



**DISTRICT OF COLUMBIA
WATER AND SEWER AUTHORITY**

Board of Directors

Governance Committee

June 8, 2011

9:30 a.m.

1. Call to Order.....Alethia Nancoo, Chairperson
2. **DC Water Employment and Business Development Program Requirements**George Hawkins
 - a. Employment Program
 - DOES First Source Hiring Agreement
 - Apprenticeship and Training Program
 - b. Business Development Program
 - Local Business Enterprise Program
 - Disadvantaged Business Enterprise Program
 - History of Compliance – EPA’s Fair Share Objective 5 years
 - c. Skanska Northeast Agreement with Department of Justice
 - d. Skanska Southeast Compliance on DDOT 11St. Project
 - DC Council Hearing
 - e. BPT Employment and Business Development Program Compliance Briefing
3. Blue Plains Tunnel Design-Build Contract with Traylor Brothers – Skanska – Jaydee JV
 - DC Water Pre-Proposal Efforts
 - Traylor Brothers JV Proposal Commitments
 - Traylor Brothers JV Compliance Plan
 - DC Water Compliance Oversight
4. **Government Affairs: Update**Kim Turner
Director, Policy and Government Relations
 - a. Federal Government
 - b. Council of the District of Columbia
4. Emerging IssuesChairperson
5. Agenda for July 13, 2011 Committee Meeting.....Chairperson

6. Adjournment.....Chairperson

Follow-up Items – Governance Committee Meeting (March 9, 2011)

1. Provide mock fact sheets for Invitation for Bid, Request for Proposals and Engineering Services (Chairperson Nancoo) completed



Briefing on
**Blue Plains Tunnel Design Build Contract
Employment
and
Business Development Program
Compliance**

*Presented to:
DC Water Board of Directors*

**Governance Committee
Chairperson, Alethia Nancoo**

June 8, 2011

George S. Hawkins, General Manager





Agenda

- Employment Program
- Business Development Program
- DC Water Compliance Program
- Blue Plains Tunnel: Skanska Matters
- Blue Plains Tunnel Compliance



Employment Program

- DC Labor Provisions in Contracts (00820)
 - DOES First Source
 - All job openings to be listed with the Department of Employment Services (DOES).
 - At least 51% of all new jobs created are to be performed by D.C. residents
 - At least 35% of apprenticeship hours shall be by D.C. residents registered in programs approved by the D.C. Apprenticeship Council
 - Monthly Reporting by Contractors to DOES.
 - Anti Discrimination (D.C. Law 2-38)
 - Davis-Bacon Act (40 USC Part 276a)
 - No Convict Labor (18 USC Part 438)
 - Apprentices and Trainees
 - Contract Work Hours and Safety Standards (40 USC Part 327-330)
 - Copeland Act (18 USC Part 874 and 40 Part USC 276c)
 - Non-Segregated Facilities



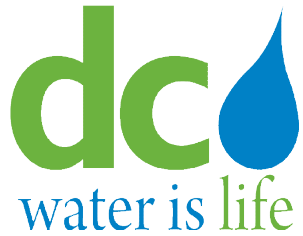
Employment Program

- Federal Requirements in Contracts—EPA Eligible(00830)
 - Labor Standards (same as DC requirements)
 - Minimum Wages
 - Withholding
 - Payrolls
 - Apprentices and Trainees
 - Copeland Act
 - Contract Work Hours and Safety Standards
 - Equal Opportunity (41 CFR Part 60-1.4)
 - Affirmative Action (41 CFR Part 60-4.3)



Business Development Program

- Based on June 2009 DC Water Business Development Plan
 - Policy Statement
 - Certified Local and Local Small Business Enterprise Program
 - Federally Funded Projects
 - Compliance Requirements



Business Development Program

- Non-EPA Eligible Projects
 - Encourages participation by local and small firms in the User Jurisdictions
 - Program applies to discretionary competitive awards
 - Program provides for the utilization of additional points in the evaluation of proposals
 - Program provides for utilization of a preference percentage reduction in price for bids



Business Development Program

- EPA Fair Share Objectives (Eligible for Federal Funding Projects)

- 40 CFR Part 33

Services	Fair Share Objectives (%)	
	MBE	WBE
Professional (A/E Agreements)	28	4
Construction	32	6

