through
19 the -- for the science panel, about how this stuff
20 got into the environment, and how it moved.
21 And, in fact, one of the areas that ended up
22 having the highest PFOA concentrations in the water
23 it was determined that one of the principal ways in
24 which that was getting into the water was air
25 emissions.

1 Just keep in mind, this material, when it
2 comes into these facilities, oftentimes, is heated.
3 It's used in a process where there's heating. The
4 stuff goes up the stacks.
5 And you don't need to -- you shouldn't be
6 focusing just on, which way does the water flow, an
7 what is the groundwater direction?
8 But you need to be also looking at -- and
9 what this was -- this was how Little Hocking, Ohio,
10 was found to have such high levels -- it was
11 determined that this was coming through air
12 dispersion. In fact, the air was flowing the
13 opposite direction of the way the water was flowing.
14 But, when you've got something that's being
15 caused from the air deposition onto the soils,
16 another thing to keep in mind, that was -- one of
17 the other learnings from the Dupont situation was,
18 if that stuff's coming from the air, it may take a
19 while to come down through the soil.
20 And, in fact, you may have increasing levels
21 of PFOA in the groundwater over time if the source
22 was the air, because it takes a while for that to
23 filter through.
24 And, in fact, in areas like Little Hocking,
25 Ohio, you've seen just that. Even though the

1 filters are on -- water filters are on, the levels
2 in the groundwater themselves increased.
3 So it's important to keep that in mind when
4 you're talking about: What would be appropriate
5 monitoring programs, going forward? What kind of
6 scope of the investigation?
7 Air emissions are an issue that need be
8 looked at as well.
9 And one of the other things I heard mentioned
10 today too was, the concern about blood testing, and
11 whether communities should be getting their blood
12 tested.
13 And keep in mind, and you heard this
14 discussed, you know, there's this half-life of PFOA.
15 The longer you wait to take the blood testing
16 the levels could start going down.
17 So, you know, if there's an interest in
18 finding out what the actual current levels are now,
19 the sooner the blood testing is done, the more
20 accurate you're going to have that information.
21 So that's just something I thought I would
22 mention, because I know one of the other speakers
23 brought up that issue today.
24 So, again, I appreciate the opportunity to
25 come here, and I know it's been a long day.

1 And, I'm going to turn it over to
2 Mr. Engel.
3 And by the way, just one of the things I do
4 want to say is, you know, I wasn't involved in the
5 Hoosick Falls litigation.
6 But when I did see -- and I mentioned this
7 last time, when I saw some of the statements that
8 were being made to the community in Hoosick Falls,
9 when this chemical was found in their water, and th
10 suggestions that it's not a concern, I did write a
11 letter to the Village and the State Department of
12 Health, expressing my concern with those statements.
13 And I've tried to work with Mr. Engel,
14 Dave Engel, you know, to try to make sure that as
15 much information that was learned in the Ohio,
16 West Virginia, situation is possible, is able to be
17 accessed by people here in Hoosick Falls, including
18 the way the water-filtration systems were done, wha
19 kind of monitoring is out there. How low can you
20 really get in the water?
21 So I've tried to make sure that that
22 information is available to the fullest extent
23 possible.
24 Thank you.
25 ASSEMBLYMAN ENGLEBRIGHT: Thank you.

1 Mr. Engel.
2 DAVID E. ENGEL, ESQ.: Thank you, and good
3 evening.
4 I appreciate the opportunity to address the
5 members of the Legislature this evening.
6 My name is Dave Engel. I'm an attorney here
7 in Albany, with Nolan & Heller. I've been
8 practicing law for over 40 years. My practice is
9 concentrated primarily in the fields of
10 environmental matters, large-scale contamination
11 cases, toxic-exposure matters.
12 I've been in private practice here in Albany
13 since 1988.
14 Prior to that, I held a variety of positions
15 with New York State DEC, and I handled some of the
16 early major contamination cases while I was at DEC.
17 I wrote the original consent order for
18 GE-Fort Edward.
19 I wrote the original consent order for Alcoa
20 up on the St. Lawrence River.
21 I've been in this business for quite a while.
22 With me this evening is
23 Alexandra Berstein (ph.), who's a colleague of mine
24 at Nolan & Heller. She's been in this business a
25 little bit less than I have.

1 At Nolan & Heller, my colleagues and I have
2 been involved in the Hoosick Falls PFOA matter sinc
3 December of 2014.
4 At that time, we began to receive phone calls
5 from local residents who were concerned about early
6 reports of PFOA in the water supply.
7 The residents expressed concerns with respect
8 to the claims then being made, that the PFOA levels
9 in the water supply of 450 ppt did not present a
10 threat to public health.
11 At that time, the Village was advising its
12 residents that it was safe to continue to consume
13 the village water without fear or concern as to
14 possible health effects.
15 On its website, the Village reported that it
16 based its advice upon guidance or advice,
17 apparently, provided by the New York State
18 Department of Health.
19 Now, up to that time, I may have had some
20 awareness of PFOA, but, as much as I have handled
21 other environmental matters, it wasn't something
22 I was familiar with.
23 So following our initial discussions, and
24 those discussions also included a meeting out in
25 Hoosick with some -- with one family, we undertook

search to find information on PFOA.

I also contacted Dr. Robert Michaels, who spoke last week out in Hoosick Falls, and I believe is going to be speaking this evening, if he can las that long.

He's a highly-regarded environmental toxicologist, and he has long track record of being involved in serious contamination matters.

And I asked Bob to take a look at this matter.

One of the other things I did initially was, when we got online and started to see what was available, was I called Rob Bilott, because it was pretty obvious, right up front, that Mr. Bilott had been involved in these issues for a long time, and that he would have a large amount of information.

And I had several enlightening discussions with Mr. Bilott, I believe in January of 2015.

We also contacted members of the C8 Science Panel, and it wasn't hard to do.

And as I listened to the testimony last week and today, I continued to kind of be a little bit surprised, that others who were involved in the problems in Hoosick Falls, both on a local and stat

1 level, did not avail themselves of the opportunity
2 to contact some of these individuals and get some
3 information firsthand.
4 We contacted members of the C8 Science Panel.
5 We had a brief teleconference with them, I believe
6 in January of 2015.
7 We asked them if they could help us out.
8 They told us that they were an objective
9 scientific panel that had been put together under
10 the terms of the settlement that Mr. Bilott
11 alluded to a few moments ago.
12 And while they were happy to talk to us and
13 give us general background, they were not in the
14 business of getting involved in further potential
15 cases.
16 In January of 2015, we also met, for the
17 first time, with Michael Hickey and
18 Dr. Marcus Martinez.
19 And that was a rather memorable meeting at my
20 office here in Albany because, at the time --
21 ASSEMBLYMAN GOTTFRIED: I'm sorry, that was
22 January of...?
23 DAVID E. ENGEL, ESQ.: 2015.
24 ASSEMBLYMAN GOTTFRIED: '15.
25 Okay. Thank you.

1 DAVID E. ENGEL, ESQ.: -- so it was within a
2 matter of a few weeks, after we had first been
3 brought into this, and we were first aware that the
4 Village was posting information on its website,
5 reporting 450 parts per trillion in its supply, and
6 advising the population that this was, apparently,
7 not a threat.
8 And, by the way, in the Village website at
9 the time, and I'm sure this can be recovered, and
10 I know we have a photo shot of it somewhere, it
11 specifically alludes to the 50,000 parts per
12 trillion, or, 50 parts per billion, standard, or
13 generic value, that DOH was using for chemicals, in
14 general.
15 And the statement there referred to the
16 magnitude of the difference between the 450 and the
17 50,000, and that was used, contextually, apparently
18 to inform the citizens that there was not a problem
19 in Hoosick Falls that required an immediate
20 response.
21 Working primarily with Dr. Martinez, we
22 created Healthy Hoosick Water as a not-for-profit
23 entity, whose purpose was to seek redress for the
24 still unresolved PFOA-contamination problem in
25 Hoosick.

1 Throughout 2015, Mr. Hickey and
2 Dr. Martinez, as they reported it to us, attempted
3 to persuade Mayor Borge that he and the village
4 board should meet with us, to discuss, in depth, th
5 entire PFOA problem in Hoosick.
6 By later in the year, in September, we
7 assembled a team of experts that included
8 Dr. Michaels. We also retained qualified
9 environmental consultants, environmental engineers
10 and geologists from Sterling Environmental here in
11 Albany, including Mark Millspaugh and Tom Johnson.
12 These are individuals who had been involved
13 in major environmental-contamination matters
14 throughout New York State and elsewhere, and we
15 asked them take a look at this matter.
16 And at the time, and I note this as an aside,
17 when I first brought Mr. Michaels in, and
18 Mr. Millspaugh and his colleague Mr. Johnson at
19 Sterling, I told them that, we're representing a
20 not-for-profit. I'm probably not going to get paid
21 for any of this, you're probably not going to get
22 paid for any of this. I think it's a serious
23 matter. Can you take a look at it?
24 They took a look at it, and came back to me
25 and said, Yeah, this is really a serious problem.

1 And those individuals have remained in our
2 effort since that time, doing so, because, as was
3 clear from the beginning, this was so important,
4 that it was not a commercial enterprise. It was
5 beyond that: there was an afflicted population, and
6 this situation required attention.
7 As we progressed through 2015, and
8 notwithstanding the efforts of Mr. Hickey and
9 Dr. Martinez, Mayor Borge and the board refused to
10 meet with Healthy Hoosick Water.
11 The message that was conveyed back to us, by
12 Dr. Martinez and Mr. Hickey, was that the mayor
13 had assured Saint-Gobain that the Village would not
14 get confrontational; and, specifically, that, and
15 these are the words that were reported to us, "the
16 Village would not lawyer-up."
17 Given the attitude of the village leadership,
18 and the guidance that DOH had reportedly been givin
19 to the Village, we then looked for alternative
20 approaches.
21 Accordingly, we then did the following:
22 On September 16, 2015, I had a discussion EPA
23 Regional Administrator Judith Enck, at which
24 I raised the subject with her of the PFOA problem i
25 Hoosick; and, thereafter, I began to e-mail

1 documents directly to Ms. Enck, as to the nature
2 and extent of the problem.
3 Thereafter, in October of 2015, I had further
4 discussions with Ms. Enck regarding the Hoosick
5 matter.
6 We arranged and held lengthy conference calls
7 involving EPA Region 2 staff and Dr. Martinez and
8 Mr. Hickey, so that her staff could get a full
9 account of what had transpired in Hoosick, and hear
10 directly from Dr. Martinez, his views as to the
11 incidence of certain cancers and other diseases and
12 ailments within the village.
13 Eventually, on November 25th, EPA Region 2
14 issued the letter that you've heard about today,
15 advising the Village against the use of the
16 village's water supply for drinking and cooking
17 purposes.
18 Now, while we were engaged with EPA in the
19 manner I just described, at the same time, we began
20 working on a possible lawsuit against Saint-Gobain
21 for the purpose of compelling the company to addres
22 the water problem.
23 At that time, we were, I would say,
24 cautiously optimistic that the company might be
25 willing to engage in discussions and act in a

1 responsible manner to finally address the problem.
2 As a bit of an aside, and it's not in the
3 text I have provided, we had done a bit of research
4 on Saint-Gobain.
5 Saint-Gobain is an interesting company.
6 It was founded in 1665 in France during the
7 reign of Louis XIV.
8 It was responsible for, among other things,
9 the glass in the Hall of Mirrors at Versailles.
10 It's one of the biggest companies in the
11 world.
12 It has immense resources.
13 It has over 185,000 employees.
14 It's not some small mom-and-pop operation.
15 It's a company that certainly had the
16 wherewithal to deal with a problem that, apparently,
17 was present in Hoosick Falls, and dealing with the
18 problem did not appear to be likely to be something
19 that would hit Saint-Gobain's bottom line in a
20 significant manner.
21 In the course of preparing a possible legal
22 action, and doing more research online, we came
23 across the TSCA 8-E notification letter that
24 Saint-Gobain had prepared and filed with the
25 U.S. EPA in December of 2014.

1 Now, I have an excerpt from that letter in my
2 prepared statement. And we also have a copy of tha
3 letter, and we can provide a copy of that letter.
4 Simply stated, that is a letter in which
5 Saint-Gobain tries to have it both ways.
6 It takes ownership of the PFOA problem in
7 Hoosick Falls, but at the same time, disclaims any
8 kind of actual responsibility, and makes the
9 assertion that it's never been a manufacturer,
10 processor, distributer, or user of PFOA per se
11 anywhere in the United States.
12 Now, I think the key little phrase in there
13 was "per se," for a couple of reasons.
14 Number one: As we later found out, in
15 talking to Saint-Gobain employees or former
16 employees, PFOA was never a standalone ingredient.
17 It was part of a mix of something called "PTFE,"
18 which was used in making non-stick surfaces.
19 So it's kind of interesting, to say that
20 there was no PFOA "per se" is a bit like, I suppose,
21 buying a prepared food that has a high level of
22 sodium in it, and claiming, oh, I'm not using salt.
23 Well, the PFOA was there, and, apparently, it
24 was integral to the processes by which the
25 polymerization was applied to the surfaces that wer

1 meant to be non-sticky.
2 As I indicated, in talking to former
3 Saint-Gobain employees, and some people who are
4 still at Saint-Gobain, people were quite clear that
5 Saint-Gobain had continued to use PFOA, or material
6 containing PFOA, at least through 2014.
7 Mr. Bilott has alluded to the nationwide
8 agreement that the material would be phased out.
9 The deadline for phasing it out was
10 December 31, 2015.
11 We don't know when Saint-Gobain actually
12 phased out the use in Hoosick Falls.
13 We know that they've put out various versions
14 of the story as to when that happened. And I'm not
15 sure that anyone knows for sure, perhaps even
16 including some of the folks who work over at
17 Saint-Gobain.
18 On October 19, 2015, we sent a letter to
19 Saint-Gobain. This was, in essence, a notice of a
20 possible, call it a notice of our intent to file ye
21 a further notice letter, under the federal RCRA
22 statute, of our intention to bring a citizens' suit,
23 if necessary, in order to obtain recourse for the
24 water problem in Hoosick Falls.
25 Now, in that letter, in addition to citing

1 RCRA, we also cited common-law principles.
2 And we made it very clear to Saint-Gobain, in
3 that correspondence, that we were prepared to sue
4 the company, to get the water situation addressed,
5 to get the water treatment in place, and, hopefully,
6 obtain other relief for the residents of the
7 village, if the company did not sit down and talk t
8 us.
9 While we were working on that letter,
10 finally, on Sunday, October 18th, I had a telephone
11 discussion with Mayor Borge.
12 At that time, I informed him of what we
13 intended to do, and I invited the Village to join i
14 our effort.
15 He responded that he did not want to get
16 confrontational with Saint-Gobain. And he also
17 wanted to avoid the involvement of lawyers in the
18 process.
19 As I say, we sent that letter out.
20 Within one week of sending that letter to
21 Saint-Gobain, we were engaged in discussions with
22 the company.
23 Specifically, I heard from Chris Gibson --
24 not that Chris Gibson -- but an attorney named
25 Chris Gibson, from Archer & Greiner down in

1 New Jersey.
2 He called me up and told me that he
3 represented Saint-Gobain, and said, Let's sit down
4 and talk.
5 Accordingly, on November 4th, we met
6 Saint-Gobain's representatives, including
7 Mr. Gibson from Archer & Greiner, and
8 Saint-Gobain's vice president for environmental
9 health and safety, Lauren Alterman, at my offices
10 here in Albany.
11 At that time, Saint-Gobain indicated that it
12 would pay for the installation of a temporary
13 water-treatment system, to be succeeded by a
14 permanent system, for removing the PFOA
15 contamination.
16 However, at that time, Saint-Gobain refused
17 our demand that it provide bottled water, pending
18 the provision of a permanent treatment system.
19 We also had other demands, and I will come
20 back to those a little bit further.
21 The following week, on November 10th, which
22 was a Tuesday, at a village board meeting,
23 Saint-Gobain announced that it would cover the cost
24 of a bottled-water program.
25 Also at the November 10th meeting,

1 Saint-Gobain released the results of its own
2 groundwater sampling from the plant site on
3 McCaffrey Street in Hoosick Falls.
4 That sampling showed PFOA concentrations in
5 groundwater on the plant site at levels as high as
6 18,000 parts per trillion.
7 And that suggests, I think, why the company
8 had become a little bit more forthcoming with
9 respect to the provision of bottled water.
10 "18,000" was a big number. And having seen
11 18,000, and comparing it to some of the numbers tha
12 I know Mr. Bilott encountered down in the
13 Ohio Valley, that gets you high up there in the
14 national rankings of such things, whether you want
15 to or not. It's a dubious distinction, but there i
16 was.
17 Based on those interactions with Saint-Gobain
18 in October and early November, we were somewhat
19 optimistic that future progress could be made on an
20 expedited basis, so long as everybody acted in good
21 faith.
22 As noted, EPA issued its advisory on the use
23 of village water on November 25th.
24 So to be clear:
25 By December 1, 2015, the company had

1 committed to both water treatment and a
2 bottled-water program.
3 Now, there were details to be worked out,
4 understanding, and there's been discussion about th
5 bottled-water program.
6 The bottled-water program always relied upon
7 the involvement of citizens in a voluntary sort of
8 way, to make sure that everybody was being covered.
9 And that was something we raised early on in
10 discussions I had with Mr. Gibson. It's something
11 we publicly raised, and we characterized it as a
12 form of subsidy to Saint-Gobain.
13 And, we were troubled by the fact that there
14 were kids and all sorts of people out, frankly,
15 schlepping water in 5-gallon containers, or boxes
16 that had five 1-gallon containers in them, and doin
17 so under difficult circumstances.
18 Winter was coming on, and we didn't think
19 that was an appropriate outcome with respect to
20 making sure everyone had potable water over the
21 winter, before the treatment systems were installed
22 At that time, we anticipated that the Village
23 would enter into a formal agreement with the
24 company, and our hope was, that Healthy Hoosick
25 could also join as a party to the agreement.

1 We believed that Healthy Hoosick's
2 involvement was vital, because Healthy Hoosick had
3 been the public advocate for holding Saint-Gobain
4 responsible. Number one.
5 Number two: Dr. Martinez was the face and
6 voice of Healthy Hoosick Water, and he had
7 credibility with Hoosick residents, that, with all
8 respect to the mayor and the board, it did not
9 appear to us that those in political positions
10 actually enjoyed.
11 And, thirdly: Healthy Hoosick was adamant
12 that the treatment system be designed, constructed,
13 and operated to the strictest standards possible.
14 Further, we had other concerns that we
15 believed should be addressed as part of any
16 agreement with Saint-Gobain, including the need to
17 track down and resolve all sources of PFOA in the
18 community.
19 On December 2nd -- I believe it was
20 December 2nd -- the Village held a so-called "publi
21 meeting" at the Immaculate Conception Church in
22 town, for the purpose of providing information to
23 the public.
24 Well, the event was not actually a public
25 meeting. It was set up more like in the format of

1 science fair.
2 The Village apparently invited Saint-Gobain
3 and DOH to participate.
4 Saint-Gobain had a table. DOH had a table.
5 The Village had a table.
6 Healthy Hoosick was not asked to participate.
7 Instead, Dr. Martinez and other
8 Healthy Hoosick members set up their own table.
9 It helped that the priest at the church,
10 I believe was a friend and patient of Dr. Martinez,
11 and he had assured the doctor that we would have a
12 place there.
13 At the event, DOH provided a fact sheet --
14 the fact sheet that we've heard so much about last
15 week and this week -- stating that it did not
16 anticipate public-health effects from normal use of
17 the water.
18 On the other side of the room, Dr. Martinez,
19 and Dr. Michaels, who was there with us that
20 evening, were providing the EPA advisory letter, an
21 other material, including articles written by the
22 C8 Science Panel, all of which emphasized the threa
23 posed by PFOA exposure.
24 Now understand, please, by that time at
25 December 2015, DOH was still suggesting that the

1 Hoosick water posed no threat.
2 The DOH fact sheet specifically stated that
3 questions and inquiries could be posed either by
4 telephone or e-mail to Dr. Lloyd Wilson, who you
5 heard at length from today.
6 Accordingly, following his December 18th fact
7 sheet, because there were a number of iterations of
8 the fact sheet, but they all had the same basic
9 message, on behalf of Healthy Hoosick, I e-mailed
10 Dr. Wilson, and requested all documents, data, and
11 reports that supported the conclusion in the fact
12 sheet as to the "no health effects" finding.
13 Instead of receiving a response, we received
14 an e-mail, stating that our request would have to b
15 reformulated as a formal FOIL request, and that
16 Dr. Wilson could not communicate with us directly
17 because I was a lawyer representing a client.
18 Now, without recounting the entire history of
19 our FOIL request, please be aware that, to date, we
20 have received only partial responses to our FOIL
21 requests.
22 The response relating to the "no health
23 effects" conclusion consists only of copies of
24 documents from sources other than DOH.
25 None of the documents specifically address

1 conditions of Hoosick Falls.
2 There is no document in the DOH collection,
3 that's been provided to us, that sets forth any
4 analysis of the possible health effects, in light o
5 the specific data pertaining to Hoosick.
6 Several of the articles cited by DOH were
7 authored by members of the C8 panel.
8 One of the articles states as follows:
9 "In humans, the primary associations that
10 have been observed have included ulcerative colitis
11 thyroid disease, high cholesterol, kidney cancer,
12 testicular cancer, prostate cancer, and
13 non-malignant kidney disease. Pregnancy induced
14 hypertension has been associated with PFOA."
15 Notwithstanding that kind of information in
16 the documents included in the purported backup to
17 the "no health effects" conclusion, the "no health
18 effects" conclusion, apparently, was what DOH was
19 going with.
20 Now, we have copies of the DOH response, and
21 they're on disk.
22 This is how we got them, electronically. We
23 received them in July. We've looked at them.
24 And I'll ask Ms. Berstein to hand up copies
25 to the Committee.

1 And I'd suggest that the members of the
2 Committees that are represented here this evening
3 can take a look at what DOH provided to us, because
4 this purports to be the collection of documents tha
5 supports the "no health effects" conclusion.
6 ASSEMBLYMAN GOTTFRIED: By the way, you've
7 got a much better response than we did.
8 [Laughter.]
9 ASSEMBLYMAN ENGLEBRIGHT: If misery loves
10 company, you have good company.
11 DAVID E. ENGEL, ESQ.: Well, Assemblyman,
12 I was not going to go into the entire story, but
13 I'll tell you a little bit more.
14 It became a standing joke in my office.
15 And on certain days, when I was actually
16 working from home, that as the deadline would come
17 up as to when DOH would have to respond to us, and
18 it would be, basically, close of business, so, 5:00
19 whatever day it was, I'd sit wherever I was, and
20 I would get on my computer or my iPad, and I'd say,
21 Well, I should be getting an e-mail from DOH any
22 moment now, in which they've extended their time.
23 And they did that repeatedly.
24 And, finally, we got to a point where I said,
25 Okay, enough is enough. And we're going file an

1 administrative appeal, claiming constructive denial
2 So we filed an administrative appeal.
3 And I don't think I'm telling tales out of
4 school here.
5 When we filed the administrative appeal,
6 I got a call from DOH, and I wish I could remember
7 the individual, but, the request that was made to m
8 was: Dave, we just got this.
9 I think it was in late May.
10 And they said, "Would you agree that we'll
11 stipulate, that this will be deemed to have been
12 served to us on," June 6th, or 7th, or some date
13 that hadn't come around yet.
14 And I said: No, I can't do that.
15 And they asked me, Why?
16 And I said: Because I can't make things up.
17 And, look, if you need extra time to respond,
18 I'll stipulate to it. But I'm not going to create
19 fiction about what we did and when we did it.
20 That turned out to be -- to the extent there
21 was a key moment in getting a response, that turned
22 out to be, apparently, the key moment, because, by
23 the end of June, we did receive the disk, a copy of
24 which we've provided to you this evening.
25 So, you know, not to drag this out too much

1 longer, in January of 2016, going back now to the
2 earlier part of this year, the State finally decide
3 to act, by declaring PFOA a hazardous substance, an
4 proposing that the Saint-Gobain and Honeywell
5 properties be listed as superfund sites.
6 Now, I think the Committee should understand
7 the context in which those apparent decisions were
8 made.
9 On the night of January 14th -- and here,
10 again, I'd have to check the date -- Healthy Hoosic
11 Water, in cooperation with EPA staff, put out a
12 large program at the Hoosick High School.
13 Some of you were at the Hoosick High School
14 last week.
15 We had a much bigger crowd than you-all got.
16 The auditorium was full. The hallways were
17 full. They set up closed-circuit televisions in
18 another room.
19 I was on the panel at the front of the room.
20 I don't know how many people were there, but
21 there were probably 1,000 people.
22 1,000 people, give or take 100, maybe 200,
23 I don't know, in a community the size of Hoosick is
24 rather extraordinary.
25 ASSEMBLYMAN ENGLEBRIGHT: It's a third of the

1 population.
2 DAVID E. ENGEL, ESQ.: Yeah.
3 And those people were there because, they
4 were desperately seeking answers, desperately
5 seeking guidance.
6 And the folks from EPA came forward and spoke
7 at length.
8 Dr. Michaels spoke.
9 I spoke.
10 I spoke -- well, I think e-mailing back and
11 forth with Mr. Bilott at one point in that
12 evening. I'm not smart enough do all this
13 necessarily on my own.
14 And we stayed there, answering all questions,
15 for several hours.
16 And it was at that time that the State
17 finally decided that action was necessary.
18 Now, maybe it's just coincidence; maybe not.
19 But, that's what happened in January of this
20 year, mid-January.
21 That was the context in which PFOA became a
22 hazardous substance in New York. PFOA became the
23 basis for a "superfund" designation out in Hoosick.
24 Thereafter, DEC and DOH, of course, assumed
25 the lead role in dealing with Saint-Gobain.

