

VOLUME I
P U B L I C H E A R I N G
before
SENATE ENERGY AND ENVIRONMENT COMMITTEE
on
SENATE, NO. 3091
(Pinelands Protection Act)

2/22/79 | 26 | 79

Held:
February 22, 1979
Supreme Court Chambers
State House Annex
Trenton, New Jersey

New Jersey State Library

MEMBERS OF COMMITTEE PRESENT:

Senator Frank J. Dodd (Chairman)
Senator Joseph Hirkala
Senator Matthew Feldman
Senator Barry T. Parker

ALSO:

Michael F. Catania, Research Associate
Office of Legislative Services
Aide, Senate Energy & Environment Committee



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SENATE, No. 3091

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1979

By Senators MERLINO and YATES

Referred to Committee on Energy and Environment

AN ACT concerning the development and use of land in the pinelands area, providing for the planning and management thereof, creating a Pinelands Commission, prescribing the jurisdiction, powers and duties thereof, supplementing Title 13 of the Revised Statutes, and repealing P. L. 1971, c. 417.

1 *BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:*

1 1. This act shall be known and may be cited as the "Pinelands
2 Protection Act."
1 2. The Legislature hereby finds and declares that the pinelands
2 area comprises pine-oak forests, cedar swamps, and extensive
3 surface and ground water resources of high quality which provide
4 a unique habitat for a wide diversity of rare, threatened and
5 endangered plant and animal species and contains many other
6 significant and unique natural, ecological, agricultural, scenic, cul-
7 tural and recreational resources; that the continued viability of
8 such area and resources is threatened by pressures for residential,
9 commercial and industrial development; that the protection of such
10 area and resources is in the interests of the people of this State
11 and of the Nation; that such protection will require the coordi-
12 nated efforts of all relevant municipal, county, State and Federal
13 agencies; that the Congress and President of the United States have
14 demonstrated a recognition of these facts through the enactment
15 of section 502 of the "National Parks and Recreation Act of 1978"
16 (PL 95-625); and, that it is now necessary to implement the afore-
17 cited Federal Act and insure the realization of pinelands protec-
18 tion through the establishment of a regional planning and
19 management commission empowered to prepare and oversee the
20 implementation of a comprehensive management plan for the pine-
21 lands area.

EXPLANATION—Matter enclosed in bold-faced brackets [**IthusJ**] in the above bill
is not enacted and is intended to be omitted in the law.

22 The Legislature further finds and declares that a certain portion
23 of the pinelands area is especially vulnerable to the environmental
24 degradation of surface and ground waters which would be occa-
25 sioned by the improper development or use thereof; that the degra-
26 dation of such waters would result in a severe adverse impact
27 upon the entire pinelands area; that it is necessary to designate
28 this portion as a preservation area, wherein more stringent re-
29 strictions on the development and use of land should be utilized
30 and public acquisition of land or interests therein *【sould】*
31 *should* be concentrated; and, that in order to facilitate such
32 acquisition, and otherwise to effectuate the provisions of this act
33 and the Federal Act, it is further necessary to establish certain
34 notice requirements and procedures for the purchase of land or
35 interests therein in such area.

36 The Legislature further finds and declares that the current pace
37 of random and uncoordinated development and construction in the
38 pinelands area poses an immediate threat to the resources thereof,
39 especially to the survival of rare, threatened and endangered plant
40 and animal species *and the habitat thereof,* and to the mainte-
41 nance of the existing high quality of surface and ground waters;
42 that such development and construction increase the risk and
43 extent of destruction of life and property which could be caused
44 by the natural cycle of forest fires in this unique area; and, that,
45 in order to effectuate the purposes and provisions of this act and
46 the Federal Act, it is necessary to impose certain interim limita-
47 tions upon the local approval of applications for development in
48 the preservation area, and upon certain State and local approvals
49 in the pinelands area, all as hereinafter provided.

1 3. As used in this act:

2 **a. "Agricultural or horticultural purposes" or "agricultural*
3 *or horticultural use" means any production of plants or animals*
4 *useful to man, including but not limited to: forages or sod crops;*
5 *grains and feed crops; dairy animals and dairy products; poultry*
6 *and poultry products; livestock, including beef cattle, sheep, swine,*
7 *horses, ponies, mules or goats, and including the breeding and*
8 *grazing of any or all of such animals; bees and apiculture products;*
9 *fur animals; trees and forest products; fruits of all kinds, including*
10 *grapes, nuts and berries; vegetables; nursery, floral, ornamental*
11 *and greenhouse products; or any land devoted to and meeting the*
12 *requirements and qualifications for payments or other compensa-*
13 *tion pursuant to a soil conservation program under an agency of*
14 *the Federal Government;**

- 15 ***[a.]*** ***b.*** "Application for development" means the applica-
16 tion form and all accompanying documents required by municipal
17 ordinance for approval of a subdivision plat, site plan, planned
18 development, conditional use, zoning variance or other permit as
19 provided in the "Municipal Land Use Law," P. L. 1975, c. 291
20 (C. 40:55D-1 et seq.), for any use, development or construction
21 other than the improvement, expansion or reconstruction of any
22 single-family dwelling unit or appurtenance thereto, or the im-
23 provement, ***[addition]*** expansion*, *construction** or recon-
24 struction of any structure used exclusively for agricultural or
25 horticultural purposes;
- 26 ***[b.]*** ***c.*** "Commission" means the Pinelands Commission
27 created by section 4 of this act;
- 28 ***[c.]*** ***d.*** "Comprehensive management plan" means the plan
29 prepared and adopted by the commission pursuant to section 7
30 of this act;
- 31 ***e.*** "Council" means the Pinelands Municipal Council created
32 by section 6.1 of this act;*
- 33 ***[d.]*** ***f.*** "Federal Act" means section 502 of the "National
34 Parks and Recreation Act of 1978" (PL 95-625);
- 35 ***[e.]*** ***g.*** "Major development" means any division or sub-
36 division of land into five or more parcels; any construction or ex-
37 pansion of any housing development of five or more dwelling units;
38 any construction or expansion of any commercial or industrial
39 use or structure on a site of more than 3 acres; or any grading,
40 clearing or disturbance of any area in excess of 5,000 square feet
41 for other than agricultural or horticultural purposes;
- 42 ***[f.]*** ***h.*** "Pinelands area" means that area so designated by
43 subsection a. of section 10 of this act;
- 44 ***[g.]*** ***i.*** "Pinelands National Reserve" means the approxi-
45 mately 1,000,000 acre area so designated by the Federal Act and
46 generally depicted on the map entitled "Pinelands National Re-
47 serve Boundary Map" numbered NPS/80,011A and dated Septem-
48 ber, 1978;
- 49 ***[h.]*** ***j.*** "Preservation area" means that portion of the pine-
50 lands area so designated by subsection b. of section 10 of this
51 act***[i.]*** *;*
- 52 ***k.*** "Protection area" means that portion of the pinelands area
53 not included within the preservation area.*
- 1 4. a. There is hereby established a public body corporate and
2 politic, with corporate succession, to be known as the "Pinelands
3 Commission." The commission shall constitute a political sub-
4 division of the State established as an instrumentality exercising

5 public and essential governmental functions, and the exercise by
6 the commission of the powers and duties conferred by this act and
7 by the Federal Act shall be deemed and held to be an essential
8 governmental function of the State. For the purpose of complying
9 with the provisions of Article V, Section IV, paragraph 1 of the
10 New Jersey Constitution, the commission is hereby allocated
11 within the Department of Environmental Protection, but, notwith-
12 standing said allocation, the commission shall be independent of
13 any supervision or control by such department or by the commis-
14 sioner or any officer or employee thereof.

15 b. In addition to the powers and duties herein provided, the
16 Pinelands Commission shall constitute *~~and exercise, as herein-~~
17 after provided, all the powers and duties of~~the~~* the planning entity
18 authorized in the Federal Act. **and shall exercise all the powers*
19 *and duties as may be necessary in order to effectuate the purposes*
20 *and provisions thereof**.

21 **c. Any action taken prior to the effective date of this act by the*
22 *planning entity established pursuant to the Federal Act shall con-*
23 *tinue with full force and effect as an action of the commission*
24 *established hereunder.**

1 5. a. The commission shall consist of 15 members to be appointed
2 and qualified as follows:

3 (1) Seven residents of the State, appointed by the Governor*,
3A *with the advice and consent of the Senate, except as otherwise pro-*
3B *vided herein**;

4 (2) Seven residents of the State, one resident each of the
5 counties of Atlantic, Burlington, Camden, Cape May, Cumberland,
6 Gloucester and Ocean, appointed by the board of chosen freeholders
7 of each such county; provided, however, that in any county operat-
8 ing under the county executive plan or county supervisor plan
9 pursuant to the provisions of the "Optional County Charter Law"
10 P. L. 1972, c. 154 (C. 40:41A-1 et seq.), such appointment shall be
11 made by the county executive or the county supervisor, as the
12 case may be;

13 (3) One member to be appointed by the Secretary of the United
14 States Department of the Interior.

15 Any appointments made prior to the effective date of this act by
16 the Governor or by any of the respective counties to the planning
17 entity established pursuant to the Federal Act shall be considered
18 appointments made to the commission*, *and no such gubernatorial*
18A *appointment shall be subject to the advice and consent of the Sen-*
18B *ate**.

19 b. Commission members shall serve for terms of 3 years; pro-
20 vided, however, that of the first members appointed by the Gov-
21 ernor, two shall serve 3 year terms, two shall serve 2 year terms
22 and three shall serve 1 year terms; and provided further, however,
23 that of the first members appointed by the respective counties,
24 such members appointed from Atlantic and Burlington counties
25 shall serve 1 year terms, such members appointed from Camden
26 and Cape May counties shall serve 2 year terms, and such members
27 appointed from Cumberland, Gloucester and Ocean counties shall
28 serve 3 year terms. Each member shall serve for the term of his
29 appointment and until his successor shall have been appointed and
30 qualified. Any vacancy shall be filled in the same manner as the
31 original appointment for the unexpired term only. The membership
32 of the entire commission shall include residents of the pinelands
33 area who represent economic activities, such as agriculture, in the
34 area, as well as residents of the State who represent conservation
35 interests.

36 c. Any member of the commission may be removed by the
37 appointing authority, for cause, after a public hearing.

38 d. Each member of the commission, before entering upon his
39 duties, shall take and subscribe an oath to perform the duties of
40 his office faithfully, impartially, and justly to the best of his
41 ability. A record of such oaths shall be filed in the Office of the
42 Secretary of State.

43 e. The members of the commission shall serve without compensa-
44 tion, but the commission may, within the limits of funds appro-
45 priated or otherwise made available for such purposes, reimburse
46 its members for necessary expenses incurred in the discharge of
47 their official duties.

48 f. The powers of the commission shall be vested in the members
49 thereof in office, and a majority of the total authorized membership
50 of the commission shall be required to exercise its powers at any
51 meeting thereof*, except as otherwise expressly provided by this
52 act*. *No alternate or designee of any commission member shall
52A exercise any power to vote on any matter pending before the com-
52B mission.*

53 g. The Governor shall designate one of the members of the
54 commission as chairman *and*. The commission* shall appoint
55 an executive director, who shall be the chief administrative officer
56 *of the commission* *thereof*. The executive director shall
57 serve at the pleasure of the *Governor* *commission*, and shall
58 be a person qualified by training and experience to perform the
58A duties of his office.

59 h. A true copy of the minutes of every meeting of the commission
60 shall be prepared and forthwith delivered to the Governor. No
61 action taken at such meeting by the commission shall have force
62 or effect until 10 days, exclusive of Saturdays, Sundays and public
63 holidays, after such copy of the minutes shall have been so deliv-
64 ered. If, in said 10-day period, the Governor returns such copy of
65 the minutes with a veto of any action taken by the commission at
66 such meeting, such action shall be null and void and of no force
67 and effect.

- 1 6. The Pinelands Commission shall have the following powers:
 - 2 a. To adopt and from time to time amend and repeal suitable
2A by-laws for the management of its affairs;
 - 3 b. To adopt and use an official seal and alter the same at its
4 pleasure;
 - 5 c. To maintain an office at such place or places in the pinelands
6 area as it may designate;
 - 7 d. To sue and be sued in its own name;
 - 8 e. To appoint, retain and employ, without regard to the pro-
9 visions of Title 11 of the Revised Statutes but within the limits
10 of funds appropriated or otherwise made available for such pur-
11 poses, such officers, agents, employees and experts as it may require,
12 and to determine the qualifications, terms of office, duties, services
13 and compensation therefor;
 - 14 f. To apply for, receive, and accept, from any Federal, State, or
15 other public or private source, grants or loans for, or in aid of,
16 the commission's authorized purposes;
 - 17 g. To enter into any and all agreements or contracts, execute any
18 and all instruments, and do and perform any and all acts or things
19 necessary, convenient, or desirable for the purposes of the com-
20 mission or to carry out any power expressly given in this act;
 - 21 h. To conduct examinations and investigations, to hear testi-
22 mony, taken under oath at public or private hearings, on any
23 material matter, and to require attendance of witnesses and the
24 production of books and papers;
 - 25 i. To prepare and transmit to the Commissioner of Environ-
26 mental Protection such recommendations for water quality
27 standards for surface and ground waters in the pinelands area, or
28 in tributaries and watersheds thereof, as the commission deems
29 appropriate;
 - 30 j. To prepare, promulgate, adopt, amend or repeal, pursuant to
31 the provisions of the "Administrative Procedure Act," P. L. 1968,
32 c. 410 (C. 52:14B-1 et seq.), such rules and regulations as are
33 necessary in order to implement the provisions of this act;

34 k. To appoint advisory boards, commissions, or panels to assist
35 in its activities;

36 l. To identify *those* *any* lands in which the public acqui-
37 sition of a fee simple or lesser interest therein is necessary or
38 desirable in order to *effectuate the purposes of this act* *in-
38a sure the preservation thereof, or to provide sites for public recrea-
38b tion, as well as any lands the beneficial use of which are so ad-
39 versely affected by the restrictions imposed pursuant to this act as
39a to require a guarantee of just compensation therefor*, and to tran-
39b mit such identifications to the affected local governments *and
39c to* *the Commissioner of Environmental Protection *and to
39d the Secretary of the United States Department of Interior*;

40 m. To call to its assistance and avail itself of the services of such
41 employees of any State, county or municipal department, board,
42 commission or agency as may be required and made available for
43 such purposes.

1 **6.1. a. There is hereby established a Pinelands Municipal Coun-*
2 *cil, the membership of which shall consist of the mayor, or his*
3 *designee, of each municipality located, in whole or in part, within*
4 *the pinelands area.*

5 *b. A majority of the membership of the council shall constitute*
6 *a quorum for the transaction of council business. Action may be*
7 *taken and motions and resolutions adopted by the council at any*
8 *meeting thereof by the affirmative vote of a majority of the full*
9 *membership of the council.*

10 *c. The council shall meet regularly as it may determine, and*
11 *shall also meet at the call of the chairman of the commission.*

12 *d. The council shall appoint a chairman from among its members*
13 *and such other officers as may be necessary. The council may, within*
14 *the limits of any funds appropriated or otherwise made available*
15 *to it for this purpose, appoint such staff or hire such experts as*
16 *it may require.*

17 *e. Members of the council shall serve without compensation, and*
18 *each member shall serve only as long as he is the mayor or the*
19 *designee of the mayor of the municipality he represents. The coun-*
20 *cil may, within the limits of funds appropriated or otherwise made*
21 *available for such purposes, reimburse its members for necessary*
22 *expenses incurred in the discharge of their official duties.*

23 *f. The commission shall submit to the council, for review, prior*
24 *to final commission action thereon, the comprehensive management*
25 *plan, and any revisions thereto, including the minimum standards*
26 *for the adoption of municipal and county plans and ordinances*
27 *concerning the development and use of land in the pinelands area.*

28 *The commission may also submit to the council any other matter
29 which the commission deems advisable.*

30 *g. The council shall review all matters submitted to it by the
31 commission and shall state its position to the commission within
32 60 days of the submission thereof.*

33 *h. The council may make recommendations to the commission on
34 any matters it deems advisable whether or not such matter was sub-
35 mitted to the council by the commission.**

1 7. The commission shall, *within 18 months of the effective date
2 of this act* *on or before August 8, 1980*, and after public hear-
3 ings held in the pinelands area and in other areas of the State at
4 places of its choosing, prepare and adopt a comprehensive manage-
5 ment plan for the pinelands area. Such plan shall be periodically
6 revised and updated, after public hearings, and shall include, but
6A need not necessarily be limited to:

7 a. A resource assessment which:

8 (1) Determines the amount and type of human development and
9 activity which the ecosystem of the pinelands area can sustain
10 while still maintaining the overall ecological values thereof, with
11 special reference to ground and surface water supply and quality;
12 natural hazards, including fire; endangered, unique, and unusual
13 plants and animals and biotic communities; ecological factors relat-
14 ing to the protection and enhancement of blueberry *land* ; *
15 cranberry *production* and other agricultural *production or*
16 activity; air quality; and other appropriate considerations affecting
17 the ecological integrity of the pinelands area; *land*

18 (2) Includes an assessment of scenic, aesthetic, cultural, open
19 space, and outdoor recreation resources of the area, together with a
20 determination of overall policies required to maintain and enhance
20A such resources*.; and*

21 *(3) Utilizes soil resource's information from the National Co-
21A operative Soil Survey and the soil conservation districts in the
21B pinelands area.*

22 b. A map showing the detailed boundary of the Pinelands Na-
23 tional Reserve, such map to delineate:

24 (1) Major areas within the boundary which are of critical
25 ecological importance;

26 (2) Major areas and resources adjacent to the boundary that
27 have significance to the ecological intergrity of the Pinelands
28 National Reserve; and

29 (3) Areas of scenic, open space, cultural, and recreational
30 significance.

31 e. The map prepared pursuant to subsection c. of section 10 of
32 this act.

33 d. A land use capability map and a comprehensive statement
34 of policies for planning and managing the development and use
35 of land in the pinelands area, which policies shall:

36 (1) Consider and detail the application of a variety of land
37 and water protection and management techniques, including but not
38 limited to, zoning and regulation derived from State and local police
39 powers, development and use standards, permit systems, acquisi-
40 tion of conservation easements and other interests in land, public
41 access agreements with private landowners, purchase of land for
42 resale or lease-back, fee acquisition of public recreation sites and
43 ecologically sensitive areas, *transfer of development rights, dedi-
44 cation of private lands for recreation or conservation purposes*
45 and any other appropriate method of land and water protection
45A and management which will help meet the goals and carry out the
45B policies of the management plan;

46 (2) Include a policy for the use of State and local police power
47 responsibilities to the greatest extent practicable to regulate the
48 use of land and water resources in a manner consistent with the
49 purposes and provisions of this act and the Federal Act; and

50 (3) Recognize existing economic activities within the area and
51 provide for the protection and enhancement of such activities as
52 farming, forestry, proprietary recreational facilities, and those
53 indigenous industries and commercial and residential develop-
54 ments which are consistent with such purposes and provisions.

55 e. A coordination and consistency component which details the
56 ways in which local, State, and Federal programs and policies
57 may best be coordinated to promote the goals and policies of the
58 management plan, and which details how land, water, and struc-
59 tures managed by governmental or nongovernmental entities in the
60 public interest within the pinelands area may be integrated into
61 the management plan.

62 f. A public use component including, but not limited to, a detailed
63 program to inform the public of appropriate uses of the pinelands
64 area.

65 g. A financial component, together with a cash flow timetable
66 which:

67 (1) Details the cost of implementing the management plan, in-
68 cluding, but not limited to, payments in lieu-of-taxes, *acquisition
69 within 5 years of the effective date of this act, of fee simple or
70 other interests in lands for preservation or recreation purposes,
70A compensation guarantees,* general administrative costs, and any
70B anticipated extraordinary or continuing costs; and

71 (2) Details the sources of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, 73 State, and Federal departments and agencies, and from the private 74 sector.

75 h. A program to provide for the maximum feasible local government and public participation in the management of the pinelands 77 area.

78 i. A program for State and local governmental implementation 79 of the comprehensive management plan and the various elements 80 thereof in a manner that will insure the continued, uniform, and 81 consistent protection of the pinelands area in accord with the purposes and provisions of this act and the Federal Act, including:

83 (1) Minimum standards for the adoption, as required in section 84 11 of this act, of municipal and county plans and ordinances concerning the development and use of land in the pinelands area, 86 including, but not limited to, standards for minimum lot sizes and 87 stream setbacks, maximum appropriate population densities, and 88 regulated or prohibited uses for specific portions of the pinelands 89 area; and

90 (2) Such guidelines for any State or local agencies as may be 91 prepared by the commission pursuant to section 12 hereof.

92 j. In conjunction with existing State programs and planning 93 processes, a plan to implement the provisions of the "Clean Water 94 Act" (PL 95-217) and the "Safe Drinking Water Act" 95 (PL 93-523) which pertain to the surface and ground water of the 96 Pinelands National Reserve;

97 k. The report transmitted to the commission by the Department 98 of Environmental Protection pursuant to section 22 of this act.

1 **8. a. The goal of the comprehensive management plan with respect to the entire pinelands area shall be to protect, preserve and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act and the Federal Act.**

2 **[8. a.]* *b.* The goals of the comprehensive management plan 2a with respect to the *[pinelands]* *protection* area shall be to:*

3 (1) Preserve and maintain the essential character of the existing 4 pinelands environment, including the plant and animal species indigenous thereto **and the habitat therefor**;

6 (2) Protect and maintain the quality of surface and ground 7 waters;

8 (3) Promote the continuation and expansion of **[indigenous]** 9 agricultural and horticultural uses;

10 (4) Discourage piecemeal and scattered development; and
11 (5) Encourage appropriate patterns of compatible residential,
12 commercial and industrial development, in or adjacent to areas
13 already utilized for such purposes, in order to accommodate
14 regional growth influences in an orderly way while protecting the
15 pinelands environment from the individual and cumulative adverse
16 impacts thereof.

17 ***b.]*** *c.* The goals of the comprehensive management plan
18 with respect to the preservation area shall be to:

19 (1) Preserve an extensive and contiguous area of land in its
20 natural state, thereby insuring the continuation of a pinelands
21 ***wilderness]*** *environment* which contains the unique and sig-
22 nificant ecological and other resources representative of the pine-
22A lands area;

23 (2) Promote compatible agricultural, horticultural and recrea-
24 tional uses*, *including hunting, fishing and trapping,** within the
25 framework of maintaining a ***wilderness]*** *pinelands* environ-
25A ment;

26 (3) Prohibit any construction or development which is incom-
27 patible with the preservation of this unique area;

28 (4) Provide a sufficient amount of undeveloped land to accom-
29 modate specific wilderness management practices, such as selective
30 burning, which are necessary to maintain the special ecology of
31 the preservation area; and

32 (5) Protect and preserve the quantity and quality of existing
33 surface and ground waters.

1 9. a. During the development of the comprehensive management
2 plan, the commission shall consult with appropriate officials of
3 local governments*, *including the council,** and State or Federal
4 agencies with jurisdiction over lands ***and]*** *,* waters **and na-*
5 *tural resources** within the pinelands area, with interested pro-
6 fessional, scientific, and citizen organizations, and with any citizens
7 advisory committee which may be established by the Governor.
8 The commission shall review all relevant existing information and
9 studies on the pinelands area including, but not limited to, the
10 report of the committee created pursuant to Executive Order 56,
10A issued May 28, 1977.

11 b. Upon the adoption thereof, the comprehensive management
12 plan shall be submitted to the Governor and to the Legislature.
13 The commission shall further submit such plan to the Secretary of
14 the United States Department of Interior, as provided in the
15 Federal Act.

16 c. Subsequent to the adoption of the comprehensive management
17 plan, the provisions of any other law, ordinance, rule or regulation
18 to the contrary notwithstanding, no application for development
19 within the pinelands area shall be approved by any municipality,
20 county or agency thereof, and no State approval, certificate, license,
21 consent, permit, or financial assistance for the construction of any
22 structure or the disturbance of any land within such area shall be
23 granted, unless such approval or grant conforms to the provisions
24 of such comprehensive management plan; provided, however, that
25 the commission*~~L~~, by a two-thirds vote of its total membership,~~J~~*
26 is hereby authorized to waive strict compliance with such plan or
27 with any element or standard contained therein, upon finding that
28 such waiver is necessary to alleviate extraordinary hardship or
29 to satisfy a compelling public need, is consistent with the purposes
30 and provisions of this act and the Federal Act, and would not
31 result in substantial impairment of the resources of the pinelands
32 area*; and provided further, however, that the commission shall,
33 within 90 days of the effective date of this act, and after public
34 hearing thereon, adopt rules and regulations which specify the
35 standards for determining such extraordinary hardship, compelling
36 public need, consistency and substantial impairment*.

1 10. a. The pinelands area shall consist of all that area within the
2 boundaries described herein:

3 Beginning at the intersection of the abandoned-right-of-way of
4 the Pennsylvania Railroad and the Garden State Parkway near
5 south Toms River; thence southerly along the Garden State Park-
6 way to its intersection with the boundary of the Bass River State
7 Forest; thence southerly, and then westerly, along the Bass River
8 State Forest boundary to its intersection with the Garden State
9 Parkway; thence southerly along the Garden State Parkway to its
10 intersection with Atlantic County Alternate Route 559; thence
11 northwesterly along Atlantic County Alternate Route 559 to its
12 intersection with Atlantic County Route 559 at Gravelly Run;
13 thence northwesterly along Atlantic County Route 559 to its
14 intersection with U. S. 40 and N. J. Route 50 at Mays Landing;
15 thence westerly along U. S. 40 and N. J. Route 50 to their
16 intersection with N. J. Route 50; thence southerly on N. J. Route 50
17 to its intersection with Buck Hill Road near Buck Hill; thence
18 westerly along Buck Hill Road (River Road) to its intersection
19 with N. J. Route 49; thence southeasterly along N. J. Route 49 to
20 its intersection with N. J. Route 50; thence southeasterly along
21 N. J. Route 50 to its intersection with Cape May County Route 610;
22 thence southwesterly along Cape May County Route 610 to its

23 intersection with N. J. Route 47 at Dennisville; thence north
24 westerly along N. J. Route 47 to its intersection with the east bank
25 of the Manamuskin River; thence northerly along the east bank
26 of the Manamuskin River to N. J. Route 49; thence northwesterly
27 along N. J. Route 49 to its intersection with Cumberland County
28 Route 671; thence northerly along Cumberland County Route 671
29 and then Atlantic County Route 671 (both known as Union Road)
30 to Atlantic County Route 557; thence northwesterly along
31 Atlantic County Route 557 to its intersection with U. S. Route 40;
32 thence northwesterly along U. S. Route 40 to its intersection with
33 Gloucester County Route 555; thence northerly along Gloucester
34 County Route 555 to its intersection with U. S. Route 322 and
35 Gloucester County Route 536; thence easterly along Gloucester
36 County Route 536 (known as New Brooklyn Road) to its inter-
37 section with Camden County Route 705 at New Brooklyn Lake;
38 thence northerly along the western shoreline of New Brooklyn
39 Lake to the east bank of the main stem of the Great Egg Harbor
40 River; thence northerly along the east bank of the main stem of the
41 Great Egg Harbor River to its intersection with the east bank of
42 Tinkers Branch; thence northeasterly along the east bank of
43 Tinkers Branch to its intersection with the corporate boundary of
44 Berlin Borough; thence easterly along the Berlin Borough cor-
45 porate boundary to its intersection with the boundary of that area
46 designated as the critical area for sewerage purposes pursuant to
47 the provisions of P. L. 1954, c. 199 (C. 58:11-23 et seq.), as
48 amended*, and as implemented by N. J. A. C. 7:9-10.1 et seq.;
49 thence northerly and then easterly along such critical area
50 boundary to its intersection with the Burlington County-Camden
51 County boundary; thence northerly along the Burlington County-
52 Camden County boundary to its intersection with N. J. Route 73;
53 thence northerly along N. J. Route 73 to its intersection with
53a *Braddock Mill Road; thence easterly along Braddock Mill Road
53b to its intersection with Tomlinson Mill Road; thence northeasterly
53c along Tomlinson Mill Road to its intersection with Kettle Run
53d Road; thence northerly along Kettle Run Road, then along Willow
53e Corner-Tomlinson Mill Road, to its intersection with South Elm-
53f wood Road; thence easterly, then northerly along South Elmwood
54 Road to its intersection with East Main Street; thence easterly
54a along East Main Street to its intersection with Marlton Pike; thence
54b northeasterly along Marlton Pike to its intersection with* N. J.
54c Route 70; thence easterly along N. J. Route 70 to its inter-
55 section with U. S. Route 206; thence northerly along U. S. Route
56 206 to its intersection with Burlington County Route 530; thence
57 easterly along Burlington County Route 530 to the corporate

58 boundary of Pemberton Borough; thence southerly, then easterly,
59 then northerly, and then westerly, along the Pemberton Borough
60 corporate boundary to its intersection with Burlington County
61 Route 616; thence northerly along Burlington County Route 616
62 to its intersection with Burlington County Route 663; thence
63 northerly along Burlington County Route 663 to its intersection
64 with the corporate boundary of Springfield Township; thence
65 easterly along the Springfield Township corporate boundary to its
66 intersection with the boundary of the Fort Dix Military Reserva-
67 tion/McGuire Air Force Base; thence easterly along the boundary
68 of the Fort Dix Military Reservation/McGuire Air Force Base to
69 its intersection with Ocean County Route 539; thence northwesterly
70 along Ocean County Route 539 to its intersection with Ocean
71 County Route 528; thence northeasterly along Ocean County
72 Route 528 to its intersection with Ocean County Route 547; thence
73 southerly along Ocean County Route 547 to its intersection with
74 Ocean County Route 527; thence southeasterly along Ocean County
75 Route 527 to its intersection with the Central Railroad of New
76 Jersey tracks; thence southwesterly along the tracks of the Central
77 Railroad of New Jersey to the junction with the abandoned right-
78 of-way of the Pennsylvania Railroad near Whiting; thence easterly
79 along the abandoned Pennsylvania Railroad right-of-way to its
80 intersection with the Garden State Parkway near South Toms
81 River, at the point of origin.