- Objectives are based on goals established by EPA Region 3: DC, DE, MD, PA, VA, & WV
- DC Water’s policy is to meet or exceed EPA objectives for MBE and WBE participation in prominent and leadership roles

- Institution of Six (6) Affirmative Steps to ensure DBEs have equitable access to available procurements.
- Monthly Reporting by Prime Contractors to DC Water
- Reporting to the EPA



Compliance History

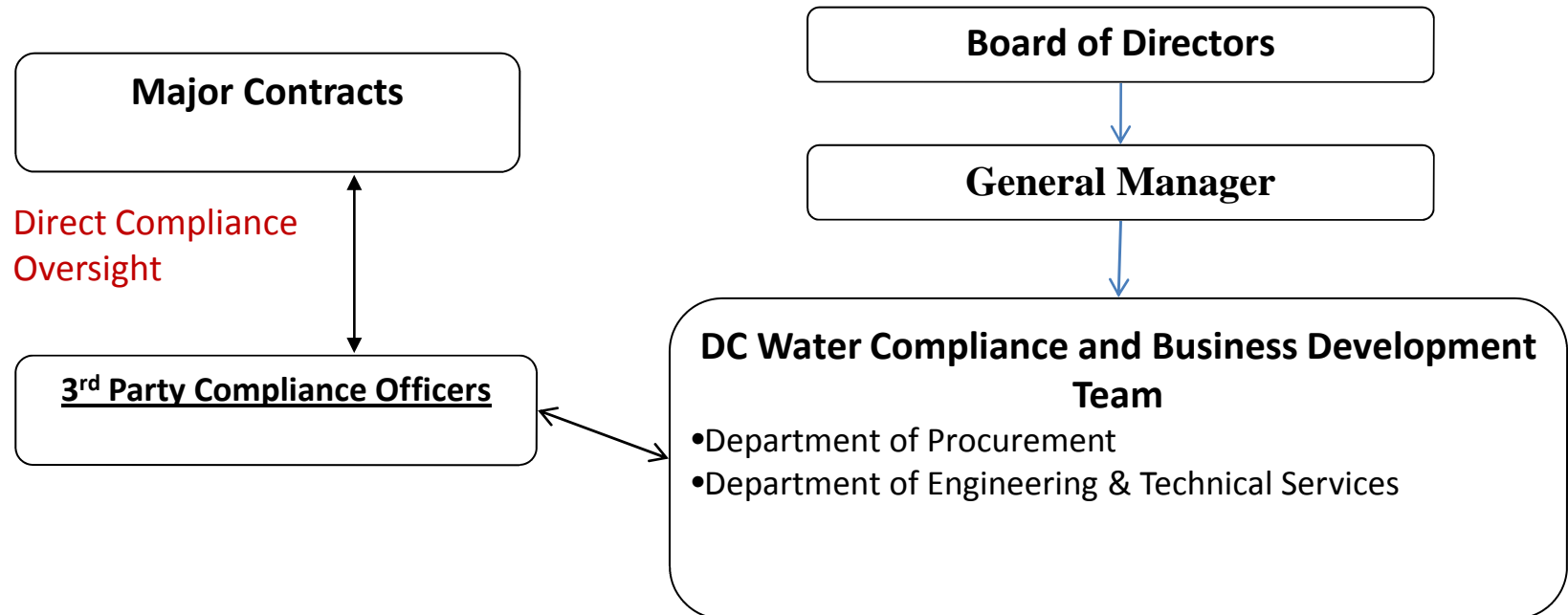
EPA Fair Share Objective

5 Year Compliance Accomplishments

- Over the last five years, DC Water has awarded 40 engineering and construction contracts with EPA fair share objectives. The total award value was \$647 million
- Of this total, over \$323 million (50%) was committed to Minority Business Enterprises (MBEs)/Women Business Enterprises (WBEs)
- The breakdowns are as follows:
 - *Construction = \$496 M of which M/WBE = \$261 M*
 - *Engineering = \$151 M of which M/WBE = \$62 M*