1 The company stopped discussing, much less
2 negotiating, anything with us, on behalf of
3 Healthy Hoosick Water.
4 At that point, what did we matter, after all?
5 And it even appeared, in time, that the
6 Village was pretty much cut out of the discussions,
7 and the Village kind of took the sidelines and
8 waited for DEC to do its thing, and work out a
9 consent order.
10 In time, the State's efforts resulted in
11 consent orders, one of which finalized the
12 commitment Saint-Gobain had publicly made months
13 earlier to provide water treatment.
14 That said, we remained concerned that the DEC
15 consent order lacks any specific reference to
16 performance standards for the treatment system.
17 And I want to touch on that for a moment.
18 We had advocated for the position that the
19 treated water should be non-detect for PFOA, with a
20 detection limit of under 2 parts per trillion.
21 Based upon the experience with the use of
22 treatment systems in the Ohio Valley communities,
23 that level of treatment should be readily
24 achievable.
25 In our view, the strictest standards are a

1 necessity in Hoosick because, fundamentally, the
2 remedial efforts must be aimed at reducing the
3 levels of PFOA in the exposed population, and that
4 can best occur if no further exposure takes place.
5 We had several frustrating discussions with
6 DOH on this point during the winter.
7 And we were informed that the operational
8 standard would not be set at non-detect, and that
9 the reference point would be a so-called "reporting
10 limit" of 20 parts per trillion.
11 Now, I am informed that the system that has
12 been in place, and the one that will be put in plac
13 to replace it, actually are -- are actually
14 providing non-detect limit -- level -- results.
15 That said, there's a lot of sort of dicey
16 science when it comes to detecting things and
17 reporting them when you're talking about parts per
18 trillion.
19 "Non-detect" is different than the so-called
20 "reporting limit."
21 And I really urge the members of the
22 Committees that are here today to seek clarificatio
23 from both DEC and DOH as to, what standard is
24 actually going to apply in Hoosick Falls?
25 As Mr. Bilott pointed out, and as others

1 have pointed out, PFOA is persistent. It
2 bioaccumulates.
3 And, once it's in someone, and it's in all of
4 us to some degree, thanks to how widely it's been
5 spread around, it only declines rapidly if there's
6 no further exposure.
7 So this is not a mere technicality.
8 It actually matters whether people are
9 getting 10 or 15 parts per trillion, or,
10 essentially, zero going, forward.
11 And that's particularly the case for people
12 who may have hundreds of parts per billion of PFOA
13 in their bloodstream.
14 I'm sure this has been touched on today, but
15 understand, if you're drinking water with PFOA at
16 parts per trillion, your bloodstream will show it a
17 parts per billion.
18 That's bioaccumulation, and that's why it's
19 so pernicious.
20 And that's why the gentlemen who spoke
21 earlier about the heartbreak of a nursing mother,
22 having to stop nursing her child, is so on point
23 here, because the way we get rid of it is through
24 excretion. We either urinate it out, or, it comes
25 out through breast milk. And that's how it comes

1 out of human beings.
2 So these are not abstractions. These are
3 real live things.
4 With all that said, here's some possible
5 lessons from the Hoosick experience, and I'll just
6 throw these out. They're set forth a little bit
7 more formally in my prepared comments.
8 Number one, I thought Dr. Freed made some
9 very good suggestions tonight, and I commend him fo
10 his insight.
11 Number one: Based upon the Hoosick
12 experience, it appears that DOH was more concerned
13 with avoiding alarm than providing information to
14 the public.
15 In his testimony in Hoosick last week,
16 Dr. Zucker pointed out that exposure does not
17 automatically equate to a health effect.
18 But fully informing people as to the
19 potential problems associated with exposure is the
20 best way to allow for early detection and response
21 to a health effect.
22 Number two: Steps should be taken to assure
23 that DOH personnel keep up with current literature.
24 I think Dr. Freed touched on this.
25 In the early stages of awareness, as to the

1 Hoosick problem, DOH fell back on generic guidance
2 values, and failed to consider the information that
3 was available in what was, at that time, already
4 established scientific literature.
5 Number three: EPA can be called to task for
6 failing to establish strict nationwide standards fo
7 PFOA based upon the latest science.
8 However, it should be kept in mind, that at
9 all times in which DOH considered the Hoosick
10 circumstance, that PFOA levels were above the EPA
11 value for short-term exposure.
12 There never should have been any confusion
13 about that.
14 Number four: The process by which DEC
15 negotiated consent orders with Saint-Gobain should
16 have been opened to all stakeholders.
17 Now, I'll note, years ago when I was at DEC,
18 I never would have subscribed to that view point.
19 But I'm not at DEC anymore, and that was a
20 long time ago, and, frankly, I may have been wrong
21 back then.
22 As noted, Healthy Hoosick Water had, and
23 continues to have, concerns about the performance
24 standards for the treatment systems.
25 We also had a host of other concerns related

1 to pathways of exposure, including, and I hope
2 you'll take note of this, Saint-Gobain's practice o
3 allowing used containers, in which PFOA materials
4 had been delivered to the plant, to be taken out by
5 workers and then reused for storage purposes, or
6 even as beverage bins.
7 And this is not urban myth or legend.
8 I have photographs that people have sent me,
9 of containers that had the PTF formulation, which
10 had PFOA in it, from their basements, their attics,
11 and they're labeled. They say things like "linens,"
12 "curtains," and so on.
13 I've had people tell me that the white
14 plastic ones were reused because they were great to
15 put ice in them, and then put beverages in them for
16 a barbecue, and then you can just grab the ice out.
17 When we're talking about exposures at parts
18 per trillion levels that matter, this all matters.
19 There was one gentleman who told us of those
20 containers, the plastic ones, being reused on
21 Halloween so kids could bob for apples.
22 We had discussed with Saint-Gobain the
23 necessity of having an outreach program in the
24 community: finding all those containers, doing some
25 sampling, seeing whether there was any residual

1 PFOA, and getting the things recovered and properly
2 disposed of.
3 As far as I am aware, that issue remains out
4 there.
5 It may not seem like a big thing to some
6 people, maybe the risk is overblown, but it does
7 bring up certain disturbing possibilities.
8 Next point: New York does not need to wait
9 on EPA to take the lead and set standards when it
10 comes to environmental matters.
11 Now, it's been said before, some take issue
12 with that.
13 But the truth is, New York can invoke its own
14 authority or adopt standards that reflect the lates
15 science.
16 Both New Jersey and Vermont have been ahead
17 of New York in responding to PFOA and other PFCs.
18 And as an aside, I'll note, that I've spent
19 much of the last several years litigating with the
20 General Electric Company, on behalf of a local
21 community whose water supply was adversely affected
22 due to the remobilization of PCPs associated with
23 the dredging of the Hudson River.
24 And dealing with the GE -- dealing with GE,
25 in the context of the PCP litigation, was kind of

1 interesting.
2 EPA had a "500 part per trillion"
3 drinking-water standard for PCBs.
4 Meanwhile, the state of New York had a
5 "90 part per trillion" standard for PCBs in water,
6 generally.
7 And the truth is, is that the state of
8 New York, in many instances, has better standards,
9 stricter standards.
10 And, there's no reason why the State should
11 feel like it's stopped or prohibited from applying
12 its authority and coming up with the best approache
13 for its residents.
14 Finally, and this has been alluded to, the
15 Hoosick situation points out the need for reforming
16 the law in New York with respect to medical
17 monitoring.
18 At present, New York does not recognize
19 medical monitoring either as a cause of action or a
20 a remedy.
21 The Legislature should act so that the
22 residents of Hoosick, and others exposed to
23 hazardous chemicals, can obtain this important form
24 of relief.
25 So, those are our view points.

1 I'm prepared to answer any questions, and
2 I appreciate the opportunity to be heard this
3 evening.
4 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
5 much.
6 Wow! What a story.
7 Let me ask if there are any questions from
8 the Senator, first.
9 SENATOR MARCHIONE: Not at this time.
10 ASSEMBLYMAN ENGLEBRIGHT: Not at this time.
11 Okay.
12 Mr. Abinanti, I see your hand is up.
13 ASSEMBLYMAN ABINANTI: Thank you.
14 Just, very briefly.
15 Do we have any idea when Saint-Gobain
16 realized that this was toxic stuff and we shouldn't
17 be doing all the stuff you're talking about?
18 DAVID E. ENGEL, ESQ.: I'll try not to do too
19 much speculation, but, a couple points.
20 Number one: Saint-Gobain, as I indicated, is
21 a very large, sophisticated company.
22 Mr. Bilott can speak to the agreement that
23 was cut in 2006 among all of the industry leaders
24 and EPA here in the United States, to take PFOA out
25 of manufacture and, generally, out of use.

1 It defies logic to believe that, with all
2 that going on, Saint-Gobain was unaware of the
3 problems associated with PFOA.
4 That's number one.
5 ASSEMBLYMAN ABINANTI: Okay. So we're
6 talking about 2006, roughly?
7 DAVID E. ENGEL, ESQ.: Yeah.
8 Number two: Saint-Gobain took title to the
9 property on McCaffery Street, and I believe the
10 other plant that operates in Hoosick Falls, in 1999
11 There is very -- it is very, very unlikely
12 that Saint-Gobain bought those facilities, and othe
13 facilities that I understand it had purchased at
14 that time, without undertaking reasonable due
15 diligence.
16 So it knew what it was getting.
17 Number three: Saint-Gobain operated those
18 plants. It knew that the operations there initiall
19 involved materials containing PFOA.
20 And taking your question a few, I suppose,
21 steps further, in the mid part of the last decade,
22 the Village decided to redevelop its water system,
23 and so it put in new wells and put in a new
24 water-treatment plant not too far from where the
25 Saint-Gobain plant is.

1 Saint-Gobain, by that time, certainly had
2 awareness that PFOA had been used in the plant, had
3 an awareness that PFOA was a pernicious contaminant,
4 particularly in groundwater. They certainly were
5 aware of the literature that described how easily i
6 dispersed from plants.
7 By that time, according to the documents
8 we've seen, they had already dealt with an
9 enforcement action, due to airborne dispersion from
10 their plant in New Hampshire. And they had also
11 dealt with problems, due to airborne dispersion fro
12 their plant in Ireland.
13 I think they knew all along.
14 ASSEMBLYMAN ABINANTI: Okay. I just want --
15 can I jump to Mr. Bilott?
16 When was it well known in the industry, or
17 generally known in the industry, what we're dealing
18 with here, and what a standard should be?
19 Can you come up with that, any number? any
20 year?
21 ROBERT A. BILOTT, ESQ.: Yeah, I can't really
22 comment on Saint-Gobain in particular. I don't --
23 ASSEMBLYMAN ABINANTI: Right, but I'm saying
24 in the industry, in general.
25 ROBERT A. BILOTT, ESQ.: To give you basic

1 history here:
2 DuPont and 3M knew about the chemicals and
3 a lot about the toxicity, going back to the 1960s,
4 1970s.
5 I mean, it was known by those companies, by
6 at least 1978 or so, that this stuff would get in
7 the blood.
8 And one of the very first cancer studies was
9 done with rats in 1988.
10 And, in fact, DuPont had actually come up
11 with its own safety guideline for this stuff in
12 community water supplies.
13 ASSEMBLYMAN ABINANTI: When was that?
14 ROBERT A. BILOTT, ESQ.: 1988 is when it
15 first recommended one part per billion.
16 And as far as, you know, national awareness
17 or media coverage, what I can say is, when the
18 U.S. EPA announced that it was going to start this
19 TSCA process I talked about earlier, in 2003, there
20 was national media coverage of that.
21 There was a little more coverage when
22 U.S. EPA sued DuPont, in 2004, for withholding
23 information.
24 There was more coverage, though, when the EPA
25 Science Advisory Board, in 2006, came out, with the

1 majority of the board recommending, that PFOA be
2 considered a likely human carcinogen.
3 There were national headlines, and some
4 international at that time, mentioning Teflon, in
5 particular, with that finding.
6 So that period of time, there was national --
7 there was at least some national media coverage.
8 ASSEMBLYMAN ABINANTI: So if you're in the
9 public-health field, you should be aware of this
10 stuff, and have some awareness that 50,000 parts pe
11 trillion is an outdated way of looking at it?
12 ROBERT A. BILOTT, ESQ.: Well, I mean, the
13 U.S. EPA publicly announced it was undertaking
14 investigation of this in 2003.
15 ASSEMBLYMAN ABINANTI: Okay. Thank you.
16 ROBERT A. BILOTT, ESQ.: And one other issue
17 I wanted to mention, something Mr. Engel brought
18 up, that I failed to mention, which I wanted to
19 mention, was the issue of preemption.
20 And, again, I'm not here to offer legal
21 advice, but one of the things I did want to point
22 out was, we talked about the fact that some of this
23 initial activity that EPA took was under TSCA, and
24 that was trying to get voluntary action.
25 And when it didn't, you know, that process

1 sort of ended at that point.
2 States; certain states, where this chemical
3 popped up in the water, went ahead with their own
4 activities.
5 Minnesota went forward with its own
6 investigations. They came out with their own
7 standards for PFOA and PFOS, I think back in 2007.
8 State of New Jersey, as we've already talked
9 about, came out with a guideline in 2006.
10 So states were free to do that.
11 Now, one of the things that has changed very
12 recently, the TSCA statute was recently amended, an
13 there are now new provisions under the law which
14 would allow states' actions to be preempted under
15 certain circumstances, for, you know, if EPA were t
16 start a full-blown investigation.
17 And I'm just paraphrasing here.
18 But just to be aware, that there are new
19 provisions in the TSCA law that could possibly be
20 argued by some, to prevent states from doing certai
21 things now, that maybe didn't exist before.
22 So that change is there.
23 So prior to that point, though, states had
24 been free do what they wanted with this chemical.
25 ASSEMBLYMAN ABINANTI: Can I follow up with

1 that for just a second?
2 But -- it would seem to me that, to have a
3 preemption, there has to be some kind of formal
4 rule, regulating.
5 You can't just say, well, EPA thinks it's
6 like this; and, therefore, the local health
7 departments are preempted from protecting the publi
8 health.
9 Wouldn't you to have some kind of a formal
10 rule by the EPA, saying that, you know, this is a
11 standard. This is what everybody has to enforce.
12 Et cetera, et cetera?
13 ROBERT A. BILOTT, ESQ.: And, again, you
14 know, without having the new statute in front of me,
15 which is very lengthy, but my understanding is,
16 there are some new provisions in the statute itself
17 that talk about under what circumstances you can
18 have that kind of preemption.
19 ASSEMBLYMAN ABINANTI: Okay.
20 ROBERT A. BILOTT, ESQ.: And I don't know all
21 the intricacies of that at this point, but I just
22 raise it as a potential issue.
23 ASSEMBLYMAN ABINANTI: Do you know when the
24 effective date was of that?
25 ROBERT A. BILOTT, ESQ.: You know, it was,

1 I think, just within the last two months or so.
2 ASSEMBLYMAN ABINANTI: Oh, that's the one
3 that affected GMOs as well? Is that the same
4 legislation?
5 OFF-CAMERA SPEAKER: I don't believe so.
6 ASSEMBLYMAN ABINANTI: Different legislation?
7 OFF-CAMERA SPEAKER: Yes.
8 ROBERT A. BILOTT, ESQ.: I think it was in
9 June, but I'm not recalling the exact date.
10 ASSEMBLYMAN ABINANTI: Okay. Thank you.
11 ASSEMBLYMAN ENGLEBRIGHT: Mr. Gottfried.
12 ASSEMBLYMAN GOTTFRIED: Yeah, uhm, a couple
13 of questions for Mr. Bilott.
14 And I'm even less of an expert on preemption
15 than you say you are, because I would bet you're
16 more of an expert than you want to talk about today
17 But I'm certainly not.
18 But I -- if there is some kind of new
19 language there, you know, I would think we better
20 analyze it.
21 But the -- the laws in some of the other
22 states, like Minnesota and New Jersey, do they deal
23 only with things you have to test for and report?
24 Or do they set limits on how much PFOA can be in
25 water?

1 ROBERT A. BILOTT, ESQ.: If I'm recalling
2 correctly, in Minnesota, I believe they've set what
3 they call, I'm forgetting the terminology, but,
4 something like a hazard level, or something of that
5 nature.
6 But they set guidelines as to what the level
7 should be in the water.
8 And, in New Jersey it's an informal
9 guideline. It's not an official adopted regulation
10 at this point. It was a guideline that they came
11 out in 2007 for long-term exposures.
12 So each state varies in how they've
13 approached it.
14 In Minnesota, you're talking about a
15 situation where you had one of the main
16 manufacturing plants for PFOA. One of the main
17 3M PFOA manufacturing plants was there.
18 And when the chemical showed up in the water
19 in 2005/2006 time frame, that state's agency starte
20 looking into it, and coming up with their own
21 standards, and I believe even tried to take action
22 under their state superfund law at that point in
23 time, back in 2006/2007 time frame.
24 ASSEMBLYMAN GOTTFRIED: You talk about having
25 written to DOH, if I'm remembering right, it was

1 around late 2015, telling them things that you knew
2 Two questions.
3 Number one: Could you send us a copy of
4 that, of what you wrote to them?
5 And number -- because it would be useful to
6 see, specifically, what you brought to their
7 attention.
8 And, secondly, did you get a response?
9 ROBERT A. BILOTT, ESQ.: Yeah, the letter
10 I sent was dated December 14, 2015, and it was sent
11 to the mayor of Hoosick Falls and Lloyd Wilson at
12 the Department of Health.
13 And at that point, I was simply trying to
14 provide the information to them about the C8 Scienc
15 Panel, and what information there was available
16 about health risks.
17 And, again, it was in response to the fact
18 that we've heard so much about, you know, the fact
19 sheet that came out, suggesting there was not any
20 reason to be concerned.
21 My -- I just wanted to make sure that they
22 were aware that this information was available.
23 And to my recollection, I did not get a
24 response.
25 I sent a follow-up letter in August, August

1 8th, of 2016. This one was just to Mr. Wilson at
2 the Department of Health, and that one was in
3 response to, I believe it was one of the recent fac
4 sheets that had come out about the blood monitoring.
5 And, again, I was suggesting that it would be
6 possibly helpful for those in the community to have
7 access to links to the C8 Science Panel information,
8 and, you know, that there had been a recent Europea
9 review of the information as well.
10 That Department of Health was providing a
11 number of links, but there did not appear to be, at
12 that point, a link to the actual science panel's
13 work.
14 There was a link to a paper that the panel
15 had authored before they had come out with their
16 links. There was a paper in 2010.
17 So I was suggesting that they ought to
18 provide the link to the actual results, and to the
19 results that had come out from a recent European
20 review.
21 And I did not receive a response to that.
22 ASSEMBLYMAN GOTTFRIED: Could you e-mail us
23 that letter?
24 ROBERT A. BILOTT, ESQ.: Sure.
25 ASSEMBLYMAN GOTTFRIED: Okay. Thank you.

1 I would ask more questions, but you -- both
2 of you have given us so much information, there's
3 not a lot I can think of to ask.
4 It's been enormously helpful.
5 ASSEMBLYMAN ENGLEBRIGHT: Mr. McLaughlin has
6 a question.
7 ASSEMBLYMAN McLAUGHLIN: Just real quick,
8 Rob.
9 Thanks for both of the testimonies. They
10 were fantastic. Very informative.
11 So two letters to a deputy commissioner --
12 I think he's a deputy commissioner at DOH.
13 No response, either one.
14 Did you send them certified? regular mail?
15 e-mail? Do you recall?
16 ROBERT A. BILOTT, ESQ.: E-mail and regular
17 mail.
18 ASSEMBLYMAN McLAUGHLIN: And no response.
19 Okay.
20 And to David: If you had requested your --
21 if the deadline for them was like the weekend of a
22 holiday, past 5:00, that's usually when you'll get
23 response from the administration.
24 ROBERT A. BILOTT, ESQ.: Just to be clear,
25 I'm not recalling a response.

1 I mean, I can double-check again, but I'm not
2 recalling.
3 I know I did not get a response to the one
4 from August 8th.
5 ASSEMBLYMAN McLAUGHLIN: And that was 2015?
6 ROBERT A. BILOTT, ESQ.: August 8, 2016.
7 ASSEMBLYMAN McLAUGHLIN: '16. Okay.
8 ROBERT A. BILOTT, ESQ.: The first one was
9 December 14, 2015.
10 ASSEMBLYMAN McLAUGHLIN: And you don't recall
11 a response to either one?
12 ROBERT A. BILOTT, ESQ.: No.
13 I would have to double-check, though.
14 But I'm not recalling it.
15 ASSEMBLYMAN McLAUGHLIN: Okay. Thank you.
16 ASSEMBLYMAN ENGLEBRIGHT: Mr. Kavanagh.
17 ASSEMBLYMAN KAVANAGH: Thank you both for
18 your testimony.
19 And what -- Chairman Englebright just said
20 this, there's, obviously, a lot of material for us
21 to review.
22 And I just want to take a step back from the
23 situation at Hoosick Falls and this particular PFOA
24 We had discussion earlier about the broad
25 range of chemicals, you know, the eighty to

1 eighty-five thousand, perhaps more, unregulated
2 chemicals.
3 We had testimony about 100 that are
4 regulated.
5 There's a list of 30 that are the contaminant
6 candidate list, that are the subject of the UCMR
7 testing process of unregulated chemicals.
8 I'm just trying to understand:
9 You mentioned, Mr. Bilott, that there was --
10 that DuPont itself had set a standard for drinking
11 water, of one part per billion, some years ago, in
12 response to Mr. Abinanti's question.
13 Did I hear that right?
14 ROBERT A. BILOTT, ESQ.: They developed what
15 they called a "community-exposure guideline." It
16 was by their own internal scientists. It was after
17 they had discovered it was in the drinking water in
18 the community.
19 And so their scientists came up with what
20 they believed was an appropriate community-exposure
21 guideline for PFOA in drinking water.
22 ASSEMBLYMAN KAVANAGH: And that was, when?
23 ROBERT A. BILOTT, ESQ.: It was first
24 recommended in March 1988, and I think officially
25 adopted in 1991, 1992, sometime in that frame.

1 ASSEMBLYMAN KAVANAGH: So some 20 years
2 later, the federal EPA is adding PFOA to the
3 OCMR (sic) list of 30 chemicals to test for.
4 And one of the companies producing them has
5 been setting standard -- at least internally,
6 setting standards for 20 years.
7 And we're just getting around to deciding
8 whether to test for that in water systems around th
9 country.
10 Is it -- you've approached this from the
11 perspective of attorneys, and looking at the
12 activities at individual sites and individual
13 companies.
14 If you were in our shoes, and you were trying
15 to figure out a way to protect the health of
16 New Yorkers by broadening our awareness of what
17 might be in people's drinking water, I mean, first
18 of all, is it reasonable to say that the EPA's
19 testing regime that they're required -- their
20 required testing regime is inadequate in terms of
21 the range -- the very wide range -- in terms of the
22 range of chemicals that they're currently testing
23 for is inadequate, given what we know about the
24 range of chemicals in industrial use?
25 DAVID E. ENGEL, ESQ.: All right. I'll give

1 that one a shot.
2 The practical problem, of course, is that
3 there's so many chemicals. There are thousands.
4 As has been testified to today, there are,
5 literally, tens of thousands of them.
6 If it didn't cost anything to test for
7 chemicals, this would not be a big issue.
8 But it is expensive to take environmental
9 samples, and send them to a qualitative lab and get
10 the results.
11 And the reason why we have these UMCR 3
12 distinctions between big communities and small
13 communities, and I think the threshold is 10,000,
14 I think, in part, and I could be wrong on this, is
15 the recognition that the smaller communities may no
16 have the resources to do all the testing.
17 Now, there's also sort of, I think implicit
18 within that dichotomy, is the view, if something
19 causes only one additional cancer a year in a
20 population of 10,000, hey, maybe you won't see it i
21 a small community, so, why bother?
22 Now, that's a lawyer putting kind of a
23 cynical panache on probably a lot of science that
24 deserves a better characterization than that.
25 But the practical problem is that, small

1 communities are not going have the resources to tes
2 for these.
3 Big communities, like the city of New York,
4 is well-healed, and it also has a water supply that
5 is so well situated, that, notwithstanding what the
6 problems may be in terms of lead in the pipes, whic
7 is a separate issue, its water supply, for the most
8 part, is out of harm's way.
9 But the small communities are really kind of
10 outgunned.
11 So if we're going to expand the requirements
12 of small communities to test, there's going to have
13 to be substantial financial support provided to
14 those communities.
15 ASSEMBLYMAN KAVANAGH: But given that the
16 exposure -- the source and exposure don't respect -
17 well, I mean, they often don't respect which water
18 system they're occurring in. Right?
19 I mean, this is groundwater, and there may be
20 many different water systems that are affected
21 (indiscernible).
22 I'm -- we had testimony earlier, that
23 "10,000" standard means that 2 1/2 million
24 New York State residents are not in systems where
25 there's any testing of the unregulated chemicals at

1 all.
2 Doesn't that -- if you're thinking about the
3 probability that, you know, you want to find
4 exposures of some of these substances, wouldn't it
5 make sense to, I don't know, use something other
6 than the size of the individual water system as a
7 way of determining?
8 Like, you should be testing in each cat --
9 I mean, there are only -- there are not thousands o
10 counties in the state.
11 Shouldn't -- wouldn't -- putting aside who's
12 responsible for the testing, wouldn't it make sense
13 to test for various chemicals, based on geography,
14 based on other kind of methods, of determining the
15 probability of they're going to be in the water?
16 DAVID E. ENGEL, ESQ.: I think that's a valid
17 observation.
18 I've worked on contamination -- water
19 contamination; specifically,
20 groundwater-contamination cases, from one end of
21 New York to the other; literally, from Sag Harbor t
22 Chautauqua. Had a case in each one of those places
23 I had a case in Dutchess County, where a
24 shopping center had two dry cleaners in it.
25 And the subdivision behind the dry cleaner,

1 everybody was on individual private wells.
2 Now, look, there are land-use considerations,
3 and communities have to be mindful of how these --
4 how development occurs.
5 But in that kind of situation, clearly, you
6 have to come up with a better approach than simply
7 ignoring things.
8 And by the way, not too far away from those
9 private wells, there was also a municipal well.
10 So there, perhaps, could be a rational
11 formula developed, by which you look at local
12 land-use patterns, look at the kinds of industries
13 that have been out there, and come up with a plan s
14 that you can rationally test.
15 I've had the occasion to be over in
16 Petersburgh now a few times.
17 It's beautiful.
18 When you're out there, if you didn't know you
19 were in Rensselaer County, with all respect to thos
20 in Rensselaer County, because it is a gorgeous
21 county, you might think you're in the heart of the
22 Adirondacks. And it's bucolic.
23 You have no idea that you're in an area where
24 there's an industrial facility.
25 So some of these things are really well

1 hidden.
2 And there probably has to be some sort of
3 outreach program to locate facilities around the
4 state, that may be so situated, that whatever
5 processes they were engaged in may pose a threat to
6 local water supplies, whether they're publicly owne
7 or private.
8 ROBERT A. BILOTT, ESQ.: And one thing
9 I would add is, at least with respect to PFOA, in
10 particular, I mean, this is one of the very first
11 things the EPA identified as a data need back in
12 2003, was: We don't need to go out and just start
13 randomly sampling all of the public water supplies,
14 you know, just based on their size. Let's identify
15 where this was used.
16 And they tried to get the information about
17 where were the likely places that the chemical was
18 used? Where was it likely sent, manufactured, used
19 disposed, et cetera?
20 To then target those specific locations
21 regardless of what the size of the water supply was
22 You know, and, unfortunately, that
23 information was not voluntarily provided. And
24 I don't believe there was a mechanism at that point
25 to force that.