82 b. The preservation area shall consist of all that area within
83 the boundaries described herein:

84 Beginning at the crossing of the Mullica River and the Garden
85 State Parkway; thence southerly along the Garden State Parkway
86 to its intersection with Atlantic County Route 624; thence north-
87 westerly along Atlantic County Route 624 to its intersection with
88 Atlantic County Route 563; thence northwesterly along Atlantic
89 County Route 563 to its intersection with Elwood-Weekstown Road
90 at Weekstown; thence westerly along Elwood-Weekstown Road to
91 its intersection with Atlantic County Route 643; thence north-
92 westerly along Atlantic County Route 643 to an unnamed local road
93 south of Nescochague Lake; thence westerly along such unnamed
94 local road to its intersection with Atlantic County Route 542;
95 thence northeasterly along Atlantic County Route 542 to its inter-
96 section with the boundary of Wharton State Forest; thence
97 northwesterly along the Wharton State Forest boundary to its
98 intersection with *Burlington County Route 648; thence north-
99 easterly along Burlington County Route 648 to its intersection
100 with U. S. 206; thence northerly along U. S. 206* *the Mullica

100A *River; thence westerly along the Mullica River to its intersection*
100B *with the corporate boundary of Medford Township; thence north-*
100C *easterly along the Medford Township corporate boundary to its inter-*
100D *section with the boundary of that area designated as the critical*
100E *area for sewerage purposes pursuant to the provisions of P. L.*
100F *1954, c. 199 (C. 58:11-23 et seq.), as amended, and as implemented*
100G *by N. J. A. C. 7:9-10.1 et seq.; thence northeasterly along such*
101 *critical area boundary to its intersection with the boundary of*
101A *Wharton State Forest; thence easterly along the Wharton State*
101B *Forest boundary to its intersection with Medford-Atsion Road,*
101C *south of Dellette; thence northerly along Medford-Atsion Road*
101D *to its intersection with Willow Grove Road; thence northeasterly*
101E *along Willow Grove Road to its intersection with Stokes Road;*
101F *thence southerly along Stokes Road to its intersection with Burnt*
101G *House Road; thence northeasterly along Burnt House Road to*
102 *its intersection with Fork Neck Road; thence southerly, then east-*
102A *easterly along Fork Neck Road to its intersection with Dingletown*
102B *Road; thence northeasterly along Dingletown Road to its inter-*
102C *section with Hampton Gate-Caranza Road; thence northwesterly*
102D *along Hampton Gate-Caranza Road* to its intersection with*
102E *Burlington County Route 532; thence easterly on Burlington*
102F *County Route 532 to its intersection with Patty Bowker Road and*
103 *Irick's Causeway Road; thence *[easterly]* *northeasterly* along*
104 *Irick's Causeway Road to its intersection with Vincentown-South*
105 *Park Road; thence southeasterly along Vincentown-South Park*
106 *Road to its intersection with Sooy *Place* Road; thence easterly*
107 *along Sooy *Place* Road to its intersection with the corporate*
108 *boundary of Woodland Township; thence northwesterly, then*
109 *northeasterly, along the Woodland Township corporate boundary*
110 *to its intersection with the boundary of Lebanon State Forest and*
111 *Burlington County Route 644 at Four Mile Circle; thence north-*
112 *westerly, then northeasterly, then southeasterly, along the Lebanon*
113 *State Forest boundary to its intersection with N. J. Route 70;*
114 *thence northeasterly along N. J. Route 70 to its intersection with*
115 *the Lebanon State Forest boundary at a point approximately one-*
116 *half mile west of the intersection of N. J. Route 70 and Burlington*
117 *County Route 530; thence westerly, and then northerly, along the*
118 *Lebanon State Forest boundary to its intersection with the boun-*
119 *dary of the Fort Dix Military Reservation near South Boundary*
120 *Road; thence northwesterly along the Fort Dix Military Reser-*
121 *vation boundary to its intersection with Burlington County Route*
122 *667; thence northerly along Burlington County Route 667 to its*
123 *intersection with the northern boundary of the For Dix Military*

124 Reservation; thence easterly along the Fort Dix Military Reserva-
124A tion boundary *to its intersection with* *【to】* the boundary of
125 the Colliers Mills Fish and Wildlife Management Area; thence
126 northerly along the Colliers Mills Fish and Wildlife Management
127 Area boundary to its intersection with Ocean County Route 528;
128 thence northeasterly along Ocean County Route 528 to its east-
129 ernmost intersection with the Colliers Mills Fish and Wildlife
130 Management Area boundary; thence southerly along the Colliers
131 Mills Fish and Wildlife Management Area boundary to its inter-
132 section with the boundary of the Lakehurst Naval Air Station;
133 thence easterly, then southerly, and then westerly along the
134 Lakehurst Naval Air Station boundary to its intersection with an
135 unnamed local road at the northeastern corner of the boundary
136 of the Manchester Fish and Wildlife Management Area; thence
137 southerly along such unnamed local road, then along Beckerville
138 Road, to its intersection with N. J. Route 70; *【thence】* *thence*
139 southwesterly along N. J. Route 70 to its intersection with the
140 boundary of the Fort Dix Military Reservation; thence southerly,
141 and then northwesterly, along the Fort Dix Military Reservation
142 boundary to its intersection with the boundary of the Lebanon
143 State Forest; thence southerly along the Lebanon State Forest
144 boundary to its intersection with the boundary of the Pasadena
145 Fish and Wildlife Management Area; thence southeasterly along
146 the Pasadena Fish and Wildlife Management Area boundary to
147 its intersection with the northern ridge line of the Cedar Creek
148 Drainage Basin; thence northeasterly along the northern
149 ridge line of the Cedar Creek Drainage Basin to its inter-
150 section with the Garden State Parkway; thence southerly
151 along the Garden State Parkway to its intersection with
152 the southern ridge line of the Cedar Creek Drainage Basin;
153 thence southwesterly along the southern ridge line of the
154 Cedar Creek Drainage Basin to its intersection with the boundary
155 of the Greenwood Forest Fish and Wildlife Management Area;
156 thence southeasterly along the Greenwood Forest Fish and
157 Wildlife Management Area to its intersection with N. J. Route 72;
158 thence northwesterly along N. J. Route 72 to its intersection with
159 the East Branch of the Oswego River; thence southerly along the
160 East Branch of the Oswego River to its intersection with Ocean
161 County Route 539; thence southerly along Ocean County Route 539
162 to its intersection with the boundary of the Stafford Forge Fish
163 and Wildlife Management Area; thence southeasterly along the
164 Stafford Forge Fish and Wildlife Management Area to its inter-
165 section with the north bank of Governors Branch Creek; thence

166 easterly along the north bank of Governors Branch Creek to its
167 intersection with the boundary of the Stafford Forge Fish and
168 Wildlife Management Area; thence easterly along the Stafford
169 Forge Fish and Wildlife Management Area boundary to its inter-
170 section with the Garden State Parkway; thence southerly along
171 the Garden State Parkway to its intersection with the boundary of
172 Bass River State Forest; thence southerly, and then westerly,
173 along the Bass River State Forest boundary to its intersection
174 with the Garden State Parkway; thence southerly along the Garden
175 State Parkway to its intersection with the east bank of the Bass
176 River; thence northerly along the east bank of the Bass River to
177 its intersection with the east bank of the East Branch of the Bass
178 River; thence northerly along the east bank of the East Branch of
179 the Bass River to its intersection with the Atlantic City Electric
180 Company transmission line; thence westerly, and then south-
181 westerly, along the Atlantic City Electric Company transmission
182 line to its intersection with Burlington County Route 542; thence
183 easterly along Burlington County Route 524 to its intersection with
184 Burlington County Route 167; thence southerly along Burlington
185 County Route 167 to its intersection with the Garden State Park-
186 way at exit 50S; thence southerly along the Garden State Parkway
187 to the crossing of the Mullica River, at the point of origin.

188 c. The commission shall, within 120 days of the effective date of
189 this act, prepare a detailed map of the Pinelands National Reserve,
190 the pinelands area*, *the protection area** and the preservation area.
191 Such map shall include, but need not be limited to, the location of
192 all major waterways, roads, and publicly-owned lands in such
193 areas, as well as a depiction of the boundaries of every county
194 and municipality which is located in whole or in part within such
195 areas. Such map shall be transmitted to the governing body of
196 every such county and municipality, shall be published in the New
197 Jersey Register and in at least two newspapers circulating within
198 the affected areas, within 150 days of said effective date, and shall
199 be submitted to the Governor and the Legislature as the official
200 State *planning* maps of the Pinelands National Reserve, the
201 pinelands area*, *the protection area** and the preservation area.

1 11. a. The provisions of any other law, ordinance, rule or regula-
2 tion to the contrary notwithstanding, within 1 year of the date of
3 the adoption of the comprehensive management plan, or any re-
4 vision thereof, each county located in whole or in part in the pine-
5 lands area shall submit to the commission such revisions of the
6 county master plan as may be necessary in order to implement the
7 objectives of the comprehensive management plan and conform

8 with the minimum standards contained therein. After receiving
9 and reviewing such revisions, as applicable to the development and
10 use of land in the pinelands area, the commission shall approve,
11 reject, or approve with conditions said revised plans, as it deems
12 appropriate, after public hearing, within 60 days of the submission
13 thereof.

14 Upon rejecting or conditionally approving any such revised
15 plan, the commission shall identify such changes therein that it
16 deems necessary for commission approval thereof, and the relevant
17 county shall adopt and enforce such plan, as so changed.

18 b. Within 1 year of the date of the adoption of the comprehensive
19 management plan, or any revision thereof, each municipality
20 located in whole or in part in the pinelands area shall submit to
21 the commission such revisions of the municipal master plan and
22 local land use ordinances as may be necessary in order to imple-
23 ment the objectives of the comprehensive management plan and
24 conform with the minimum standards contained therein. After
25 receiving and reviewing such revisions, as applicable to the develop-
26 ment and use of land in the pinelands area, the commission shall
27 approve, reject, or approve with conditions said revised plans and
28 ordinances, as it deems appropriate, after public hearing, within
29 120 days of the date of the submission thereof.

30 Upon rejecting or conditionally approving any such revised plan
31 or ordinance, the commission shall identify such changes therein
32 that it deems necessary for commission approval thereof, and the
33 relevant municipality shall adopt and enforce such plan or ordi-
34 nance, as so changed.

35 The commission may, as herein provided, delegate the review
36 of any municipal master plan or land use ordinance to the planning
37 board of the county wherein such municipality is located. Any
38 such delegation shall be made only: (1) ~~*by a majority vote of the~~[■] upon a finding
39 total authorized membership of the commission, ~~J~~^{*} that such delegation is consistent with the
40 **by the commission** purposes and provisions of this act and the Federal Act; (2) if
41 the commission has approved the master plan for such county; and,
42 (3) at the request of the governing body of such county. The re-
43 sults of any such county planning board review shall be transmitted
44 to the commission prior to the commission's review and approval
45 of any such municipal master plan or ordinance.

46 c. In the event that any county or municipality fails to adopt or
47 enforce an approved revised master plan or implementing land
48 use ordinances, as the case may be, including any condition thereto
49 imposed by the commission, the commission shall adopt and enforce

51 such rules and regulations as may be necessary to implement the
52 minimum standards contained in the comprehensive management
53 plan as applicable to any such county or municipality.

54 d. Any approval of any application for development granted by
55 any municipality, county, or agency thereof in violation of the
56 provisions of this section shall be null and void and of no force
57 and effect at law or equity.

1 12. In order to assure that the actions, decisions, determinations
2 and rulings of the State, county and municipal governments shall,
3 to the maximum extent practicable and feasible, conform with the
4 comprehensive management plan adopted by the commission pur-
5 suant to section 7 of this act, the commission shall prepare,
6 periodically revise and transmit to all State, county or municipal
7 agencies empowered to finance or construct any capital project
8 within the pinelands area, and to all State agencies empowered to
9 grant or deny any approval, certificate, license, consent, or permit
10 for the construction of any structure or the disturbance of land
11 therein, such guidelines for the location and construction of such
12 capital projects or for the granting of any such approval, certificate,
13 license, consent, permit, or financial assistance, as the case may be,
14 as the commission deems necessary and appropriate.

1 13. Subsequent to the effective date of this act, the provisions
2 of any other law, ordinance, rule or regulation to the contrary
3 notwithstanding:

4 a. No State department, division, commission, authority, council,
5 agency or board shall grant any approval, certificate, license, con-
6 sent, permit or financial assistance for the construction of any
7 structure or the disturbance of any land within the pinelands
8 area*, *for other than agricultural or horticultural purposes** prior
9 to the adoption of the comprehensive management plan; provided,
10 however, that such grant may be made **for such construction or*
11 *disturbance within the protection area** prior to such adoption if
12 the commission[¶], by a two-thirds vote of its total authorized mem-
13 bership, finds that such grant is necessary to alleviate extra-
13A ordinary hardship*, or to satisfy a compelling public need, *or*
13B is consistent with the purposes and provisions of this act and the
14 Federal Act, and would not result in substantial impairment of the
14A resources of the pinelands area; **and provided further, however,*
14B *that such grant may be made for such construction or disturbance*
14C *within the preservation area if the commission finds that such grant*
15 *is necessary to alleviate extraordinary hardship or to satisfy a*
15A *compelling public need, and is consistent with the purposes and*
15B *provisions of this act and the Federal Act, and would not result*
15C *in substantial impairment of the resources of the pinelands area.**

- 16 b. No application for a major development in the *pinelands*
17 *protection* area shall be approved by any municipality, county or
18 agency thereof, prior to the adoption of the comprehensive man-
19 agement plan; provided, however, that such an application may
20 be approved if the commission***L**, by a two-thirds vote of its total
21 authorized membership.* finds that such approval is necessary to
22 alleviate extraordinary hardship or to satisfy a compelling public
23 need, *or* is consistent with the purposes and provisions of this
24 act and the Federal Act, and would not result in substantial im-
25 pairment of the resources *of* the pinelands area.
- 26 c. No application for development in the preservation area shall
27 be approved by any municipality, county, or agency thereof prior
28 to the adoption of the comprehensive management plan and the
29 approval, pursuant to section 11 of this act, of the master plan and
30 land use ordinances applicable to any such municipality, county,
31 or agency thereof; provided, however, that such an application may
32 be approved prior to such adoption and approval if the commis-
33 sion***L**, by a two-thirds vote of its total authorized membership.*
34 finds that such approval is necessary to alleviate extraordinary
35 hardship or to satisfy a compelling public need, *and* is consistent
36 with the purposes and provisions of this act and the Federal Act,
37 and would not result in substantial impairment of the resources
37A of the pinelands area.
- 38 d. Any approval, certificate, license, consent, permit, or financial
39 assistance granted in violation of this section shall be null and
40 void and of no force and effect at law or equity.
- 41 **e. The commission shall, within 90 days of the effective date of
42 this act, and after public hearing thereon, adopt rules and regula-
43 tions which specify the standards for determining such extraordi-
44 nary hardship, compelling public need, consistency and substantial
45 impairment for the purposes of this section.*
- 46 *f. The executive director is hereby authorized and directed to
47 review all requests or applications for a commission finding pur-
48 suant to this section and to make such recommendations thereon
49 to the commission as he shall deem appropriate; provided, however,
50 that the commission shall take final action on all such requests or
51 applications.*
- 52 *g. Nothing in this section shall prohibit the granting of any
53 State, county or municipal approval, certificate, license, consent or
54 permit for the construction of any single family residence upon any
55 existing lot in the protection area, provided that (1) the lot upon
56 which such residence would be constructed was owned, as of Feb-
57 ruary 7, 1979, by the person who would occupy such residence;*

58 and (2) that sewage treatment facilities, within the capacity of
59 an existing sewage treatment plant, are available to service such
60 residence, or, where no such facilities are available, that such
61 residence would be constructed upon a lot greater than one acre.*

1 14. Subsequent to the adoption of the comprehensive management plan, the commission is hereby authorized to commence a review, within 15 days after any final municipal or county approval thereof, of any application for development in the pinelands area. Upon determining to exercise such authority, the commission shall transmit *written*¹, by registered mail, written* notice thereof to the person who submitted such application. The commission shall*, after public hearing thereon.* approve, reject, or approve with conditions any such application within 45 days of transmitting such notice; provided, however, that such application shall not be rejected or conditionally approved unless the commission determines*L, by a two-thirds vote of its total authorized membership,* that such development does not conform with the comprehensive management plan or the minimum standards contained therein, as applicable to the county or municipality wherein such development is located, or that such development could result in substantial impairment of the resources of the pinelands area. Such approval, rejection or conditional approval shall be binding upon the person who submitted such application, shall supersede any municipal or county approval of any such development, and shall be subject only to judicial review as provided in section 19 of this act.

1 15. The commission is hereby authorized to make grants to municipalities and counties for any revision of local master plans or the implementing ordinances thereto which is designed to bring such plans and ordinances into conformance with the comprehensive management plan prepared by the commission. The commission may make such grants from any State, Federal or other funds which may be appropriated or otherwise made available to it for such purpose.

1 16. a. No member, officer, employee, or agent of the commission shall take any official action on any matter in which he has a direct or indirect financial interest; provided, however, that the ownership of, or tenancy in, one's own private residence shall not be considered a financial interest for the purposes of this section; and provided further, however, that nothing in this section shall be construed so as to prohibit any such member from participating in the preparation and approval of the comprehensive management plan;

10 b. Any commission action taken or approval granted in violation
11 of this section is voidable;

12 c. Any person who shall willfully violate any provision of this
13 section shall forfeit his office or employment and shall be guilty
14 of a misdemeanor and be punished by a fine of not more than
15 \$7,500.00 or by imprisonment for not more than 18 months, or both
16 such fine and imprisonment.

1 17. The State Auditor shall conduct an annual audit of the com-
2 mission's activities pursuant to the provisions of chapter 24 of
3 Title 52 of the Revised Statutes.

1 18. On or before March 31 in each year the commission shall
2 make an annual report of its activities for the preceding calendar
3 year to the Governor *and to*;*, the Legislature **and to the*
4 *Secretary of the United States Department of Interior**. Each
5 such report shall set forth a complete operating and financial
6 statement covering its operations during the year.

1 19. Any person aggrieved by any decision rendered by the com-
2 mission pursuant to subsection e. of section 9 and sections 13 and
3 14 of this act may obtain judicial review thereof by the filing of
4 a petition in the Appellate Division of the Superior Court of New
5 Jersey within 45 days after the issuance of such decision. The
6 court shall have the power to grant such relief as it deems just
7 and proper, and to make and enter an order enforcing, modifying
8 and enforcing as so modified, remanding for further specific evi-
9 dence or findings, or setting aside in whole or in part, such decision
10 of the commission. The findings of fact on which such decision is
11 based shall be conclusive if supported by substantial evidence on
12 the record considered as a whole.

1 20. The commission shall, within 1 year of the effective date of
2 this act, prepare and submit to the Governor and Legislature a
3 report concerning State payments in lieu of taxes to municipalities
4 in the pinelands area wherein the State owns any land or interests
5 therein. Such report shall include an evaluation of the manner
6 of calculation and amount of such payments made or to be made
7 pursuant to the provisions of the "New Jersey Green Acres and
8 Recreation Opportunities Bond Act of 1974," P. L. 1974, c. 102;
9 P. L. 1977, c. 272 (C. 54:4-2.2a et seq.); and the "New Jersey
10 Green Acres Bond Act of 1978," P. L. 1978, c. 118, as well as the
11 recommendations of the commission for executive and legislative
12 action on additional or alternative proposals for such payments,
13 including the fiscal implications of any such proposal and potential
14 sources of funding therefor.

1 21. a. No person shall contract to sell any land within the pres-
2 ervation area, or any interest therein or option therefor, ~~unless:~~

3 (1) Such~~J~~* *until such** person has ~~provided~~~~J~~* *transmitted*
4 *to** the Commissioner of Environmental Protection ~~[with]~~* *, by*
5 *certified mail,** a written notice of intention to sell such land, in-
6 terest, or option~~J~~, and

7 (2) Such person has offered such commissioner the right of first
8 refusal to purchase such land, interest or option at a specified price,
9 and

10 (3) Such offer has not been acknowledged and accepted by such
11 commissioner within 60 days of the receipt thereof.~~J~~* *at least 60*
12 *days prior to entering into any such contract; provided, however,*
13 *that the provisions of this subsection shall not be applicable to any*
14 *contract of sale for any structure which is located on any lot less*
15 *than 10 acres, nor to any contract of sale between or among hus-*
16 *band and wife, parent and child, brother and sister, or grandparent*
17 *and grandchild.**

18 b. The Commissioner of Environmental Protection shall, within
19 30 days of the effective date of this act, transmit*, *by certified mail,*
20 *written** notice of the provisions of this section to the governing
21 body of every county and municipality located in whole or in part
22 in the preservation area, and publish such notice in the New Jersey
23 Register and in at least two newspapers circulating within the
24 affected areas.

25 c. Any contract made in violation of **subsection a. of** this sec-
26 tion is ~~hereby~~ declared to be void and unenforceable as contrary
27 to public policy~~J~~* *voidable*.*

28 **d. Any corporation which owns any land, or interest therein,*
29 *within the preservation area shall transmit, by certified mail,*
30 *within 10 days of the occurrence thereof, a written notice to the*
31 *Commissioner of Environmental Protection of any change or series*
32 *of changes in the ownership of more than 10% of the stockholdings*
33 *in such corporation.**

34 **d.J** **e.** Nothing in this section shall be construed so as to
35 limit any authority granted the commissioner, pursuant to law,
36 to acquire any lands, or interests therein or options therefor, in
37 such manner as may be provided in such law.

38 22. In addition to the functions required pursuant to the "Coastal
39 Area Facility Review Act," P. L. 1973, c. 185 (C. 13:19-1 et seq.),
40 the Department of Environmental Protection shall, in consultation
41 with the commission and within 18 months of the effective date of
42 this act, review the environmental design for the coastal area as it
43 affects the planning and management of the development and use

7 of any land in the coastal area which is also within the boundaries
8 of the Pinelands National Reserve, make any necessary revisions
9 to such environmental design as may be necessary in order to
10 effectuate the purposes of this act and the Federal Act, and pre-
11 pare and transmit to the commission a report detailing the pro-
12 visions of the environmental design as so revised and as applicable
13 to such land.

1 **23. a. No person shall operate any power vessel which utilizes*
2 *any engine in excess of 10 horse power upon any of the waters of*
3 *this State within the pinelands area, except upon that portion of*
4 *the Mullica River downstream from Burlington County Route 542*
5 *or upon that portion of the Wading River downstream from its*
6 *confluence with the Oswego River. As used in this subsection,*
7 *"power vessel" means any vessel temporarily or permanently*
8 *equipped with machinery for propulsion, not including a vessel*
9 *propelled wholly by sails or by muscular power.*

10 *b. No person shall operate any motor vehicle upon any public*
11 *land within the pinelands area other than upon public highways,*
12 *except in such areas designated by the commission for such pur-*
13 *poses. As used in this subsection, "motor vehicle" means all ve-*
14 *hicles propelled other than by muscular power, but not including*
15 *those vehicles run only upon rails or tracks, police, fire or emer-*
16 *gency vehicles, or those vehicles utilized for the administration or*
17 *maintenance of any public land.*

18 *c. No person shall throw, drop, discard or otherwise place any*
19 *litter upon any land or water within the pinelands area. As used*
20 *in this subsection, "litter" means any paper, bottle, can, trash,*
21 *garbage, refuse or debris of any nature.*

22 *d. Any person who violates any provision of this section shall be*
23 *liable to a penalty of not more than \$500.00 for each offense, which*
24 *penalty shall be imposed in addition to any other penalty otherwise*
25 *provided by P. L. 1954, c. 38 (C. 23:7-9), R. S. 39:4-64, or by any*
26 *other law. Such penalty shall be collected by the Department of*
27 *Environmental Protection pursuant to the provisions of "the pen-*
28 *alty enforcement law" (N. J. S. 2A:58-1 et seq.).*

1 *24. a. Nothing in this act shall be construed to authorize or per-*
2 *mit the exportation of any ground or surface waters from the pine-*
3 *lands area.*

4 *b. Nothing in this act shall be construed to authorize any regu-*
5 *lation of hunting, fishing, trapping or possession of wildlife, or*
6 *other recreational activities in the pinelands area, except as other*
7 *wise provided in section 23 of this act or by Title 13 or Title 23 of*
8 *the Revised Statutes.*

1 25. The commission is hereby authorized to adopt rules and
2 regulations which impose a surcharge of up to \$1.00 upon any fee
3 currently levied and collected, pursuant to law, for the use of State
4 owned lands within the pinelands area. All of the sums collected
5 as a result of any such surcharge shall be deposited in a fund to
6 be known as the "Pinelands Fund," which fund shall be kept sep-
7 arate from all other State receipts. There shall be appropriated
8 annually from such fund, in accordance with a formula adopted by
9 the commission, such revenue as may be available to defray the
10 costs of payments in lieu-of-taxes, as herein provided, to munici-
11 palities located in whole or in part in the pinelands area.*

1 *23.* *26.* It is the intent of the Legislature that, except as
2 otherwise specifically provided in this act, in the event of any con-
3 flict or inconsistency in the provisions of this act and any other acts
4 pertaining to matters herein established or provided for or in any
5 rules and regulations adopted under this act or said other acts, to
6 the extent of such conflict or inconsistency, the provisions of this act
7 and the rules and regulations adopted hereunder shall be enforced
8 and the provisions of such other acts and rules and regulations
9 adopted thereunder shall be of no force and effect.

1 *24.* *27.* If any section, part, phrase, or provision of this act
2 or the application thereof to any person be adjudged invalid by any
3 court of competent jurisdiction, such judgment shall be confined in
4 its operation to the section, part, phrase, provision, or application
5 directly involved in the controversy in which such judgment shall
6 have been rendered and it shall not affect or impair the validity
7 of the remainder of this act or the application thereof to other
8 persons.

1 *25.* *28.* The object, design and purpose of this act being
2 the protection of the pinelands area and the resources thereof, this
3 act shall be liberally construed.

1 *26.* *29.* P. L. 1971, c. 417 (C. 13:18-1 et seq.) is repealed.

1 *27.* *30.* There is hereby appropriated to the *Commission* *Department of Environmental Protection*, in order to
2 effectuate the purposes and provisions of this act and the Federal
3 Act, such sums as may be appropriated and provided to this State
5 pursuant to the Federal Act.

1 *28.* *31.* This act shall take effect immediately.

STATEMENT TO

Senate, No. 3091 SCA

STATE OF NEW JERSEY

DATED: May 10, 1979

The pinelands area of New Jersey constitutes a unique and significant State and National resource. Located approximately midway along the Boston-Atlanta development corridor, the pine-oak forests, wild and scenic rivers and cedar swamps of the pinelands area comprise vast undeveloped tracts of land which provide habitat for a wide diversity of rare, threatened and endangered plant and animal species and contain many other significant and unique ecological, historical, recreational, and other resources. In addition, this area overlies the estimated 17 trillion gallon Cohansey aquifer, one of the largest, virtually untapped sources of pure water in the world.

Proposals for the preservation of this unique area have been put forth and discussed for several decades. In December of 1978, Congress and the President of the United States, through the enactment of section 502 of the "National Parks and Recreation Act of 1978" (PL 95-625, hereafter referred to as the Federal Act) established the 1 million plus acre Pinelands National Reserve. The Federal Act provides for the establishment of a planning entity to prepare a comprehensive management plan for the area, and authorizes \$26 million in Federal grants, \$3 million of which would fund planning activities and \$23 million of which would fund the acquisition of land.

The designation of the Pinelands National Reserve is the first application of the national reserve concept, a new alternative to existing Federal forms of preservation of areas of national significance. Instead of utilizing outright Federal acquisition and management of entire areas, as in the case of national parks, national monuments, national forests or national

wildlife refuges, the national reserve concept is designed to combine limited public acquisition with land use controls developed and implemented through a cooperative program involving Federal, State and local governments as well as concerned private groups and individuals.

