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BOARD OF PUBLIC WORKS
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PRESENT

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Governor

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Treasurer

HONORABLE PETER FRANCHOT
Comptroller

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PROCEEDINGS

GOVERNOR HOGAN: Good morning, everyone.

ALL: Good morning.

GOVERNOR HOGAN: I just want to start out by extending my thoughts and prayers to the family of Barbara Bush. She was a dear friend. I had the opportunity to meet her. Her husband, the former President, and my dad were in the same freshman class together in the House of Representatives. And so I met Barbara Bush when I was 12 years old. Later on when I was in my twenties, Brooks Robinson and I were honorary co-chairs of the Bush campaign and I had the chance to meet her many times in my life. Regardless of what your politics is, I think most people would agree she was an incredible woman, a terrific First Lady and mom, and the wife of a President, the mother of a President, and just an incredible American. So I just wanted to mention her. And please keep the Bush family in your thoughts and prayers.

Next, we're going to do something fun that I like to do. We're going to honor an outstanding State employee which I think we all like to recognize people that do great things. And today we have another Customer Service Hero Award.

On the evening of January 4th, Officer Vincent Kurek of the Capitol Police responded to a report that a vehicle had slammed into the Schaefer Tower in Baltimore City. Officer Kurek rendered immediate aid to the driver of

the vehicle, who happened to be pregnant, and he ensured that a medic was called in immediately to assist with her injuries. Shortly after they responded, the car caught fire and Officer Kurek assisted the Baltimore City Police in handling this crisis and securing the scene. And he didn't stop there. His follow-up investigation revealed that a second driver caused the accident by failing to stop at a red light and had slammed into the first vehicle, causing them to crash into Schaefer Tower.

So when we think of customer service, and usually when we honor people here it's in a department somewhere where they are assisting citizens with licenses or applications or answering questions or helping with paperwork. But Officer Kurek showed that great customer service can also prevent injury and harm to our fellow Marylanders. And we're very pleased this morning to have Private First Class Vincent Kurek with the Maryland Capitol Police with us this morning. Officer Kurek, congratulations. And please come up here so we can present you with an official Governor's Citation. Let's give him a big round of applause.

(Applause.)

GOVERNOR HOGAN: Come on, Chief. Bring the rest of your team up here. We'll get the picture for you.

GOVERNOR HOGAN: Congratulations.

(Applause.)

GOVERNOR HOGAN: Now will be any opening remarks. I guess Mr. Comptroller, anything you'd like to add this morning?

COMPTROLLER FRANCHOT: Well I completely concur with the Governor as to the concept of customer service and I'm delighted to see that award. And I also had a brief personal story about the unfortunate death of Barbara Bush.

So my dad, who is 96 and still with us, went after World War II, went back to Yale to finish his undergraduate and he describes being asked by George H.W. Bush and Mrs. Bush to dinner with he and my mother at, they were in an apartment or something in New Haven. So I said how did the dinner go? He said, well, the dinner was great. We were there. It was a small number of people. And I was conversing and enjoying myself. And something kept pulling at my leg under the table. I said what was that? He said it turned out to be two-year-old George W. Bush.

(Laughter.)

COMPTROLLER FRANCHOT: And he said, little did I realize that I was having dinner with a, not only the future President of the United States but two future Presidents of the United States.

(Laughter.)

GOVERNOR HOGAN: Wow.

COMPTROLLER FRANCHOT: So anyway. Someday I'll get dad to come down here again to a Board meeting and share some more stories. But I concur completely with what the Governor said about the legacy of Barbara Bush and well deserved.

So as most of you know, yesterday marked the end of the year's tax filing season, but not really. Because today is now the last day because we have to couple ourselves to the IRS. All of the these Turbo Tax and H&R Block electronically filed returns yesterday that got held up for some reason and were unable to be accepted at the federal level, they go to the federal people before they come to us. So we're giving our folks an extra day just to stay in synch with the IRS.

But I want to applaud the men and women of our Revenue Administration Division for their hard work, professionalism, and commitment over the last several months. These are 600-plus people whose responsibility is to make sure that the tax season goes smoothly. And knock on wood, it has. Over the next several weeks we will be working overtime to process the hundreds of thousands of tax returns that were received in the last several days. We'll continue to work diligently to process the returns from those who have filed for extension. Annually we process about three million tax returns, issue more than \$2 billion in refunds on average within three business days.

As you know, Governor, my team is firmly committed to delivering the highest level of customer service to Maryland taxpayers. And an important part of that commitment is our ongoing effort to combat tax fraud and identity theft. Just last week we suspended processing returns from 20 highly suspicious tax preparation services and that's on top of the 54 we've blocked since the beginning of the year thanks to the hard work of our Questionable Returns Detection Team. A questionable return is a euphemism for outright fraud. But that's what we call it.

So there have been nearly 4,000 fraudulent returns worth more than \$7 million in the last month and a half that we have put aside and thankfully not sent money from the Treasury to. And we're blocking those tax preparers from which a lot of these came from.

I will say that over the last six or seven years, we have blocked \$190 million in fraudulent tax refund requests from our office. Not, in other words, we haven't paid them. The IRS has a different approach, sadly, for the U.S. Treasury. But our approach is sophisticated algorithms that identify these questionable returns. And we're now putting aside, for every 100 returns we put aside based on this technology, 99 of them prove to accurately describing fraud. Ninety-nine out of 100. So God bless technology.

We enjoy a reputation as one of the most effective and efficient comptroller's offices in the country and I applaud not just the 600 folks in

Revenue Administration, but also the other 500 who are in compliance and other important responsibilities. I remain grateful for their dedication to respectful, responsive, results oriented service. And I am privileged to lead that agency because of the exemplary public servants who work there. Thank you, Governor.

GOVERNOR HOGAN: Thank you, Mr. Comptroller.

TREASURER KOPP: Could I ask --

GOVERNOR HOGAN: Madam --

TREASURER KOPP: -- actually a question.

COMPTROLLER FRANCHOT: Sure.

TREASURER KOPP: This is a fantastic record and we've been watching it for some time and I know you've had meetings explaining it all. If we've got the algorithms to essentially find that high a proportion of the fraud, and I think we do, can we do more to get that word out so that you could prevent it as well as catch it? Because I would think if people knew there was a 99 percent chance that they were going to be caught, of course everybody thinks he's different and he's smarter than the next guy. But there have got to be some that would be discouraged.

COMPTROLLER FRANCHOT: Such a refreshing question because most people want to know what the algorithm is.

(Laughter.)

COMPTROLLER FRANCHOT: Yeah. Me, too. I feel smarter just for being able to say it. But no, that's a good point. We're actually focusing on something else, which is bringing some of the individuals responsible for the fraudulent returns to justice. We haven't really been able to, because it's so hard to find the individuals and bring them into court, if they are found guilty, send them to jail. These are just very difficult crimes to locate because half the people that are doing it individually are in Florida, California, the Ukraine. These returns come in from all over the place. So I appreciate the act of asking for deterrence. I think that's good. And we will, we're working with General Frosh to prosecute some of the tax preparers and maybe we'll get lucky --

TREASURER KOPP: Screening people might be discouraging others, too.

COMPTROLLER FRANCHOT: Right. People said to me is Putin responsible for the IRS thing? I said, no. I'm sure it's just a little glitch. But right, you never know. It's, but thank you for that suggestion. The problem with bringing, you know, the staff does not want me to keep saying that we're one of the best in the country because as soon as you do that, these hackers get challenged in a perverse way to come and try to attack us. So it's, you know, being recognized as the model is a two-edged sword.

TREASURER KOPP: Well, it's a lot of money. Let me only add, I never met Mrs. Bush but I very much admire a woman who says what she thinks and means what she says.

(Laughter.)

TREASURER KOPP: And that was such a lady. And we will all, we will all miss her.

GOVERNOR HOGAN: Any other comment?

TREASURER KOPP: Not really.

GOVERNOR HOGAN: We're going to get started with the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor --

GOVERNOR HOGAN: Good morning.

SECRETARY MCDONALD: -- Madam Treasurer, Mr. Comptroller. We have nine items on the Secretary's Agenda. We have three reports of emergency procurements. We are withdrawing Item 8. That will come back at the next meeting.

GOVERNOR HOGAN: Very well. I'd like to just highlight Item 9 and say that I'm very pleased that once again the Commission on State Debt is holding the line on the State property tax rate. Our administration is going to continue to remain fiscally responsible. We're going to continue prudent capital spending. The day after I was sworn in as Governor we submitted a budget that

eliminated the \$5.1 billion structural deficit we inherited. And I can tell you that the days of raiding billions of dollars in cash from the Transportation Trust Fund, the Chesapeake Bay Restoration Fund, and the Atlantic and Coastal Bays Fund, and the Program Open Space are over. We're no longer backfilling those with debt in order to pay for things that are totally unrelated. And we're going to continue our fiscal vigilance, keep Maryland's fiscal house in order. And I want to especially thank all of the members of the Commission, my colleagues up here, the Treasurer, Treasurer Kopp, and Comptroller Franchot, along with our Budget Secretary David Brinkley, our Transportation Secretary Pete Rahn, and the State Department of Assessments and Taxation Director Michael Higgs for their hard work.

In addition to holding the line on property tax, we've worked together in a bipartisan way to pass --

TREASURER KOPP: You also have another appointee on that Board.