1 So, you know, again, that's something where,
2 you know, I heard discussion today about the State
3 here, in New York, at least sending out formal
4 requests for that information, about trying to
5 identify those locations now, you know, some
6 10 years later.
7 But, you know, definitely, you could, instead
8 of trying to do it in that random way, try to more
9 narrowly focus it, based on where you know it has
10 been used or sent.
11 And, again, there are certain, you know,
12 entities that would have that information.
13 ASSEMBLYMAN KAVANAGH: And, again, one more
14 question.
15 Recognizing that there are -- you can't test
16 for everything, and you, presumably, don't want to
17 test for nothing, but, does 30 -- does the UCMR's
18 cutoff of 30 substances, that are identified at any
19 given time as the unregulated chemicals that need t
20 be tested for, does that seem like a reasonable
21 number of chemicals to cut it off at?
22 I mean --
23 DAVID E. ENGEL, ESQ.: The whole UCMR 3
24 process has bewildered me.
25 I mean, let's face it, there's a certain,

1 almost Orwellian logic to call something
2 "unregulated chemical," whatever the rest of it is.
3 And the whole idea that we have a whole body
4 of chemicals defined as "unregulated," but then we
5 try to sort of treat them as if they're regulated,
6 is more than a little bit troubling.
7 I do think, by the way, not necessarily in
8 response to your question, that the whole idea of
9 calling things "unregulated" is unfortunate.
10 You know, nothing is unregulated when it
11 comes to being disposed.
12 When you treat something as a waste, it's no
13 longer unregulated.
14 It can be a chewing-gum wrapper. You can't
15 just fling it on the street. There are littering
16 laws.
17 And regardless of whether there are formal
18 standards for these chemicals, and regardless of ho
19 much recognition they've had as individual problems
20 no industry or entity has license to simply dispose
21 of them and be held unaccountable for the
22 consequences of that.
23 So I wish we could get away from that whole
24 nomenclature, but I think that's an issue that's
25 gonna be handled at a bigger -- you know, beyond th

1 scope of hearing, perhaps.

2 ROBERT A. BILOTT, ESQ.: And, you know, one

3 thing to keep in mind too, on that point, about

4 whether it's officially regulated or not, you know,

5 when U.S. EPA brought it's lawsuit against DuPont

6 in 2004, the U.S. EPA took the position that this

7 was hazardous, under RCRA, federal law; that it met

8 the statutory definition of a "hazardous material."

9 So whether it's specifically listed, or not,

10 you know, as Mr. Engel said, there are ways to

11 address that beyond being on a specific list.

12 ASSEMBLYMAN KAVANAGH: Thank you.

13 ASSEMBLYMAN ENGLEBRIGHT: Thank you once

14 again, and you've given us much to think about.

15 I would love to just have a seminar, and

16 listen to you for the better part of a semester.

17 But, unfortunately, we only had you for a

18 short time tonight, but it was really eye-opening.

19 Thank you both; all three of you.

20 Thank you.

21 [Applause.]

22 ASSEMBLYMAN ENGLEBRIGHT: We're going to call

23 the next panel, and, that panel, which is

24 Laureen Hackett, a resident of Hoosick Falls, and,

25 Jennifer Plouffe, also a resident of Hoosick Falls.

1 While you're making your way down, take your
2 time, because we're going to take a break until
3 9:00.
4 We're now at five minutes of nine, and we
5 have to water and de-water, and let people know tha
6 we're still alive, by telephone, and other
7 communication devices.
8 So we'll take 4 1/2 minutes for that and,
9 then we're going proceed.
10 I don't think we should trust the clock,
11 except for the fact that it will be accurate for th
12 next 4 1/2 minutes.
13 (A recess was taken.)
14 (The hearing resumed.)
15 ASSEMBLYMAN ENGLEBRIGHT: I'm going to ask a
16 slightly different group to come up for the next
17 panel.
18 It will include, of course, Jennifer Plouffe,
19 the resident from Hoosick Falls.
20 Is that you?
21 Okay. Good.
22 But I understand that Laureen has had to
23 leave.
24 So what I'm going to do is, I'm going to --
25 there are a couple of the panels here that have had

similar population loss, so I'm going to combine a couple of them. Okay?

So grab a seat while I call, in addition to yourself, Wayne Askew, a resident of Wilseyville.

And I understand that Cheryle Saltmarsh has had to leave.

(Discussion among legislative members.)

ASSEMBLYMAN ENGLEBRIGHT: Let me just say I had a request from two Newburgh residents.

Kenneth Ketchum, is he here?

KENNETH KETCHUM: Yes.

ASSEMBLYMAN ENGLEBRIGHT: And Joshua Brown?

KENNETH KETCHUM: He couldn't stay.

ASSEMBLYMAN ENGLEBRIGHT: So, Mr. Ketchum, if you could join this panel.

KENNETH KETCHUM: Okay. Thank you.

ASSEMBLYMAN ENGLEBRIGHT: And Mr. Abinanti is suggesting others.

(Discussion among legislative members.)

ASSEMBLYMAN ENGLEBRIGHT: I think I'm going to defer for a moment, making that decision, becaus what there -- we're looking at -- there are institutional -- Panel 7 is already here, in the form of Wayne Askew.

Now, I appreciate your patience, and we

1 appreciate very much, each of your testimonies.
2 Let's begin with the swearing in.
3 ASSEMBLYMAN GOTTFRIED: Yeah, do you each
4 swear or affirm that the testimony you're about to
5 give is true?
6 (All witnesses say "Yes.")
7 ASSEMBLYMAN ENGLEBRIGHT: Thank you each very
8 much.
9 And, we'll begin with Jennifer Plouffe, a
10 resident of Hoosick Falls.
11 The forum is yours.
12 JENNIFER PLOUFE: Thank you.
13 Well, I was going to -- I started off in
14 saying, good afternoon, but I must need to change
15 that now.
16 It's been a long day, but I am happy to be
17 here.
18 Again, my name is Jennifer Plouffe.
19 I moved from Richmond, Virginia.
20 I'm a geriatric social worker.
21 I moved to Hoosick Falls on October 1, 2015.
22 I'm originally from Upstate New York, and
23 returned to be closer to my family, in particular,
24 my parents, so that I can be a resource to them as
25 they age.

1 My parents live in Petersburgh, New York,
2 another small down dealing with PFOA contamination
3 of both public and private water sources caused by
4 another factory not too far from Hoosick Falls.
5 I was excited to embark on this new chapter
6 of my life. I spent many months preparing for my
7 move back home.
8 My first order of business was to find a job;
9 my second was to buy a home, my very first home.
10 Being a first-time homeowner, I wanted to be
11 sure I crossed my T's and dotted my I's.
12 I was thorough in my process.
13 I was careful not to buy a home outside of my
14 price range.
15 I put down a good-size down payment on my new
16 home so that my mortgage would be manageable.
17 I researched water-quality reports, and even
18 discovered in my research that Hoosick Falls' water
19 had won awards for being the best-tasting water.
20 I knew I wanted to be close to my new job in
21 Bennington, so I looked for real estate in
22 Hoosick Falls, New York; Petersburgh, New York;
23 Cambridge, New York; Bennington, Vermont; and
24 Pownal, Vermont.
25 What I did not know then, is that all the

1 places I was looking at real estate would later be
2 discovered to have contamination of PFOA in both
3 private wells and public water sources.
4 After months of searching, I found the home
5 I wanted to purchase in Hoosick Falls.
6 I was thrilled, but very nervous. I was
7 about to enter into the biggest financial commitmen
8 of my life.
9 But my nerves about this were eased because
10 I knew this would be an investment. Based on all
11 I knew at the time, it would be a sound investment.
12 I could not have been more wrong.
13 On November 10, 2015, I signed all papers and
14 closed on my home in the village of Hoosick Falls.
15 Less than 24 hours later, I found out that
16 there was a serious problem with the municipal wate
17 supply.
18 There was a high level of a poisonous
19 substance called "PFOA" in the municipal water
20 supply. It has been linked to all different kinds
21 of cancers, as well as other serious health
22 problems.
23 It was in the aquifers.
24 That moment changed everything.
25 I have been drinking water for -- I had been

1 drinking the water for over a month; giving it to m
2 family members, friends, my animals.
3 I immediately went from being the happiest
4 I had ever been, to being terrified.
5 There was no house-warming gathering, no
6 celebration, no nesting or enjoying my new home.
7 My world was turned upside down.
8 There was immediate shock and fear; fear for
9 both my physical and financial health.
10 How could this happen?
11 What did I miss?
12 What am I going to do?
13 With the months of closing on my home in
14 Hoosick Falls -- within months of closing my home i
15 Hoosick Falls, it was deemed a state superfund site
16 Banks stopped providing mortgages to
17 residents. People could not refinance their homes.
18 Since then, property values have dropped
19 significantly and people can't sell their homes.
20 The stigma of "superfund" status impacts real
21 estate and home values.
22 It's only natural.
23 Who would want to buy a home sitting in the
24 middle of an environmental catastrophe?
25 I know I wouldn't.

I have lived this nightmare for almost a year now.

I am not the same person I was when I moved here.

I no longer trust the safety of my drinking water.

I no longer trust local and state leaders.

Why should I?

Why should any of us?

It all reeks of complacency, deflection, and bureaucrat bottlenecking.

When you Google or research Hoosick Falls now, the information on PFOA contamination and how it all came to light is one of the first things you see.

Instead of the best-tasting water, we have a tragic situation, where local and state officials could not decide who's on first, whose court the ball was in...pick whatever expression you choose.

I call it "responsibility ping-pong."

They waited 18 months to tell the residents to stop drinking the water.

Stop drinking the water, because there's a high level of a known toxic contaminant that is dangerous to public health.

1 This is a public-health emergency. Stop
2 drinking the water.
3 We will figure out how to proceed next, but
4 we need to exercise caution, because your health an
5 safety is a priority.
6 We will obtain guidance from our regulatory
7 agencies and proceed.
8 As we all know, this is not how this
9 happened.
10 This is a social-justice issue.
11 This is a human-rights issue.
12 People should have been protected, and been
13 given accurate information so they could protect
14 themselves and the ones they love.
15 The lack of disclosure of the seriousness and
16 scope of PFOA contamination in the municipal water
17 supply is a dereliction of duty by all local and
18 state government officials and regulatory agencies,
19 like the DOH and DEC, who knew about the problem,
20 but decided not to alert those they serve.
21 Public servants.
22 Public servants who had a duty to disclose
23 this information so that, at the very least, the
24 residents could decide for themselves how to
25 proceed.

1 Lying by omission or misrepresentation is
2 still lying.
3 Lying breeds distrust.
4 It's only natural.
5 Hoosick Falls and Petersburgh residents have
6 been, and will continue to be, affected physically,
7 mentally, emotionally, and financially by PFOA
8 contamination for years to come.
9 The beauty of the scenery of Hoosick Falls
10 and Petersburgh is beguiled by big business and big
11 money.
12 The polluters, where are they today?
13 The EPA, where are they?
14 The Governor, where is he? We are his
15 "Flint."
16 The disregard for the health and wellbeing of
17 the residents who live in these towns is criminal.
18 We had a right to know there was a serious
19 problem with the water.
20 We had a right to these hearings. We fought
21 hard for them.
22 We had a right to ask those in charge, why
23 the delay in disclosure?
24 We had a right to hear real answers.
25 Instead of treating the concern as though

1 people were alarmists, caution should have been
2 exercised, and the people and their health and
3 safety should have been a priority.
4 New York State has much to learn about how to
5 handle these types of water-contamination issues.
6 What has happened to the residents of
7 Hoosick Falls and Petersburgh can and should be
8 prevented in the future.
9 PFOA, PFOS, and other emerging contaminants
10 need to be regulated and regularly tested for,
11 especially in areas with heavy manufacturing.
12 This is where being proactive comes into
13 play.
14 Protecting public health should be at the top
15 of every public servant's list.
16 Having safe, clean water is a right of all
17 citizens.
18 We cannot afford to take it for granted, and
19 we have a duty to protect our water sources from
20 polluters who use small towns as their personal
21 trash cans.
22 Thank you for listening to my story.
23 Unfortunately, mine is one of a thousand
24 stories out there of people affected by PFOA and
25 PFOS contamination, not just in New York State, but

1 all across the nation.
2 Interestingly, earlier today, I found out
3 that, today, it was announced that the Senate GOP
4 will finally subpoena the polluters of our communit
5 to testify.
6 This is good news.
7 Why did it take so long for you to subpoena
8 these companies?
9 We have been asking the polluters who
10 poisoned our communities to testify for months in
11 advance of these hearings.
12 Everybody should be here to answer questions.
13 A possible third hearing was mentioned today.
14 We hope the polluters testify at that
15 hearing, and that that hearing is accessible to the
16 residents of the impacted communities, and happens
17 within the capital district.
18 Thank you.
19 [Applause.]
20 ASSEMBLYMAN GOTTFRIED: Next?
21 OFF-CAMERA SPEAKER: That was terrific.
22 ASSEMBLYMAN GOTTFRIED: Do one of you want to
23 go next?
24 WAYNE ASKEW: Good evening.
25 Honorable members of the New York State

1 Assembly and Senate, thank you for providing me the
2 opportunity to testify today regarding the
3 water-quality and contamination issue.
4 I would like to specifically address the
5 problem regarding contamination of water with lead.
6 My name is Wayne Askew.
7 I am a resident of Wilseyville, New York,
8 which is just outside of Ithaca.
9 I have been a lead advocate in New York State
10 for over 30 years.
11 My last testimony on the lead issue was at
12 the lead-abatement hearings chaired by
13 Senator Charles Rangel here in Albany in the
14 mid-'90s.
15 I myself have been exposed to lead over a
16 7-year period, in the '80s during service in the
17 United States Navy, and as a house painter in Ithac
18 in 1987.
19 I was diagnosed as lead-poisoned, with a
20 blood level of 69 parts per million, but this would
21 not be the last time I would get poisoned.
22 I was put -- after my first poisoning, I was
23 chelated, and told it was safe to go back to work
24 with new OSHA standards that would be put in place.
25 Unfortunately, these standards provided to

1 be -- proved to be inadequate, and I was poisoned
2 again the same year, despite following new safety
3 protocols.
4 The second time I was poisoned, my blood
5 level was at 80 parts per million lead blood.
6 My body started to suffer the consequences of
7 being exposed to such a potent neurotoxin, and I wa
8 told I could no longer go back to work.
9 I lost both my health and my livelihood.
10 I will go into further details on the health
11 impacts lead had in one moment, but I want to point
12 out that, although government organizations, such a
13 OSHA, recognized the dangers of occupational lead
14 exposure, grinding operations for the restorations
15 of old homes can still be seen to this day in Ithac
16 and other areas of the state.
17 Little has been done to stop this.
18 So what does this have to do about water?
19 As I am sure you are all well aware of the
20 recent developments in Flint, Michigan, and other
21 areas of the country, including right here in
22 New York State, water is coming up contaminated wit
23 lead.
24 This is a very serious concern, as the amount
25 of lead it takes to do irreversible brain damage to

1 a 5-year-old or younger fits on the tip of a pin.
2 The impact of lead exposure can be very
3 serious, both to the individual, and to the society
4 in general.
5 Although I was exposed three decades ago,
6 I continue to live with the aftermath of what lead
7 did to my body and my mind.
8 In fact, my symptoms continue to worsen with
9 time.
10 My symptoms started with weakness and fatigue
11 back in the '80s.
12 As you can imagine, finding a local physician
13 with in-depth knowledge of the effects of lead
14 poisoning proved to be a daunting task.
15 As such, I ended up in the care of the
16 Irving J. Selikoff Center for Occupational Medicine
17 at Mount Sinai Hospital in Manhattan, where I was
18 treated by both Dr. Steven Levin and
19 Dr. Jaime Zenuk (ph.) for almost two decades.
20 I have been diagnosed with severe toxic
21 peripheral neuropathy and toxic encephalopathy.
22 My ability to walk is limited, and I am in
23 severe chronic pain.
24 My brain suffers from both dementia-like and
25 ADD-like symptoms.

1 All of my symptoms continue to get worse over
2 time.
3 I am living with the horrible effects of what
4 lead can do to a person, and I feel that this is my
5 duty to warn others.
6 When it was brought to light that lead was
7 found to be a contaminant of the drinking water in
8 Ithaca City schools, I attended the very first
9 meeting in the town of Benfield.
10 Lead in water is a particular concern to
11 children, as they can absorb up to 50 percent of th
12 lead that is ingested.
13 In addition to concerned parents and members
14 of the community, officials from the Ithaca school
15 city -- Ithaca City School District and the
16 Tompkins County Health were present.
17 I was appalled at the outdated information
18 that was being presented at this meeting.
19 Of particular concern was the following:
20 The director of the Tompkins County Health
21 Department stated that it was not necessary for
22 parents to get their kids tested for lead.
23 I knew this was not prudent advice, and
24 advised parents to talk to their children's
25 health-care providers about getting their children

1 tested for lead.
2 I have supplied in the paperwork, the amount
3 of lead that was coming through the drinking
4 fountains in the schools, and they were obscene
5 rates.
6 Obscene.
7 Apparently, New York State deems a level of
8 lead, 10 to 14 micrograms per deciliter, to be an
9 appropriate actionable level, when the CDC, since
10 2012, has recognized 5 micrograms per deciliter to
11 be of concern to children.
12 Furthermore, the CDC makes it clear that
13 there is really no safe level of lead in the human
14 being.
15 Not once at this meeting in Benfield was the
16 CDC's information presented, which was disgraceful,
17 given that the parents were hoping to receive the
18 information they needed to keep their children safe
19 Given that my son attends school right
20 outside of Ithaca, in the Candor School District,
21 I expressed my concern to the school officials abou
22 the possibility of lead-contaminated water there.
23 Towards the end of the -- towards the end of
24 last school year, I was reassured that testing woul
25 be soon completed, and the results would be

1 communicated to me.
2 As of late, I have heard nothing further on
3 this.
4 Here we are today, it's the first day of
5 school for many children across New York State, and
6 not all parents can be reassured that the water tha
7 their children are drinking is safe.
8 As such, my son will continue to bring his
9 own bottled water from home.
10 Incidentally, bottled water is under the
11 purview of the FDA, not the EPA.
12 The FDA has an adopted acceptable level of
13 5 parts per billion of lead in water, versus the
14 EPA's 15 parts per billion.
15 It appears that the water sitting for sale on
16 your grocer's shelf is more regulated than the wate
17 our children drink -- drink in school.
18 It's time for New York State to take a hard
19 look at this issue, and strive to lead the country
20 in policies that ensure water safety for all.
21 And I would like to say, that it was
22 mentioned earlier, one of the panel members asked i
23 the levels were going to be lowered again?
24 Well, I can tell you that, just the other
25 day, the EPA is in the process of going from

1 20-parts-per-million, a poisoned child, down to 5.
2 They're going to try and bring it into the
3 CDC's.
4 And I advise New York State to do the same,
5 because 10 to 14 parts per million, the brain damag
6 is already done.
7 There's no acceptable level of lead in the
8 human being, and I can be the poster child for that
9 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
10 much.
11 Kenneth Ketchum --
12 KENNETH KETCHUM: Yes, good afternoon.
13 ASSEMBLYMAN ENGLEBRIGHT: -- a resident in
14 Newburgh.
15 KENNETH KETCHUM: That's correct, I am a
16 resident of Newburgh.
17 And I want to thank the Committee for putting
18 this together.
19 And thank the scientists that have offered
20 their insights, as well as our residents of towns
21 that have been victimized.
22 As the only person representing Newburgh,
23 yes, I have a lot to say, because I'm going to be
24 representing, you know, not only the residents of
25 Newburgh, but those residents that cannot speak

1 English, okay, and they have a lot to say.
2 Newburgh.
3 My wife and I moved to Newburgh in 2007,
4 we're homeowners. And we own a home in The Bronx.
5 And one of the things I did before I even
6 moved to Newburgh, was I did my own environmental
7 study.
8 This is after years of working with a lot of
9 environmental law firms.
10 By profession, I am a litigation paralegal,
11 so I have a background in looking at these type of
12 issues, (indiscernible) defense litigation,
13 contaminated water supplies.
14 You know, it's been my experience,
15 professionally.
16 But, at 5:01, I'm that counselor that works
17 with kids in the inner city. Okay?
18 Kids; whether it's reading literacy at the
19 armory, whether it's boxing or kickboxing at the
20 Newburgh Parks and Recreation Department, whether
21 it's in the churches that are providing literacy
22 instruction to, whether it's in some of the clinics
23 that I provide public-health education on.
24 And, right now, Newburgh is in a crisis.
25 And when I say it's "in a crisis," it's in a

1 crisis in terms of possessing the capacity to trust
2 public officials, you know, for their health.
3 And I'm going to tell you something: Water
4 is just the tip of the iceberg.
5 Okay?
6 You know, you're going to familiarize
7 yourself with me, because for every major issue
8 that's coming up, I, like her, we purchased our hom
9 with the belief that we would be free from such
10 exposure to contaminants.
11 First year we get a water report, it's high
12 concentration of haloacetic acids. You know, these
13 are cleansers that are being used to sanitize the
14 water.
15 It says right in the letter, it says, oh,
16 well, it may possibly be illustrated to show in
17 cancer.
18 Now, I've learned three ways of articulating
19 that today. Okay?
20 But, you know, I said, well, we'll see what
21 happens in the future.
22 And now we're seeing it's getting worse.
23 And, you know, when children ask me --
24 because I've become like the scientific teacher, yo
25 know, like the "Bill Nye, the Science Guy," that's

1 what I've become to youth in the literacy program,
2 because I believe in providing literacy that's goin
3 to provide a benefit, you know, to people, to
4 children.
5 Number one, I'm a fitness trainer, so I'm
6 dealing with high levels of obesity.
7 And so people will tell me, I'm going on
8 diets. Why can't I get this weight down?
9 Why is my cholesterol so high, continuously,
10 okay, after training, after dieting, after working
11 out?
12 Okay?
13 Number two: Oh, we've been here for many,
14 many years, and the kids always act like that.
15 Okay?
16 But they really act like that, you know,
17 especially after they have some lemonade.
18 Okay?
19 Or, you know, that's why the swimming pool is
20 closed, because we can't deal with the water issues
21 You know, when kids ask me, and they're
22 coming in, boxing, and they go between the rounds -
23 and I'll give you just a typical day -- or they go
24 to the reading and literacy program in the armory,
25 they're looking for water.

1 But no one's told them, well, you can't drink
2 that water, because we haven't had the pipes tested
3 we have not had the water fountains tested. So
4 don't drink water at the armory. Here, let's give
5 you some bottled water.
6 Okay?
7 Now they come across the street to the city
8 parks and recreation.
9 They play basketball.
10 Water fountains don't work.
11 Okay?
12 They come now, I'm teaching them kickboxing.
13 Round two, "I want some water."
14 Okay?
15 This is putting an undue hardship on the
16 children from these families because, now, they hav
17 to buy bottled water.
18 That's three times they have to buy bottled
19 water, and they haven't even gotten home yet.
20 Okay?
21 I want to go to the restaurant. All right?
22 My wife, she's Jamaican. She wants to go to
23 the Jamaican restaurants.
24 Okay?
25 Oh, guess what? There are no Jamaican

1 restaurants in the town. They're all in the city o
2 Newburgh, they're all using city water.
3 Okay?
4 We go to the churches.
5 Guess what?
6 Half the churches' water fountains are not
7 working because of the fear of water.
8 This is what I'm talking about.
9 There's no communication.
10 There's nothing that's being disseminated to
11 the public.
12 There's no level of consciousness.
13 And, then, I could say many things.
14 You know, what would the NAACP say?
15 Oh, they would say, this is environmental
16 racism. This is a classic action.
17 We're being uninformed.
18 Working-class people are not being apprised
19 of what's going on.
20 No remediation is being done.
21 Nothing educational is being done.
22 And nothing is being posted.
23 Nothing on the Internet which says, okay, you
24 know, maybe these systems need to be flushed, and
25 they're safe to use again.

