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Testimony of Randy Speck, Chair, ANC 3/4G,
Before the Transportation and Environment Committee
On Oversight of DC Water's Impervious Area Charge
March 2, 2018

Chair Cheh, Councilmember Todd, and other members of the Committee on Transportation and the Environment. I am Randy Speck, Chair of ANC 3/4G (Chevy Chase), and I'm testifying on behalf of our Commission, which adopted this testimony by a vote of 7 to 0 at its February 26, 2018 meeting. We commend DC Water for its work on many fronts — including its on-going replacement of the aged sanitary sewer line under Oregon Avenue and its waste-to-energy project that produces clean energy from the wastewater treatment process to power about one-third of the Blue Plains plant's energy needs. One concern, however, threatens to diminish DC Water's accomplishments.

Our water bills are now only incidentally related to water or sewage usage but are instead overwhelmed by the skyrocketing "Clean Rivers Impervious Area Charge" — CRIAC. No one discounts the environmental benefits that the Clean Rivers consent decree will create. But DC Water's attempt to pay the $2.7 billion price tag solely on the backs of its customers is untenable and creates particular burdens for those who can least afford to pay those costs. The District government must shoulder its share of equitable responsibility in order to avoid massive inequities.

Last fall, we heard a crescendo of CRIAC concerns from our constituents. Cemeteries, religious institutions, and other non-profits were the canaries in the coal mine. Their CRIAC fees rose to levels that posed an existential threat and diverted them from their altruistic purposes. The CRIAC rate escalated from $1.24 per Equivalent Residential Unit (ERU) (which equates to 1000 square feet of impervious area) in 2009 to $25.18 per ERU in 2018 — an increase of more than 2000% in nine years. DC Water's interim General Manager recently advised Councilmember Cheh that the CRIAC charge will continue to increase through at least 2030 as DC Water spends even more to satisfy the terms of the Clean Rivers consent decree and as debt service costs escalate.

Our constituents within the Chevy Chase ANC have felt CRIAC's burden acutely. For example, the Blessed Sacrament School saw its annual CRIAC charge jump from $1576 in 2010 — which was then about 30% of its total water bill — to $21,816 in 2018 — now about 80% of the total water bill. This fee has a huge impact on Blessed Sacrament's budget and in some years represents as much as 15% to 20% of the tuition increase that has to be passed on to families. Other non-profits in our ANC are in the same boat: (1) the Knollwood Military Retirement Community saw its CRIAC fees escalate from $2,656 in 2009 to $64,506 in 2017, an increase of more than 2400%; (2) St. John

College High School's CRIAC charges increased from $7,930 in 2010 to what will be about $104,000 in 2018, an increase of more than 1300%; and (3) Temple Sinai's CRIAC charges increased from an annual rate of $5,330 in 2012 to an annual rate in 2018 or $20,426, a 383% increase.

The Ingleside Continuing Care Retirement Community and the Carnegie Institute for Science are feeling the impact of CRIAC as well. For Carnegie, its CRIAC fees this year will equal almost 60% of the cost to fund a post-doctoral fellow to do its cutting-edge scientific research. One non-profit executive quipped that "these are the kinds of increases that are more expected from a loan shark than a public utility."

Residential customers have also seen similar increases, which impact seniors on fixed incomes particularly hard. Seniors are 21% of our ANC's residents, and all of them have to pay CRIAC, directly or indirectly. DC Water does have a program that gives some low-income customers a credit for about half of the CRIAC fees, but the vast majority of ordinary residential customers pay the full amount, which has ballooned over the past decade. For instance, one of our constituents in the Hawthorne neighborhood paid $0.21 a month for CRIAC in 2009 (less than 1% of her total bill), but by 2018, her CRIAC fees had shot up 288-fold to $60.43 a month — now one-third of her total bill.

These staggering increases stem from a combination of the annual rate escalation that applies to all customers and, in some cases, what might be called "CRIAC creep" — an often unexplained expansion of DC Water's assessment of the customer's impervious area. DC Water initially assigned that Hawthorne customer's property one ERU, but in

2010 increased her allocation to 2.4 ERU. DC Water made the similar upward adjustment of ERUs for many non-profits, as well, including the Blessed Sacrament School, St. John's College High School, Ingleside, Temple Sinai, and the Carnegie Institute. While there may be a rationale for these increases, it was not communicated to the customers.

In our search for an explanation and a solution, we invited the Chair of DC Water's Board, Tommy Wells, to our ANC's November 27, 2017 meeting. He could do little more than acknowledge the problem and wring his hands. It was clear that CRIAC fees will continue to escalate, and DC Water has no viable path forward.

Two key questions have been raised: (1) whether DC Water should give more credit for green infrastructure or for the proportion of green space to impervious space, and (2) whether the District government should pay for the largest component of impervious surfaces — public roads, sidewalks, and alleys — which are exempt from CRIAC. DC Water cites two rigid constraints that limit its ability to provide CRIAC relief. First, it must pay the increasing costs of the Clean Rivers consent decree through a combination of current rates and long-term debt (which reduces the amount that current customers must pay). That means that if any customer class pays less for CRIAC, other classes must pay more. Second, the federal government might refuse to pay CRIAC on its properties if some customer categories are exempt from the charge so that it could be deemed a tax rather than a fee tied to service.

We commend Councilmember Cheh for her January 16, 2018 letter to DC Water identifying several possible approaches that would reduce CRIAC's impact on District residents. DC Water's February 21, 2018 response suggests that some solutions may be feasible, but, regrettably, it has not aggressively pursued these avenues on its own but has waited until prodded by the Council. Water customers cannot tolerate further delays in addressing this dilemma. We can't wait until exorbitant water bills begin to impinge on customers other financial priorities or until DC Water begins cutting off water to those who can no longer afford to pay.

Of course, DC Water should pursue increased CRIAC funding from the federal government and from our neighbors in Maryland and Virginia. Those jurisdictions are unlikely to view such requests favorably, however, and it would be foolhardy to rely on their largesse, at least in the near term. DC Water should also implement incentives for customers to lower their CRIAC fees by reducing their impervious area and enhancing stormwater retention. These inducements would benefit some customers while providing tangible environmental benefits, but they won't materially reduce the overall Clean Rivers cost, much of which is fixed and already committed. In the end, if some customers take advantage of incentives to cut their CRIAC fees, DC Water will have to increase fees for those others who can't improve their green infrastructure.

DC Water cannot solve this dilemma alone. It needs to be proactively working with the Mayor and the Council to reduce CRIAC fees for all residential customers, but with particular attention to those who can least afford to pay — lower- and middle-income families, seniors with fixed incomes, and non-profits with limited funding resources. In lieu of paying CRIAC fees for exempted roads, sidewalks, and alleys —

which would amount to about $41 million annually — the District should create a fund that will pay down CRIAC fees for identified categories of customers. These District contributions would be equitable because the District's impervious infrastructure is a major contributor to stormwater runoff that currently gets off scot-free. Moreover, CRIAC is inherently regressive — i.e., it disproportionately impacts those who can least afford it. If the District partially pays down CRIAC fees for those most in need, it spreads Clean Rivers' costs fairly among all taxpayers. The federal tax cut in 2017 created an unexpected windfall to the District of about $50 million annually — more than enough to fund CRIAC fee reductions for deserving DC Water customers.

DC Water warned of the threat that rising CRIAC fees posed, but it did not develop a realistic end game. Customers alone cannot be expected to pay the staggering, CRIAC-driven water bills projected for the next decade. DC Water should make equitable CRIAC relief a priority. It needs to work with the Mayor and the Council to address this issue now before it reaches crisis proportions.