GOVERNOR HOGAN: I do? Who did I miss?

TREASURER KOPP: Paul Merritt, a member of the public.

GOVERNOR HOGAN: Paul Merritt, I should thank him as well. Thank you very much. I forgot that one. But we've also worked together in a bipartisan way to pass four consecutive budgets without a tax increase. Through tax, toll, and fee relief for hardworking Marylanders, retirees, and small

businesses, we've put \$1.2 billion back into our economy and back into the pockets of Marylanders. During this most recent legislative session, we also once again provided relief by protecting taxpayers from a potential of a \$1.2 billion tax increase. So I just wanted to highlight the great work that this group has done in not raising property taxes.

I see that we have several people signed up to speak on Item 4. So let's bring that up. I think first we're going to hear from the Board of Public Works Wetlands Administrator Bill Morgante, who will present the item. And then we'll hear from the folks that have signed up to speak. Good morning.

MR. MORGANTE: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Bill Morgante, Wetlands Administrator.

Vulcan Construction Materials, LLC is an aggregate supplier. They seek a license to maintenance dredge four-tenths of an acre at their offloading dock on the Tred Avon in Talbot County. Large barges deliver aggregate to Vulcan. The license would also authorize replacing their bulkhead and their cluster pile dolphins.

I reviewed MDE's report and recommendation, a variety of other application materials, visited the project site, met with the Choptank Riverkeeper and the neighbor of the applicant, who were both opposed to the project. Among their concerns are, one, that Vulcan's barge movement causes excessive turbidity

in the Tred Avon; and secondly that the foundation to the neighbor's bulkhead next to the Vulcan barge offload site has been damaged by Vulcan's operations.

My process for reviewing the project included the following. In order for me to better understand tugboat procedures, barge operations on the Bay, and federal channel protocol, because the Tred Avon is a federal channel, I spoke with the Army Corps of Engineers concerning the federal channel and its management. I spoke with three local tugboat operators to really try to better understand boating procedures. I spoke with staff at the U.S. Coast Guard and also staff at DNR. I aimed to better understand Vulcan's barge operations and the effect of prop dredging on State tidal wetlands. And for the record, prop dredging is soil disturbance caused at the river bottom by the propellers of boats. And this results in sediment suspension or sediment plumes in the water detrimental to fish, oysters, and Bay grasses, and generally just to water quality.

The five factors typically used to evaluate State tidal wetlands, the economic factors, ecological, developmental, aesthetic, and recreational factors, were all looked at. And for this project, I'd like to highlight the economic and the ecological factors because they are most important here.

The economic livelihood of Vulcan, its barge operations, and its clients throughout the Eastern Shore are significant. But also important is the economic livelihood of the neighboring marina owner. The ecological factors for this project include maintenance of the health of the Tred Avon wetlands at the

north fork by preventing the prop dredging that's occurring with barge operations since this prop dredging has negative impacts on the ecology of the north fork.

I concur with MDE's favorable report and recommendation to issue the license, but only, I believe, if the six special conditions that you received are included with the license. These proposed conditions were really crafted to preserve the wetlands. They are designed to offset or mitigate the impacts of Vulcan's operations on the ecological interests of the State tidal wetlands and the economic interests of State tidal wetlands represented by the marina owner.

Just a little more detail, I just want to highlight that special condition one, you know, ensures that dredging does not exceed the authorized depth and dimensions. Special conditions two and three would really limit prop dredging from harming the north fork wetlands. Special condition four prevents free floating barges from hitting the shoreline, causing erosion and further damaging nearby wetlands. And conditions five and six limit prop dredging in the fork, erosion of the neighboring commercial bulkhead, and sediment plumes.

So I just want to mention there's legal justification for these proposed conditions. Both Four Seasons One and Maryland tidal wetlands law authorize the Board to condition the granting of this State tidal wetlands license as recommended as a means to preserve the wetlands and prevent their despoliation. The Four Seasons decision requires the Board to ensure that proper special

conditions are with “reference to the impact of the proposed dredging on the affected wetlands.”

So in conclusion, with Vulcan the Board is granting a license to disturb the wetlands by dredging but is protecting nearby wetlands from despoliation. It’s critical that the license include special conditions to offset the project economic hardship to the marina owner and any ecological hardship to the north fork wetlands.

GOVERNOR HOGAN: Did I hear you right that MDE recommended approval without conditions? Or did they --

MR. MORGANTE: There were conditions that were typical for a dredging project, typical for replacing the bulkhead, that would have been included.

GOVERNOR HOGAN: But --

MR. MORGANTE: But would not have included the six.

GOVERNOR HOGAN: You were recommending adding six different conditions?

MR. MORGANTE: Six additional, yes.

GOVERNOR HOGAN: Okay. All right. Any questions before we call up the other folks? We might bring you back to answer some questions, I think. Thank you. First we are going to hear from Matt Pluta. Good morning.

MR. PLUTA: Good morning. Good morning, Mr. Governor, Mr. Comptroller, and Madam Treasurer. Thanks for the opportunity to address this permit this morning. For the record, my name is Matt Pluta and I'm the Choptank Riverkeeper with Shore Rivers, a river protection group on the Eastern Shore with roughly 3,500 members.

You'll notice that I've commented on this license since it was applied for in 2016. I've raised concerns about how the permittee's application, how the permittee's operations are and have the potential to increasingly impact the wetlands that this permit is intended to protect.

As I know that you all are aware, the Tred Avon River is an oyster sanctuary and as of 2017, 380 million oyster seeds have been planted; 80.8 acres have been constructed; and most importantly \$4.61 million have been spent in restoring the oyster population in the Tred Avon River.

It was four years ago on my first time on the river as a riverkeeper and all I've heard about was this oyster restoration work. And while I was traveling down the river I saw a barge coming up and I thought this is going to be my chance to see it firsthand when in fact I saw quite the opposite. I saw a barge being pushed up the river with a tail of sediment as far as you could see and the most darkest of sediment right near the propeller. And I thought to myself, this is completely undermining the restoration efforts to protect our wetlands and also to rebuild the oyster population.

For the record, I've submitted a petition with over 50 other property owners and individuals that recreate on this river who share concerns about the operations of this applicant and the co-chair of the Oyster Advisory Commission, who has also seen these impacts firsthand, has submitted a letter for the record as well.

So my point is is that this permit is specifically being requested because of the accumulation and the build-up of sediment, right? And so the exact thing that this applicant is doing to undermine the money and the efforts put towards restoring the oysters and the wetlands. I believe that this permit and any other permit that comes up in these oyster sanctuaries needs to closely consider the impacts that the activity has on oyster restoration in addition to the wetlands.

I applaud Mr. Morgante's work in addressing these issues that have been raised and investigating the concerns. I concur with the special conditions that have been proposed with his recommendation and I hope that you will do so as well. Thank you.

GOVERNOR HOGAN: So at this point you are in favor of awarding the license with these conditions?

MR. PLUTA: With the six special conditions proposed, yes.

GOVERNOR HOGAN: Thank you very much. Any questions?

COMPTROLLER FRANCHOT: Give me again, I missed the administrator, I was trying to listen but I couldn't quite get the, I assume the company has objections to these special conditions. What's --

GOVERNOR HOGAN: We're going to have them speak in a little while.

COMPTROLLER FRANCHOT: Yeah, but what specifically are the six?

MR. PLUTA: The six special conditions?

SECRETARY MCDONALD: Maybe Mr. Morgante can --

COMPTROLLER FRANCHOT: What?

SECRETARY MCDONALD: Maybe Mr. Morgante could come back up for the six special conditions rather than --

GOVERNOR HOGAN: Yeah.

COMPTROLLER FRANCHOT: We've got this gentleman. I'd like to just --

SECRETARY MCDONALD: Sure.

COMPTROLLER FRANCHOT: Unless you don't know what they are?

MR. PLUTA: I have them right here in front of me.

COMPTROLLER FRANCHOT: Great. Yeah. No.

MR. PLUTA: Yeah, great.

COMPTROLLER FRANCHOT: No, I, this, I like this guy. Yeah.

(Laughter.)

TREASURER KOPP: I like Mr. Morgante, too.

MR. PLUTA: Great. So the first two conditions, as Mr. Morgante mentioned, helps to protect from any prop dredging from the barges navigating at low tide.

COMPTROLLER FRANCHOT: Uh-huh.

MR. PLUTA: And so we've seen evidence of them navigating, pushing heavy barges out, causing this prop dredging and suspension of sediment. Furthermore, the conditions also prevent any propeller dredging facing towards the neighboring marina property, where I believe you'll see some pictures later on showing the destruction that has happened because of this scouring that occurs as these propellers create these scour holes nearby. And then also requiring that the applicant put in a survey marker indicating where the mean low tide is so that it's visual to everybody around that these barges are operating responsibly and coming in with water depths that are, again, responsible, or good enough for them to navigate the waterways. And I believe -- and then they are also required to maneuver their boats outside of the north fork, which is evident by their destruction that it's not large enough to handle two barges at once in this area without causing impacts.

COMPTROLLER FRANCHOT: And what is your name?

MR. PLUTA: Matt Pluta.

COMPTROLLER FRANCHOT: Yeah. So in saying I like Matt, I don't mean to imply I don't like the administrator. I like Matt because he inspires me that young people are associated with involvement and advocacy for issues, right or wrong, wherever you are. Thank you for being, you know, who you are. And it gives me hope for the future.