S-3091 would implement the provisions of the Federal Act. As introduced, this bill would continue the planning entity which has already been established, pursuant to the Federal Act, by Executive Order Number 71, issued February 8, 1979, and statutorily establish the Pinelands Commission. The members of the commission would be appointed as provided in the Federal Act: 7 appointees of the Governor, 1 appointee of each of the 7 affected counties, and 1 appointee of the U. S. Secretary of the Interior.

The commission would have 18 months to prepare and adopt a comprehensive management plan for the pinelands area, again as provided by the Federal Act. This plan would contain minimum standards for county and municipal master plans and zoning ordinances for the development and use of land in the pinelands area, which plans and ordinances would be revised to conform with such minimum standards within 1 year of the adoption of the comprehensive management plan. These revisions would be subject to the approval of the commission. Following such approval, the local zoning procedures would proceed as normal.

The bill further provides interim protection for the resources of the pinelands area. Pending the adoption of the comprehensive management plan, restrictions would be placed upon (1) all State approvals necessary for the construction of any structure or the disturbance of land in the pinelands area and on (2) all local approvals of major developments, as defined in subsection e. of section 3 of the bill. In the more environmentally sensitive preservation area, an additional restriction would be placed upon any local approval of any application for development, until the

comprehensive management plan is adopted and the respective county or municipality is operating under approved master plans or land use ordinances.

Other key provisions of the bill, as introduced, include (1) the delineation of the boundaries of the pinelands area and the preservation area (section 10); (2) an authorization for the commission to review local approvals of applications for development which are not consistent with the comprehensive master plan, and to modify or supersede such approvals by a two-thirds vote (section 14); (3) a directive that the commission study and recommend alternative schemes for State payments-in-lieu-of-taxes to municipalities wherein the State has acquired or will acquire land (section 20); (4) the establishment of a right-of-first-refusal of the Commissioner of Environmental Protection to purchase lands, or interests therein or options therefor, in the preservation area (section 21); (5) a provision that the environmental design for coastal area be revised to include consideration of the goal of pinelands protection insofar as the coastal area overlaps the Pinelands National Reserve; and (6) an authorization for a gubernatorial veto of commission actions, thereby fulfilling the requirement of the Federal Act that the Governor "exercise effective and continuing oversight" over the preparation and implementation of the comprehensive management plan.

The Senate Energy and Environment Committee conducted four public hearings and three public meetings concerning S-3091. As a result of these hearings and meetings, and after consideration of the testimony presented thereat, the Committee adopted a substantial number of amendments and now favorably reports this bill for Senate consideration. These amendments would (1) require a majority, rather than a two-thirds, vote for all commission actions;

(2) provide that the executive director be appointed by the commission, rather than the Governor; (3) require the advice and consent of the Senate on all commission members appointed by the Governor subsequent to the effective date of this bill; (4) prohibit alternates or designees from voting for commission members on any matter; (5) conform the schedule for the preparation of the comprehensive management plan and the imposition of interim restrictions upon State and local approvals of development in the protection area with that of Executive Order Number 71; (6) establish a Pinelands Municipal Council, consisting of the mayor, or mayor's designee, of every pinelands municipality, which council would advise the commission on the preparation of the comprehensive management plan; (7) establish "consistency" as a separate basis, in the protection area, for an exemption from the interim restrictions upon State and local approvals of development, and direct the commission to establish standards defining such consistency, as well as compelling public need and extraordinary hardship; (8) exempt agricultural or horticultural uses throughout the pinelands area, and, in certain instances, the construction of single family homes in the protection area, from such interim restrictions; (9) provide that any action taken by the planning entity already established pursuant to PL 95-625 continue with full force and effect; (10) require that the resource amendment portion of the comprehensive management plan utilize certain soil resource information; (11) clarify the intent of the Legislature concerning the continuation and expansion of agricultural or horticultural uses, concerning hunting, fishing, trapping, and other recreational activities, and concerning the exportation of ground or surface waters from the pinelands area; (12) provide for the identification, by the commission, of any land which is subject to such stringent restrictions that compensation to the owner thereof must be guaranteed.

and require that the costs of such compensation be detailed in the financial component of the comprehensive management plan; (13) include transfer of development rights and the dedication of private lands for recreation and conservation purposes among the techniques to be considered for use in planning and managing the development and use of land in the pinelands area; (14) revise the boundary of the preservation area in Medford, Shamong and Tabernacle townships by utilizing the "critical area" boundary in Medford and the Executive Order Number 71 preservation area boundary in Shamong and Tabernacle; (15) revise the boundary of the protection area in Evesham township to conform with the boundary of the Pinelands National Reserve; (16) provide that written notices required by this bill be sent by certified mail; (17) require that the executive director review all requests or applications for exemptions from the interim restrictions upon State and local approvals of development and make recommendations for commission action thereon; (18) replace the right of first refusal with a requirement that certain landowners transmit a 60 day written notice to the Commissioner of Environmental Protection prior to the sale of any land, interest therein or option therefor in the preservation area; (19) require written notice to the Commissioner of Environmental Protection of any change in the ownership of more than 10% of the stock in any corporation which owns any land or interest therein in the preservation area; (20) limit the use of certain power vessels and motor vehicles within the pinelands area, prohibit littering therein, and provide penalties therefor; and (21) provide for the imposition, by the commission, of a surcharge of up to \$1.00 upon any fee charged for the use of State-owned land in the pinelands area, the proceeds of which would be used to defray State payments in lieu of taxes to pinelands municipalities.

SENATOR FRANK J. DODD (Chairman): We will now call this hearing to order. The first witness we will call is the Commissioner of Environmental Protection, Daniel O'Hern, who will testify on the Pinelands Bill. This is the Senate Energy and Environment Committee. Commissioner.

C O M M I S S I O N E R D A N I E L O ' H E R N: Good morning, Senator Dodd and members of the Committee. Thank you for the opportunity to testify this morning on the Bill, as introduced by Senator Merlino.

Our Department firmly supports this bill, which puts into legislative form the provisions contained in Governor Byrne's Executive Order No. 71.

We believe that this legislation represents perhaps our last chance to preserve for all time a wilderness area, unique not only for its varied plant and animal populations, but for its tremendous potential as a source of pure water which may well be needed to serve the needs of generations yet to come and its integral relationship to the clean water of the only remaining unpolluted shellfishery areas of our coastal bays.

We are concerned, and you are concerned, with an area which covers roughly a fifth of the state. Most of you are familiar with the maps. This area has remained largely undeveloped throughout history because until recently it was thought to be of little use, especially to the agricultural communities, and it was bypassed by major transportation routes.

Today we have become well aware that the Pinelands are far more than just deep sandy tracts covered with oak and pine forests. The area contains some of the most scenic rivers in the state. It provides a haven for many of our endangered and threatened plant and animal species and underneath it all lies an estimated 17 trillion gallons of pure water, which is the sole source of water for most of the southern part of the state.

A study by the U.S. Geological Survey has found that the water quality in the Pinelands Aquifer approaches that of melted glacier ice, or that of uncontaminated rain water, and the sandy soils make the Pinelands one of the greatest water recharging areas in the world. The Geological Survey notes that: "The Pine Barrens have no equal in the Northeastern United States not only for magnitude of water in storage and availability of recharge, but also for the ease and economy with which a large volume of water could be withdrawn."

But, the very ease with which this area retains and recharges its water supply makes the quality of the water and the ecology of the entire area especially vulnerable to contamination. The sandy soil which easily catches and holds rain is not very good at filtering out contaminants and pollutants. Should they find their way into the aquifer in sufficient quantity, they will travel long distances and eventually could destroy an asset whose value cannot be calculated in dollars, but must be measured in the terms of not only today's society, but in the needs of the generations to follow.

There can be no question as to the fragile nature of the Pinelands. This has been documented by scientists time and time again, and it is now up to the various legislative bodies and agencies to provide the means to adequately protect this area from the potentially disastrous results of ill-conceived development.

The history of Governor Byrne's efforts to fulfill his commitment for the preservation of the Pinelands dates back to December 1, 1976, when he convened a conference on the subject at Princeton University which brought public information

into determining the uniqueness of the area and the need for protection.

Other major steps taken during that year include:

January, 1977 -- This Department proposed non-degradation ground and surface water quality standards for a so-called "critical" or 760 square mile section of the Pinelands.

February, 1977 - Governor Byrne asked U.S. Interior Secretary Andrus to use his contingency fund to help New Jersey buy 9,000 contiguous acres of Pinelands, which were in danger of being sold.

May, 1977 -- The Governor issued Executive Order #56 creating the Pinelands Review Committee, which was charged with creating a Pinelands plan to include protection of the eco system; protection of agriculture which is dependent upon high water quality; direct development of suitable areas, and encouragement of suitable recreation. In May of that year, Governor Byrne pledged \$10 million of State Green Acres Funds for land acquisition in the Pinelands.

June, 1977 -- The Department, under the authority of various state statutes, proposed that the Pine Barrens non-degradation water quality area be declared a critical area for the purposes of sewerage disposal.

August, 1977 -- The New Jersey Attorney General's Office filed suit to claim title to 2,000 acres of Pinelands on which the state holds tax liens. This was the first of several such actions planned for tax liens.

Now, you may ask what is the point? The history demonstrates that the position of the Governor and the Administration has been well known for a long period of time and that the Administration was committed to taking strong action to preserve this fragile system.

The bill that has been presented to you by Senator Merlino and which has the support of the Administration, would implement the provisions of the recent Executive Order and it would give New Jersey the necessary machinery to implement an orderly and a sensible Pinelands protection policy.

The United States Government - the national Congress - has recognized the significance of this area by its adoption, last year, of the Pinelands National Reserve Act. That foresaw an period of planning. We are asking for time to accomplish that planning in an orderly way.

Now, what does the bill do? First of all, it creates the Pinelands Commission, which is charged with coming up with a comprehensive management plan to regulate the land uses in the area. The Pinelands Review Committee recommended that this be undertaken and Congress has recommended that it be undertaken, and what we are saying is, undertake it now.

It also creates what has been described as a short-term moratorium on new development in the Pinelands to prevent speculators from rushing through poorly designed plans in order to circumvent proposed regulations which are designed to protect the integrity of the area.

In his annual message, I think the Governor used the words, "running roughshod over the Pinelands.

This does not mean to say that all building in the designated Pinelands area will be prevented, because the bill specifically provides for exemptions in hardship cases which are consistent with the intent and purposes of the act. It also exempts from the moratorium expansions to any individual's home or structural improvements to agricultural buildings or horticultural structures.

The bill directs the Commission to adopt its comprehensive plan for

the area within 18 months, thereby limiting the time under which no new large-scale construction could take place.

In essence, the purpose of the moratorium is simply to prevent piecemeal development in the Pinelands and instead to encourage development of the privately owned area in a way which will be compatible with the goals of preservation and protection of the publicly owned core area.

You may say that there is considerable controversy over the bill and over what some refer to as the moratorium, and the steps taken by Governor Byrne. I would like to point out to you that during the 1977 election, Governor Byrne committed himself to the preservation of the Pinelands. It was one of the paramount issues of the campaign. It was a campaign issue. The Governor not only won that election, but also had a majority in every south Jersey county, which should clearly indicate that everyone is against Pinelands preservation except the people.

The 1977 election was in part a referendum on the Pinelands, and it is clear that the people of the State of New Jersey, in our judgment, want them preserved.

We believe that the Pinelands are the last remaining vast natural resource in the State of New Jersey, which is the nation's most densely populated state. To allow this resource to become lost by the hands of careless men now would be a crime for which generations yet to come would hold us accountable.

I personally think there is a unique opportunity here for the members of the Legislature, in partnership with this Administration, to develop a plan of which we will be proud in years yet to come.

John McPhee, the author of "The Pine Barrens," is a man who brought to the attention, perhaps, of the American consciousness this valuable resource which we have. In his book, he details the heritage of the Pinelands and the people who live there and he points out that not only are the Pinelands themselves threatened in a biological or ecological sense but it is a way of life which is threatened, and which has existed for centuries.

The people living in the Pines today, says McPhee, are proud of their heritage and they want the Pines preserved so that their ancient past will also be preserved for the future. He wrote: "I have met Pine Barrens people who have, at one time or another, moved to other parts of the country. Most of them tried other lives for a while, only to return unreluctantly to the Pines. One of them explained to me: "It's a privilege to live in these woods."

So, basically, what we are saying to you, Senators, is that we do have an opportunity to preserve this unique part of the State of New Jersey. We believe that a workable plan can be developed, whereby the private rights of the citizens of the State of New Jersey will be respected and the public interest in this vast natural resource can be accommodated.

We have some visual presentations of some of the outstanding features which we believe are worthy of preservation and we would like the opportunity, if you have the time, to show them to you.

This is Sean Riley, who serves as the Department's Coordinator of our activities and who will describe the presentation.

S E A N R I L E Y: The first slide is a typical scene of the proposed preservation area, which is on the map to the right of you in the orange dashed line, and corresponds to the map at the left of the room of the block of land between the two large grey, or tan, areas -- Wharton State Forest in the center and Lebanon

State Forest to the north. This is a classical Pinelands wilderness area.

SENATOR PARKER: Excuse me, are you referring to the chart, the map, or the pictures?

MR. RILEY: Both. The last scene you just saw is a scene from the center of the map inside an orange line - orange dashed line - which is in the bill as the proposed preservation area.

SENATOR PARKER: All right. When you refer to it, will you stand up, because there are so many lines and boundaries of various things that it is very difficult for, I am sure, not only myself but also for the people who are here.

MR. RILEY: This is the area we are speaking about.

SENATOR PARKER: The green line area?

MR. RILEY: Inside the orange line, this is a typical scene of the wilderness areas.

SENATOR PARKER: All right. What is the orange line that you are now referring to?

MR. RILEY: The orange line in the bill is the protection area.

COMMISSIONER O'HERN: Preservation area.

MR. RILEY: Excuse me, preservation area.

SENATOR PARKER: And that is under the Federal act, or under the Critical Water designation of your Department?

MR. RILEY: That is under Senator Merlino's bill.

SENATOR PARKER: Okay, just so we identify it.

MR. RILEY: This scene, again, is a typical canoeing course throughout the preservation area. This is the Pigmy Forest.

SENATOR PARKER: Excuse me again, would you identify where those pictures are -- the rivers and the areas -- and show the people exactly the area you are referring to on the map?

MR. RILEY: The scenes of the wilderness shots are virtually all within this center area. The West Plains Pigmy Forest is approximately in this location. These are some 7,000 acres of a stunted forest type that has remained stunted due to the fire ecology. This area burns over completely every seven to eleven years. The cycle is getting longer as our fire fighting protection gets better.

This is a typical wetlands area inside the Pine Barrens preservation area. There is a high water table in a large percentage of the area. If you refer to the map on the left, all the pink is the high water table area throughout the Pines. This is typical vegetation that grows in the stream courses. Adjacent to the stream courses is the variety of plant life. As you can see, much of it is rare plant life.

This is a scene of the ground water being pumped into a cranberry bog reservoir. That pumps at the rate of 6,000 gallons a minute, which gives you some idea of the productivity of the aquifer. Again, 90% of all the cranberries grown in the State of New Jersey occur within the preservation area, and this is the third largest crop in the country.

This is Wading River, in the lower part. Again, Wading River is a primary cranberry-growing watershed. The tall trees along the side are the Atlantic White Cedars. Those that are remaining are the largest on the eastern seaboard.

This is Oswego Lake at approximately this location. Again, it is within the preservation area. This water you see here is the top of the Cohansay Aquifer, the 17 trillion gallons you have heard so much about. That is the top

of it. It goes right into the soil profile adjacent to the lake and contaminants entering the sand on the shoreline, swiftly enter into these shallow lakes in the Pines. Many small subdivisions throughout the Pines that were built around cranberry bogs have quickly contaminated them so that what at first was amenity is now an eyesore.

This scene depicts water. You can see the very dark color against the vegetation. That is the tannin stained water coming out of the cedar bogs.

SENATOR PARKER: Excuse me, You indicated that there were some of the waters that are now contaminated?

MR. RILEY: I was indicating that in the last scene these very shallow Pine Barrens Lakes have been easily contaminated through storm water runoff and septic litchis from the sands which flow--

SENATOR PARKER: (interrupting) Can you identify the lakes that have that? Do you have that information available?

MR. RILEY: Yes, we do.

SENATOR PARKER: All right. Would you make it available to the Committee? That is Lake Oswego and that has never happened in Lake Oswego.

MR. RILEY: Well, that is because there is nothing around Lake Oswego.

SENATOR PARKER: What lakes are you referring to in that area?

MR. RILEY: I will get that information from Water Resources. They are compiling that list right now.

SENATOR DODD: Senator Parker, I would appreciate it if we could hold our questions until the end of the presentation.

SENATOR PARKER: I think it is important so you understand what he is talking about.

MR. RILEY: This is a typical recreation area in the Pines. It has been burned at the lower area here and it creates a larger stand of woods with more mature trees.

The Pine Barrens is second only to California in severity and intensity of forest fires in the country.

This is a typical Pine Barren stream. Although it is only six feet wide, or so, it is deep -- three to five feet in many cases. This is Cedar Creek, which is in this part of the protection area. It is one of the creeks identified in the Wild and Scenic Rivers Act in New Jersey that is being studied for protection along the shores. It has been heralded as the cleanest stream in New Jersey, with virtually no development in its watershed.

This little fellow is the same Pine Barrens tree frog that is an endangered species. This is the curley grass fern. And, this is another one of the rare plants throughout the Pines, which interestingly enough have occurred throughout the years from forest fires, from cutting along some of the sand pine areas. So, some of the activities in the Pines have generated some of this long-term rare form of plant life.

This is a cranberry bog at Bulltown, which is just a little notch in Wharton Forest. Again, that is right around here. This is still a productive bog. The streams flow through the bog and out the other end and they grow like this. In the Fall they dam them up, float up the water and flood the cranberries and leave them flooded throughout the winter to protect the vines and trees.

This is a typical cranberry bog reservoir, where the farmer has to keep a ready supply of water from frost so he can flood the bog so that the vines and buds are not damaged.

This is the blueberry crop. New Jersey is first in blueberries in the nation and virtually all blueberries are grown in the Pine Barrens in New Jersey. This crop needs a water table at a foot to eighteen inches, I am told, and development of high intensity, which would drop the water table - as is being done in some of the shore communities in the Pinelands where development is occurring - would ruin this crop. The farmer would have to go to irrigation of some type and that is a short term thing and would probably not be economical.

These are some of the historic villages. They are stone remnants of various archaeological value that the National Park Service is interested in as well.

This is the Harris Paper Mill. Forest fires, as I mentioned before, are very severe in this region and we have minimal tools to stop a wild fire. In 1963 a fire raged through a weekend and burned 183 thousand acres, plus 189 homes - or something like that. If that same fire were to burn in the same area today, with all of the residential development that has occurred, approximately 4,000 homes would be burned in that same time frame of a weekend. New Jersey has a threat in the Pine Barrens of fire which heretofore has really not been recognized in local and regional planning. As I say, in California we are familiar with this. You see stories of homes being damaged. To date, we haven't had that because the Pine Barrens are so sparsely populated. Still, they are just regional occurrences. Our tools are very small with the enormity of the fires that occur.

In closing, this is a scene of typical development. This is in the Route 30 region of the center of the Pines. This is a typical development, where the forest is virtually annihilated and man and the fertilizers begin.

SENATOR PARKER: Excuse me, is Route 30 within the orange line?

MR. RILEY: Route 30 is in the protection area, the Pinelands area outside the preservation area.

SENATOR PARKER: I just want to make that clear.

MR. RILEY: This is a typical contrast shot. This is all forest and it is totally denuded of the surface plant. It then makes it easier to survey house lines.

SENATOR PARKER: What town is that, do you know?

MR. RILEY: That is Egg Harbor. Thank you.

SENATOR DODD: Are there any questions of the Commissioner?

SENATOR FELDMAN: Pat, I have one.

SENATOR DODD: Senator Feldman.

SENATOR FELDMAN: Commissioner, I know you called for a moratorium in the bill of any development for 18 months. I foresee an immediate problem in providing adequate housing, balanced housing, planned housing, for thousands of families who in my opinion, based on the applications to build casinos in Atlantic City, will be moving into that area of Atlantic County, where many acres of the one-fifth of the State you are talking about are. Do you share that concern if these casinos - two or three - are built within a year? Resorts today employs thousands of people, which means thousands of families. For everyone employed perhaps there are four in the family.

So, my concern is, how are we going to accommodate? Will it prevent personnel from moving in? Will it just stop development in the Atlantic City area because of inadequate or no housing at all for employees of an industry that we in New Jersey have attracted by the ballot?

COMMISSIONER O'HERN: I would definitely say no. In other words, that would certainly be counter to the state policy to encourage the development and

growth, and rebuilding, of Atlantic City. As you know, the entire CAFRA area has continued to be available for development, without moratorium applicable to it, which is that most immediately adjacent to Atlantic City.

In addition, the bill does permit development if there is, in fact, a compelling public need. And, the provision of safe and clean housing would probably, under the circumstances, be a factor to be considered by the review panel.

SENATOR DODD: Senator Parker.

SENATOR PARKER: In that regard, Commissioner, can you tell us what is a compelling public need?

COMMISSIONER O'HERN: I will give you the easiest example. Certainly, if there were a firehouse which needed to be constructed, a school, a public service system, jail, police barracks, or anything of that nature, that is a compelling public need.

In other cases, as I said, if it could be demonstrated that there was a housing need in a particular community which had a waiting list, and so forth, I would think that would be the kind of a factor which could be considered. It is a fairly flexible formula you are setting up here. The members of this Commission, as you know, will have Freeholder representatives on it. They will have an opportunity to evaluate these cases.

SENATOR PARKER: What about a community that is under a mandate from the Supreme Court to provide certain types of housing, and has approved housing in accordance with the Mt. Laurel decision? Is that one which you would call compelling need?

COMMISSIONER O'HERN: I can't answer the question of at what point in history the court order creates the compelling public need.

SENATOR PARKER: But, you would say a court mandate that okays a certain development would be a compelling need?

COMMISSIONER O'HERN: I would not say that. I would certainly say that if I were a member of the panel, I would give great weight to a court adjudication that there was, in fact, a compelling public need for this type of housing.

SENATOR PARKER: What about extraordinary hardship, sir? What does that mean?

COMMISSIONER O'HERN: Well, I think we are both familiar with the kinds of hardship which have been worked out over a long period of years under land use laws. I think among the factors to be considered would be the traditional theory of, "Do you have a permit? Have you commenced construction on it? Would it be unfair to stop construction which has commenced as of the effective date of the act"?

A second standard which is under study is the CAFRA type of standard. In other words, at the effective date of the legislation, or the Executive Order, was the land committed to the project? Had, let's say, the roads been cut and sewers been put in, and so forth and so on? Those are two lead criterias which would be applicable.

Another would be, for example, the land-locked parcel. One of the modifications to the water quality standards we have proposed is consideration of fairness for the individually-bought one lot in the Pine Barrens. It is between two houses. We think in terms of fairness, you do have to consider the rights of such a party. So, we would assume that the usual administrative patterns would

develop in defining hardship - traditional legal concepts.

SENATOR PARKER: In that regard, your Department has been using the term hardship for sewer ban and for, I believe, the Pineland when it was worked out under the critical areas. But, the term was not extraordinary hardship; it was hardship. Now, are you saying to me at this point that extraordinary hardship means the same thing in this bill as hardship does under the applications that you are now administering?

COMMISSIONER O'HERN: If I had to make a guess, I would say that the hardship necessary for this determination would be less challenging to meet. In other words--

SENATOR PARKER: Do you mean a lesser standard?

COMMISSIONER O'HERN: Yes, a lesser standard. The reason is this: Our hardship standards are related to health and safety - water quality. To gain an exemption from them, there has to be an extraordinary showing. Here, where you are dealing with a process to try to preserve as much as you can during a planning process, if health and safety standards can be met, I would think that the commission would have the power to develop a more flexible standard.

SENATOR PARKER: Now, when we are reviewing this, don't you think we should build in those standards in the bill so that what you are saying today is absolutely clear and so that we understand it. (applause)

SENATOR DODD: We cannot conduct a hearing with boos and yeas -- that is not the purpose of this hearing. We are trying to be objective. That doesn't get us anywhere. It takes up time and the next time someone speaks against your position if this happens, we will get nowhere. Please, these are the rules.

COMMISSIONER O'HERN: I suppose society would find it better if the Legislature could foresee every case under which an application would be decided on. I really think you will find that to be an extremely difficult task.

I would say this to you, if you think you can do it, you should try to do it. But, I can tell you this, as a Department we will be suggesting certain interim guidelines for that issue. You probably will have them by the time you get to your next hearing on this. So, you will have some idea of what we conceive it to be and you can see what the planning commission would finally decide it to be.

I would not criticize you if you undertook that task. I would only say it would be extremely difficult for you to decide every case.

SENATOR PARKER: Well, we understand that the guidelines have been promulgated and I think maybe we ought to at least look at those guidelines to see whether or not we feel some parts of them should be put in there. If you will provide us with them, that will be good.

Commissioner, I have a couple of other questions.

SENATOR DODD: Barry, let me get one in on that point. Commissioner, on land acquisition, for whatever the reason the hardship, or for however it will be devised, how much money, state and federal, would be available for actual acquisition?

COMMISSIONER O'HERN: Well, the overall package, which we foresee eventually being available, would be upwards of \$60 million. I base that on the hope and belief that the national government will eventually appropriate the \$24 million.

We have \$10 that the Governor set aside previously and we hope to make available an additional \$25 million. So, it is a basic package of \$60 million.

to which land and water conservation funds can be added. That would be several more million. But, that would be sort of the figure. So, you can see that we do not contemplate buying every acre, either in the preservation area or the protection area. It is a management plan which we are proposing and the national government sees this as a unique opportunity for state and federal partnership, with strong local participation in developing the plan.

SENATOR DODD: Along that line, I am thinking of an example of a retired couple, if you will, that has owned a parcel all their life, they pay taxes on it, and now we come along and say, you still own it but you can't do anything with it.

In the same vein, only in a more public manner, a municipality which has based their tax projections on a modest amount of growth, and perhaps has even bonded as such, is now told, "All right, that's it. There is no more growth as far as your tax base is concerned." Where, in those two cases --?

COMMISSIONER O'HERN: First, with the individual hardship, this is something we have to recognize and I think that in terms of the overall planning within the Pine Barrens, we can accept the fact that that can occur without destroying what we are trying to protect, provided that a good septic system is put in -- adequate, well, and so forth. I think that can be worked out.

With respect to the larger problem, the municipal tax base, the legislation directs the commission to come up with a way of helping those municipalities. Now, some of the thoughts that have crossed the minds of the planners are analogies to the Hackensack Meadowlands plan. I suppose there was as much controversy over that in that limited area as there is today over this. How was it worked out? It was worked out by a sharing of the tax base. Now, there I believe the development standards are not more than 50% of any parcel may be developed. The balance is kept in Meadowlands open space. But, the result has been an extremely high increase in property values in the Meadowlands. The sharing of the tax revenues has been fair to the municipalities and I think - you know, I don't want to speak for them - they have seen that it has worked. That is something that possibly could be worked out here -- regional allocation of assets and resources, in terms of municipal tax burdens. So, that is the kind of thing which can be worked out. That is something towards which great concern must be given.

The national legislation directs that to be considered and this legislation does also. So, we are not unmindful of that and those who make the final decisions will have to resolve it. All we are saying is, in the meantime, don't make it impossible to carry out the final plan.

SENATOR PARKER: Commissioner, you were talking about the acquisition of area. Now, the area of acquisition is all within the orange, or preservation--

COMMISSIONER O'HERN: No. That is not an acquisition line. That is a line of a higher degree of ecological sensitivity. Now, as we heard, the blueberry farmers are in there. They want to stay there. They tell us the cranberry farmers are in there. They want to stay there. We want to encourage that. We would be happy if they expanded. So, if we could see that preserved without further acquisition, all the better.

So, no, we do not intend to buy every acre within the preservation area.

SENATOR PARKER: Do you intend to buy outside of the preservation area?

COMMISSIONER O'HERN: If there were an ecologically sensitive area, I

think the headwaters of the Oswego and the Wading River are up in the Burlington area, where, as you know, Burlington, by referendum, approved public acquisition of lands and they are contemplating those. So, where the area is related to the preservation zone, it may be useful to consider acquisition.

SENATOR PARKER: And, when you say acquisition, does this legislation provide for acquisition other than by fee?

COMMISSIONER O'HERN: I don't know whether this does, but that is generally authorized in the--

SENATOR PARKER: In the Green Acres it is, but I just wondered if it was in this legislation.

COMMISSIONER O'HERN: I know it is not in there, but I don't think that is a fatal flaw. In other words, we would still have that power to the extent that we could acquire conservation easements, scenic easements, etc. That would be a desirable way to go.

SENATOR PARKER: Well, suppose it was just federal money and no Green Acres money, where would that authority be if it was not in this bill?

COMMISSIONER O'HERN: I think they have that power under their legislative statutes. It is in the Federal Act, Senator.

