

Committee Meeting

SENATE NATURAL RESOURCES, TRADE AND
ECONOMIC DEVELOPMENT COMMITTEE

and

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

"Roundtable discussion of regulatory reform issues
with selected representatives of business
and environmental organizations"

LOCATION: Thomas Edison
State College
Trenton, New Jersey

DATE: October 17, 1994
1:00 p.m.

MEMBERS OF SENATE COMMITTEE PRESENT:

Senator Joseph M. Kyrillos, Jr., Chairman
Senator Andrew R. Ciesla, Vice-Chairman
Senator Robert J. Martin
Senator Gordon A. MacInnes
Senator James E. McGreevey

MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblyman Alan M. Augustine, Acting Chairman
Assemblywoman Marion Crecco
Assemblyman Sean F. Dalton

ALSO PRESENT:

Lonna R. Hooks
Secretary of State

Kevil D. Duhon, George J. LeBlanc
Office of Legislative Services
Aides, Senate Committee

Glenn E. Moore, III
Office of Legislative Services
Aide, Assembly Committee



Hearing Recorded and Transcribed by

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JEFF WARSH
Chairman

WALTER J. KAVANAUGH
Vice Chairman

ALAN M. AUGUSTINE
JOSEPH AZZOLINA
MARION CRECCO
NEIL M. COHEN
SEAN F. DALTON



New Jersey State Legislature
ASSEMBLY REGULATORY OVERSIGHT COMMITTEE
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J O I N T C O M M I T T E E N O T I C E

**TO: MEMBERS OF THE ASSEMBLY REGULATORY OVERSIGHT
COMMITTEE**

FROM: ASSEMBLYMAN JEFF WARSH, CHAIRMAN

SUBJECT: COMMITTEE MEETING - October 17, 1994

The public may address comments and questions to Glenn E. Moore, III, or Marvin W. Jiggetts, Committee Aides, or make bill status and scheduling inquiries to Barbara A. May, secretary, at (609) 984-4811.

The Assembly Regulatory Oversight Committee will meet jointly with the Senate Natural Resources, Trade and Economic Development Committee and Secretary of State Lonna R. Hooks. The meeting will take place on **Monday, October 17, 1994 at 1:00 PM** at Thomas Edison State College, West State Street, Trenton, New Jersey.

The meeting will consist of a roundtable discussion of regulatory reform issues with selected representatives of business and environmental organizations.

The Office of Business Ombudsman in the Department of State has scheduled those on the attached list to participate in the roundtable discussion. The public is invited to attend.

Issued 10/7/94

Assistive listening devices available upon 24 hours prior notice
to the committee aide(s) listed above

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99ENATOR JOSEPH M. KYRILLOS, JR. (Chairman of Senate Committee): If I may have everyone's attention, we are about to start the joint hearing. On behalf of the Senate, I would like to call this joint session of the Natural Resources, Trade and Economic Development Committee to order.

Assemblyman?

ASSEMBLYMAN ALAN M. AUGUSTINE (Acting Chairman of Assembly Committee): Thank you, Senator. On behalf of the Assembly Regulatory Oversight Committee, I would like to call our segment of the meeting to order as well.

SECRETARY OF STATE LONNA R. HOOKS: Wonderful. Good afternoon.

Members of the business community, Senator Kyrillos, Assemblyman Augustine, and members of the respective Committees, thank you very much for joining me today. I am Lonna Hooks, your Secretary of State. I also serve as the Business Ombudsman. I am so happy to see such a good turnout today as we begin an extremely important process; that is, listening to the opinions of the public on how best State government can improve its regulatory process.

The Committees that are represented here today are the legislative bodies at the heart of issues important to the growth of our economy -- the Senate Natural Resources, Trade and Economic Development Committee and the Assembly Committee on Regulatory Oversight. The actions that we begin here today are further tangible evidence of the State government's commitment to New Jersey being open for business.

We look forward to our partnership with the Legislature to achieve the broad goal of regulatory reform. We need your cooperation and your continued support throughout the entire process, not just today.

I am extremely honored that Governor Whitman has chosen me and the Office of the Secretary of State to act as the Business Ombudsman. Over the past seven months, our Office

has assisted over 500 businesses throughout the State, and that number is growing. I had meetings this morning with a couple of members of the Legislature on two new important projects. We have identified trends and specific tasks in specific areas where problems have been perceived by the businesses in the regulated community. We have been able to solve a great number of these problems already with a lot of cooperation from a lot of people. When I say "we," I want to really emphasize that; that this process over the last several months of my tenure has only worked because of the cooperation of each and every member of the Cabinet, several members of the Legislature, local municipalities, county officials, and a number of you sitting out there today.

My Office of the Business Ombudsman has had an opportunity to work with almost every segment of business and regulators in the State of New Jersey. The establishment of the Office was a special recognition of some of the problems that our regulatory system has created for the business community. I have been heartened by the outreach of business and their positive comments about the presence of the new point person on their behalf.

Our Office has been ready, willing, and able to coordinate and expedite on behalf of small and large businesses alike. We had initially said we were only going to target very large projects, but there were a number of significant small businesses and small projects that came into the office that resulted in jobs that were integral to communities. We took those projects on, too.

Today begins the most important phase of the short history of our Office of the Business Ombudsman; that is soliciting concrete suggestions from the business and regulated community on how to improve the regulatory process. We ask for specifics today. Through the course of all seven hearings over the next three weeks, as comments are received, they will be

shared immediately with the members of the Cabinet, Governor Whitman, both of these Committees, and any other interested regulators. Already, each Cabinet member is working on a top 10 list of regulatory initiatives. Almost everyone has submitted his list already. You would be surprised that I am sure a number of the things about which you are going to testify today are on those lists.

I believe we will be ready to make the statement that your concern is already being worked upon on a number of occasions in the next couple of months. These hearings are going to add to our storehouse of what needs to be changed. I am so pleased that representatives of several of my fellow Cabinet officers have joined us today to listen to the testimony of six well-respected groups which have already come to our Office of the Business Ombudsman with specifics, and have brought a number of their clients with them whom we were able to help.

Also joining us today are representatives of the Citizen and Business Advisory, whose activities became a part of this Office per Executive Order No. 15. They are David Fisher of Matzel & Mumford, and Phil Beachem, of the New Jersey Alliance for Action. Phil is also on the Governor's Commission on Privatization and Competitiveness.

The Citizens' Committee on Permit Coordination was established nearly 18 years ago. This is not a new idea; it started a long time ago. For the most part, the wealth of experience of the members on regulatory policy was shelved. We hope we can really revive that today. I see that the Citizens' Committee on Permit Coordination is a true and valuable resource in our goal to effect regulatory reform.

Members of the Committee will be an integral part of the hearing panel for all of the field hearings that will take place in the next three weeks.

I look forward to the comments today to be offered by: the New Jersey Chamber of Commerce, the Stockton Alliance, the Chemical Industry Council, New Jersey Future, the New Jersey Business and Industry Association, the New Jersey Farm Bureau, and a very special testimony by Senator Bob Littell, who has just joined us.

Senator Kyrillos and Assemblyman Augustine, members of your Committees, and all the members of the Legislature who worked very closely with me, I thank you for joining me today as we begin this extremely important step in our regulatory process.

Now I would like to get started. Senator?

SENATOR KYRILLOS: Thank you very much, Secretary Hooks.

We on the Senate Natural Resources, Trade and Economic Development Committee are very pleased to help you launch your series of discussions on reforming the regulatory process in New Jersey.

When this Committee was established earlier this year, its charge was to examine how New Jersey could effect a balance between what is good for the economy and what is good for the environment. As I look around the room today, I believe we have taken a very large step in the direction of bringing these various interests and groups together in an effort to achieve a common goal.

The quality and the depth of our business community has always made New Jersey the envy of other states. But New Jersey has not always done its job protecting these economic resources.

Since 1992, the Legislature has made a solid commitment to make the State more business friendly, to enhance and improve the economy, and to create jobs for New Jerseyans. We know that when we establish a better relationship with the

business community, we do so knowing that it is essential for the State's long-term prosperity.

Now, what is different today is that we now have an administration that shares our concern that overregulation is an obstacle to growth and a disincentive to economic prosperity.

To be sure, we, as a Legislature, have made progress in the past three years, and our efforts are now beginning to become apparent.

Optimism among business leaders is at a new high, as is the economy. In fact, according to one recent study, the State's economy is moving at such a pace that by 1996 New Jersey will be close to meeting the employment peak the State reached back in 1989.

Strong job growth figures, coupled with an upswing in construction and a downturn in bankruptcy filings, are just some of the indications that New Jersey's economic recovery is picking up steam, a recovery experts predict should be sustainable. But to sustain this recovery, we need to be determining now what steps the State takes not only to secure growth, but also to encourage it.

Likewise, in order to keep the economy growing and our business community flourishing, we must take a hard look at what stands in the way of success. At the same time, we cannot disregard the tremendous progress we have made as a State in protecting our rich environmental resources, ensuring the safety of our residents, and maintaining the highest quality health standards.

Today, Madam Secretary, our mission begins. Our objective is clear, our task difficult: sustain and enhance economic growth, while preserving, at the very same time, the high environmental, health, and safety standards we in New Jersey enjoy today.

I am confident that this joint effort, with the business community and the environmental community working

together with the Legislature and the administration, will lead to a successful solution that will keep New Jersey safe, healthy, and green, and "open for business."

SECRETARY OF STATE HOOKS: Thank you very much, Senator.

SENATOR KYRILLOS: Thank you.

SECRETARY OF STATE HOOKS: Assemblyman Augustine?

ASSEMBLYMAN AUGUSTINE: Thank you, Madam Secretary and Senator Kyrillos.

On behalf of the Assembly side of this whole situation, just let me greet you all, particularly on behalf of Chairman Warsh, who could not be here today.

As some of you may know, I do bring to the table a longtime business experience in my gainful employment area. I know how desperately something like this has been needed for a long time to make New Jersey truly "open for business."

As I have traveled around speaking to constituent groups and business groups, I have heard many, many commentaries about the need for something like this. If I may use the comparison that I use in the field, remember your childhood with the stories of "Gulliver's Travels." You remember that Gulliver fell asleep, and when he woke up he found himself bound by the Lilliputians so that he could not move, even though he was, by their comparison, a giant. I would like, to some extent, to use the comparison of New Jersey business and industry being somewhat like the sleeping giant; bound by excessive and oppressive regulations and prevented from delivering the goods and services we need to have our State reach its rightful place in the sun, so to speak.

Our goal on this Committee is to have regulatory oversight. What I mean by that is to be sure that there are no onerous regulations that have gone far afield from the original legislative intent the Legislature had when the law was put

into place. We have a number of examples like that, that we feel-- Although in our limited start, we feel we are making progress, but we know we have a long way to go.

As far as some specific examples that we are talking about, we have A-1577, sponsored by Assemblywoman Crecco and Assemblyman Catania, which establishes a criteria by which State regulations cannot exceed Federal standards.

Secondly, we have ACR-51, by Speaker Haytaian, which overturns State Board of Nursing regulations that violated statutes and legislative intent concerning the certification of homemaker/home health aides.

We have ACR-80, sponsored by Assemblyman Warsh. Just the threat of this resolution convinced the Attorney General that it needed to promulgate regulations to enforce legislation passed last year dealing with improving the organ donation process and the State Medical Examiner.

There you have an example of what this Committee and combined efforts can do to make New Jersey truly "open for business."

I look forward to the dialogue we are going to receive today, and certainly want everyone to proceed. Thank you.

SECRETARY OF STATE HOOKS: Senator, would you introduce the members?

SENATOR KYRILLOS: Thank you, Madam Secretary.

At this point, let me ask George LeBlanc, our assistant from OLS, to take a roll call of the Senate Committee.

MR. LeBLANC (Senate Committee Aide): Senator MacInnes?

SENATOR MacINNES: Here.

MR. LeBLANC: Senator Ciesla?

SENATOR CIESLA: Here.

MR. LeBLANC: Senator Kyrillos?

SENATOR KYRILLOS: Here.

At this point, I would like to ask the members if they have any comments they would like to make at the outset, before we go to testimony. Senator Ciesla, Vice-Chairman?

SENATOR CIESLA: I'll pass. Thank you, Mr. Chairman.

SENATOR KYRILLOS: Senator MacInnes, of Morris County?

SENATOR MacINNES: Thank you, Mr. Chairman, and welcome, Madam Secretary.

Maybe rather than a comment, a question that would help me in framing this afternoon's discussion. Could we hear, if it is appropriate, from the Secretary of State, examples of how her Ombudsman operation has worked in its first few months, maybe taking one from a large-scale project and one from small business, so that we will have a more concrete understanding of how the present policies are working out?

SENATOR KYRILLOS: Senator, I am sure the Secretary has some good examples, and she probably wants to take a minute to talk about them, but I just want to remind both Committees that the purpose -- I know you know this, Senator MacInnes -- is to hear from the public who are here, not to question each other.

SENATOR MacINNES: No, no, I understand.

SENATOR KYRILLOS: I think you have a very appropriate question, as you always do.

SENATOR MacINNES: You are not quite as enthusiastic about it as I am, though, apparently.

SENATOR KYRILLOS: No, I am.

SECRETARY OF STATE HOOKS: Thank you, Senator.

This is good. It gives me an opportunity to frame the Office, give a little more PR for us, and hopefully this process.

We have on the table, as you enter, a very short overview of the Office, the mission, and the purpose. The way it has been run over the last several months-- I will give you an example of a large project and a small project. One of my favorite projects, which I think is doing just wonderfully well-- I'll give you another one that is a success.

Right on Route 1 at Tosco -- the Bayway Refinery has just joined forces with a private entity from out West, Huntsman. The way that project was coordinated, they signed a joint venture, and Huntsman will be opening up a new operation that uses some of the end chemical processes from Bayway's oil refining that have to be extracted from gas anyway, beginning in 1995 with the new laws about the content of gas.

That was a project that was coordinated in the Office. We do that by sitting down with the business that wants to come in and having a preliminary meeting, usually with myself, Bill Healey, and other staffers. We then coordinate members from the other Cabinet offices. If necessary, we coordinate and bring in members of the Legislature, or their legislative aides, if there is a legislative implication to the project. We also bring in local municipalities, the mayor, if necessary, if it is going to have a local community impact. For that particular project, it had a Labor impact. They will be bringing in and creating upward of some 200 or 300 jobs when they begin. It has an Economic Development component, because they will be building a very large structure on the Tosco facility. It also had a significant DEP impact for that particular facility, because it is already very heavily regulated, and there are air emissions -- Clean Air Act emissions issues with that.

After we identified the key areas of the project in the initial meeting, we called in representatives from each Cabinet office. In many instances, the Cabinet member -- himself or herself -- would be there to begin a fast track of the permits, to allow the company to move forward. With that particular project, I would say within a month or six weeks' time, we had given them an estimated time of approval on each one of their permits, to the point where they felt certain enough to move forward and get their financial commitments and make an announcement so they could begin to break ground.

A smaller project -- an example of that -- is, say, a senior citizen home in the Livingston area that had gotten earlier zoning permits from the Army Corps of Engineers. That was something that the State was really not even involved in. Those permits were going to expire, and they asked us to come in and mediate that particular situation. That took approximately a meeting and two phone calls. That Livingston senior citizen center ended up a residential facility, which is the most important part of it, because the jobs part, a small component of that, is moving forward based on bringing in key permit people from DEP. We didn't even need to go to Commissioner Shinn on that project, bringing in senior people from the Army Corps who had given these people the go-ahead, and were now going to modify those permits so that the senior center could not be built.

Putting all of those people together at the table and saying-- You know, a lot of times, paper just blows around and around the problem. That was resolved in less than a couple of weeks' time.

SENATOR MacINNES: Thank you very much. Very helpful.

SECRETARY OF STATE HOOKS: That is how it is operated. It is very "hands on."

SENATOR KYRILLOS: Thank you, Senator.

ASSEMBLYMAN AUGUSTINE: Senator, if we may do a little housekeeping here and have the roll taken. Then I would like to ask one of my colleagues to say a few words.

Maybe we will just go right to Assemblyman Dalton, who will be good enough to add his commentary to these proceedings.

ASSEMBLYMAN DALTON: Thank you very much, Assemblyman Augustine.

First, let me commend Secretary Hooks, as well as the administration, for having this hearing here today. As a member of the Assembly Regulatory Oversight Committee, I think this is a very important process we have. During the 1980s, we

saw over 4000 new regulations promulgated. I think business is still trying to recover from that. So I look forward to hearing the public's comments, since they are the ones who are directly affected by these regulations. Hopefully, they will have some new ideas that we can take back to our respective Committees.

Thank you.

ASSEMBLYMAN AUGUSTINE: Thank you.

SENATOR KYRILLOS: Senator Littell, we would like you to be our leadoff witness, sir, because more than anyone, you have given this subject a great deal of thought and have had a lot to do with many of the suggestions and recommendations that have become part of the policy discussion at the State House and throughout the State of New Jersey.