MR. PLUTA: Thank you.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Next we have John Schroeder.

MR. SCHROEDER: Governor, ladies and gentlemen, my name is John Schroeder. I'm the owner of the property adjacent to Vulcan's property. I brought a couple pictures because I'm not a wordsmith so what we are speaking about is in regard to their permit. This is the damage that incurred from the purchase of our property we found after we bought the property. We had to rebuild the bulkhead. This is from undermining from the tug, the barge.

This is a situation that happens when they release the barge. It's free-floating in the Tred Avon River and smashes into the trees. It damages the banks. It scours out the banks. And I became aware of this after I bought the property. I was in no way interested in getting involved in any of this. But we've

been unable to run a marina properly there because of the fact that this barge basically commands the whole river.

The sediment that we're speaking about is dug out by the props. These barges are 300 feet long. The tugs are enormous. The river has never been able to handle something like that. And prior to them going to 300-foot barges the history of the river was the property that I owned was an oil depot and Vulcan was operating with smaller barges and so was that property. And a 150-foot, the river can handle it. If you get up to 300 feet, the tug increases in size. And so from the mouth of the Choptank to our point it dredges all the way up the river. And as Matt eloquently pointed out, all the funding that's going into the oyster restoration and the grasses on the bank are being covered with dirt.

Now in this application what we're trying to do is mitigate the damage to our property. Personally I would like that to see happen because I can't, I can't continue to rebuild the dock as it undermines, as they push that empty barge, which they push out into the river and just let it float. And then they push the new barge full of gravel into the site. I have recommended that they do a bathymetric measurement of the sea bottom there because nobody really knows what it is. But I have done my own just with a stick and they have plenty of water there. So now they are loading the barges heavier to get more aggregate to the site. And it's, my position is that this river, this river is a jewel. The economic

damage that's happening to it far exceeds, you know, what the monetary gain is from the gravel.

GOVERNOR HOGAN: Can I ask you --

MR. SCHROEDER: Yes, sir?

GOVERNOR HOGAN: -- what is the, at low tide, what is the depth of the water near your marina?

MR. SCHROEDER: Well right next to my marina it's 17 feet deep at the bulkhead because it's been scoured out. But the average is ten feet.

GOVERNOR HOGAN: So I mean I think both you and Mr. Pluta were talking about the props are kicking up --

MR. SCHROEDER: Correct.

GOVERNOR HOGAN: -- sediment and causing a problem --

MR. SCHROEDER: Correct.

GOVERNOR HOGAN: -- and it sounds like their application is to do maintenance dredging so I mean wouldn't that solve the problem of the props kicking up the mud if it was deeper?

MR. SCHROEDER: Well, no. What's going to happen is that they are going to continue to prop wash as they push forward because they have to get the empty barge out. And this whole area is being suspended. So it's moving from one place to another. It's going to continue to happen.

GOVERNOR HOGAN: But if it was deeper would the props still kick up the same sediment?

MR. SCHROEDER: Well I mean they would have to go way deep because of the size of the tug. Right now the barge is just coming up onto the mud flat supposedly, and that's what they are trying to dredge. And that material is going to get put out but then the rest is going to fill in from the maneuvering of the barges in that area.

GOVERNOR HOGAN: Okay.

MR. SCHROEDER: Yeah.

TREASURER KOPP: Could I ask a question of Mr. Morgante?

GOVERNOR HOGAN: Sure.

TREASURER KOPP: Your condition number six, wouldn't that essentially be directed against preventing this sort of problem and enhancing the wetlands, but also preventing undermining?

MR. MORGANTE: Well I think number six gets at the fact that when barges are being moved into place, that the area perhaps outside the area that's already dredged, it would not be, it would be shallower. That if they are moving with a tugboat at a lower tide, or low tide, then it would still hit the bottom and be able to actually affect the property next door. So I think that they are just, this is really just trying to get them, trying to get the tugboat operators to be pushing or manning the tugboats away from the marina next door. I mean,

there's different ways they can maneuver them, approach them from one side or approach them from the other side, as much as I understand.

If it's okay I wanted to address also the Governor's question. So, you know, I think that the concerns about the prop dredging is it would not be, the footprint of the area that's being dredged, it would really be the areas outside that are not dredged, but then by operating like at a lower tide that that could continue to happen.

GOVERNOR HOGAN: So the part where they are requesting to dredge four-tenths of an acre on their property, that isn't going to help any of this problem?

MR. MORGANTE: Well it will certainly help them with their offloading facilities --

GOVERNOR HOGAN: Yeah, I get that. But it won't help with the, right now that mud isn't being kicked up and the sediment isn't going onto your marina?

MR. MORGANTE: Well I mean the concern is that actually even the area outside the footprint.

GOVERNOR HOGAN: I understand outside there might still be an issue. But does this help with part of the problem?

MR. MORGANTE: Sure it would. I would think it would, by dredging that footprint.

MR. SCHROEDER: Not to get into too crazy detail, but the federal channel is 40 feet from the edge of my bulkhead. And before I bought the property there was nothing there so they would leave the point of the confluence of the Tred Avon River, north and south fork, and go directly to their site. Which this indicates the federal channel and they would run along the bulkhead to their site, a direct straight line. When I purchased the property so I could put in boats there, it required them to go further out. So they've lost the ability to push the empty barge --

GOVERNOR HOGAN: Because your marina is 40 feet from the channel?

MR. SCHROEDER: Yeah, from the federal channel buffer zone. And the federal channel is actually on the opposite side of the river. They operate on the side closest to me because it's the easiest point to get to their spot. So that whole section of the bulkhead was undermined there. They said, well --

GOVERNOR HOGAN: Because they now have to go outside the channel?

MR. SCHROEDER: Yeah.

GOVERNOR HOGAN: To get away from your marina?

MR. SCHROEDER: Yeah. So what happens is it pushes, they have to move the empty barge out of the way and they use the power of the tug and the barge behind it to do that. And that barge is let free. And then what

happens is they have to get that barge when they've tied up the full barge. And then that whole area gets scoured by the tug. So it has filled back in this hole that's being dug.

GOVERNOR HOGAN: Right.

MR. SCHROEDER: So the elephant in the living room is this barge is too big for the river.

GOVERNOR HOGAN: Yeah, but that's not one of the proposed conditions, the size of the barges, right?

MR. SCHROEDER: I know.

COMPTROLLER FRANCHOT: Yeah, but Mr. Administrator, why not? It's obvious that we're putting ten pounds of potatoes into a five-pound sack on a gorgeous river, where we have all sorts of investments in oysters, wetlands. And you know this is not exactly high tech systems that we're delivering up there. It's, what, aggregates? Why do we even need to bring the aggregates in? Why can't they produce them on the Shore?

GOVERNOR HOGAN: Well so --

COMPTROLLER FRANCHOT: But let me just ask, I guess I apologize for drifting into another subject, but why not a special condition that says these should be 150-foot barges and small tugs at a minimum?

MR. MORGANTE: I thought that was outside the purview of what I could recommend for a special condition.

COMPTROLLER FRANCHOT: What is your purview?

MR. MORGANTE: Purview would be a direct effect on the wetlands that are abutting or in, right around the property that is being applied for. I think that, that was my --

COMPTROLLER FRANCHOT: Yeah, but say we proposed as a tourist attraction to buy the Queen Marion, bring it up the Tred Avon --

GOVERNOR HOGAN: That's a good idea.

COMPTROLLER FRANCHOT: -- or Choptank or whatever. I mean, really. What about special conditions that limit the, you know, the inappropriate size, which it sounds like is at the bottom of all this?

GOVERNOR HOGAN: Why don't we move on to hear from the applicants and maybe we can --

COMPTROLLER FRANCHOT: I'm happy to do that.

GOVERNOR HOGAN: -- answer some of those questions. And we'll maybe call you guys back if we have any further questions. Thank you very much. We're going to go on to Parran Bean and Warren Rich, representing Vulcan. Good morning.

MR. RICH: I'm Warren Rich. I lived a good part of my life right around the bend of this facility. I want to echo my, your thoughts, Governor. I was George H. W. Bush's lawyer in Maryland when he ran for office, which your

father ran. And I know the family. I was introduced to them by Mac Mathias many years ago. I'm not here to tell you I'm a Republican but --

(Laughter.)

GOVERNOR HOGAN: Well that just lost you two votes right there.

(Laughter.)

GOVERNOR HOGAN: I'm just kidding. I'm teasing.

MR. RICH: It will be what it will be. Mr. Comptroller, I'd like to answer a couple of your questions. Because the story you got here today is absolutely unequivocally untrue. First of all, did you know that the closest oyster bar is probably more than a mile away from this site? I'm sure you didn't. That's a fact. What goes on at this site has nothing to do with that oyster bar. And in fact, the federal and State guidance for the closest oyster bar and all the oyster bars in the Tred Avon River are that those oyster bars that you are planting have to be 250 feet away from the closest marker in a channel and I think 175 feet away from the channel.

The paramount use recognized by Maryland and every other colonial state, as well as the federal government, for navigable waters is commercial business, commercial navigation, maritime commerce. That is the preferred use. All of the cases, all of the cases in this State say that you, if an oyster bar is anywhere near a channel, the boat can run it over and tear it up and

not be responsible. There is a preference in the law for maritime commerce. And the purpose of those requirements imposed by the federal government and by the State of Maryland is to make sure the oyster bars are not anywhere near the channel. Because they are not a preferred use of the rivers.