1 What is being done?
2 What is happening?
3 Especially on the part of residents who just
4 see their water bills going up.
5 So when, in March, I get a notice in the
6 mail, oh, we want to install -- "we're the new
7 national semiconductor company. We want to install
8 RF (radio frequency) water meters," that sets off
9 flags in me.
10 The son of the first Black engineer for
11 Grumman Aerospace, I know what Grumman did. Okay?
12 You know, my father taught me, as a
13 technician, to be conscious, to be scientifically,
14 you know, educated and aware.
15 So I'm saying, wait a minute. We're getting
16 contaminated water as it is. Now they want to put
17 meters in and transmit radiation, you know, through
18 our houses?
19 This is too much.
20 And realize this is what I have to teach the
21 children when they ask me questions; when they ask
22 scientific questions.
23 Why can't we go swimming in the Hudson?
24 You know, don't jump into the water, you
25 know, while we're kayaking, because it may be

1 contaminated.
2 Don't go to the beach, okay, along the
3 Hudson River. You know, the beach is there, but
4 it's not there are for swimming, you know,
5 Plum Point, because it's contaminated. We can't
6 really go there. Okay? Don't touch it.
7 Okay?
8 You know, we're talking about, someone said
9 one generation?
10 Okay. We're talking about generations here,
11 that kids will never know, you know, we can't get
12 into the Hudson River. We can't swim here. We
13 can't --
14 You know, the water fountains are just for
15 show.
16 They're not -- you know, back, you know,
17 20, 30 years, we used to use water fountains. But
18 now they're just there.
19 Don't worry about them. Don't touch them
20 because, you know, they're dysfunctional.
21 Where do we go?
22 Because it's only going to get worse, in
23 terms of water, and the availability of water that
24 is non-contaminated.
25 As far as I'm concerned and science is

1 concerned, this issue has compelled me so much to
2 even leave my career as a paralegal, and take the
3 exam on the 15th for the water-treatment plant
4 operator.
5 That's how serious I am to become conscious
6 of what's going on, so I can successfully
7 communicate this to the churches and to the parishe
8 and to the students.
9 We're dealing with 6-year-olds, 7-year-olds,
10 who are going to have to worry about how they're
11 going to breastfeed their children when they grow
12 up, because of the water supply that's contaminated
13 You know, what are we going to say?
14 What can I say to these children, that, you
15 know, we're not going to have the water issues or
16 the contamination issues that we're going to have,
17 you know, that we're having right now?
18 Because I expect it to get worse.
19 I don't expect to it get better.
20 I have no faith in the DOH, no faith in the
21 DEC.
22 Okay?
23 I'm relying upon you, as our leaders, to
24 press and to push those questions, like you did,
25 Assemblyman McLaughlin.

To push, you know, these organizations, you know, these publicly-funded and -financed institutions to take responsibility.

To lead us, okay, at the head of the nation. Not just say it's a national problem.

Yeah, it's a national problem, but we live in New York. We don't live in the nation.

That New York has to be a leader in addressing these issues.

Going back to big city versus small city, yes, I moved from the big city, okay, to move to a rural, you know, more suburban community.

And now I can see that the fight is going to have to be taken here at the home front, because nothing's being done in the bigger communities that can save the smaller communities.

What can these smaller communities do, that financially do not have the funds to pay for remediation, to pay for these type of water-filtration systems?

And by the way, I did my own homework, and I noticed even in the town of Newburgh they had issues.

The EPA had three violations, and demanded that the Town of Newburgh do something with its

1 water-treatment plant system, okay, to deal with th
2 high concentration of haloacetic acid by 2013.
3 Nothing was done.
4 There was no new construction done.
5 Nothing whatsoever.
6 And the EPA puts out a map, and they identify
7 the zones that are toxic.
8 But, getting back to PFOS, yes, known about
9 this since 1988, 3M internal memos, and nothing's
10 been done?
11 You're telling me we can read more and find
12 more on Google research today.
13 I mean, I can find it in seconds, sites, you
14 know, brownfield sites, that need to be addressed.
15 And then I can look on them, and say, okay,
16 I'm not going to go trail running in that area,
17 because if I go trail running in that area, I might
18 fall into the water, or, you know, something might
19 happen, or I might be overexposed.
20 Okay?
21 I came in when someone was talking about
22 airborne particulates.
23 I'm sorry I missed that piece of the
24 conversation.
25 But, you know, my whole point, in conclusion:

1 This is something that needs to be done,
2 okay, and we need to educate the public on, what
3 remedies?
4 And when I say "remedies," you want teeth?
5 From a paralegal's perspective, take the
6 corporate charters away from these companies that
7 pollute.
8 You're the lawyers.
9 Okay?
10 Don't -- aren't corporations put into
11 business, and they have to comply with a corporate
12 charter, by the State?
13 Can't we take their powers away to do
14 business in the state, and penalize them, impose
15 criminal penalties for polluters?
16 I mean, this is getting to the point of
17 where, you know, if I can't take children to farms,
18 because I have to worry about running streams and
19 water contamination, okay, what value is that going
20 to have in children?
21 They're going to continue to think like they
22 do in The Bronx, oh, food comes from the store. It
23 doesn't come from a farm.
24 You know, we can't -- you know, we don't
25 believe in swimming, okay, because, you know, the

1 water's contaminated.
2 What am I going to tell these children?
3 Okay?
4 I mean, I ask you to help me fill in the
5 blanks here, because these children are continuing
6 to ask questions, and I no longer have the answer.
7 And the only way that I can seem to have the
8 answers is, drop out of law school, and then work,
9 you know, for some water-treatment plant, and then
10 provide a solution, if it has to come from the
11 business side, if I have to manufacture filtration
12 systems myself.
13 But what's going to happen to the kids when
14 they are in -- like I said, looking even more so at
15 behavioral-health issues on a long-term basis?
16 What impact is that having on their bodies,
17 the exposure level, you know, to their DNA, okay,
18 to, you know, what's happening in their brain cells
19 I mean, I'm not a scientist. Okay?
20 And no one's asked those questions.
21 And I see now, we really don't have anything
22 in place to deal with those long-term issues.
23 So when we say, you know, 10 years from now,
24 oh, well, the testing-score levels went down at tha
25 public school, but, maybe they were exposed to too

1 much water at that time. You know, that's all they
2 had at their disposal.
3 You know, I'm already working on the next
4 level, the next level of environmental; and that's,
5 you know, radiation in cell-phone towers and -- and
6 antennas. Okay?
7 That's what I'm working on.
8 Water is kind of past, because if we don't
9 change; if we don't change our policies and we don'
10 put some teeth in legislation to stop and to compel
11 these companies to take greater social
12 responsibility, then where are we going to go from
13 here?
14 Me getting a master's degree in public health
15 is not going to help.
16 That's not -- you know?
17 Can we use the laws that are on the books
18 already, that exist?
19 Okay?
20 Or do we have to create new ones, to put some
21 teeth, to prevent this type of situation from
22 happening?
23 We're all affected by water, every one of us.
24 Okay?
25 It comes from streams that are fracked in

1 Pennsylvania and Ohio.
2 You know, we're all impacted.
3 We can't escape it.
4 And this is one where we should have to.
5 Regardless of partisan politics, we have to
6 take the initiative and unite, because, if we don't
7 save our water, it's over for us. It's over with.
8 So...
9 [Applause.]
10 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
11 much.
12 Three extraordinarily compelling testimonies.
13 Questions from this side of the podium?
14 Mr. Abinanti.
15 ASSEMBLYMAN ABINANTI: I just want to second
16 the comments of the Chairman.
17 Thank you for coming to us and putting a face
18 on the problem, because when you listen to the
19 officials who supposedly represent us in the variou
20 agencies, they see us as numbers.
21 This number is higher than this number, and
22 it doesn't really have an impact.
23 But the three of you told us what this really
24 does do to everyday people, who are just trying to
25 lead their lives and make things better for their

1 families.
2 And, so, thank you for coming forward.
3 It takes a lot of courage to come to a
4 legislative hearing, spend your entire day here, an
5 reveal your whole inner self, and let it all out.
6 So, thank you very much.
7 I just wish this had happened earlier in the
8 day.
9 Maybe some members of the press would have
10 heard the real impact and the real crisis that we
11 have in New York, rather than some bureaucrats
12 double-talking over and over and over again.
13 So I would just express my thank you for
14 coming to tell us your story.
15 OFF-CAMERA SPEAKER: Thank you.
16 OFF-CAMERA SPEAKER: Thank you for the
17 opportunity.
18 ASSEMBLYMAN GOTTFRIED: You know, the only --
19 Mr. Ketchum, were you discussing higher education
20 that you are pursuing, or thinking of pursuing?
21 KENNETH KETCHUM: Uhm, right now, yes.
22 I dropped out of law school, and I'm thinking
23 about getting a master's in public health.
24 But at the same time, I noticed the
25 water-treatment exam is coming up again, second tim

1 this year, and, this time, I'm going to take it,
2 it's on the 15th of October, and because I want to
3 become more involved.
4 And I recommended this career to a friend of
5 mine, and he's in Florida. And he's telling me wha
6 is being put in the water, the contaminants, you
7 know, the agents that are used, the coagulants.
8 Okay?
9 And he's saying that, you know, this is
10 the -- the EPA, this is what I'm learning from him,
11 has set the highest water standards in terms of
12 their water-treatment plants across the country.
13 And he's saying that, at the same time, a lot
14 of these municipalities cannot afford the
15 remediation on aging infrastructure.
16 And, you know, if we don't spend the money,
17 okay, to make the reparations in the systems now,
18 I mean, what gets me is, emerging contaminants.
19 That's what scares me, because we have many
20 more thousands of chemicals that are, you know,
21 dumped into our systems.
22 And I teach martial arts, too, at the
23 air force base.
24 And I have a neighbor who is also a marine,
25 I'm an ex-marine, and we're both now concerned.

He works on the base.

He's been to Afghanistan.

He's so angry and fired up.

And, he's a New York City cop, by the way, too.

And so every time now we go on the base, we're concerned. Are we getting exposed?

So, you know, these are issues that the public is, unfortunately, completely unaware of.

There's no one in Newburgh right now, okay, I'm talking about 32,000 population -- 32,000 in th town of Newburgh -- 32,000, in Newburgh, that is conscientious that anything is being done, that any activity is taking place, to protect their health.

And, you know, the water bulletins, as they come out, yes, the language is very weak, it's innocuous. Okay? And, you know, it doesn't -- it doesn't provide an issue for one to go out and buy their own water-filtration system.

But at the same time, you do your own homework, and you see the long-term health effects. You know, problems with cholesterol.

I'm concerned primarily, because of behavioral-health issues, because I see the children, and I see their reactions.

1 And I see, you know, over 7 years, 9 years,
2 12 years, and I'm seeing certain behavioral
3 pathologies, that, you know, based upon just the
4 science, I see could possibly be a link.
5 And so, yes, I am now making this a career
6 choice.
7 You know, as I indicated, you know, getting a
8 master's degree in public health is not going to
9 work.
10 I'd rather be working on the front lines in
11 the industry, so I can articulate, firsthand, what'
12 happening, and propose some solutions.
13 ASSEMBLYMAN GOTTFRIED: Thank you.
14 ASSEMBLYMAN ENGLEBRIGHT: Thanks very much to
15 each of you.
16 (All witnesses say "Thank you.")
17 ASSEMBLYMAN ENGLEBRIGHT: I just want to make
18 an announcement.
19 First, I'm going to call the next panel,
20 which I'm going to combine a couple of panels.
21 William Cooke, Citizens Campaign for the
22 Environment;
23 Elizabeth Moran, the water and natural
24 resources associate of Environmental Advocacy of
25 New York;

1 John Parker, director of legal programs;
2 Dan Shapley, water-quality manager; Riverkeeper.
3 Daryn Cline, director of environmental
4 technologies, Alliance to Prevent Legionnaires'
5 Disease.
6 That will be the next panel.
7 And let me just also indicate that the --
8 because the day has gone so long, it was audible up
9 here to hear our stomachs growling and peristalsis
10 taking place.
11 Apparently, Mr. Gottfried heard that, because
12 he has offered each of you a slice pizza, and paid
13 for it.
14 ASSEMBLYMAN GOTTFRIED: Well, you're chipping
15 in.
16 ASSEMBLYMAN ENGLEBRIGHT: I am.
17 I didn't know.
18 All right.
19 That will be at the rear of the chamber, in
20 the hallway.
21 You can just cycle back and get a slice, but
22 please eat it outside.
23 And please remember and say "thank you" to
24 Chairman Gottfried for his empathy and generosity.
25 ASSEMBLYMAN GOTTFRIED: Actually, it was

1 Wendy Pastor on my staff who told me I was doing
2 that.
3 ASSEMBLYMAN ENGLEBRIGHT: Bill Cooke, you're
4 first.
5 ASSEMBLYMAN GOTTFRIED: Before you begin, do
6 each of you swear or affirm that the testimony
7 you're about to give is true?
8 (All witnesses say "Yes.")
9 WILLIAM COOKE: I swear, to the best of my
10 knowledge.
11 At my age, you have to make that disclaimer.
12 Good evening.
13 Thank you for the opportunity to appear.
14 You've been provided with our written
15 testimony, so I'm just going to touch on a couple o
16 issues.
17 In our testimony, we talk about clean-water
18 infrastructure.
19 ASSEMBLYMAN GOTTFRIED: Excuse me.
20 You should each tell us your name.
21 WILLIAM COOKE: I'm sorry?
22 ASSEMBLYMAN GOTTFRIED: Each tell us your
23 name.
24 WILLIAM COOKE: My name is William Cooke, and
25 I'm with Citizens Campaign for the Environment.

1 And my organization appreciates the
2 opportunity to be here, and appreciates the work of
3 the Legislature on these issues.
4 We talked briefly about clean-water
5 infrastructure and the needs, and we've heard about
6 that today previously.
7 There's one little wrinkle.
8 The federal government, who is absent without
9 leave on water-infrastructure issues, and has been
10 for many, many years, this started back during the
11 time of Ronald Reagan.
12 And what has happened, as you know, is the
13 federal government has simply walked away.
14 Well, we'll give you less, we'll live you
15 less, we'll give you less.
16 The problem is, we have seen no indication
17 that the federal government has any interest in
18 stepping up and doing the right thing.
19 Now, the reason that's important, is because
20 it leaves the state and the locals to deal with it
21 ourselves.
22 So, we talk about the needs.
23 We talk about both wastewater and the
24 drinking-water infrastructure.
25 We certainly appreciate the Water

1 Infrastructure Improvement Act of 2015, and the
2 additional monies that the Executive and the
3 Legislature dedicated to that.
4 The long-term $70 billion wastewater and
5 drinking-water need over 20 years is a number that'
6 pretty hard to deal with.
7 If you chew it down, what we need to spend is
8 about 3.5 billion, "about $3.5 billion," a year.
9 Now, the good news is, when we put money into
10 infrastructure, we get a lot of good-quality jobs
11 that come along with it.
12 And at the end of the process, we get better
13 water quality, better protected, better service, to
14 the customers.
15 We also talked briefly about the issue about
16 pharmaceuticals in our water, both, here in
17 New York, but also nationwide.
18 And if you look at the amount of sales the
19 pharmaceutical companies do, and if you look a what
20 happens to those products, at the end of the day, a
21 lot of it ends up in our waters.
22 Now, we've had an issue, where the federal
23 government recommended for years that unused meds
24 should be flushed. Literally, should be flushed.
25 Obviously, we now are very clear that that's

1 a mistake, but, there's still a lot of institutions
2 that are doing that in this state because they don'
3 have any other reasonable choice.
4 The DEC and DOH both have a couple of
5 programs that deal with pharmaceutical take-back,
6 and both have been shown -- the DEC one especially
7 has been shown -- to be incredibly effective for th
8 that dollar spent.
9 They, literally, ended up with a couple of
10 tons of pharmaceuticals that did not end up in the
11 waste stream, did not end up in the water.
12 Important issues.
13 We also talk about the coal-tar issue, and
14 coal-tar sealants.
15 Not something you hear a lot about in the
16 Legislature, but there's been legislation proposed
17 to address that issue.
18 Environmentally, coal tar is not our friend,
19 and it's not something we should be putting back ou
20 in the environment on our driveways.
21 It's something that a number of other states
22 have addressed.
23 26 years ago, I sat before a budget committee
24 and urged that the State of New York start to
25 address water-infrastructure needs.

1 26 years ago.
2 The number was a lot less then.
3 We suggested a number of ways to get at this,
4 and all of those suggestions fell on deaf ears.
5 One of the sad things about being old is,
6 27 years later, I'm sitting in front of an esteemed
7 body of professionals, elected officials, our
8 representatives, and I'm urging that we start to
9 address our water-infrastructure needs in a more
10 long-term, strategic way.
11 I understand the federal government should be
12 putting a lot of money on the table, but we also --
13 you know, we all have been in the business a long
14 time.
15 We know that's not going to happen.
16 We know that's not going to happen.
17 We can't win anymore.
18 And, our heart goes out to all of the
19 affected families in the Hoosick area, in Berline,
20 in Taconic, in North Bennington.
21 But the real tragedy is, they're not alone.
22 There's communities all over this state that
23 are either going through similar problems or are
24 going to.
25 We will be forced to spend a lot of money and

1 a lot of time after people have suffered a great
2 deal to fix problems of the past.
3 Wouldn't it make sense to not create more?
4 I appreciate the opportunity.
5 ASSEMBLYMAN ENGLEBRIGHT: Next,
6 Elizabeth Moran.
7 ELIZABETH MORAN: Good evening.
8 Thank you all for the opportunity to testify
9 today.
10 I know it's been a long day, and I will try
11 to keep this as briefly as possible.
12 My name is Elizabeth Moran. I'm with
13 Environmental Advocates of New York.
14 I trust that this won't be controversial or
15 novel, but, Environmental Advocates of New York
16 believe that New Yorkers have the right to clean an
17 healthy drinking water, and it's a basic expectatio
18 of government, that the water that's coming from ou
19 taps don't make us sick.
20 Yet, due to a variety of factors, communities
21 are increasingly forced to grapple with unsafe
22 drinking water, and government that's been often to
23 slow to act.
24 Our testimony will cover much-needed next
25 steps for the State to take, as well as impending

1 decisions that could further compromise water
2 quality.
3 All New Yorkers, particularly those still
4 reeling from water contamination in Hoosick Falls,
5 Newburgh, and Petersburgh, as well as other
6 communities, deserve clear, concise, factual, and
7 complete answers on what happened, when, and why, a
8 well as who knew what, when, and why key decisions
9 were made in regards to their communities' PFC
10 contamination.
11 Additionally, all New Yorkers deserve to know
12 their government is ensuring that drinking water
13 elsewhere is safe, and what the state departments o
14 Health, DEC, and others are doing to end the era of
15 unregulated industrial chemicals, as well as
16 proactively protect our health.
17 It's been almost an entire year since we all
18 became aware of what happened in Hoosick Falls,
19 which now includes Newburgh, Petersburgh, and
20 eastern Long Island.
21 Despite today's questioning, to date, there
22 have been too few answers that have been given and
23 too few action plans created, which should begin
24 with statewide water-quality testing by the
25 Department of Health.

1 We encourage legislators to lead in the
2 creation of a statewide action plan as quickly as
3 possible.
4 The Governor just made it a law for public
5 schools to test for lead in drinking water.
6 And, today, DEC and DOH announced that they
7 are urging the EPA to close the UCMR loophole.
8 There's no doubt that these are important
9 steps, but we have to ask, why wait?
10 Why not begin testing water systems statewide
11 for unregulated contaminants, starting with the PFC
12 family, now.
13 It's no secret that the State has led on
14 numerous efforts before, including fracking, and ha
15 taken a precautionary approach that we feel is the
16 right approach and is the most protective of public
17 health.
18 We don't see the need for the State to wait,
19 and we're counting on you legislators to help us
20 take those efforts.
21 The next portion of my testimony, you'll see
22 that I have a list of questions that have gone
23 unanswered.
24 I won't go through all these questions today,
25 but we do want to implore that you reach out to EPA,

1 and follow up with DEC and DOH, on these questions.
2 While many of you did a wonderful job of
3 asking them today, we as an organization are
4 unsatisfied with those answers as we think that man
5 residents of the impacted communities are.
6 So we ask you to continue pushing for
7 straightforward answers.
8 So to outline what, as an organization, we
9 feel our next steps the State should take:
10 A statewide action plan:
11 Water contamination is not limited to
12 Hoosick Falls, nor is it limited to PFOA or PFOS.
13 However, there are likely communities in
14 New York State right now consuming poisoned water,
15 because the Department of Health has not committed
16 to statewide water-quality testing, and, because of
17 that, it could be years before these contamination
18 crises come to light, like what happened in
19 Hoosick Falls.
20 The DEC announced plans to survey companies
21 currently in operation which may have utilized PFOA
22 in the past. That totals approximately
23 150 companies.
24 However, this survey relies on
25 self-reporting, fails to account for possibly

1 hundreds of businesses no longer in operation, and
2 the DEC has currently resisted efforts to make the
3 survey results public.
4 New Yorkers need and deserve statewide
5 water-quality testing to establish baseline safety
6 measures.
7 The Legislature should demand that DOH begin
8 as quickly as possible, and provide a report back,
9 prior to the enactment of the Fiscal Year '17 to '1
10 budget, to ensure, if additional resources are
11 necessary, occurs.
12 And, I won't take too long to go over this,
13 since numerous people have today, but we have to
14 urge for a call for long-term medical and
15 biomonitoring in the impacted communities.
16 In DEC's consent order with Saint-Gobain and
17 Honeywell, they reserved the request that these
18 companies fund a biomonitoring and
19 medical-monitoring program.
20 Currently, as you saw, residents in
21 Hoosick Falls are scared and very concerned about
22 the impacts PFOA will have on their health, and wha
23 it means to have this in their blood.
24 We urge the department to call on these
25 companies to fund these programs in Hoosick Falls,

1 and we implore them to do the same in Petersburgh
2 and Newburgh.
3 I think the health impacts of PFOA were made
4 pretty clear today by experts who have studied this
5 much longer than I, but I do have to say that
6 there's been some inconsistencies about blood
7 testing in Newburgh.
8 I think the State made the right decision to
9 do blood testing in Hoosick Falls, and now it looks
10 like they're going to be doing so in Petersburgh.
11 But, they didn't wait for the CDC in those
12 communities, and we don't see the need for them to
13 wait to do so now.
14 The residents in Hoosick Falls now are aware
15 of the levels of their exposure because of the bloo
16 testing that took place there.
17 And Newburgh residents deserve the same.
18 They deserve to know their exposure levels to PFOS.
19 They don't even know how long this chemical
20 has been in their water and how long they've been
21 drinking it.
22 Chemical regulation:
23 As it's been stated before, there are more
24 than 80,000 unregulated chemicals saturating the
25 market. Few have been independently tested for

1 safety.
2 Until recently, PFOA and PFOS were among
3 them.
4 This is a failure of state and federal
5 authorities.
6 Pharmaceuticals undergo intensive testing to
7 determine health impacts before receiving approval
8 from the Food and Drug Administration, yet
9 industrial chemicals may go right to market.
10 With few exceptions, state government has
11 been unwilling to act.
12 For instance, legislation, which has been on
13 the books since the 1970s, to require disclosure of
14 chemicals used in cleaning supplies, is still not
15 enacted.
16 The DEC has stated their intent to release
17 draft regulations since 2013, and that has yet to
18 occur.
19 The Legislature should pass legislation that
20 requires DOH to undertake a deliberate and continua
21 process for reviewing unregulated chemicals,
22 determining their safety and environmental impacts,
23 and enacting rules on acceptable use and disposal.
24 And the last point we have today, as others
25 have iterated: The successes of the

1 clean-water-infrastructure grant program.
2 One of the focuses of late has been on the
3 healthfulness of the water we all drink.
4 We cannot forget that there's a great need to
5 upgrade our aging infrastructure, and, as stated
6 earlier today, the need is truly enormous.
7 And while the start has been nominal on the
8 State's behalf, we still have to do a lot more.
9 We do need to see more money put into the
10 state grant program, and we need to see it go beyon
11 this year when it's set to expire. We need to see
12 this be a continual program.
13 So, in conclusion:
14 We have a water-infrastructure crisis.
15 We have two huge health threats, lead and
16 PFOA, showing up in the water we drink.
17 And we don't have the structure in place at
18 the state or federal level to address unregulated
19 chemicals.
20 And, New York State has lost the trust of the
21 public.
22 It's moments like these that test our
23 collective mettle, and it's how we collectively
24 emerge that will define the usefulness of today's
25 hearings.

1 Let's commit today to standards, and create a
2 program that other states and the federal governmen
3 will emulate.
4 We're New Yorkers.
5 We've led before, and we should lead again.
6 It's what's expected of us.
7 Thank you.
8 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
9 I'm just wondering, is the director of legal
10 programs, and the water-quality manager,
11 respectively, John Parker, and Dan Shapley, of
12 Riverkeeper, you are one testimony?
13 DAN SHAPLEY: I'll be speaking on that.
14 ASSEMBLYMAN ENGLEBRIGHT: You're going to
15 alternate words, or --
16 DAN SHAPLEY: Yes.
17 ASSEMBLYMAN ENGLEBRIGHT: -- you're going to
18 speak for both?
19 DAN SHAPLEY: It's Dan Shapley, water quality
20 program manager for Riverkeeper, and I'll be giving
21 Riverkeeper's testimony today.
22 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
23 DAN SHAPLEY: Thank you.
24 And thank you all for the invitation to be
25 here, for your stamina, and your very, very good

1 questions throughout the day.
2 I really appreciate that.
3 Riverkeeper appreciates your attention to
4 this wide-ranging set of issues.
5 As Riverkeeper, we could certainly focus an
6 hour of attention on water-quality issues.
7 It's what we do every day.
8 It's what we think about every day.
9 I will, instead, direct you to our testimony,
10 which goes into some detail, particularly on the
11 case of Newburgh, and the lessons that we have draw
12 from it, that we believe can be applied statewide
13 for source-water protection, and, in fact, address
14 many of the themes that have run through today that
15 have kind of lingered in the air.
16 How can we address, you know,
17 80,000 chemicals, when we're only regulating 90?
18 How can we prevent the next Hoosick Falls,
19 the next Newburgh?
20 And I would propose to you that we actually
21 know how to do that.
22 We've done it before in New York State.
23 In fact, we talk about it all the time.
24 We go around the world and talk about the
25 example of New York City, and how we protected the

1 drinking water supply for our biggest city, our
2 greatest city, and how we, in fact, are even using
3 that water.
4 It's without question that we say, when
5 Newburgh is able to tap into a clean-water source,
6 New York City's drinking-water source, we all
7 understand immediately that it means that's clean
8 water.
9 So we know the tools.
10 We need to protect our streams, protect our
11 wetlands, protect our forests.
12 We need to not allow industrial development
13 or commercial development or strip malls or gas
14 stations or parking lots to run rampant through the
15 watersheds that we're relying on for drinking water
16 We know the tools that we can apply.
17 We need the courage to apply them.
18 With that, I do want to touch on a couple of
19 particular issues.
20 As I said, please refer to our testimony.
21 Also, please refer to our friends at
22 Scenic Hudson who have focused on PCBs, and the
23 important need to clean up that issue. It's part o
24 a comprehensive approach, and it's one that we woul
25 echo completely in their written testimony.