SENATOR PARKER: I have to be honest with you. As familiar as I am, hopefully, with this situation, I am still confused by the various lines and I wonder - and I am not sure that we did not direct our staff to do this so that we could see it - about them. As I understand it, the orange is what is set out in Merlino's bill.

COMMISSIONER O'HERN: The largest area is the federal line. The federal government said, let's study a very large area. It goes all the way to the Atlantic Ocean.

SENATOR PARKER: You are referring to the dotted line?

COMMISSIONER O'HERN: That's right. That is a study area. It is not a moratorium area. It is not a currently regulated area.

The green line is what we will call the Merlino bill protection area and the Executive Order protection area. CAFRA is sort of cut out of it, so to speak.

SENATOR PARKER: Now, CAFRA is not shown here.

MR. RILEY: CAFRA is the blue line from this edge. This triangle, which is often referred to as the mysterious triangle, is the CAFRA line, which runs like two railroad tracks.

COMMISSIONER O'HERN: That is a regulated area. Then, the orange in the center is the general consensus preservation area. There is another line--

SENATOR PARKER: What do you mean by the general consensus? Is that in any bill?

COMMISSIONER O'HERN: That is the federal preservation, the PEC preservation area, and the Executive Order preservation area.

SENATOR PARKER: Now, there are also, I believe, several others that are not in there. Number one is the Pinelands Environmental Commission.

COMMISSIONER O'HERN: The PEC?

SENATOR PARKER: The PEC has jurisdiction, does it not?

COMMISSIONER O'HERN: Correct.

SENATOR PARKER: And is that shown on there?

MR. RILEY: No, it is this portion right here.

SENATOR PARKER: Well, that doesn't include all of this.

MR. RILEY: It includes Wharton and Lebanon and some land between.

SENATOR PARKER: All right. Now, what about your critical water designation area? Isn't that another area?

COMMISSIONER O'HERN: Right.

MR. RILEY: That is right in this area.

SENATOR PARKER: But, it is different from any of these others, is that correct?

MR. RILEY: It is based on a water shed and water quality standard, that is why it is different. This is based on an eco-system.

SENATOR PARKER: They are regulations that are now in effect, are they not?

COMMISSIONER O'HERN: Correct.

SENATOR PARKER: Now, in here we also have flood plains, is that not correct?

COMMISSIONER O'HERN: Flood plain delineations? We would have to.

MR. RILEY: They are not mapped.

COMMISSIONER O'HERN: They are not mapped, but--

SENATOR PARKER: Have the municipalities, by ordinance, mapped them and put them into effect, in accordance with the state requirements?

MR. RILEY: Some of them may have. I am not sure about that.

COMMISSIONER O'HERN: Well, there would be some HUD lines.

SENATOR PARKER: I think we ought to have that.

SENATOR DODD: We are talking about 57 municipalities.

SENATOR PARKER: Now, are the wetland lines also shown?

MR. RILEY: No, sir. Mostly they would be contained in the CAFRA line. This one final line, this crossed hatch here, is where the CAFRA line goes up the Mullica River and is within the preservation area. So, that line is overlapping.

SENATOR PARKER: But, there are also areas, are there not, from here to Atlantic City that are not included in the Executive Order, or in Merlino's bill? Is that correct?

MR. RILEY: Yes.

SENATOR PARKER: That is correct? Now, what about up around Toms River and in Berkeley Township and Lacey, are they areas that are excluded under both the Governor's Order and the Merlino Bill?

COMMISSIONER O'HERN: They are excluded from moratorium. They would be part of any final study. But, they are excluded from moratorium. They would be managed by CAFRA.

SENATOR PARKER: Are they all within the CAFRA zone, sir?

COMMISSIONER O'HERN: Not all.

SENATOR PARKER: Then how can you manage them if they are not all within the CAFRA zone?

COMMISSIONER O'HERN: To the extent that they are within the Senator Merlino line, they would be subject to the Pinelands Planning Commission review process.

SENATOR PARKER: Well, what about outside of that area?

MR. RILEY: Then they are in CAFRA, almost the whole way to Toms River.

SENATOR PARKER: Almost all of them are within CAFRA?

MR. RILEY: The lines run right-- It is the same line that divides

CAFRA from Pinelands, for the most part, from Cape May to Toms River, approximately.

SENATOR PARKER: But, there are exceptions, are there not?

MR. RILEY: Just one - the blue thatched area.

COMMISSIONER O'HERN: The Mullica.

MR. RILEY: Everything in the coastal resource area is covered by CAFRA.

The national Pinelands area in the federal bill and the one in Executive Order #71, comes up the Parkway here right up to Toms River.

COMMISSIONER O'HERN: It is a study area, Senator.

SENATOR PARKER: That exempts a huge portion around Atlantic City.

MR. RILEY: The national one does, yes. But, Executive Order #71 has included that, being consistent with the Governor's Pinelands Review Committee report.

COMMISSIONER O'HERN: That will probably be changed, I am told.

SENATOR PARKER: I am looking here at a part which appears near Egg Harbor. This appears not to have either CAFRA or any-- Oh, yes it does. I'm sorry. Okay.

SENATOR DODD: Senator Hirkala.

SENATOR HIRKALA: Commissioner, do you believe that a part time commission will be able to handle all the duties empowered to them in a timely fashion so that the rights of the public in this area would not be impaired?

COMMISSIONER O'HERN: A part time commission, standing by itself, could not, Senator. But, I have personally pledged to the Governor and I pledge to this Committee that the resources of our Department will stand to provide the administrative staff, especially during this interim transition period to work out various applications. We can respond, we believe, in a timely way to the fair requests and the fair considerations of the public.

We would regard the Planning Committee as a decision-making Committee, much the way you are yourselves. You rely on your staff. They will rely on a professional staff, which will be able to do the leg work, the biological evaluations, and so forth. So, therefore, to answer your question, I believe they can do it.

SENATOR HIRKALA: You believe they can do it because of your commitment to give them enough staff?

COMMISSIONER O'HERN: That's right. Correct.

SENATOR HIRKALA: I am sort of afraid of bureaucracy at times. When we say we are going to do so much and then we do so little in meeting time restraints. On your commitment to us, I feel a little better. However, in the event we do go ahead, I want to tell you we are going to keep on top of your Department to make sure the rights of the people are not cast aside.

COMMISSIONER O'HERN: It won't be the first time, Senator. We appreciate it. We discussed it in-house and we said we are going to have to make these decisions as fast as we can. It is not fair to do it any other way.

SENATOR PARKER: Commissioner, I have a few more questions. In your comment you made a statement - and I want to see if I can recollect exactly what you said - in which you indicated that you hoped that development, if any, in this area would utilize only 50% of the space. In other words, there would be 50% open space.

COMMISSIONER O'HERN: No. What I said was that in the Meadowlands -- I may be wrong, it may be 45% or 55% - or the HMDC district, every developer is

required to commit a percentage of his land to open space and the curious result has been increased property values. You even see in the ads for the hotel up there, where they are persuading you to come there so you can look out your window at the weeds.

SENATOR PARKER: The mud Hilton?

COMMISSIONER O'HERN: But the point is we believe that you can actually enhance property values by balanced development.

SENATOR PARKER: I understand that. Do you feel when you are talking about the hardship, and the public need, that weighing this 50% open space would be a criteria that should be adhered to?

COMMISSIONER O'HERN: No. I wouldn't pre-judge the standard which would be adopted by the Planning Commission.

SENATOR PARKER: Okay. In reference to the Planning Committee-- I assume that you and Dave and the Governor's counsel were involved in preparing this legislation.

COMMISSIONER O'HERN: Well, I see the final result.

SENATOR PARKER: So, that means you weren't. Okay.

Have you had an opportunity to review it to see whether or not it complies with the provisions, or that it is not in conflict with the provisions of the federal statute?

COMMISSIONER O'HERN: Oh, I would say it was definitely designed to be consistent with the federal legislation, in the sense - in the general sense - of preparing a plan within the same framework. The makeup of the Commission is the same.

SENATOR PARKER: Okay. I think I have found maybe several discrepancies between the two and I would appreciate it if maybe your staff and our staff could go through that. It has to do with the way the appointments are made and the way the committees are to function.

COMMISSIONER O'HERN: Right. There would be no intention, I don't believe, on the part of the Administration to reflect a significant difference between the federal bill and this. The only thing is that gore area which we believe is-- If you recall the last session of that Congress, it was a very hectic session.

SENATOR PARKER: I try to avoid any recollection of Congress.

COMMISSIONER O'HERN: I think that is the only substantive difference.

SENATOR PARKER: Okay. I have just one other question. You referred to this and we had some statistics about the number of buildings that were being constructed but references were made about this which really didn't comport with my recollection of the actual figures that were finally presented when we reviewed the Pinelands Critical Water Standards. Would your office please provide to us the exact number of new constructions since that went into effect, and the total number of proposed developments which would affect not the critical area, but which would affect the whole generic term "Pinelands", as it is now defined? Because my recollection was that there was something less than 4,000 homes projected for the whole area that were within that confine. There had been representations that it was something like 25 or 30 thousand, but your Department put them back down to around 4,000, if I recall.

COMMISSIONER O'HERN: Right. We do have those statistics. I think there are 4,000 acres under development in the year that the standards were in effect. I think it is several thousand dwellings. But, we will get you those statistics.

SENATOR DODD: Senator Parker--

SENATOR PARKER: Let me just ask one more question.

SENATOR DODD: I just wanted to let the Senate President speak.

SENATOR PARKER: He has to go to the same place I have to go to. He has to go to another meeting too.

While you are here, one of my major concerns that I have expressed is what is going to happen to the farmland? Now, your committee and the Governor has killed the Farmland Preservation Program.

COMMISSIONER O'HERN: No. We haven't killed the Farmland Preservation Program. But, let me say this, because the Secretary will address himself to it, everybody who has ever talked about this says we want to encourage the continuation of agriculture in the Pine Barrens. It would be totally contrary to what we are talking about -- the quality of life in New Jersey -- to end up banning agriculture in the Pinelands.

SENATOR PARKER: You have missed my whole point, Commissioner. I am sorry. I don't want to preclude farming in the Pines; I think it should be encouraged. There is no question about that. What I am talking about is the Farmland Preservation Program, which Governor Byrne refused to sign. He refused to sign the bill extending that and the program has now died. My concern is that with this moratorium and what is going on here, the developmental pressure is now going to be on the areas that in my opinion are more fragile and need to be preserved more than the Pinelands.

COMMISSIONER O'HERN: I understand that point.

SENATOR PARKER: Now the development pressure is going to be - from my friends here, the builders, and the others - that instead of moving in the Pinelands, they are going to buy up every available piece of agricultural land in Burlington County, where the demonstration program was, which land is already sewered, incidentally, and it is going to wipe out our farm community. I would like to know what you intend to do about that.

COMMISSIONER O'HERN: Well, I wouldn't say that the Governor has closed the door on the demonstration project. The final report is going to be presented to the Governor. We share your concern about this reverse domino effect. But, I have to tell you that I don't have an immediate answer for you today. I think that is a complex program. The Secretary and I have discussed it personally and we don't have an immediate answer for you today.

SENATOR PARKER: But, sir, he did not sign the legislation that would continue this, is that correct?

COMMISSIONER O'HERN: He hasn't signed it yet.

SENATOR PARKER: Is he going to sign it?

COMMISSIONER O'HERN: I can't speak for the Governor, Senator.

SENATOR PARKER: I am just trying to find out.

SENATOR DODD: Commissioner, thank you.

I would like to call the sponsor of the bill, the Senate President, Joseph Merlino.

SENATOR JOSEPH P. MERLINO: Mr. Chairman, members of the Committee, hopefully I am a friend of the builders and developers, but I think more importantly, I am a friend of the entire populace of the State of New Jersey.

The Pinelands Protection Act reflects the long-standing concern of Senator Yates and myself, and many people in the State, for the preservation of

New Jersey's greatest natural resource -- our largest and most unique region of undeveloped land.

It is a measure which has been over a year in the making, awaiting first the report of the Pinelands Review Committee and then the opportunities presented by federal legislation. It was drafted by legislative staff in close consultation with the Governor's office in order to ensure consistency between the enactment and Governor Byrne's bold Executive Order.

Already we have heard the thunder of protest from the handful of individuals who hope to enrich themselves by paving the Pinelands. These individuals may believe they have special access to the levers of local political power. To judge by some towns' zoning policies, they may be right. But, they don't represent the interest of the vast majority of the people in South Jersey, nor in fact the entire state. And they don't represent the interest of the people.

Our interests - the public's interest - lies in setting land use standards that will preserve the unique nature and natural character of the area, maintain its superior water quality, foster its traditional agricultural uses, and encourage compatible development in an orderly way.

This bill is not blindly anti-development. It will allow orderly development that will not impair the region's character and natural assets. But, it is not going to allow builders and developers to nibble away at the heart of the pines.

I applaud the developers' desire to build in South Jersey. Where South Jersey needs their talents is in Camden and in Atlantic City. They should re-develop--

(angry response from audience)

SENATOR DODD: There will be no outburst, please.

SENATOR MERLINO: They should develop those areas before despoiling the Pinelands. Let me emphasize that this bill will guarantee a strong protection plan with maximum local input.

The bill establishes a preservation area, as has already been established, in the heart of the Pinelands in Burlington and Ocean Counties, where land use regulation will be strictest. The goals in the preservation core center on maintaining the Pineland's wilderness character.

Around the preservation zone is the larger Pinelands area, touching on seven counties. Regulation in the Pinelands area would aim at preserving the Pineland's essential character while allowing compatible development in an orderly way. Notice, I repeat several times, and I will repeat it several more times -- to allow development in an orderly way.

The Pinelands National Reserve established by federal legislation last year, continues beyond the proposed Pinelands area to Delaware Bay and the Atlantic Ocean. The bill will leave those areas under the administration of CAFRA.

I have proposed setting the boundaries of the Pinelands area at the CAFRA line because I doubt the need for two agencies to give their attention to the same tracts of land. I would have no objection if this Committee should want to include them, but I do not yet see why CAFRA cannot administer our Pinelands area and these goals within its territory.

There is one CAFRA area, however, where I believe Pinelands Commission supervision is essential. That is over the preservarion area along the Mullica and Wading Rivers in Bass River and Washington Township, which I guess was marked

in blue. This area - this preservation area - is so precious that it must be under direct Pinelands Commission review.

The Governor, you will recall, has ordered a moratorium on any state permits in the Pinelands area. That is a valid exercise of Executive authority, I think. And, this bill will go further.

The bill imposes a moratorium during the first 18 months on any development in the preservation zone, and on any major development in the Pinelands area, although the Commission has leeway to make exceptions by a two-thirds vote of its membership.

After a comprehensive management plan is adopted, its standards would be incorporated into local land use plans. Local permits could not be issued in violation of the standards. The Commission would retain the right to review any development permit that it thought might violate the standards -- and, again, by a two-thirds vote reject or modify the project.

Some of the opposition of Pinelands preservation argue that the public has no right to restrict their abuse of their property rights. That is nonsense. The public stake in land use decisions was established sixty years ago with local zoning. The public has every right to regulate land use for the public good. And, preservation of the Pinelands is an urgent public good.

Others argue that the state should stay out of land use regulation. That too is nonsense. The state governs land use in other critical areas -- flood plains, wetlands and coastal areas. The Pinelands are even more precious.

We have to save the Pinelands before they are paved over with shopping centers and parking lots, lined with fast-food stands and crowded with half-acre lots. I know there is a lot of money to be made by developers there in the Pinelands and I say: First, redevelop the areas where our people are already settled.

The Pinelands are unique. That is where the largest supply of fresh water in the state can be found underground -- absolutely pure water. The Pinelands has no equal in this state for recreation purposes -- for canoeing, hiking, and the fascinating wildlife that is there.

People can find shopping centers, warehouses, and the like, everywhere else in the state. We should preserve the Pinelands for what it already has: its natural resources.

A strong bill like this will keep this priceless asset for future generations.

That, members of the Committee, and members of the audience, is my statement.

SENATOR PARKER: Senator, you made two comments. One is that they should develop Atlantic City and then Camden. And, then again, you said they should re-develop areas where people already are.

SENATOR MERLINO: That is Camden and Atlantic City.

SENATOR PARKER: I understand that. By that comment, do you mean that you want the developers, and the commitment to develop, to move back into the urban areas?

SENATOR MERLINO: I think that couldn't have been said any plainer, Senator.

SENATOR PARKER: I think that is not an unfair comment concerning your main intention in this bill, which is to redirect development away from the

developing communities, such as Ocean, Burlington--

SENATOR MERLINO: My main concern is to preserve the Pinelands.

SENATOR PARKER: Sir, let me ask you another question. Have you and members of the Administration set up a meeting with builders, either through yourself, Commissioner O'Hern, or the Governor's office, in order to get them to go into the cities now? Because you have now blocked off this area, or you intend to put the moratorium in this area.

SENATOR MERLINO: No. The purpose of filing the bill was to get everyone together, as is evidenced by the gathering here today. The idea is to get this thing into a position where we can have some meaningful discussions, and to plot and plan the preservation of the Pinelands, and if it carries over into the redevelopment of the other parts of the state, I think that is an added benefit that we will derive from our action on this bill.

SENATOR PARKER: Are you, sir-- I know the census is coming up and I know that New Jersey is one of those states selected for census tract. Are you and the Democratic majority concerned about the shift in population away from the urban area and intend to stop it by this legislation?

SENATOR MERLINO: That is not the intention at all, Senator Parker. It is not the intention of the Democratic Party, or the majority party in this state, to do anything of the kind.

SENATOR DODD: I would like to welcome everyone to the first gubernatorial debate. (laughter)

SENATOR PARKER: Just one thing further. As you noted, approximately two-thirds, or better, of South Jersey is now under some form of state regulation.

SENATOR MERLINO: Yes.

SENATOR PARKER: What are your intentions about preserving, since you are the Leadership, the Kittatinny Mountains and the other parts of the state that are not regulated and which I feel are equally as important?

SENATOR MERLINO: In the Kittatinny Mountain area there has been much effort. When you were in leadership, the great Tocks Island Project was one of those under serious discussion. I think you will find that there is already in place the preservation of those areas -- preservation, that is, in the sense that rampant development is not permitted to occur.

SENATOR PARKER: Do you intend putting legislation in which would provide the same-- And, let me ask you this: Shouldn't we, instead of selecting out certain areas-- And, nobody criticizes the Pinelands, especially the protection area; that needs to be done. I think everybody, including the original Pinelands Environmental Council, agrees with covering, basically, that land that everyone is concerned about.

But, don't you think that in order to develop the state properly that it should be done all over the state?

SENATOR MERLINO: I would be glad to co-sponsor such legislation with you, Senator Parker.

SENATOR DODD: I would like to add, on that point, Barry, the fact that New Jersey is the most densely populated state in the nation. The fact that we can have a tract like this one you are addressing now would seem to make a great deal of sense -- to look at our other virgin areas that are still left.

SENATOR PARKER: Yes. Personally, I just don't think it is fair to single out one area of the state as opposed to all areas of the state if we are going to propose some form of statewide planning.

SENATOR DODD: No.

SENATOR MERLINO: I think we have imposed statewide planning in many ways. The last big effort was our municipal land use bill. I don't mean to be redundant, but I don't think that you can compare the natural attractiveness of the Pinelands with any other area of the State of New Jersey. It is unique and I think those of you who live down there appreciate and recognize that it is unique.

SENATOR PARKER: I think there are other areas that are unique as well.

SENATOR FELDMAN: It is 20% of the entire land of the state.

SENATOR MERLINO: That is a pretty good chunk when you consider, as Pat Dodd said, this is the most densely populated state in the country. Yet, we still have this virgin territory for the most part left unspoiled. I think it behooves us all to direct our efforts towards maintaining as much of that unspoiled - as it now is - as possible. I say that the bill has been filed for this very purpose - to bring out in the open all the necessary discussion we could get from every segment of the population of this state so that we can direct our efforts to doing what I think all of us want to do, including those who may be opposed to a builder moratorium. I think they too would like to see some preservation area, and then some orderly development of those areas which surround it.

I don't think there is any intent on the part of anybody to just block out that whole area in that big green ring, and lock that land inside so no one can do anything with it. That is not the intent of this bill. That is not the intent of the Governor. That is not the intent of this sponsor.

SENATOR DODD: Senator Hirkala.

SENATOR HIRKALA: Senator Merlino, there are just a couple of things that disturb me. Paragraph 13, Section (a) -- it is on page 16 -- "No state department, division, commission, authority, council, agency, or board shall grant any approval, certificate, license, consent permit, or financial assistance for the construction of any structure, or the disturbance of any land, within the Pinelands area, prior to the adoption of the Comprehensive Management Plan, provided, however, that such grant may be made prior to such adoption if the Commission, by a two-thirds vote of its total authorized membership, finds that such grant is necessary to alleviate extraordinary hardship or to satisfy a compelling public need, is consistent with the purposes and provisions of this act and the federal act, and would not result in substantial impairment of the resources of the Pinelands area."

Now, once again I want to bring to your attention the makeup of a part-time commission. It will have members scattered all throughout the state and 7 members right in the Pinelands area. Now, some citizen of our state might have a compelling hardship and we are then going to allow some relief provided he can get a two-thirds vote of the authorized membership. Now, with an authorized membership of 15, and needing two-thirds of the authorized membership - which totals 10 - to have a commission meeting where 9 members show up -- that poor citizen is wiped out, without a fair hearing. I think that we are going to have to look into that section and the following sections (b) and (c).

SENATOR MERLINO: They all provide for two-thirds?

SENATOR HIRKALA: Yes.

SENATOR MERLINO: It would appear to be an undue hardship, but that is what we are dealing with here. We can't afford to have a lesser number or to make exceptions and grant permits where the hardship is concerned. When you look at the makeup of the commission, seven of the members are appointed from the counties -

the seven counties which touch on the Pinelands - and one member will be from the U. S. Department of Interior, and the other seven will be the Governor's appointments. I think it would be incumbent upon the Governor to make sure that his seven members appear, and I would certainly hope that those from the counties would be the first ones there.

So, although on its face ten members looks like a great number, when you consider the makeup of the commission, it may not be. You know, we sit here as legislators and if it doesn't work, no legislation is molded in stone. If it doesn't work, we will change it.

SENATOR HIRKALA: Thank you for your comments. I am very, very apprehensive because it has been my experience that the members of volunteer commissions, even those that are paid members, just don't do their work. I just can see a lot of turmoil because of the two-thirds requirement.

SENATOR MERLINO: Well then, I think we as legislators should keep our eyes on that to make sure it doesn't happen.

SENATOR DODD: Thank you, Mr. President.

SENATOR MERLINO: I have to steal two of your members for five minutes, in order to go to another meeting. Thank you.

SENATOR DODD: We would like to call on the Secretary of Agriculture, Phil Alampi.

P H I L L I P A L A M P I: Mr. Chairman, distinguished members of this Committee, staff, and ladies and gentlemen, my name is Phillip Alampi and I am Secretary of Agriculture in the Garden State.

The issues involving the preservation and management of the Pinelands has been of genuine concern to agriculture for many years because it is in this unique area that the production of blueberries, cranberries and many other agricultural commodities takes place. Since this area encompasses approximately 1.2 million acres, much of it owned by farmers, it is quite natural for me to have maintained a concerned interest and personal involvement as Secretary of Agriculture over the past 23 years.

The strange dichotomy is, here in the Garden State, the most urbanized state in the nation, 21% of our land and 42% of our woodland make up nearly two-thirds of our open spaces. In putting forward some facts for your consideration, in the seven county area - these are preliminary figures - in this Pineland outer area, including the preserved area, there are 1230 farms, which is 16% of all of the farms in the state; 143,700 acres, which is 14 1/2% of all the acres in the state; and a cash value of farm crops and livestock of \$92,390,000, which is 1/3 of our total cash receipts. We have 7700 acres of blueberries, 3,000 acres of cranberries, 1840 acres of apples, 3116 of peaches, and 10,900 acres of vegetables in the Pineland area. And, we also have livestock and poultry - including horses - to a value of \$10 million. Agriculture is our most precious, natural, non-renewable source. Once it is gone, ladies and gentlemen, you can't go to the supermarket and buy another square foot of it.

I recently served on the Governor's Pinelands Review Committee where I further evaluated the issues and where I tried to present the needs and requirements of agriculture in this area. It has always been my feeling, and the Committee concurred, that agriculture is, for the most part, a desirable and compatible land use in the Pinelands. My responsibilities in developing this report on preserving this unique area included seeking adequate protection for existing

agriculture and assurance that agriculture could continue as a viable industry and could, in fact, expand if and when the need arose.

As I understand S-3091, I believe that it does give agriculture adequate and reasonable protection and that it will not impact adversely on agriculture's ability to survive and prosper. I have been assured that the language and intent of the bill is to give agriculture an exemption from the restrictions placed on less compatible land uses. In fact, during earlier deliberations, I have submitted numerous suggestions to the drafters on matters such as the ownership rights of agriculture and the payment of in lieu taxes to affected municipalities, and so on.

Furthermore, I remain strongly convinced that the minimum of regulation and intervention by government is absolutely necessary if we are to retain a viable agriculture in the Pinelands, thereby encouraging an activity that in itself helps preserve privately owned valuable taxpaying open space. The provision in this bill for relief from hardship is a vital item and must be administered in keeping with the intent, to be fair to all concerned while firmly seeking to preserve the Pinelands through effective management and land use techniques.

Agriculture has had a great history in the Pinelands and in light of my understanding of S-3091, to strengthen, encourage, and protect agricultural activities as compatible land uses in the Pinelands, I support the passage of this bill.

I will be glad to answer any questions you might have. I thank you for the opportunity to present these few remarks.

SENATOR DODD: Mr. Secretary, do you see the bill in any way hindering agriculture, in particular the cranberry and blueberry crops within the designated area?

SECRETARY ALAMPI: We have been assured by all concerned, Senator, that they want to preserve those. In fact, they even want to expand them because they are very compatible.

For over 100 years we have had these crops and we have had no adverse effects in the Pinelands. Therefore, it is imperative, I think, that we maintain those types of agriculture which are compatible with the Pinelands -- and I have listed all the acreage we have so far. We have had no problems, so I see no conflict. I think they can stay in there and they can be expanded, just as Commissioner O'Hern said in his testimony.

SENATOR DODD: Thank you, Mr. Secretary.

SECRETARY ALAMPI: Thank you.

SENATOR DODD: From the Ocean County Board of Chosen Freeholders, Freeholder Hazel Gluck.

F R E E H O L D E R H A Z E L G L U C K: Good morning, gentlemen. I am Hazel Gluck and I am a member of the Ocean County Board of Chosen Freeholders. I am here today to voice strong objections to several of the provisions of the proposed "Pinelands Protection Act." Almost two-thirds of Ocean County will be affected by this legislation. The legislation will directly affect 15 Ocean County municipalities. Nine municipalities will be included in the Pinelands area in their entirety and subject to the proposed 18 month moratorium. Six other municipalities will be partially included. The County Tax Board has reported that 44,000 line items equaling more than \$250 million of taxable real estate will be affected. Property values obviously will also be affected and the economy of Ocean County could suffer seriously if the proposed legislation is enacted.

Ocean County was particularly hard hit with the recession which occurred in the early '70's and our unemployment rate soared to over 11%. We do not wish to witness the same problems as a result of well intentioned efforts to protect the unique and valuable resources of the Pinelands. I strongly encourage all members of this Committee to carefully and fully consider the far-reaching implications of this legislation.

While the Ocean County Board of Freeholders is pleased that State legislation is being considered to protect the Pinelands, we feel that the "Pinelands Protection Act" does not adequately consider the legitimate interest and responsibilities of County and municipal governments. Certain provisions of the bill also fail to recognize the positive efforts which have been made locally to protect the critical areas of the Pinelands. Ocean County has undertaken several innovative planning and water quality management programs which will help to protect the Pinelands resources.

For example, through its 208 Water Quality Planning, the County has completed a natural resource inventory which includes the Pinelands area. A water quality monitoring program has been established and is ongoing, providing the County with the most extensive water quality data available for any area of the State. This information has been used to develop environmentally rooted land use guidelines and stormwater management policies that will help to protect the area's sensitive resources and will help insure better planned, environmentally sound development. The recommendations of this study have been transmitted to the municipalities and in many instances have been incorporated in their master plans and zoning ordinances.

We are completing a County Parks Master Plan which will include major acquisitions, several of which will be in the Pinelands. We believe that any successful effort to protect New Jersey's Pinelands must recognize these efforts. It must provide for meaningful local representation and it must seek to establish a cooperative and coordinated State, County, and local partnership for resource management.

Ocean County has consistently offered constructive comments and generally supported the efforts of various State agencies to protect the resources of the Pinelands. The County has repeatedly asked for definitive guidelines which would enable local municipalities to fine-tune local plans and development ordinances affecting the Pinelands. Yet, after years of discussion and planning by the state, these guidelines do not exist and there continues to be controversy and confusion surrounding environmental regulations and development in the Pinelands.

The proposed legislation is now calling for an 18 month moratorium on the issuance of all state permits in all areas of the Pinelands. This is not reasonable. Ocean County cannot accept legislation which includes a blanket moratorium in all areas, especially in view of all of the years of planning for the Pines.