So what, the important point is what goes on here at the site -- I should say I was a Norwegian seaman as well. What goes on here at the site has nothing to do with any oyster bar. Any oyster bar. It's not even, it's not within the purview or jurisdiction of this Board to even look at that issue. But we've looked at the issue and we've looked at the law. And we are not smothering the oyster bar. As a matter of fact, it's exaggerated statements that we're ruining the Tred Avon River, which I lived on a good part of my life, where I taught my kids how to sail right in front of this facility. But when I would turn the boat over because I was not a good sailor, I would have to take the boat and push my younger kids back to my house and walk through the mud and the silt coming in from the roads in the nearby area. So I know the bottom very well.

Let's talk about, let's briefly talk about the site. The site is not ruined. I've seen barges and tugs come up and down that river probably a good part of my life, especially in the seventies and the eighties, in the early eighties, I think, when there was more marine traffic there and the channel was clearer. There is no damage caused. I went out and I personally looked at the claim that there is undercutting of the bulkhead. First of all, the bulkhead has been, they put

a new bulkhead in a little bit further out I believe from where it originally was. And there's no change. And in fact Mr. Bean, who will come up and tell you about his conversations with Mr. Schroeder, will tell you exactly what Mr. Schroeder and his partner have stated about that. There is no ability -- let me just read you a section here which I think is important, just so you know what we're talking about.

This is a response from MDE with respect to regulation of vessels. Not from me, from MDE, in response to this issue. Regarding vessel operation, the tidal wetlands program lacks the authority to directly regulate vessels operating within navigable waters of the State. Such authority lies within the Maryland Department of Natural Resources and the U.S. Coast Guard. But that's not in conjunction with the wetlands permit at all. That's a different issue.

There is no prop dredging here. Prop dredging is the intentional attempt to deepen a channel and to do it over and over again. And this letter from MDE explains to you this is not prop dredging. Yes, it is true that on occasion because of the siltiness of the area -- the prop doesn't dig into the bottom. The prop is turning the sediment that is suspended and the siltation in the area. It is not digging the bottom. It is not digging a hole. On occasion, it may hit a high spot and it might unintentionally, not purposefully, cause a little bit of silt to show near the surface of the water. Just like when I leave my boat, my dock on a medium tide or a low tide, I don't have enough water and my boat might stir up a

little bit of silt on the top. That is not endangering anything. We're talking about a mud flat. You're talking about a mud flat there. We're not talking about any vegetated wetlands. The report from MDE indicates that there's no damage to any wetlands, that this is zero damage to wetlands. We're not destroying the bottom. What we're trying to do is be a good neighbor.

Now if you want to put them out of, this company that's been there since 1951 out of business, you can attempt to say well you have to use a smaller barge. There's no authority for you to do that under the law. And typically it would put the company out of business. This company supports probably half of the contractors on the Mid-Shore. It will put thousands of people out of work. And we're talking about a private, a private matter between our neighbor and us. And we've indicated on the record, in writing, that if we cause any problem to the bulkhead or we cause any undercutting, we will fix it.

Vulcan is one of the largest, the largest sand and gravel aggregate company in the country. It has places up and down, up and down this, the Bay. It has, Mr. Bean will explain to you exactly what goes on with respect to each of the facilities. If our neighbor shows us that we're causing something, we will fix it. This is a private matter. This is not a matter for the Board of Public Works to be the adjudicator.

I want to, before I offend anyone too much longer, I just want to, this company means a lot to me. It was my first client. It has received permits

and I have gotten permits for them to do mining and distribution throughout Maryland and even in other states. This company has evolved. It was, in Easton it was the old Arundel Corporation. And then it became Florida Rock. And now it is purchased by Vulcan. This company stands behind its name. It will do the right thing. It will resolve the differences with our neighbor, which are basically private differences. It is not going to destroy the oyster bars. It has no impact on the oyster bars. Because some young person stands up here and says to you, we are destroying the Tred Avon River, which in fact the oxygen content of the Tred Avon River is higher today and last year than it ever has been in many, many years.

I want to point one other thing out. There are issues here of jurisdiction. We have said to you and to everyone that asked us, we will abide and make our best efforts to carry out all of those conditions that the Board may or may not want to impose. We will do that and extend our best efforts to do that. There's no issue with always trying to do the right thing and extending out to help the community. Vulcan's record is impeccable in this respect. It helps you build your oyster bars, as you may or may not know that. It gives material to do that in Maryland. But the authorization to impose a condition which is not even related to the site, not related to the ecology of the site, and to try and control maneuver of vessels is beyond the jurisdiction of this Board. And when you look at the enforcement procedures of MDE and all the laws, enforcement laws, they have no

authority to enforce any such thing unless there was some purposeful prodding, which Vulcan would not do.

This whole issue was started and acknowledged by Mr. Pluta after the report and recommendations were made by MDE. Here's what he says. He writes, Mr. Pluta, he writes a letter to one of our employees. Hi Johnny, we met at the informational hearing for the Vulcan dredge permit in Easton. After that meeting I met with you and a few of your colleagues and addressed some of my concerns that were outside the scope of the permit. What he obviously meant was the license. Mainly about the tug and barge operations throughout the Tred Avon River. That's what began this. There was a recognition that these issues were way outside of a request to license a maintenance dredge operation, which they had for, since the 1960s under the Rivers and Harbors Act, before, even before the wetlands law was ever evolved.

So in closing, and I'll turn it over to Mr. Bean who has a whole lot more experience and talks a whole lot clearer than I do on these issues. We will abide, we will abide by the conditions to our best efforts. We are on record as writing that.

GOVERNOR HOGAN: So let me just ask you, actually MDE approved, recommended approval without these conditions.

MR. RICH: Yes.

GOVERNOR HOGAN: There were concerns by a number of folks about some of the issues, which so they now have agreed to these conditions and support your application. You say you want to abide by all the conditions. What's the issue with us approving it with the conditions?

MR. RICH: There's no authority for you to impose it.

GOVERNOR HOGAN: That's just not true.

MR. RICH: Well we --

GOVERNOR HOGAN: I mean, I beg to differ. We are the final authority. The BPW does have the authority. That's why you're before us today. So --

MR. RICH: Oh --

GOVERNOR HOGAN: -- and you're hurting your case by trying to make a false argument like that.

MR. RICH: Oh, you would know. You have the authority to issue the license, for sure.

GOVERNOR HOGAN: Yeah. There's no question we have the authority. Otherwise you wouldn't be speaking before us today.

MR. RICH: Sure. I agree. I wouldn't make a stupid argument like that.

GOVERNOR HOGAN: Maybe we should hear from Mr. Rich.

MR. RICH: There's one further thing I want to say. There's one condition on there that we've indicated in writing, I don't know what Mr. Morgante has given to you because we are not privy to what he gave you. There's one condition on there that we did not want to --

GOVERNOR HOGAN: Which one is that?

MR. RICH: That condition is to put the tidal benchmark in so that the riverkeeper can either call us or call MDE to complain that we're there or we've arrived at a mean low water time of day. That condition is clearly illegal. It basically deputizes the riverkeeper and gives them the authority as the enforcement officer for the Tred Avon River. There's no, what purpose, what purpose would that be to put a benchmark in and say this is mean low water? What is the purpose?

GOVERNOR HOGAN: But didn't you just say you were going to abide by all these things and you've already agreed to abide by all of them, you just don't want to --

MR. RICH: No, I'm pointing out, sir, that --

GOVERNOR HOGAN: -- now you said it's illegal and you don't want to do it?

MR. RICH: This is the one condition I don't see how it affects or impacts or is involved with the maintenance dredge permit. How is that even related?

GOVERNOR HOGAN: But didn't you just say you were going to try your best to abide by it?

MR. RICH: Absolutely. Absolutely. We will abide by every condition.

GOVERNOR HOGAN: Okay. Why don't we hear from --

MR. RICH: Mr. Bean.

GOVERNOR HOGAN: -- Mr. Parran Bean?

MR. RICH: Yes, sir.

GOVERNOR HOGAN: Good morning.

MR. BEAN: Mr. Governor, Mr. Comptroller, Madam Treasurer, my name is Parran Bean. I work for Vulcan Materials. I've been, I'm the area manager. I've got probably somewhere around 15 sites on the Chesapeake Bay and I'm pretty much responsible for. I'm also responsible for all their tugboat operations. So I kind of work in that whole area.

I had a bunch of stuff I was going to talk about. A lot of it we've already talked about and I'm not going to go there. One, and as Warren talked, you know, Vulcan is, it's a large operation. You know, been in business forever. The site there at Easton Point has been there since the 1950s. I've worked in that area probably since 1991, is when I first started working just on the Easton Point area. So I'm very familiar with the site, what's gone on there in the past with, you know, as over the last years we've had, you know, three acquisitions. You know,

originally it was the Arundel Corporation, then we was acquired by Florida Rock, now we've been acquired by Vulcan. So but it's basically the same business, same people still running, you know, the same company.