Compliance Program





Background: Skanska Northeast DBE Matter

- Blue Plains Tunnel design-build contractor is a joint venture of:
 - Traylor Brothers (Indiana) - (50% JV-Managing Partner)
 - Skanska USA Civil Southeast (Virginia) - (25% JV)
 - Jay Dee Contractors (Michigan) - (25% JV)
- Skanska USA Civil Southeast has a 25% share of the JV
- Skanska USA Civil Northeast (headquartered in NYC, a legally separate company from Skanska USA Civil Southeast) recently signed a non-prosecution agreement with the U.S. Attorney's Office related to an investigation of a DBE firm contracting on several NYC transit projects that had received Federal funding
- The Agreement stipulates that Skanska Civil Northeast:
 - Continues to cooperate with the government in connection with any related criminal investigation
 - Pays \$19.6 million to the U.S. DOT and NYC MTA, and
 - Reviews D/M/WBE compliance in all current jobs
- Other points related to the Agreement
 - The U.S. Attorney did not allege, and Skanska Northeast did not admit any wrongdoing
 - The U.S. Attorney agreed to allow Skanska Northeast to implement it's own compliance program, without a third-party monitor



Implications for Blue Plains Tunnel

- Skanska Southeast has assured us that they have taken necessary steps, company-wide, to address the identified M/WBE contracting issues
- Traylor Brothers, the managing partner of the JV, has assured us that they are fully committed to DC Water's M/WBE program
- The following steps have been taken to ensure compliance for the Blue Plains Tunnel contract:
 - Traylor Brothers as JV Managing Partner will handle all subcontractor procurement and contracting
 - Traylor Brothers executive vice president will provide M/WBE program compliance oversight as Compliance Officer
 - Sharon Robinson (Robinson Associates, a DC based firm) will provide third-party oversight on behalf of Traylor Brothers and the JV
 - L.S. Caldwell Assoc, a DC based firm, will be DC Water's Compliance Officer for M/WBE program compliance.



City Council Hearing of Skanska 11th Street Bridge Matter

- Skanska/Facchina JV labor and contractor hiring practices on \$300 M DB contract
- Local residents testified to alleged discriminatory hiring practices and lack of emphasis on DC Resident hiring
- Only 4 of 15 DBEs subcontractors are DC-based
- DDOT testified
 - local hiring preferences, both labor and contract, are precluded on federally funded projects
 - Skanska/Facchina has taken several actions to encourage local labor hiring
 - DDOT Director testified that the JV has met DDOT Contract requirements
- May 24, 2011 City Council hearing included requests for information from Chairman Brown and monthly updates from Councilman Wells