What is the rationale behind imposition of what we consider to be a drastic and disruptive measure? This bill states that the current rate of construction in the area poses an immediate threat to the natural resources in the Pinelands. But, is this actually the case? Nowhere has there been a clear documentation of the failure of local governments to adequately manage their communities and discharge their responsibilities for land use decisions. Instead, there has been only broad generalizations and unsubstantiated accusations.

Positive, not negative, approaches are needed. We support the legislation's

requirement for a comprehensive management plan. As an interim measure, a moratorium affecting the critical areas of the Pinelands might be reasonable. Ocean County encourages the Committee to limit the duration of any moratorium and to specifically require that definitive guidelines be developed to guide the issuance of state permits in non-critical areas while the management plan is being prepared. It is hard to believe that after years of "planning" effective guidelines cannot be prepared to allow public and private projects to continue which would not violate sensitive Pinelands resources. Ocean County has committed millions of dollars for needed drainage and highway projects. Many of the projects are needed to correct problem situations. If we cannot receive State Stream encroachment and other permits needed for their construction, the health and welfare of our residents and the thousands of people who vacation at the shore will be jeopardized.

Ocean County is required by state law to develop and implement a Solid Waste Management Plan. This plan must be submitted to the Commissioner of the Department of Environmental Protection in the very near future. Landfill sites in Ocean County are severely limited. Ocean County's plan has been prepared with an eye toward correcting pollution problems from existing landfills which are located in the area affected by the proposed legislation. If we cannot receive State approvals and needed permits, these problems will continue and solutions to our growing disposal problem will be precluded.

Ocean County has sought to develop a County airport in western Berkeley Township. A long-range airport master plan was completed and approved by federal and state agencies. Major improvements are planned for the Robert J. Miller Airpark in western Berkeley Township. Again, state permits will be needed. I strongly encourage you to modify the proposed legislation so that transportation, drainage, solid waste -- I might add something that is not in my statement, and that has to do with the Ocean County Utilities Authority, which receives something like \$400 million from the Federal Government to put sewerage lines in. This would definitely have a tremendous effect on that project. It would have an effect in the cost of the bulk rate to the people in Ocean County -- (continuing) and other necessary public projects can continue without an 18 month or longer moratorium.

Other provisions of the proposed bill which we cannot support include section 21, dealing with the statutory "right of first refusal" and section 5, which would give a Governor an absolute veto power over the actions of the proposed commission. The requirement for the right of first refusal is unprecedented and will create unnecessary hardship for homeowners and small landowners in the Pinelands. And, may I add that both Senators that are present here have tried to address that. But, in the legislation it says that if I live in, or have a piece of land and/or home in the Pinelands and I wish to sell, I have to go first to the Department of Environmental Protection, to the Commissioner, and the Department has 60 days in which they can tell me whether or not they want my land before I can go ahead and sell the property, if you and I had a contract for sale. So, your concern, I think, vis-a-vis the bureaucracy is well taken in this particular instance.

SENATOR DODD: Would it require a contract first before you can appeal, or before you go to the Department?

FREEHOLDER GLUCK: I don't know. It is not clear, Senator. In the legislation it is not clear whether I would need a contract first, but I think

a blanket approval certainly--

MR. CATANIA: Section 21 says that you cannot sign a contract or sell land in a preservation area unless the Commissioner has had 60 days to exercise the right of first refusal.

FREEHOLDER GLUCK: Okay. So, you couldn't consummate a deal - okay? - until you had that.

We would strongly suggest that the state would be required to identify areas which may be appropriate for public acquisition and that action to acquire such properties be required within a specific period of time. In other words, what we are afraid of is, we have - as you well know - many citizens that come to Ocean County to retire and some that have come from the northern counties to live the year 'round and, especially the senior citizen who intends to live there in their retirement, now may want to sell the property or enter into a contract of sale. One of the things that senior citizens keep telling me is that they don't have a lot of time. So, my concern is that the 60 days, if in fact the Commissioner decided that he wished to have that piece of property, then can go on because you then have to establish a price between the state and the person who owns the land. I just think there is a lot of room in there for a lot of time.

SENATOR DODD: In that vein let me ask you this, Hazel: A person that has owned a parcel of property for the last 15 years and has paid taxes on it, but there is no house or improvements, is now told that he can do absolutely nothing with it. The taxes were relatively small, but over a period of years they have invested 'x' amount of dollars. What happens to the township when the people, in a great amount, just walk away from the property and end the taxes that have been paid? Most municipalities within that area - the smaller ones, certainly - have a very modest tax base to begin with. What happens to those townships, with a small tax base, if a good number of people just walk away from paying any additional taxes? Hopefully, they would be entitled to file suit to recover some of the taxes -- I don't know.

FREEHOLDER GLUCK: I don't know either.

SENATOR DODD: These are some of the questions I have.

FREEHOLDER GLUCK: I don't know either and I think that some of the answers are obvious. They are implicit in your question, I think, Senator. I think a lot of towns would wind up owning a lot of property. But, so what? You know, without any taxes they would be awfully-- That is one of the deep concerns of the municipalities. You can imagine they are not only affected by this, but also by Wetlands and some of the other constraints. And, I am not saying that environmentally some of these are not sound. What I am saying is, in the consideration of anything that you are going to do there - or we are going to do here in the State of New Jersey - while we wish to preserve the tree frog, we have to have a place for the humanoids also. There are people there already and we live there and we love it. I have been down to Cedar Creek. I have been in the Pine Barrens myself and I understand what the interest is to preserve it. I also understand what it would mean - what an 18 month moratorium would mean in the entire area - to Ocean County. We are afraid of it.

Paving the Pinelands is a very dramatic phrase, if you will forgive me. On the other hand, it is like - if you oppose the bill - someone asking you the question, "Have you beaten your husband lately"? (laughter) What I am trying to say is, by opposing some of the things in this bill, I want it to be very clear that the Ocean County Board of Freeholders would like to see the preservation

of the Pinelands, and we feel that the moratorium in the critical area would be fine, but to take the entire area for 18 months - and there is nothing to stop the moratorium from going longer if the Commission hasn't concluded their study - what happens to Ocean County in the interim? What happens to those of us who live there? What happens to the value of our land? What happens to our tax rate? What happens to the people who stand on line at the unemployment office that don't have the jobs?

SENATOR DODD: Hazel, you are very concerned and you have opposed me on many bills. Some we have been together on. But, I have the utmost respect for your forwardness on this. Do you feel that the review process that is built into the bill is fair? Do you think it will work?

FREEHOLDER GLUCK: I am not sure I don't have some of the same concerns about the part-time commission that have been expressed here. I am not sure. I think the review process could work if we could minimize the bureaucracy -- and I know that is easier said than done. I think it is necessary to do something in this area. My concern is that we are putting local people on this board and then we are requiring a two-thirds vote for everything. It is like saying, yes you will be represented, but it is really just a sop to local representation. And, I have never been accused in my county of being overwhelmingly home rule oriented - all right? But, I think there is a lot to be said. To those of us who live there the implication is that we are interested in seeing the Pinelands raped and that is not so at all. Quite to the contrary.

I think that anything that you place into effect that has the review privileges and so forth, any new system, any new bureaucratic system that goes into place must be as streamline at it possibly can. There are certain concerns with regard to this.

Can it work? I think it can, if it is fair. But, if it isn't -- you know, when push comes to shove, what you are doing is-- For instance, I heard on a local radio station - WOBN - that some people had applied for certificates to drill wells and they were denied. Everything has come to a crashing halt. Nobody knows where this begins and where it ends. The banks have said to certain people who wish to build another five homes - maybe a builder who builds five homes and then goes back to the bank to get the cash for the next five - that they can't have the money. They say, we are not going to lend it to you. This has happened already. You know, we are not talking about the headwaters of the Mullica River; we are talking about areas where we feel, environmentally, that they have lived up to the water quality standards, and so forth. We are deeply concerned. I am not here speaking for the builders, don't misunderstand me. But, somewhere between raping the Barrens and preserving it so that nobody can walk in it, there has to be some kind of a marriage where we can live with the conservation also.

If I can just finish this. Section 5 of the bill, I think, was particularly discussed by the Board of Freeholders - and that is the veto power. This provision can effectively preclude meaningful local participation and we respectfully request that this section be deleted.

In closing, I would like to register a strong protest concerning the timing of this hearing. This bill, if passed in its present form, will have far-reaching implications not only in Ocean County but in all of southern New Jersey. And, you have addressed some of these concerns today, Senator Dodd -- which we appreciate. The bill could seriously effect the housing opportunities of all the residents, particularly the senior citizens of this state. It will limit the

options of the regional planning commission by imposing regulatory requirements prior to that group's deliberations. By abolishing the Pinelands Environmental Council, it eliminates the alternative for an expanded Pinelands Environmental Council to serve as a regulatory agency during the study period which could serve as a viable alternative to a complete moratorium, in our estimation.

Certainly, legislation of this magnitude should be widely distributed and there should be a suitable time period for analysis and public deliberation. I find myself, however, offering comments at a public hearing on a bill which has not even been printed let alone widely circulated for discussion. I respectfully request that additional hearings be scheduled. And, I think you addressed that this morning when you said there would be more hearings. I think that is an absolute necessity.

If you have any other questions, I would be happy to answer them. I hope you understand our concern - which is to preserve this unique area of New Jersey. And, those of us who live there understand that perhaps better than anybody. But, at the same time, we have to make room for what is already there or for what can be there safely.

I would plead with you to think very seriously about the 18-month moratorium because the effect would be overwhelming in Ocean County.

SENATOR DODD: That we have no control over.

FREEHOLDER GLUCK: Yes, I know. But, in this bill you do. I understand that.

SENATOR DODD: That is really a key point: The Executive Order is in place, whether we like it or not.

FREEHOLDER GLUCK: I know that.

SENATOR DODD: Despite whatever position anybody has. This bill is a mechanism that would, the way it is drafted in its original form, emulate the Executive Order, virtually intact.

Now, our job on this Committee, and your job as citizens and interested people with vested interests or without vested interests, but with concern, is to make a workable bill that would achieve the noble goals that it sets out to do, and yet be realistic enough to have an eye on our economy and our needs in South Jersey. Now, with that, with some common sense and some give and take on both sides, perhaps we can effectuate that.

FREEHOLDER GLUCK: That would be marvelous. Since we have a little bit more time, because there will be another hearing, perhaps we can come back to you with exactly what you said -- suggestions.

SENATOR DODD: We need concrete proposals.

FREEHOLDER GLUCK: You will get them.

SENATOR DODD: "You don't like this, fine; give me an alternative." But, just don't be against. Nobody has that luxury. You can't just be against.

FREEHOLDER GLUCK: I agree with you.

SENATOR DODD: Give us an alternative.

FREEHOLDER GLUCK: If you will give us time, we will give you some alternatives.

SENATOR DODD: You've got the time.

FREEHOLDER GLUCK: Okay. Thank you very much.

SENATOR HIRKALA: In your statement, page 1, the County Tax Board has reported that 44,000 acres, equaling more than \$150 million in taxable real estate, will be affected in Ocean County. Can you tell me which municipality would be

most adversely affected by the loss of tax ratables?

FREEHOLDER GLUCK: I don't have that. I had a very quick list. I think all of Tuckerton, for instance, is in this area, all of Lacey. I don't have the list. I can supply it for you very easily. This was done yesterday, very late in the afternoon. That is when we got these figures. But, I would be more than happy to supply them.

SENATOR HIRKALA: Take you time. I would just like to know which municipalities are really going to have a stranglehold over them.

SENATOR DODD: Thank you, Hazel.

FREEHOLDER GLUCK: Thank you very much, gentlemen.

SENATOR DODD: Our next speaker will be Gary Patterson

G A R Y P A T T E R S O N: Senators, distinguished guests, and all my friends from the Pinelands, my name is Gary Patterson, and I served as Vice Chairman of Governor Byrne's Pinelands Review Committee. I was also the Chairman of the P.R.C.'s Special Areas Task Force that determined the boundaries for our Pinelands Report to the Governor. My home is in the Pinelands and I have been deeply involved with the local planning process. I am also the advisory of the Graduate Environmental Education Program at Glassboro State College and I teach courses in Natural Resources, Ecology and Environmental Land Use. I am most pleased to be here today to speak strongly in support of Senator Merlin's bill entitled "Pinelands Protection Act."

I view this bill as the appropriate outcome of the exhaustive committee work and months of vigorous staff work by the Departments of Community Affairs, Environmental Protection and Agriculture. Having worked so closely with many of the concepts for Pinelands management included in this bill, I feel I want to discuss and talk about them all. However, there are 50 or more people here today who also wish to testify so I will limit myself to certain sections of the bill.

Section five constitutes the membership of the Pinelands Planning Commission - P.P.C - and although I am in general agreement with the concept of state appointments by the Governor and local appointments by the County Freeholders - to ensure state and local input into Pinelands planning - I am dismayed by the reality that the Freeholders have been appointing themselves to this commission. It was not the intent of the Federal Pinelands Act that the local officials would appoint themselves. They were to appoint citizens who had a background in and were active for Pinelands preservation. I hope that the Governor, will now appoint strong environmentalists as the state appointments to the P.P.C. to counter the interests of the Freeholders who have not in the past demonstrated a concern for Pinelands preservation.

Section eight defines the goals of the Comprehensive Management Plan. The goals are good, ecologically sound and should insure the development of a comprehensive Pinelands preservation plan by the new P.P.C. and not another Pinelands "developers dream" as was prepared by the old Pinelands Environmental Council. That Council, established by P.L. 1971, c.417, whose work soon had environmentalists calling it the "Pinelands development council" should be disbanded and its enabling legislation repealed. Such is the recommendation of Section 26 of this bill.

Public awareness of our Pinelands resources, its water, unique habitats and its recreational potential, is a goal we have not yet met. A recent New Jersey poll for the Gannett News Service showed that nearly 40% of New Jersey's voters have never heard of the Pinelands. A report by the U.S. Department of

Interior concluded that the Pinelands preservation effort would be greatly enhanced if the general public was more aware of the Pinelands and its unique resources. It is my strong recommendation that the new Pinelands Planning Commission actively pursue the development of a Pinelands Environmental Education Program to further the public awareness of these resources we have in our South Jersey back yard.

Section fifteen authorizes the commission to make grants to local governments so that they may revise, free of cost to the local taxpayer, their Master Plans and zoning ordinances, if needed. All municipalities in the Pinelands, my own included, have "expended expenditures" to complete their master plans and ordinances as we all have been laboring under the directives of the new Municipal Land Use Law. Having the new commission offer compensation and grants to local governments to revise certain inappropriate land use plans, is a very positive way to promote cooperation between state and local governments. I strongly support this concept.

The last two sections I wish to comment on and voice support for are Sections 10 and 13. Section 10 delineates the Pinelands boundaries and Section 13 would severely limit the types of construction and land use in the Pines until the comprehensive plan is completed. To discuss these sections, if I may, Senators, I would like to refer to the maps I brought, which are on the wall.

The Governor's Pinelands Review Committee has a subcommittee called, "A Task Force for Area Identification and we utilized the staff of the Department of Community Affairs as well as the staff of DEP to data all information relevant to the Pinelands that has been in the literature since the turn of the century. We have tried to include this in our reports to the Governor - and now we see the boundaries are similar in the Merlino bill - all the information necessary to delineate the boundaries. I won't take full credit for this because another member of the Governor's Pinelands Review Committee is here also. We worked at great length on these considerations.

We looked at a variety of factual aspects. We looked at the Cohansey Aquifer and we looked at vegetation. We looked at water tables, vegetation types, water sheds, vegetation in terms of agriculture, and we tried to include all of these factors in an objective, factual delineation of the Pinelands.

One of the things we found as we studied the Pinelands is, from work done back towards the turn of the century by a fellow names John Marshberger, the Pinelands had been changed in 50 years significantly. His work showed Pinelands vegetation cuts clearly towards Bridgeton, beyond Millville, Glassboro, and even towards Camden and today you still find relics of a Pinelands eco system behind Glassboro or behind Bridgeton, where it is still yet undisturbed. But, the rest of the area, according to this 1973 vegetation study showing the white areas, has changed dramatically.

This is a 1973 vegetation study that shows primarily three areas: the black areas are publicly owned areas - fish and game, wildlife, Wharton tract, Lebanon State Park, Maguire Air Force Base, Fort Dix, and so forth and so on.

The orange areas with the black dots are what we consider the Pinelands traditional Pine Forest, where the Pine tree is the predominant tree. We are looking at vegetation and these vegetations are the primary indicated boundary delineation of the total Pinelands area.

The yellow areas are what you call the Oak Pine Forest. This is the '73 work. We mapped it and put on overlay on our state maps to show vegetation

types and then to the best of our ability we tried to draw lines. We used cultural features, readily recognizable cultural features - existing surveyed township lines, or roadways, or streams - or other evidences of what we call cultural features that we could follow. The boundary that came out of our vegetation analysis was this one. It is in green. This is incorporated in the Merlino bill. There is one difference - a significant difference. As you can see, all the way down the vegetation goes clear down to the Rio Grande in Cape May County. That part, down here, was not included in the bill because it overlaps the CAFRA controlled areas, and part of the Governor's Report indicated that we were trying to streamline approval procedures and not have overlapping bureaucracy. So, the bill considers that point. This way we don't have overlapping agencies reviewing each other.

The other area that is of interest is the Pinelands preservation area, and here we have taken into consideration the most critical ecological phenomenon that maintains the Pine Barrens, as it is known today. the Pinelands are really forces in transition. They will not stay in that form forever unless they are disturbed by some ecological phenomenon. Primarily it is occurring by fire, and you heard Sean Riley mention that earlier today. Fire kills Oak trees. It does not destroy the twisted, gnarled, sometimes ugly looking tree that is the dominant tree in the core area of the Pinelands.

So, to set aside an area, which we now realize we will have to ecologically manage by fire ecology, we attempted to draw contiguous lines, or lines between presently owned state and federally controlled areas, to just try to get one whole area that encompasses those most unique factors. That is probably the arbitrary lines we worked out because we have attempted to draw lines to the best of our ability to connect one entire, whole area that can be ecologically managed, and we are talking about having to burn them. If you don't control the eco system of those Pinelands by fire ecology, it will naturally, biologically succeed to a climax Oak forest and all the research indicates has to be settled?

The points I wanted to make about that are, I explained the methods by which the P.R.C. identified boundaries. I also tried to show that the bill's suggested boundaries closely resembled the boundaries that the Pinelands Review Committee made for the Governor.

I would like to conclude that the bill's boundaries are factual, ecologically sound and defensible in court, and that was the bottom line in setting these boundaries.

I urge that boundry "gerrymandering" for political reasons or other vested interests be avoided. When we considered these boundaries, we did not consider politics. We did not consider development pressure. We considered only the hard, cold ecological facts and I hope the boundaries can stand on those facts alone.

Also, I want to show what we were concerned with when we talk about piecemeal and scattered development of the Pinelands. We had a series of 13 overlays that we constantly put down and looked at to determine where development was occurring, what development was already there, where rights-of-way were to be, where new sewer lines would be established. We had to consider all these factors.

I brought in one section of the overlay showing development. It doesn't show well over the vegetation map because I fixed the vegetation map to the background, but if I pull them out you will see what we are concerned about with

scattered and piecemeal development. Do you see around the peripheral areas of the Pinelands how it shows development? The areas that are herringbone black with yellow are areas that have already been built on. They are sub-divisions and what not. The source of our records is from county planning boards that have the records of building, etc. We have just taken them on the map and outlined them.

The areas that are yet unfilled in with yellow are areas that have permit approvals. They are coming in and we can see the movement over from the west into the core of the Pinelands, which is probably the most primary concern for building limitation and for the time limit that the new state planning commission will act within and draw up a plan that will show where building can occur suitably. We have been finding that certain developments have not been building ecologically sensible and that certain problems have occurred and it is a problem.

The points I want to make on that are that development has occurred at a very rapid pace on the periphery of the Pinelands area and I have attempted to show that to you. This is from 1978.

We are nearing the development threshold past which we will be unable to maintain a Pinelands ecosystem. If you are in agreement that we have to manage the Pinelands ecosystem by use of fire ecology, then we must maintain a rather sparsely populated area in which this management tool will be used.

If we don't ban the incompatible construction presently occurring in the Pinelands, we will inevitably end up with only small pockets of open space between suburban sprawl. Further, the unique Pinelands ecosystem, the integral whole of this interrelated system, will be destroyed.

Earlier today, Sean showed a development coming in and it is not just the sewage we are worrying about, it is also the fertilizers and developing roads, and so forth. We need a breathing space to get a good plan done.

Now, the bill does not say that no building will ever occur in this management area -- what they call in the bill, the Pinelands area. In fact - and I have been involved in the local planning process - we are looking for exciting construction, people who are going to take into consideration the land that is there. We had one member of our committee - Malcom Wells, who is one of the more unique architects that I have seen - whose plans for construction would meet the housing needs, and so on, but wouldn't have a dramatically adverse ecological impact upon the earth. There are possibilities here. We have to look into them. And, indeed, there are probably areas within this Pinelands area - of management area - which will accommodate certain types of commercial, and industrial, and residential development. Those decisions will have to be made by the new Pinelands Planning Commission.

SENATOR HIRKALA: May I interrupt you? Pat, may I have permission to interrupt him at this point?

SENATOR DODD: Yes.

SENATOR HIRKALA: You are making a great presentation, but you just came to a point that I raised earlier about the possibility under certain circumstances of extraordinary hardships. Can you picture yourself as a developer who has a plan that meets with everybody's approval, but at a meeting of the Commission only 9 members out of 10 are there and you get only 9 votes - 9 to 0 - and it is knocked down because he doesn't have two-thirds of the full authorized membership? How would you feel if you were that developer?

MR. PATTERSON: I would like to think that the appointments that are

being made will be responsible enough to attend. I can't be sure of that. I do know that the subcommittee that I chaired had a very high attendance on the Governor's Pines Review Committee. But, I can't speak for the new committee that is going to start up.

Senators, I thank you for this opportunity to speak here for not only myself but for the work of the Governor's Pinelands Review Committee. I personally pledge my support to the passage of Merlino's bill. This bill may reach our goal of preserving New Jersey's Pinelands for all of us, now and into the future.

The time to act is now, quickly and expeditiously. And I must heed the slogan of the Pinelands Coalition: "Please, don't let greed destroy the Pinelands."

SENATOR DODD: Thank you. Senator Parker.

SENATOR PARKER: You indicated that the federal legislation did not intend to include any municipal or county officials. Can you point to that for me in the federal legislation? I have the legislation here, if you would like to look at it.

MR. PATTERSON: I am not sure if I can point that out exactly.

SENATOR PARKER: It is right there. I have it underlined for you, sir.

MR. PATTERSON: Let me see if I can call on some assistants here. When we were down in the Senate Chamber with the aides for Senators Harrison Williams and Clifford Case, there was a statement that was to be read on the floor. I believe it was read on the floor of the Senate when this section of the bill was passed.

SENATOR PARKER: Well, that would be in the Federal Register, wouldn't it?

MR. PATTERSON: Correct. The intent of the appointments at the local level were to be to find people who would be concerned with Pinelands preservation and who have had some interest in it, and who have participated in some way in the past. There is a legal term for a statement from the floor.

SENATOR PARKER: Is it colloquy?

MR. PATTERSON: Colloquy, that's it. That is where this intent was read. I am not familiar with the legal jargon on that, Barry, but this is where, as you probably read in the newspapers, Congressman Florio has shown great concern with the way the appointments have been made.

SENATOR PARKER: Well, would you answer the question that I directed to you? We will get the Federal Register and see if it appears in there. But, is there anything in that law that indicates that local officials are not to participate, as you indicated?

MR. PATTERSON: No, Barry, it only says that the Freeholders are to appoint them.

SENATOR PARKER: Okay.

MR. PATTERSON: But, it doesn't indicate that they are to appoint themselves.

SENATOR PARKER: Wasn't it the whole basis of the federal legislation that there would be local cooperation from all officials, public officials as well as conservationist and other groups?

MR. PATTERSON: Yes, indeed. That is correct.

SENATOR PARKER: I have no further questions.

SENATOR DODD: Thank you. We will adjourn until 2:00 this afternoon.

AFTERNOON SESSION

SENATOR HIRKALA: This is a continuation of a public hearing on the Pinelands Preservation Act. The Chair would appreciate everybody's indulgence. Please try to keep as silent as possible. We know the conditions are not to our best benefit. I would ask that no one applaud or make any outburst at any time.

The next witness to be called is A. Morton Cooper, Chairman, Pinelands Environmental Council. Mr. Cooper, you may make your presentation now.

A. MORTON COOPER: Mr. Chairman, members of this Committee, my name is A. Morton Cooper.

SENATOR HIRKALA: Mr. Cooper?

MR. COOPER: Yes?

SENATOR HIRKALA: May I ask you to try and speak a little louder because it is very difficult for those in the rear to hear you.

MR. COOPER: I appear today as Chairman of the Pinelands Environmental Council. That was an agency created by act of the legislature in 1971 and known as NJSA 13:18-1 et seq. Under section 26 of the Merlino Bill we are addressing today, this agency would be abolished. I suggest that this Committee give very careful and close scrutiny to the wisdom of this at this time. I will limit my testimony today to this single issue so that you may make your decision with full knowledge of the facts and the way in which the council is now dealing with the major environmental issues in the central part of the Pinelands.

Following enactment of the PEC statute, the Council - which consists of 15 members from various specific walks of life - established its office in the heart of the Pinelands near Browns Mills. This facilitated easy access to the people of the region and the physical chance to develop the necessary close relationship with local officials. But the Council did run into difficulties. There were the usual growing pains in establishing a new agency and the Chairman had strong partisan political beliefs and was active in that respect - a fact which caused obvious problems with the way in which the Administration viewed the activities of the Council. The Executive Director developed personal legal problems which ultimately led to his resignation. The Council released for public comment a plan for the Pinelands - an attempt to set forth a set of guidelines toward striking some sort of a reasonable balance among competing interests. This is the document which the Administration strongly criticized as a "developer's dream." At least some of the points raised in the Administration's critique had merit and undoubtedly would have been incorporated in a new draft along with other valuable comments received from the public at the hearing. But, the biggest problem was yet to come when the Administration moved to eliminate the annual appropriation of the state's share -- the state statute provides for shared funding among the state and Ocean and Burlington Counties. Then the Administration moved to eliminate the council altogether on the basis that it was no longer possible to follow the funding formula. But the Freeholders of each county believed in the concept of the council and believed that given a chance to set a new direction, the concept as designed by the Legislature in 1971 could work. Litigation followed on the legality of the council's continued existence. After nearly 18 months, the counties affirmative contention prevailed and a decision was made by the Freeholders of each county to increase their appropriations somewhat and direct a reorganization of council operation. Unfortunately,

because of the litigation, 18 months of valuable time had been lost and major projects proceeded without the comprehensive review required by the statute.

With restored county funding, in the Spring of last year a wide ranging search began for a new Executive Director. This resulted in selecting Richard D. Goodenough - who is here somewhere - who is widely known in New Jersey for his many years of active environmental work. Many of you will remember him as Director of the Department of Environmental Protection's Division of Marine Services and also as Director of the Division of Environmental Quality. Selected as Deputy Director was Peter Furey, a young professional and native of South Jersey, with experience beyond his years. I became the new Chairman and W. Brooks Evert, well known for his Pine Barrens conservation work for many years, became the Vice-Chairman. The Freeholder Directors of each county became members and quickly assumed a very supportive role for the professional staff, giving freely of their time.

The new staff quickly moved to establish working relationships and understandings with local and county government by visiting each municipality in the Pinelands and meeting with mayors and planning boards. Excellent professional relations with the staffs of the county planning boards, health departments and other agencies soon developed. Meetings with state agencies and private environmental groups helped contribute to the new direction. In short, by last summer we began an extremely active protective program - but always in a low-key manner - as the professional staff leads us toward getting the job done without the emotional controversies of the past.

I am proud to say I think this has been successful.

Permit me to share with you, as briefly as possible, a few of our recent experiences.

When a developer in Woodland Township wanted to construct housing on a 1,000 acre tract, the planning board of that town referred the application to the PEC. Preliminary discussions with the applicant resulted in several technical changes in design, but most significantly, the applicant agreed to dedicate 25% of the land as a conservation easement, thus providing a protection strip along all water courses on the site. At this point the developer is preparing an environmental impact statement on the entire project. I might point out parenthetically that only a very small percentage - about 5% - of the total was actually within the jurisdiction of the Pinelands Council, but by our looking at the whole thing, it gave us a better viewpoint and put us in a better position to make recommendations. When completed, we will hold a quasi-judicial public hearing in Woodland Township and then file our decision with all appropriate agencies. It is significant to note that this whole process resulting in design improvement and full public input with the benefit of a full EIS would not have happened without the PEC. The Department of Environmental Protection had already given conceptual approval to the original design containing no conservation easements.