A couple of things. We currently in most cases we try to maintain and keep a dredging permit on site all the time, keep it active to where if something, you know, if you need to come in there, if it starts silting in, whatever, you can dredge it and do whatever. It's been ten years since we dredged this site. And to me that says I think we've done a pretty good damn job of keeping the sediment from building up any spillage going into the water, you know, to go that long.

We've put in most of our sites now what we call a spill protection, where we have a screen, have a plate that comes down and sits down over the barge so when the material, when the excavator or crane is swinging back and forth they are able to catch anything that falls off. They then can bring it to shore. Two reasons, you know, we're not, we don't want to lose material, you know, for one. And we don't want to be putting it in the water.

So from a dredging standpoint, I've overseen multiple dredging operations where we come into a site like this and we dredge out, we get our permits, we go in there, and we dredge. So we're very familiar. We will do this work ourselves. It's not like we're going to contract somebody else to come in and do it. We know how to do this.

To answer a couple of the questions. One, to Mr. Comptroller, you wanted to know why not just use material from the Eastern Shore versus barging material in? I95 is kind of the dividing line. Everything west of 95 is hard rock. Everything east of 95 is sand. So what we bring in to the Easton Point is hard rock. It comes out of our Havre de Grace Quarry. And it's, you know, it's used for asphalt paving, concrete, and everything else. Now we also take and bring sand off the Eastern Shore and over where they don't have it. So you know, a lot of times we've got backhoes set up to where we're backhoeing.

A couple of comments that's on here I just wanted to touch on. Whenever we apply for a permit, the first thing we do is we go visit all the neighbors. We want to make sure everybody is on board, understand what we are trying to do. I guess in September of 2016 when we applied for this permit, my on site management went to all the neighbors, talked to John. At that point there really was no issue from anybody. Through this process it was requested that we go back and meet with Mr. Pluta and the neighbors. We met with them and we actually ended up with a conference call with John and his partner. And in that call the conversation was, we don't have any damage yet. We're concerned that through this maneuvering, we're going to end up with damage. And at that point when we told him, and we've submitted the letter, as Warren said, that you know, we're responsible. If we do something here, we're going to take care of it.

But through those conversations, we sat down and said, okay, what can we do? How can we, how can we help this whole situation? And condition number four, five, and six is actually what we came up with and came back to the neighbors and MDE and everybody and said, look, we think we can change the approach we come in here to avoid having to backwash, blow any backup there. You know, we're going to work on doing that.

Turning the barges, you heard a lot of conversations about barges turning right there in front of the dock. The reason we have to do that is our boats are model bow boats, which means it has a V front. And when the barge is empty, the tug would go up under it. So we have to push from -- if it was turned around and we was pushing it from the bow. So we have to push from the stern. So we have to turn it around so we can go back out. Well we got looking at it. Coming in loaded, it's not an issue. So what we've been doing for the last several months, we're turning the barges long before we get there. So we basically push them in the back which, so when the time comes to go out we don't have to turn them. We still have two barges in there. We have to shift them, we take them, and go back out.

So you know, that four, five, and six, like I say, you know, basically they was our ideas. We said, hey, if we can do this to help, this is what we'll do.

As far as the barge size --

GOVERNOR HOGAN: Well before you get to the barge size, which isn't one of the conditions, what are the issues that you have with the three conditions that you oppose, or the four conditions that you -- I think you've agreed to three or four of them.

MR. BEAN: Number one, we do that at most sites. That's the bathymetric survey. We go in and survey it prior to doing the dredging. Once you dredge it, you go back and do, you know, a post-survey and it shows, okay, we didn't take too much out or you know we got what we needed.

GOVERNOR HOGAN: So that's four out of the six that you're fine with?

MR. BEAN: Not an issue whatsoever. Number two, I do have some concern with that. One is, you know, we're talking about placing it out in the water where everybody can see it. We can't, we can't just go put in a dolphin and a tide marker out in the middle of the federal channel or, you know, anywhere there. One, it's going to create other issues for other boat traffic that I don't want to be liable for. And really at the point that we're coming in and we now see this, it does us no good. Our tug captains, our tug captains, you know, they are online. They can see. They know exactly what the tides are doing. And they are coming in. We target and schedule and try to come in on the highest tide we can, but you can't always do that. And that's where some of my concerns with these are. Is when we say, okay, you can't never come in. You know, we're going to do

everything we can to avoid coming in on a tide lower than mean low water, have always done that. So that's --

GOVERNOR HOGAN: It's probably hard to get a full barge in when it's below --

MR. BEAN: Exactly. I mean, the reason, one of the reasons that we're dredging, and the conversation about, well, if we dredge this out in front of the dock then that really doesn't help. It does help. I mean, we're right there turning them barges, keeping that dredge down. One, you know, the loaded barges are not shoving up into the silt that's built up in the front. The props are not getting into it. So, you know, no question that helps with the whole issue.

TREASURER KOPP: But there is a provision in number three for a force majeure so that you say you aim to do it, and you want to do it, but sometimes it happens it's prevented. Doesn't this take care of that?

MR. BEAN: To a certain degree, yes.

TREASURER KOPP: So we go back to number two, really, and you are concerned about a liability. Is that it?

MR. BEAN: If it's placed out into the water --

TREASURER KOPP: And there's a mistake --

MR. BEAN: -- number one we've got to go get, we would have to get Corps permits and everything else to place anything out into the water. But what does it really help? By the time we get there, you know, number two is

saying that we cannot enter our dock or leave our dock if it's lower than the mean lower water. We're there now. We're sitting in the north fork with a tug and, you know, we're coming in, oh, it's, you know, six inches lower. Are we going to sit, wait? I mean, that's just creating more concerns, safety issues, and really it's a Coast Guard, you know, regulation that we can't be just wandering out there sitting. So that's the concern on that one.

GOVERNOR HOGAN: So it's really the number two and number three that you have the biggest issue with, and the other four are okay?

MR. BEAN: Yes, sir.

GOVERNOR HOGAN: Any questions from you?

COMPTROLLER FRANCHOT: Yeah, I have a question.

GOVERNOR HOGAN: Sure.

COMPTROLLER FRANCHOT: So how big is Vulcan?

GOVERNOR HOGAN: Big.

MR. BEAN: How big is Vulcan?

COMPTROLLER FRANCHOT: Yeah.

MR. BEAN: Big.

GOVERNOR HOGAN: It's one of the largest --

MR. BEAN: They are the largest aggregate producer in the United States. It's --

COMPTROLLER FRANCHOT: So Mr. Rich said that I guess if we turn this down that somehow is going to bankrupt Vulcan? Is that what I heard?

GOVERNOR HOGAN: No, I think he was trying to make the point that --

MR. BEAN: It would put us out of business at this site.

GOVERNOR HOGAN: -- they service two hundred --

COMPTROLLER FRANCHOT: Put you out of business?

MR. BEAN: At this site.

COMPTROLLER FRANCHOT: Okay.

GOVERNOR HOGAN: -- and twenty-four businesses on the Shore that rely on these materials that really are thousands of jobs and could hurt them if they are no longer able to do business --

MR. BEAN: That's right.

GOVERNOR HOGAN: -- and they are the largest aggregate company that's delivering these things to important businesses that the whole economy of the Shore could be in trouble.

MR. BEAN: We submitted in the package, it's a list of 230-some customers that we supply on the Shore.

COMPTROLLER FRANCHOT: Okay. So I, economic devastation, I'm not in favor of that. But if we could maybe understand if we, are these barges and tugs bigger?

MR. BEAN: Smaller.

COMPTROLLER FRANCHOT: Because -- they are smaller? Oh, okay.

MR. BEAN: Well, I mean --

COMPTROLLER FRANCHOT: How big --

MR. BEAN: -- let's go back into the Arundel days. You know, our barges that we used to bring in was 350 feet long. They went from 300 to 350 feet. It's all the same tugs. The tugs are the same as they have always been. That has never changed. The barges we're coming in now are 275.

COMPTROLLER FRANCHOT: And what were they ten years ago or before the Anne Arundel days, or whatever you -- were they ever smaller? Were the tugs ever smaller?

MR. BEAN: Not since I've been involved in it.

COMPTROLLER FRANCHOT: Since 1991?

MR. BEAN: Yes, sir.

COMPTROLLER FRANCHOT: So the statement that the river is too small for the 275-foot barges, what do you say to that?

MR. BEAN: I don't agree. I don't agree to it. I'm, okay, so the turning the barges, you know, you've got a loaded barge now sitting there and you've got to turn the other barge, that's an issue. I can see that. I mean, we're tight in there. That's where turning them before we ever come in takes that away. I mean, we feel like we've addressed that. And it, maybe it should have been something we've been doing all along. You know. But it's, when it was brought up and we sat down and discussed it with everybody, we said, hey, this is an answer.

COMPTROLLER FRANCHOT: I hate to continue because someone downstairs might take our jurisdiction away.

GOVERNOR HOGAN: Right.

COMPTROLLER FRANCHOT: You know, this is really, this is really unfortunate that we're able to out in the light of day discuss something that is of concern to the Lower Shore. So I'm in trepidation of what the powerful people downstairs may take offense at. But with that I'm happy to --

TREASURER KOPP: Can I ask one --

GOVERNOR HOGAN: Yeah, sure.