Senator, maybe you could tell us a little bit about the NJIT report, and how it came about. Welcome.

SENATOR ROBERT E. LITTELL: Thank you.

Senator Kyrillos, Secretary Hooks, Assemblyman Augustine, and members: First, let me say that it is a little hard to hear back here, so if I raise my voice I am not being blusterous, like one reporter wrote the other day. The acoustics in here are not the greatest, and these (indicating microphones) are evidently not hooked up to a PA system, only to your recording system. The lady with the gentle voice and the big stick is a little hard to hear in the back of the room -- Lonna.

SECRETARY OF STATE HOOKS: We understand -- this one time.

SENATOR LITTELL: Well, first of all, let me commend you for having this joint hearing to get the process started. I started the groundwork for this process at a public hearing two years ago during the budget process. The higher education group was before our Committee, and I said to Dr. Saul Fenster of NJIT, "Would you consider doing a complete study and review

of all of DEP's laws, rules, fees, and fines in relationship to New Jersey attracting jobs and hanging onto the jobs we have?" because I had heard from many people that we were losing jobs and that we were not attracting new jobs. That is a double-edged sword that clips you both ways.

Dr. Fenster's response was immediate and positive. He said, "I would welcome the opportunity to do such a review for the State." He said, "I think if you examine the facts, a proactive business attitude and a safe and clean environment are not mutually exclusive." Based on his testimony at that public hearing, I pursued it next at the next portion of the budget process, when Commissioner Scott Weiner came before our Committee. Commissioner Weiner was asked the same question by me, if he would participate in such a study if NJIT were to do one?

Scott Weiner said to me, without hesitation, "I would welcome such a study." He said, "I want you to know that the laws and rules in this Department are in conflict, that they are a mess. I cannot administer them, and I doubt that anyone could administer them." He said, "I would ask that you do one additional thing. That one additional thing is to include the Law Revision Commission in the process to codify the laws, to codify the court cases, and to get everything into some kind of decent order so that you can follow it." I said, "Consider it done." I made a phone call and got the Law Revision Commission involved.

The process went along very smoothly. The Department worked well with NJIT. NJIT was very thorough and very responsive. You should know that in every instance where they had a criticism of either the Department or the process in the Department, they took that criticism back to the Department and gave them an opportunity to, one, verify it, and number two, respond to it before anything was put into writing by way of a report.

So this report was done exactly as it says in the Executive Summary, in a collaborative fashion. As you are doing it here in a collaborative fashion, you are bringing together the best minds we have in the State of New Jersey -- and we have a lot of good ones. That was my whole thrust, to get the best minds in the State of New Jersey that we have in higher education to contribute to the needs we have in this process, because the needs of business and industry are the needs of all of us. They are, in fact, the engine that runs this whole machine, this State of ours; that provides the economic backbone; that provides the jobs, and makes our State strong in a country and in a world where we have to be competitive.

We need to do this in many other instances, not just in this area. We have done that. We have studies coming from NJIT and Thomas Edison College, this institution right here, on health care. We have had other studies started, or some that are in the process; and some that need to be started yet. If this Legislature is going to tackle these very significant problems-- Senator Kyrillos, I think you know as well as I, and maybe better, because you are in a very sensitive area. I come at it from the financial aspect of, "How are we going to finance the funding of the Department of Environmental Protection if we reduce and eliminate the fees and fines?" because it is clear that 80 percent or 85 percent of the fees and fines is what drives the budget in that Department.

On the other hand, when you listen to the fact that a permit in the State of New Jersey costs \$75,000, and right across the river in Pennsylvania the same kind of a facility costs \$11,000 or \$12,000, you know they are eating their lunch. It is pretty simple to analyze that.

So you have a very tough job, Senator Kyrillos, Assemblyman Augustine, and Secretary Hooks, but I think that this report, this first step and phase that was done by NJIT is

probably one of the finest reports I have ever seen. The NJIT report found that there are about nine major categories of critical issues regarding the administration and enforcement of environmental laws, including such issues as the high cost of compliance and the lack of compliance held for small business.

In order to address these issues that NJIT has brought out, there are 46 specific recommendations that apply to these identified issues. The recommendations range from the simple to the very complex. I would urge this group to gather here today, and again and again, until you master and solve the needs of the Department and of the environment, and at the same time, master the needs of our business and industry community, so we can have that balance -- that wonderful balance -- that gives us what Saul Fenster said is not mutually exclusive, a safe and clean environment and a proactive business attitude.

I want to publicly thank Dr. Fenster and his staff for their contribution to this process. I know they stand ready to help you in any way to pursue the next phase.

I want to thank the Law Review Commission for their swift and immediate response. It is a bipartisan Commission that has existed for many years. It has been used to pull together the conflicts that exist in law and to correct them and change them. They have been very responsive. Al Burstein, the former Assemblyman, is the Chairman, and the Cochairman is the Red Barron, Hugo Pfaltz.

So that is my story to you. It is a tough challenge, but it is easy reading. This report done by the NJIT, I believe, is a blueprint for the future of the State of New Jersey.

If you have any questions or comments, I would be glad to try to respond to them.

SECRETARY OF STATE HOOKS: I would like to thank you very much, Senator. That is one of the documents that is going to be the foundation as we begin to gather testimony and we

prepare the report that comes out of the Office of the Business Ombudsman. It is a wonderful document. We just want to add to it, but we definitely have been using it as afternoon reading.

Thank you very much.

SENATOR KYRILLOS: Senator, thank you, on behalf of your colleagues here, for your testimony. You were very gracious in commending Dr. Fenster, NJIT, and others, but as I mentioned in my introduction of you, Bob, more than anyone, you really deserve the credit for putting this issue on the public agenda. You have been talking about it for several years now, and we congratulate you.

SENATOR LITTELL: Thank you.

ASSEMBLYMAN AUGUSTINE: May I add my congratulations, Senator, on behalf of the Assembly, for all the work and the initiative you have taken to bring this very, very important issue to the fore. We are grateful, as I am sure the people of this State are grateful for that.

SENATOR LITTELL: Thank you. I appreciate that.

Does anyone have any questions? (no response)

Okay, thank you.

SENATOR KYRILLOS: Thank you, Senator.

SENATOR LITTELL: I hope I wasn't too blustery today, Joe.

SENATOR KYRILLOS: You got a little blustery at times. Go ahead, Assemblyman.

ASSEMBLYMAN AUGUSTINE: Before we proceed, by your leave, Madam Secretary, I would like to introduce my colleague, Assemblywoman Crecco, from Essex County.

Would you like to say a few words of greeting, Assemblywoman?

ASSEMBLYWOMAN CRECCO: Thank you, Mr. Chairman. I am very happy to be here. Please excuse my delay in getting here on time. It was just unavoidable.

Thank you very much.

ASSEMBLYMAN AUGUSTINE: I did recognize your legislation in this area.

SECRETARY OF STATE HOOKS: We would like to continue the hearing. With that perfect opening by Senator Littell, we would like to continue with testimony from the New Jersey Chamber of Commerce. Will the representative of the Chamber please come forward?

SENATOR KYRILLOS: Madam Secretary, before we hear from the Chamber representative, I just want to acknowledge the arrival of our colleague, Senator McGreevey, from Middlesex County.

SENATOR MCGREEVEY: Thank you. Senator, I apologize. I was with Bob Singer before Peter Inverso's Committee, trying to broaden investment opportunity.

SENATOR KYRILLOS: Right, Biotechnology.

SECRETARY OF STATE HOOKS: Senator McGreevey, would you like to make any opening remarks?

SENATOR MCGREEVEY: I just want to thank you, Madam Secretary, for the opportunity. I know there are many individuals here today.

Most importantly, I had occasion to read the memorandum that Senator Kyrillos had prepared. I would just like to underscore perhaps the most onerous obligation that I think many in the business community are confronting: the imposition of regulations to which there exists no time frame. I think I would just underscore the need for there to be a definitive time frame for the State to fulfill its obligation, either in terms of approving or disapproving a particular application.

Evidently, it is rampant throughout State regulatory policy to have a series of permitting structures. However, there is not institutionalized, either in the legislative or in the Administrative Procedures Act, the requirement for definitive, strict time frame against which the business

community can rely for an answer or for a decision. It seems that is evidently the most onerous aspect of dealing with State government, the inability to rely upon a definitive time structure against which industry and business, as well as the consumer, can make a decision to proceed.

SECRETARY OF STATE HOOKS: Thank you.

SENATOR KYRILLOS: A very good point.

SENATOR MCGREEVEY: Thank you.

M I C H A E L A . E G E N T O N: Secretary Hooks, Senator Kyrillos, Assemblyman Augustine, distinguished legislators and panelists: I am Michael Egenton, Manager of Governmental Relations for the New Jersey State Chamber of Commerce. The Chamber thanks you for the opportunity to discuss the regulatory process in New Jersey.

Based on the content of today's topic and the Chamber's diverse membership, it is only appropriate that our presentation include comment from some of our outstanding members of the Chamber's Environment Committee. We will first hear from Jim Shissias, General Manager of Environmental Affairs for Public Service Electric and Gas, and also the Chairman of the Chamber's Environment Committee. He will be followed by Dr. Jack Kace, Director, Environmental Affairs for Hoffmann-La Roche. We will then hear from Hank VanHandle, Manager, Environmental and Engineering Services for the Bayway Refining Company. Finally, last but not least, John Holtz, Associate Director of the New Jersey Petroleum Council.

Without further ado, the Chamber's Chairman, Jim Shissias.

J A M E S A . S H I S S I A S: Thank you, Mike.

Secretary Hooks, Senator Kyrillos, Assemblyman Augustine, and distinguished members of the Joint Committee and the Permit Coordination Committee: Thank you for listening to us.

I will give a brief overview. I would like to just identify the specific areas that each of the panel members will discuss very briefly. We will be very respectful of the time constraints that exist for the number of speakers who have been invited here to be with you this afternoon.

I will touch on the need to change the process that currently exists to a performance-based system. Jack Kace will be talking about the tendency that is built into an array of the programs that leads to a tendency to exceed Federal requirements without justification.

Hank VanHandle will use a specific example of the Clean Air Act that ties all of these things together, and represents an opportunity that exists right now to do something proactively through the promulgation of some sections of the Clean Air Act which, if we are able to see the kind of program that has been recommended, could result in a significant change in the process. It goes along the lines that we are talking about here today.

Finally, John Maxwell will provide some very specific recommendations that deal with the process of regulatory reform. Oh, I'm sorry, John Holtz. I was thinking of another member of the Petroleum Council. Excuse me, John.

J O H N F. H O L T Z: That's okay.

MR. SHISSIAS: Why do we need a change? There are two drivers. The first has been touched on again and again, and that is that we are in a fierce struggle economically globally, as well as on a state-to-state basis. I have never seen anything quite like what is going on today.

Secondly, there is clearly a need to protect and enhance the environment while we are trying to deal with competitive changes and, hopefully, lead to a prosperous New Jersey economy.

The current system we have in place is basically a command and control system. It is a system that was necessary

in order to produce a regulatory framework that was basically built from ground zero, 25 years ago, to what it is we have today. However, as we look to the future, we are dealing with a system that is too rigid, too inflexible, that is costly, and, we think, not up to the task of allowing us to meet our environmental goals not only within the State, but also nationally.

We must move to a system that is a performance-based system, as opposed to process. By a performance-based system, what I am referring to is a system that is focused on the end result; what is it that we want to accomplish, rather than the process. Why is it that we have a process-based system? Among other things, it is probably because it is very easy to measure. It is very easy for the agency to measure how many permits they issue, how long it takes to get a permit.

The questions that we have to ask ourselves are: What is the end result? What happens after all of that is done? Have we achieved our environmental objectives? It is much tougher to answer those questions, but yet, that is what we have to be focusing on.

A major environmental improvement could result by redesigning existing systems, so we are focused on: What are the emission limits, and what are the standards that we need to achieve? The agency should be focused on that policy issue, as well as on a system of monitoring how it is that we get there, and then enforcing vigorously. What that will do -- having that kind of a system -- is, if you make it very clear up front what the limits are or what the standards are and then step out of the way and let the regulated community, in a cost-effective way, knowing their processes like only they can know them, develop plans to achieve those targets, the agency then, in a much more cost-effective way, can monitor the progress toward achieving those targets, and then enforce very vigorously, where necessary.

What that does is focus everyone's attention, both with respect to the agencies as well as the regulated community, on the end results that everyone is trying to achieve.

In addition, by having these standards and limits very clearly stated up front, it provides the regulated community with an opportunity to integrate those standards into their business planning. When you do it that way, you get better results environmentally, you get them faster, and you get them cheaper.

I know some other speakers will probably be addressing this, but I would like to digress for just a minute to say, on Friday I heard, firsthand, a lot of detail about the Dutch plan, the plan they have in the Netherlands which really makes a lot of sense and has a lot of appeal to the business community. It is a plan based on having a vision -- in their case sustainable development -- having very clearly defined targets and specific media that have been bought into by the environmental community, the public, and the business community; having covenants that tie the regulated community to those targets; and then having specific action plans to achieve those targets. The government, then, can focus on monitoring the progress toward achieving the targets and then enforcing. The energy is devoted toward the end point, rather than shuffling paper back and forth endlessly when you focus on process.

That sounded like it has a lot of appeal to us, and some of what I have just talked about is built into that approach, even though we may be talking program by program, rather than an integrated master plan. But that whole idea of having a plan so you do not meander through this whole process, but have it all integrated with targets so that the resources on both sides can be focused in a way that can produce

significant improvement where it is really necessary, and then action plans to implement those targets, is a very rational way of achieving our combined goals.

Thank you very much for the opportunity to hear my overview and my specific suggestions regarding process versus performance.

I will now turn to Jack Kace from Hoffmann-La Roche, who will address the issue of Federal consistency. Jack?

J A C K S. K A C E, D.Eng.Sc.: Thank you for the opportunity to speak to you today.

I felt we really needed to start out with the Federal exceedences bill, because even though the Legislature was kind enough to pass that bill, it still has not been signed. It is almost like the old story, "What is the point in real estate? You know, these three things, location, location, location." I almost feel that way about the Federal exceedence system. It is the single most important piece of legislation to start to get control of this octopus we call the "regulatory system" in New Jersey.

Why is it so important? Well, one thing it doesn't do, even though the opponents will say it does, is, it doesn't limit the ability of a regulatory agency to make standards a little more stringent than the Federal requirements. It just simply requires that they identify them. I have people, including myself, who read through hundreds, if not thousands, of pages of New Jersey regulations, both proposed and final, each year. To try to even identify what the differences are between the State regs and the Federal regs is a monumental task. Then to understand why those changes were made and what impact they are going to have on our operations in the future is almost impossible.

We have a large company, with a staff devoted to do this. Smaller companies don't stand a change. I really don't understand why the DEP feels it necessary to change around

anything that has the word "Federal" associated with it and come up with a New Jersey version. Certainly, the other states we operate in don't have that problem.

One example of this issue is the current State air permit regulations. There are two key issues that my company asks me whenever we are considering a new project for New Jersey. One issue is: How much are the air pollution controls going to cost, or are the water pollution controls going to cost? And two, how long is it going to take us to get the permits we need to go ahead and build the project? New Jersey is one of the few states we operate in that I cannot answer either of those questions.

As Senator McGreevey pointed out earlier, there are no requirements in the regulations or in the legislation for turnaround time on permit applications. You can send a permit application down to a State agency. It could sit there for six weeks and give you a fairly rapid response, or it could sit there for two years. As I sit with you today, we have one permit that has been pending for three years. Definitely, a change needs to be made. They have to be accountable to the Legislature for reasonable turnaround times on permit applications.

The second thing they need to do is publish what the guidelines are and where the goalposts are. We have to know what we need to install to meet the requirements to build something in New Jersey. It is almost like going out and playing a game without any rules. You submit an air permit application down to New Jersey. Sometimes it is approved rapidly; sometimes it goes into a backroom somewhere, where they do what they call a state-of-the-art review on that permit application.

Now, I think that regulatory agencies in this State are required to promulgate regulations under the Administrative Procedures Act, which tells business what criteria we have to

meet to get things approved. The fact of the matter is, the DEP does not do that. The fact of the matter is, they are delayed in doing this, and they have all sorts of excuses for not publishing regulations, so we don't know what criteria we have to meet. If the present system isn't bad enough, the State is embarking on a new air permit system that is required by Federal law and Federal regulations. Hank VanHandle is going to be telling you a little bit about that. If you think what we have now is bad, wait until you hear what we are going to get.

Hank?

ASSEMBLYMAN AUGUSTINE: May I chime in for just a moment, too, to remind you that there are no microphones, and therefore, some people in the back, I am told, are having trouble hearing? So just keep that in mind as you give your testimony.

