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## Fordham Environmental Law Volume 12 Issue 3-Questions & Answers

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## QUESTIONS & ANSWERS

QUESTION: I have two short questions. I am not sure, because it is such a vast program that you are involved in, that you know about the minutiae of your Department, but there are two issues.

One was the firing, I believe, or the hounding, of an inspector who was very dedicated I heard, Inspector Gatto [phonetic], who had brought to light many violations in the watershed. That is my first question, what do you know about it?

MR. MIELE: Sure.

QUESTIONER: The second one is about contaminants in the watershed. The Mayor last year launched an unprecedented aerial spraying of the City, of an urban center with a very toxic chemical, Malapidon [phonetic], which when it reaches the water becomes even more toxic. My question is whether, because this spraying is being considered in Westchester, whether your Department will challenge the Mayor, given the harmful environmental impacts on lobsters in Long Island Sound and different immunological studies which show that exposure to pesticides harms children and the aged who are targeted by West Nile Virus?

MR. MIELE: Yes, I am aware of both pieces of minutiae, and neither one of them do I consider minutiae. They are parts of what I have to deal with.

Let me take the second one first. The first thing to keep in mind is that any time you get a vaccination, you are basically taking an inimical substance into your body for the purposes of protecting your body.

I am not a public health sanitarian, I am not a physician, but I am told by the Department of Health in the City of New York that they had weighed the balance of the negative aspects of spraying with the positive aspects of spraying in the City and had determined that the risk to the old and the young was so great, that they determined it was appropriate to do specific spraying—not indiscriminate, but specific spraying.

I can tell you that, from my own responsibility at the wastewater treatment plants in the City, this is one of the largest sources of still

water in the City, which obviously has the capability to breed mosquitoes. I can tell you I am very successful at breeding mosquitoes. We have no trouble with it at all. We breed them by the millions. We are using larvacides to make sure that we bring those down.

We are also using, where appropriate, a thing called a mosquito trap, which is a remarkable device we did not know existed up until the time the West Nile Virus occurred. Basically what that does is it burns propane gas, which seems to act as the pheromone lure to mosquitoes, sucks them into a big fan and kills them, and we are killing them by the millions. We have knocked down mosquitoes remarkably.

I do not know whether they propose to spray this spring, but if they do, it will be very limited, in my understanding, because we feel that the centers of mosquito population are no longer in New York. We appeared to be the heart of the epidemic, and it seems to go out in ripples, like a stone dropping into water. So we apparently will not be a major focus for it in the coming years, is what I understand.

With respect to our drinking water, Westchester did spray. It is not a question of did it or did it not. It did spray. They got together with us, and we had strong agreement and we had our own inspectors traveling with the teams that were doing the spraying. The agreement was that they would not spray within specified distances of our reservoirs and waterways, for the specific purpose of making sure that we minimized any impact whatsoever as a result of the spraying. I am comfortable that that was taken care of. If Westchester does spray again this year, that agreement will remain in force.

Does that answer question number two pretty much?

QUESTIONER: Yes, but I think there is a plan to spray this spring.

MR. MIELE: And again, we will watch it. My understanding is that the City's program is a targeted program, and I am not sure about Westchester. You may have more information than I have.

But the agreement we have is that we will be watching our own water with Westchester. So, so as far as our drinking water is concerned, I am comfortable.

With respect to spraying in the City, the Health Department has really got primary responsibility, not my agency. If you need anybody at the Health Department, I would be very pleased if you get me later and I will give you who to get in touch with.

To go back to Investigator Gatto, Investigator Gatto was not Investigator Gatto. Investigator Gatto is Captain Gatto. He is a captain in my Police Department. He at one time was responsible for all of what we call the EED, the Environmental Enforcement Detachment of the Police Department. Those are the people whose primary mission is, not patrol of the reservoirs, but to go after malefactors who are harming the environment. He has been effective at that. I have no problem with that.

He had a force of four people who worked with him originally when I got here. He presently has a larger force today, and we have increased the size of the total force that is EED by establishing an EED East-of-Hudson and an EED West-of-Hudson.

Captain Gatto's expertise is East-of-Hudson. He was almost exclusively East-of-Hudson when he had the total EED. He now commands the EED detachment East-of-Hudson and has total responsibility for that, with more assets than he had before. And when I got to this job, he was a lieutenant, not a captain, so he has been promoted. We are comfortable that he is competent and efficient. If he was not, we would not keep him.

He can be a little self-enhancing when he would like to be. I am trying to be gentle about that. On the other hand, he is effective. I am very comfortable that he does a good job and I am very comfortable that the EED does a good job.

We now have a separate EED West-of-Hudson, so we have two separate teams. Most of the time, if you had to go from east of the Hudson to west of the Hudson, it could take you a day to do the whole job because of the 2,000 square miles. With separate responsibilities and twice as many officers involved, I am very comfortable that we are doing an effective job at EED.

I also mentioned in my conversation that the size of the force was forty officers when I got this job back in 1996. The size of the force today is 140 officers, over three times the size that it was when we started. I am very comfortable that the officers plus the inspectors and the investigators that we have who are plainclothes—they are not uniformed officers, they are not part of the Police Department—between the Police Department and the inspectors, we probably have over 350 people out there looking for people who are polluting or damaging the environment. So I am very comfortable that we are doing it.

I would not say that the Captain has been put upon. I would not say that the Captain has been singled out. I think very clearly the

fact that...in fact, I can tell you that, about three months ago, he got an increase in salary, which was not a mandated one, but a voluntary one. So as far as I am concerned, I think the Captain is being handled fairly well and I do not think he has any real cause to get excited about things.