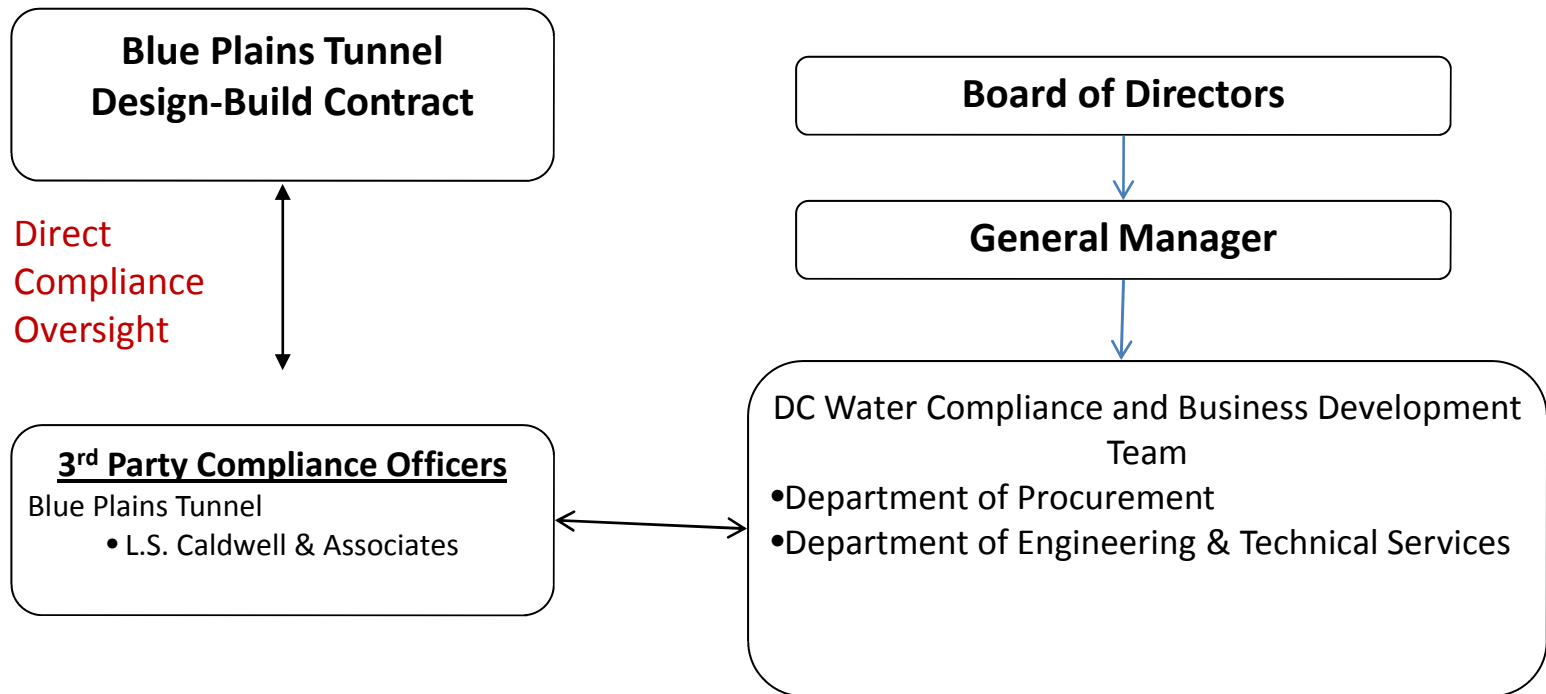


DC Water Approach for Blue Plains Tunnel

- Keep local project dollars local, to the extent permitted by law, using Outreach and Good Faith Efforts
- Encourage the use of District-based and User Jurisdiction-based MBE/WBEs
- Achieve MBE/WBE goals:
 - 28%/4% for professional services, and
 - 32%/6% for construction and related services
- Encourage First Source Agreement goals:
 - 51% new hires of DC residents, and
 - 35% of apprenticeship hours performed by DC Residents
- Submit contractor monthly reporting timely, to keep community partners informed



Application of Compliance Program to Blue Plains Tunnel



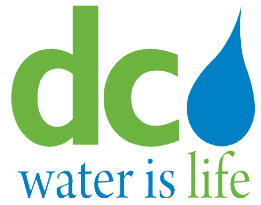


Blue Plains Tunnel Compliance

Loretta S. Caldwell

The Blue Plains Tunnel is a Design-Build Project:

- Design by DC Water is to 30%
- Design is to be completed by the Design-Build Team



Compliance Reports

- Non-specific Pre-Proposal DC Water Outreach
- Blue Plains Tunnel Specific Pre-Proposal Outreach
- Blue Plains Tunnel Pre-Award Efforts by TSJD
- Blue Plains Tunnel Post-Award Efforts by TSJD
- Project-Specific Compliance Monitoring



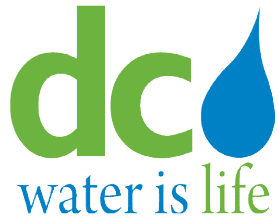
Pre-Proposal DC Water Outreach

Listed below are presentations given by

Mr. Gus Bass, Manager, Engineering Management Services Branch. Over the last 2 years he has been promoting DC Water Large Capital Improvement Programs to Construction and A/E Firms - many of these were Minority and Women owned Businesses.

- *ACEC Conference - June 2008*
- *2009 Washington Business Summit – March 4, 2009*
- *Owner’s Procurement Forum – April 15, 2009*
- *2009 Stimulus Contract & Procurement Opportunities Fair Part - September 29, 2009*
- *DC WASA’s Industry Outreach Meeting – Blue Plains Tunnel Design Build Project - October 30, 2009*
- *AGC’s Annual Public Owner’s Procurement Forum – DC WASA’s Construction Projects - March 25, 2010*
- *American Council of Engineering Companies of Metropolitan Washington – April 8, 2010*
- *District of Columbia Department of the Environment -June 22, 2010*
- *District of Columbia Department of Employment Services – June 22, 2010*
- *Doing Business with DC Water – Contractor Opportunity Form – July 19, 2010*
- *DBIA Mid-Atlantic – August 17, 2010*
- *DC Chamber of Commerce presents Looking for Business – Construction Opportunities - November 4, 2010*
- *DC Chamber of Commerce presents Looking for Business – Contractor Opportunities - November 19, 2010*
- *Discussions with the AE Council – Contractor Opportunities – December 9, 2010*
- *DC Department of Employment Services – DC Clean Rivers Project – March 14, 2011*
- *DC Department of Small and Local Business Development – DC Clean Rivers Project – March 14, 2011*

This is an effort by Mr. Bass which others have been heavily engaged in such as the General Manager, Carlton Ray, Public Affairs, and others.