Soon after our reorganization, the staff learned of a proposed 4,500 unit development in Manchester Township which was moving along through the approval process before the local planning board. After meeting with the board and gaining their full cooperation, we served notice that we were assuming jurisdiction and requiring the applicant to conduct the necessary environmental studies. This case has often been cited as an example of how the Pines are being rapidly developed, yet the action we took was several months ago, and we have heard nothing further since then. If we do, we will give it the closest kind of scrutiny. Several

weeks ago, we learned of plans of Jersey Central Power and Light Company to construct a new 200 foot wide power line right-of-way all the way across the middle of the Pines with towers every 700 feet, which would dwarf the underlying vegetation. Herbicides would be used around each tower base and construction would involve crossing some 37 streams and rivers. Incredibly, every state agency had given approval to this project and no agency was reevaluating its position with respect to our current understanding of the importance of the Pines. The Pinelands Environmental Council seemed to be the only agency with a chance to effect change since Jersey Central Power and Light Company had failed to clear with the PEC. A mongh ago, the PEC voted unanimously to exercise jurisdiction so that all current environmental issues could be addressed and the public could have full input. Last week Jersey Central Power and Light notified us that they would comply. This too would not have happened if we had not been on the scene to take this action.

In Stafford Township we have another classic example of a major project going forth without a full environmental review or public input, but for our authority. A proposed new trunk sewer will open up a large area of virgin pines for development because of its proposed size and location. Yet, because no state or federal funding is involved, the DEP is greatly restricted in the kinds of environmental study they can require. But we took jurisdiction and began our review process. We retained independent engineering and environmental advisors. A public hearing was held in Stafford Township two weeks ago. It was very well attended, I might add, by local people. As a result, a number of changes have already been made to improve the project. This case will be decided in the near future.

We aim to bring about a design which will best service the total public interest. I could give you other examples, but the thought I wish to leave with you is that we are very alive and well. Our past is behind us. We are operating only in a professional manner. We are actively cooperating with every possible agency and group. We are instantly responsive to the legitimate concerns of applicants. We assisted and supported the drafting of the recent federal legislation. The counties and municipalities have expressed approval and appreciation for this kind of process. Since our reorganization, no major development has gone forth in our area of jurisdiction.

Gentlemen, I urge you once again to consider all of this carefully as you proceed with your deliberations. Let the public interest be best served with a decision-making process that is balanced and responsive to the people.

For our part, we will continue with these programs. We stand ready even to expand our efforts if funding and conditions permit it.

I would like to thank you for the opportunity to tell our story because I am proud of it.

SENATOR HIRKALA: Thank you, Mr. Cooper. Are there any questions?
Senator Parker.

SENATOR PARKER: Just one. Mort, would you explain the makeup - because I am sure that maybe all the other members aren't familiar with the PEC and its makeup - of the PEC and what the representative positions of the various members of the council are?

MR. COOPER: Yes. The statute had called for 15 members on the Pinelands Environmental Council. Since there were two counties involved, there was matching expertise from the two counties. There were three mayors, or their

representatives from Burlington County and three mayors, or their representatives, from Ocean County. There was a sportsman, representing the sportsmen from Burlington County, and there was one from Ocean County. There was a citizen environmentalist from each of the two counties. There was a representative of the cranberry industry, who was nominated by the cooperative in the cranberry industry. There was also one for the blueberry industry, nominated by the cooperative from there. There was also a representative of the Freeholders from each of the two counties and a representative of DEP. If I have them all, it should be 15.

SENATOR PARKER: Now, when the original bill was drawn and the concept for the membership as well as the area was developed, how was that done? Can you give us some background as to who was involved in the original drafting, or putting together, of the legislation and how it came about?

MR. COOPER: Well, the original bill was in 1971, but for at least five years prior to that, there was a great deal of behind the scenes work that was being done. The first thing that triggered it off was a request to the Department of the Interior to make a study to determine how much of this New Jersey Pine Barrens was of national significance.

The Department of the Interior retained the Academy of Natural Sciences in Philadelphia to make that study.

SENATOR PARKER: And did they make the study that has resulted in the final area designation?

MR. COOPER: No. They selected essentially that area. But, the study area was done by the late Doctor Jack McCormick, who was mentioned this morning. He selected a pear shaped area. And, in making the recommendation from the advisory committee, that later became the Pinelands Council, that pear shape was used as a guide and almost followed. It was simply the heart of the Pinelands. It made no effort to take in every Pine tree.

SENATOR PARKER: Just one thing further. Was that area intended to protect specific water resources and the environmentally significant flora and fauna for that area?

MR. COOPER: Not entirely. There was some consideration at that time when talking about the makeup of a committee or a commission that would handle it. If you had to have a representative from each county, or from each municipality, you could really get out of hand with numbers. And, the first meeting that was held by the advisory committee had 47 people that were invited. So, they had to narrow that down to an executive committee, and so on. In narrowing it down, some of the areas were cut off. A little tiny piece of Atlantic County, for instance, would have involved bringing in people from Atlantic County as the counterparts of the others.

So, in order to be kept down, they just took the heart area, as recommended by Dr. Jack McCormick at that time.

SENATOR PARKER: Now, I gather from your presentation that you want the PEC to continue, or to be merged into this Merlino bill, or into the federal bill. What exactly is your position?

MR. COOPER: Well, my position is that we are performing a function in there as watchdogs of this area. Whether we had sufficient teeth to have veto power over something -- we didn't have. But, the fact is that we are looking at everything now that is within our jurisdiction - no matter what it is, we are looking at it - and determining whether or not it is fragile or significant and

we are calling for public hearings so that we can bring it out in the open if it isn't something that we can support.

So, I am saying that that function would still need to be handled, no matter what you set up in the way of this ultimate planning entity or the ultimate commission under the Case-Williams bill.

SENATOR DODD: Are there any further questions? (no questions)

Senator Charles Yates of Burlington County.

SENATOR CHARLES B. YATES: Mr. Chairman and members of the Committee, thank you very much for the opportunity to appear and speak on the bill. I am Senator Charles Yates from Burlington County. I am a co-sponsor of the bill.

I would like to attempt not to repeat much of the points that are going to be made by other people. I would like to speak to two arguments on the immediacy of the need for regional coordination of Pinelands development and I am going to make two points relative to the immediacy of the problem.

The first point is this: After a period of many, many years of relative dormancy, there is no question today but that the Pinelands is at the heart of a tripartite pincer movement in development.

The most rapidly growing county in the nation, on its eastern face, Ocean County, is growing out into Pinelands areas. We have the resurgence of Atlantic City. The renaissance in Atlantic City creates an accelerated development pressure up from the south. And, we have development pressure from the municipalities on the western borders of the Pinelands, which represent suburban communities - bedroom communities - for the Philadelphia metropolitan area. Those communities, by and large, are under problems in sewer development and are causing a displacement of development pressure that otherwise would have been closer to Philadelphia, out toward the Pinelands area.

If there is one consistent theme you are going to hear in the testimony of all witnesses today, on both sides of the issue, it is that there is development pressure in the Pines. I would like to support that with two arguments. First, this is a map prepared by a local environmental group. It highlights one of the municipalities in the affected area - the municipality of Tabernacle in Burlington County. The green area is the Wharton State tract and the orange area shows approved sub-divisions within Tabernacle Township now. This map shows you the Pinelands spotted fever of development. It shows you the very kind of development that this legislation is designed to regulate. This is a disease spreading across this area of the Pines at this point.

The second point I would like to make is in support of the argument that says the bill is immediately necessary because the development pressure is going to make, in effect, a double edged sword out of much of the testimony you are going to hear today on the economic impact of the Pinelands legislation. The theme is going to be that legislation that restricts growth in the Pinelands is going to have severe economic impact in the South Jersey area. I would like to urge you Committee members to think. Every time you hear that argument made, every time you hear about loss of jobs, loss of investment, what you are hearing is the voice of development pressure in the Pines. If anything, if should firm up your awareness that this is not a casual subject, that the Pines are, in fact, in the path of development coming from three directions and that this bill is urgent now to assure that that development will be in an orderly fashion.

The second point I would like to make is, this bill is necessary because right now legitimate business interests are being economically injured by a period of great uncertainty. This bill is not designed to outright prevent development in the Pines.

I would like to refer you to page 9 of the bill, wherein the purposes of the comprehensive management plan in the Pinelands area is spelled out. And, I think this needs to be emphasized. Item number five is to encourage appropriate patterns of compatible residential, commercial, and industrial development in, or adjacent to, areas already utilized for such purposes in order to accommodate regional growth influences in an orderly way. I submit to you that delay in moving this legislation is delay that injures the economic interest of legitimate business people, people who are willing to live with reasonable environmental standards. It injures them because it postpones the date by which they will have reasonable standards to work with.

I would like to, if I may, move on to one or two discussions relative to the text of the bill. I think there may be one or two errors in drafting -- if not, they are errors in philosophy.

Let me first draw your attention to page 3, section 5, where the gubernatorial nominees to the commission are considered. Let me point out that there is no provision in the bill, as it presently stands, for the Senatorial advice and consent on those nominations. I would like to submit, as one of the co-sponsors of the bill, that this is a very important authority that is being given to the Governor, to name those seven members, and the long-standing, significant contribution of the Senate in advising and consenting in those nominations should not be overlooked.

SENATOR PARKER: What page is that, Charlie?

SENATOR YATES: Page 3, bottom of the page.

SENATOR DODD: That provision is being drafted right now.

SENATOR YATES: Mr. Chairman, I would like to submit that it should apply as well to the naming of the Executive Director, who again is a very key individual in the day-to-day affairs of the Commission.

SENATOR PARKER: Just on that point again, don't you think the council itself should elect the person, rather than have the Governor appoint him?

SENATOR YATES: Senator Parker, I would like to say that I think this is an important executive in the overall scheme of state government and I think that to be a gubernatorial appointee is advisable. As a potential future Governor yourself, I would think that the naming of that Executive Director should be something you would be interested in. (laughter)

SENATOR PARKER: Do you want me to comment, Charlie?

SENATOR DODD: There is room for all, believe me.

SENATOR YATES: I would like to go on to another question that arose as I reviewed the legislation. I simply could not determine this, and I would like to suggest you have your staff take a look at this. In the definition of the borders of the Pinelands area, as opposed to the preservation area, the Executive Order of last week or so clearly spells out that that area which is within the preservation area is not part of the definition of the Pinelands area. In trying to follow the rather lengthy description from street to bridge to creek, and so forth, I couldn't determine here whether or not that precaution had been taken. I think it needs to be clearly spelled out that the one area is one thing - the preservation area - and that the Pinelands area is something else quite separate.

The one is exclusive of the other.

On pages 16 and 17 there seems to be an inconsistency in the thrust of this legislation as compared with the Executive Order and I think if it is left unattended it would cause some severe problems. It amounts to this: In both the case of the bill and the Executive Order, there is a provision for that period during which the comprehensive management plan has not yet been formulated and it is part of the bill that defines under what circumstances the appropriate agencies may permit development to continue.

In the preservation area, the intent of both the Executive Order and the bill is that there should only be two grounds under which by a two-thirds vote the commission could permit a project to go ahead.

SENATOR PARKER: What section is that, Charlie?

SENATOR YATES: Page 16, on the bottom of the page. It basically defines extraordinary hardship or compelling public need. It then goes on to say it has to be consistent with the purposes and provisions of the act. Now, there are two more sections which refer to extraordinary hardship and compelling public need, one of which applies to the Pinelands area and the other of which applies to the preservation area. What I want to point out is this: In the Executive Order a third category is included in addition to those two, that category being by way of an "or." Let's see if I can find this. On page 6 of the Executive Order, I will read conditions one and two and then I will add the third. The conditions are: (1) That there exists a compelling public need for development or construction or, (2) The denial of an improvement would result in extraordinary hardship -- and this is the key thing -- or, (3) The development of construction for which an approval is requested is consistent with the intent, goals, and objectives of the Executive Order.

In other words, we are not talking about the preservation area. We are talking about the yellow area, so to speak -- the large area. And, there are three conditions and that last condition only requires that the development be consistent with the objectives.

In the proposed legislation, the "or" has been omitted and as a result that reduces it to only those two conditions and I submit to you those two conditions were intended only to apply to the preservation area, not to the broad area. If you agree with this, the whole problem could be cured by reinserting the "or" after public need at the bottom of page 16.

SENATOR PARKER: Well, it has "and" there and "and" would not result in substantial-- There has to be three affirmative findings: extraordinary hardship, compelling public need, and substantial impairment.

SENATOR YATES: Extraordinary hardship or compelling public need -- both of which have to be there in addition to "would not result in substantial impairment." What I am saying is that in the Executive Order it is three conditions on an "or" basis: extraordinary hardship, compelling public need, or consistency with the goals. Now, we are talking about the other area; we are not talking about the preservation area. I submit to the assemblage at large here that it is not the intention of either the Executive Order or this bill to absolutely shut off development in the outer area. The purpose is to provide a vehicle for controlling that development, for guiding it in an orderly process. And, I submit to you that not only the environmental interests need this, but, frankly, legitimate business interests need an orderly vehicle where they know where they stand, they know what the process is, they know what is required of

them -- a process that they can work within. They don't have that today. It is causing severe economic dislocations to many people in the area because they don't have that today. That is why I feel that moving this bill is in fact important to the legitimate business and development in the area because it gives them a process within which they can work. Its purpose is not to shut off development; its purpose is to make sure that development happens in a regional, coordinated, sensible fashion.

Mr. Chairman and members, thank you for the opportunity of appearing.

SENATOR PARKER: Just two other questions, Charlie. One has to do with the appointment. The Pinelands Council, as you know, requires there to be certain groups represented -- environmentalists, sportsmen, and various groups. Do you have any comment on that? Do you see why we shouldn't adhere to some type of selective process, or identification of certain groups which should be included as nominees by the Governor?

SENATOR YATES: Well, let me point out that this bill is designed to insure that there is significant local input into the proceedings of the commission. In other words, seven members are selected by the various counties. When those selections are made at the local level, I think, frankly, we can trust local government to make sure that they are representative of the various mix of community interests. There is nothing in this bill which says a representative of, for example, the sportsmen is necessarily excluded from participating. What it does is, it leaves the decision-making process of who these representatives should be and what interest they should represent to the local initiative.

I would like to point out that the bill actually goes on to say, in the middle of page 4, that the membership of the entire commission shall include residents of the Pinelands area who represent economic activity, such as agriculture in the area, as well as residents of the state who represent conservation interests.

SENATOR DODD: Can we call on Mike for a comment on that with regard to the federal legislation.

MR. CATANIA: This is the exact makeup of the federally authorized planning entity -- to make it seven county appointments, seven state appointments, and one appointment from the Department of the Interior.

SENATOR PARKER: I understand that. There are seven appointments that are being made by the Governor. I am wondering if we should identify some of those interests as we have done in the Pinelands Environmental Council where we identified certain interests: so many conservationists, so many sportsmen, so many farmers.

SENATOR YATES: Senator, wouldn't that be within the province of the "advice and consent" relationship? Isn't that, in effect, what advice and consent means? Assuming we add it to the Bill, in making those nominations, the Governor should be consulting with the legislators in the area.

SENATOR PARKER: Let me put it to you in the reverse. Do you have any objection to our putting it in the formulas, similar to what is in the Pinelands, as far as the makeup?

SENATOR YATES: I would like to say it is unduly restrictive. There is a peculiar suggestion there that, let's say, a person who owns a farm necessarily represents the interests of agriculture. Farmers are responsible citizens. They may also be hunters. People on that Commission should serve, in effect, equally. They shouldn't be tagged as each representing a different economic area. I think it is important that the Commission be balanced. I don't think any specific

member should be told he has a slightly different interest bag to carry than any other member.

SENATOR DODD: Senator Hirkala.

SENATOR HIRKALA: Senator Yates, you referred to Section 13 (a), (b) and (c) and noted that there should be three exceptions rather than two. We brought up at this morning's hearing the possibility that someone may be granted an exception which then must be approved by a two-thirds vote of the Commission. I don't know whether that is too restrictive or not. I want to ask you how you feel.

SENATOR YATES: My perception is that a commission of this kind with 15 citizens who understand that they have important responsibilities both to the economic community as well as to the conservation community can be relied upon to act in a fair, conscientious, judicious manner. And I don't think in granting these exceptions that having 10 agree is asking too much.

SENATOR HIRKALA: Senator Yates, how would you feel if 9 members came to the Commission meeting and the vote was 9 affirmative votes and none in the negative, but you didn't meet the requirement of two-thirds? Wouldn't that be a little restrictive? Wouldn't that be inherently unfair?

SENATOR YATES: Let me just say there is no question but that that would be a pain in the neck to whomever is running the Commission, the fact that he couldn't get that tenth member to the meeting. I would like to suggest to you that is a problem that many of us who deal with committees and commissions and bodies of this kind have had to deal with. You simply must make sure by calling around, by polling the committee first, so that you know what members are going to be present. You arrange it so that frankly the problem doesn't occur. I admit it is an inconvenience. I think, with the interest we are talking about, it is awfully important that it not be too easy to get a variance from the broad requirements.

SENATOR HIRKALA: Senator, let's say that the Commission has good fortune and 10 members appear and the applicant who has received a State or municipal approval then gets 9 favorable votes out of the 10. He gets 90 percent rather than 66 2/3 percent, but he will go down the tubes. How do you feel about that?

SENATOR YATES: Let me say I can understand the kind of problem you are talking about. I approached this question of the granting of variances, frankly, as the greatest potential for having things happen that the broad public sentiment is against. I think it should be a difficult process to be granted a variance. It shouldn't be that easy. When it is a difference between 9 and 10 votes, I will admit we are talking about something marginal. If we talked about two-thirds of the people where you had 7 people present and you only need 5, it is a gray area. You have to draw some kind of a hard line.

SENATOR HIRKALA: How about two-thirds of the members present, but in no case would it ever be less than 8, which is a majority? In other words, if you had 8 members present, you would need 8 out of 8. If you had 9 members present, you would need 8 out of the 9. It would go right down until the time you needed 10 out of 14 and 10 out of 15.

SENATOR YATES: Let me point out that would create a situation where the absence of a member could begin to have a positive value. In other words, generally speaking, a person being absent or a person who abstains has no effect on the outcome. This would create an unusual situation. If you knew 13 members were going to be present, you might be encouraged to find some way to have two

of them not be there in order that the two-thirds requirement be the 8 members and that not be interferred with by the fact too many members showed up. I think that presents a little bit of potential for danger. Under the present system, a vote "yes" is a vote "yes"; and a vote that doesn't happen to be there isn't in the act, so to speak.

SENATOR HIRKALA: Don't we already have a safeguard in that the Governor will appoint the Executive Director and can veto any positive or negative actions of the Council?

SENATOR YATES: I agree that is a very useful piece of follow-up protection.

SENATOR HIRKALA: Thank you.

SENATOR PARKER: I have two other questions, Charlie. Number one has to do with Section 21 which says that nobody who owns any land can sell, for instance, a house or enter into a contract of sale - that means, sign the agreement to sell his house - until he offers it to the State and it goes through 60 days and what have you.

SENATOR YATES: We are talking about a very simple thing. We are giving the State the right of first refusal on properties within the preservation zone. This pertains only to the preservation zone and it is a simple right of refusal that gives the State the opportunity to match the deal, so to speak. It isn't condemnation where the State, itself, sets the rate or tells you what it thinks your property is worth. If you work out a transaction, this says the State has the right to step into the shoes of that buyer and say, "We would rather have the land for public purposes."

SENATOR DODD: Would you have any problem as co-sponsor with exempting single-family units?

SENATOR PARKER: They have used five or more lots somewhere here before.

SENATOR YATES: I wouldn't say that that alone would mean I would rise up in indignation and not vote for the Bill. I would like to point out there is a clear thrust here and the thrust is that eventually we would like that entire preservation area to be in public hands. It was specifically designed to link together large bodies of land already in public hands. The goal is to make sure eventually that happens.

SENATOR PARKER: Why don't we start with condemnation so that people know. The thrust of your comments was so that nobody would be economically disadvantaged and that everybody would know where they stand. How are they going to know where they stand if they can't enter into an agreement to sell?

SENATOR DODD: I see an even more basic problem on that, and that is the matter of dollars available. We are talking about roughly a million acres. We have at this point some \$60 odd million. If we get into buying individual home sites ---

SENATOR YATES: Senator, could I point out that the preservation area, the area we are talking about, is not the million acres.

SENATOR PARKER: You are talking about the original area.

SENATOR YATES: In the original area - staff could probably develop better figures for this - a very substantial piece of that land is public. In fact, the original area was designed because of the fact, by sheer good fortune, substantial amounts are already public. The effort is, with the minimum of public money, to put together a large, copious area.

SENATOR PARKER: Why put the burden on the property and home owner,

before he even enters into an agreement of sale, to have to go to the State and say, "I have had a tentative offer"? Why put the burden on him, as opposed to putting the burden on the State to say, "This is the area we are going to take and condemn"? It may create a hell of a hardship on somebody who is transferred from Jersey Central Power and Light to Public Service if he has to sell his house to move to Newark and can't dispose of it.

SENATOR YATES: On the question of doing it by condemnation rather than first refusal, I have a strong philosophical preference for avoiding condemnation wherever possible. It strikes me first refusal is at least in that respect a fairer process. As to the technical question of whether the mechanism of first refusal should start before or after a contract of sale, frankly, I could not get too exercised about it if the Bill were amended so the contract of sale happened and established the price and then the State's right of first refusal entered the picture. I don't have any quarrel with that, providing the fundamental policy here survives. That fundamental policy is basically that, without trying to rob anyone or force anyone, if people are eventually going to sell, the public should have the right to buy that land first with no economic injury to the seller, in order to eventually achieve the goal. The goal is a continuous piece of publicly owned Pinelands area.

SENATOR PARKER: One other thing that I wanted you to address as the sponsor of the bill is the impact on the devaluation of property by this legislation and the effect that it would have on the municipalities as far as their rateables are concerned and as it affects the remaining taxpayers in a particular area, for instance, that is outside the protection area, such as parts of Bass River, and other places.

SENATOR YATES: You mean the preservation area?

SENATOR PARKER: What thought have you given, if any, to either in lieu of tax payments like we have under Green Acres or some compensation to be paid to indemnify these municipalities from going into fiscal receivership or insolvency?

SENATOR YATES: Let me answer in a couple of overlapping fashions. To begin with, in the hard language of the Bill, let me point out page 19, Section 20, requires the Commission within one year of the effective date of the Act - and parenthetically let me again emphasize it is another good reason why this Act should not drag on forever - to submit to the Governor and the Legislature a report concerning in lieu of payments to municipalities which have an adverse impact. We are asking the Commission to work something out there.

Let me make a couple of other comments. Right now, there are municipalities in the area that have vast percentages of municipal land under the State umbrella, towns that, for example ---

SENATOR PARKER Bass River.

SENATOR YATES: (Continuing) --- have the Wharton Tract covering most of their land. Land that is under the State umbrella, I feel is deserving of State assistance to the extent that the municipality can show that it is costing the municipality something to have the land there; in other words, show some services being performed. We have had "in lieu of" legislation in the Appropriations Committee.

SENATOR PARKER: You are going to have a reduction of rateables and

a corresponding increase of taxes to the remaining taxpayers. School taxes aren't going to be any less.

SENATOR YATES: I am talking about the situation where right now you have substantial public ownership of land within municipalities. But to the extent municipalities can show that it is a burden and costing them money, I think the State should help them. For example, New Brunswick has the State University. To the extent they provide police services, ambulance services, fire services, etc., the State provides reimbursement for that. That just addresses the question, not the change in status, but a situation where you already have plenty of examples where there are large parts of public land within a municipality.

The third part of your question, what about an area right now that has a lot of open land that has a good development price on it that is paying taxes based on that development prospect, and now we are going to change the rules and that value will go down, my argument on that is --- Again, I want to say I am not speaking of the preservation area, which is, in effect, a different thing. That is an area we eventually want the State to have outright, lock, stock and barrel. In the outer area, this mechanism for planning for orderly development in the long run is the best possible thing that could happen to landowners. In that area, land values are improved by an orderly development process, maybe not in the first month, maybe not within six months. But in the long run, a better development, a nice neighborhood, is going to make these areas choice places to live. What will hurt these areas, what will really mess up their municipal finance, is the suburban overrun that is happening in other parts of the State, such as in areas I represent where in their thirst for rateables and more development, they couldn't move fast enough. Then they found out that the cost of building schools, the cost of building sewers, the cost of expanding their municipal services, in fact, was chocking them.

I submit to you in the long run this kind of process of orderly development is good for the landowners and the property owners. And, frankly, it is good for the State.

SENATOR DODD: Thank you very much, Senator.

David Moore, Executive Director of the New Jersey Conservation Foundation.

DAVID F. MOORE: Mr. Chairman and members of the Committee, my name is David Moore. I am Executive Director of the New Jersey Conservation Foundation, a private, non-profit, statewide membership organization concerned with open space acquisition and environmental quality throughout New Jersey.

We believe Senators Merlino and Yates have taken a bold and essential step in introducing state legislation to implement the federal legislation creating a Pinelands National Reserve signed into law last November by President Carter.

That federal legislation establishes a framework for an acquisition and planning program, and authorizes \$26 million in federal funds for that program. The state must provide its own legislation to meet the intent of the federal act.

The idea is not a new one. British National Parks are privately owned but carefully regulated and well protected regions. The Adirondacks are protected by a "forever wild" designation legislatively imposed as well as by state land use legislation. The alternative to protecting the Pinelands by a federal program is the establishment of a national park, which would end the agrarian way of life the Reserve concept seeks to protect. We think the Reserve idea viable, and one which will establish a pattern for other areas in our country.

The Pine Barrens is a physiographic region within the state that has been recognized for its botanical and zoological values since the days of John James Audubon. Its groundwater wealth was recognized by Joseph Wharton, who planned to export large volumes of water to serve the residents of Philadelphia. This Legislature prevented that export, and thus saved the Pines from that kind of commercial exploitation.

Those same qualities - the value of the natural resources, the wild character of the region, the agrarian way of life - make it necessary for this Legislature to act again. There is plenty of room to accommodate New Jersey's growth. There is even room for growth within the Pine Barrens region, but it should be well planned and carefully regulated on a regional basis to ensure that the resources there are not allocated in such a way as to destroy what is sought by those wishing to live in or visit the region.

S-3091 is far-reaching: It provides for communications between state and local governments and for effective enforcement of land use regulations by all levels of government; it recognizes the value of local control; and it creates a framework for preservation which is uncomplicated and straightforward.

The federal legislation contemplates state acquisition of large areas of the Pine Barrens. The issue of the impact on local tax revenues is one obviously of concern to the municipalities involved, which Senator Yates just went through. The matter is addressed by S-3091 in two ways: First, by a special study of impacts and, secondly, by the in-lieu tax payment program already offered by the State Green Acres bond issue -- a 13-year payment period, which gives local governments plenty of time to adjust.

Even after that, a small amount of funding is provided to towns for local services supplied to state lands. In addition, for any school expenses incurred by state employees living in a town on state land, tuition payments are available. The Legislature may need to adjust this system as we gain experience with the Reserve idea.

We urge immediate attention by the Legislature in the hope that passage can be accomplished at an early date, so that the planning process can get under

way. quickly. Landowners will then have a clear understanding of the plans and rules, which we feel is absolutely essential at this point.

The bill provides for a regional planning unit and development review group to replace the Pinelands Environmental Council, creating a unit with the kind of enforcement powers the PEC has called for over the years of its existence.

Clearly, the Pine Barrens is worthy of the same, or a greater, level of protection afforded the coastal zone - and for the same reasons. One mistake by one municipality has the potential of destroying the whole.

For this reason, we urge the Legislature to move quickly on this comprehensive measure, while we still have the chance to preserve the last remaining major open area along the mid-Atlantic Coast.

Thank you for the opportunity to present this testimony.

I would like to add that we would like to compliment the county governments where they have taken affirmative action. We have been working closely with at least two counties in that area - Bergen and Ocean. We now have an interest in terms of acting in advance of public agencies through a land acquisition program in something just under three thousand acres and we have been talking with a number of property owners - maybe 50 or more. So, we are prepared to act in advance of public agencies, when that need arises.

One other point I think I would like to make with respect to Senator Yate's comments on preservation. There seems to be some conflict between Commissioner O'Hern's testimony and that of Senator Yates with respect to ownership within the preservation zone. We think that it would be very useful to maintain, as Commissioner O'Hern said, and keep agriculture and private ownership available within the preservation zone, as well as within the protection area.

SENATOR PARKER: In that regard, before you go on - if I may, Pat - David, have you considered the program that they have adopted by legislation in California which permits the private ownership of large lands to be used similar to what the Audubon Society, I believe, did in Brigantine, where private groups have gone in vis-a-vis the State government to acquire lands in areas and then permit them to be used by those people, consistent with the plan in the area?

MR. MOORE: In some ways that is pretty much what the Burlington County program contemplates, the difference being, in California, the group is really a quasi-public group sanctioned by the Legislature of the state. In the Burlington County area, it would be a county affair, but still the basic title would remain in private hands and would stay that way as long as the use was compatible with the plan. Perhaps some public money would be needed to acquire some rights.