H A N K V A N H A N D L E: Secretary Hooks, Senator Kyrillos, Assemblyman Augustine, other members: You have heard generalities about what regulatory reform means, why we need regulatory reform, and how the industry is being stifled by the level of detail in the current regulations and regulatory process. During the transition meetings we had with the new, incoming administration, for the DEP side Chaired by former Commissioner Chris Daggett, I said that we were at a crossroads in the air program, which was similar to where the regulated community stood with respect to the water program in the late '80s.

In the late '80s, we had a water permit program called "NJPDES," which was not issuing any permits. We had new legislation -- the Clean Water Enforcement Act -- which put a number of mandatory requirements onto the Department and took away a lot of flexibility. We had rapidly escalating permit fees for water, so that by the early '90s, we had permit fees

which were among the highest in the nation, in many cases 10 times what other states were charging for similar water discharges from similar facilities.

For a number of years, I served on a Permit Fees Task Group which has made some small incremental progress, but which has not brought about any reductions -- any significant reductions in some of the fees paid by the larger facilities. My water permit fee for this coming year is still over \$400,000. In the late '80s, it was \$50,000. So we have to understand where we are.

The reason I talk about the water program is because we are at that crossroads in the air program where we can either have a paradigm shift and go the way of the Netherlands model, go the way that has been suggested by Senator Littell and by the prior speakers on this panel, or we can continue to microanalyze, micromanage, and microdiscuss every element of the permitting system.

Since last summer, I have been involved in very extensive meetings, both on drafting legislation to implement in New Jersey the Federal Clean Air Act and also to draft regulations implementing Federal requirements under the Clean Air Act. I must say that senior management at DEP has been open, very helpful, very concerned, and in all, very understanding of the task we have before us. Staff at all levels has worked very hard. A lot of our meetings have not ended until after 6:00, sometimes 7:00 at night. There is no lack of effort on the part of the DEP. Those people work very hard. What we have to say is, "Are they working very effectively?" The reason I say that is because the devil is in the details. We have talked about not being stricter than Federal regulations. We have talked about treating policy as though it were regulations.

In terms of the legislation, there are three major areas where there is still disagreement between the regulated

community and the Department. Those deal with the definition of "state of the art," where there is strategic agreement on using Federal definitions, but yet there is still a need felt on the part of DEP in certain areas to go beyond Federal definitions and impose their own more elaborate analysis. In the definition of "reconstruction," which is when an existing piece of air pollution control apparatus has to undergo a reanalysis and potentially be torn down and reconstructed to a new higher state of control, and, of course, the issue of fees, which are very much involved in the whole idea of how the regulations are implemented.

Secretary Hooks mentioned that the Bayway Refining Company, Tosco, has signed a letter of intent with Huntsman Corporation where we will provide feed stocks and land lease, and Huntsman will build a \$50 million unit in New Jersey. There is still an outstanding \$150 million facility which is either going to be located in New Jersey or in West Virginia, which will take the intermediate feed stocks from the first facility and process them into a base material for plastic. We hope to get that second, three times larger investment into New Jersey.

Secretary Hooks mentioned that one of the elements we have to do this-- We have to take a component out of gasoline, which we will supply to Huntsman as one of their feed stocks for the \$50 million unit.

We recently received a permit from DEP. We received it in five weeks. We had to start shipping the material. We used the "permit at risk" legislation. Things sound good. We are going to have to adjudicate that permit. The final permit is not acceptable to us as a corporate entity. Why not? Because that final permit requires us to meet a standard which goes beyond Federal requirements. When we asked DEP why they feel they have to impose that stricter standard, they say, "Because it has been our existing policy."

So again, the devil is in the details. It is the paradigm shift where we have to have the Department saying, "Why do we have to go beyond Federal requirements?" as opposed to the Department saying, "Well, it is the way we have been doing it." When I talk to people in the Department, they say, "I don't see your problem. Proper process was followed." Yes, it was. The end result wasn't too good, but proper process was, in fact, followed, and we did get a permit in five weeks. So we have to be very careful about the details we talk about.

In this case, in order to try to expedite this permit, what we did was, we gave them chapter and verse on Federal standards that were applicable to this particular operation. There is no disagreement between DEP and us as to those applicable Federal standards. In addition, we did a voluntary risk assessment showing that there was no risk to the public health or environment from the level of control we had proposed. We have done one performance test. This is an existing piece of equipment. Under our existing permit for that piece of equipment, we had to have a 95 percent efficiency. Our first performance test -- we are very proud of it -- came up with 99.9 percent efficiency.

We suggested to DEP that there were at least two separate Federal standards that had a requirement for 98 percent destruction efficiency. We want to commit to a 98 percent destruction efficiency. The Department said, "Yes, but you see, you once got 99.9 percent, and our internal policy is 99. So therefore, you are going to get a permit that says 99." The devil is in the details.

In terms of fees for the new program, the working group that I am part of has advocated formulating a streamlined methodology for how to process permits. We are working, in detail with the Department, on developing flow plans for how permits get initially written, how they get approved, how they get modified. We are doing an analysis of the workload

required for each of those steps. We want to go through that, and then, based on that analysis, say, "Okay, this is the level of funding that is necessary based on what we see as an optimized base case."

What DEP has done, it has done a very detailed work analysis of how they would like to see their program be, not how streamlined we can make it, but, "This is what we would like for a program." Based on that program they would like to see, they need fees that, again, will be among the highest in the nation for an air program that is already one of the most sophisticated air permitting groups in the country. Then they say, "Well, these are not out of line with a lot of the other states." Of course not. The other states are starting from scratch. They are not charging a lot of fees right now. DEP, having over 100 people in the air program, or several hundred people, wants to add other people. We believe that with the existing sophisticated air program properly redirected away from microanalysis, away from microdetail, that we can achieve what we have to in terms of better air quality in this State, without expanding, on a permanent basis, the resource sector of DEP.

We acknowledge that there may be a temporary upswing in resource requirement. What we suggest is that the worst thing you want to do is add permanent staff for what may be a temporary need, because we all recognize the difficulty of cutting staff once that staff has been added. The DEP fully acknowledges that neither they nor us have an idea of what the long-term, steady State requirements will be for this program three or four years out into the future.

Again, I would like to echo Dr. Kase. The cornerstone of whether we mean business in New Jersey and whether we are open for business is to get the legislation of Federal exceedence signed into law. We need that as a statute to send a clear message to the regulators that New Jersey, both

executive and legislative branches -- both the legislative and executive branches mean business, and that is the policy statement that we want coming from both branches of government. That way we can say, "Here, folks, down at the staff levels, this is really what we want, and we should start with the old thoughts of the past, the old policies of the past, but rather we should start with a base that is good enough for the rest of the country, and if it has to be better for New Jersey, no problem. We can change that." We should not say, "It is going to be that way because that is the way it used to be."

I thank you for your time.

MR. HOLTZ: Thanks, Hank.

Again, I am John Holtz, with the New Jersey Petroleum Council here in Trenton. By the way, we also endorse the enactment of Assembly Bill No. 1577 -- S-231 -- barring Federal standards. It provides a practical and thoughtful mechanism for ensuring that New Jersey does not adopt excessive regulations that make us uncompetitive with some of our neighboring states. So we urge the Governor to sign that. I hope she has been getting this message.

We have shared with you this morning -- this afternoon, rather -- some examples of problems with regulations. Now we would like to offer some changes in the State's rule-making process to overcome some of those problems. A lot of good work and research has been done in recent years on the way -- examining the way that State agencies fulfill their regulatory obligations. There was the Study Commission on Regulatory Efficiency, also known as the SCORE report, which was initiated by former Governor Kean. And Senator Littell spoke of the NJIT study a little bit earlier today.

There is a lot of good stuff in these two books, and we would urge the Committee to take a good look at them and some of their recommendations.

By the way, bits and pieces of these two reports have been translated into bills before the Legislature, both past and present Legislatures. Former Assemblyman, now Congressman Bob Franks had a major initiative on regulatory reform that came out of some of these recommendations. Former State Senator and former Secretary of State Dan Dalton also had a major piece of legislation on regulatory reform that incorporated a lot of the recommendations we have seen in these reports.

We would like to put out on the table for your consideration a comprehensive retooling of the rule-making process; one that would achieve its goals with little additional expense to the State by making better use of existing resources and people, and does not end up creating a new bureaucratic maze by solving the old one.

The New Jersey Petroleum Council is a Division of the American Petroleum Institute. We have a network of 34 state offices around the country. It is through that network that we have had an opportunity to look at and examine the rule-making process, the regulatory process, in each of those states. We are particularly enthusiastic about the aspects of the Florida system. We modeled our recommendations after the Florida State program.

Let me just highlight some of the things we think can be crafted into New Jersey's regulatory process to improve the process substantially. One would be establishing a procedure for substantially affected parties to challenge proposed regulations before they are adopted, in an objective forum before an Administrative Law Judge. You know, the way the rule-making process works here in New Jersey, the agency that proposes the rule really sits as judge, jury, and prosecutor. They propose the regulation; they preside at the hearings; they decide whether your comments at the hearings have any merit;

and then they decide whether or not to adopt. We need a little bit more accountability in there.

Another recommendation would be to set standards of ruling, a checklist, if you will, of things that need to be present in a rule proposal before it can be adopted, including: consistency with existing regulations or statute; clarity; adequate notice; compliance with procedural rules of the Administrative Procedures Act; a valid economic impact statement; the agency's authority to promulgate. It should also include a look at whether or not an agency has exceeded or undone the legislative intent of a particular statute.

We think the economic impact statement should be more than just a requirement, a boilerplate statement that you see in the "New Jersey Register" twice a month. It should really be very specific and have some sound input.

We would like to see the executive order mandating the expiration of rules after five years being statutory. We would also like to see some system whereby the affected parties are advised in advance of proposed regulations, so that everybody knows what is coming down the pike. Former Assemblyman Franks had that provision in his legislation. We would like to see a requirement that requires State agencies to publish a rule-making calendar of anticipated regulatory activities for the coming six months. We see this more and more in the "Register." We would like to see it a little more consistently.

Also, we would like to see something that puts a little more -- a provision that puts a little more teeth into the process, whereby the public can actually petition for a rule making. Right now, all that happens is, you can petition for a rule making and, once again, the agency decides whether or not it even wants to respond to that.

A lot of these provisions, by the way, are already incorporated in legislation sponsored by Assemblyman Sean Dalton, who is sitting here at the table today. We endorse

that legislation. We endorsed it four years ago when it was first moving through the Legislature. He has updated it, and we would like to see some additional amendments to it to make it even better, and hopefully use that as a foundation for these two Committees and the administration to move forward with really true regulatory reform.

By the way, we will provide the Committee -- the panel -- with more details in writing after today's hearing.

Thank you, Secretary Hooks.

SECRETARY OF STATE HOOKS: Gentlemen, thank you very much. You brought up a number of extremely important points. Forgive me, but you just made me reflect that Congressman Franks had shared that legislation with me, and we want to take a peek at that again.

On the Dutch plan, Commissioners Shinn and Medina and Jane Kenny of Policy and Planning went over to Holland to get a firsthand look from their administration at that particular plan. That is something that we have not talked about a lot publicly, but that is something that we want to look at as we go through this process, to get a lot of ideas as we begin to model and streamline and suggest some reform. But that is something I read about, and I think it is really an exciting new model.

SENATOR KYRILLOS: Are there any questions or comments?

SENATOR MCGREEVEY: Yes.

SENATOR KYRILLOS: Senator McGreevey, before you ask your question, I would like to welcome our colleague, Senator Martin, to the Committee.

We have heard from Senator Littell, Bob, and now from this panel from the State Chamber of Commerce.

SENATOR MARTIN: Fine. I was at a meeting in the Governor's Counsel's office.

SENATOR KYRILLOS: Feel free to make some remarks.

SENATOR MARTIN: No, thank you.

SENATOR KYRILLOS: Senator McGreevey?

SENATOR MCGREEVEY: In terms of PSE&G, what is the average annual expenditure that is allocated for environmental cleanup within a corporation -- in terms of cleanup of dirty sites?

MR. SHISSIAS: I did not come prepared to answer that question. I do not have the number. I can tell you this: It would be in the tens of millions of dollars if I look at-- Are you talking about site remediation?

SENATOR MCGREEVEY: Yes, one aspect -- solely site remediation.

MR. SHISSIAS: Just looking at site remediation, it would be in the tens of millions. It is a significant expenditure. We have not really touched on that as a specific immediate need that needs some focus. But I think whether it is PSE&G or any other company doing business in this State, when you get around to the issue of site cleanup and where that can lead you from a cost standpoint, that is certainly a very good example of a need to be assured that whatever the cleanup is that is required in order to protect public health and the environment, we have to be sure that it is in some way related to the risk. Otherwise, the potential exists that you could expend enormous resources without getting the corresponding gain environmentally.

SENATOR MCGREEVEY: How should the State-- How ought the State design regulatory policy to promote cleanup of outstanding desecrated sites? I know PSE&G, in a recent application for rate increases, specifically states overwhelmingly a number of delineated sites. How, as a matter of regulatory policy, should that question be framed?

MR. SHISSIAS: There are two elements to it: It deals with the process the agency uses to deal with any cleanup, whether it is a gas plant cleanup, whether it is PSE&G or any other company in the State. It also deals with the standards

that would apply: How clean is clean? There is a lot of effort going on in that particular area. Both of those areas would need to be examined very carefully in order to ensure that the most efficient system for site remediation could occur. You could not look at just one or the other. There clearly are ways, from a process standpoint, of making improvements that could make that whole part more efficient. There is a lot of time devoted to the investigation part.

SENATOR MCGREEVEY: But do you think, as a matter of regulatory policy, that there ought to be a specific target, particularly in heavily regulated industries such as utilities, as a set-aside for remediation efforts?

MR. SHISSIAS: I am not sure I understand the question.

SENATOR MCGREEVEY: Should an aspect of the budget be provided for remediation?

MR. SHISSIAS: Of which budget?

SENATOR MCGREEVEY: Of your budget, PSE&G's.

MR. SHISSIAS: Well, it already is.

SENATOR MCGREEVEY: Yes, but I mean, should there be a goal, should there be a target?

MR. SHISSIAS: I think we need to have a target to deal with-- I mean, that is the way businesses operate. What is difficult for us is when we have kind of an open-ended process. I think the more clarity that can be given-- Whichever issue it is that we are talking about, if we can have-- In this case, we are talking about site remediation. If we have a better picture of what the long-range goal is for the State in terms of bringing sites to closure, that would be very helpful.

SENATOR MCGREEVEY: It is just, I mean, trying to be more constructive, PSE&G has-- I guess what I am looking for is a problem specifically with-- I mean, PSE&G has a number of substantial sites throughout the State that I believe PSE&G is committed to address.

MR. SHISSIAS: Yes.

SENATOR MCGREEVEY: How do we expedite that process, and how do we enter into an agreement, basically, between the DEP and the industry to set a definitive time schedule? Obviously, if Hoffmann-La Roche makes, or Merck & Company-- I mean, those are private industries with private liability concerns, cleanup concerns, etc. But for a publicly regulated utility, there are special considerations.

The concern I have is, how does the State get into the business of encouraging or working constructively to expedite the cleanup schedule of a substantial number of sites in need of serious remediation?

MR. SHISSIAS: Well, that is a very good question. I could go back to-- I think what we need to focus on within the State and within the agency is a way of making the process of investigation and then remediation move more efficiently. It does not move very efficiently anywhere. It is not only New Jersey; I mean, it is nationwide. That is because it is too paperwork oriented. It is too process oriented. We can never seem to get to the end point.

But once we do, in other words, once we finish an investigation, then the issue of how much of a cleanup is involved should be based on very clearly defined standards that use risk assessment techniques. Otherwise, we could end up with an ultimate result that is -- where the cost is disproportionate to the gain. As a society, we are not in a position anywhere to move in that direction.

SENATOR MCGREEVEY: I just have one last question, if I may, through the Chair?

SENATOR KYRILLOS: Sure.

SENATOR MCGREEVEY: Jack, you probably know better than most-- One of the frustrating things I see are environmental sites that are desecrated and lying fallow because the shared expense in cleaning them up is so punitive.

I know ECRA legislation has been debated vociferously on both sides, and the environmental community is concerned that there be an acceptable threshold of cleanliness. But what is happening is, it is not happening. I can see in both my community and Perth Amboy, nothing is being done. The way I see it, nothing is not good. How do we grapple with that?

DR. KACE: I think that is a very good question, but one that would take a couple of hours to answer. Let me just try to give you my--

SENATOR MCGREEVEY: Just in terms of setting forth a vision, or a framework.

DR. KACE: Yes. Let me try to give you my perception on the situation. Again, Jim is very correct. This is a Federal problem. It is a problem in every state. It really has to do with the apportionment of the liability for cleanup, because most companies have no problem at all cleaning up the mess that was made by their company in the past. Very few companies will object to doing that.

The problem comes when a company is told, "Not only do you have to clean up your share of this mess, but you have to clean up four or five other companies' shares also," because maybe we can't identify them, or maybe they have gone bankrupt, or maybe this has happened, or maybe that has happened. We don't have the paperwork to get them on. There is any one of 100 different reasons for it.