TREASURER KOPP: I understand that what you're saying is you're concerned about any liability of your putting in the marker and then despite the fact that this is your practice, number three, and you think it's the right thing to do, to put it in as a condition causes you concern. The, one aspect of two,

as I understand that causes you concern, is not just liability but you said the process you have to go through with the federal government, the Coast Guard to be able to do that?

MR. BEAN: Yeah, you can't, I mean, we can't just go put a marker out there.

TREASURER KOPP: Put a marker in?

MR. BEAN: Number three was never, was never our, we've never

--

GOVERNOR HOGAN: Yeah.

MR. BEAN: -- recommended it, we've never agreed to it.

GOVERNOR HOGAN: Well you made a good point, these barges can't just float around in circles out there for six hours waiting for the tide to change.

TREASURER KOPP: But presumably you try to not go at low tide. I mean, that just stands to reason. And I think you said that into the record, actually, did you not?

GOVERNOR HOGAN: Mm-hmm.

MR. BEAN: We try to avoid coming in --

TREASURER KOPP: That's what I'm saying. Mr. Morgante, the condition number two, this is just a question. I have no idea what the answer is. Question number two about the, putting up the mark, the benchmark, why can't

we just do that? If that's important, why can't, why does he have to do it?
Wouldn't it be better in fact if we did it?

GOVERNOR HOGAN: I don't know who would do it.

TREASURER KOPP: DNR?

SECRETARY MCDONALD: Do you want Mr. Morgante back at
the podium please?

COMPTROLLER FRANCHOT: Send me there.

GOVERNOR HOGAN: Mr. Comptroller volunteered to go out
and put --

TREASURER KOPP: And maybe it's a legal question.

MR. BOHANNON: If I may, David Bohannon, counsel to the
Board for the record, good morning. We had some conversations about this in the
sense of what the marker would look like. And I think the point to point out here
is that there are a number of dolphins which are essentially a variety of pylons
already there that are owned and maintained by Vulcan. And certainly when Bill
was explaining to me what he anticipated the marker to look like, that it would
essentially be a mark on one of those dolphins to indicate that water level. Not its
own separate device.

MR. MORGANTE: We were definitely thinking an existing
dolphin or something would be able to --

MR. BOHANNON: Would basically be painted with a line or something of that sort that would indicate that tidal --

GOVERNOR HOGAN: Is that, maybe we can --

TREASURER KOPP: So why would that be so difficult?

GOVERNOR HOGAN: You were talking about not putting another dolphin in --

TREASURER KOPP: No matter who does it?

MR. BEAN: Right. If we put it on the breasting dolphins, where we come in and lay our barges up against I, you know, my guess is it would be gone in a day. Just the barges, you know, as we unload the barges --

TREASURER KOPP: It bumps into it?

MR. BEAN: -- we're shifting them down. So they are sliding. That's the whole purpose of, you know, the dolphins. That would be the concern. Just keeping it maintained.

TREASURER KOPP: So it's a practical concern then?

MR. BEAN: If you put it on those, yes. You know, then it's how do you keep it maintained?

MR. BOHANNON: So the condition was, we were trying to write it to be as broad in whatever practical way Vulcan thought it would be there, just to be something as a bright line. As is I think obvious here there is some

contention between various users of this north fork. And the thought would be that if there was this restriction on --

TREASURER KOPP: I just can't believe you can't work it out, a way --

MR. BOHANNON: -- that there be a bright line --

TREASURER KOPP: -- that doesn't create more work --

MR. BOHANNON: Right. Yes. Sure.

TREASURER KOPP: -- nor more liability on their part. That was my real question. Not having to go through and get a new license on their part, but have a bright mark that you feel is an appropriate bright mark. I don't know. Some sort of indelible, maybe putting in a metallic substance. I don't, I mean it just, it doesn't seem like it ought to be rocket science. Is it?

MR. MORGANTE: Yeah, I also don't know if, you know, perhaps John at the boathouse or, I realize we aren't as familiar with exactly what's down there. I was there once. I've seen pictures. But yeah, I mean, given somebody who is really familiar with the site, it seems that there has to be a place where they can put this mark that already exists rather than having --

TREASURER KOPP: So if you took out number two and you just went ahead and put something in and understood there would be something in, would that achieve the same purpose?

MR. MORGANTE: Sure.

TREASURER KOPP: Don't say sure if you don't think so.

MR. MORGANTE: No, I, if indeed it's going to be put in. So there would just need to be agreement, yeah, we would have to work where that would be put in.

GOVERNOR HOGAN: Well --

MR. SCHROEDER: I don't know what the problem is.

MR. MORGANTE: We're just trying to find a place to put this marker.

MR. SCHROEDER: Well like every bridge in America, it has markers --

TREASURER KOPP: Yeah.

MR. SCHROEDER: -- high, low, and they are just, you know, they are just magnetic markers and they are like stop signs. You can see them. And the idea is that that's the benchmark. And my concern is that we don't, that all of these bathymetric measurements are done by, you know, a reputable firm. Not by me, not by Vulcan. It should be done and then we have a baseline of which --

TREASURER KOPP: Yeah. Okay.

MR. SCHROEDER: -- we're talking about.

COMPTROLLER FRANCHOT: Could I just ask why you are up there again, sir?

MR. SCHROEDER: They go on, oh I'm sorry, they go right on the breasting dolphins. The breasting dolphins are those piling clusters that you see in the water that the tug and barge would lay against.

MR. MORGANTE: Are you talking about Vulcan's dolphins? Or

--

MR. SCHROEDER: Yes.

GOVERNOR HOGAN: It sounds terrible when we're talking about putting something on a resting dolphin. It just doesn't, it sounds worse than it really is.

(Laughter.)

GOVERNOR HOGAN: We should leave the dolphins alone while they are resting.

COMPTROLLER FRANCHOT: Yeah. Yeah. Right. What about the dolphins?

MR. SCHROEDER: Well sir, the breasting dolphins --

SECRETARY MCDONALD: Sir, can you come to the microphone please and --

MR. SCHROEDER: I'm sorry. The breasting dolphin that we proposed that is in one of the diagrams I gave you that they say they can't do because it's in navigable waters, it's not in navigable waters. It's not in the federal channel. Basically it would denote where their barge accesses their

property without hitting our property. And boaters don't travel in that water. So I don't know what liability there is. But --

TREASURER KOPP: But if there's a concern, it should be addressed. And --

GOVERNOR HOGAN: It seems like we're going to need to separate this one out for a potential separate vote. I'm going to, look, our job here I think is to find the balance between making sure that we're protecting the environment, making sure we're protecting the river, we're addressing the issues and concerns of the neighbors who are impacted and affected and the concerns of the riverkeeper.

You know, Vulcan is a good company. It's been operating here since 1951. They are really important to the Eastern Shore and 224 businesses. It's their property. It's four-tenths of an acre. They are trying to dredge and repair the bulkheads, which I would think would keep sediment from pouring into the river.

MDE approved this, recommended approval with some conditions. Our staff here working with the opponents came up with a list of six additional conditions, four of which the company says they don't have a problem with. I think that we're striking the right balance between the economy and the environment and I would make the motion that we approve the application with the four conditions that everybody agrees to add and take out the two that we have

a disagreement on. And I don't know if there's a second to that motion, but that would be my proposal.

TREASURER KOPP: Governor, I would second it with this understanding, that Vulcan, that there will be a benchmark; that Vulcan will make every effort to move loaded barges and allow loaded barges to approach or depart when it is at the benchmark or higher. I'm sure there are going to be people watching to see that that's done. And the understanding it's not just environmental, but that all of these criteria have a nexus with our responsibility for protecting the wetlands. That's, that is our job. And I believe and have a letter from the Attorney General here pointing out, who will defend us in court if anybody wants to take us that far, that these conditions do in fact meet the authority of the Board of Public Works and allow us to continue to support the industry, not just Vulcan, but the companies on the Eastern Shore. And with that, I would support the Governor's --

GOVERNOR HOGAN: Thank you. So there's a motion on the floor.

SECRETARY MCDONALD: Is it --

GOVERNOR HOGAN: It's been seconded. All those in favor?

COMPTROLLER FRANCHOT: Yeah, could I just make a comment also? Because I happen to disagree with my distinguished colleagues and I happen to think that Vulcan Construction Materials should accept all of the

conditions, plus an additional condition about the size of these barges and the size of these tugs. Stand up in front of us and say that the Tred Avon River, an absolute jewel of a river. I thought it was only but millionaires that lived along there, but gorgeous. It's like something out of England, Cotswolds --

GOVERNOR HOGAN: I think it's a lot cleaner than the rivers in England.

COMPTROLLER FRANCHOT: -- that we have to put up with a tight fit of an obviously too large barge to somehow sustain thousands of jobs. I mean, if someone could google Vulcan, I would appreciate it. Let me know how big this major company is. And perhaps Vulcan could say, yes, you know, the right thing to do here would be to downscale these huge barges that come in. And we're a huge national company, lots of resources, maybe we could figure out a business proposal that would allow the river to absorb this kind of traffic.

So I reluctantly vote against, will vote against this provision based on the fact that according to the riverkeeper and the gentleman that owns the marina, I believe, and the company's own testimony that it's a "tight fit." Really? One of the most beautiful estuaries in Maryland?

Okay. So I am in agreement with my colleagues, I think, that we can put whatever conditions we want on this.

GOVERNOR HOGAN: Actually there's a motion on the floor that's been seconded.