SENATOR PARKER: The reason I ask that specifically is because the State has closed down from public access in Burlington County a lot of Green Acres land because they don't have the wherewithal to keep them up, to maintain them, and let people utilize them. This is basically true of part of the Brigantine Wildlife Preserve where the federal government did the same thing. They would not permit certain activities. It took a long while to get the land open. Do you have any objection to that type of ownership as long as the use by the owner is compatible with the overall plan?

MR. MOORE: We do not only have no objection; we encourage that kind of arrangement.

SENATOR PARKER: This bill does not, as I see, permit that type of operation.

MR. MOORE: We see no prohibition in the bill for that kind of arrangement. In fact, in our dealings with both State and county governments, and some local governments in the Pine Barrens, we have been talking about those kinds of arrangements.

SENATOR PARKER: Unfortunately, the original Green Acres didn't have less than a fee simple interest. We had to put that in specifically from the 1968 bond issue in order to do it. It would probably be a good idea to have it.

MR. MOORE: I would see no harm in adding that.

SENATOR DODD: We have a comment on that.

MR. CATANIA: There is a provision in the bill that is in the Management Plan, in Section 7, Subsection 1, line 38, that various methods of management have to be considered.

SENATOR DODD: How is that worded?

MR. CATANIA: (Reading) ". . . public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites. . . and any other appropriate method. . ."

SENATOR DODD: Is there anything further? Thank you very much.

Arthur H. West, President, New Jersey Farm Bureau.

A R T H U R H. W E S T: Senator Dodd, members of the Senate Energy and Environment Committee, my name is Arthur H. West. I am a farmer, farming 390 acres in Upper Freehold Township, Monmouth County, East of Allentown, New Jersey, along with my wife and son. I am President of New Jersey Farm Bureau. New Jersey Farm Bureau is the voice of agriculture in New Jersey and has been for the past 60 years. It is a voluntary, non-governmental farmers' organization. We represent in New Jersey 4300 farm family members.

It is with deep regret that I am compelled to relate to you the feelings of outrage and disappointment over recent activities taken by the Governor with the Pinelands moratorium, and now Senator Merlino with the introduction of S-3091, which is known as the Pinelands Protection Act.

In issuing the moratorium, Governor Brendan T. Byrne placed an 18 month cessation on all construction activity in what he termed the heart of the Pinelands and by implied threat to local municipalities within the one million acre area compelled them, too, to cooperate in this confiscation effort. The Governor also stated in the moratorium that restrictions outlined in that fiat would stay in place until the legislature acts in compliance with the moratorium.

Senator Merlino, by introducing S-3091, completes the cycle and puts the State Legislature in the position of being a potential accomplice to what may be the greatest land grab in private property in this century -- one million acres, most of which is private property.

The moratorium is a blanket indictment of environmental stewardship performed by the vast majority of decent, law abiding, taxpaying, conservation minded citizens living in the affected area, many of whom have resided there for several generations -- people who have maintained the very area that is now to be preserved; people who created the desirable environment falsely accused of being under "immediate danger" of environmental destruction. The moratorium is an attempt by a minority group of elitist zealots both from within and without government to jam down the throats of the majority a set of "back to nature" concepts and values that separate human needs and requirements from that of wilderness flora and fauna -- prioritizing the flora and fauna and sacrificing people's property rights and land values, a not altogether uncommon practice by those who own little or no land, have no investment or personal devotion to its care and nurture, and in fact resent ownership of large parcels of land, especially farmers. These non-land owning environmental zealots are content to use un-truths, scientific inaccuracies and political chicanery to gain their ends. Their manipulative powers are awesome, as witnessed by the moratorium.

S-3091 includes all of the constrictions of the moratorium, but it also includes the creation of a 15-person commission which would be a planning and policy-making body with enforcement powers answerable only to the Governor. This commission is supposed to reflect the intent of the federal legislation -- Section 502, National Parks and Recreational Act of 1978, P.L. 95-625. Unfortunately, S-3091 bears no resemblance to the federal act.

The intent of the federal act and the language thereof makes it abundantly clear that a Pinelands planning entity was to be created, made up of local people and for a period of 18 months were to study the best ways and means of preserving the Pinelands while recognizing the industry and enterprises contained within its boundaries. Following the completion of its work the planning entity was to submit its report to the Governor and the Legislature for any further action.

The commission as detailed in S-3091 will become a "political subdivision of the state...exercising essential governmental functions...and shall be independent from any supervision or control...." This commission will be answerable only to the Governor who will have veto power over its own commission. No county or municipality within the one million acres slated for preservation will be able to countermand the dictates of the commission or ultimately the Governor. None of these stipulations are contained in the federal law. In fact, the intent of the federal law was to diminish the power and influence of the state by emphasizing local participation solely in what was designed to be a planning process during which time the area would not be constricted in its activities beyond present regulatory controls. The federal law does not demand, recommend or imply that the Governor appoint a chairman, executive director or staff, yet, both in the moratorium and S-3091 that is what is proposed.

The Governor's commission creates a police state, with the power and mandate to destroy home rule unless it does its bidding, power to destroy property values built up over many years along with the destruction of municipality tax bases, power to promulgate its own rules and regulations, and no matter how severe or confiscatory there is no recourse except to the Governor.

The legislation does grant an aggrieved individual recourse to the specifically mentioned Appellate Division of Superior Court, but the expense of such an appeal is borne by the aggrieved person and there is no time limit set for a court response or hearing, which simply means an aggrieved person may wait for years before a hearing is granted, let alone a decision, while in the interlude he must live under the aggrieved reason.

The legislation severally limits the aggrieved person's chances in court because the legislation says, "the object, design and purpose of this act being the protection of the Pinelands area and the resource thereof, this act shall be liberally construed." I think that is a very dangerous sentence in this bill. In simple English this means that the court is given unlimited latitude in making decisions and that any hairbrained, illogical, scientifically unsound regulation or rule shall be "liberally construed."

As stated before, the federal law required only a Pinelands planning entity. This legislation would add regulatory and enforcement authority which is totally contrary to the federal intent. The legislation, for example, requires that a landowner who wishes to sell property must give the Commissioner of Environmental Protection first refusal. Using the usual bureaucratic delay expertise, a decision from the Commissioner could be an indefinite period of time. The moratorium has already effectively destroyed property values for farmers, creating a loan refusal climate with banks and other lending institutions. A farmer may never be able to sell or buy farmland, which is another way of preventing the expansion of agriculture - unless such agriculture is indigenous to the area. That means unless the agriculture is cranberries or blueberries, no tillage or livestock farming is allowed. I think we ought to remember that: "indigenous crops only."

The legislation mandates as some of the commission's goals, the development of a comprehensive management plan, "to preserve and maintain the essential character of the existing Pinelands environment, including the plant and animal species indigenous thereto...preserve an extensive and contiguous area of land in its natural state, thereby insuring the continuation of a Pinelands wilderness which contains the unique and significant ecological and other resources representative of the Pinelands area...promote compatible agricultural, horticultural and

recreational uses within the framework of maintaining a wilderness environment." The commission is also mandated to submit a plan that implements the provisions of the "Clean Drinking Water Act" - P.L. 95-217 - and the "Safe Drinking Water Act" - P.L. 95-523. Implementing the "Clean Drinking Water Act alone, which is nothing more than a carcinogenic witch-hunt, will assure the elimination of agriculture, industry, residential, and commercial entities, and a swift return to the stated goal of a Pinelands wilderness."

Another of the commission's stated goals is to protect the quantity and quality of the existing surface and ground waters. Presently, the central Pinelands is under a harsh, stringent set of rules and regulations governing the surface and ground waters. Based on unscientific data as they are, the regulations are in force. Agriculture may never be able to meet these requirements -- another means of returning the area to the wilderness environment.

Now, the commission is mandated to preserve the "existing surface and ground waters." The existing waters won't meet the "Clean Water Act," and surely won't meet the "Safe Drinking Water Act." The only way to preserve the quantity is to limit water use to big users who happen to be farmers -- another way to return the area to wilderness. As long as man is in the area he will be blamed for the quality deviation, a battle he may fight forever and not win. One must not forget the "Wild and Scenic Rivers Act" and the proposed "Natural Areas Act", both of which can be employed, amended, discarded or made more stringent by the succeeding powers of the commission.

The assertion that the Pinelands is under "immediate threat" from "random and uncoordinated development" is simply not factually true. This statement is a strawman put up to justify an outrageous confiscation of nearly one million acres of land, most of which is private property. That there is an "immediate threat" to the "survival of rare, threatened and endangered plant and animal species" remains to be proven factually, not just the calculated emotional utterings of zealots who wish the Pinelands to return to a wilderness, devoid of man to the greatest extent possible. I might add that at one time I suppose dinosaurs were possibly a species that might become extinct, but I would never miss the damn things.

State and federal control over the Pinelands is an environmentalist dream, yet the moratorium and the proposed legislation, if not halted, will turn this dream come true into a nightmare for those who will have their property rights stripped from them. The moratorium must be lifted immediately and the proposed legislation stopped, or the "back to nature and wilderness-seeking constituency" will have successfully pulled off the greatest land grab in the history of this state. Thank you.

SENATOR DODD: Are there any questions?

SENATOR PARKER: Yes, I have one. Arthur, what effect does this moratorium and bill, limiting or affecting development in the areas designed in both the preservation and protection zone, have on the existing farmland in Burlington, Monmouth, Gloucester and Camden - although there is not too much left in Camden? What effect is that going to have? I know you are opposed to the farmland preservation program, which I support.

MR. WEST: I am for that, which I have told you many times. There is a technical problem with my opposition to the farmland preservation program. It should be continued, by the way. The technical problem could be cleaned up.

I suppose it is certainly going to put more pressure on the land outside the area, naturally. But, I think you ought to think more about what it is

going to do to the land within the area.

SENATOR PARKER: I am worried about both of them.

MR. WEST: Well, I am more concerned about the area within because that is the problem at the present. Already lending institutions have notified some of our farmers that they will not receive there operating loans this year because the values of their lands have already depreciated to a point where nobody knows what it is right now. The banks are certainly not willing to accept their property as collateral. This is pretty serious.

SENATOR PARKER: Let me ask you, on that subject, has the Farm Home Administration, the FHA -- and I have had some farmers say this to me -- indicated that they are not going to continue any loan programs or advance, or they are going to call in any loans they have already given to any of our municipalities or any of our property owners?

MR. WEST: I can't answer that. I don't have any information about the FHA. I am talking about the commercial lending institutions and the federal land banks which are owned by the farmers. I am not talking about the Farm Home Administration, which is a government give-away type program. I know you pay interest for it, but forget that one.

But, the facilities that most people use, the commercial banks, the federal land bank, and production credit associations are very concerned about this very serious problem.

SENATOR PARKER: Do you know of any that have been pulled at the present time?

MR. WEST: No, because this is brand new, within a week. But, there are being considered in several instances, I do know that. This is less than a week old.

SENATOR PARKER: How does the federal land bank work for a farmer? It pays him not to grow on certain acreage? How does it work? Will you explain this?

MR. WEST: The federal land bank is a banking institution entirely. It has nothing to do with crop support programs. In fact, we don't have any of those programs that are meaningful at all in the State of New Jersey. The federal land bank is a bank that is owned by the farmers who are members of the bank and it lends money on good business practices to farmers. And, unless you have collateral, you can't borrow money. And, what they have been considering as collateral now has been depreciated to a point where it is no longer viable collateral.

SENATOR PARKER: But, you know of none that has been called at this time?

MR. WEST: No, because this is a week old.

SENATOR DODD: Senator Feldman?

SENATOR FELDMAN: Yes, you justifiably lament the fact that the expense of an appeal has to be borne by the aggrieved person. If we were to insert, into this bill, an amendment that would state that if the aggrieved person is declared to be right in the eyes of the court and has been upheld, that the state would then pay for his court and legal expenses, would that soften the impact?

MR. WEST: That would help that particular paragraph. There are a lot of other paragraphs that I can point out that are equally damaging, but that would certainly help, yes.

SENATOR DODD: Senator Hirkala.

SENATOR HIRKALA: No questions.

SENATOR DODD: Mr. West, just one question. Your statement is very strong in representing the New Jersey Farm Bureau. Do you, or your organization, consider preservation of any of the Pinelands at all necessary?

MR. WEST: Yes. I think that we all have to recognize that the Pinelands, being what they are, very unique, there will certainly have to be some areas preserved. We can look at the map over here and I believe someone already pointed out that the large brown areas are already state owned. I could certainly see that some additional areas might be purchased. But, let's talk about purchase. Let's let all of the people that want to save this land pay for it. Let's not take it away or steal it from those who presently own it.

SENATOR DODD: Senator Feldman.

SENATOR FELDMAN: I, unfortunately, missed the testimony of Commissioner Alampi. Senator Parker and I attended another meeting. Apparently he was for the bill. He very strongly and vigorously supported it. In my opinion he speaks for the farmers of the state -- I mean, representing them.

MR. WEST: I disagree with you.

SENATOR FELDMAN: All right. Now, I want to know where the inconsistency is. Again, I did not read his testimony and I did not hear him, and I want to know where you think the Commissioner is wrong and where you feel you are right.

MR. WEST: On the first page I said that I speak for the 4300 farm family members of our organization. Secretary Alampi is a member of the Governor's Cabinet and he is a hired man of the Governor and he speaks for the Governor. He represents the Executive Branch of government, just as Commissioner O'Hern does and every other Commissioner that is a Cabinet officer.

He mentioned this morning that there are 10,000 acres of vegetable crops grown in that area as a part of that total economic package. He mentioned there are 3,000 acres of cranberries, more or less -- 3100 acres I believe it was -- and 9,000 acres of blueberries, which I don't believe are all in that area. But, he said 9,000 acres of blueberries, some of which are just outside the area, I believe.

With this indigenous crop clause in here, the only crops that would be allowed would be cranberries and blueberries because they are the only indigenous crops in the area. I don't believe asparagus is and there are very little asparagus left. Certainly, all of your horse farms could not expand. I guess you couldn't stop those that are there, but they certainly could not expand by one horse. A dairy farm in the area could not add one cow or one calf. And, a vegetable farm couldn't add one more acre of tomatoes because tomatoes are indigenous to South America, not the Pinelands area. So, the Secretary was totally inaccurate in his comments this morning.

SENATOR DODD: Just one thing. The Secretary of Agriculture is appointed by the State Board of Agriculture, not by the Governor. That is a clarifying point.

MR. WEST: Not really. The Secretary is nominated by the State Board of Agriculture and is appointed by the Governor, with the concurrence of the Senate.

SENATOR DODD: Yes, the State Board of Agriculture--

MR. WEST: Nominates.

SENATOR DODD: (continuing) --nominates. They are elected by the farm groups themselves.

MR. WEST: There are 76 farm groups that make up the election of the State Board of Agriculture, yes. But, they nominate for the Governor.

SENATOR DODD: Michael Catania would like to ask you a question.

MR. CATANIA: Mr. West, I would like to pursue some of your feelings on the effect this bill would have upon the kinds of agriculture activities. Secretary Alampi this morning testified that a continuation or expansion of existing agricultural activities was, in his opinion, exempt from the restrictions and controls of this bill. You seem to disagree with that.

MR. WEST: Totally.

MR. CATANIA: Is that based on the comment you made just earlier on the indigenous nature of agriculture?

MR. WEST: Both that and how would you clear off another 100 acres of Pinelands -- how would you get a permit, approved by the state, to clear off another 100 acres of Pinelands to grow more blueberries?

MR. CATANIA: The sections of this bill which require those kinds of permits specifically exempt clearing for agricultural purposes from any control under the bill.

MR. WEST: Not for anything other than cranberries or blueberries.

MR. CATANIA: The definition of application for development under the bill--

MR. WEST: Doesn't it say indigenous crops?

MR. CATANIA: No, it does not.

MR. WEST: I think it does.

SENATOR PARKER: That is a major point because I just looked on the map and it includes Hammonton and Waterford and this is where we have a lot of peaches and other types of crops.

MR. WEST: The Secretary mentioned peaches and apples.

SENATOR PARKER: Pardon me?

MR. WEST: The Secretary mentioned peaches and apples this morning within that area and they too would not be allowed to expand in any of these areas, as we read the bill.

MR. CATANIA: I would like to refer you to the definition of application for development on page 2, section 3 (a). The exemption there is "the improvement, addition, expansion, or reconstruction of any structure used exclusively for agricultural or horticultural purposes." It says nothing about indigenous.

MR. WEST: Structures -- I believe a structure is a building. You are not talking about clearing off 100 acres to plant more crops with a structure, are you?

MR. CATANIA: I again refer you to the definition of major development in subsection (e), which says: "...grading, clearing, or disturbance of any area in excess of 5,000 square feet for other than agricultural or horticultural purposes." The Commissioner would have no jurisdiction there.

MR. WEST: Sir, we already have to get approval from Soil Conservation, which will be under this commission within that area, to clear 5,000 feet of anything for any purpose. This is already in existence.

MR. CATANIA: This bill would not--

SENATOR PARKER: Wait a minute, where is the word "indigenous", Arthur? You must have gotten that from somewhere.

MR. WEST: I did.

SENATOR PARKER: It is not in these two sections.

MR. WEST: It was in here.

SENATOR DODD: But, on the previous point that we are trying to make, this would not add any additional burden on clearance.

SENATOR PARKER: Well, let's stay with the word indigenous.

MR. WEST: Let me go back and get my rough copy. We just got the printed copy. We have been working from the rough copy.

SENATOR PARKER: Page 8.

MR. WEST: Page 8, line 8 and 9, at the very bottom of the page. That is section (3) which says: "Promote the continuation and expansion of indigenous agricultural and horticultural uses." It is also in several other places throughout this bill. As I say, I have been working from a draft copy, as opposed to the printed copy.

MR. CATANIA: There is also a section that says it has to recognize existing economic activity within the area and provide for protection and enhancement of such activities as farming, forestry, and proprietary recreation facilities. I think the problem is with the term indigenous. I certainly agree with you that peaches are indigenous to Hammonton just as blueberries and cranberries are indigenous to Chadwicks.

MR. WEST: Well then, we have to get a new dictionary because the dictionary says that they are natural crops to an area.

MR. CATANIA: Well, blueberries are not indigenous to the Chadwicks area. They were brought in.

MR. WEST: From where?

SENATOR PARKER: We have wild blueberries there.

MR. WEST: From where? I think you better study your history, sir. I would suggest you study your history.

SENATOR DODD: Is there anything further from Mr. West? (no response) Thank you very much, sir.

MR. WEST: Thank you.

SENATOR DODD: D. W. Bennett, American Littoral Society.

SENATOR HIRKALA: Would you please identify yourself for the senographer and the public?

D A N A R O W A N: Okay. My name is Dana Rowan and I am New Jersey Coordinator of the American Littoral Society. We are a coastal conservation organization.

It is a real pleasure to appear before your Committee today and also so many builders and environmentalists at the same time. I am sorry to see us so polarized during this occasion, but still this is a rare opportunity.

A moratorium isn't a pleasant experience. It creates hardship for some, inconvenience for others, and it generates a traditional round of groans from the business community in much the same vein as other controls like price fixing, gas rationing, and wage guidelines. Simply, the moratorium and the implementation mechanism of the Pinelands Protection Act is strong medicine for an ailing Pine Barrens. I trust that the citizens of this state will join me and support S-3091 so that the region may recuperate from the ill effects of uncontrolled growth.

The Pine Barrens moratorium is a serious action, but it is warranted. Today we are faced with what Stewart Udall - former Interior Secretary - coined in the 1960's as a "quiet crisis." The loss of our state's last large wilderness area is indeed quiet and subtle. In fact, the Pine Barrens is threatened by

seemingly harmless motives, such as the pursuit of inexpensive housing, suburban living, and quiet retirement lifestyles. These are American institutions. But, when you think about it, so is open space. My vision - and I think many other American's vision - of our country includes, among others, the Grand Canyon, Cape Hatteras, Yosemite, and the Pine Barrens. These are grand examples of our national heritage.

Unfortunately, the Pine Barrens is facing extinction. The megalopolis stretching from Boston to Washington is rapidly filling in, with many parts of New Jersey already representative of the saturated land use of the future. Must we tar and concrete the Pine Barrens too in our headstrong pursuit of an urbanized Northeast?

John F. Kennedy challenged the threat of the quiet crisis very eloquently: "We must do in our own day what Theodore Roosevelt did sixty years ago and Franklin Roosevelt thirty years ago -- we must expand the concept of conservation to meet the imperious problems of the new age. We must develop new instruments of foresight and protection and nurture in order to recover the relationship between man and nature and to make sure that the national estate we pass on to our multiplying descendants is green and flourishing."

What President Kennedy just described is Governor Byrne's "noble purpose." Kennedy's vision is clearly reflected in the Governor's statement that the moratorium "will benefit not the developer of today, but the generation of the future."

We must develop new instruments of foresight and protection for the Pine Barrens because the current trends are distressing. Newspaper articles with headlines such as, "New Jersey Is Losing Top Heavy Reputation" sum up the trend succinctly. From 1970 to 1977 Ocean County grew 50%, with individual municipalities in the county growing even faster. Manchester and Barnegat more than tripled their population during those seven years, while Berkeley, Ocean, and Stafford doubled theirs. It is no wonder that Joseph Portash, Manchester Township manager, believes that sustained fast pace of growth in his community could lead to severe environmental problems and economic deterioration. The experience for many Burlington County communities were similar during that period with Shamong, Tabernacle, and Southampton doubling the local population.

Some local and county planning efforts in the Pines region are just as disturbing. I cite the Ocean County sewerage system and planning as a prime example. The 24 million gallon per day plant is now completed, but the 30 miles of pipes aren't. When the pipes are laid and the area tied in, waste from that service area will total 11 million gallons per day, or only 45% of the total designed capacity. Right now, the pipes are so oversized that the sewage authority is asking the DEP for permission to divert a significant portion of the Toms River just to get the sewage moving through the system. The most disturbing aspect of this problem is that, based on EPA standards, that 55% surplus capacity will support an additional 162,000 new residents in that part of Ocean County alone.

I might add here that fishermen are concerned about the impact of freshwater diversion from the Pine Barrens to northern New Jersey, for example, on coastal estuaries, but what about water diversion associated with ocean out-fall sewer pipes? At capacity, the Ocean County plant will divert 24 million gallons of fresh water a day under the estuary and straight out to sea. At current per capita consumption rates, that is equivalent to diverting enough water north to support a city of 65,000. The Littoral Society is opposed to freshwater diversion in general and I will discuss its impact and other impacts

on the coastal zone shortly.

The Pine Barrens has undoubtedly experienced dramatic growth over the past ten years. Not all of the new residents of the area are retired senior citizens. Many need jobs and that means local governments must solicit industry to the Pinelands. Currently, there are already four industrial parks in the Pine Barrens. Fortunately, they are not within the Governor's protection area but the point is, do we want a proliferation of industries in the Pine Barrens? And, if not, then is it wise for the state to encourage, or even sanction, the migration of new residents that will certainly require these new jobs? This is one more reason for a temporary moratorium and carefully regulated growth in the future.

I have talked mostly about land based impacts thus far, but what about the coast? Roughly one-half of the coastal zone's fresh water originates from the Pine Barrens. That coastal fresh water mixes with the ocean in the state's estuarine bays where 70% of all marine fish spend part of their life cycle. Maintaining the health of these estuaries is important as the resource supports a recreational and commercial economy in excess of \$450 million annually.

A continuation of development, with attendant increases in population densities, has a wide range of impacts on estuaries. The anticipated effects on the coastal zone are speculation at this point, but observations from other more developed regions of the Jersey coast can provide a realistic projection. These impacts can be divided into three general categories and they are: decreases in water volume from drainage basins from consumption; deterioration of water quality in these basins; and increased siltation resulting from accelerated erosion of exposed soils and artificial fill material in the Pine Barrens.

Estuaries depend on fresh water to provide a natural range of water salinities. The specific salinity and timing during the year are critical to the survival of estuarine organisms. For example, researchers report that success of the oyster, New Jersey's most commercially valuable mollusk, is critically dependent on proper salinities. Diversion, consumption, and retention of water flowing through the Pine Barrens drainage basin will have visible effects downstream in the estuary. National examples of environmental damage resulting from disturbing water flow are the consumption and diversion of the Colorado River - it doesn't reach the ocean any longer - and the impact of damming parts of the Connecticut River on the survival of its anadromous fish.

A majority of the Pine Barrens' rivers have clean water. The Mullica River, with the largest drainage basin contained within the coastal plain, is a generally pristine system. It is no surprise that Great Bay, at the mouth of the Mullica, is one of the most productive estuaries in the state.

Deterioration of water quality would have dramatic effects on biological productivity. Crustaceans are very susceptible to synthetic organic compounds -- pesticides, PCB's in urban runoff, and processing chemicals of industrial effluent -- accumulating toxins in their flesh. Through biomagnification - that is the process of fish eating other fish - these poisons are passed up the food chain in concentrated form.

Estuarine population is characterized by residents which spend most of their life cycle in brackish water, juveniles spawned in the open ocean which seek protection in the vegetated shore-sea interface, and young spawned in the estuary itself which eventually move out to sea. Ninety-five percent of the fish landed, commercially and recreationally, in New Jersey are dependent on

the estuary for all or part of their life cycles. Fish such as menhaden, weakfish, and bluefish spawn in estuaries and feed on schools of baitfish in these protected areas after reaching adulthood. Oily fish, such as menhaden, concentrate these toxins, such as PCB's and others, in their fatty tissues, just as shellfish do.

Water laden with untreated organics from sewage and street runoff lead to eutrophication with attendant symptoms of anoxia, algal blooms, and odors. What about the coastal residents who have to suffer these problems? The algae reproduce to form a dense sheet which cuts light penetration until the blooming organism starves itself and other primary producers. Decomposition requires oxygen, which deprives marine inhabitants higher on the food chain. Secondary suffocation results when detritus from the dead algae covers the bottom dwellers.

Pine Barrens soils are extremely porous and thus even more vulnerable than densely settled basins, to the north, to the impacts of runoff and sewage. In addition, the Pine Barrens water table is never more than 20 feet below the surface and easily carries pollutants such as lawn fertilizers extensively throughout the basin.

The third major impact on water quality is siltation. And, I direct this particularly to the developers because I feel they can do a lot to improve the problem that the Pine Barrens has already experienced thus far. Housing developments, new roads, and new pipeline trenches leave soil exposed, accelerating erosion. Paved surfaces funnel sediment directly into tributaries. Much of the silt eventually flushes into the estuary where it buries bottom organisms and prevents mollusks such as oysters from setting properly. Once the life cycle of estuarine organisms is disrupted, the productivity of the marine system declines drastically.

In conclusion, New Jersey needs a diversified economy -- a circumstance where industry, tourism and fisheries can coexist. The best way to insure this goal is to avoid conflicting land uses. Simply, the state and federal government should promote growth in a manner that doesn't displace one sector of the economy for another, and maintains the economic lifeline between its industry and resources. Just as operation of a power plant is tied to its supply of fuel, fisheries and tourism are tied to a healthy supply and quality of water. There is no doubt that the drainage basins of the Pine Barrens are the foundation of a vital and productive Jersey coastal zone. Because these basins are especially vulnerable to development they need a special framework of protection. It is with this concern and purpose, in particular, that the Littoral Society commends the Governor for his moratorium and supports the swift passage of S-3091.

SENATOR FELDMAN: That was a well thought out paper. There was some great phrasing in there. You are talking about the government enticing, or encouraging, industry in this section of the state. Now, I asked this question of Commissioner O'Hern. We are encouraging the development and operation of casinos in Atlantic City. They will employ thousands and thousands of people, which means there must be housing for this new industry and new communities. If three, four, five or six thousand are employed, these people will be affected by this. Where are these people going to live? How is that part of the state going to prosper without the casinos? Where is the housing going to be if the moratorium is extended over a period of time and no housing is encouraged in the area?

MR. ROWAN: I think that is a very good question. I think one of the larger proposals recently is the development of Smithville by several lawyers and developers. It is a major development company.

SENATOR PARKER: Where is that?

MR. ROWAN: It is along Route 9. I think it is excluded from the Governor's area.

SENATOR PARKER: I think part of that is in CAFRA.

MR. ROWAN: It is included in CAFRA. So, the development of Smithville will be in an area that is already managed but it won't be jeopardized by the protection order.

SENATOR PARKER: That is right on two of your estuaries, isn't this more of a serious problem to you?

MR. ROWAN: Yes, I think it is clearly a serious problem, or at least one that deserves consideration.

SENATOR FELDMAN: We need a few Smithvilles. We need a Parkerville soon.

SENATOR PARKER: Aren't you concerned about the way it hops and skips around? I am at the way it appears to take in only certain areas like Atlantic County, which seems to be fairly well excluded and part of Ocean County which seems to be pretty well excluded, excluding Smithville. I just wondered why?

MR. ROWAN: I think it would be impossible for us to include all of the area within the preservation area. I think the Garden State Parkway forms a division.

SENATOR HIRKALA: Thank you very much for your testimony.

SENATOR PARKER: Are you just concerned about Great Bay and Smithville being bought by ABC - the American Broadcasting Company? It just happens to be a good outfit, I guess. I am trying to find out why. I think it is rather serious. You can tell where certain influential Senators happen to be from.