Blue Plains Tunnel

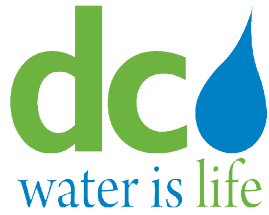
Specific Pre-Proposal Outreach

- Procurement Outreach Events (Additional)
 - Pre RFQ Industry Outreach (over 400 Local/Small/M/WBE attendees)
 - Pre SOQ submittal Networking meeting (+/- 100 attendees)
 - AGC of Metropolitan Washington hosted DC Water Outreach (over 200 attendees)
 - Ward 8 event
- Business and Association Mailings
- DC Water website Information and Updates
- E-Mails and Fax Alerts (over 2000)
- Targeted Advertising (local, regional, national)
- Short-listed Proposers individual outreach programs
- Good Faith Effort Programs submitted with Cost Proposals



BPT Pre-Award Efforts by Traylor/Skanska/JayDee

- Statement of Qualifications identified Diversity Approach
- Technical Proposal identified an M/WBE Business Development Plan
- Cost Proposal included:
 - Executed EPA DBE Subcontractor Forms
 - Good Faith Effort Documentation
 - Executed DOES First Source Agreement
- Post-selection/Pre-Award meetings between DCW and TSJD
 - Executive Commitment
 - Compliance Officer appointment



BPT Post-Award Efforts by Traylor/Skanska/JayDee

- Design is on-going
 - Developing Scope of Work
 - Identifying Subcontractor opportunities
- Traylor-Skanska-JayDee Compliance Manager:
 - Sharon Robinson, Robinson Associates, LLC
- Business Development Program:
 - Certification verification of identified subcontractors
 - Further Good Faith Efforts to local subcontracting community ongoing
- Employment
 - Hiring process is being developed
 - Site access (earliest construction) is mid-July 2011



Project-Specific Compliance Monitoring for Blue Plains Tunnel Contract

- **Contract Award**
 - Executed EPA 6100-4 DBE Subcontractor Utilization Form and EPA 6100-3 DBE Subcontractor Performance Form with Subcontractor Certification
 - Executed First Source Agreements, as required
 - Subcontractor Approval Request

- **Weekly**
 - Certified Payroll Report
 - First Source Agreement Submittal to DOES, as required

- **Monthly and Cumulative**
 - Report for Prime and Sub-Tier Contracts on A&E (28%/4%) and Construction (32%/6%) goal attainment
 - Employment Report showing number of new DC hires and distribution of new hires among DC Wards and DC Water User Jurisdictions

- **Annual**
 - Report with Inclusive summation of good faith efforts and goal achievement



Contracting and Employment

Third Party Compliance Officer Responsibilities

These duties are to be accomplished by DC Water's third party Compliance Officers for both the BPT and the MPT Contracts.

Contracting

- Monitor and Track Architectural/Engineering Compliance of 28% and 4% MBE/WBE Participation
- Monitor and Track Construction Compliance of 32% and 6% MBE/WBE Participation
- Monitor compliance with EPA DBE Subcontracting standards, AAP/EEO requirements
- Monitor for Design-Build contractors' Business Development Program good faith efforts and program implementation commitments.

Employment

- Submit certified payroll in accordance with the Davis Bacon Wage Rates
- Collect First Source Agreement data - 51% of new hires to be DC Residents if available in the trade required
- Confirm Registration of Apprenticeship and Training Program on applicable contracts – 35% local apprentices
- Monitor for Design-Build contractors' Employment compliance with good faith and program implementation commitments.



Good Faith Efforts to Encourage MBE/WBE Participation

- Business Organization and Trade Association Mailings
- User Jurisdiction Economic Development Agency Procurement Alerts
- MBE/WBE Informational Letters
- DC Water Website Information and Updates
- Business Organization Links to DC Water Homepage for Procurement Opportunities
- E-Mails and Fax Alerts to MBE/WBEs regarding upcoming contracting opportunities
- Targeted local, regional, and national advertising

MEMORANDUM

To: Governance Committee Members
From: Kimberly Turner, Policy and Government Relations
Date: May 31, 2011

This *Legislative Update* is current through May 31, 2011 and provides information on the activities of the 112th Congress of interest to DC Water. For more specific and detailed information regarding DC Water strategy and other activities related to specific legislation, please contact me directly.