Any other questions? Yes, sir?

QUESTION: While you are speaking about the DEP Police—I live in the watershed—to what purpose are the DEP Police now doing traffic stops, delaying trucks on the road, and answering civil complaints to 911? What does that do to protect our water supply?

MR. MIELE: What it does, quite frankly, is there are about seventy different police departments in the watershed.

QUESTIONER: They are all on that road.

MR. MIELE: I do not know that they all may be on that road. Hopefully, only the ones that have jurisdiction are on the road.

We have a unique Police Department. And again, you have got to look at the essence of the Police Department. It started out as an interesting responsibility. Most people do not realize this. This is the first multi-municipal police department in the United States. It predates the State Police of the State of New York. The State Police program was modeled on the DEP Bureau of Water Supply Police, which is what they were called originally.

When the police were put together, the Bureau of Water Supply Police, they were not there to protect the environment. They were there essentially during the development of the watershed to protect the local residents against some of the people who were building the watershed who might be liquored-up on a Saturday night and tear a town apart. Sounds strange, but we were trying to protect the watershed even then, okay?

Their role has evolved. They are now environmental primarily, but that does not mean they are not police. Consequently, we have agreements between our police chief and the various police chiefs through the 57 towns and the 8 counties that are involved where we support each other. What will happen is if we have an officer who is closest to something, generally we will get a call from a town that says “would you please handle this for us?” And we will. Sometimes, we only handle it until the local department shows up and then we back out. In some cases, they ask us to handle the whole thing. And vice-versa.

Now, keep in mind we are the only environmental police department up there, except for the State DEC police. So generally,

when they step out of the environmental end, it is because they see a danger. Now, if they see someone drunk driving, walking down the road or driving down the road, we are not going to ignore it. We are not going to go out of our way to go after it, but that is how our police get involved in less than environmental issues.

And again, we have a new police chief up there. I have a great deal of confidence in Chief Aria [phonetic], who is a NYPD Deputy Inspector Retired. I think he brings a great deal of professionalism to our Police Department and a great deal of organization and spirit to it. I can see the change in it already, although he has only been up there three or four months.

But the bottom line is one of his first tasks was to go to each of the chiefs of police through the entire area to make sure that they are comfortable with what our officers are doing and they are comfortable with the relationship between the two departments, and I am very confident that that is occurring.

Yes, sir?

QUESTION: I have two questions. One is, what is the progress of the diversion program in Westchester County? And also, a lot of the counties in the watershed area have open-space-purchasing-of-land programs. Will the City be assisting them with those programs?

MR. MIELE: The first question is we are negotiating—I do not think that is a secret—is we are negotiating with the County of Westchester towards the diversion of a percentage of the wastewater. The intent of that would be to move the wastewater as raw water out of the watershed and deposit it in the Hudson River. I think that is a positive thing. We are willing to invest some money and some time and effort in that.

We have not reached closure on that, but we are getting pretty close. I would like to leave it at that because it is in negotiation as we speak.

With respect to the second question, give me that again quick?

QUESTIONER: The counties in the watershed area have developed open space land purchasing . . .

MR. MIELE: Yes. We will support those, but we think that they are besides ours and basically additional. One of the things that the State has agreed to do is to buy certain lands that we could not buy. We have agreed that if the State buys certain lands and they wanted to get rid of them, we would take them off their hands.

I think the State, the counties, and ourselves are working very closely together to ensure that we get a maximum bang out of this.

The State has bought a lot of land, some of it in the watersheds, over the last four or five years. The numbers I gave you do not include State-purchased land. So we are doing pretty well.

I do have to say you have to understand this. Again, if we threw everybody out of the watershed, we would have a hell of a lot simpler problem. In fact, the problem would go away. We cannot do that. We do not think it is morally right, we do not think it is legally right, we do not think it is historically right. I mean, some of those people have lived there since the 1700s. The issue, simply put, is we have to work together to make it work.

Yes, ma'am?

QUESTION: Thank you. I live in the Croton watershed. We are experiencing a public groundswell of opposition to diversion. We are all very frightened that we will not be able to afford it, it will bankrupt all of us up there, and that the evacuation—the removing—of our water threatens our water table. I would like to ask you about what dialogue there is as an alternative to diversion.

MR. MIELE: How do you mean “an alternative to diversion?”

QUESTIONER: Well, there must be other plans than diversion.

MR. MIELE: Our original plan under the MOA was to increase the treatment of wastewater treatment plants in the watershed, in this case Westchester County, from secondary to tertiary treatment. We are talking from 85% removal to about 98% to 99% removal. Now, that is a significant change.

With respect to the question of whether there is an impact as to whether you recharge the groundwater with the waste from the plants or you move it out by diversion out of the watershed completely, that has been looked at by scientists. My understanding is that they do not see that that is a significant issue.

However, you are asking the wrong party. I mean, keep in mind Westchester is interested and has suggested that they would like to talk to us about diversion, and we have been dealing with the County Executive over that. As a resident of Westchester County, you might address your question to the County Executive. He is coming to me and saying to me, “This is something we are interested in looking at.” We are looking at it with him.

My commitment would be that if you came to me from any other county and said, “We've got some issue we would like you to look at,” we have an open mind and we look at it. We are looking at it. At this point in time, the County Executive and our staff are thrashing through the issues of diversion.

QUESTIONER: We would like to solve our problem on-site.

MR. MIELE: Again, that is an issue I think you have to take up with the County Executive.

QUESTIONER: We will.

MR. MIELE: I did not doubt it for a second.

Are you throwing me out? You are throwing me out.

Thank you very much.

MS. LOWRY: Thank you, Commissioner Miele.