SENATOR HIRKALA: Did you feel you wouldn't be given the opportunity?

SENATOR FELDMAN: I think Senator Parker is one of the most influential Senators in the Senate.

SENATOR PARKER: Not by looking at that map.

The Littoral Society did a great job, believe me. You have done a lot of great work along the coast. I think nobody loves fishing any more than I do. This is still the only area that is untrampled. Smithville flows directly in through the two or three creeks, the Nesco Creek, and others in that area, and they are giving the biggest development pressure in this area, and the Atlantic City area is going to be putting their sewage and their effluent into Great Bay. I just wondered what your thought was on that.

MR. ROWAN: That's why we will. There is available sewage.

SENATOR PARKER: That does go down into the Atlantic County plant from there.

MR. ROWAN: Right. There was one other point that I would like to bring out. There was something brought out in our office, the legislators have been reluctant because they feel that is a regulatory program that covers that area, but I will point out, as I think most of us already know, CAFRA covers housing development at twenty-five units or greater.

Of course, the moratorium and S-3091 will serve to cover more than unit developments of twenty-five units or greater, so this would be a form of protection. But, once again, I do believe that the Garden State Parkway is a reasonable boundary as it stands now.

SENATOR HIRKALA: Thank you very much. We are going to have two more witnesses. The Senate is scheduled to go into session at 4 p. m. We will listen to two more witnesses, and the meeting will be adjourned and continued at a later date. All of you who have been listed as witnesses will be called at future hearings. Those of you who are interested, please contact the Committee Aide. The telephone number is Area Code, 609-292-9106. Please call us, and we will give you the date and place of the next hearing.

Our next witness this afternoon is Joseph Bricketto, President of the Home Builders League of South Jersey.

J O S E P H B R I C K E T T O: I am Joseph Bricketto, President of the Home Builders League of South Jersey. Our membership is concerned. As you can see from the map, we have no place to go. You have an industry now that is really in trouble. The South Jersey Home Builders agree 100% that the Pinelands should be preserved, but we also feel that our jobs should be preserved.

The passage of Senate Bill S-3091 would have a devastating effect on the economy and the people of Southern New Jersey. Ultimately, the negative impact of this bill would be felt throughout the State of New Jersey.

While the membership of the Home Builders League of South Jersey recognizes the importance of the preservation of the unique ecological resources in the Pinelands, we feel that existing regulations governing development in the Pinelands are stringent enough to protect the environment while still permitting sensible development by responsible builders.

There are already more regulations governing construction in the Pinelands than in any other area of the State. I guess about two years ago the Senate and Assembly introduced the municipal land use law, which is a very good law. The townships in the Pinelands had two years to come up with good solid waste studies as to their planning and zoning. A lot of townships adopted interim ordinances where you can build on an acre and a half and up to 10 acres was a minimum zoning ordinance. So you take 18 months of the two years we have already had and it adds up to three and one-half years of moratorium.

These regulations were adopted specifically to guard against any possibility of construction in the Pinelands having any adverse effects on the ecological balance inherent in the area. Where building has been permitted, and all of the requirements were met, the preservation of the natural resources of the Pinelands, in a pure state, has been insured.

The provisions of the Merlino Bill, as it now stands, would virtually halt any kind of construction at all in the Pinelands. This type of sweeping legislation would have an immediately detrimental effect on the many independent builders and construction workers in the Pinelands, who would be forced out of operation.

Construction has already been halted by Executive Order 71, calling for a moratorium on all state permits in the Pinelands. Passage of this bill would trigger the ultimate demise of the residential construction industry in most of South Jersey.

The provisions of S-3091 are unduly restrictive and offer those people involved in residential construction in Southern New Jersey no leeway in their attempts to remain in operation.

The bill calls for revision of all county and municipal master plans in the Pinelands, as well as all land use plans within the preservation area. The bill also states that once these plans have been revised, they must be submitted to the Pinelands Planning Commission for approval. The commission has the authority to further revise the new plans, and will be empowered to force adoption of these revisions, even over the opposition of the municipalities involved. In essence, this provision of the bill deprives municipalities and counties of the right to regulate development within them. It ultimately leaves these local governments, as well as builders and private property owners who must comply with these plans, at the mercy of the commission, and ultimately the Governor, who has veto power over the commission's decisions.

It should be further noted that building has already been held up

for two years while these same counties and municipalities developed master plans to comply with Municipal Land Use laws. The deadline for adoption of these plans was February 1, 1979. Now we are faced with further delays while new plans are formulated.

Even beyond the immediate problems and hardships which would be caused by passage of S-3091, are the long-range effects which would result, and ultimately touch every individual in South Jersey, and perhaps even the entire State and region.

Consider the horrendous results of over-regulation of sewage treatment facilities by the State and Federal governments. Local municipalities forced into heavy expenditures and bonding obligations to fund their shares of the costs of government-mandated sewage treatment facilities, now find they have been over-sewered or that there are far less costly alternatives which are now acceptable to the EPA and DEP. Ultimately, undue restriction of responsible development of the Pinelands will result in this type of economic hardship which will have to be borne by individuals and municipalities throughout Southern New Jersey.

Consider further the effect the Pinelands building ban, in combination with the sewage hookup bans prevalent throughout South Jersey will have on the residential construction industry. The accompanying map shows that these two factors virtually shut down the industry in the major portion of the southern half of the state. The effect of this on the overall economy of the area is shattering.

Besides widespread unemployment in the construction industry, businesses and industries which supply materials and services for home construction will be affected as there is drastically reduced demand for them. This will result in even more unemployment as the economic slide continues.

The fact of the matter is that as a result of Executive Order 71, by the time 18 months have elapsed and the plan developed by the Pinelands Management Commission is implemented, it may already be too late to salvage the residential construction industry in Southern New Jersey, which is in large part made up of small, independent builders.

In addition to the moratorium, the construction industry is already suffering from the impact of high interest rates and difficulty in obtaining mortgages and fear of another oil shortage as a result of the Iranian situation. During 1974-75 these were the conditions which resulted in severe depression of the home construction industry in South Jersey. And now we builders are faced with this same set of circumstances and the problem is compounded by the threat of passage of the restrictive features of the Merlino Bill.

Aside from the impossibly strict regulation of any future development in the Pinelands, the bill as it stands now also puts builders who own land in the Pinelands, as well as individual landowners, at the mercy of the state should they decide to sell their land since they can't build on it.

Section 21 requires landowners in the Preservation Area to give the Department of Environmental Protection first refusal on the sale of their land. This section says the DEP has 60 days to decide whether or not it will purchase the land. This puts builders in a very tight bind, particularly if they have pressing mortgage obligations, because they will be left holding land which they can't sell for at least 60 days. Also, we are unsure about whether or not this provision of the bill applies to land which already has a home on it.

We recognize the fact that the bill does include a waiver clause permitting a two-thirds majority of the Pinelands Management Commission to grant exceptions due to extraordinary hardship or compelling public need. However, we find this clause to be very vague because neither of these two situations is defined.

To summarize the position of the Homebuilders League of South Jersey, vis-a-vis a building ban in the Pinelands, I would like the Committee to consider the following points:

We do not dispute the need to preserve the unique ecological resources found in the Pinelands. However, the entire area as has been defined in this bill is not equally environmentally sensitive and does not warrant such strict restrictions against sensible development by responsible builders.

There is no cause for alarm and such drastic action to restrict development in the Pinelands because what building has been done has involved only a minute portion of the vast area. While 2,100 permits for residential units in the Pinelands were issued last year, it should be noted that these homes occupy less than one-half of one percent of what has been designated as the Pinelands.

As professionals in the home construction field, we deal with the human need to strike a balance between provision of adequate shelter and preservation of natural resources on a daily basis. We are particularly aware of the environmentally sensitive nature of areas within the Pinelands and, because of our training and experience, are prepared to deal with them so that they are preserved and not disturbed by any construction we undertake.

Many, if not most, of the independent builders who will be forced out of work by passage of the Merlino Bill are residents of Pineland communities. We will share with our neighbors the higher taxes and reduced municipal and county services which will result as land values drop and no new ratables are added to our communities. Even the education of our children will suffer, as local school boards cut back and cancel plans for expansion of new facilities.

Our estimates show that a building ban in the Pinelands will result in the loss of 6,800 jobs and \$900 million in New Jersey's economy. These figures represent the costs and manpower involved in construction of homes and providing all the goods and services necessary for the people in those homes.

While we are able to take advantage of the opportunity to testify at hearings such as this, we would have welcomed the opportunity to supply some input to a reasonable plan for Pinelands preservation. Those of us who live and work in the Pinelands could provide valuable insight, based on our experience, which would be helpful in formulating a workable Pinelands preservation approach which would not result in undue hardship for anyone.

It is our belief that preservation of the Pinelands totally as a recreational area would have environmentally devastating effects far worse than those which would result from careful planning and responsible development. There is no definitive proof that there is any pollution resulting from development in the Pinelands. But, there is visible proof of the pollution which results from trash and debris left behind by tourists, campers, bathers and vacationers who come to the Pinelands for recreational purposes.

The Home Builders League of South Jersey is not opposed to Pinelands preservation. We do support a reasonable plan for the preservation of the Pinelands through a carefully planned and executed program which allows for sensible

development by responsible individuals.

You bailed us out at when you appropriated those emergency funds, but if you take the same conditions you had in '73 and '74 and you put the Pinelands moratorium on top of it and we are really in trouble. We have been fighting. We had hoped that we could, at one point or another, participate in the Pinelands but the Pinelands have been around for a long time. It started back in 1975. The DEP, in 1977, proposed surface and ground water quality standards for the Pine Barrens' critical areas. We were testifying all along since 1975, '76, '77, and '78, and now in 1979 the Governor's Executive Order #71 was signed.

The water quality standards -- I haven't heard anybody at all mention them today. This was done since 1975. The Department of Environmental Protection adopted those out of a tap. Pour it on the ground and in some places it wouldn't comply with the standards. My contention is, what is the rush? Governor Byrne says we are going to build 2200 units; 2200 units on 1,200,000 acres. I can't see any panic. Why can't we be allowed to build during the next 18 months, while you are working on your comprehensive master plan? That is about all I have to say.

SENATOR PARKER: Just one question. You show an area that includes the sewer ban that covers all or most of Burlington, Gloucester and Camden Counties. Hasn't the DEP recently lifted the sewer ban?

MR. BRICKETTO: That's now true.

SENATOR PARKER: I saw that in the paper.

MR. BRICKETTO: The sewer ban they lifted was for small townships, I think five or six municipalities where the line is already in the street. That is the only place where they lifted the sewer ban.

SENATOR HIRKALA: Are there any further questions? (no response) Thank you very much.

Our last witness is Carol Barrett, West Jersey Group of the Sierra Club.

C A R O L B A R R E T T: Thank you. My name is Carol Barrett and I am Conservation Chairman of the West Jersey Group, Sierra Club, and Chairman of the New Jersey Chapter Sierra Club's Pine Barrens Committee. For three years, from 1975 to 1978, I was Chairman of the West Jersey Group and all of that time we worked very hard to contribute to the Pine Barrens preservation effort. Today we are continuing our commitment to this purpose and will do so into the future.

The Sierra Club is a nationwide organization of 182,000 members, with about 4300 living in New Jersey. A slogan used by the Sierra Club is, "Not blind opposition to progress, but opposition to blind progress." Our motto is, "To explore, enjoy and preserve the nation's forests, waters, wildlife and wilderness." Certainly the Pine Barrens encompasses all of the elements in that declared purpose.

We worked long and hard for the passage of the federal legislation, Section 502 in the National Parks and Recreation Act of 1978, and regard this act being discussed today as part of the whole. It is a necessary step towards the goal of establishing and maintaining the Pinelands National Reserve in New Jersey.

The federal legislation lays out, with high principle, participation of all levels of government and the public in New Jersey. There must be a start - and the state's responsibility is clear. It must be sure there is not detrimental development from now until the planning commission completes its planning. The environment of the Pinelands will quickly deteriorate in the two years or so

required for the plans to evolve if interim limitations are not imposed. The intense pressures for residential development in my own county, Camden, are apparent in the real estate sections of our newspapers - those sections of the county within the Pine Barrens area in particular. The same applies to Burlington County, while Ocean County has been experiencing a tremendous population growth. A proposal in this act for limitations of local and state approvals in the designated areas is heartily supported by us.

We agree that the Governor should appoint the Chairman of the Pinelands Commission and concur with the conditions set forth establishing the operation of the Commission.

We recommend that the Department of Environmental Protection's Public Participation Program be used throughout the planning process and incorporated in the final plan.

The New Jersey Sierra Club and the Environmental Defense Fund have petitioned the U.S. Environmental Protection Agency to declare the Coastal Plain, of which the Pinelands Cohansey aquifer is a part, the sole source aquifer under Section 142 (e) of the Safe Drinking Water Act of 1974. Hopefully, this will receive affirmative determination.

This act, S-3091, as in the federal act, endeavors to be fair and responsible to all levels of government, local units mentioned throughout, and their counsel sought. The participation of all interested people in New Jersey is paramount for the success of this effort.

My personal experience in these past three years has convinced me that the citizens in this state, and many throughout the country, want the natural resources in the Pine Barrens protected. They have used it recreationally for many years as well as realizing that assets such as this should not be destroyed.

Although the West Jersey Group's territory does not include Ocean County, I have been told by Janice Sherwood of the reknowned PINECONERS and the Pinelands Cultural Society of Waretown, including the Shady Mountain Boys, that they support this legislation and as natives of the Pines, treasure it -- they are soundly for the preservation efforts.

We have emerged into an enlightened era for land use; the appreciation of our natural resources is nationwide. No longer do aware citizens consider exploitation of land acceptable. A new balance between private and public rights must be developed. Attached is a copy of part of the Sierra Club's policy on land use.

I have submitted Diane Graves' statement. She wrote a very short page. One of the things I think she wanted to suggest I am sure you would be interested in. She discussed how BOSS could be used for the Pinelands and we are also very strongly behind the public participation policy.

SENATOR PARKER: What they call BOSS, the new plan, has been developed under the Federal Coastal Zone, but that hasn't gone into effect yet.

MS. BARRETT: That has been approved I understand.

SENATOR PARKER: As I understand it, the Federal act hasn't gone into effect.

MR. CATANIA: That is under our State CAFRA Law.

MS. BARRETT: That is its nickname and it doesn't mean BOSS.

SENATOR PARKER: I don't think the Federal one has taken effect yet.

MR. CATANIA: That is strictly under our State statute.

SENATOR DODD: All right. Thank you very much, Ms. Barrett.

MS. BARRETT: I understand the hearings are going to be continued, hopefully. I understand you will try to have the hearings down in the Pinelands.

SENATOR DODD: That is where our next hearing will be, within the month. That will be announced in the newspapers and a number will be given out where you can call. The people who are on this list will be at the top of the list at the next hearing.

We now have a time problem and I am going to adjourn this hearing.

(hearing adjourned)

STATEMENT BY

I. WAYNE LIPPINCOTT, P.E., P.P.

PRESIDENT

LIPPINCOTT ENGINEERING ASSOCIATES

CONSULTING ENGINEERS

ON

EXECUTIVE ORDER NO. 71

FEBRUARY 22, 1979

In February, 1978, under the authorization of the "Realty Improvement Sewerage & Facilities Act", the Department of Environmental Protection adopted regulations governing the construction of sewerage facilities and water supply systems commonly known as Chapter 199. Interim Guidelines For Reviewing New Individual Subsurface Sewage Disposal Systems in The Central Pine Barrens Critical Area were implemented in June of the same year, covering an area of approximately 760 square miles. This moratorium doubles that area.

In January of the same year, "Water Quality Standards For The Central Pine Barrens" were adopted by the Department of Environmental Protection. They established water quality standards which must be met for the various water sheds within the Critical Area. Presently, all on-site disposal systems must be designed and are reviewed by the Department of Environmental Protection for conformance to the Water Quality Standards established. The standards were set up so that existing surface water/ground water quality would be preserved, resulting in the preservation of the groundwater and the vegetation as it presently exists. So severe are these standards that it can be shown that by drilling a well into the groundwater system for potable water use, and by pumping that water to the surface, the quality of this well water being unlike the surface water, if allowed to enter the surface water, could result in violating the surface water standards.

Furthermore, some of the permissible nutrient levels established in the water quality standards for the Central Pine Barrens are five time more severe than those permitted in the current State and Federal potable drinking water standards. With these examples in mind, is a moratorium justified?

It should be evident that those favoring further regulation fail to recognize the already enacted, stringent regulations.

We hear stories citing polluted well water. In all of our engineering evaluations and discussions with the various County Boards of Health,

including the Department of Environmental Protection, no one has been able to demonstrate the allegation that on-site disposal systems (septic systems) are polluting the groundwater. In fact, it is our contention after extensive review of D.E.P. Water Resources Studies, that the upper zone of the groundwater system in the Central Pine Barrens is a self-cleansing system due to the lateral movement of groundwater into the streams, thus carrying contaminants away so they do not enter deep into the groundwater system. If this were not the case, nature would have polluted the groundwater system eons ago by the nutrients percolating out of decomposing vegetation. This, of course, has not been the case.

Our firm has reviewed reams of computer data which was utilized by the Department of Environmental Protection in developing water quality standards. Areas which have shown signs of groundwater pollution were intensely considered by us. The assertion that the groundwater has been polluted by on-site septic systems within a community is not consistent with the actual facts, i.e., a number of dwellings in an area may show relatively high nitrate levels. For the purposes of illustration, three dwellings are in a row. Wells at dwelling number one and dwelling number three show contaminated groundwater. The well at dwelling number two shows none. Can it be concluded that the groundwater system is contaminated when the well from dwelling number two shows no contamination? Certainly not.

Looking at the raw data without evaluating peripheral conditions can be very misleading. A much more realistic explanation for polluted well water might be improper well installation, allowing effluent to enter the well near the surface, thus polluting the groundwater below. But this is not the same as the contention that the septic effluent is polluting the groundwater system. The condition just described results from improper construction techniques and lack of inspection. This could be prevented with proper control.

I have personally investigated conditions similar to those described where the actual sewerage was being pumped indiscriminately onto the ground and allowed to enter shallow wells. Frankly, after performing

tests on the well water, I was surprised that the results were not considerably worse.

At present, we have been retained by the Burlington County Board of Health to intensely monitor and evaluate disposal effluent and corresponding groundwater quality on systems installed in various townships. We are also acting as consultants to municipalities which are very concerned about the potential of groundwater contamination by on-site septic systems. While this kind of investigation is only about 18 months in progress, we have not seen any results which would alarm or in any way indicate any eminent danger. Thus, we find the Governor's moratorium completely unjustifiable.

It should be pointed out that two of the principal studies used to develop the Department of Environmental Protection's rationale were made in states other than New Jersey, were based upon average population densities 30 to 50 times greater than the Central Pine Barrens. Note also that those areas studied were not similar in geology, hydrology and vegetal type and, more importantly, they had a net groundwater loss, a condition diametrically opposite that which exists within the Pine Barrens.

The extent of the area under moratorium which contains a diversity of vegetal groups not consistent with the core of the Central Pine Barrens, contains various geologic conditions and formations which extend beyond the groundwater aquifer which is intended to be preserved.

After careful review of the technical issues, our firm, along with scientists in related fields, are convinced that the Governor has overreacted to an issue without the benefit of thoroughly weighing reliable available technical information.

STATEMENT OF

THOMAS A. PAPARONE

ON BEHALF OF

THE NEW JERSEY BUILDERS ASSOCIATION

ON

EXECUTIVE ORDER NO. 71

ON

FEBRUARY 21, 1979

As President of the New Jersey Builders Association, I would like to thank you for coming here today to discuss this issue. One of the purposes of this press conference is to demonstrate the impact of Executive Order No. 71 on many various interests. There are labor leaders, planners, municipal and county officials, engineers and residents of the area, to mention but a few of the interested parties in the audience today. They can offer personal insight into the impact of the Governor's Executive Order and I urge you to discuss with them their positions on the Executive Order.

As a resident of Camden County, and in my official capacity, I am concerned that a moratorium on all State permits in the Pinelands will have negative ramifications that will reverberate throughout New Jersey. I am concerned, too, about controlled sensible growth in the Pinelands. However, the 23% of our State delineated in Executive Order No. 71 is not equally environmentally sensitive and does not warrant the severe restrictions against sensible growth that the Governor has imposed.

The impact of Executive Order No. 71, on employment and economic levels, has been analyzed and is available for your review. In summary, the total economic impact of Executive Order No. 71 is estimated at over \$900 million, annually. Approximately 3,000 jobs will be lost annually, and affordable housing will become even more difficult to find. The State's economic future is already in question, the impact of Executive Order No. 71 may provide a disastrous answer.

The administration has voiced alarm at the fact that 2,100 permits were issued for residential units in the Pinelands. These homes occupy just 3,900 acres, less than 4/10 of one percent of the Pinelands area. If this rate of building continues, the total area developed, after 10 years, would encompass less than 4% of the designated area.

Adequate shelter is already in short supply. As a builder, I recognize that there is a need for a balanced environment that provides for affordable shelter and preservation of natural resources. Construction that would result in 30,000 units over a 10 year period creating a total of 30,000 jobs, supplying 120,000 people a decent place to live, and housing a total economic activity of \$9 billion, would utilize approximately one twentieth of the Pinelands area. Obviously, total preservation is no more wise a course to follow than total development would be.

Total curtailment of development ultimately threatens the continuation of vital services to existing residents of the Pinelands. Municipal governments have the responsibility to provide services to the people in their jurisdictions, and without new development, and the resultant increased ratables, it may be difficult, if not impossible, for these municipalities to pay for the services they must provide. Already South Jersey mayors are predicting increased taxes for property owners. Plans for the construction of much needed classrooms are being reconsidered.

The precedent established by Executive Order No. 71 cannot be allowed to stand. Writing law by Executive Order, rather than through the legislative process, is an affront to that legislative process and the electorate of New Jersey. Imposition of the most restrictive land use regulations ever in the State, if not the country, require more than an executive decree.

Such drastic regulation should be subject to the collective wisdom and deliberation of the legislature. Full public hearings, seeking the broadest of public input, is the method by which any land use regulation should be adopted. Certainly the people deserve to be heard on this issue. We applaud the legislature for its' immediate action in proposing legislation and scheduling what we hope will be the first in a series of public hearings.

EXECUTIVE ORDER 71:

THE ECONOMIC IMPACT

NEW JERSEY BUILDERS ASSOCIATION

FEBRUARY 21, 1979

PURPOSE

This report is designed to measure the economic impact resulting from Executive Order 71. The impact of Executive Order 71 is measured through its effect on the housing industry. Economic activity and employment levels are examined. A projection of the cost increase of a single family home resulting entirely from the time delays that are imposed by Executive Order 71 is also included.

DATA

The information concerning the number of units built in the area affected by Executive Order 71 is based on statistics provided by the N.J. Department of Labor and Industry, Division of Planning and Research, Office of Business and Economics.

The average number of single family residential construction, for the years 1974 through 1977, was approximately 5,000 units. The water quality standards imposed by the Department of Environmental Protection in the "critical area" of the Pinelands have substantially curtailed residential construction in that portion of the Pinelands. It is estimated that approximately 3,000 units will not be built in the Pinelands as a result of Executive Order 71.

Information about the sales price, and the cost of land and improvements, is based on data supplied by the Home Owner's Warranty (HOW) Corporation of New Jersey, a wholly-owned subsidiary of the New Jersey Builders Association, which insures new homes against construction defects and records detailed data on each home it insures.

TECHNIQUE

The method used to compute the impact of housing on the community focuses on residential construction's contribution to the economy through taxes, durable goods purchased, and wages. It is an attempt to identify, through an established formula, the community's stake in new housing construction from a total economic standpoint, rather than from a shelter-only standpoint.

The economic contribution of new residential construction to the community can be determined by calculating five major factors:

- A) Current sales price of the units being built
- B) Land improvement costs
- C) Construction costs per unit
- D) Costs of community development
- E) Added direct expenses

The dollar contribution of each of these five factors to the total market is individually computed and a picture of the overall impact is developed through a step-by-step sequence modeled after the formula developed by the Homer-Hoyt Institute, American University, Washington, D.C.

THE FORMULA FOR COMPUTING ECONOMIC IMPACT

Cost of the average residential unit multiplied by the number of units

+

Average cost of land improvement multiplied by the number of units

+

Cost of community development for average lot multiplied by the number of lots

+

Cost of durable goods and services/unit multiplied by the number of units

+

Cost of additional direct expenditures/unit multiplied by the number of units

+

Multiplier

+

Related services/unit multiplied by the number of units

The sum of these factors yields the total dollar impact of the housing industry.

DEFINITIONS

The cost of construction includes those costs other than those attributable to the land, its improvement, and community development, incurred in residential construction.

Land improvement costs include, and take into account, common local requirements for streets, drainage, utility services, and amenities generally provided within

subdivisions.

Community development costs are expenditures of offsite improvements, incurred because of new housing construction. Included is the laying of water lines, sewer service, park land donations, schools, and other community structures and services.

Durable goods and services, of necessity, are purchased as new units are occupied. They include, but are not limited to, appliances, rugs, drapes, furniture, etc.

Direct expenditures include such items as real estate broker's commissions, title insurance fees, loan placement fees, transfer taxes, etc.

The multiplier factor takes into account those direct expenditures, from new housing construction, that are considered to be re-spent in the community at least once. That is, the carpenter buys a new car, the surveyor purchases recreational goods, material suppliers buy and operate trucks, they all buy food and maintain shelter, and so on. The multiplier can vary, but in this instance, it is estimated to be 2.75.

Related services take into account the costs of continued occupancy of the housing; real estate taxes, payments for heat, insurance, utilities, maintenance, and repair.

FINDINGS

ITEM

MEDIAN SALES PRICE	\$	48,850
IMPROVEMENTS		34,100
LAND		11,200
LAND IMPROVEMENTS		3,200
COMMUNITY DEVELOPMENT		8,260
DURABLE GOODS AND SERVICES		4,000
ADDITIONAL DIRECT EXPENSES		3,400
SUB-TOTAL		113,010
MULTIPLIER (2.75)		
TOTAL IMPACT PER UNIT		310,777
<u>TOTAL ANNUAL ECONOMIC IMPACT</u>	<u>\$</u>	<u>932,331,000</u>

EMPLOYMENT REQUIREMENTS PER TYPICAL SINGLE FAMILY HOUSE

	Man Year*	Man Hour
CONSTRUCTION		
Onsite	0.595	1190
Offsite	0.119	237
LAND DEVELOPMENT	<u>0.272</u>	<u>545</u>
EMPLOYMENT TOTAL	0.986	1972

* One man year= 2000 man hours

0.986 x 3000 units = 2,958 man years of labor lost annually

THE COST OF TIME DELAYS

In his study, Housing Costs and Government Regulations, Published by the Center for Urban Policy Research, Rutgers University, 1978, Stephen Seidel has identified the cost of delay on the typical residential unit. He found that cost to be between 1 to 2 per cent. Should Executive Order 71 stand for its full 12 month

period, the resultant increase, per unit affected could range from 18 to 36 per cent, or, \$8,793 to \$17,586 per unit. This does not take into account the increase in price that will result from the additional demand for housing that will be experienced as a result of Executive Order 71.



Sierra Club

NEW JERSEY CHAPTER
360 Nassau Street, Princeton, N.J. 08540
(609) 924-3141

Feb. 22, 1979

Statement presented at the Public Hearing on the Pinelands Protection Act

Thank you for the opportunity to comment on the Pinelands Protection Act. My name is Diane Graves, and I'm Conservation Chairman for Sierra Club's N.J. Chapter.

We commend the Governor's Office and Senator Merlini for developing and introducing this major step forward toward protecting the Pine Barrens. We wholeheartedly support the Pinelands Protection Act, its concepts, the moratorium and the Pinelands Commission.

In the interest of efficiency and consistency in developing a management system and in promulgating regulations, we suggest that the DEP and the Commission adapt the CAFRA/Bay and Ocean Shore Segment (BOSS) three-step decision-making process to the Pinelands. The Location, Use and Resource Policies in the BOSS, which have been promulgated as rules and regulations, seem easily transferable to the Pinelands process. Of course, more stringent regulations must be required for the Preservation Area than apply to the coastal area and the Pinelands Area. However, many of the BOSS policies could be applied practically word for word to the Pinelands; for example, White Cedar Stands, wildlife and vegetation species habitats, public open space, farmlands, bogs and freshwater wetlands, stream corridors, runoff, secondary impacts, energy conservation, etc. The key to making it work, of course, is careful and thorough review of applications, and enforcement.

The DEP is about to promulgate a Public Participation Policy and Procedures and we recommend strongly that the Commission adopt the spirit and procedures of the Policy as part of its working, every day process. The Office of Public Participation will be established shortly and can provide help. I request that the DEP's Public Participation Policy and Procedures be made a part of the record for this hearing.

Comprehensive protection for the Pine Barrens is long overdue. We believe the Pinelands Protection Act provides/a sound management system and will serve to protect the many valuable resources that make up the Pinelands.

Thank you.