I think there is a lot of work going on now in terms of liability reform that is looking at this question and trying to get around the issue, trying to say, "You know, you do have a Superfund; you do collect money from a tax. Why not use that kind of money to pay for the orphan's share, for the share that is due to companies that either can't be identified or have gone bankrupt?" I think that kind of change in thinking is necessary for this program to work, because the Federal

Superfund law is basically one that just gets down to litigation, and everything comes to a grinding halt.

We need, as Jim said, public standards so that everybody knows what the cleanup level needs to be. But then apportion the liability fairly, so that companies will not object to paying someone else's share.

SENATOR KYRILLOS: Senator MacInnes?

SENATOR MacINNES: I want to follow up on Senator McGreevey's question to Mr. Shissias answer. Is that the way to pronounce your name?

MR. SHISSIAS: Shissias. You were pretty close.

SENATOR MacINNES: I get a few mispronunciations, too, so--

SENATOR MCGREEVEY: He would like to pretend he is Irish. (laughter)

SENATOR MacINNES: The question I had was on risk assessment. We know something has to be cleaned up, but the question is, how clean? Do we have standards now that are promulgated for making that determination?

MR. SHISSIAS: Not in place yet. Although it has been a technique that has been used for years and years in a variety of areas, it has not reached the point where it is actually a published standard that is being followed.

SENATOR MacINNES: Is it a Federal question, or can the State address it?

MR. SHISSIAS: The State can address it.

SENATOR MacINNES: Should the State set standards-- Are there standards in the Federal statute that require that they reach a certain level of cleanup at any of the sites, or is that open-ended?

DR. KACE: That is open, too.

MR. SHISSIAS: That is an open question federally, as well. I mean, there are some standards, but not delineated

across-the-board federally in a way that would apply regardless of where you are.

SENATOR MacINNES: Has the State made efforts to set the standards for cleanup?

MR. SHISSIAS: Out of the ISRA legislation, they are in the process of doing that right now.

SENATOR MacINNES: Are you familiar with what is being proposed with that, or is that not published?

MR. SHISSIAS: That has not been-- I do not believe that the report of the commission that was established as an outgrowth of the legislation has surfaced publicly yet.

SENATOR MacINNES: Does that commission include representatives of the industry that are affected by the cleanup?

MR. SHISSIAS: Yes.

SENATOR MacINNES: So at this stage, until that commission reports in terms of what we could do in New Jersey to assess whether our standards are reasonable enough or not, we really need to wait.

MR. SHISSIAS: My understanding is that we are getting very close to seeing whatever that report is. That is the one component. The other component deals with opportunities to make improvements in the process that will be there regardless of what the standards are. If we can figure out a way for the agency, working with the regulated community, to work more efficiently, that is going to be a net gain to the process. The standards-- We do have to wait to see what the commission's report will recommend.

SENATOR MacINNES: Thank you, Mr. Chairman.

SENATOR KYRILLOS: Thank you, Senator MacInnes.

ASSEMBLYMAN AUGUSTINE: Senator, Assemblywoman Crecco would like to make a few comments.

ASSEMBLYWOMAN CRECCO: Thank you, Mr. Chairman.

I just want to comment on your testimony. It was good. As far as I am concerned, it supports the bill I have in the Assembly -- A-1577. The intent of our bill is to send a message to industry that we want them -- to encourage them to stay in New Jersey; and those that are not in New Jersey, to encourage them to come into New Jersey.

It is so good to have Secretary Hooks here with us this morning. I have sent a letter to the Governor, asking her to consider this bill.

Thank you.

SECRETARY OF STATE HOOKS: Gentlemen, thank you very much.

SENATOR MCGREEVEY: Could I just have one last question? By the way, we better get a statement in support of dredging before we leave here today.

One last question: In terms of PSE&G, in terms of the -- Bob Hollenbeck is going to shoot me-- In terms of the rate increase request, I read the application and it has a number of sites delineated for site remediation pursuant to that increase. I just want to know, after a definitive point in time, will those sites be cleaned up?

I mean, I have a site in my-- This is not like private industry. If I ask Hoffmann-La Roche, they say, "Either buy the stock, sell the stock, or get lost." But in terms of-- I mean, actually my electric rates are going to go up, as they are going to throughout the region. You can argue that there is a good, sound public policy purpose to clean up the sites.

The point is, I would like to know if that site will be clean within a definitive time frame?

MR. SHISSIAS: Well, within a definitive time frame is the difficulty. We have a commitment to investigate all of those sites, and we are committed to carry out whatever the remediation is that is appropriate based on the investigation.

But you ask about the time frame. What I think I am saying is, we are very anxious to try to move this through as efficiently as we can. We are not comfortable sitting on a list of sites that are at various stages of investigation that may go out quite a few years, even though that is the process. It is hard to give you a specific answer about when do we finish, because the process is kind of open-ended.

SENATOR MCGREEVEY: But is the money necessary for cleaning those sites included-- Is all of the money necessary included within this present rate increase request?

MR. SHISSIAS: I do not have the answer to that. I did not come prepared to answer that.

SENATOR MCGREEVEY: The point is, the State needs to cooperate more fully with industry to provide -- to be more responsive and constructive to provide the necessary, or to assist in allowing limited capital supplies to be used to clean up. But in a regulated utility, I think the concern is that when the ratepayers are providing the dollars, there is a need--

I read an excruciatingly exciting document for rate increase. In there are a number of delineated sites within my district. The point is, this was the premise upon which a rate increase was requested. Simply put, I would like to know whether they are going to be cleaned up within a given time frame?

MR. SHISSIAS: The answer to that is "Yes." Regarding the time frame, it depends on-- I do not know the sites that are in your district, so I would have to know where they fall in terms of--

SENATOR KYRILLOS: Let me interject for a moment. I think this is a good line of questioning, and it is perhaps an appropriate forum. Yet, utility reform, or--

SENATOR MCGREEVEY: Well, the BPU doesn't let you speak anymore, so--

SENATOR KYRILLOS: We are straying a little bit off the subject.

SENATOR MCGREEVEY: I thought it was reregulation.

SENATOR KYRILLOS: Reregulation--

SENATOR MCGREEVEY: I called the Public Advocate, but they did not return my call.

SENATOR KYRILLOS: You're finished with your questions at this point, Senator McGreevey, anyway, right? (no response) I think we are all finished on this side, Madam Secretary.

ASSEMBLYMAN AUGUSTINE: I believe we are finished also.

SECRETARY OF STATE HOOKS: Thank you.

MR. SHISSIAS: Okay. Thank you.

SECRETARY OF STATE HOOKS: We would now like to hear from members of The Stockton Alliance.

D A N I E L K E L L E H E R: Good afternoon, Secretary Hooks, Senator Kyrillos, Assemblyman Augustine, and distinguished Committee members. My name is Dan Kelleher. I am President of New Jersey - American Water Company, which is one of the largest investor-owned water utilities in New Jersey.

SENATOR MacINNES: Would you please speak up, sir?

MR. KELLEHER: My testimony today and my reason for being here is as Secretary of The Stockton Alliance. Also here today to present testimony on behalf of The Stockton Alliance are Tim Dillingham, Director of the Sierra Club for New Jersey, and Don Fauerbach, Vice President of Citizens United to Protect the Morris River.

The Stockton Alliance is a group of 21 leaders of New Jersey corporations and environmental organizations, who have been meeting for nearly 18 months at the Richard Stockton College to explore common interests and productive avenues for bridging differences. The mission of the Alliance is to seek better understanding and practical cooperation between

environmental and business leaders of New Jersey, and to work as partners to enhance the natural environment and economy.

We are appreciative of the opportunity to be here today and the support the Alliance has received from the Governor's Office and the administration.

In May of this year, the Alliance publicly announced the unique partnership we have created. As part of that public announcement, we presented position papers on several key issues to strengthen New Jersey's eco-tourism industry, redefine the operating principles of New Jersey's DEP, and revitalize interest in and seek better ways to implement the State Development and Redevelopment Plan. A number of concepts embodied in these documents have already been pursued by the administration. We are here today to further discuss these important areas for New Jersey.

In the matter before you today, I would like to focus on the DEP. We have recognized that DEP, in the past, has achieved many successes in areas such as Green Acres, recycling programs, hazardous waste management, toxic catastrophe prevention programs, and drinking water supply programs. We believe there is a need to build on these successes, expanding the successful models and adopting more of principle-based regulatory structures. Long-range strategic planning in establishing long-range goals and objectives which will guide regulatory programs are an important element for success in our industry.

By way of example, my background involves more than 20 years in the public water supply field. DEP's public Water Supply Programs embody many of the concepts we have advocated, particularly in terms of long-range goal setting, designed regulatory programs to achieve the goals, and implementation strategies to assure success. One that you may be aware of is DEP's success in regulating Water Supply Programs in Monmouth and Ocean Counties, which was referred to as a critical area

number one program several years ago. That strategy resulted in the New Jersey Water Supply Authority built in the Manasquan Reservoir and an alternate surface supply being distributed to many purveyors in Monmouth and Ocean Counties. The result of that program has been that the groundwater aquifer has recovered, and basically the strategy has been shown to be successful.

In my background, I have had the opportunity in previous positions to have access and become aware of water supply regulatory programs in many other states in the United States. New Jersey's Water Supply Program has served as a model for many of those states to develop their own programs. Some of the key elements which I think have made that particular program successful are the focus on long-range planning and goal setting. The Water Supply Master Plan, which was adopted in about 1980, provided a very sound vehicle for DEP to develop a long-range water supply management strategy.

In terms of funding, there has been in existence a fee on water delivered to consumers, as well as permit fees. That fee on water delivered, to my knowledge, has not been raised, but yet it has provided funding for DEP to hire consultants, as necessary, to evaluate the State's water supply resources and to help develop strategies to make sure we do have a good Water Supply Program in this State.

Lastly, there has been an ability, because of the stable nature of that Water Supply Program, to develop and attract qualified people and to hire consultants, as I mentioned, where necessary to meet the needs of specific programs.

Another model that has been discussed here already this afternoon is the Netherlands plan. That, we believe, offers an opportunity from a wide range of environmental and economic programs for DEP to use as a model to help modify its programs.

The water supply industry specifically -- and I think many businesses -- is very dependent on long-range planning and achieving long-range goals. In our view, that long-range planning is integral to a responsive regulatory program. We think New Jersey businesses, environmental interests, and the public will be most supportive and responsive if consistent programs can be established to achieve those goals. While fees are not a panacea, properly designed and administered they can be helpful to bring stability to regulatory programs.

With that, I will pass it on to Tim Dillingham to express his views further regarding management structure.

TIMOTHY DILLINGHAM: Thanks, Dan.

Madam Secretary, Senator, Assemblyman, I have to say that the process that The Stockton Alliance went through was a very interesting one from my perspective. It was an opportunity to spend 18 months locked in a room with Mobil, DuPont, and other folks whom we are often in a very adversarial relationship with, without the press, without the Legislature being there to trade comments.

But I think one of the more interesting aspects that came out of that discussion, and the points that are laid out in this paper which everybody has a copy of, was the conclusion that in terms of reforming or improving on environmental management processes in New Jersey, our primary focus should be on the management of DEP, not on the statutory regulatory structure that is in place; that there are gains to be made in the way the Department operates, the way its processes are managed, the way information moves through the Department, which could significantly take us toward this goal of reform without changing the basic policies, the basic standards we have set for ourselves in terms of environmental protection in this State.

I think the one thing that comes through clearly in the recommendations of this paper is that the coordination that

is necessary among the various regulatory boxes, or programmatic boxes within the Department can be managed, and that there are some fairly simple tools which rely more upon the leadership of the Department taking responsibility for its management, than they do, necessarily, upon changing some of the statutory directives that we have given to the Department, or indeed, lessening those standards, lessening the amount of protection, the type and nature of protection that we have here in New Jersey.

One of the recommendations that we have today is that as you embark on this process of listening to voices throughout the State, be very careful about not leading off with efforts based solely upon horror stories that you may hear as you go around the State; that there may be a need to continue on with some of the groundwork laid by the SCORE process to have an objective study done by someone who is a management expert in terms of the effectiveness of DEP and some of its operations; and that that be the basis to lead you to long-range changes that would support some of the long-range planning efforts that were talked about, such as the concepts that are embodied in the Dutch plan, a performance-based plan, and that type of thing.

While the Alliance supports ultimately moving toward more integration of performance-based planning, I think we are very concerned that we do not make a wholesale changeover or rapid changeover that would leave us with a void in terms of the level of protection we provide to the State and its environment.

The second part we touched on in our discussions, which we also hear very much from other people in industry, is that I think we all envision a new rule and ethic within the Department, one in which effective managerial talent is really assigned to different projects to improve the internal

effectively and shepherd some of those regulatory processes a little more closely. We hear a lot of talk about greater emphasis on collaborative planning and collaborative positive development, the promotion of compliance, rather than enforcement strategies. To that, in our findings, we added that there is a need for expansion of research and development capabilities. The move toward performance planning obviously has to be based upon a very detailed discussion and understanding of what those performance standards are and a process by which they are developed. I think that is going to take more research and development capability than we probably currently give to the Department.

Moving away from what I think is generally accepted as a crisis mode of decision making in DEP is going to take a new investment in the Department. Talk of now doing less with less may not be the most appropriate avenue to pursue. What we are talking about is a proven efficiency of the programs, not necessarily changing the resources that go to them.

Dan mentioned the whole issue of predictability and the role of fees. In exploring that predictability, at least in the Water Supply Programs, I think that before we sign on to any radical changes in the way the programs are funded, you indeed need to define what is necessary to keep those programs viable, and then move forward from there.

With that I will turn it over to Don, who will speak about even more (indiscernible) strategy.

DONALD FAUERBACH: Thank you, Tim. I need to explain to one of my bosses who is stepping out of the room there -- Mayor McGreevey -- that today I am speaking on behalf of the New Jersey Conference of Mayor Cumberland County that is, and has been, fortunate to be the founding members of The Stockton Alliance.

I have had the great fortune to be a part of the State that hasn't had to spend and raised in focus on cleaning up any messes. Our focus deal of maintaining a very special environment that exists on State. Perhaps that is one of the reasons why one often on sections we are working on -- of which I have his opportunity to become the Chair -- is eco-tourism.

Coming to the Alliance as a small group representing 400 members and about 40 corporations, it was very frustrating to deal with any environmental situation in our little county. The frustrations came from the fact that no matter what we got involved in, it ended up in litigation. One of the things that we see in the Alliance is the fact that we have to really try to bring an end to the endless litigation.

I would like to read to you just five or six lines in the opening section under "Eco-Tourism Opportunities" -- in the State. It says: "New Jersey has tremendous natural and historic attractions and resources which attract a wide variety of in-state and out-of-state visitors. Increased opportunities for eco-tourism can be achieved by improved coordination and marketing or advertising of the State's resources and attraction potential. At the same time, however, it is essential to expand planning efforts for the preservation and protection of these resources."

I think that is the critical note. Too many times, we all hear the Johnny Carson/Jay Leno comments about New Jersey. Quite frankly, I think we can get past those with long-range planning. That is why we are here today to talk about long-range planning.

A perfect example would be the process that we have been through for seven years in Cumberland County. During the last seven years, we have been debating, through a local task force, whether or not to include the major river system that flows through a major portion of the county in the National

Wild Scenic River Program. Lonna, Bill, and other members in this room had the opportunity to see this river about a month ago. Before we can expand upon bringing people, we have to set plans for long-term protection.

We were the first in the United States of America to develop a comprehensive management plan for an entire river system that was locally drafted -- long-range planning. I heard comments from industry here this morning that they didn't like Federal involvement, or they didn't like us overstating Federal standards. We felt the same way. We said, "Before we have the Federal government come in and regulate, we want to draft a plan." We successfully did that. In December of 1993, President Clinton signed legislation designating a part of New Jersey into the national system, the difference being that we wrote the plan.

So that is my emphasis here today. If we come together in these unlikely alliances like The Stockton Alliance, and look at the long-range plan, study the Netherlands projects, don't leap to that, but carefully walk toward that, then perhaps we can achieve these successes. That is the basic thing that I want to bring to this Committee.

SECRETARY OF STATE HOOKS: Thank you very much, gentlemen. Very good remarks. We appreciate it.

Any questions?

SENATOR KYRILLOS: Madam Secretary, I will just commend these gentlemen and The Stockton Alliance as a whole for their work and for the mere fact that they are an alliance. To look at the membership list from the ranks of academia, but also from the business community and the environmental community, and see that people have really come together around a table for a true discussion and advocacy on behalf of a host of issues which you outlined today, rather than have a massive food fight, if you will, I think is a source of optimism. I commend you for it.