1 As to a few specifics that I just want to
2 underscore:
3 In the case of Newburgh, you've heard today,
4 blood testing is, obviously, a critical first step
5 in a comprehensive medical-monitoring program that
6 must be implemented in Newburgh, as it has been in
7 other communities.
8 It's not only the right thing to do for those
9 residents. It's a simple matter of justice.
10 As we have heard, this is a classic
11 environmental-justice community.
12 The median household income is much lower
13 than the statewide average.
14 The proportion of people who are non-White is
15 much greater.
16 This is a community that needs our attention,
17 and deserves, if anything, a greater response, not
18 less.
19 We also have urged, and you heard something
20 in the city manager's testimony, about a technology
21 that can treat the effluent from, in his testimony,
22 the drinking-water source for the city which is
23 contaminated.
24 In diverting that source back into the
25 streams, of the Moodna Creek, and the Hudson River,

1 the DEC is going to implement a temporary filtratio
2 system on that water.
3 We also need to see that applied to the
4 actual source of the contamination, the air nationa
5 guard base.
6 It's something that we've been calling for
7 for some time, and we'd like to see the DEC
8 implement.
9 We'd love your help to support that.
10 We also need, in parallel, a source-water
11 protection effort.
12 And we were very gratified and happy to hear
13 the DEC commit to a new source-water assessment for
14 Newburgh, in today's testimony.
15 That's the first time we've heard that, and
16 it's something we've been calling for, and I'll tel
17 you why it's so critical.
18 It's critical in Newburgh particularly,
19 because the source-water assessment that was done
20 for Newburgh has been described to you today as out
21 of date, as incomplete.
22 Those are very kind words.
23 This is a source-water assessment that I'll
24 remind you was ordered by Congress in 1996, to have
25 all public water supplies undergo a source-water

1 assessment, to understand what the vulnerabilities
2 were, understand the risks to that water supply, so
3 that they could be mitigated and eliminated.
4 In Newburgh's case, a 100-year-old reservoir,
5 the primary drinking-water source for that
6 community, was not even assessed.
7 Therefore, the air national guard base, now a
8 superfund site, not identified as an obvious source
9 of potential contamination.
10 The Stewart Airport, not identified.
11 A whole host of things outlined, again, in
12 our testimony. I won't go into more detail.
13 But the source-water assessment was a
14 failure. Could have caught many of these issues
15 before they became acute health problems.
16 So we feel that a new source-water assessment
17 program for Newburgh should be a model that can be
18 applied statewide, and, in fact, must be applied
19 statewide.
20 As I said, to use the lessons that we know
21 and have used right here in our state to protect
22 drinking water.
23 We have many laws on the books that can do
24 this. It's a matter of the implementation of them.
25 I do want to underscore, as well as

1 my colleagues, the importance of the Water
2 Infrastructure Investment Act.
3 We've heard many people talk about its
4 importance as a proactive step to prevent the next
5 problems, and it is critical for that.
6 We also need to see the PSC adopt a strategy
7 for water-resources management that is in the same
8 vein as the energy future plan that is going for
9 energy. We need the same kind of revolution in
10 water that we're pushing in energy.
11 And, finally, to implement, effectively, any
12 of these, our agencies, as we've seen today, need
13 clear direction, and, in some cases, probably a
14 pretty severe shake-up. But, certainly, resources
15 and staff to implement whatever programs that you
16 come to as the solutions, which we hope we can help
17 to outline.
18 We would welcome the chance to talk over the
19 details of this white paper on Newburgh at a later
20 date, in more detail, with any of you who would lik
21 that.
22 And with that, I will close, and thank you
23 again for the opportunity.
24 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
25 much.

1 Daryn Clyne, the director of environmental
2 technologies for the Alliance to Prevent
3 Legionnaires' Disease.
4 DARYN CLINE: Yes, that's correct.
5 ASSEMBLYMAN ENGLEBRIGHT: The forum is yours,
6 sir.
7 DARYN CLINE: Thank you.
8 Honorable Chairs and other members of the
9 Health, and, Environmental Conservation, committees
10 my name is Daryn Cline, director of environmental
11 technologies at EVAPCO.
12 I'm here today representing Alliance to
13 Prevent Legionnaires' Disease.
14 We thank you for the opportunity to testify
15 about water quality and contamination; and in
16 particular, the pathogen Legionella bacteria, the
17 most common cause of waterborne disease in the
18 United States.
19 The alliance has submitted written testimony
20 which includes two infographics about Legionnaires'
21 disease and prevention.
22 Today I will summarize our testimony.
23 Legionnaires' disease is a severe form of
24 pneumonia that can occur through aspiration or
25 inhalation of water droplets contaminated with

1 Legionella bacteria.
2 In manmade water systems, Legionella can grow
3 and cause disease in humans.
4 According the Centers for Disease Control and
5 Prevention, there are approximately 5,000 cases of
6 Legionnaires' disease reported each year in the
7 U.S., and nearly 10 percent of cases are fatal.
8 Thousands of cases go unreported.
9 This summer marks the one-year anniversary of
10 the worst outbreak in New York City's history, in
11 The Bronx.
12 Efforts to date to prevent Legionnaires'
13 disease are failing, as evidenced by a recent CDC
14 report which cited a fourfold increase in reported
15 Legionnaires' disease cases in the last decade.
16 In responses, Alliance to Prevent
17 Legionnaires' Disease has recently been formed. We
18 are working with public-health and medical
19 professionals, disease-prevention experts, impacted
20 individuals and family members.
21 The mission of the alliance is to promote
22 best practices around preventing Legionnaires'
23 disease, and to provide the tools to help protect
24 the public against future outbreaks.
25 The state and city regulations enacted

1 following last summer's outbreak do not follow best
2 practical guideline for prevention, and leave the
3 public at significant risk, as proven by the
4 subsequent outbreaks since their enactment,
5 including the very recent clusters in Harlem in two
6 separate apartment buildings.
7 To effectively protect the public and prevent
8 cases of Legionnaires' disease, our alliance
9 recommends the following: Test, control, and
10 monitor for Legionella in public water supplies,
11 improve water-quality management in and outside
12 buildings, and use proper investigational protocols
13 when cases are reported.
14 Recommendation number one: We believe that
15 if government and health officials are serious abou
16 preventing the spread of Legionella bacteria and th
17 disease it causes, they must take a much closer loo
18 at the water that flows into buildings to ensure
19 that it is properly treated and disinfected against
20 the bacteria.
21 A recent study found that the corrosive tap
22 water in Flint, Michigan, was not only linked to
23 dangerous lead levels, but also contributed to
24 two outbreaks of Legionnaires' disease.
25 According to study author Dr. Amy Pruden, an

environmental microbiologist at Virginia Tech, studies have illustrated that corrosion in drinking-water pipes can stimulate the growth of Legionella.

Further, since Legionella has been shown to survive certain chemical disinfects used by water-treatment plants, drinking water must be closely monitored to ensure that Legionella is bein effectively eliminated, and to prevent growth as water travels from treatment plants to water-distribution systems and into buildings.

Today, Legionella is not included in the list of pathogens that are tested and monitored for in drinking water. However, experts have been calling on the EPA to require it, another unregulated contaminant that did not make it to the list.

It is critical for Legionella to be properly monitored in drinking-water systems, particularly when there are infrastructure or source-water changes, construction, or other system disruptions that can dislodge biofilm and release Legionella into water entering buildings.

Finally, it is important to note that, on May 5, 2015, the source of water serving areas of The Bronx was changed.

1 After years of work, water from the
2 Croton Watershed began flowing to the South Bronx
3 and western Manhattan.
4 Since Legionella is currently not a pathogen
5 that is tested for in drinking water, there would
6 not have been any monitoring of the water supply fo
7 the bacteria during this major infrastructure and
8 source-water change.
9 Beginning in late 2014, and through the fall
10 of 2015, several outbreaks of Legionnaires' disease
11 occurred in The Bronx which infected 133 people and
12 lead to 16 deaths.
13 We strongly urge New York State to ensure an
14 adequate level of chemical disinfection against
15 Legionella throughout water-distribution systems,
16 and to require testing for the bacteria at distal
17 points in the system to confirm the bacteria is
18 controlled.
19 Recommendation number two: Today, we are
20 also recommending that the State and localities wor
21 to incentivize the use of the CDC's Toolkit on
22 Legionnaires' Prevention to improve water-quality
23 management.
24 Over the last few months, the State and
25 New York City health departments adopted regulation

1 related to the prevention of Legionnaires' disease.
2 Despite the recommendations of many disease
3 experts, New York City officials targeted cooling
4 towers in their investigations last summer, and did
5 not test the drinking water in the homes or
6 workplaces of those who contracted the disease.
7 And despite comments by many organizations
8 and experts, the regulations they put in place
9 ignore the evidence and best-practice
10 recommendations of the CDC and others which identif
11 drinking water as a primary source of Legionella
12 bacteria.
13 Instead, the New York requirements focused on
14 testing and inspection of cooling towers, equipment
15 which utilizes the same water that enters and
16 circulates through buildings and is used for
17 drinking and showering.
18 The state regulations also codify
19 requirements on health-care facilities that have
20 water-management programs, but ignore many other
21 high-risk buildings where individuals live and work
22 It seems that it was politically advantageous
23 and easier to blame cooling towers, and tell
24 residents that their drinking water was safe; a
25 common theme of agency officials recently.

1 However, these regulations have not been
2 effective.
3 For instance, immediately following enactment
4 of the emergency ordinances in August 2015, there
5 were two subsequent outbreaks in The Bronx at the
6 Melrose Houses and Beacon of Hope in September 2015,
7 where Legionella was found in the water-distributio
8 system serving these locations.
9 Further, in September 2015, it was made
10 public that an infectious-disease doctor employed b
11 Lincoln Hospital in The Bronx tested the drinking
12 water in homes of his patients during the outbreak,
13 and found six of the patients' homes tested positiv
14 for the bacteria in their kitchen faucets, bathroom
15 showers and faucets.
16 Four days after conducting the test,
17 Dr. Michael Skelly was fired for doing so.
18 He has since filed a wrongful-termination
19 lawsuit.
20 According to the lawsuit, he was fired at the
21 request of New York City Health Department
22 officials, who told his boss, We know what he is
23 doing and we expect to it stop.
24 When he refused to stop testing the drinking
25 water, he was fired.

1 Finally, according to the CDC, there have
2 been approximately 317 reported cases of
3 Legionnaires' disease in New York State so far in
4 2016.
5 In one week alone, in late January of 2016,
6 27 cases were reported in New York City.
7 And, recently, the city health department
8 announced there were multiple cases at two differen
9 apartment buildings in Harlem.
10 Based on CDC guidelines, each of those
11 incidents would be considered an outbreak.
12 The state and city requirements are not
13 working to prevent cases and, accordingly, they
14 should be repealed.
15 Instead, state and city officials should work
16 with building owners, to incentivize the use of the
17 CDC toolkit to help prevent Legionnaires' disease.
18 Recommendation number three: Finally, in
19 order to identify the true source of Legionnaires'
20 disease cases, government and public-health
21 officials must use nationally-recognized
22 investigation protocols, in their entirety, when
23 cases are reported.
24 This is essential to prevent further cases.
25 The CDC has made available easy-to-use

1 investigation protocols for, both, single, sporadic
2 cases, and for outbreaks or clusters of cases.
3 We're also very concerned that public-health
4 officials are content to only take action and
5 investigate cases that occur as part of a declared
6 outbreak.
7 This, according to the CDC, only accounts for
8 4 percent of all Legionnaires' disease cases.
9 This means that 96 percent of Legionnaires'
10 cases that are deemed sporadic or singular cases,
11 there is no investigation to identify the source an
12 prevent additional cases.
13 As previously mentioned, last summer's
14 outbreaks were preceded by earlier outbreaks and
15 cases in The Bronx.
16 In April 2015, James Rouse, an otherwise
17 healthy, athletic 50-year-old teacher at the
18 Urban Science Academy in The Bronx, less than a mil
19 from the Melrose Houses, center of the 2015
20 outbreak, died from Legionnaires' disease.
21 Despite repeated requests from James Rouse's
22 family, the City refused to provide his family with
23 any information on the number and general vicinity
24 of other cases.
25 After having the family complete a

1 questionnaire, the City declared the case closed.
2 The City refused to test the drinking water
3 in the Urban Science Academy until the teachers
4 union got involved.
5 Months later, the water in the school was
6 tested -- after the City disinfected the school's
7 water system -- and despite disinfection, all five
8 tests that were conducted were positive for
9 Legionella bacteria.
10 If the public had been notified, and these
11 cases fully investigated using the CDC protocols,
12 some or all of the outbreaks that followed could
13 have been mitigated.
14 More can and should be done to protect the
15 public to prevent Legionnaires' disease in our
16 communities.
17 We believe this is a watershed moment for
18 New York to take the right steps to change the
19 course of this preventable disease, by establishing
20 policies that ensure proper disinfection against
21 Legionella and water-distribution systems, and
22 ensure that cases are properly investigated so the
23 true source can be identified and addressed.
24 We welcome the opportunity to work with you
25 to implement these policy changes.

1 The alliance suggests a task force be formed,
2 with all stakeholders involved, to develop a
3 rational approach to addressing this preventable
4 disease.
5 We thank you for your consideration of our
6 comments and recommendations.
7 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
8 much.
9 Questions?
10 ASSEMBLYMAN GOTTFRIED: I don't have a
11 particular question, but, just a comment to all of
12 you.
13 You know, what we -- you know, they say, "If
14 the only tool you have is a hammer, pretty soon,
15 everything looks like a nail."
16 You know, the tool -- the main tool in our
17 toolbox is passing laws, or trying to, anyway.
18 If there are either laws in other states, or
19 proposals in New York or in other states for
20 legislation, on the issues we've been talking about
21 today, if you can point us to some of that, that
22 would be very helpful.
23 If it's in your written testimony, hopefully,
24 we will see that, but, feel free to e-mail us your
25 thoughts on that point.

1 OFF-CAMERA SPEAKER: Thank you.
2 OFF-CAMERA SPEAKER: Thank you.
3 ASSEMBLYMAN ENGLEBRIGHT: Mr. Abinanti.
4 ASSEMBLYMAN ABINANTI: Thank you.
5 I don't know if you were here this morning
6 when I had a conversation with the state agencies.
7 And it seems to me that we need to change a
8 lot of things in this state, and I want to echo wha
9 Mr. Gottfried just said.
10 I think it's important that we upgrade the
11 laws because, clearly, the departments are not doin
12 what they have to do on their own.
13 I expect I'll get a text from the Governor's
14 Office very quickly after that.
15 But, I will say it again in case they didn't
16 hear it: The departments are not doing what they
17 should be doing, so the Legislature is going to hav
18 to pass some laws.
19 And I'm looking to see whether there is any
20 laws that could require, you know, better
21 methodology to assess and monitor what's going on i
22 the state.
23 I'm looking to see if there's a way we could
24 require them to set better standards; to see if
25 maybe we need some criminal liability.

1 I'm not familiar myself with what the
2 criminal liability is at the moment.
3 I know Mr. Parker used to work in an agency
4 that had something to do with that. Maybe he can
5 give us some advice on that.
6 Maybe we need to upgrade the statute.
7 I know we just passed a statute dealing with
8 liability of companies that spoil the water.
9 I'd like to have some comments, whether
10 that's sufficient.
11 Do we need more statutes with private causes
12 of action?
13 And as I'm going down, you know, more
14 transparency.
15 I looked at the website from the DEC, and it
16 says that they monitor this, that, and the other
17 thing. And when you look at their website, it look
18 like they've got all the problems solved.
19 I don't -- I didn't see -- maybe it's buried
20 in there somewhere, but I didn't see any charts
21 showing where they tested, what the results were,
22 and what's happening around the state.
23 And then, lastly, I would like to see us do
24 something to discourage, and maybe replace, all of
25 the private companies and all of the small municipa

1 water companies.
2 I'm very concerned, that when a small company
3 may discover a problem with the quality of its
4 water, it's not in its interests to advertise it or
5 to report it to anyone, because that company will b
6 out of business if they can't sell their water.
7 And I know I tried to mention that to the
8 group in the first panel this morning, and that
9 didn't go anywhere, nobody picked up on that.
10 So these are the concerns that I have, and
11 I'd like, you know, your responses.
12 We don't have do it all now.
13 Maybe a quick response now, and then I'd like
14 to hear, over the next few weeks, if you have any
15 ideas on how we move forward with these types of
16 things.
17 ASSEMBLYMAN ENGLEBRIGHT: I'd just like to
18 make an observation.
19 We still have two panels to go.
20 I'm informed that OGS may throw us out at
21 eleven. And --
22 ASSEMBLYMAN ABINANTI: So then maybe my
23 request is that they give me comments after tonight.
24 ASSEMBLYMAN ENGLEBRIGHT: And we still have
25 at least nine people to testify. If they each

1 testified five minutes each, there would be no time
2 for any questions.
3 I just thought I'd add that in
4 parenthetically.
5 We're in our 11-1/2 hours --
6 ASSEMBLYMAN ABINANTI: Just one comment,
7 then, for you to think about:
8 California passed a law in 2012 which
9 guarantees every California citizen the right to
10 adequate, affordable drinking water.
11 I'm planning to introduce a similar statute
12 in New York, and I'd like your thoughts on it.
13 JOHN PARKER: Assemblyman, thank you very
14 much for raising a myriad of issues that I think we
15 need to address, clearly, not in the next
16 five minutes.
17 And we at Riverkeeper, and our colleagues
18 here, I am sure, we would welcome an ongoing and
19 constructive and thoughtful dialogue.
20 One thing I do want to say, in closing, is
21 one of the things we focused on, with respect to th
22 city of Newburgh, and as we often do, what are we
23 learning?
24 What are the challenges showing us about what
25 we're either doing right or what we're doing wrong?

1 And what can we do better?
2 Because we can always do better.
3 So simply stated, when we looked at the city
4 of Newburgh and its many challenges, what we found
5 was, there are a number of laws on the books.
6 I'll rattle them in a second.
7 There are going to be laws we all know
8 about -- and there's a point for this comment --
9 Safe Drinking Water Act, the Clean Water Act; a
10 number of environmental-conservation laws, and the
11 public-health law itself.
12 These laws are on the books, but they're not
13 fully implemented. They're not rigorously enforced.
14 A series of many years of staff cuts and a
15 changing of priorities have, basically, rendered
16 some of these very simple, fundamental ideas
17 incapable of being executed.
18 I think any inquiry needs to start there.
19 Yes, there are plenty of examples, both
20 around the country and around the world, where we
21 can tweak things and make things better.
22 But what we have to do, in your, I thought,
23 very wise suggesting of looking at a water policy
24 for the state, we need to assess where we are, and
25 this is where we have to start.

1 And we have prepared a very detailed,
2 multiple-page analysis of, a roadmap, a way to go
3 forward.
4 Even if we disagree, or maybe don't disagree,
5 on some of the points that were made earlier today,
6 there's tomorrow, and tomorrow is just as important
7 So, those are the couple of laws. We just
8 very truncated it for you, just because, you know,
9 we're pressed for time.
10 We welcome to have this conversation, please.
11 And I encourage you, please review our white
12 paper.
13 You will see many opportunities that were
14 missed by very well-meaning folks at the Department
15 of Environmental Conservation, because there just
16 isn't enough folks there anymore.
17 The crisis is real, the challenges are
18 growing, but the staff and their ability to do it i
19 not.
20 So that's something we really need to think
21 about.
22 I encourage the members of the Committee, on
23 both sides, the Senate and the Assembly, to think
24 about this as budget discussions start.
25 WILLIAM COOKE: I just want to touch on one

1 thing, and that is, there's been a theme the last
2 couple of sessions of producer responsibility, and
3 we've done some stuff with electronics.
4 You guys have done some stuff with
5 electronics, with thermostats.
6 We think extended producer responsibility
7 should expand to pharmaceuticals and to a number of
8 other chemical interests.
9 But, the producers need to be responsible.
10 Thank you.
11 ASSEMBLYMAN ABINANTI: On that point,
12 Mr. Chairman, if I can?
13 Is there a sufficient connection between the
14 manufacturers of all of these chemicals and
15 government?
16 Do they disclose enough so that our agencies
17 know what to look for in the water, or is there an
18 opportunity there to require more disclosure?
19 OFF-CAMERA SPEAKER: We will get back to you.
20 WILLIAM COOKE: There is always, "there is
21 always," an opportunity for more disclosure.
22 ASSEMBLYMAN ENGLEBRIGHT: Well said.
23 Thank you very much.
24 (All witnesses say "Thank you.")
25 ASSEMBLYMAN ENGLEBRIGHT: Thank you this for

1 your patience and your very enlightening testimony.
2 Let's go to the next panel.
3 Mr. Martin Aman, chairman of the New York
4 Chapter of American Water Works Association;
5 Bob Andrews, director of intergovernmental
6 affairs, Onondaga County Water Authority;
7 Joseph Fiegl, president of the New York Water
8 Environment Association;
9 Robert A. Michaels -- it will be,
10 Dr. Robert A. Michaels, president of RAM TRAC Corp.;
11 And, Darren Suarez, director of government
12 affairs for the Business Council of New York State.
13 Some of you are still with us.
14 Others have gone out on gurneys, or have
15 fallen asleep and didn't hear my announcement of
16 their name.
17 It is late.
18 ASSEMBLYMAN GOTTFRIED: And do each of you
19 swear or affirm that the testimony you are about to
20 give is true?
21 (All witnesses say "I do.")
22 ASSEMBLYMAN ENGLEBRIGHT: I would just ask if
23 you can -- I know you have prepared statements -- i
24 you can summarize those statements, it would
25 probably be better heard than if you read them.

1 But, that's just a suggestion. I'm not going
2 to insist.
3 But, if the objective is communications, it
4 may be a more effective mode of communication to do
5 summaries.
6 So, who wants to begin?
7 MARTIN AMAN: I'll go first.
8 ASSEMBLYMAN ENGLEBRIGHT: Tell us your name.
9 MARTIN AMAN: I'm Marty Aman. I'm the
10 executive director of Wayne County Water and Sewer
11 Authority, just east of Rochester.
12 We serve about 40,000 water customers.
13 And I'm also here tonight on behalf of
14 New York section of American Water Works
15 Association.
16 We're the leading professional organization
17 in New York State for public-water suppliers,
18 public-water professionals, and have considerable
19 clout and representation across the state.
20 We're also linked with the national arm, the
21 American Water Works Association.
22 Jointly, we have members that are comprised
23 of engineers and water professionals, water
24 operators, water-system managers, and we think it's
25 important tonight that you hear testimony from the

1 water-suppliers' side.
2 We've had testimony from many groups, and
3 it's very important that you hear our perspective o
4 things.
5 And you have our summary, our testimony in
6 writing, and I'm not going to dwell on that.
7 I'm going to try to incorporate some of the
8 things that I've heard tonight.
9 I've been impressed by the heartfelt
10 testimony that we've heard.
11 In many ways, I feel that those of us that
12 are involved in any way with providing public-water
13 supplies have somehow betrayed the trust of our
14 residents and the people that have historically com
15 to trust the service and the product that we
16 provide.
17 And there are many reasons for that.
18 You know, we heard testimony, we focused on
19 contamination.
20 There's been a lot of concentration on
21 Hoosick Falls tonight, and Petersburgh and Newburgh
22 and, rightly so.
23 I mean, we're close to those areas.
24 We're following up a first hearing where
25 several sentiments were not fully conveyed.

1 But, tonight, in addition to the contaminants
2 that we've been discussing and pining over, how to
3 best identify and regulate and communicate the
4 effects thereof in a timely fashion to the public,
5 there's some things that I'd like to point out, som
6 other considerations, if we're talking about water
7 quality here in New York State, and issues that are
8 of concern.
9 And, in addition to the contaminants that
10 we've been focusing on, the -- what I'll call
11 "legacy contaminants," often, where we can point a
12 finger to an industry, or, to our defense
13 initiatives in some cases, we have some things that
14 are developing that are also adding to our
15 challenges.
16 We've talked extensively tonight about the
17 infrastructure needs.
18 I'd like to clarify -- and, Joe, I don't want
19 to steal your thunder -- but, I think we've both
20 collectively noted that the $36 billion that was
21 referenced is just the wastewater side of things
22 alone.
23 On the water side, there's an equal number,
24 maybe even a little greater, depending on the last
25 studies that Joe and I have seen, totaling maybe

1 $38 billion.
2 So, collectively, over $70 billion in
3 infrastructure needs.
4 So that's been covered fairly well tonight,
5 and I'm going to move on.
6 We have -- like several of our businesses and
7 industries here in the state, we're suffering with
8 an aging and retiring workforce, and that pertains
9 to our water utilities, our leaders, our managers o
10 our utilities, but it also applies with the state
11 agencies, DEC and New York State Department of
12 Health.
13 There's a very notable number of retirements.
14 Some of the brain-trusts, some of the most
15 experienced people, are retiring now at the time of
16 our greatest needs.
17 So, we're going to ask for consideration for
18 making sure that those resources are fulfilled; tha
19 we're going to replace the important people that ar
20 going to be tasked with moving us forward.
21 We didn't talk tonight about climate change.
22 There's some very real things happening that
23 are directly affecting, and have the potential to
24 greatly affect, water qualities, and our ability to
25 supply dependable and sustainable supplies of water

1 Temperatures in our water main last week,
2 77 degrees. Almost unprecedented.
3 Comparing to this time last year, 3 to
4 4 degrees higher.
5 We just heard testimony on concerns over
6 Legionnaires' disease; Legionella.
7 Certainly, biological activity has enhanced
8 at the greater temperatures.
9 We're seeing outbreaks of blue-green algae
10 with stagnant and heated and over-neutrified water
11 bodies.
12 We have other impacts.
13 The sudden and intense rainfalls that we're
14 experiencing on a more regular basis that impact ou
15 reservoirs, directly impact our raw-water qualities
16 in that.
17 These are issues we need to take into
18 consideration.
19 And I don't want to diminish the discussions
20 and the concerns, the very real concerns, over PFOA
21 and the contaminants and the resultant effects that
22 we have discussed tonight, but we have to add to th
23 list.
24 Before we move aggressively in any one
25 direction, we have to look at the totality of the

1 needs.
2 So I guess I'd like to close my statements,
3 in the interest of time, by saying:
4 That the New York section of American Water
5 Works is a tremendous resource that, very much, as
6 an organization, desires to be involved in helping
7 to move forward confidently, by partnering with the
8 departments of environmental conservation and the
9 department of health, to work with our legislators.
10 And we've written a letter to the Governor's
11 Office.
12 We've implored his office to consider
13 including our input, and perhaps even our presence,
14 on this rapid water-quality response team.
15 We're the guys with boots on the ground, our
16 hands on the valves; practical reality of what can
17 and can't be done.
18 We need to be included.
19 Can't possibly cover all the things tonight.
20 There are many initiatives.
21 And what I will promise this group is that,
22 we will follow up.
23 We've got a public-affairs committee meeting
24 that's gonna come on the heels of the third hearing
25 in Long Island on Monday of next week.