COMPTROLLER FRANCHOT: Yeah. So I'm just --

GOVERNOR HOGAN: It sounds like the vote is two to one.

COMPTROLLER FRANCHOT: Well let me just finish up if I could. Because I happen to think based on what has been presented today that there is an incompatibility here. And to say that that's not within our jurisdiction, or that's something the Coast Guard or something the federal law or something some other department, Department of Natural Resources has a responsibility for, and that we are a 1951 company, and you shouldn't get involved in this because it means thousands of people lose their jobs, what a bunch of nonsense. I mean, this is -- whatever the heck it is. 2018, 19. Yeah, for a minute I thought it was 19. Yeah. This is 2018. There's a whole new approach to protecting the environment. And the fact that we're sitting here saying, oh, we've got statutes on the book that limit you, if we want to do this we can, I think frankly is not particularly the right message. I hope Vulcan does get the message about the protection measures. I would put all of them in, in addition requiring that these barges be half the size. But I don't, I'm on the losing side of this. But I will return to my subject of oysters.

I think to stand up and say to us that what we're doing at this point has nothing to do with the oyster beds that we've planted. I mean, really, that is an embarrassment to hear that, given the testimony of the riverkeepers and others. The Tred Avon oyster project is a collaborative effort between the State and

federal government to build 147 acres of oyster reefs in the Tred Avon River as part of the larger effort to restore the oyster population in five of the Bay's five tributaries by 2025. So I happen to value that. I certainly do not believe the testimony that digging up or having our prop hit an unfortunate mound of dirt and mud somehow doesn't affect the oyster beds that we're putting in there. So I certainly hope the appropriate agencies on the oyster beds are vigilant to prevent any activities that have the potential to compromise the progress we've made and the millions of dollars that we've invested in this incredibly important initiative. And obviously I happen to disagree with my folks on the Board here. But this, the testimony today is pretty clear. The Tred Avon is challenged by this operation and what we're doing is basically saying, well, that's A-OK with us because we have a bunch of antiquated, out of date laws on the books that permit us to do just about anything we want to do. And so I vote no.

GOVERNOR HOGAN: Very good. Let me just say that, you know, I'm extremely proud of the work that the Department of the Environment does, who recommended approval. Our Secretary of DNR can tell you about the great progress we're making on oysters in the Tred Avon and across the Bay. Bay grasses have tripled. The water quality is the best it's been in a quarter century. And our administration has put \$4 billion into cleaning the Bay and its estuaries. And we've made tremendous progress. We've restored all the money, the billions that were drained out of Program Open Space and the Chesapeake Bay Trust and

the Chesapeake Restoration Fund. And obviously these guys are following the rules that they were recommended by approval, and they have agreed to almost all the conditions that all the opponents wanted. So it's not exactly like they are destroying the environment and we're protecting I think the river. We'll make sure and our agencies will be diligent. And we also want to keep those folks employed and all those businesses on the Shore. So I think we struck the right balance and the motion carries two to one. Are there any other questions on the remainder of the Secretary's Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: I would just like to point out, simply point out on the Secretary's Agenda, if this is where it is. A3?

SECRETARY MCDONALD: Yes.

TREASURER KOPP: Is that right?

SECRETARY MCDONALD: Yes. Emergency.

TREASURER KOPP: It's just very interesting. An emergency saline solution procurement because of the ongoing tragedy in Puerto Rico and really almost destruction of their industry. A lot of people think that's past history and not impacting us anymore. You can see it, it actually is impacting us very directly and very seriously. And I'd just like to point that out.

GOVERNOR HOGAN: Thank you very much. Is there a motion to approve? There is. Second? Three-nothing. We're going to move on to DNR Real Property.

MR. BELTON: Good morning, Governor --

GOVERNOR HOGAN: Good morning, sir.

MR. BELTON: -- Comptroller, Madam Treasurer. For the record, I'm Mark Belton, Secretary of the Maryland Department of Natural Resources. And we have seven items on our Real Property Agenda for your approval this morning.

GOVERNOR HOGAN: And Secretary Belton, you are going to be diligent --

MR. BELTON: Yes, sir.

GOVERNOR HOGAN: -- in protecting the oyster beds and the resting dolphins?

(Laughter.)

TREASURER KOPP: Governor, could I just say this is a question that comes up at various times, and I've raised it and I'm raising it again, about not your diligence but about how we go about making sure that the conditions we put in all these things are in fact implemented and monitored. And I understand that it is DNR basically, but also MDE --

GOVERNOR HOGAN: MDE, who just left the room.

TREASURER KOPP: -- that does this. And if there is some way that, I'm just always wondering when we approve these if in fact they are being monitored with the small number of people you have on staff. And if sometime we could have a presentation on how this is done so people know when they agree to conditions, these conditions in fact are going to be enforced.

MR. BELTON: I'll be happy to --

GOVERNOR HOGAN: That's good.

MR. BELTON: -- sit down and chat with you about that.

GOVERNOR HOGAN: Maybe we'll get together with Secretary Grumbles and you guys can talk about that. Any other questions on DNR?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing on DNR. We're moving on to Department of Business and Management.

MR. BRINKLEY: Good morning. For the record, David Brinkley, the Secretary of the Department of Budget and Management. Governor, Mr. Comptroller, Madam Treasurer, the department has brought six items for your consideration. Item 5 has been revised and I have people here to address any concerns or questions you have.

GOVERNOR HOGAN: Any questions on DBM?

TREASURER KOPP: I have a question on one.

GOVERNOR HOGAN: Question one?

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TREASURER KOPP: I think this is a question, the Professional Transportation Strategic Business Process Development Services. This came before us --

MR. BRINKLEY: I've got Joe Palechek --

TREASURER KOPP: -- in the past, right?

MR. BRINKLEY: -- here to address that.

TREASURER KOPP: But this is a revised approach?

MR. RAHN: Governor, and Madam Treasurer, for the record, Pete Rahn, Secretary of the Department of Transportation, the Maryland Department of Transportation. So this particular one has not come before the Board previously. There was a different proposal that I believe came from DBM. This one has not been presented to the Board previously.

TREASURER KOPP: This is your proposal, the department's proposal?

MR. RAHN: If you would like an explanation -- I'm sorry?

TREASURER KOPP: I'm sorry. This is the department's proposal, perhaps?

MR. RAHN: This is, yes, the Department of Transportation.

TREASURER KOPP: Could you briefly, I mean, it looks very interesting. It looks great. Could --

MR. RAHN: Yes.

TREASURER KOPP: -- you briefly --

MR. RAHN: Thank you. And so I would start by this is designed to support us, continue with our performance management system that we have developed over the last three years, which I might be biased but I believe is one of the best performance management systems for a DOT in the country. And I would mention that we have quarterly reviews of our performance measures and this occurs on May 8th is our next one and I would invite any members of the Board to stop in at any time at the Maritime Institute to see how it is actually done.

So this is, this work is to facilitate the continued improvement of our performance within and I believe we are up to 118 measures, all focused on 17 tangible results that we are delivering to the citizens of Maryland.

So it is very interesting. This is one of the areas that I get excited about and again would invite you to witness how this drives performance within the DOT.

TREASURER KOPP: I think that would be very, very interesting. Because one of the problems with, we were, some of us were around when MDOT was created and there were stovepipes and it was really different, modalities were different agencies. And to see them come together and be able to be managed in an efficient cross-cutting and assessable way seems to me it's a

dream, a vision we had for a long time that this mechanism may in fact help finally realize.

GOVERNOR HOGAN: You know, I think we've made a tremendous amount of progress but this should help us continue.

MR. RAHN: It does. We've reached the point of, you know, the easy stuff the first year you deal with. And then it gets more and more difficult as you are digging deeper and deeper into processes. And that's where we're at, is really tackling those processes that are hindering us from doing things better.

GOVERNOR HOGAN: Great.

TREASURER KOPP: Yeah. Thank you.

COMPTROLLER FRANCHOT: Could I ask, if I could, just what's an example of what you just described?

MR. RAHN: So as an example the time that it takes us to undertake an A&E, an architectural and engineering contract. When we came in the average was 40, I believe it was 49 months. I'm doing this from my memory. But it was taking an average of 49 months. I believe that it was just a short number of months ago that we brought to the Board an engineering contract that had been in the works for 84 months. We have made progress now and we've brought that down now that we are at an average of 19 months and the goal is still to drive that down further. But I just can't, as an example of why that matters, is I can't imagine a business submitting a bid on work and then waiting 50 months

to learn whether they were selected or not. It was unreasonable to the business community and it was very inefficient for us. And so this process, as an example, that's how using this, focusing on improvement, having a measure and reviewing it every three months, and having the people that drive that have to stand up in front of about 150 people and explain where we are and what progress we've made. And I've, maybe the Board is aware, I'll just as a little bit of color is that what I'm known for is I have boat air horn. And if anyone when they are talking about results, I believe results are about what you've done, not about what you're fixing to do or planning or whatever. It's what you actually achieve. So I have an air horn and anytime anybody uses a term like that, I actually blow the horn. And it's pretty much --

COMPTROLLER FRANCHOT: Would you keep that away from the Governor, please?

(Laughter.)

GOVERNOR HOGAN: Actually every time the Secretary tells me we cut something from 84 months to 19 months, and I go why can't we do it in 90 days?

(Laughter.)