ASSEMBLYMAN AUGUSTINE: On behalf of our Committee, I certainly would like to join in those plaudits. It is nice to see that people can come together, as you so aptly put it, and have productive alliances for bridging differences. I like that term, and I hope we can use that in the Legislature as we go forward.

But certainly, you are to be commended, and I wish you all the best as you continue your dialogue.

SENATOR MCGREEVEY: May I ask just one question? Thanks.

I think it is also noteworthy that Mr. Donald Fauerbach also serves as Executive Director of the New Jersey Conference of Mayors.

SENATOR KYRILLOS: He pointed that out, Mr. McGreevey, when you were out in the other room, I think,

SENATOR MCGREEVEY: All right, I was just reemphasizing.

On page 5, you talk about "improve responsiveness." Again, talking about the question of timeliness, it "clearly rests on the shoulders of the DEP top agency administrators." For any members of the panel: The concern would be, should the Legislature, or should the Administrative Procedures Act enshrine time requirements within DEP regulations? If, for example, the DEP administration failed to comply with the time guideline, should that fault -- should there be a fault to benefit the applicant?

How do we begin to get into the business of ensuring timeliness and accountability within the agency?

MR. DILLINGHAM: I think there are a couple of issues there. One is, the time issue is not as simple and straightforward as it may appear. Clearly, the more we move toward a philosophy of negotiation around permit issues between the applicant and the Department, not simply adhering straightforwardly to a standard, then the issue of how quickly

that permit should be issued becomes much more bred. Clearly the way to get quick yes and no answers is that-- You might get quicker no answers, with much less interaction with the applicant otherwise.

I think we do have some suggestions there, though, that bring in the Division of Regulatory Affairs and giving legal opinions within the Department. That may churn those answers around. My understanding is that questions of interpretation -- legal interpretation -- are often what hang up permit decisions. To the extent that those DAGs are located somewhere other than in the Department, that slows the process down.

I think we agree with some of the earlier speakers about the fact that policies should be written down. They should be clear so that there is predictability in that process. My point is, I don't think we want to see, you know, a 45- or 90-day time limit in which the permit is automatically issued, despite the fact that there might be issues outstanding that need to be resolved.

SENATOR MCGREEVEY: See, one of the things that I think works very successfully within the Department of Justice and the AOC is alternative dispute resolution. It has been used on an ad hoc basis for certain environmental issues. But alternative dispute resolution has a definitive time frame against which the resolution proceeds. If not -- if there is not a final resolution set forth -- then it conforms to normal civil procedure.

The concern is that consistently, you know, even back when I was in the Assembly, we were talking about the same bloody thing; that is, the lack of timeliness and adherence to a time schedule. It seems as if we are no further along today than we were four to five years ago. I think that has a substantial negative impact both on the environmental community

and the business community, because there is no clear, definitive time schedule against which to operate.

I am just looking for-- The Legislature doesn't do it, insofar as the Legislature does not set forth stringent time requirements, and neither does the Administrative Procedures Act.

MR. KELLEHER: Senator, when I listened to you asking a similar question to the previous panel, I was thinking about whether we had any experience that would help us to address it. One occasion has arisen. I will use the example not by way of criticism, but more by way of example. It has to do with the Wetlands Program.

The people we have dealt with in the program have been very dedicated to carrying out their mission, but yet I think the process they are bound to follow is one which perhaps relates back to your concern. There is a kind of trial and error type of approach required to get to an end point which, in our example, has taken a lot of time. I think maybe working an alternative dispute resolution or some sort of discussion program into the process and allowing staff the ability to use that process to get to the end result, would be very effective and very helpful. But I think right now, when the staff is dedicated to carrying out their mission, they are not able to avail themselves of that type of an arrangement.

SENATOR MCGREEVEY: One of the things is that DEP is an endless bureaucratic mire. One of the things that I would just like to suggest to the Secretary, is that perhaps alternative dispute resolution may be an appropriate mechanism for creating a stringent time frame in which to negotiate outstanding issues, which would benefit both business and the environmental community. Then that could be enshrined within the Administrative Procedures Act of the agency.

MR. KELLEHER: I would agree with you. I think--

SENATOR MCGREEVEY: Do you think that would be a good thing?

MR. DILLINGHAM: In fact, I am just looking on the next page. I think we started down that road, but we could not come up with as specific an answer as you have, which was: Within the context of the APA that we find some way to improve the interaction, as long as, you know, the public element of it is still protected and the process is still protected. Perhaps that is something that bears looking into, bar the alternative dispute resolution.

SENATOR MCGREEVEY: Thank you, and thank you, Madam Secretary.

SECRETARY OF STATE HOOKS: Thank you.

I would encourage you to look at that as an Alliance and, Senator, for you to continue to look at it also. It is a great suggestion. DEP has established and really beefed up an Office of Alternate Dispute Resolution. We have had great successes in referring a number of matters from the Ombudsman's Office to that office. I would encourage you, as you did with my Office, to go and talk with them about the procedures, to make certain that the public right to be involved is still being protected.

I would just give you as an example the recent resolution of the Maleda Corporation's problems. That was due to ADR, for us to, you know, retain Maleda here in New Jersey.

P H I L I P K. B E A C H E M: Madam Secretary?

SECRETARY OF STATE HOOKS: Yes?

MR. BEACHEM: Thank you.

I am Phil Beachem, representing the Citizens' Committee on Permit Coordination.

I wanted to ask a question about something on page 5 as well, one of your recommendations in terms of improving responsiveness. In the first bullet, you seem to strongly advocate the reestablishment of the Division of Regulatory

Affairs within the Department. The historical testimony before the Citizens' Committee in past years, when that Division was in place, clearly showed that that was, in the viewpoint of many people, a real hindrance in terms of responsiveness of timely permitting. I think the historical data might also show that permit review time when that Regulatory Division was in existence was much longer than it is today.

Do you have any statistical evidence to suggest that by reestablishing this particular Division that it would improve the permitting time frame?

MR. KELLEHER: Phil, I think, from our experience, what we have seen, with the Division outside, is a lack of knowledgeable, well-informed legal talent that has come to develop a lot of background from statutes and tribulations themselves, which I think having the Division in the Department would accomplish. I think you see the potential of swinging both ways to some extent, though. I am sure there could be a lengthening of the permitting process. At the same time, I think that the regulators themselves, those administering the program, would find comfort to be able to more quickly move forward with regulatory initiatives, knowing that they are building on a track record that specific legal professionals have known.

I think, though, the overriding point that would be most important to the improvement would be having that long-range principle-based process that guides the entire environment. I think that would be essentially one of the most important facts.

MR. BEACHEM: The only comment I would make on that is, I think that the testimony at the time that Division was eliminated clearly showed that there was no correlation between actions that the attorneys within that Department were taking and the consistent actions on behalf of the Attorney General,

and that was part of the motivation by making sure that it reported to the Attorney General.

SECRETARY OF STATE HOOKS: Thank you very much.

We would now like to hear from the Chemical Industry Council.

H A L B O Z A R T H: Thank you, Secretary Hooks.

Senators, Assemblypeople, thank you very much for this opportunity to talk to you today about something that we think is instantaneously and dramatically needed in the State of New Jersey; that is, regulatory reform. I don't think we can wait for long-range planning. I don't think we can wait for 20 years. I don't think we can wait for the following reasons:

I represent a group of industrial manufacturers in the State that employ about 108,000 people. When I first started in this job awhile ago, we represented about 130,000 people. The manufacturing sector has been bleeding for years. The chemical process industry within that sector has been doing the same thing. The irony is that we continued to talk here for the last four or five years -- as Senator McGreevey said, Madam Secretary -- about the need for reform, and yet we never really get to it. We need to plan, we need to think, and meanwhile, last year, the folks in the chemical process industry whom I represent lost 6000 jobs. Six thousand people today are not employed because we can't, at the policy level, come to grips with what needs to be done to change the regulatory structure.

A Trenton Times editorial, just last week, talked about good news on jobs. I am going to pass out not only my testimony in a prepared way, but also a copy of this. The editorial pointed out something that I think too often policy makers miss; that is, while the service sector may be coming back, the real heart of New Jersey's economy -- in fact, the sector that I represent to the tune of almost \$25 billion -- is the manufacturing sector.

The longer we wait to plan for regulatory reform, the quicker the manufacturing base will shrivel, and it has been shriveling for the last eight or ten years, scaring the daylights out of people. Thank goodness this Joint Committee, along with the Secretary of State's leadership, is actually trying to get to the point where you are asking for some things that, from the regulatory reform point of view, we can start doing to stop the flow.

Mr. VanHandle, from the first panel, talked about Huntsman Polypropylene coming into New Jersey with a new facility. For years I have waited for a story like that to be in The Star-Ledger, as it was a few weeks ago. That is the first, what we call "greenfield's plant," that people in the chemical process industry -- flavors and fragrances, chemicals, pharmaceuticals -- have brought to New Jersey in recent memory -- the first one. Now we hear that we are in competition for another even larger facility from the same Midwest-based firm, between West Virginia and New Jersey.

I want to tell you the kinds of things that those people are going to look to, to make that decision. I hope they make the right decision, but they are going to look at all the things that I am going to talk about this afternoon and weigh, on a competitive basis, where they will put their investment.

If they put their investment in West Virginia, those 300 jobs that would have come here, which would have averaged between \$40,000 and \$45,000, will be gone. Think about the tax ratables we will lose if we don't win that competitive test. That is what it boils down to. It is a competition in the marketplace for new investment. That is why regulatory reform is so extraordinarily important.

If we fail to grapple with the issues from a public policy level of really reforming the system as we have known it now for years, then we will fail to attract those jobs. For

every one new manufacturing job that doesn't come into New Jersey, we will lose four service jobs. What people don't seem to understand is, service has to have someone to service. I am glad the Senate Committee and the Assembly Committee understand that. That is why I am so pleased to be here today.

I think from an environmental regulatory point of view, you can probably sum up my testimony by saying: "It is time for the Department to frankly do less with less, not more with less, but less with less."

The examples you heard from each of the folks who testified before me today are real examples. They are not anecdotal examples. If that panel had four hours, they could fill those four hours with specific examples.

Let me break my testimony down into some major areas: fees and fines; paperwork duplication; permit backlogs; Federal regulations -- which you have heard something about; and something new that you have heard only a little bit about -- risk assessment.

Let me talk first about fees and fines. I have gone around the State for the last three or four years to each Appropriations Committee meeting, amongst other committee meetings, talking about the incredible and obscene increase in fines and fees on the part of the Department, purely now, I think, as a revenue raiser. In 1982, the DEP collected \$12 million in fees and fines. It has now gone, in 12 years, to a \$115 million increase, to \$127 million in 1994, for less manufacturers, employing less people, with less permits. They collected \$12 million in '82, and they went to \$127 million in 1994. That is extraordinary. The budget now in the Department relies on fees and fines, and you know what happens. They increase their fees, they increase their fines, because that is what they have to live on.

I think, from a legislative standpoint, that these Committees and the Appropriations Committees need to take

control of that. Put every fee back in the State budget. Put every fine back in the State budget. Don't let that money go directly to the Department to spend as it wishes. I should have backed up and said that I think Assemblyman Shinn, now Commissioner Shinn, is starting to address these issues, and I wish him Godspeed. But let me tell you, we can't wait for long-range planning to do this. I think it is in the Legislature's purview to enter this debate and say, "Starting with this year's coming budget, every fee that is collected will go to the State Treasury through the Appropriations process, and every fine dollar collected will also."

I will tell you what will happen if it does: We will find a bureaucracy that is very receptive to permit and regulatory reform. If the Legislature takes back control of the monetary strings with which the Department functions, we will then have a speedier bureaucracy, an easier to traverse bureaucracy, and a bureaucracy that will be responsive to the policy dictates of the Legislature and the Governor, whoever they are. Right now, that does not happen because you folks do not control their money. It is very simple.

While we are on permit fees, let me tell you this, and I will not bore you with historic examples about the \$750,000 per year permit fee that a handful of my members pay to the tune of about \$3.2 million for the length of the five-year permit. I won't talk about those. But I will tell you that from a policy point of view, what you ought to be doing is mandating that the Department collect exactly, and no more than the cost of whatever the permit process demands of that permit.

If Hal Bozarth has a permit that cost the Department \$100 to administer, that ought to be the fee I pay, regardless of the program. If I have a permit that costs \$8000 to administer, Hal Bozarth ought to pay that. But instead what we are left with is a bureaucracy that gives us this kind of permit fee chart formula. This (witness uses chart to

demonstrate) is the formula that the people I represent have to figure their way through to come to their NJPDES water discharge permit. In reality, this is just a revenue way, a way of sharing the wealth among those permittees that are left. Ironically, there are fewer dischargers in the State of New Jersey. There are fewer jobs from those dischargers. But this formula guarantees that the permit holder pays more and more every year, Commissioner Shinn notwithstanding, his statement in front of the Appropriations Committee when he said, "The NJPDES budget is out of control. The program is out of control. Therefore, the fees will not go up."

Well, Commissioner Shinn meant well, and yet I have members who just this past year had their NJPDES fees go up 40 percent. Some of my members had their fees go down. But we are still working in the same bureaucratically driven, totally ununderstandable way to assess fees for one of the major permit troubles. All the time that this program has been in place, few, if any, people who are in that program have lost their jobs. Well, the people I represent in my companies who have water discharge permits are laying people off left and right.

Fees and fines should be assessed fairly. No one is admitting that. I think, from a public policy point of view, you ought to pay the cost of your permit -- no more, no less. It is not fair that 31 percent of an individual permittee's fee is for something called "indirect charges," and it is also not fair that an additional 35 percent of an individual permittee's fee goes for overhead costs -- for employees' vacation time, for sick leave, for a nurse to travel around the floors of the Department to make sure everybody is feeling well.

Let me move from fines and fees, because it is an old story to many of you. It is a story emotionally rooted in my heart, as you can hear from the level of intensity in my voice. It is that way because we have talked about it now for three appropriation cycles.

Finally, now, in 1996, because of the action of the Legislature in the last budget cycle, everything in the Department will be above line -- in 1996 -- so the Appropriations Committee will at least have a chance to talk about that.

Let me talk about one of the big problems that you heard everybody else talk about here before; that is, people are being fined for very, very, insignificant violations in just about every environmental statute that is out there. I will not bore you with those specific examples. But the Legislature is moving on two bills: S-232 and A-1521, called the "fast track compliance bills." It says that for those violations of environmental statutes which have no real harm to the environment, that a permit holder be given 20 to 90 days to come into compliance. I think that is something that will go a long way toward sending a message to the industrial business community that there is a new ethos here with regard to how we treat paperwork violations. I think that is an extraordinarily important thing.

The Clean Water Enforcement Act: I know my friends from the environmental community will scream bloody murder that I would suggest that the Clean Water Enforcement Act be amended and reformed, but it is one of those things passed by a former Legislature that mandates absolutely no discretion on the part of the enforcement folks in DEP that must, in effect, charge violations for everything, or charge fines for every violation under the sun, regardless of whether or not there is an environmental impact. I will bore you with one story:

A company that I am aware of -- not one of my members -- has to, in order to comply with the Clean Water Enforcement Act, sample its discharges monthly. It must do five samples. They call them "grab samples." Somebody goes out, checks the discharge, and sends it to an independent lab. This company has contracted with an outside consultant to do that sample

testing. Well, one month the company contracted to do the sampling, instead of taking five samples, only took three -- only takes three out of the five.

The company reports this to DEP, because that is the way the system works. The three samples that were taken are not out of compliance, nor has this individual company out of compliance for the last half a dozen years. But the Department, because of the Clean Water Enforcement Act, is mandated to fine them, and they did, for \$6000. What a great incentive to come to New Jersey. What a wonderful example of how we are open for business.

I talked a little bit about NJPDES, and I won't beat that anymore. Let me talk about paperwork duplication and permit backlogs.

There is a need to do better in all of those fields. We still have permit backlogs in every program in the DEP. They are getting better, and I give them credit for that. But I think that if the appropriations process in the State of New Jersey really worked, we would see a way of making it so we had no permit backlog. Frankly, it is not brain surgery.

Last year, there was a bill passed that said, "If you hold a permit, you pay a third when you submit your application; a third when a certain amount of the paperwork is done; and a third when you finally get the permit. Frankly, we thought that that was going to be a way to really bring some responsibility to the agency, the theory being that they wouldn't get paid until they actually did the work, and that would eliminate the backlog. Good thought. Again, not brain surgery. The Legislature is to be commended for doing that. However, now that more and more of the money is coming on-line in budget year '96, the appropriations process will give the Department all the key money up front, just because that is the way it will work. So there will be no incentive on the part of

the Department from a monetary standpoint to make sure the backlogs are done away with.

We would suggest, again from a public policy point of view, that some mechanism be in place so that the DEP reports on a mandated basis to the Legislature every year at appropriations time as to what their actual permit backlog is, and that via some formula, depending on what their backlog is, they get that portion of the money that had been collected and allocated to them through the appropriations process again.