1 We will put together our thoughts and our
2 suggestions on how we can help this state move
3 forward.
4 And I guess, with that, I'd like to thank you
5 for hanging with us tonight, and hearing our
6 concerns.
7 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
8 much.
9 I'm not gonna -- I'll probably comment in a
10 little bit, but, it was very constructive.
11 Thank you.
12 Sir, tell us your name.
13 You're next.
14 JOSEPH FIEGL: Good evening.
15 I'm Joe Fiegl.
16 My day-to-day role, I am deputy commissioner
17 of Erie County's Division of Sewage Management.
18 We're responsible for the seven Erie County
19 sewer districts, serving about 250,000 residents in
20 the area.
21 I'm also the president of the New York Water
22 Environment Association.
23 The New York Water Environment Association is
24 a group of 2500 individuals across the state, and
25 we're really quite -- quite diverse.

1 As Marty mentioned, we have the boots on the
2 ground.
3 We have the wastewater-treatment plant
4 operators, in small villages, to New York City DEP.
5 We have top-level New York City officials.
6 We have regulators.
7 We have engineers of all types.
8 Scientists.
9 You name it, those who are interested in
10 water-quality management issues.
11 Protecting local watersheds is what
12 Erie County and other wastewater utilities do acros
13 the state, and we do that 24 hours a day, 7 days a
14 week.
15 But to be clear, water-quality protection is
16 really multi-faceted, and it's not only our
17 industry.
18 We've heard many things about PFOA today, and
19 the contributions from industry.
20 A little bit closer to home, you know, beyond
21 the shores of Lake Erie, the Toledo Water System wa
22 shut down in 2014, and that was due to nutrient
23 runoff from agricultural and residential areas.
24 There's many things talked about with respect
25 to the Flint crisis, but there -- and there's many

1 missteps that went along with that. But, the key
2 event was when they switched to a more polluted and
3 corrosive water source.
4 Most people don't think about their water
5 supply, you know, until there is a problem.
6 But, you know, it's my vantage point that,
7 highlighting today's problems, you know, shouldn't
8 be what it takes to have the public, you know,
9 appreciate these systems.
10 You know, water quality, to be frank, is
11 vital to our modern society.
12 You know, getting a little more global, if
13 you look at, around the world, waterborne diseases
14 are the second-leading cause of child mortality
15 nationwide.
16 You don't have those type of issues in the
17 United States. It's because we've put forth what -
18 wastewater and sanitation systems.
19 There was a poll by the "British Medical
20 Journal" asking: What was the greatest medical
21 advancement of the last 150 years?
22 Medical advancement.
23 And, it wasn't anesthesia.
24 It wasn't antibiotics.
25 It wasn't vaccines.

1 It was sanitation.
2 So, you know, think about a surgery without
3 anesthesia.
4 Think about all the diseases that our
5 children could be facing without vaccines and
6 antibiotics.
7 That's the same way that we should be looking
8 at our sanitation systems and our wastewater
9 systems.
10 But, you know, the infrastructure doesn't
11 only protect our health. It sustains our --
12 ASSEMBLYMAN ENGLEBRIGHT: Can you pull the
13 mic a little closer.
14 JOSEPH FIEGL: Sure.
15 It sustains our economy.
16 The United States Conference of Mayors
17 determined that each public dollar increases privat
18 long-term GDP output by $6.35.
19 A pretty impressive metric.
20 But, let's think about any project, you know,
21 across the state.
22 They had a yogurt plant in Johnstown, or any
23 number of commercial developments in New York City.
24 You know, without a safe drinking-water
25 source, and a way to handle those byproducts after

1 the fact, you know, those projects don't move ahead
2 With water supply in short supply across the
3 country, you know, our assets -- our water assets
4 should be a competitive advantage.
5 For many years those assets were taken for
6 granted.
7 You know, Lake Erie was declared dead in the
8 1960s.
9 Earlier -- much earlier in the day, we talked
10 about Onondaga Lake, some of the other water bodies
11 across the state.
12 All those have exhibited rebounds, and
13 I think those rebounds really prove that manmade
14 environmental problems can be solved.
15 And it was no accident that those problems
16 were solved with huge funding programs.
17 New York State was the lead with the Pure
18 Waters Act, you know, back in the 1960s.
19 That really kind of pushed the federal
20 government along the lines with the Clean Water act
21 Both of those programs provided substantial
22 assistance to local municipalities to address those
23 pollutions and construct those water-quality
24 infrastructures.
25 Now, those (indiscernible) we talked about,

1 that they're reaching the end of their useful life.
2 They require upgrades, you know, things like that.
3 We also have all the new challenges today.
4 For the most part, those fall on local
5 municipalities.
6 Another statistic: New York State has 11.6
7 of the documented need, nationwide, for clean-water
8 infrastructure.
9 11.6 of the nation's need.
10 You know, we only have 6.2 percent of the
11 nation's population.
12 I'm just kind of giving the magnitude of
13 where we stand with the rest of the nation.
14 You know, as was the case in 1960s,
15 New York State has started the process of being a
16 leader.
17 We really appreciate the work that the --
18 that was set forth with the Water Infrastructure
19 Improvement Act.
20 In here we have kind of four recommendations.
21 The first is, to further that effort.
22 Marty had mentioned the $75 billion.
23 So, you know, we have this -- we have the
24 $400 million through the act, but, that leaves
25 $74.6 billion.

1 You know, when you put those numbers into
2 context, it really kind of shows you that there's a
3 tremendous gap.
4 And my fear is that, if there isn't
5 additional assistance -- and this is not a handout,
6 this is a hand in the process -- I believe that tha
7 gap is going to be difficult to -- if not
8 impossible, to address.
9 Secondly, there's most likely going to be
10 mandates to come back down the pike.
11 And what I just said is, set the standards,
12 and allow the industry to figure out how to meet
13 those standards.
14 We've got a lot of very smart, creative folks
15 that can take that and come up with innovative,
16 cost-effective solutions to meet these water-qualit
17 mandates.
18 Marty had mentioned training, and you've got
19 a lot of folks that are retiring.
20 Training is going to be huge for the folks on
21 the front lines, and that might be something that
22 the government considers through its green-jobs
23 initiatives.
24 The fourth: New York State DEC does need the
25 budgetary support to properly do their job.

1 The cost with regard to the public's health
2 (indiscernible) is too great for these issues to be
3 ignored.
4 And as the challenge is multi-faceted,
5 there's probably going to need to be multi-faceted
6 solutions. You know, what about:
7 Annual allocation and incremental increases
8 to the Water Infrastructure Improvement Act?
9 A new Environmental Bond Act?
10 A dedicated water-infrastructure trust fund?
11 What about exempting water -- wastewater
12 charges from tax-cap calculations?
13 Basically what I'd say is, NYWEA is here to
14 really kind of assist with, you know, developing an
15 vetting these solutions, if your honorable body is
16 looking for assistance.
17 I just want to close:
18 Steven Johnson had written a book called
19 "The Ghost Map," and it talked about the cholera
20 epidemic in London in the 1850s and 1860s.
21 Mr. Johnson convincingly described how the
22 epidemic-caused polluted water led to advances in
23 sanitation that shaped our world.
24 I just wanted to read one passage from that.
25 "With the help of visionary engineer

1 Joseph Bazalgette, the City embarked on one of the
2 most ambitious engineering projects in the
3 nineteenth century: a system of sewer lines that
4 would carry both waste and surface water to the
5 east, away from central London.
6 "The construction of new sewers was every bit
7 as epic and enduring as the building of the
8 Brooklyn Bridge or the Eiffel Tower.
9 "Its grandeur is below, out of sight. It has
10 not been invoked as regularly as more iconic
11 achievements of this age, but Bazalgette's sewers
12 were a turning point nonetheless.
13 "He demonstrated that a city could respond to
14 a profound citywide environmental and health crisis
15 with a massive public-works project that, generally,
16 solved the problem it set out to address."
17 I don't think anyone in the room has referred
18 to their sewer system with the adjective "grandeur,
19 but, you know, I just wanted to point this out,
20 that, you know, the Eiffel Tower does shape the
21 skyline of Paris, and the Brooklyn Bridge has shape
22 commerce between Brooklyn and Manhattan.
23 These sanitation systems have shaped modern
24 society. It has allowed us to live the way that we
25 can in close proximity, and things like that.

1 So while I don't expect all of us to come out
2 of here talking in such flowery terms, I was hoping
3 to kind of set that as a kind of a different way of
4 looking at our infrastructure.
5 And I've talked way too long, so I will yield
6 to the rest of the panel.
7 So, thank you.
8 DR. ROBERT A. MICHAELS: And I do have a
9 necktie that has a garbage truck on it.
10 ASSEMBLYMAN ENGLEBRIGHT: Pull the mic closer
11 if you would, please.
12 DR. ROBERT A. MICHAELS: Can you hear me now?
13 ASSEMBLYMAN ENGLEBRIGHT: Don't be shy.
14 You're doing well.
15 Go ahead.
16 DR. ROBERT A. MICHAELS: Well, I'm
17 Bob Michaels, and president of the RAM TRAC
18 Corporation, specializing in human health-risk
19 assessment.
20 And that means that I, basically, look at the
21 kinds of exposures that people have had, and predic
22 the kinds of health effects that they will be at
23 risk of experiencing.
24 And going the other way, I may look at
25 somebody's health effect and ask the question: Was

1 it probably caused by an exposure that they had in
2 the past?
3 So, going forward, or going backward, risk is
4 associated with past exposure; and past exposure is
5 associated with future risk.
6 And that is a scientific fact that has been
7 undermined in the course of this hearing, and last
8 week when I testified as well, and in some fact
9 sheets that have, essentially, disconnected the
10 concept of exposure from the concept of future risk
11 And, so, since the agencies who have, and you
12 also do have a role in formulating science policy,
13 I can say that my premise is, that good science
14 policy has to be based on good science.
15 And we've had quite a bit of testimony, all
16 without benefit of the most central concept in
17 toxicology and health-risk assessment.
18 And I hope that you have my testimony.
19 If you don't, it's the "Dose-Response Curve."
20 It's a rising curve, a very simple concept.
21 But, as the dose on the axis increases, so
22 does the response, and the response can be either o
23 three things, or all three of three things:
24 The incidence of illness goes up;
25 The intensity or seriousness or severity goes

1 up;
2 And the time to illness goes down.
3 So any one of those, or all three, or a
4 combination of all three, is exactly what one
5 expects when there is an association of an exposure
6 with a health effect.
7 And I will truncate much of my testimony
8 because of time, and basically point out:
9 That we are seeing a paradigm shift, with the
10 case of PFOA, because, in the past, substances in
11 the range of parts per trillion could be ignored
12 safely.
13 But as we find more and more information out
14 about PFOA and other emerging contaminants, such as
15 PFOS and other perfluoroalkyl compounds, all in a
16 related cluster, we are finding that some of them
17 are extraordinarily potent at very low
18 concentrations.
19 And that means parts per trillion in the
20 drinking water, and parts per billion in blood
21 serum.
22 And not everybody has been equally quick to
23 adopt a new paradigm.
24 The companies, of course, have -- all I can
25 say about the companies, whether they've adopted it

1 or not, they certainly have not acted in accordance
2 with the concerns that I would think they would
3 have.
4 And these oversight hearings would be
5 unnecessary without the actions of companies.
6 EPA Region 2 has gotten quite a bad rap, in
7 part, because they're not here.
8 I will say in contrast to that, that
9 Administrator Judith Enck appeared at a public
10 meeting held by Healthy Hoosick Water.
11 And by the way, I have advised Healthy
12 Hoosick Water for almost two years in this process.
13 Within weeks, or a couple of months, of
14 receiving the information about PFOA, she brought
15 over a dozen senior people from the EPA to that
16 meeting.
17 And I spoke after Administrator Enck, and
18 expressed my opinion that the "400 part per
19 trillion" advisory was irrelevant to the village of
20 Hoosick Falls because it was a short-term, up to
21 maybe 14 days.
22 And it's real interesting, that the mouse
23 study on which it was based produced mice that had
24 equilibrated with PFOA within about 17 days.
25 That is, they ate a diet with PFOA in it and,

1 eventually, their serum levels came up to an
2 equilibrium amount in a very short time.
3 So when you translate this to people, and
4 I don't know to what extent you can, but my
5 toxicology sense tells me, that when people are
6 exposed for decades, and mice took 17 days, and
7 maybe people take a little longer, that that is a
8 serious question.
9 And so with respect to that question, you
10 have to have concern about the right issues.
11 And I wrote about the Isaac Asimov story, the
12 line that's famous, "You have to ask the right
13 question."
14 That's the right question.
15 Well, the department of health asked the
16 wrong question.
17 The wrong question is: Do we expect health
18 effects to occur with normal use of the water?
19 And their response was "no."
20 That would not have been my response.
21 But the right question, where even the
22 department of health should have agreed, is: If yo
23 have a population who have been drinking this for
24 decades, would you expect to see health effects in
25 that population?

1 And, by the way, would you be influenced by
2 the fact that you do see health effects?
3 And, clearly, I don't think I've ever been to
4 public meetings where so many people have been sick
5 I will show you the same curve again, it's
6 only a little different.
7 It is a dose-response curve, but it's the
8 dose-response curve for the Grandjean, et al., stud
9 of childhood vaccinations in the Pharaoh Islands of
10 Denmark, in which the vaccine produced a lower tite
11 of antibodies; that is, lower protection among
12 children who had high PFOA levels.
13 One thing that's interesting about this curve
14 are the two median serum PFOA and serum PFOS.
15 4.6 -- 4.06 nanogram per milliliter in the
16 blood for PFOA.
17 17.3 for PFOS.
18 But, with only .3 parts per billion blood
19 serum, you got a 5 percent reduction in the PFOA
20 vaccine titer.
21 So the average kid had vaccine -- had serum
22 PFOA levels and PFOS levels that were higher than
23 that which would have produced a significantly
24 reduced immunological response to the vaccine.
25 And what that means is, that they have been

1 immunosuppressed.
2 And that is the critical effect that should
3 have been used by EPA in setting its standard. Not
4 regional EPA.
5 Judith Enck came out with a regional standard
6 of 100 for chronic exposure, two weeks after my
7 comments, by the end of January. 29th of January.
8 So I know they didn't come today. I have no
9 opinion about that.
10 But I do need to say that they have been very
11 responsive.
12 And my concern about 100 parts per trillion
13 was that, it was way too high, probably.
14 I had predicted, perhaps, 1 to 10 parts per
15 trillion would be a reasonable drinking-water level
16 On the other hand, this was a temporary
17 value.
18 EPA was going -- national EPA was going to
19 come up with something better, and I was hoping
20 something enforceable.
21 But, that didn't happen.
22 They came out with 70 for the sum of PFOA and
23 PFOS.
24 Well, that sounds very good. It's lower than
25 100, and it's for two substances instead of just

1 one.
2 But, a very subtle change in the terminology
3 came into the advisory, which was, this was for
4 lifetime exposure, not chronic exposure.
5 Chronic being for maybe one year.
6 Lifetime being for 70 years.
7 Which means, that if you took somebody who's
8 only exposed for one year, would EPA interpret that
9 to mean that they could be exposed to 70 times the
10 amount embodied in the new advisory?
11 Well, I can't tell you how EPA will interpret
12 this, but it's of very great concern.
13 Another point that I will make about this
14 Grandjean study, when you look about -- you ask the
15 question, "What did people know, and when did they
16 know it?" these studies started coming out in 2012.
17 So this information was in the hands of our
18 regulators.
19 It was in the hands of companies, and,
20 certainly, the companies were aware of it because
21 they were funded by the CA panel, and settlement.
22 So these are extraordinarily interesting
23 findings, from my point of view.
24 So the idea that health effects are not --
25 are not expected at the "400 part per trillion"

1 standard is not supported by the facts.
2 The idea that there should be some confusion
3 between 100 and 400?
4 No. They're just different standards for
5 longer-term versus shorter-term exposure.
6 And, no, there was no question in my mind,
7 when I went on the EPA's website, I knew that the
8 "400" was for short-term exposure.
9 That took about a minute.
10 And so these are all rather interesting
11 findings, from my point of view.
12 So I will say that, PFOA is not the only
13 perfluoroalkyl compound that has been detected in
14 Hoosick Falls. And there are a whole bunch them
15 that come out in Method 537 when you test for water
16 But -- and when you test them in blood serum,
17 same thing.
18 You have a different method, but you have
19 more PFCs (perfluoroalkyl compounds) coming out.
20 The department of health is only reporting to
21 the public, and I believe to the individuals, the
22 PFOA number.
23 But the full spectrum of the PFCs is kind
24 of -- constitutes a kind of a fingerprint of what
25 might be the source, and the predictor of the risk

1 that people will be under.
2 And we don't know what exposures they've got
3 occupationally.
4 We know what has escaped in the water, but we
5 don't know everything that there is to know.
6 With PCBs, for example, you can look at all
7 the distribution of 209 PCB congeners, and it
8 produces a fingerprint that can be matched to the
9 probable source of the PCB.
10 And, so, the same can be done with this, and
11 it should be done.
12 I will endorse a comment, a recommendation,
13 made by Dr. Freed, which was for the DOH to have an
14 advisory panel.
15 That struck home to me, because I chaired an
16 advisory panel like that for close to seven years
17 for the State of Maine.
18 It was the Maine Science Advisory Panel,
19 which was advising the Maine Department of Health o
20 a variety of toxic-substances issues.
21 In Maine, they were largely related to
22 dioxins, and the paper industry, and pesticides, an
23 all kinds of other associated issues.
24 The reporting limit needs to be reduced, and
25 that UCMR 3 needs to be reduced from 20 parts per

1 trillion for PFOA.
2 In all of the PFCs, they ought to be
3 reduced to the method-detection limit for each
4 compound.
5 And, in summary, I will say:
6 That EPA has issued three successive health
7 advisories for PFOA in drinking water, moving from
8 sub-chronic exposure value of 400 parts per
9 trillion, to a chronic value of 100, and, now, to a
10 lifetime value of 70, for PFOA plus PFOS.
11 But I conclude that EPA has failed to show
12 that its latest advisory, even if enforced --
13 And the reasons, by the way, are outlined in
14 there. I won't go into them now.
15 -- they ought to show that its latest
16 advisory, even if enforced, is sufficiently
17 stringent to protect public health.
18 The time has come to conclude this process of
19 successive approximation, toward an enforceable
20 national regulation.
21 A defensible, enforceable regulatory value
22 should be identified and promulgated forthwith.
23 And this testimony is accompanied by a rather
24 extensive article that I have written, which is in
25 press with the American Bar Association journal

1 called "New York Environmental Lawyer," which kindl
2 has given me permission to share this article in
3 connection with these hearings.
4 So you have it.
5 I don't know if you have it printed in front
6 of you.
7 OFF-CAMERA SPEAKER: We do not.
8 DR. ROBERT A. MICHAELS: You have it in the
9 PDF, which I submitted.
10 ASSEMBLYMAN ENGLEBRIGHT: We can't identify a
11 copy of your testimony. We were looking for it.
12 So, before you leave, if you have another
13 copy.
14 DR. ROBERT A. MICHAELS: I will send the copy
15 in. I'll send it to all the Committee Chairs
16 tonight.
17 ASSEMBLYMAN GOTTFRIED: That would be the
18 best.
19 DR. ROBERT A. MICHAELS: I'll send it,
20 I think four Committee Chairs.
21 ASSEMBLYMAN ENGLEBRIGHT: And we'll
22 distribute it, and be very grateful for your abilit
23 to help us.
24 DR. ROBERT A. MICHAELS: Yeah, sorry about
25 that snafu.

1 I went through the same procedure for the
2 State Senate hearing last week, and they magically
3 created all the copies that were needed, and
4 everybody had them.
5 And I assumed that that was what would be
6 done today, but I was naive.
7 ASSEMBLYMAN GOTTFRIED: E-mailing is the best
8 way for us to handle it.
9 DR. ROBERT A. MICHAELS: I will do that
10 tonight.
11 And this article will be published in the
12 summer issue of "New York Environmental Lawyer,"
13 which should be coming out in the next couple of
14 weeks, because summer is only another couple of
15 weeks long.
16 ASSEMBLYMAN ENGLEBRIGHT: Questions?
17 Mr. Abinanti has a question.
18 ASSEMBLYMAN ABINANTI: Joe, I'd like to ask
19 you a question.
20 Is there any program where the State provides
21 monies on an ongoing basis for water infrastructure
22 Like, we have a CHIPS program for roads. We
23 help the municipalities.
24 Is the Water Infrastructure Improvement Act,
25 was that a one-time thing, or is there a way that w

1 can distribute money to localities and to water
2 systems, et cetera, on an ongoing basis, like the
3 CHIPS program?
4 Is there anything now?
5 JOSEPH FIEGL: There's nothing like that.
6 ASSEMBLYMAN ABINANTI: Would that work?
7 Would that kind of program work?
8 JOSEPH FIEGL: The infrastructure act is
9 going to sunset next year, I believe.
10 MARTIN AMAN: It's in its second round.
11 JOSEPH FIEGL: That was why one of our
12 recommendations --
13 ASSEMBLYMAN ABINANTI: I know, I see that.
14 Is that a bond act? Or, how does it work?
15 JOSEPH FIEGL: I believe that the Legislature
16 had put it into the budget two years ago.
17 And then last -- or this -- I guess, in 2016,
18 it added an additional $200 million for that.
19 ASSEMBLYMAN ABINANTI: Okay. But would a
20 program like the CHIPS program, if we could devise
21 one, where we supplement and help with water
22 infrastructure, work?
23 JOSEPH FIEGL: Yeah, and that's one of the
24 things that, in our recommendations, you know, I ha
25 mentioned a dedicated water-infrastructure trust

1 fund, something similar to the CHIPS program.
2 ASSEMBLYMAN ABINANTI: Right.
3 JOSEPH FIEGL: That would be something that
4 certainly would assist the municipalities.
5 ASSEMBLYMAN ABINANTI: Well, it might be
6 helpful if we heard from you as to how you would
7 structure that.
8 JOSEPH FIEGL: Absolutely.
9 MARTIN AMAN: The State's revolving loan
10 fund, as administered through Environment Facilitie
11 Corporation, has been used very effectively to
12 leverage many projects, both water and wastewater.
13 ASSEMBLYMAN ABINANTI: The problem with that
14 is, is that's a discretionary program. And they
15 spend only the amount they want to spend.
16 The CHIPS program is directly funded by the
17 Legislature, and there's a formula, so the money
18 goes out no matter what the administration says.
19 And so I'm looking, frankly, and I've seen
20 this problem before in other governments, where, if
21 you give money to the administration, and they
22 didn't ask for it, they won't spend it.
23 On the other hand, if there's a formula that
24 the Legislature can fund, then it goes out
25 automatically.

1 So that's why I'm looking for something
2 like -- personally, I'm looking to see something
3 like the CHIPS program, which guarantees a certain
4 amount of money, maybe a small amount, but it's
5 something to every locality.
6 JOSEPH FIEGL: If you want to go way back in
7 the 1980s, and before, there was, you know, ongoing
8 operation monies for -- to assist municipalities
9 just for the operation and maintenance of their
10 systems.
11 That was a long --
12 ASSEMBLYMAN ABINANTI: Well, I, for one,
13 would be interested in hearing about that kind of
14 thing, and hearing a proposal before budget time.
15 JOSEPH FIEGL: Great.
16 ASSEMBLYMAN McLAUGHLIN: And if I may,
17 Assemblyman Abinanti, just, as we head back into
18 session, Assemblyman Tedisco and I -- hopefully,
19 shortly, Senator Tedisco and I, have that SWAP
20 program. We have that program in the works.
21 So we'd be thrilled to discuss that with you,
22 and it is meant to be modeled after the CHIPS
23 program.
24 The SWAP program is safe-water improvement
25 program, and it would allow municipalities to

1 participate in exactly that, to change out their
2 aging infrastructure.
3 So maybe this -- with all the stuff we're
4 dealing with, maybe this will be the year we can ge
5 it moving.
6 So, we'd love to discuss that with you for
7 sure.
8 MARTIN AMAN: The programs promoting regional
9 cooperation and sharing of facilities, and that is
10 also a way you could supplement. Could use more
11 assistance that way.
12 JOSEPH FIEGL: That's something Marty and I
13 are -- we're actually co-chairing a conference on
14 energy in November.
15 So our organizations do collaborate.
16 So that's something we can certainly talk
17 about, you know, particularly, you know, both ends
18 of the pipe are important in this equation.
19 MARTIN AMAN: One last thing.
20 The topic came up about property tax-cap
21 implications on some of these necessary
22 infrastructure improvements and responses to
23 contamination events.
24 It seems unreasonable to think that that
25 should adversely affect a community's status, in

1 being compliant with tax-cap considerations.
2 Some of these things are at the forefront of
3 concerns, as we heard tonight.
4 We've got to move, and, you know, that's a
5 topic that warrants consideration.
6 Thank you.
7 ASSEMBLYMAN ENGLEBRIGHT: Mr. Gottfried.
8 ASSEMBLYMAN GOTTFRIED: A question for
9 Mr. Michaels.
10 The article you're going to be sending us,
11 does that point to legislation that the State could
12 be doing?
13 DR. ROBERT A. MICHAELS: Well, I guess you
14 could say that it points to regulation.
15 I'm not so sure about legislation.
16 ASSEMBLYMAN GOTTFRIED: Okay.
17 DR. ROBERT A. MICHAELS: Remembering through
18 it, no, I don't think I've made a legislative
19 proposal.
20 ASSEMBLYMAN GOTTFRIED: Okay.
21 And the advisory counsel you were talking
22 about, was that in Maine?
23 DR. ROBERT A. MICHAELS: That was in the
24 state of Maine.
25 ASSEMBLYMAN GOTTFRIED: Yeah, okay.

