NEW YORK
STATE OF
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Department of
Environmental
Conservation

Testimony of
Basil Seggos
Commissioner
New York State Department of Environmental Conservation

Joint—Senate Standing Committee on Health
Chair: Senator Kemp Hannon

Senate Standing Committee on Environmental Conservation
Chair: Senator Thomas F. O'Mara

Assembly Standing Committee on Health
Chair: Assemblymember Richard Gottfried

and Assembly Standing Committee on Environmental Conservation
Chair: Assemblymember Steven Englebright

Hearing:

Water Contamination

September 12, 2016

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Good morning, Senator Hannon, Senator O'Mara, Assemblymember Gottfried, Assemblymember Englebright, members of the Senate and Assembly Health and Environmental Conservation Committees. My name is Basil Seggos, and I am the Commissioner of the New York State Department of Environmental Conservation (DEC). I'm here today with my colleagues Martin Brand, Deputy Commissioner for Remediation, and Carrie Gallagher, Region 1 Director. Thank you for the opportunity to discuss the critical water quality issues facing New York State.

Ensuring access to clean water is one of the most important issues of our time. Long Islanders know that better than anyone. Here, with the sole source aquifer beneath us, water is life. Nitrogen pollution impairs our waterways, causes algal blooms, and destroys tidal wetlands. Our industrial past has left behind in many instances a toxic legacy, impacting our environment and drinking water supplies. Climate change and sea level rise threaten our shorelines and could exacerbate salt water intrusion. Pesticides and fertilizers also jeopardize our drinking water. And the island needs enough clean water to sustain its 2.8 million residents and its vibrant economy, from manufacturing to farming to tourism.

Over the last five years, we have had strong bi-partisan leadership, cooperation and focus on the common fight to protect water resources on Long Island. Governor Cuomo, DEC, DOH, the legislature, both county executives, the many water districts, the business community, and the environmental community have been uniquely and thoroughly coordinated on the issue of water. We have accomplished much, but we must continue to work together to protect this resource for future generations.

I'm going to detail some of the critical initiatives we're working on. Last week, we called upon the EPA to expand their Unregulated Contaminant Monitoring Rule program to cover public water systems with less than 10,000 people. Their current program requires only large public water systems to test for unregulated contaminants—leaving the approximately 2.5 million New Yorkers served by small public systems at risk. If the EPA does not overhaul their program, we will advance legislation to require all public water systems to test for unregulated contaminants regardless of size. We also announced our intention to advance legislation to better serve the 4 million New Yorkers who rely on private wells for their drinking water. This bill will require the testing of private wells upon construction or sale. It will also require landlords to periodically test wells and disclose the results to tenants. We thank many of you in the legislature for your leadership on these issues to date, and look forward to your partnership moving forward.

Today, we're taking two new steps to protect Long Island water.

- First, we listed the Gabreski Air National Guard Base as a state Superfund site. I informed Suffolk County today that DEC would pay for the County's work to connect 66 homes threatened by PFOS to municipal drinking water. The Air National Guard has committed to addressing the contamination, but they cannot move quickly enough. Until they step up, the State will fill that void and assist the community.
- Second, I'm very excited to announce that we will be providing a total of $5 million to Stony Brook University's Center for Clean Water Technology to conduct research on removing emerging contaminants from drinking water, and administer grants to water suppliers for pilot programs. This will expand the Center's focus into the critical field of toxic contamination—and build upon the work we're already doing to develop new technologies to address contaminants like 1,4-dioxane.

As I mentioned earlier, nitrogen pollution is one of the biggest threats to water quality in Long Island. The main sources of nitrogen pollution are wastewater, polluted runoff and fertilizer. While many wastewater plants have installed nitrogen treatment systems and discharges limits, nearly seventy percent of Suffolk County's wastewater is managed through 360,000 septic and cesspool systems. The antiquated systems do very little to remove nitrogen from wastewater that may be discharged to the groundwater.

To address this, we are investing millions to upgrade outdated systems and hook more communities to sewer lines. In Suffolk County, the Governor committed $388 million to advance four major sewer extension projects. Just last week, the County executed contracts for design of these critical projects. We are investing another nearly $40 million for the Bergen Point Wastewater Treatment project.