Some may say this is draconian. We are looking at a way to improve the system, to have the Department do less with less. We think that if you, the policy leaders and makers of the State, control the purse strings, you can guarantee that they will start doing less with less. We need to root out everywhere where there is a duplicative program, and we need to address privatization, which I won't spend any time on, since that would only be saying things that many folks have said.

There are certain bills that are going through the legislative process that are going to go away from the commanding control old way of regulating, back to a way that is nonadversarial, less costly, less bureaucratically laden, and positive. I am going to skip over part of that, because I want to touch on a bill that I think somebody talked on; that is the SCORE bill -- A-861 -- now a Haytaian bill. It revises the administrative rule-making process, sets binding schedules for rule-making activities, guarantees that a regulatory impact analysis be required for proposed rules, and expired rules to be removed. I think that is important just from a logistical point of view about how regs were developed.

Let me move next, and quickly, to developing a electronic data entry and retrieval system. One of the things that folks are now talking about here in 1994 is computers and the ability to transfer material from one computer to another, something that our friends in DEP have at least recognized

exists, but can't figure out quite how to do it. So here we are in 1994, I am a permit applicant, I get all the paper, and I fill it all out and mail it in. Someone picks it up and does data entry into a system, which is then computerized -- maybe, probably not -- and ends up in boxes, filling I don't know how many rooms.

Why is it that we can't get the regulatory agency to come on-line with at least 1985 level equipment, so that I, as an applicant, can transfer the data on a given permit automatically over whatever to DEP? Some people have said that there are so many different systems in DEP that one cannot talk to another. I'm sure that at one point, if not now, that was probably true. But somebody, from a managerial point of view, or a policy level point of view needs to address the issue of how we communicate permit information. If we wish to speed up the permit review process, then one of the best ways to do it would be to stop all the paper. Just stop the paper. Have it sent electronically. I think this is something that many of you, in your own individual businesses, have been doing for a long time.

Let me talk about Federal regulations and how they impact the program. Mr. VanHandle and others in the first panel did that. Let me just reiterate: It would seem to me that New Jersey ought to change doing the things the way it has been doing, and look for analogous programs at the Federal level which are fully protective of the environment and public health and safety, and say, "For Program 'X,' we are going to adopt a Federal program," rather than, "You will have to comply, business, with the existing Federal program, but we have a better and improved program over here. It is called the 'New Jersey program.'"

So now, we have umpteen programs -- after all these years in New Jersey -- so that my membership complies with a Federal mandate and a State mandate -- same purpose, same

thing, totally different programs from a paper point of view. Different things, different quality, different quantity of things. It makes very little sense to overlap what the Federal government is doing.

Finally, it used to be that the Federal government wasn't even dealing with these issues, and New Jersey had to go out on its own and make these programs State specific. I think those times are over. I think it is time to pick the best system, and say, "We are going to use that one."

So we would suggest that an awfully good way would be to start saying, "Wherever a Federal regulation is in place that reaches the same goal, the State will adopt that. Wherever a Federal standard is in place -- unless we in New Jersey can show a definitive need to be different, more stringent, more costly," whatever it is, "then we will take that Federal standard."

I will give you a quick Clean Air Act example that is coming up, and you will have to deal with it. The Federal government defines something called "state of the art." It is the quality of equipment, or the level of quality of equipment that you are mandated to put on for pollution control as being best. It is state of the art; it is the best that can be done.

Well, as Mr. VanHandle said, "The devil is in the details." The Federal government says, "State of the art is 'X.'" New Jersey says, "We have different state of the art. We are not going to tell you what it is, but guess at it, and it is really up here." So the applicant says, "Wait a second. I can put this plant in West Virginia. I can put this plant in South Carolina, or Michigan, or Pennsylvania, or New York, and use this as a standard, fully protective of the environment and the health and safety of the people. Yet, New Jersey wants me to do this, and probably the incremental differences in the cost will be millions." Why are we doing that? Why are we

saying to investment that could be coming in, "Sorry, we don't want you because you won't meet our state-of-the-art definition"?

We need to streamline the process, make it quicker. We have to make sure that when we say something like "state of the art and Clean Air Act implementation," that we use something that is going to make us competitive. Again, not unprotective of the environment, but competitive with every other state out there that is looking to take our jobs away from us.

It used to be almost funny that on a weekly basis I would get copies of letters from Governors of South Carolina, West Virginia, Michigan, and Pennsylvania to plant managers that I represent, saying: "We know you have it bad in New Jersey. How about your next investment coming to our state, and we will do a lot of things to help?"

That was a story I told earlier on to Secretary Hooks, who said, "We are not going to do that anymore. We want to be competitive." The people I represent are not saying, "Lessen the standard; be less protective of the environment." Let's just be competitive for the investment that the manufacturing community can bring to New Jersey. To let the manufacturers go hurts everybody. It hurts the quality of life; it hurts the revenues into the State. It is just not going to be productive, and we are going to be a third-rate State, rather than a leader when it comes to the standard of living.

Interestingly, in the Clean Air, some folks in the Department are talking about two new taxes raising \$20 million to \$25 million to hire, as Mr. VanHandle said, about 100 new employees, to run the new Clear Air Act program. Other states are not doing that. Other states are saying, "What does the Federal government demand that we do? We will do that." We do not need 100 new people doing new and different air permits in

the State of New Jersey. We have the most advanced system of any of the 50 states, and yet some people in the Department are saying, "We need to raise more money."

Well, frankly, we cannot afford for them to raise any more money. I guarantee that if you go \$25 million on top of the cost of the program we are already paying, we are going to lose more investment in the State of New Jersey.

I could go on, Madam Secretary, Senator, and Assemblyman, but I think I will sum up at this point.

Oh, I'm sorry, I did want to make one other point. Risk assessment: I think there is a need, from a public policy point of view, for the Legislature to demand that whenever a rule or regulation is first put into place, or when it comes up for reauthorization, if it does, where changes are made, that somebody ought to do a scientifically based risk assessment of what the changes will mean. It is like an economic analysis, only it's different. It says, "What is the actual, rather than the perceived risk from a scientific point of view of doing 'X' from a regulatory standpoint?"

Then let's see what the benefit really is for these things that I contend are putting the onus on investment to go elsewhere. Let's really look at the question of environmental protection from a sound, scientific risk assessment point of view. I think that is the buzzword that you will be hearing about in the next five or ten years -- risk assessment. I think New Jersey could be out front in trying to make sure that while we are protective of the environment, we are also aware of the investment we can drive away if we do not do it from a scientifically defensive point of view. I do not believe that we have done that in the past.

Again, I think we ought to look at the last public policy issue that I will offer to you, some kind of unified environmental statute. Maybe it ought to be Federal, but maybe it ought to be looked at from a State perspective. We ought to

know where our goals are and what we want to do, but we also ought to have a definitive road plan about getting there, and getting there quickly, while making sure that we reform the process so that New Jersey is not noncompetitive with other states.

I really welcome the opportunity to work with all of you. I know I am pretty emotional about these issues, and I think there is good reason for that. We have lost a lot of jobs. People's lives have been ruined, and that's a shame. Our environment is getting better all the time. There is no reason why we can't make sure that we are a center for new investment. Let's not have the next new process for any chemical, pharmaceutical, flavor and fragrance company go to South Carolina, Michigan, or Pennsylvania. Let's let the Secretary of State or the individual Senator in a district reach out to that CEO and say, "We have reasons why you ought to come here," because New Jersey can be competitive. I certainly hope that through this effort it will be competitive.

Thank you, Madam Secretary.

SECRETARY OF STATE HOOKS: Hal, I can't thank you enough. You have been at the forefront of this since day one, and I have to say, with a very fair and balanced viewpoint throughout. I really look forward to your continuing to work very closely with us as we do the analysis of all these hearings and wrap this project up.

Compassion, a lot of times, when directed and founded on good fact, is a good thing.

MR. BOZARTH: Thank you, Madam Secretary.

SENATOR KYRILLOS: I think Senator MacInnes has a question.

SENATOR MacINNES: Mr. Bozarth, I heard several times in your testimony that the connection between the loss of jobs and the industries you represent is the overregulation of those

industries by New Jersey State government. Is that the inference you meant to leave with me?

MR. BOZARTH: I think that is the impression that a lot of the folks I represent have.

SENATOR MacINNES: Now, you represent the pharmaceutical manufacturers as a part of your--

MR. BOZARTH: As well as chemical processes, pretty much everybody who is in what we call the "chemical process industry."

SENATOR MacINNES: You mentioned the loss of 6000 jobs in just the last year or so?

MR. BOZARTH: I believe it was 1992, Senator, yes. That is not the health care job loss, but just--

SENATOR MacINNES: Pharmaceutical manufacturing.

MR. BOZARTH: Well, again, but it is not because of the recent layoffs. Those numbers precede those recent layoffs, I'm sorry.

SENATOR MacINNES: So the job loss that you are describing is not connected to the forces which are at play in the pharmaceutical industry in terms of global competition, which is frequently cited, but most particularly in terms of the changes in the channels of distribution of their product; the new increased competition there, development of terms like "Medpact containment," which Merck has recently bought, and which presages a drastic reduction in the margins of those companies, and where in the announcements I saw, in some cases received as a shareholder, in announcing layoffs that these were preemptive actions being taken by management in order to avoid problems that affected other industries. In many cases, those announcements bore heavily on employment levels in New Jersey, and in no case did they cite New Jersey's regulatory climate as the reason for the layoffs.

MR. BOZARTH: Yes, you're right. I don't believe those 6000 jobs I referenced here are impacted at all by the

very real effects that you mentioned. I think we will see those numbers in the figures of the Department of Labor showing up next year, maybe at the end of this year.

SENATOR MacINNES: So you would remain convinced that the primary explanation for the loss of these jobs is the New Jersey regulatory climate, and not external forces that are in play in the industries that you represent?

MR. BOZARTH: Senator, you know as well as I that I would be foolish to say there is one, and only one reason for the loss of jobs.

SENATOR MacINNES: No, no, it sounds to me like the preponderance of the explanation was the overregulation of these industries by New Jersey State government. There were three or four times in your testimony where you cited, for example, "Gee, DEP employment levels are remaining here, while the industries I represent are moving downward," as if that is a precise--

MR. BOZARTH: Well, it is because new investment and new processes are not being brought into the State of New Jersey at existing facilities.

SENATOR MacINNES: Right.

MR. BOZARTH: What usually happens is, because of the preponderance of problems in the regulatory structure, new processes are sent to other plants which compete for those same processes in New Jersey plants.

SENATOR MacINNES: Right.

MR. BOZARTH: Again, I can't say that every one of those 6000 jobs is a direct result of DEP permit action, but I can tell you, and tell you emphatically, that the overall impression of the business leaders of the companies I represent is that New Jersey has not been, and is not yet friendly to bringing new investment into the State of New Jersey.

SENATOR MacINNES: I am aware of that. I am aware that there are substantial problems we have there. I would

point out, for example, that we are one of the two or three highest cost-of-living states in the United States; that our land costs are higher; that we are the most densely populated State; and that our highways have the lowest average speed of any state in the Union. There are lots of factors that go into a decision about where to locate, right?

MR. BOZARTH: I'll trade you those for slow permits.

SENATOR MacINNES: I'm sorry?

MR. BOZARTH: I'll trade you those for slow permits any day.

SENATOR MacINNES: No, no, you can't change the real estate; the fact of our location being--

MR. BOZARTH: No. In fact, that is the real irony here. New Jersey is located in such a place that it ought to be the hub for all manufacturing business, because this is the largest population center in the world. We make products that go to people who service people who buy things, and to be here cuts your distribution costs.

SENATOR MacINNES: Right.

MR. BOZARTH: So people are saying, notwithstanding the great position of a marketplace that New Jersey is, notwithstanding all those good things about a great infrastructure, "We are going to move this process elsewhere." That is what they're saying.

SENATOR MacINNES: I know. It is a trend that is the very worst, but it is a trend that has been going on since 1946. It is the North to South movement of manufacturing jobs. That has been a reality for every state in the Northeast.

MR. BOZARTH: You're right, Senator. I do not mean to be contentious here, but it is for manufacturing as a whole. The chemical process industry, up until recently, about 10 years ago, maintained a fairly constant level of employment as a sector of the manufacturers. But then what happened in the last 10 years, is that that number from the chemical process

industry and that trend line went down. The manufacturing was off the table. I mean, it has been off the table. You're right, it has been happening since 1947. But just because it has been happening does not mean it is a good thing.

SENATOR MacINNES: Oh, I didn't say that. I didn't say that.

MR. BOZARTH: It does not mean that we don't need to reform the regulatory process.

SENATOR MacINNES: I didn't say that, and I don't disagree with your contention that we need to reform many aspects of the regulatory process. Your statements, however, will be left hanging out there amid the public, if they are left unquestioned; which is, the explanation for the loss of these jobs is primarily the regulatory -- the overregulation of these industries in New Jersey.

I think there are enough other factors at work. For that statement to hang out there as the conclusion that is reached, is to lead to a mistaken impression about, first of all, how simple the industries you represent -- how simple the world they operate in is. It is not that simple, is it? I mean, there are a lot of things at play here. We are all anxious to see an improved, simpler regulatory climate in New Jersey, but I don't think we want to do it in response to statements such as yours, which I do not think are factually justified.

MR. BOZARTH: I'm sorry we disagree, Senator.

SENATOR MacINNES: Yes, we do.

SENATOR KYRILLOS: Senator Martin?

SENATOR MARTIN: Somewhat along those same lines, Hal, just one point that I think you made for Senator MacInnes, so I will ask it for clarification.

My understanding is that with many of our major industries -- chemical and related pharmaceuticals -- it is not so much that we are losing investments that are already here,

although that may be happening as well in certain circumstances, but the decisions are made for new research and development, new manufacturing-- Many of those companies that were world headquartered in New Jersey choose to develop sites in the South, in Puerto Rico. In one case, I know Sandoz has talked about a plant in Kansas. So it seems to me sort of shotgun-scattered across the United States.

Does that seem to be more the problem, the new development we are losing, as opposed to existing facilities, or do you see it really as part and parcel--

MR. BOZARTH: Well, I think it is a bit of both. You have to remember that in the pharmaceutical and chemical industries, things change significantly on a routine basis. As products change, markets change, or whatever. Decisions are made about where to, for instance, on this side of the equation -- where to locate the new process for the new product. Then, all the manufacturing plants for an individual company enter into a competition as to why they ought to get the new process. All the factors are then weighed -- the cost of transportation, educational infrastructure, cost of electricity, for instance, regulatory--

SENATOR MARTIN: Okay, I got that, and that gets me to my next question:

We all hear that if a company is thinking about relocating or planning a new business, they go down to-- South Carolina is frequently cited. You hear about their open friendliness. Some of that seems to be PR, they have a person, there is one-stop shopping, and that person treats them kindly and professionally, wines and dines them and takes them to the sites, sells, talks like a Realtor, has businesspeople to invite him--

But, given that, how much of that is related to the issue at hand here? Are they able to sell them on the fact that those states only have a Federal standard of regulation in

many of these areas? Can you be specific at all, in some cases, because that is important?

MR. BOZARTH: Without naming a specific case, I can tell you that South Carolina got one of my men whose next manufacturing facility, not because the standards were any better, or not because they were Federal standards versus New Jersey standards-- In fact, in this case, the company said, "Listen, if we can live in New Jersey, we can live pretty much anywhere."

However, what South Carolina said was, "We will guarantee you that these permits will get done in 'X' amount of time. We will guarantee you what the process is, because we have reformed our system. If you are willing to say that you are not form-shopping for a lower environmental standard, then we will make it as quick as possible as we can to get you through that system. It is going to take you this much time; it is going to cost you this many dollars; and you are going to be done." It is the constancy and the end result, in this case anyway, that gave South Carolina the ability to win.

In other cases, frankly, it is the call from the Governor, or the Secretary of State to the CEO, who says, "Listen, we've got some incentives built in to bring manufacturing back. We have job training money; we've got this; we've got that," whatever it is, as an incentive to bring them in there. The other states understand that for every one manufacturing job, as I indicated before, you get four service jobs. And each manufacturing job pays a heck of a lot more than a service job does, so you get a high quality worker, paying more taxes. So states are willing to say, "We have an exemption on pollution abatement equipment. If you buy new pollution control equipment for your new facility, you won't pay a state sales tax." Another great idea. Do we lose money in the short term? Sure we do. But do we add it as an

incentive for people to come to New Jersey for these jobs to be here? I think you would.

So I think it is a combination. It is more than just PR. It is more than an open door. It is a process through which-- Everybody knows it is not adversarial, as opposed to what we have had in New Jersey. It is quick, which does not have punitive fines and fees acting as a disincentive. Every time you look at a new investment, you add up-- It looks like a piece of real estate to do the Franklin quotes: "These are the positives, these are the negatives." Everybody who is competing for that new process or that new facility within a corporation is doing that.

SENATOR MARTIN: Are their standards less than New Jersey's in general, as far as their environmental quality?