1 Thank you.
2 ASSEMBLYMAN ENGLEBRIGHT: Questions, from
3 anyone?
4 Dr. Michaels, do you think that there should
5 be a DEC advisory committee, as well as a health
6 department committee?
7 DR. ROBERT A. MICHAELS: A what?
8 ASSEMBLYMAN ENGLEBRIGHT: Department of
9 Environmental Conservation advisory committee.
10 You suggest one for the health department.
11 We have two agencies that have been the
12 subject of discussion today.
13 I'm just wondering if you think that it would
14 be useful for the DEC to have a similar committee.
15 DR. ROBERT A. MICHAELS: Well, I especially
16 am an appropriate person to ask, because I used to
17 serve on an advisory panel to the DEC. In fact, a
18 couple of them.
19 One was called the "scientific review group,"
20 and we did review water-quality standards, not
21 drinking water. These were natural waters.
22 But we used the methods of risk assessment
23 and industries that were involved; I was involved.
24 And the DEC had another one on human health
25 effects, which I also was on. I don't remember the

1 name of that panel.
2 But, yes, I think that there is, since
3 World War II, a culture that began with the
4 physicists advising the president, and eventually
5 producing a science panel for the president, the
6 Office of Science and Technology Policy, headed by
7 the science adviser to the president.
8 And that --
9 ASSEMBLYMAN ENGLEBRIGHT: World War II.
10 Right?
11 DR. ROBERT A. MICHAELS: Yeah, World War II.
12 ASSEMBLYMAN ENGLEBRIGHT: Edmund Teller.
13 DR. ROBERT A. MICHAELS: I can almost
14 remember that one.
15 But what I'm saying is, is that the concept
16 of private scientists advising government agencies
17 really grew from that particular experience, and wa
18 very successful.
19 And I consider it a very appropriate
20 response, and I would hardly find a basis to deny
21 that with respect to any agency.
22 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
23 much.
24 Thanks to each of you for persevering.
25 It was worth it from this side, for your

1 having to stay this long.
2 Thank you so very much.
3 DR. ROBERT A. MICHAELS: By the way, I have
4 advocated an enforceable standard.
5 If that occurs at the state level, that could
6 involve legislation.
7 I don't specifically.
8 Thank you very much.
9 And thank you for the pizza.
10 ASSEMBLYMAN ENGLEBRIGHT: We are on the last
11 panel. They include:
12 Ingrid Beer and Donna Liebman, Plains
13 Watch -- excuse me, the Plains Road Water Watch;
14 Kevin Chlad, director of government relations
15 for The Adirondack Council;
16 And Tamara Elzubair and Gail Cook, both are
17 organizers from 1199 SEIU;
18 And David Hassell --
19 Is David Hassell still here?
20 We understand that you were formerly at
21 Saint-Gobain, and helped -- and helped design some
22 of the equipment there.
23 So, please, join the panel.
24 And who wants to go first?
25 ASSEMBLYMAN GOTTFRIED: Well, and before

1 that, do you all swear that the testimony that
2 you're about to give is true?
3 (All witnesses say "I do.")
4 ASSEMBLYMAN GOTTFRIED: Okay.
5 INGRID bEER: Okay. My name is Ingrid Beer.
6 I live on Plains Road in New Paltz, New York.
7 We have come to Albany today to ask your help
8 in avoiding a likely environmental disaster in
9 New Paltz, New York.
10 We desperately seek your help.
11 Underground water is a priceless resource.
12 And what is about to happen in New Paltz is
13 the destruction of a resource that took millions of
14 years to create.
15 To summarize quickly:
16 A temporary backup water source will be
17 required in New Paltz during several 10-week period
18 of repair to the Catskill Aqueduct. This will begi
19 in late 2017.
20 New York City has agreed to pay for the
21 temporary source, but the only solution for which
22 New York City will pay will dewater our wells, spoi
23 our wells, and spoil the wells that service dozens
24 of homes on Plains Road and in the surrounding
25 community.

1 Several completely feasible alternatives
2 exist for the temporary water supply that is needed.
3 One environmentally-sound alternative is
4 water from the Wallkill River.
5 The Wallkill River runs through New Paltz
6 directly behind the property in question.
7 Wallkill River water could easily be treated
8 and supply the temporary backup that is needed.
9 Also, the nearby town of Lloyd filters its
10 water and has an abundant supply.
11 Temporarily using water from the town of
12 Lloyd would not disturb the Plains Road Aquifer at
13 all.
14 It is known that there is a grave of risk
15 here.
16 Hydrogeologist Paul Rubin has written, "The
17 New York State Department of Environmental
18 Conservation should deny a temporary 10-week
19 water-supply application, because doing so will
20 unnecessarily and adversely affect the community,
21 when several alternative water sources may be
22 suitable."
23 The horrible and sad aspect of this situation
24 is that, even though the water source is needed for
25 a temporary time frame, once the underground water

supply is drawn down, the damage to the Plains Road Aquifer will be permanent.

We need a temporary fix for a temporary lack of water.

But the decision to pump at Plains Road will be irrevocable and the damage will be forever.

The Town admits, that if pumping is permitted, this groundwater will never come back as clean water again.

The decision to use and destroy the Plains Road Aquifer was made behind the scenes.

The town board and New York City selected the most environmentally-damaging option.

No valid scientific or environmental reasons were ever given for rejecting other options.

All efforts have concentrated on the Plains Road site without creating any Plan B.

Regrettably, due to the influx of New York City money, town officials have taken the viewpoint that they will take the money and run.

SEQRA, the state law designed to safeguard our environment, has been short-circuited dramatically in New Paltz.

In their decision-making, New Paltz town officials relied solely on the local engineer's

1 report.
2 We are concerned that the same engineer who
3 did the limited SEQRA study will be paid for the
4 design and construction work.
5 There should be independent review.
6 Officials and firms in the town of New Paltz
7 are being paid by the Town to oversee their own
8 work.
9 This is an inappropriate conflict of
10 interest.
11 We want to make sure our community conducts
12 this large water project the right way.
13 We do not have a single thing to gain here.
14 We remain personally neutral.
15 New York City should also want to make this
16 right.
17 Historically, we know that in its search for
18 public water, New York City has sometimes created
19 havoc in small upstate communities.
20 Here, once again, New York City has not taken
21 sufficient care of the costs, including social
22 costs, economic costs, and environmental costs, to
23 local residents and the community.
24 The New Paltz Town Board can, at best, be
25 seen as scrambling inadequately informed and

1 willfully overlooking all opinions, except one.
2 State and local officials have been
3 uncooperative and obtuse toward our concerns.
4 Our FOIL requests to local officials have
5 been ignored, sometimes for months, and, denied.
6 We want the Town and Village of New Paltz to
7 plan correctly for water usage, and our community.
8 In Hoosick Falls, Newburgh, and elsewhere,
9 terrible consequences have come from poor planning,
10 questionable practices, and mistakes in judgment.
11 Government officials were aware of problems long
12 before the public was notified.
13 We ask -- we are asking you to look very
14 closely into this situation.
15 We are asking the State Department of
16 Environmental Conservation to direct that our town
17 board look toward a better environmental choice.
18 Do not destroy the Plains Road Aquifer.
19 In our opinion, the best choice at this
20 juncture is to pump water from the town of Lloyd,
21 where there would be no conflict of interest, no
22 possibility of environmental devastation to a
23 healthy aquifer.
24 Lloyd's water will comfortably meet the
25 future water needs of our growing community, with a

1 known cost factor and availability.
2 In summary, here is what we are asking you to
3 do:
4 We want an overall and independent planning
5 agency for water in New York State. Small towns do
6 not have water experts.
7 We ask the State to compel the Town of
8 New Paltz to do a better job.
9 The State should look at the SEQRA process
10 and direct the Town to do further study.
11 The town board of New Paltz will be applying
12 for a permit to allow these massive water
13 withdrawals on Plains Road.
14 We call on the State to deny this permit.
15 If a permit is granted, the result will be a
16 destruction of an ancient and critical aquifer.
17 Please help us now to avoid a pending
18 disaster in New Paltz.
19 Thank you.
20 DONNA LIEBMAN: My name is Donna Liebman, and
21 I also live in New Paltz.
22 And in case you didn't get it from Ingrid,
23 this is good news for you, what we have brought to
24 you.
25 We are homeowners.

We are not politicians or activists, and we thank you for the opportunity to speak.

You've been hearing about serious water issues for a long time, a very long day that you've had today.

Our water crisis hasn't happened yet, and you can keep it from happening -- you can keep from it happening altogether.

A backup water source, like Ingrid said, is required in New Paltz for three 10-week shutdowns o the New York City Aqueduct.

Several potential sites were explored only superficially.

The town board chose a site at 101 Plains Road.

Not only is this site inadequate, but pumping water at 101 will put the aquifer at unnecessary risk, and possibly do it permanent, irrevocable damage.

In this day and age we cannot do this.

The events leading up to and following this decision are highly questionable regarding motivation and methods practiced by certain individuals.

"Safe yield of an aquifer" is defined as the

1 amount of water that can be withdrawn from it
2 without producing an undesired effect.
3 Safe yield was never established for
4 101 Plains Road, yet all efforts have focused on th
5 Plains Road site without creating a Plan B.
6 The water to be pumped at 101 would be
7 supplemented by water from other sources.
8 Recently, it was revealed that the water from
9 one of those sources is not usable.
10 Instead, local government officials are now
11 actually considering drawing water from a local
12 environmental preserve.
13 In May of 2014, two test wells were drilled
14 at 101.
15 The engineer in charge never contacted
16 residents.
17 He did not establish a baseline for any
18 private homeowner well.
19 These two steps are the two most basic
20 practices prior to test pumping.
21 Before the 72-hour test was completed, three
22 homeowner wells were dewatered. Many others were
23 contaminated with coliform and lead.
24 The engineer later explained that he didn't
25 inform residents because he thought no well would b

1 affected.
2 Well, the wells that were affected were
3 across the street from the pump site.
4 Some community members prefer municipal
5 water, while others want to keep their wells.
6 Our group, the Plains Road Water Watch, wants
7 to protect the aquifer.
8 We want good science that supports whichever
9 site is chosen.
10 And I believe I heard that phrase used a
11 couple of times this evening: Good science.
12 That's all we're looking for.
13 Over the last two years, we have frequently
14 attempted communication with the New York State
15 Department of Environmental Concentration, the
16 New York City Department of Environmental
17 Protection, the Ulster County Department of Health,
18 and the town and village boards of New Paltz.
19 Our questions and concerns have fallen on
20 unresponsive ears.
21 Plains Road Water Watch hired Paul Rubin, who
22 Ingrid mentioned, an expert hydrogeologist with
23 30 years experience in the region, to interpret the
24 data provided in the engineer's report.
25 In his review of the report, Mr. Rubin

1 summarized the following:
2 Number one: The New York State Department of
3 Conservation should require additional testing if a
4 permanent water-supply application is being sought.
5 Number two: New York State Department of
6 Conservation should deny a temporary 10-week
7 water-supply application because such pumping will
8 unnecessarily and adversely affect the community,
9 when several alternate water sources may be
10 suitable.
11 Number three: Complete cost-benefit analysis
12 has not been conducted, comparing full system costs
13 proven long-term safe yields, future water demand,
14 and system expansion.
15 And, number four: All further hydrologic
16 work should be framed within SEQRA as part of a
17 draft environmental impact statement.
18 We are providing copies of Mr. Rubin's report
19 to this Committee for your review.
20 We come before you because practices and
21 information involving this water have raised grave
22 concerns regarding the health of the aquifer.
23 Due to the lack of expertise and planning for
24 water usage, the aquifer will be put at risk.
25 If it is ruined, it is irreplaceable.

1 And New Paltz's potential tragedy could be
2 averted.
3 State agencies could be models of
4 proactivity.
5 The approach could be a willingness to heed a
6 substantive warning and ensure everything is done
7 properly.
8 Here is an opportunity to create a positive
9 outcome.
10 We ask that the State provide assistance,
11 guidance, and direction to the residents and leader
12 of New Paltz, so that proper planning, design, and
13 construction of a backup water source will be
14 implemented in our town.
15 Further, we urge that this practice become
16 protocol as water needs change in communities
17 throughout the state.
18 As EPA Administrator Judith Enck wrote in an
19 e-mail to her colleagues regarding Hoosick Falls,
20 "We need the state health department to focus on
21 water-supply issues fast."
22 There is a clear need for regulatory
23 oversight by either the State or EPA, or both.
24 Thank you very much.
25 ASSEMBLYMAN ENGLEBRIGHT: Kevin.

1 KEVIN CHLAD: Good evening, everybody.
2 And thank you so much for indulging me at
3 this late hour, and I promise I will be very brief.
4 And I want to go on the record, letting you
5 all know how much I look forward to eating a slice
6 of pizza outside after this.
7 Thank you so much.
8 My name is Kevin Chlad, and I'm the director
9 of government relations for The Adirondack Council,
10 which is a 501(c)(3) not-for-profit dedicated to
11 ensuring the ecological integrity and wild characte
12 of the Adirondack Park.
13 We do not accept any public funding.
14 Our Adirondack Park was created over
15 100 years ago, actually, back in 1892, to protect
16 water quality for New Yorkers. That was its
17 purpose.
18 The park protects five major basins right
19 now: The St. Lawrence River; the Black River;
20 Lake Champlain; the Mohawk River; and the mighty
21 Hudson River, which flows from its source at
22 Lake Tear of the Clouds, which is just on the
23 shoulder of Mount Marcy, our state's highest point.
24 It's spectacular.
25 There are currently many real and direct

1 threats to Adirondack waters, which are addressed a
2 length in my testimony.
3 There are also many opportunities identified
4 in my testimony.
5 I want to emphasize one thing: The
6 Adirondack ecology, economy, and its deep-rooted
7 culture are at serious risk and will fall to pieces
8 if we fail to protect our water.
9 So with that in mind, I just want to make
10 note of a couple of recommendations that are in our
11 testimony, and this is not an exhaustive list.
12 We recommend that you work with the Governor
13 to make the New York State Water Infrastructure
14 Improvement Act a robust and recurring fund in the
15 New York State budget.
16 We also recommend that you dedicate more DEC
17 staff to water-quality monitoring, education,
18 engineering, planning, funding, and compliance
19 assistance.
20 We recommend that you undertake amendments to
21 the Adirondack Park Agency Act, to better protect
22 shorelines, water quality, wildlife habitat, and
23 community vibrancy in the Adirondack Park.
24 And, Chairman, I want to take a moment to
25 thank you for your conservation subdivision bill

1 which you introduced at the end of last session,
2 which is an important part of that effort.
3 Thank you.
4 We also recommend that we align New York
5 State Department of Transportation Road Management
6 Guidelines with best-management practices recognize
7 by the scientific community, as it relate to
8 road-salt application. Very important.
9 Expand the Adirondack Park invasive-species
10 prevention strategy by adding more boat-washing
11 stations, improve signage and educational outreach,
12 and by supporting Adirondack efforts with expanded
13 DEC water-quality staffing.
14 And then, finally, we encourage the State to
15 continue its path in establishing critical load
16 standards for acid rain in the Adirondack Park.
17 Very important next step in the fight against
18 acid rain. That battle is not over.
19 Honored members of the Legislature, we are at
20 a crossroads.
21 Will we rise to the occasion as New Yorkers
22 to preserve our precious resources, public health,
23 and our Adirondack legacy for current and future
24 generations, or will we just succumb to the fear of
25 the work that lies ahead of us and just turn a blin

1 eye?

2 We see this, at The Adirondack Council, as an

3 opportunity for all of us to join together to clean

4 up our act and build a future for ourselves and

5 generations to come.

6 Thank you so much for this opportunity to

7 testify.

8 ASSEMBLYMAN ENGLEBRIGHT: Thank you very

9 much.

10 Tamara Elzubair and Gail Cook.

11 GAIL COOK: Yes, hi.

12 My name is Gail Cook. I'm a political

13 organizer with 1199 SEIU.

14 I'm reading this statement on behalf Maria of

15 Castaneda, 1199 SEIU secretary, treasurer, and also

16 a member of the board of directors of

17 The Riverkeeper.

18 There is a growing recognition within

19 organized labor and among working people that

20 environmental degradation affects our communities

21 disproportionately.

22 For 1199 SEIU members, protecting the

23 environment is a primary public-health issue.

24 As front-line health-care workers, we are

25 dedicated to saving lives, healing, and promoting

1 wellness.
2 We know that environmental health is the key
3 to achieving these goals.
4 Environmental health is both global and local
5 in nature for every community.
6 Today we know that, right here in New York
7 State, there are many "Flints" in the water supplie
8 of our schools and local communities.
9 Today we know that, right here in the
10 magnificent Hudson Valley and in Newburgh, which is
11 home to more than fifteen hundred 1199 members,
12 thousands of residents were likely exposed for an
13 unknown period of time to dangerous levels of PFOS,
14 a toxic chemical.
15 The city of Newburgh's public-health water
16 supply tested positive for elevated levels of PFOS
17 in May, and, thankfully, it was switched to an
18 alternative source, but not until some of the
19 highest PFOS contamination levels were detected at
20 5900 parts per trillion.
21 That's two times the EPA's recommended safety
22 limit, and it was discovered in the drinking water
23 of ordinary citizens.
24 How did it get there?
25 PFOS is a chemical found in firefighting

1 foam, and especially used at airports, including tw
2 in Newburgh: Stewart Air National Guard Base and
3 Stewart Internal Airport.
4 These airports were believed to be the major
5 sources of the PFOS in Newburgh's drinking water.
6 Medical professionals who study toxic
7 chemicals say blood tests are an important tool to
8 monitor patient health.
9 While we do not yet know what specific level
10 of PFOS in a person's blood might result in adverse
11 health effects, we do know that blood-test results
12 can help.
13 They shed light on the extent of a person's
14 exposure to PFOS, enable people to compare their
15 PFOS blood levels to those in different communities
16 where others have been exposed to elevated levels o
17 PFOS.
18 New York State has been conducting blood
19 tests for residents of Petersburgh and Hoosick Fall
20 for months.
21 The chemicals have been linked to a number of
22 health problems, including cancer, thyroid problems
23 and high cholesterol, depending on the level of
24 exposure.
25 It can take a body years to flush the

1 chemicals out of it -- out of its system.
2 Unfortunately, the state health department,
3 so far, has not agreed to a plan that would
4 blood-test residents of Newburgh.
5 We are here today to urge you to join
6 Senator Kirsten Gillibrand and others in strongly
7 urging the state department of health to provide
8 free blood testing for Newburgh residents as part o
9 a comprehensive health-screening program.
10 1199 SEIU health-care workers have always
11 been committed to advocating for the health of our
12 communities, including defending and protecting
13 clean drinking water.
14 Today we are increasingly aware of the
15 challenges we face, and are renewing and fortifying
16 our commitment, standing ready to work in every way
17 possible to protect our water, our air, and our
18 land.
19 Please join us in this effort.
20 Thank you.
21 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
22 much.
23 You're playing the cleanup spot here, as they
24 say in baseball.
25 So, please tell us --

1 DAVID HASSELL: It's funnier than you think,
2 because the cleanup of PFOA is what I'm all about.
3 I have a lot of professional and personal
4 connections with Hoosick Falls.
5 I only recently met Michael Hickey, but his
6 father ran the towers that I built up in
7 McCaffrey Street in the late '70s and early '80s.
8 ASSEMBLYMAN ENGLEBRIGHT: Tell us once again
9 your name.
10 If you would, tell us your name one more time
11 for the record.
12 Your name for the record.
13 DAVID HASSELL: My name is David Hassell.
14 ASSEMBLYMAN ENGLEBRIGHT: Thank you.
15 DAVID HASSELL: I only recently met
16 Dr. Martinez, but his father put stitches in my
17 forehead, because I banged my head at
18 McCaffrey Street.
19 So I do have some connections.
20 In the late '70s and early '80s, I designed
21 and built three of the PTFE fabric-coating towers a
22 the McCaffrey Street plant.
23 It was my first job there, after I graduated
24 from RPI as an engineer.
25 Those towers was where 95 percent of the PFOA

1 in Hoosick Falls came from. It went up the stacks,
2 out onto the ground, into the water.
3 DEC might be looking for it as plumes.
4 It's not there, and I'll explain why.
5 I later was chief engineer of the R&D
6 department of vocal materials group, which is a
7 company that owned McCaffrey Street at the time, as
8 well as 11 other plants in that town.
9 It now only has two left.
10 We were big at the time.
11 I worked there, with my office on the third
12 floor, right next to the stacks, for eight years.
13 My prostate cancer at a young age probably
14 was from inhaling the PFOA in that office.
15 For the next 15 years, I invented, patented,
16 manufactured, sold, scientific instruments used to
17 track air pollution and study chemical reactions.
18 I helped create 150 jobs in Albany County
19 with a company that was doing that.
20 Recently, I've been working with the EPA and
21 the Vermont DEC to help them find the PFOA; where i
22 came from, where it went, how it got into people.
23 One of the class-action groups of lawyers
24 actually paid me rather generously to hold a semina
25 for them on what PFOA is, how it got into the

1 environment, how it got into people.
2 Once I had that together, I also gave that
3 same seminar at Union College and RPI.
4 I would like to address two technical issues
5 today, going into a little more depth than some
6 other people have today, and maybe even answering a
7 few questions that you asked that they couldn't
8 answer.
9 I'm skipping a little bit here to save you
10 some time.
11 When PFOA left the machines that used it in
12 Hoosick Falls, it was predominantly airborne.
13 And it's been mentioned a few times --
14 ASSEMBLYMAN ENGLEBRIGHT: Just a quick
15 question.
16 What does this look like before it goes into
17 the process?
18 Is it a liquid? Is it solid at room
19 temperature?
20 DAVID HASSELL: Very good question.
21 ASSEMBLYMAN ENGLEBRIGHT: What color is it?
22 DAVID HASSELL: We should always make a
23 distinction --
24 ASSEMBLYMAN ENGLEBRIGHT: How much are we
25 talking about that you're using?

1 DAVID HASSELL: We should make a distinction
2 between PTFE, which is what we were coating onto th
3 fiberglass cloth in those towers, and also onto
4 thread and yarn over at Johns Street. I built
5 towers over there too.
6 And PFOA is a processing aid that's used to
7 help the PTFE coat and stay nice and smooth as it
8 goes onto the fabric, because the way you make this
9 stuff is, you dip glass fabric into a big pan, and
10 then send it up a -- an oven, to dry out the water,
11 bake out the PFOA and triton, which are both
12 dispersants that are used to keep the PTFE powder i
13 the water solution.
14 It looks like milk.
15 And when you coat that onto the fabric, you
16 first have to remove the water.
17 Then you bake out the dispersants, the PTFE
18 and -- or, PFOA and the triton.
19 And then at the top of the tower, you fuse
20 the Teflon onto the cloth at very high temperatures
21 And that has a big bearing on what's going on
22 here too.
23 Our PFOA situation in Hoosick Falls is
24 actually quite different, both in the way it
25 traveled, and in the accompanying chemicals that

1 went with it, than the PFOA at 3M where they
2 manufactured it, or at DuPont where they used it
3 to make the PTFE.
4 And I think this has already been mentioned
5 once before today, but I'll mention it again.
6 When they make the PTFE, PFOA is a processing
7 aid.
8 And what they do is, they bring the monomer
9 TFE into a large stainless-steel container.
10 In that container is water, triton, and PFOA.
11 As they keep bringing the monomer in,
12 stirring it, heating it, the monomer turns into a
13 polymer. In other words, the individual molecules
14 form long chains.
15 And if you have PFOA in the water, a very
16 strong dispersant, it keeps that as a powder
17 suspended in the water.
18 Once they build up about 50 percent of the
19 entire mass of that water mix as PTFE, they dump it
20 out into barrels, ship to it Hoosick Falls, and
21 that's what we used.
22 It was just that simple.
23 That's why we didn't know there was any PFOA
24 in there.
25 DuPont didn't tell us.

1 Neither did Hoist (ph.), neither did a half
2 dozen of the companies we bought it from, because i
3 was a processing aid they used when they made it, s
4 they didn't feel they had to tell us.
5 They told us the triton was in there, and
6 what it was for, it was a dispersant. But they
7 didn't bother telling us about the PFOA, so, we
8 didn't know.
9 And there was no PFOA ever bought and brought
10 into Hoosick Falls.
11 Actually, it would have been APFO, the
12 salt -- ammonium salt that's in PFOA.
13 We never put any extra in. We never took any
14 out. It was just there.
15 And, it wasn't in things like plumbing tape.
16 I got to have a talk with Michael, talking
17 about PFOA in the powder.
18 It wasn't in the dry powder.
19 It was in the dry powder when DuPont made
20 it, but when they dried it, they baked the PFOA out
21 They dumped half of it into the river. They
22 put half of it into the air -- well, (indiscernible
23 percent into the air. And the other 10 percent,
24 they put in dumps down there.
25 In Hoosick Falls, all the PFOA went into the

1 air. The only place it was, was in the dispersion.
2 The first step in making coated fabric, is
3 you dip the fabric into the pan, you send it up the
4 tower and bake off the PFOA.
5 So even if you have scrap fabric, it doesn't
6 have any PFOA in it.
7 Finished fabric doesn't have any PFOA in it.
8 It all went out the towers.
9 It all went out the towers, down onto the
10 ground.
11 Now, they are finding some in dumps. Sure.
12 Occasionally we have a spoiled barrel of PTFE
13 dispersion. If it got frozen, if it got rolled
14 around too much on a truck, it would coagulate. We
15 would have to throw it out.
16 We probably just, literally, threw it out
17 somewhere.
18 One barrel of that dispersion would account
19 for all of the PFOA that they're finding in the
20 various dumps there.
21 But that was about a tenth of a pound of PFOA
22 in that barrel.
23 We were putting out tons of it into the air
24 up there.
25 Tons over the years, because we started in

1955 at Johns Street, with two towers, making coate thread. That was Clee Dodge, former GE engineer, built that plant.

In 1961, he moved over to McCaffrey Street, built that building from scratch.

Johns Street was an old factory that he bought.

He built a new one. I think it was either six or eight tower positions we had in there, that we filled up the towers.

And I made new ones that ran twice as fast as the old ones, so they were kind of happy about that.

ASSEMBLYMAN ENGLEBRIGHT: What was the fabric?

You said fiberglass?