Over the last three years, the Environmental Protection Fund (EPF) has provided $5.5 million to support Suffolk County Executive Bellone's ambitious Septic and Cesspool Upgrade Program. Suffolk County is inventorying critical areas under a comprehensive plan. The County is also funding 19 demonstration projects for new technology options that will hopefully provide the much needed nitrogen removal solution.

In Nassau County, we spent nearly a billion dollars to repair the Bay Park Sewage Treatment Plant after Superstorm Sandy. But we are going further to prevent pollution of the impaired Western Bays and have committed over $155 million

toward diversion of treated effluent from the bay to an ocean outfall. This will build on Nassau County's commitment to install two separate nitrogen reduction systems.

The State must continue to invest in our drinking water and wastewater infrastructure to address the enormous statewide backlog. The $400 million investment that the Governor and the legislature have made in water infrastructure grants is a critical first step. But the federal government needs to step up too. We call on the federal government to return to the level of investments made in the early years of the Clean Water Act.

We're not only investing in infrastructure for today, we are proactively planning for the future. DEC and our partners in the Long Island Regional Planning Council and Nassau and Suffolk counties are working on the Long Island Nitrogen Action Plan. We're doing this thanks to the $5 million provided by the Legislature. Together, we are building out the full scope of the plan and prioritizing short-term projects to advance its goals.

We have invested $3.5 million in EPF funds in the Center for Clean Water Technology. The Center is focused on developing and commercializing affordable, reliable and effective on-site wastewater treatment systems to reduce nitrogen loading. The Center is leveraging these state funds to apply for national science foundation grants. As I mentioned earlier, we'll be dedicating new funding to this center for emerging contaminant research and pilot project development with the water districts.

Working with the U.S. Geological Survey (USGS), the Governor—along with many of you—launched a comprehensive Long Island groundwater study. This $6 million, five-year study will examine saltwater intrusion, groundwater flows, contaminant transport and sustainable aquifer yields for potable water supplies. The result will be a groundwater flow model, the international standard for understanding and managing groundwater impacts. We and the USGS have made tremendous progress already and will provide regular updates as the study advances. This year, we will:

- Inventory existing monitoring wells;
- Select sites for new wells to locate the saltwater-freshwater interface and delineate the hydrogeology of the aquifers;
- Begin constructing a groundwater-flow and interface model for the water supply sustainability model; and

- Install priority monitoring wells in Nassau County.

I'm grateful for the leadership of Senator Martins and Assemblywoman Schimel who have long advocated for such a study.

Pesticides also threaten Long Island's drinking water. Working with local partners, including Cornell Cooperative Extension, in 2014, we adopted the Long Island Pesticide Pollution Prevention Strategy and are implementing its recommendations. The goal is simple – develop best management practices and pesticide pollution reduction strategies. Our initial focus has been on three pesticides found in Long Island groundwater. We have conducted an extensive education and outreach program to share best management practices, replacement treatments, and promote alternative pest control strategies with over 2,000 growers, distributers, and associations. Recent monitoring indicates that groundwater conditions have improved from a decade ago, with these pesticides detected infrequently and at very low concentrations. Discussions with pesticide distributors and applicators suggest that the overall use of these three active ingredients has declined recently, in part due to increased awareness raised by the Long Island strategy.

Using $200,000 per year from the EPF, we are building on Suffolk County's groundwater monitoring network to include Nassau County. Sampling for all types of pesticides is being collected from over 300 wells across the island. This information will help us measure the success of our program and guide us in determining where to focus our efforts.

Certain commercial operations also threaten groundwater. DEC has proposed to regulate mulch operations for the first time. The mulch industry plays an important role for the local economy and environment, but runoff from these facilities can endanger local water supplies. Our proposal requires water runoff management plans to protect groundwater and take steps to reduce the risk of fires, odor and dust. In addition, we are undertaking a multi-season groundwater study to better understand the impact of mulch piles.

Illegal dumping is another major problem on Long Island, particularly concerning construction and demolition debris as we saw at the Roberto Clemente Park in Islip. We are aggressively pursuing illegal dumpers and using all of our civil and criminal authority. We have also proposed to strengthen regulatory requirements for waste transporters, including requiring tracking of waste from the point of generation to an acceptable disposal facility; expanding beneficial use

determinations to provide environmentally safe avenues of reuse; and, lowering thresholds for waste handling that will require permits.