MR. BOZARTH: No, I wouldn't say-- In South Carolina, as a specific example, I don't believe they are. They are at least on a par. The bottom line is, since the Federal government has gotten its act together, from an environmental standpoint, over the last 15 years, why not use that standard? I mean, if the Federal government is saying, "We have rules and regulations that are protective of the environment and human health," why would they lie? Why would they say they didn't? So why not have those standards here in New Jersey, and say, "You will not be out-competed because of the process in New Jersey, as opposed to the process in Michigan."

SENATOR MARTIN: My last question: With respect to our most immediate neighbors -- New York, Connecticut, Pennsylvania, Delaware -- is Pennsylvania-- Are they much more attractive than New Jersey with respect to this issue of regulation? I mean that, but I mean all of those states. Are they doing a better job, our immediate neighbors?

MR. BOZARTH: Well, I think Pennsylvania has been down for longer than we have relative to their manufacturing

community, so they are probably a bit more aggressive now looking for new manufacturing investment. I think they--

SENATOR MARTIN: Being aggressive, how do their rules-- How does somebody--

MR. BOZARTH: I don't think their rules mirror what New Jersey has done. They are not as adversarial. I know Delaware is not what you would expect it not to be, less command and control. I think states are looking to bring investment in, and to do that without compromising environmental standards, they need to make the process appealing to the folks they want to get.

SENATOR MARTIN: Thank you.

SENATOR KYRILLOS: Thank you, Senator Martin.

SECRETARY OF STATE HOOKS: Do we have other comments?

ASSEMBLYMAN AUGUSTINE: Yes, we do. I believe Assemblyman Dalton has something to say.

ASSEMBLYMAN DALTON: Just real quick: I was very interested in your remarks regarding duplication. What you said we should do is eliminate double standards where the goals at the Federal and State levels are the same and there is no specific mandate at the State level for a different standard.

Are you aware of any other states that have taken that approach and have eliminated double standards?

MR. BOZARTH: Well, I know that a lot of states now, under the pending Clean Air Act legislation, are looking to adopt the Federal program. I can get back to you, Assemblyman, on the specific states that have said that. I know we won't be the first to do that. But I will get some specifics for you, with copies of their legislation or laws.

Again, I think the more mandates you see from the Federal government, the more you are going to see states say, "If I have a choice of doing the Federal program or my more cumbersome, more costly state program, I am going to go with

the Federal government," because, again, they want to be competitive for that investment.

ASSEMBLYMAN DALTON: Thank you.

MR. BOZARTH: I will follow up on that.

Thank you.

ASSEMBLYMAN AUGUSTINE: A 30-second last word, if I may: I just want to compliment you on your comments. They were very professional and very incisive. I do think that many of my colleagues are listening. You may find many things on the wish list you have been talking about, and the other members have been talking about this afternoon, eventually becoming a reality in this State. I certainly hope we can make that happen.

MR. BOZARTH: Thank you, Assemblyman. Thank you, Madam Secretary.

SECRETARY OF STATE HOOKS: Thank you very much, Hal.

SENATOR KYRILLOS: Thank you, Hal.

SECRETARY OF STATE HOOKS: We would like next to hear from NJBIA -- New Jersey Business and Industry Association.

SENATOR KYRILLOS: Welcome, Jim.

J A M E S S I N C L A I R: I am Jim Sinclair, with the New Jersey Business and Industry Association. I will not be emotional, or not as emotional as Hal, maybe. I will try to stay to the time you gave me. What I will try to do is fill in the blanks. A lot of what you heard from the individuals with the Chamber presentation, and then what Hal had to say, represents the members of the Business and Industry Association. Many of those same companies are members of the Association. Most of the large employers in New Jersey are members of the Association, but we also have the unique responsibility of representing over 10,000 small businesses.

We have been talking a lot about the impacts of regulation on large industries, but it is the small businesses that do not have the expertise, that do not have access to the

information on what is going on in other states, that do not have experience in dealing with bureaucracy that are frustrated by the regulatory system. If there is one thing that you do in this administration in redesigning and reworking the regulatory program, I hope you figure out some way to help those small businesses through the process.

Our membership is very, very concerned about regulatory issues. It is the issue. Is it a decision making that causes someone to go to some other state? Yes, I think in some cases it is. Is it the primary reason? It is hard to come up with that. But I can tell you this: We have been polling for 36 years. We do an annual survey of our membership. For the last three years running, regulations -- problems with State regulations has been the second largest issue for the business community of New Jersey.

We just recently went out, in October, with this year's survey. We do not have it compiled yet, but I will tell you that the handwritten comments that people sent back are almost universally on the regulatory process, most of it on the environmental area. I know that today we have been talking a lot about environmental stuff, but regulatory concerns affect the business community in every area.

SENATOR MARTIN: Are you going to tell us what's first on your list?

MR. SINCLAIR: Yes, I will tell you. It is State taxes, State regulations, and the cost of health insurance. Those are the three issues that have popped up, as you would think.

The Legislature has made progress, and has made bipartisan progress in terms of addressing some of these regulatory issues. I think it would be unfair to say that, you know, you are starting from scratch now. I could go back to Assemblyman Doria's program, which was sort of the first step in trying to get a handle on the regulatory system. This is a

very good package of bills. It presents a lot of information out there, and offers a lot of assistance to the business community. I think credit should be given for that.

I think the ECRA reform bill-- The fact that we have spent most of our time today, except for Senator McGreevey, talking about issues other than site remediation indicates that at least the message is out there that we are trying to do something with the site remediation process. Have we solved it? No way. But are we on track, moving forward? Yes. Has the Legislature given a commitment to come back and visit this as information becomes available with the Risk Study Commission, with the Privatization Report, and also with the Joint and Several Liability Study -- three big, big issues that will drive the program, and probably drive all the other environmental reforms that you are doing? Those three things are still sort of hanging out there, important things. In this Legislature, the At-Risk Permitting Bill is a good step in the right direction.

People around the table -- and I don't want to slight anyone -- but Assemblyman Dalton has several bills, one on permit extension, which is a very important bill, which sends the proper message out there. He also has a bill on the administrative system that is a good system.

Senator MacInnes, who sat through the Clean Water Enforcement hearings, is concerned about developing a good after policy, something that we at the Business and Industry Association absolutely support.

What we need to do in the process of regulation, in whatever we do, not just in water, is-- We have to realize that most of the people who have permits are not polluters. They are businesspeople trying to operate their business in the most effective manner. Most of the citizens out there that discharge into the local sewage authority are not polluters. They are citizens who live there. The sewage authorities

themselves are not polluters. They are environmental protectors who control billions of dollars worth of environmental equipment to try to make the environment better.

I think that is really what we want to do, have a good after policy. There are a lot of people out there who are trying to comply with very complex regulations, very complex laws that overlap. What we have to do is figure out how to look at those people as good actors. If they are making a good-faith effort to comply with things, then that is the way we ought to treat them, as good actors. We need the power of law; we need the power of enforcement, penalties, fines, and jail sentences for the people who are the bad actors, because they ruin it for all of us. But we don't have to treat each one of those people in the regulatory system as a potential felon. That is not the way we are going to get progress. That is not the way to build a better business climate. That is not the way to build the future. That is not the way to get voluntary improvement in the regulatory process.

Well, I really wanted to talk about specifics, and not philosophy with you, because we have had a lot of philosophy this morning. I want to give you some details of some things that we support. I may jump all over the place. I will give the Committee, in written form, the list of these things. But I went through this morning and I had about 250 items. I will try to plug in the things that I think have not been touched on, or that need to be accentuated

The first thing I would like to accentuate is this whole thing about Huntsman and Bayway. What a wonderful thing. But what is the trap in this in what we are doing? The trap is that if we do not meet our SIP requirements in the Air Program, if we do not have a good inspection and maintenance program that makes sense to the Federal government, then the SIP is not going to be approved; sanctions are going to apply; and Huntsman, when they look at doing that facility, is going

to say, "We are going to need a two for one offset," and it is going to make New Jersey look that much less attractive as a place to be. That is an important thing.

I know, for you in the Legislature, that the enhanced I&M program is political dynamite, because I, as a citizen, do not want to spend one more minute in line than I have to to clean up my emissions from my automobile. But this is not a component of the Clean Air Act. It is something we have to live with, and it is something that you have to pass. You have to demand that we have the right system, that it is flexible, but that it is something we need in New Jersey. I don't think you have heard us strongly enough on that. If there is anything that would kill that Huntsman thing, that is one, and anything else that requires any emissions. So just that two for one offset.

It requires that other programs be in place and work. The Employer Trip Reduction Program: We in the business community are making a good-faith effort to comply with that. That program is a model for at least the kind of attitude in talking between the regulated community and government. It has the good-faith provisions in it that have been approved by Secretary Browner, saying, "New Jersey, if you make the good-faith effort to comply as an industry, then we are not going to fine you. You don't have to get fined if you make that good-faith effort. And as a State, if you do not achieve your goal, but you have made the good-faith effort, we are not going to apply the sanctions against you."

I mean, we can argue about the program. My membership hates it. But basically, we are making a good-faith effort to comply. That is the way the program should be. That is the model we should be trying to work into all of these environmental programs.

So the good-faith after policy we support. We support strongly -- and I have to say it again -- that the Governor

sign into law the Federal standards bill. This sets standards for the regulated community -- the regulators. It gives us a heads up on what is happening. It allows the people in Switzerland to know what is happening here. That, coupled with the good-faith -- with the state-of-the-art -- with the published state-of-the-art provisions helps us in terms of attracting industry, designing things, and building things in New Jersey. It also says -- makes a dramatic statement to the rest of the country that New Jersey is looking toward those Federal standards.

What I would like to see is integrating our regulatory policy. We have different levels of government. The message that we are sending out there with the Federal standards bill is that we are looking to the Federal government to -- where they have established standards that make sense for New Jersey, that we are going to adopt them.

At the same time, we should be looking at the county. Through the County Environmental Health Act, we allow the counties, in fact, encourage them to have higher or different standards than the State under the existing law. We need to change that statute. We should be playing by the same rules. We should be integrating the system. Should the counties be doing some of these environmental things? Absolutely. It makes sense to have programs closer. But they should be delegated; they should be part of a whole system; and clearly they should not be duplicated at the State level. It should be a zero sum gain in terms of delegation. Standards the same.

Legislative oversight, and that is half of the Committee here: A wonderful process. It would really make sense with the process that had statutory requirement that the legislation be sunsetted. Therefore, if we had Federal standards, when the regulations were sunsetted, one of the things that you would be looking at would be what standards, what procedures are existing programs using? It only answers

it in terms of regulatory programs. It does not answer it in terms of statutory ones. I think you ought to address them, too. I think the statutory requirements should be with the Federal standards. That is a long-term process that you need to undertake.

Fees: The Water Program fees are out of whack. The Air Program fees are on their way to being out of whack. The Commissioner, Mark Smith, has made a commitment to work with us if we can come up with ideas on how to streamline the air permitting program. They will do it. I think that is where we need to go. We need to show how we can do it with this program. We need to go back and address the Water Program and do the same thing.

There are things to do that make sense. That includes privatization, and by privatization I do not mean hiring consultants outside to do what government does. I mean, there are absolute functions in both the Water Program and the Air Program that I, as a professional engineer, should be able to certify to the government. If we know, under the Doria Act provisions, what the policies are for these programs, and we do with most of them -- that has been one of the advantages of the Doria legislation -- then we should be able to develop a certification program on these things where qualified, or certified individuals can qualify for the State. Therefore, you would not be waiting in line for aspects. I will give you one example with the stack testing for stacks.

It is a complicated process that uses a private consultant. Now, why does the State have to be there? Why does the county have to be there? They should be there. They should audit some of the programs. But the certification should be enough, because they are the ones who are doing it and knowing it. That is one example. There are lots of other examples where a certification process makes sense. I say we

are looking to Assemblyman DiGaetano and the legislation that he is going to introduce on the site remediation side. But I see this expanding beyond that.

SENATOR MacINNES: Is that a statutory or a regulatory problem -- certification for stack inspection?

MR. SINCLAIR: I think that is a regulatory problem. I think what the Department needs -- and I am not at all picking on the Department in the process-- I think what the Department needs is some legislative intent, some legislative guidance. Given that guidance, whether it is Federal standards or whether it is privatization, they are freer to make the kinds of decisions, because they are very conservative in the kinds of decisions they make. Given the guidance, it allows them to look a little broader, look a little more flexible.

One of the other things that will drive this process, both in the air and should drive it on the water side, because we have seen just the opposite on the water side, is the fee system. We have to design a fee system. We have to design an allocation of resources system that forces me, if I am a manager in government, to figure out how to do things, not less with less, as Hal was saying, but to accomplish the environmental goals that we want to achieve with less resources.

I think that is a driving force, as most managers in the private sector are finding out how to do-- I think that is something we can do in the public sector.

One of the things in the permit process that we want to see accomplished is in the drafting of permits. We tend to pile on -- now, this is a regulatory issue in agencies-- We pile on requirements in the permit drafting process. One of the ways to get around that is an innovative approach which they are trying in water right now. That is where you draft your own permit. Now, that is going to help the DuPonts, the Public Services, and people like that, that have the staffs.

It is also going to help draft their own permits, and then the Department looks at it and sees that, you know, it meets the standards.

The other thing that Hal was talking about that I would just like to talk a little bit more about is electronic filing. What sense it makes to be able to transmit your permit over modem. The beauty of it is that you are putting your information into a program. It is not just a form, but it is an actual program that checks the calculations. Therefore, if you plug your numbers into the same program that they are going to be using in the Department to check your calculations, you know before you submit your data that it has to be approvable. Does it meet the state-of-the-art requirement that is now? Do the calculations work out? Does it have the required controls on it? You know that before you submit it. Therefore, you have really reduced the review time in the Department. You have taken care of that, and you know before you send it. Therefore, you can make changes, etc.

That is an important thing. We want to see that in the Operating Permit Program. We think that is a model for what we can do in lots of programs.

Once again, if we know the rules, there is no mystery. If everything is published out there and we know the calculations that the reviewer is going to make, then why can't we do it electronically, for the most part? There are some things--

What happens if you don't submit it electronically is, the Department will take in and keypunch the same information into the same program, and then they do the same checking inside. All that information goes into our database. We have only typed in the information once, and we get to use it right away. So there are a number of things.

I have really talked too long, and I have about 15 or 20 other things here. I will submit the details to you. There

is a lot of stuff going on. We have a lot of working groups working with the Department. There are lots of good people in the Department who see that what we need to do with this regulatory system is stop painting people into corners; stop making people, you know, the bad bureaucrats who are only out to feed on fees and fines, and stuff like that, or the evil polluters. Let the polluters pay, that kind of mentality. You know, that kind of labeling people with derogatory terms is the kind of thing that has gotten us into a bad thing.

I think we milked the environment as a political issue in the '80s. I really applaud what has gone on in terms of trying to turn these solutions into bipartisan solutions, not saying, you know, "We are in power now, and we are going to solve everything," but drawing in together the Minority party.

Thank you very much.

SENATOR KYRILLOS: Thank you, Jim, for your, as always, very thoughtful comments.

Are there any questions or comments? Yes, sir?

DAVID B. FISHER: Thank you.

I am Dave Fisher, member of the Citizens' Committee on Permit Coordination. I would just like to follow up on Jim Sinclair's testimony, as well as Hal Bozarth's regarding competitiveness, because there has been a good deal of discussion regarding that.

One of the items that hasn't really been testified on here, but will at subsequent hearings because some of the other groups that will be represented at those hearings, I know, will be those in the development and construction industries, is: When a company makes that decision between New Jersey and West Virginia, it has to consider the cost of living and the cost of housing.

Many of the same problems that the larger businesses encounter, the home building industry encounters, not just with DEP, Community Affairs, or the Department of Transportation,

but also with the land use regulatory process itself, right up from the local level to the State level. All of that has a bearing on the cost of bringing the product to the market. The cost of housing, as everyone knows, has increased substantially. I think one of the reasons why the Citizen Committee has been involved -- and we thank the participation and the involvement we have in this process -- is because we have been doing that type of work through the Department of Commerce, and now the Department of State, in trying to work through some of these issues and help bring some more reasonableness to the process.

The issue of timing of permits is critical to building companies, which need to know when they can finance a project and bring it on-line. So I encourage the comments and the testimony that you will provide us with in writing, and look forward to testimony from some of the other groups we may hear from.

SENATOR KYRILLOS: Are there any other questions or comments?

ASSEMBLYMAN AUGUSTINE: Just a quick comment. I have to say, Jim, here again, as with Hal, I think your comments were very, very incisive. I think, in my mind, many of the comments we have heard today have taken a topic which in the minds of many may be a little bit boring and laborious, and turned the ideas into some exciting ideas for things that can be done to improve the progress of our State.

So, for that, I salute you.