DAVID HASSELL: I can show you a piece of it.

ASSEMBLYMAN ENGLEBRIGHT: What was it used for?

After you produced it, where did it go?

DAVID HASSELL: It's fiberglass coated with Teflon.

This is fabric.

That's it, from my towers.

(Holding up a demonstrative aid.)

ASSEMBLYMAN ENGLEBRIGHT: For what purpose?

1 What's the commercial application?
2 DAVID HASSELL: What's, what?
3 ASSEMBLYMAN ENGLEBRIGHT: Who would want to
4 buy that?
5 DAVID HASSELL: A lot of people.
6 It was used in molds for making airplane
7 parts.
8 It was used as belts over fry hoppers in
9 their baking ovens.
10 It was wrapped around wire.
11 And, in fact, that was why it was invented,
12 to be wrapped around wire. To make high-temperatur
13 wire insulation for rockets.
14 When Clee Dodge worked at GE as a rocket and
15 test engineer, he went over to Warren Wire in
16 Pownal, Vermont, and convinced them to make this
17 stuff for him.
18 He met up with another guy that had worked at
19 Owens-Corning, and then at DuPont, developing an
20 even better method to make the fabric.
21 Three guys worked together in Pownal.
22 Those three guys started the plants in
23 Hoosick Falls.
24 The one that was in North Bennington,
25 actually, it was in Pownal, and Bennington, and the

1 North Bennington.
2 They made a bigger one because they needed to
3 make more over in Merrimack.
4 The third guy, the one that had come from
5 Owens-Corning and DuPont, he started Taconic.
6 So those three guys, working together in 1953
7 in Pownal, basically, put it all together, all the
8 factories we've got around here, and two of them in
9 Ireland.
10 And, actually, there's about a dozen more
11 that I've tracked around the world, that those thre
12 guys and their three businesses put together.
13 Anyway, I don't want to go forever here, so,
14 back to my notes, and, hopefully, keep it down to
15 five minutes.
16 Okay.
17 The air issue:
18 It was predominantly airborne leaving the
19 plants.
20 And, right now, I'm helping the Vermont DEC
21 and their geologists to track it that way in
22 North Bennington. And we're using the very
23 extensive documentation available from the
24 C8 studies.
25 The C8 studies weren't just health studies.

They studied the transport of PFOA.

They mapped every pound, and it's like 2 million, that DuPont put in the environment there, from 1950, right up until 2003.

I can tell you how much went in the river, how much went in the air, how much went to the dumps. It's all documented.

And they put together a model of how this stuff went up, because they -- this study was done in 2005, and they were projecting back to 1950, how much of this stuff was used, and where it went.

So they figured -- they made a model of how it went up into the air, came into the ground, went into the water.

And they -- the model worked, because they went and tested the soil and the water across the river from the DuPont plant, and the predicted numbers matched right up with the numbers that they found.

And we're going to try and do the same thing up in North Bennington, to track what was going on up there.

So there's a lot of science that's known about this.

I'd also like to talk about one health issue,

1 and go a little deeper than some other people have
2 today.
3 The health issue requires that you understand
4 the statistical significance of the cancer studies.
5 Dr. Zucker keeps making reference to his
6 future study of PFOA and health effects in
7 Hoosick Falls.
8 He ignores the work of the C8 science panel.
9 This is a very big mistake, because he's
10 going to go nowhere with that, and I can make it
11 very clear why.
12 And it's not because they aren't confident.
13 It's not because they're not going to try to
14 do good work.
15 It's just impossible because of the small
16 number of people that they're looking at.
17 And, again, you can find that in the
18 C8 science manual. They explain how that works
19 very, very well.
20 Anyone doing the 5-minute goal of the
21 C8 studies would know that 600 parts per trillion i
22 water is going to give you 60 to 90 parts per
23 billion in your blood.
24 I predicted that last March, way even before
25 the blood tests were taken, when they came out and

1 said the average was 20.
2 I said, "Bull."
3 When they finally came out and gave the real
4 averages of the people who drank the municipal
5 water, guess what?
6 It was 60 to 90.
7 It's not tough.
8 They documented this in 60,000 people.
9 It's not going to vary very much from that.
10 So knowing that, that puts those people with
11 60 to 90 parts per billion in their blood, they're
12 in the group that's expected to have a 100 percent
13 increase in kidney cancer in that group.
14 ASSEMBLYMAN ENGLEBRIGHT: 100 percent
15 increase?
16 DAVID HASSELL: They'll have double.
17 The average group of unexposed people, there
18 are 16 cases per 100,000 of kidney cancer.
19 That's typical in all of New York State.
20 It's typical around -- for the whole
21 United States.
22 Unfortunately, it's not typical in
23 Rensselaer County. We have, like, 30 percent more.
24 Just before I go further into that, I want to
25 bring up one other little point, how the state limi

1 can be set.
2 Unlike New York, New Jersey did not just set
3 an arbitrarily (sic) limit, which is what New York
4 did when they went to, first, 100, and then 70, and
5 they only did it because they were being slammed by
6 the Hoosick Falls residents and the EPA.
7 In 2006, New Jersey did an extensive
8 literature review of all the scientific information
9 they could find. They wrote it up and published it
10 online -- I've read it -- justifying their setting
11 of their "40 parts per trillion" limit.
12 They gave both discussion and citations to
13 all the papers they used to justify it.
14 So by 2012, not only was the health science
15 available from the C8 studies to the New York State
16 Department of Health, if they wanted to read it, bu
17 a well-documented model for setting a state limit
18 was also fully explained and published.
19 Several other states set limits after reading
20 the New Jersey papers, and most of them cited the
21 New Jersey paper, and thanked them.
22 Some were higher -- some set higher levels,
23 Maine.
24 Some set lower. I think there was one down
25 south, and, of course, Vermont.

1 But none claimed that the only information
2 available would come from conducting their own
3 little cohort studies, the ones that -- which is
4 what our commissioner keeps referring to.
5 And here's why it's not going to work:
6 If his staff had paid any attention to the
7 meaning of word "statistics" in high school, they
8 would know, that in order to ever come to a
9 conclusion about the effects of PFOA on the people
10 in Hoosick Falls, they would need a minimum of
11 6,250 person-years of full medical history for thos
12 with high exposure to PFOA.
13 And where that number comes from is pretty
14 simple.
15 If 16 out of every 100,000 people in any
16 group uncontaminated by PFOA will have incidence
17 with kidney cancer in any given year, that means yo
18 need 100,000 divided by 16, equals 6250 person-year
19 of medical history to find one background case.
20 Without a statistically valid background
21 case, and at least one extra case, there's no way t
22 claim an increase in the incidence of kidney cancer
23 And without a big enough cohort of highly
24 exposed people to have predicted two cases, and
25 finding only one, you can't begin to come to any

1 conclusion about PFOA not causing kidney cancer,
2 statistically.
3 This is an aside.
4 In the C8 study, they found 100 cases of
5 bladder cancer in their cohort. They found
6 100 cases of lung cancer.
7 But those numbers matched up exactly with
8 what the background number of cases should be, so
9 they came to a very strong conclusion that PFOA
10 doesn't cause those two cancers.
11 But guess what they found out about kidney
12 cancer?
13 The C8 studies had a big enough cohort, that
14 they were looking at 94 cases of kidney cancer over
15 a 9-year period.
16 The mathematics of these studies are
17 constrained by the reality of people.
18 Fractional cases are not detectable.
19 Whole numbers are necessary when dealing with
20 people. You can't have a half a case of kidney
21 cancer.
22 So if there's a minimum number of people you
23 need to get one case, you're stuck.
24 You got to have that number of people, or at
25 least that number of people-years.

1 You can have 3,000 people for one year,
2 1500 people for two years, that gives you the same
3 amount of data, but you got to have these very, ver
4 large numbers.
5 We don't have a chance of having those
6 numbers in the studies that our DOH is gonna do.
7 And here's their numbers:
8 They only did blood tests for about
9 2,000 people. Less than half of those people had
10 any PFOA in their blood.
11 That made it easy for them to put out that
12 number of "20."
13 That leaves a cohort of 1,000 people left.
14 One could argue, that if you could -- you
15 probably would find two cases of kidney cancer if
16 you studied the entire medical history of those
17 1,000 people for 6 years, because that would give
18 you 6,000 person-years.
19 Sounds like it might work, until you realize
20 that the basis of the C8-study conclusions was that
21 only the people with high levels of PFOA have the
22 two-times higher than the ones with low.
23 So only, maybe, two or three hundred people
24 in our group in Hoosick Falls would be predicted to
25 get the extra kidney cancer, and that would require

1 25 years of medical history.
2 And if you read the C8 studies, you'll find
3 out that anything more than about five to
4 eight years, you lose too much data and it can't be
5 done.
6 People die; you lose them out of your study.
7 And, in fact, the C8 studies mentioned that,
8 because they probably did have people die during th
9 nine years of their study, that they're probably
10 under-predicting the incidence of kidney cancer by
11 maybe even as much as a factor of two.
12 But since it didn't make DuPont look worse
13 to include that data, they said, okay, we won't tak
14 the extra two or three years it would take to try t
15 get the data on the people that died. We'll just
16 leave that out, and put out a number that'll be a
17 little bit lower, but it's still 100 percent higher
18 It still says it's bad, and that's really
19 what they were after.
20 So looking at these numbers, it's obvious
21 there's no way that the New York State Department o
22 Health research can come to any conclusions about
23 the incidence of kidney cancer, which is the most
24 strongly predicted disease caused by PFOA.
25 The other five diseases would require even

1 bigger cohorts of people.
2 If all the medical data from all the exposed
3 people in Hoosick Falls Petersburgh,
4 North Bennington, and Merrimack were combined into
5 one study, there would be a slight chance of gettin
6 a statistically valid conclusion.
7 But asking three states in two different EPA
8 regions to cooperate like that is a fool's errand.
9 They would never cooperate.
10 The lack of a sufficient number of people in
11 each group showing a high level of PFOA in their
12 blood will invalidate all three separate state
13 studies.
14 They're going to be a big waste of money.
15 Much like the small cohort of workers cited
16 by the EPA, from a literature study paper by Chang,
17 the research that Zucker claims he will do has no
18 possibility of coming to any conclusion.
19 There were several cohort studies of DuPont
20 workers that only involved a couple hundred workers
21 at a time.
22 They came to no conclusion.
23 And when you hear that, oh, sometimes they
24 study and they came to the strong conclusion, like
25 C8, and sometimes they come to no conclusion, well,

1 guess what?
2 They came to no conclusion because it was a
3 bad study; not because there wasn't any cost.
4 In the C8 study, they actually divided cancer
5 into three different groups:
6 The ones where they had enough to prove it
7 was caused;
8 The ones they were able -- they had enough
9 data to show that it wasn't caused;
10 And the ones where they didn't have enough
11 data, so they said, "We don't know," and they left
12 it at that.
13 Interestingly, this discussion of statistical
14 validity makes it obvious that the C8-study
15 conclusions are strongly supported and statisticall
16 valid.
17 Their conclusions were based on 9 years of
18 medical history for 40,000 people, all of whom had
19 PFOA blood tests, and 94 of whom had
20 fully-documented cases of kidney cancer.
21 Just looking at 40,000 people for 9 years,
22 one would only expect to find 58 cases.
23 And they found 94.
24 Of those 94 documented cases, 59 were
25 considered to be possible extra cases because they

1 were exposed to high, medium, or low amounts of PFO
2 in their blood.
3 The 28 cases from people who have 4 to
4 30 parts per billion in their blood showed only a
5 20 percent increase in incidence of kidney cancer
6 over the unexposed people.
7 The ones with 31 to 655, and you got to
8 remember, our Hoosick Falls people have 60 to 90,
9 and some of our people on wells are in the hundreds
10 they all had 100 percent increase, anyone between
11 31 and 655.
12 So if you've got 600 in your water, and
13 you're going to have 60 in your blood, saying that,
14 oh, that "400" number was way too cautious?
15 Bull.
16 C8 proves those people have got a big
17 problem. And that was known in 2012, published,
18 peer-reviewed.
19 Any of the people in any of these places that
20 have more than 20 or 30 in their blood, they need
21 medical monitoring. They need it now.
22 One more little hit.
23 One pound of PFOA is enough to raise the PFOA
24 level in all of Saratoga Lake above the 70 parts pe
25 trillion level.

1 Why did DEC recently put out a notice, that
2 if you're using firefighting foam, you only to have
3 to report it if you're using more than one pound of
4 PFOA?
5 And I'll give you a scary one.
6 In addition to PFOA, the coating towers
7 I built were also putting out a group of other
8 fluorinated chemicals.
9 Several people brought that question up
10 today: Was there other stuff with it?
11 Yes, one of which is, fortunately, produced
12 in very, very small quantities; but, unfortunately,
13 it's 100 times as toxic as phosgene.
14 It's on the list of war chemicals.
15 I think it's called "PFIB." It's a
16 fluorinated chemical.
17 It was documented to be produced when you
18 overheat PTFE.
19 This is something that didn't happen at
20 3M because they weren't using any PTFE.
21 Didn't happen at DuPont because they were
22 just baking out the PFOA. They weren't fusing the
23 PTFE onto fabric.
24 And to fuse it, you have to raise it to a
25 temperature where it starts decomposing.

1 I've calculated that somewhere
2 between .1 percent and 1 percent of all the PTFE
3 ever used, and this is hundreds and hundreds of
4 tons, was all thermally decomposed into a group of
5 fluorinated chemicals.
6 And it's those chemicals, not PFOA, that
7 causes polymer-fume fever, which you've heard
8 people, like Kevin Allard who used to work for me,
9 call it the "teffies."
10 I've had the teffies too.
11 I was standing at the top my tower, watching
12 it work. I stood there a little bit too long,
13 inhaling the fumes.
14 About two hours later, I had the worst flu
15 symptoms anybody could ever get. I was sick to my
16 stomach, sweating, stiff.
17 It only shows up about 4 hours after you
18 inhale the stuff, and it takes about 36 hours to go
19 away.
20 After it went away, I started researching, is
21 this stuff going to have long-term effects?
22 Well, I found that it's been studied since
23 the '50s very extensively. All kinds of animal
24 studies, people studies.
25 DuPont made people smoke cigarettes with

PTFE on it and get the teffies, to see what it woul do to them.

And it's acutely toxic, but it doesn't seem to have any long-term effects.

I don't think I got any long-term effects from that.

I got some from PFOA, called "cancer." Prostate cancer.

But there is this other group of chemicals.

I did research the cause back in 1980. There was lots of scientific papers available.

They're still out there.

Actually, there's not been a whole lot of new studies done because it was done so completely back then, that nobody bothers looking at it anymore.

Until a few days ago, it looked like there would be no way to track these extra chemicals that come out when part of the PTFE is decomposed.

But just in the last few days, I got some raw data from the soil tests that they're doing around the old chem-fab plant up in North Bennington, and that used all the same processes as McCaffrey Street. So there's stuff going out the stacks was the same.

And what I saw was, they thought they

1 found --
2 And this is still raw data. It's not all
3 been, you know, confirmed and approved yet.
4 -- but in the raw data, they claim, the lab
5 down in Pennsylvania that did the testing, using th
6 standard EPA 537 method, said that they're finding
7 C11, C12, C13, and C14.
8 And that's actually totally ridiculous.
9 There's no way those chemicals were used.
10 I don't think anybody even makes a couple of
11 them.
12 And they couldn't have been made by any kind
13 of chemical reactions of the towers.
14 However, there's an almost identical chemical
15 that's one of the -- to each of those, and it's a
16 short-chain Teflon. And that's one of things that
17 comes out when you overheat Teflon.
18 The two formulas only differ, both of them
19 have -- one in particular that I've been looking at
20 is C -- it's C14F30, is the short-chain Teflon.
21 C14F2702H, there's a carbonyl attached to the
22 end of a long carbon chain.
23 There's only a very small difference between
24 these two chemicals, and I think what happened is,
25 when they ran them through the mass fax on the

1 EPA 537 method, they confused the two chemicals, an
2 just took the quantity of both of them -- well, it
3 was probably all C14F30 -- and labeled it as "C14,"
4 which would mean it had the carbonyl, and would be
5 similar in chemical properties to C8, which is PFOA.
6 But PFOA is -- acts like -- it dissolves in
7 water. It acts like a very strong detergent.
8 The same chemical without the carbonyl, as a
9 short chain PFE, is a waxy solid.
10 Totally, totally different things.
11 And one of the clues I've got that makes me
12 think that what they really found was the
13 short-chain Teflon, and not the C14, was they teste
14 the surface to the ground, but they also tested
15 every 6 inches, down to 2 feet.
16 2 feet down, they were still finding
17 85 percent as much of the PFOA as they found at the
18 surface, and that makes sense, because it acts like
19 a detergent; dissolves in water, moves rather easil
20 through the ground.
21 They only found 8 percent as much of the
22 so-called "C14," which says to me it probably was
23 the very, very tiny bits of waxy solid, short-chain
24 PTFE.
25 Now, the significance of this is, now that

1 we've seen that for the first time anywhere in air,
2 water, or soil, it means we know where to look for
3 the more toxic ones, because the short-chain Teflon
4 is probably not toxic. It's probably pretty inert.
5 But the chemicals that were associated with
6 the production of that stuff can be pretty nasty,
7 and we had no idea where to look for them.
8 Now we at least have an idea.
9 ASSEMBLYMAN ENGLEBRIGHT: So you're saying it
10 would be an indictor, then?
11 (Microphone turned on.)
12 ASSEMBLYMAN ENGLEBRIGHT: You're saying that
13 it would be an indicator?
14 DAVID HASSELL: Yeah, so --
15 ASSEMBLYMAN ENGLEBRIGHT: If you find the
16 waxy material, it, basically, is going to tell you
17 where to --
18 DAVID HASSELL: In that same sample, you
19 should start looking for these other things that
20 they didn't look for.
21 ASSEMBLYMAN ENGLEBRIGHT: Why would it be
22 2 down feet?
23 Is it a bioturbation plant? Turbation, over
24 many decades?
25 Why would you find the waxy material down?

1 DAVID HASSELL: It would have come out as
2 extremely tiny particles.
3 In fact, that's another thing that was
4 studied, when they did the rat studies back in the
5 '50s, is they would take Teflon, heat it up in a
6 tube furnace, let the fumes go into a container ful
7 of rats, and it would kill the rats in, like,
8 3 minutes.
9 If they filtered out these particulates, it
10 would take, maybe, 5 hours to kill a rat.
11 So the toxics were still going through, but
12 the particulates, which are really just the
13 short-chain Teflon, themselves, they're inert.
14 But, when they're associated with these more
15 toxic chemicals, which are mostly there as gasses o
16 vapors, they can absorb them onto their surface and
17 act as a carrying agent to take the really nasty
18 chemicals deeply into the lungs of the rats, or
19 people like me that inhaled it, and give you that -
20 give you the dosage very, very quickly and much
21 faster than if you were just inhaling the vapors an
22 the gasses that were toxic.
23 It acts as a carrying agent to carry the
24 particles.
25 And that's one reason we know that those

1 particles are very, very small, because they
2 characterize the size in the process of doing those
3 studies. And they even sometimes would filter out
4 just the tiniest ones or just the bigger ones.
5 And what they found was, it was the ones
6 that -- when I was inventing scientific instruments
7 to study air pollution, we called them
8 "PM10 particles"; particles that are small enough,
9 that, you know, if you inhale them, they're going t
10 go very deeply into your lungs.
11 And if they would let the particles
12 conglomerate to something bigger than P10 (sic),
13 then they wouldn't kill the rats very quickly.
14 So this has all been very elaborately, you
15 know, worked out, and it's all out there. I find i
16 all on the Internet.
17 I sent out my bibliography to quite a few of
18 the scientists I work with. It's 20 pages of
19 citations from online scientific papers.
20 ASSEMBLYMAN ENGLEBRIGHT: Well, you've pulled
21 it all together, and I thank you for sharing all
22 this with us.
23 Your comments that you have there, is it
24 possible to get a copy of that?
25 DAVID HASSELL: The bibliography?

1 ASSEMBLYMAN ENGLEBRIGHT: No -- well, that
2 would also be useful, but, you were reading from
3 notes.
4 Are your notes something that you might make
5 a copy available?
6 DAVID HASSELL: I will take my handwritten
7 stuff, which you probably couldn't read, and type i
8 up, and send you a copy.
9 ASSEMBLYMAN ENGLEBRIGHT: If you send to it
10 each of the chairs, that would be very helpful; and
11 it's helpful, just to gain the perspective of your
12 experience.
13 It's clear that it would be very useful for
14 you to have a conversation in some depth with the
15 folks from the health department and the DEC.
16 They haven't debriefed you?
17 DAVID HASSELL: That's actually rather
18 peculiar, because I've been working with the EPA,
19 sitting down with their scientists. I've worked a
20 lot with the Vermont DEC.
21 There's been several people who have sat down
22 with the commissioners -- I won't say who because
23 I don't want pick on them -- and they've asked them
24 please sit down with me.
25 And they refused.

1 ASSEMBLYMAN ENGLEBRIGHT: Well, I find that a
2 little bewildering.
3 But, if you're still willing to sit down with
4 them, maybe we can help bring that conversation
5 about.
6 It seems to me it would be very useful for
7 them to have a conversation with you.
8 But, I'm having a conversation, and that's
9 not fair to my colleagues.
10 So let me just ask if there are others who
11 want to ask a question of Mr. Hassell.
12 Is it Mr. or Doctor?
13 Are you a doctor?
14 DAVID HASSELL: No.
15 I've got a master's degree in engineering,
16 and I did a lot of science.
17 ASSEMBLYMAN ENGLEBRIGHT: Okay. I don't want
18 to misaddress you.
19 You're Mr. Hassell.
20 Yes.
21 SENATOR MARCHIONE: I certainly would want a
22 copy of your testimony.
23 I'd also like some contact information, so
24 that, you know, I could give you a call, with
25 further questions or concerns that I might have.

1 I'd love contact information.
2 If you could share that with the Chairs, and
3 then we could -- we would be able to get to you as
4 well.
5 (Witness approaches the members of the
6 legislative panel, and an off-audio discussion
7 ensues.)
8 ASSEMBLYMAN ENGLEBRIGHT: If you could return
9 to the microphone there, Mr. McLaughlin has a
10 question.
11 ASSEMBLYMAN McLAUGHLIN: Just briefly.
12 Is there an Oak-Mitsui connection?
13 I know they were there before.
14 Were they putting any of this stuff out as
15 well, or was it just Saint-Gobain and Honeywell?
16 Because Oak-Mitsui owned that plant before,
17 did they not?
18 DAVID HASSELL: The PFOA started going out in
19 Hoosick Falls in 1955, when Clee Dodge --
20 ASSEMBLYMAN McLAUGHLIN: Dodge, right.
21 DAVID HASSELL: -- started the first plant at
22 Johns Street, making coated yarn and thread.
23 And in '61 he built McCaffrey Street.
24 He later sold that to Oak Materials Group.
25 Oak Materials Group sold it to Allied Signal.

1 Allied Signal turned into -- the other
2 company they mentioned besides Saint-Gobain now.
3 ASSEMBLYMAN McLAUGHLIN: Honeywell -- not
4 Honeywell.
5 DAVID HASSELL: Honeywell, yeah.
6 ASSEMBLYMAN McLAUGHLIN: So it's been a
7 continuation, pretty much --
8 DAVID HASSELL: Allied Signal bought
9 Honeywell, but kept the name.
10 ASSEMBLYMAN McLAUGHLIN: But, pretty much,
11 whoever owned it, they were using the products?
12 DAVID HASSELL: And those two plants in
13 Hoosick Falls were the -- really, the only ones tha
14 ever used any significant amount of PFOA.
15 ASSEMBLYMAN McLAUGHLIN: But it's been a
16 continuation.
17 No matter who owned the plants, it was sort
18 of continuing on.
19 I'm just interested that the DEC and DOH
20 keeps saying Honeywell and Saint-Gobain.
21 But, is Oak-Mitsui gone? Are they out of
22 business now? Or --
23 DAVID HASSELL: Pretty much.
24 Allied Signal bought parts of Oak Materials
25 Group that -- mainly, the parts that were making

1 Teflon products.
2 But, Oak Materials Group was actually a huge
3 company, and they made a lot of epoxy circuit
4 boards. They made copper foil.
5 And most all of those divisions were all sold
6 off as well.
7 ASSEMBLYMAN McLAUGHLIN: The only other
8 question I have is, as of today, when they declared
9 Hoosick Falls --
10 DAVID HASSELL: Yeah, Oak Industries still
11 exists, but it's a little tiny company, and I think
12 all they make is gas controls and switches.
13 ASSEMBLYMAN McLAUGHLIN: Okay. That's fine.
14 -- I'm just curious, today, with the
15 declaration of the superfund site in Hoosick Falls,
16 they mentioned in the release that there's
17 trichloroethylene, vinyl chloride, and
18 1,2-dichloroethylene.
19 Would that be stuff that would have been
20 used?
21 DAVID HASSELL: Yeah, those are very
22 common --
23 ASSEMBLYMAN McLAUGHLIN: Very common? Okay.
24 DAVID HASSELL: -- industrial chemicals for
25 the kind of products that we made up there.

1 ASSEMBLYMAN McLAUGHLIN: Yeah, so they would
2 be part and parcel of what was going on up there as
3 well?
4 DAVID HASSELL: They would have had nothing
5 to do with the PFOA. But they would be part of
6 the --
7 ASSEMBLYMAN McLAUGHLIN: Solvents, things
8 like that.
9 DAVID HASSELL: -- the kinds of things we
10 were making, because we had a couple dozen differen
11 products.
12 I've still got all the product brochures.
13 ASSEMBLYMAN McLAUGHLIN: Thank you.
14 Thank you very much.
15 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
16 much.
17 We're going to close.
18 I'd just like to say thank you to everyone
19 who participated and contributed their testimony
20 today.
21 And a salute to all of my colleagues who have
22 persevered and stayed with this extraordinary day o
23 testimony.
24 We're going to pick it up again on Monday
25 with the Long Island part of this continuing

1 hearing.
2 But we'll adjourn for tonight, and I just
3 want to say thank you to everyone one more time.
4 Thank you.
5 (Whereupon, at approximately 11:30 p.m.,
6 the joint public hearing held before the
7 respective Senate and Assembly committees
8 concluded.)
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