MR. RAHN: It would be amazing. And that truly is, the best DOTs in the country are turning their A&E contracts around in --

GOVERNOR HOGAN: It's crazy.

MR. RAHN: -- three to six months.

GOVERNOR HOGAN: I mean, our entire administration has been built in 39 months. You can't approve an engineering contract in 84 months? That was the beginning of the O'Malley administration. That's crazy.

TREASURER KOPP: I trust there are other areas of efficiencies too that --

MR. RAHN: We, I mean, again I will provide you the most recent copy of our accelerator, which shows the tangible results and then the measures we use that are to the best of our ability our outcome measures that are measuring what we're actually doing.

TREASURER KOPP: Sounds like MDOT stats.

GOVERNOR HOGAN: Yeah. Very good.

MR. RAHN: Yes.

GOVERNOR HOGAN: Any other questions on the DBM Agenda? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. We're moving on to University System.

MR. EVANS: Good morning. Joe Evans, representing the University System of Maryland. We have five items on the Agenda. We're here to answer any questions.

GOVERNOR HOGAN: Good morning, Mr. Evans. Any questions on the University System?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Easy day today, Joe.

MR. EVANS: Thank you.

GOVERNOR HOGAN: Thank you. Three-nothing. Move on to Secretary Leahy and Information Technology.

MR. LEAHY: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Mike Leahy, Secretary of the Department of Information Technology. Today we have four items on the Agenda, however we are withdrawing Item 2-IT. And I do have representatives available to answer any questions you might have.

GOVERNOR HOGAN: Questions on DoIT? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Three-nothing.

MR. LEAHY: Thank you.

GOVERNOR HOGAN: Everybody is ready to get out of here. I think that one item like got everybody ready to move along. We're going to move to the Department of Transportation Agenda.

MR. RAHN: Good morning, again, Governor, Madam Treasurer, Mr. Comptroller. For the record, I am Pete Rahn, Secretary of the Maryland

Department of Transportation. We have 12 items that we're bringing before the Board today and we are withdrawing Item 12-AE at this time.

GOVERNOR HOGAN: Questions on Transportation?

TREASURER KOPP: No, but Item 6 reminds me of the stats that came out this week about the Port that we've gone over, what was it? Thirty-eight billion --

GOVERNOR HOGAN: Mm-hmm.

TREASURER KOPP: -- tons in the last year, the most in four decades? That's good.

MR. RAHN: It's huge. The progress we're seeing at the Port, and frankly at the Airport, and these other economic engines for the State, things are humming like a good electric engine would be.

TREASURER KOPP: And we're still first in vehicles, in cars?

MR. RAHN: We are.

GOVERNOR HOGAN: Yes.

MR. RAHN: We are.

GOVERNOR HOGAN: Yeah, I think I would second the Treasurer's comments. I mean, we've been breaking records at the Port of Baltimore and at BWI Marshall almost every single month. We're the number one airport in the region. Most people don't know. They think it's Dulles, but we're blowing the doors off of Dulles and National. And the Port of Baltimore is

just breaking records in almost every category. It's one of the best ports in the country and we're really very thrilled with the progress of -- I see Ricky Smith is here from the Airport. I don't see anybody from the Port. But they are both doing a terrific job.

MR. RAHN: We do have someone from the Port, just not Jim White.

GOVERNOR HOGAN: Yeah, well I only recognize Jim White anyway --

MR. RAHN: That's --

GOVERNOR HOGAN: Somebody hiding in the back. Thank you. The whole team is doing a great job in both places.

MR. RAHN: I know that time is of the essence at this moment, but I would like to say that it's really important to understand at the Port it doesn't just happen by itself. I mean, it involves the team that is there led by Jim White that is constantly having to juggle issues between the unions and the stevedores and the freight shippers, and to ensure that they keep growing it takes an active program to explain the benefits of the Port of Baltimore to the rest of the world. And they are doing it. And they are coming. And we are, we really are just bursting at the seams there. And but there's plans in place that will continue to grow. And we're excited about what this does for the State of Maryland.

GOVERNOR HOGAN: I will say that Secretary Rahn and Jim White and I were all last week entertaining Wallenius Wilhelmsen, who we signed a 30-year extension with, and they are a huge driver at the Port and a critical part of our economy. And I think they are thrilled with Baltimore and it was good to, we had their whole boards of directors here showing the Port operation. And I think they were saying that we had the best Port Administration in the world, according to them, and they go everywhere. And that our Port was one of the ones they thought was doing the best job. So thank you very much. Any --

TREASURER KOPP: Can I put in a plug for the State Treasurer's Office with that?

GOVERNOR HOGAN: Absolutely you can. I mean, the Comptroller already plugged his office and I'm going to put in a plug for the Governor's Office after that.

(Laughter.)

TREASURER KOPP: Chief Deputy will correct me if I'm wrong, but it's my recollection that a few decades ago, not I, but Lucy Maurer, the Treasurer of the State of Maryland went on a trip to Eastern Europe and met up with folks from that company --

GOVERNOR HOGAN: Wow.

TREASURER KOPP: -- and started talking to them about the Port. And they showed an interest and then she came back and talked to Governor Schaefer and brought them in. But Lucy Maurer --

GOVERNOR HOGAN: We may have to send you out around the world to bring some more shipping companies in.

(Laughter.)

TREASURER KOPP: Yeah, I'm not Lucy. But it is interesting. It's great.

GOVERNOR HOGAN: Any other Transportation questions?

COMPTROLLER FRANCHOT: I just want to make a note about Secretary Rahn because the Commission on State Debt that he serves on, along with Secretary Brinkley and Mr. Merritt and the Treasurer -- do we have one other member? Or is that it? Or Brinkley. Who?

SECRETARY MCDONALD: There's five for the Commission on State Debt.

COMPTROLLER FRANCHOT: Oh, Delegate Jones. I left Delegate Jones off, I'm sorry.

TREASURER KOPP: She's not --

SECRETARY MCDONALD: -- recommends the State does not include the SDAT. It's on your commission that meets all four times. But anyway, there are five members on the committee, yes.

COMPTROLLER FRANCHOT: Excellent.

GOVERNOR HOGAN: We want to thank all of them.

COMPTROLLER FRANCHOT: Yeah, no, but I want to just note for the record that this is an incredibly important exercise we go through where we make recommendations about the amount of debt. And I served for eight years on that commission when the debt would regularly rise. Now that doesn't mean the property tax rises, because all it means is the general fund has to commit more. And in the last couple of years, Governor, I have to give you credit because it's your agency heads that are there to change the tide, it's been a much more moderate approach.

Now of course that's blown to smithereens once it gets over, downstairs, after a legislative session. We limit it and then they expand it. That's okay. Because if we hadn't limited it, they would have expanded it even more. So I'm appreciative of the new moderate climate the State has about debt. And I believe companies like Wallenius have the same appreciation for the fact that the State seems to be in a more moderate fiscal posture right now. And thank you.

GOVERNOR HOGAN: Well and our bond rating agencies who continually give us AAA bond ratings, they feel the same way about us. And I think that that's a, thank you.

TREASURER KOPP: Could I just say as Chairman of the Commission that the Comptroller refers to that we have for a number of years

used criteria to estimate affordability of debt. And Maryland had decided that they want no more debt than the equivalent of four percent of State wealth, which is just, income is the surrogate for State wealth, and eight percent debt service to constitute no more than eight percent of the appropriate revenue. And we have stuck to that year after year. Actually the amounts that the Governor propose and the amounts, the final amounts that are in the capital budget have been within those criteria forever, since they were adopted. And I think that is even though there may be fights about specific projects or what gets funded and what doesn't, the dedication to the affordability level based on set quantitative criteria has been kept. And that's not true in many other, in many other states. I think it's an important statement.

GOVERNOR HOGAN: Well thank you. I wouldn't characterize them as fights but, you know, we have discussions.

TREASURER KOPP: Discussions.

GOVERNOR HOGAN: Negotiations, maybe. But thank you very much. Is there a motion on the Department of Transportation?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. Last but not least, we're going to go to the Department of General Services. Nelson?

MR. REICHART: Thank you, Governor. Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Nelson

Reichart, the Deputy Secretary of General Services. The department has 32 items on our agenda for, including one supplemental. We'll be glad to answer any questions you have at this time. Governor, thank you for recognizing Officer Kurek and his actions.

GOVERNOR HOGAN: Thank you. You've got a good one there.

MR. REICHART: He is very good.

GOVERNOR HOGAN: And I was happy to be able to do so. Any questions on DGS?

TREASURER KOPP: Governor, I would point out the Comptroller might be interested in number 14, which is Strathmore Hall, which he was very --

COMPTROLLER FRANCHOT: Wow.

GOVERNOR HOGAN: Very --

TREASURER KOPP: -- helpful in creating.

GOVERNOR HOGAN: That's a great facility.

TREASURER KOPP: It's the next step for Strathmore Hall. I appreciate --

GOVERNOR HOGAN: I'm going to perform there one time, as soon as I learn some skills.

TREASURER KOPP: It's a great place. A great place.

GOVERNOR HOGAN: Yeah. Thank you.

MR. REICHART: Thank you.

GOVERNOR HOGAN: Any other questions on DGS?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. Thank you.

That concludes our Board of Public Works. Thank you everyone.

(Whereupon, at 11:51 a.m., the meeting was concluded.)