

Testimony of Carter H. Strickland, Jr.
Commissioner, New York City Department of Environmental Protection
before the
Subcommittee on Water Resources
Committee on Transportation and Infrastructure
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2167 Rayburn

Good afternoon Chairman Gibbs, Ranking Member Bishop, and Committee Members, I am Carter Strickland, Commissioner of the New York City Department of Environmental Protection, or as we're known in New York City, "DEP." On behalf of Mayor Michael R. Bloomberg, thank you for the opportunity to testify about EPA's integrated planning framework, a subject of great interest to DEP, as our budget and operations are significantly affected by federal law and regulation.

To give the Subcommittee some background on my agency, DEP manages a regional water supply system that serves New York City residents, commuters and visitors as well as one million persons who reside in nearby counties. DEP provides over 1 billion gallons of water each day from several watersheds that extend more than 125 miles from the City, through a network of 19 reservoirs, numerous aqueducts, and 6,600 miles of water mains and distribution pipes. DEP also collects and treats wastewater. Averaged across the year, our system treats approximately 1.3 billion gallons of wastewater per day collected through 7,400 miles of sewers and 95 pumps stations to one of our 14 in-City treatment plants. In wet weather, our system can treat up to 3.5 billion gallons per day of combined storm and sanitary flow. In addition to the treatment plants, we also have four combined sewer overflow (CSO) storage facilities.

DEP has one of the largest capital budgets in the region, with \$14 billion of work currently under construction and in design. Our capital program will generate almost 3,000 construction jobs per year over each of the next four years. DEP is funded almost exclusively through rates paid by our customers. State and federal assistance – primarily in the form of grants – has accounted for less than 1% since Mayor Bloomberg took office in 2002. If you add ARRA funding, it is less than 2%, even though 69% of the \$22 billion in capital investments that DEP has made over the last 10 years has funded construction necessary to meet federal and state mandates. In these times of economic hardship, the imbalance between federal support and federal mandates burdens local governments, especially when federal rules all too often fail to account for local conditions and needs.

Cities prioritize needs to produce a balanced budget every year, and that experience has shaped draft prioritization legislation developed by the National Association of Clean Water Agencies. We are encouraged that EPA has recognized that such an approach is critical.

Although EPA's integrated planning framework is new and still taking shape, I am hopeful that the program will bring more collaboration between federal regulators and municipal agencies like DEP that are struggling to maintain an affordable rate structure while making difficult

choices as to which investments will produce the greatest benefits and, therefore, should be at the top of the list. On the wastewater side of our business, DEP has a multi-billion dollar program to address mandates for CSOs and treatment plant upgrades, and also for non-mandated but still critical programs to build storm sewers, replace storm and sanitary lines, and replace or maintain equipment according to a prudent asset management review.

At the same time, DEP must launch programs to address stormwater discharges and nutrient loadings while planning for potential new requirements concerning total residual chlorine and other elements of the waste stream. There are still thousands of New Yorkers who lack sanitary sewers and tens of thousands in New York City who lack storm sewers. Completing the full build-out of the storm and sanitary sewer system is an important priority for the City of New York, but we have had to defer many projects until mandated work on treatment facilities is complete. It is DEP's hope that integrated planning will offer a way for EPA, state regulators, and municipalities to sit down and prioritize these various water quality efforts, so that there will be less "top-down decision making" and more collaboration and consensus among government agencies. This would vest maximum discretion in local governments to invest scarce dollars in projects that meet critical needs and will achieve the greatest public health benefits.

Since DEP and many other utilities manage drinking water-related programs as well, and our customers pay one rate for both water and wastewater services, it is critical that EPA expand the integrated planning framework to include mandates for drinking water programs.

We have many questions about how the integrated planning process would work, including the fundamental issue of the overall metrics or standards that could be used to prioritize investments and the criteria EPA or delegated state programs would use to approve a successful integrated plan. These are difficult questions with no easy answers but we are confident that it can be done. In planning documents such as *PlaNYC 2030*, the *New York City Green Infrastructure Plan*, and DEP's *Strategy 2011-2014* the Bloomberg Administration has taken on the same challenge of articulating goals and identifying ways to measure progress toward them. We think our experience in creating those plans will be helpful as we engage EPA about our goals for an integrated wastewater and stormwater plan for New York City.

Our general support for integrated planning is based on an assumption that the process will result in regulators and municipalities agreeing that not all wastewater or stormwater problems are equal, in terms of costs and benefits, and that some problems should be addressed sooner and some later – without fear of being held in noncompliance or paying penalties for failure to address the lesser ones. In New York City, for example, water quality data for New York Harbor support the conclusion that CSOs are the dominant water quality issue, and stormwater runoff is a lesser issue. While CSOs contribute slightly over 50% of total flow as compared to stormwater discharges and direct drainage (overland runoff), CSOs are estimated to contribute approximately 97% of total pathogen loading citywide. As we understand it, the integrated planning process would provide a way for New York City to discuss with its regulators the merits of focusing more resources on CSO abatement efforts and less on stormwater sources.

The Administration's Executive Order 13563 recognized the need for both flexibility and the use of cost-benefit principles, and EPA's resulting plan, published in August 2011, *Improving our Regulations: Final Plan for Periodic Retrospective Reviews of Existing Regulations*, is a

promising start. Of particular interest to DEP is EPA's commitment to review its application of the Combined Sewer Overflow Policy and requirements for covering drinking water reservoirs under the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule). EPA has already deferred the implementation of the LT2 rule in New York City, which would require a \$1.6 billion concrete cover over a 90-acre reservoir – a project that our evidence shows would produce no public health benefit. It is critical that EPA follow through on its commitment to a prompt review of the 35 mandates in its review plan, and we believe that this Subcommittee can provide a valuable service in overseeing that effort. And EPA could better coordinate the efforts of its enforcement office, which are all too often independent of its program offices, such as the Office of Water.

The integrated planning framework that EPA has proposed – and its recent flexibility with respect to CSOs, green infrastructure, and the LT2 rule – is a promising start to bridging the gap between federal enforcement, scarce funding, and local goals, and to prioritizing our investments in environmental improvements. We can and must spend our money wisely.

Thank you for the opportunity to testify. I'd be happy to answer any questions you may have.