Federal Legislation

Fiscal 2011 Spending: H.R. 1473 “Department of Defense and Full –Year Continuing Appropriations Act 2011”

The negotiations went to the eleventh hour, concluding just hours before the previous extension of federal funding that was set to expire at midnight April 8, 2011.

The president signed the compromised bill into law on April 15, a day after it passed 260-167 in the House and was cleared by a Senate vote of 81-19. The bill cuts almost \$40 billion from 2010 levels. The measure funds the government through the fiscal year that ends September 30, 2011.

Title V, Section 1532 of the Act reduces the proposed level of federal payment/contribution for the Clean Rivers Project from the president’s proposed \$25,000,000 to \$11,499,000.

With respect to EPA there is a \$1.6 billion funding reduction. The majority of which (approximately 66%) was taken from the Clean and Safe Drinking Water Revolving Funds, also known as State Revolving Funds (SRFs), which funds more than 860 water and sewer projects for communities nationwide.

The District of Columbia (which shares the total Clean Water funds with DDOE and DC Water) will receive \$7,322,000 for Clean Water and \$9,268,000 for Drinking Water. In FY 2010, DC Water received \$13,100,000 alone for Clean Water and \$10,000,000 for Drinking Water. DC Water receives all of the Drinking Water funds. A minimum of \$1,853,600 must be set aside for green projects.

DC Water joined a coalition formed by NACWA and specifically called on Congress and the Administration to work closely with the clean water community, and state regulators in developing a more flexible and cost-effective approach to CWA compliance in line with the Association’s *Money Matters* campaign. Moreover, the coalition argued that the cuts are

misguided and ignore the financial challenges facing states and municipalities in meeting a growing array of costly Clean Water Act (CWA) requirements.

The final compromise did not contain any of the sixteen environmental policy riders aimed at curbing EPA's regulatory authority over several contentious issues including water quality issues affecting the Chesapeake Bay.

2012 Budget Resolution

The House on April 15 adopted the GOP plan 235-193 after disposing of four substitutes. The GOP budget cuts spending by \$6.2 trillion over 10 years compared with President Obama's budget and significantly modifies Medicaid and Medicare. The president laid out a very different vision for the 2012 budget.

DC Water finalized and submitted its FY2012 appropriations requests. The House Appropriations Committee is preparing to mark up its first two spending bills, Homeland Security and Military Construction, thus kicking off the fiscal 2012 appropriations process. Those would be the first two of the 12 annual spending bills to be marked up by subcommittee, with a full committee markup presumably to occur the week of May 23. The House Appropriations panel is expected to release its full markup schedule soon. GOP leaders would like to have all 12 fiscal 2012 spending bills passed by the House before the beginning of the August recess.

No earmark requests are being received by the House Appropriations Committee however; individual members may submit support for specific programmatic requests.

Biosolids Program

The government relations team held numerous meetings with House and Senate staff and members in raising the national prominence of the thermal hydrolysis and anaerobic digesters. In addition, we met with key staff within the U.S. Department of Energy & U.S. Department of Agriculture to discuss ways in which the agencies could financially support the project in the future.

District of Columbia Legislation

DC Water Performance Oversight Hearing

On April 13, 2011 GM George Hawkins accompanied by CFO Olu Adebo, testified before the Council of the District of Columbia Committee on Public Works and Transportation and answered questions regarding DC Water's proposed operating and capital budget for Fiscal Year 2012. DC Water board member Mr. David Bardin also presented formal testimony outlining four critical issues that support DC Water's arguments for budget autonomy. The DC Council will take a final vote on proposed FY12 Budget and Financial Plan on June 14th.

Proposal to Amend 21 DCMR Chapter 40 on Rates, Fees and the Customer Assistance Program- DC Water Budget for Fiscal Year 2012

The hearing was held Wednesday, May 11, 2010 at 6:30 PM at the Metropolitan Washington Council of Governments, 777 North Capitol Street, N.E. DC Water board member Nanchoo chaired the meeting and received testimony from general manager George Hawkins and several witnesses. It is anticipated that the DC Water board will vote on the rate increase in July.