Contamination from hazardous substances is also a threat to the environment. As we discussed last week, the recent finding of PFOA and PFOS in drinking water prompted the Governor to establish the Water Quality Rapid Response Team, co-chaired by Commissioner Zucker and me. The Governor formally launched this effort here at SUNY Stony Brook last February. DEC is actively responding to PFOA and PFOS contamination around the state, including in Westhampton near Gabreski Air National Guard Base. When the Rapid Response Team reviewed EPA's Unregulated Contaminant Monitoring Rule data, we learned that several public water supply wells near the base were tainted with PFOS. The Suffolk County Water Authority had already moved to take impacted wells offline and install treatment systems in late 2015 and early 2016. After designating Gabreski airport as a potential state superfund site in July 2016, DEC immediately mobilized contractors to test soil and groundwater at the site. The County then moved quickly to test nearby private wells out of an abundance of caution.

Because of today's Superfund designation, the State will now pay to connect impacted and threatened private well users to the municipal water supply, free of charge. We expect the Air National Guard to reimburse the State for those costs, but we refuse to wait for the federal procurement bureaucracy to move forward.

As part of the Rapid Response Team, DEC initiated a statewide review of former landfills using field inspections and GIS mapping, starting here on Long Island. These landfills, closed prior to 1988, have the potential to impact groundwater and drinking water supplies. We conducted a preliminary evaluation, including 85 inactive landfills located on Long Island. Next, we will: identify landfills where additional information is needed; perform groundwater sampling and analysis at sites with heightened potential for impacts; and identify and implement remedial actions if necessary.

Nassau County is home to one of the state's largest and most significant hazardous waste sites in the state: the U.S. Navy/ Northrop Grumman Superfund site in Bethpage. The Grumman groundwater plume is over a mile wide and three miles long. Cleanup had been moving at an unacceptably slow pace, underway since 1995. Since becoming Commissioner, I have pushed the Navy and Grumman to expedite the cleanup of this massive plume. Last month, we announced that we have begun the process to pursue a natural resource damages claim against these polluters for the harm they caused our environment and our communities.

Also last month, we released an independent study on the feasibility of hydraulic containment of the Grumman plume. I want to thank Assemblyman Saladino and Senator Hannon for their legislation requiring this study. We are grateful that Senator Hannon was able to secure funding for its completion. Given the magnitude and complexity of the issue, I wanted to make sure the public had an opportunity to comment on the report. That comment period closed Friday, and we are now reviewing those comments. Soon, DEC will determine the next major step in this remediation. Make no mistake, New York taxpayers should not be on the hook for any part of this cleanup.

New York has one of the strongest set of protections for the environment of any state. We have robust laws to prevent and regulate the discharge of pollution: the Clean Water Act, the Environmental Conservation Law, the Resource Conservation and Recovery Act. We have laws to regulate how much water is used, from the Long Island well drilling law to the very stringent limits on using the Lloyd Aquifer to the water withdrawal law of 2012. We also are the envy of most states, and the federal government, to have such advanced remediation laws in the state Superfund and the Brownfield Cleanup Program.

We are also fortunate that the Governor and all of you over the last six budgets have secured near record environmental funding, through the $300 million EPF, the $400 million Water Infrastructure Investment Act, another $1 billion for Superfund, and $120 million NY Works. I offer sincere and continued thanks to Senator O'Mara, Assemblyman Englebright and the entire legislature for their leadership on these funding programs.

After strong laws and robust funding comes enforcement. We must do all we can to educate our businesses to ensure compliance. But when something goes wrong, we will enforce the law vigorously.

Lastly, effective management is the lynchpin. Through the Water Quality Rapid Response Team, we are improving the ways in which DEC, DOH and other state agencies coordinate and respond to water pollution incidents around the state. Within my own agency, we are tearing down silos and building cross-divisional teams to address contamination, namely the Divisions of Water and Environmental Remediation.

Working together with you, the county executives, local leaders, and all stakeholders, I am confident that we will be able to tackle these difficult water

quality concerns for all Long Islanders. We must do this now, as the health of our residents, our environment, and our economy depend on it.

Thank you for the invitation to testify today. I am happy to answer your questions.