SENATOR MacINNES: Mr. Chairman, I would just like to be sure that we-- Since Jim was only able to cover, like, 7 of his 250 recommendations, I would be interested to see, quickly, the other 243, if we can get the written testimony.

SENATOR KYRILLOS: Jim, you are going to provide some comments for us.

MR. SINCLAIR: I will.

SENATOR MacINNES: I am having trouble sleeping anyway. (laughter)

SENATOR KYRILLOS: I think if you would like anything to be reflected in the official record, I think that would be appropriate as well.

MR. SINCLAIR: Fine. I will submit that document.

SENATOR KYRILLOS: If not, I am sure OLS will tell me it's not, since you don't have it here today.

Thank you, Jim, as always.

MR. SINCLAIR: Thank you.

SENATOR KYRILLOS: In the Secretary's absence, let me now call up Barbara Lawrence, New Jersey Future.

We will have one more two-person panel to come from the Farm Bureau after Ms. Lawrence.

Welcome.

B A R B A R A L A W R E N C E: Thank you very much.

Good afternoon, Senator, Assemblyman, members of the Committee. My name is Barbara Lawrence, and I am the Executive Director of New Jersey Future. New Jersey Future is a nonpartisan, nonprofit civic organization committed to livable communities and sustainable economy and environment.

We probably have the broadest constituency of any of the organizations that are represented here today. We were originally formed, indeed, by well-established environmental, civic, and business associations. We have been working on statewide planning issues in New Jersey since the mid-'80s. Since 1992, we have explicitly worked to broaden our agenda to encompass the areas of economic development and social justice.

We are very delighted to be here today, because we believe there is a consensus in New Jersey among those people we work with, as well as all the people you heard today, that the current system of regulation no longer works. Now, I want to emphasize that our current regulatory system resulted from some real societal needs and some laudable efforts by the

Legislature -- this one and previous ones -- and the executive branch to work on those problems. But the system which has grown up over time needs to be brought up-to-date. It places too much emphasis on procedural measures, and not enough on outcomes. That is a theme that you have heard here today in a number of cases.

What I would like to talk a little bit about are two themes: One that we have heard about today, the kind of philosophy of a new way of looking at regulations. I also have some specific regulations on land use reform, that at least one member of your group is eager to hear.

Our comments are based on a new understanding of the relationship between the environment and the economy. We have seen the development of new systems to address this relationship in other places. You heard a lot today about the Netherlands. It is also going on in Canada and New Zealand. These countries have strengthened their environmental protection efforts, while at the same time planning for a healthy economy.

We think there are four principles for you to keep in mind, because I am sure you want to do both of those same things. They are: setting economic and environmental priorities based on a consensus-driven vision of the future; setting measurable targets for meeting those priorities; establishing clear responsibility among government, business, and citizens -- I do not want to leave out citizens in this discussion -- for meeting these specific goals; and accepting and promoting the changing role of government from a command and control regulator to a communicator and a facilitator, and only when necessary as an enforcer.

Now, New Jersey made a good start on that first element awhile ago, the setting of priorities based on a consensus-driven system. We began the process through creating that future vision through the State Plan. The driving force

behind the State Plan was land use. But it goes beyond land use to project a vision of New Jersey with vibrant communities, protected open spaces, and a sustainable economy supported by a careful infrastructure.

The New Jersey State Plan was developed in the most democratic process that the State may have ever seen outside of the electoral process. The cross-acceptance process involved literally tens of thousands of citizens, and brought about this consensus visionary State.

Now, from these and other elements in New Jersey's vision, New Jersey Future believes that citizens, government, and businesses working together can set specific priorities for economic growth and protection. There are some successful examples of strategic target setting for government performance. They come from other places in this country. We don't only have to look abroad for good ideas.

In Oregon, there is a program called "Minnesota Milestones," and another one called "Oregon Benchmarks," where they have incorporated this goal setting right into the legislative process. Legislation and budget issues can be evaluated based on their impact on these milestones and benchmarks.

The third thing we must consider are strategies to meet the targets and responsibilities given to groups. In the Netherlands, you heard this morning, business associations have actually taken on the responsibility of signing contracts with the government to meet certain goals. The goals were established by consensus between business and government, and will be implemented without the interference of the government.

One of the things you heard here today was from an organization that some environmental groups frequently disagree with, and that was the Chemical Industry Council talking about the Florida system. One of the bedrocks of the Florida system

is a cooperative effort between government and business in the environment, set at the level of the Governor's staff where those discussions take place.

Now, we are not here to say to throw out the old command and control system. Indeed, the Netherlands did not throw out the command and control system. This is not a Pollyanna view of society. Those sticks are still in the Netherlands' system, and we would recommend that they need to be. Just as Jim Sinclair said, there are some bad guys in the world, and you need a stick to have there in case the bad guys come out of the closet. But for most of the good guys, you can work ahead by using these systems of consensual agreements.

What has changed in the Netherlands and elsewhere is that government is no longer responsible for setting the goals and managing their achievement. Rather, individuals, business, and government each carry a part of the burden. This reflects a new role of government as facilitator and communicator. In the Netherlands, there is also much decision making at the regional level, rather than at the state level.

New Jersey Future has proposed a process whereby some of these principles could be adapted in New Jersey, and we would be happy to discuss it in detail with you at an appropriate time. I am sure this is the last thing you would want to hear -- the details -- this afternoon.

We do have within this framework some specific suggestions that would provide a concrete way of applying these principles to land use issues here in New Jersey. We have been working, over the past year, in a series of discussions with business, civic, government, and academic people on the issue of land use. We would suggest, firstly, that the system is broken in New Jersey -- as you pointed out -- but we need wholesale reform. It is a system that is an iron network of interactions among all branches of government. We talked a great deal today about State regulatory issues and climate, but

in land use, we need to go beyond talking about the State. We have to talk about actions at the county level, and at the municipal level as well. I am afraid it is the wrong time of the afternoon to bring up this complication, but it is a fact.

We believe strongly that you must not confuse planning and regulation; that planning -- preplanning -- can actually reduce the need for regulation. We often confuse it here in New Jersey, because indeed our Planning Boards spend all their time approving applications, and very little time planning in New Jersey. Real planning is meant to establish clearly stated societal goals and economic goals that harmonize interests -- public and private, environment and development, community and regional -- so that growth management, including regulation, can become more efficient.

Land use reform must also incorporate the regional scope of contemporary life in New Jersey. The Legislature has approved a lengthy series of programs in water quality management, air quality, solid waste, transportation, farmland -- I could go on and on. Meanwhile, other fiscal and regulatory mandates over land use remain fragmented among local governments, municipalities, utility districts, and school districts.

Authority is so disbursed that nobody is in charge. What has become difficult for local units of government to avoid is injuring their neighbors. In addition, the State agencies have become overwhelmed with the regulatory responsibilities that the Legislature has given them. That is true in land use, as well as these other areas of which we have heard today.

Regulatory responsibilities affecting land that are presently handled by the State can be decentralized, coordinated in regional clearinghouses, and subjected to strict timetables. Procedures should be established by the Legislature; standards of review adopted by the State agencies

and implemented locally, setting the benchmarks -- setting the guidelines with the lowest level of government responsible for implementation. Clearinghouses could take responsibility for water quality management planning, fair share housing requirements, freshwater wetlands, flood plains, stream encroachment, highway access, some of the favorite regulatory burdens of the development community.

These clearinghouses could be established with the purpose of centralizing and expediting development proposals in specific locations that had been agreed on in advance. It is a form of preplanning based on consensus. Clearinghouses should, at least initially, be limited to those places that are identified in the State Plan and Mount Laurel in COAH-certified plans.

Provision could be made for effective local input into this review process. An omnibus development agreement would provide for the vesting of development rights for a certain period of time among all parties on site design and off-site public meetings. Let's make agreements and live up to them -- the developer, as well as the government.

Any land use reforms must continue to provide a meaningful role for government and citizens in decisions that affect neighborhoods and communities, but the system must also account for review on a regional scale of contemporary realities, such as watersheds, commuter sheds, air sheds, housing, and job markets.

Finally, we would endorse a proposal made by the New Jersey League of Municipalities for a Land Use Arbitration Board to be established in the executive branch to hear and decide appeals from private or government parties. No matter how much consensus we reach, disputes will inevitably arise, and there needs to be a more expeditious system to decide outcome. Again, there are such institutions in Oregon and other states that have been working successfully.

As you begin your efforts to reform a well-intentioned but burdensome system of regulation, New Jersey Future wants to ask you to think big. I know it is much easier in political reality to reform incrementally, especially when you are talking about land use reform. But incremental fixes will not do the trick. There are ways of new governance already tested in other places that could put New Jersey in the forefront of economic and environmental sustainability. These are not uncharted waters. We can learn from what at least five other states and countries have done to ensure a sustainable future.

Thank you, again, for allowing us to testify here today. We are delighted. Thank you.

SECRETARY OF STATE HOOKS: Thank you very much for your testimony.

MS. LAWRENCE: My pleasure.

Hello, Assemblyman Augustine.

ASSEMBLYMAN AUGUSTINE: How are you? Your testimony was very, very, well done.

SECRETARY OF STATE HOOKS: We have come to the last group to testify, but certainly not the least, the New Jersey Farm Bureau.

P E T E R J. F U R E Y: Good afternoon, Madam Secretary. My name is Peter Furey. I am the Executive Director of the New Jersey Farm Bureau. With me here today is Steve George. He is President of the Farm Bureau, and has been for the last six years, and is a greenhouse grower from Morris County.

In the interest of time, I would like to summarize my statement. I think the Committee has copies of it, so you can see the gist of the direction we would encourage you to take.

From what I have heard this afternoon, I would like to stress, perhaps, four things: First of all, the regulatory burden's impact on small businesses. I think most of what we have heard today is a lot of the struggle between corporations and industries that are very well-equipped with their own

accountants, engineers, and attorneys to engage the regulatory issues. As we all know, small businesses make up the bulk of the economy, job creation, and so forth. It is a major issue. Jim Sinclair mentioned that he polls his membership. We poll our membership on a regular basis, and regulations come to the top every time.

The second point I would like to make is to reaffirm what Hal Bozarth said. That has to do with the sense of urgency. We were thrilled in the discussions last year during the gubernatorial campaigns where reform of the regulatory process was an issue. I think a lot of people have been frustrated in years past, and their hopes have been raised somewhat. So we wish you very well with the success of this undertaking. It will be very closely watched.

The third topic I would speak on is the dimension of the future. A lot of what we are doing now is site remediation and trying to maintain standards with the present and so forth. In our industry, there will be no more traditional farming as we know it in the very near future. There will be a lot of farming, but it will be of a much different type. We are emphasizing to our members that their ability to change and adapt with future conditions will be key to their survival.

A lot of the issues that lie in front of private business, as far as adapting to change in the future, similarly will come into play with the regulatory process and government management. So if you think you have a difficult problem now, factor in some of the technologies in our industry with biotechnology and some of the new industries where we will be taking biomass material and making fuel from it on a renewal basis. We are going to need to site biomass refineries in the rural areas.

Now, in the current line of thinking, you don't want to talk about factories in the middle of farmland, but it could

very well be the basis of our future sustenance, aquaculture, and many, many things like that.

The last issue I would like to touch on, in addition to what is in my statement, is, we would love to see this entire exercise be politically neutral. In other words, we do not want to see the good guys and the bad guys in this whole thing. We believe this cuts across all lines -- geographic lines, party lines -- that the number one things in the interest of New Jersey residents to come up in the Eagleton Poll are jobs, tax reform, and shrinking government -- keeping government to an absolute minimum.

So we think there is a lot in this issue for everybody to be -- much as they do with farm policy and defense policy, in some respects-- Everybody is united in this. This ought to be politically neutral. If we can keep that in mind, we think a lot of progress can be made in a very short period of time.

I thank you.

I think Mr. George would like to make a few remarks.

S T E V E N G E O R G E: Yes I would, thank you.

I have a very unique opportunity to speak as someone-- My term is up next month. I have been in Trenton and Washington for six years, and I have really had an opportunity to look at where we were six years ago and where we are today. There is a certain amount of frustration for me after six years that we are still talking about the same things that we were talking about six years ago.

I have had the opportunity to work with three administrations. I have been on Governors' task forces in all of the administrations, and we are talking about the same thing. As it gets later in the day, the people I see sitting here are getting less and less and less. I appreciate that the Committee has been very good listening to what has been going on. But the thing is, there is an urgency. Time is of the

essence. The world is moving at a great, great pace. The technological advances that are going to take place in the next decade are going to be beyond comprehension.

New Jersey has a wonderful opportunity. We in agriculture are just tickled to death with what is happening with the pharmaceutical industry. Eighty-five percent of all the pharmaceutical research that takes place in the United States takes place in New Jersey. I just heard in the last couple of days where one of the baby food companies is starting to take up on the human genome studies. What we are finding in the human genome studies is that if you eat certain things like broccoli, bad genes may never express themselves. So if your family is prone to breast and ovarian cancer, for example, if you eat broccoli, you may never have those genes express themselves. Now we have baby food companies that are interested in doing that right from when babies start eating solid food.

I visited a farm a couple of months ago on a farm tour -- a legislative farm tour -- which I thought more legislators should have been on. There was a farmer there who was growing genetically engineered tobacco for fragrances, so we can turn tobacco, which is an evil, into something that is very good. Tobacco is a plant that you can manipulate very easily. If we can grow tobacco for fragrances and make a living by doing it, we should do that.

But these are the kinds of opportunities that are out there. The world population will double to 11 billion people by the year 2035, and we are going to have to triple the farm output between now and 2035. We are going to do that by having higher yield agriculture. So we are going to replace high yield agriculture with higher yielding agriculture.

There are going to be new uses. We are going to be using ethynyl for different-- We are going to be using corn for ethynyl. All of our ink for newsprint today is soy ink. I

heard two futurists saying that by the year 2000, up to 40 percent of our farm output would be used for nonfood uses. If you take the population of Mexico, which is going to double by the year 2015, what a brilliant future we have ahead.

I hear people being so negative -- the sky is falling, the air is dirty, the water is dirty, our kids have no future. I think we ought to reexamine where we are coming from. We may be living in the greatest time in the history of man. If we do things that are right-- The world is virtually at peace; the threat of nuclear war is gone; and we have developing nations that want to be like us. We had the opportunity to tour members of the Ukrainian parliament three weeks ago this past Sunday. They want to be like us. They were in this country to find out about privatization. How do they get the land back into the hands of the private sector?

When you hear the rest of the world wants to be like us, and you see that we are bogged down, fighting with DEP-- Believe me, less is better in DEP. I happen to be an individual farmer who has fought with DEP since 1989. I am no further along now than I was in 1989. All this at a time when we have wonderful things to happen. There is more brain power on the Route 1 Corridor than there is in Silicon Valley or in the Research Triangle in North Carolina, and we are not taking advantage of it. Why? We are not business friendly.

I am interested in what happens, because in New Jersey-- New Jersey agriculture is value-added agriculture. We produce \$2000 per acre, where in Kansas they produce \$125 to \$150 an acre. So we know how to make a buck. We are willing to make whatever changes there are. The leading commodity in New Jersey is greenhouse, nursery, and sod, so we need an economy that is moving and booming in order for that greenhouse, nursery, and sod business to prosper.

So we have all these wonderful things going on, and when you go to get a permit-- I urge everybody to go out and

buy a piece of property somewhere, and then just go and see if you can get the permits to use it. Then you will find out really what is going on out there.

We are all tied together in the most densely populated State in the Union. It is very important that happens in manufacturing, what happens with the dredging in the Port of Newark. That all has a lot to do with agriculture. If we don't join hands, the rest of the states are going to fly by us. If the rest of the states don't fly by us, the rest of the world will fly by us.

So, again, I have had the opportunity to look back. If I could make a comment, things are much better now than they were six years ago, but Rome is burning. What we need are decision makers, not more meetings.

Thank you.

SECRETARY OF STATE HOOKS: Thank you very much.

On that note, I would like to say in wrapping up, that is the reason why we gave ourselves an extremely ambitious schedule, and one of the most important reasons why I asked-- Even before we got to the point of having the regulatory hearings, Senator Kyrillos had reached out to my Office to offer any assistance that he possibly could to bring to the Office issues that were developing in his committees, and vice versa, to know the problems that the companies were bringing to us. The Assembly has been extremely cooperative.

We want to do this this time together, because we know this is a massive undertaking. We really can't, unless we begin by listening to you. That may sound a little trite, but we really know that is the place to start. We want to do it with our business community joined together with the leadership in this State to make the changes that are going, once and for all, to start us moving forward and get us out of stagnation.

We do not want to -- if I said it once, I said it twice-- People keep asking me, "Well, why won't you just come

out with regulatory recommendations?" I do not want to compound the problem, neither does the Senate, neither does the Assembly. We want to make this a deliberative, analytical process so that we deal with the major issues; don't duplicate them, don't make anything else confusing. No more six or seven, you know, regulations to figure out the first one.

The chart that Hal put up-- You know, I don't understand how to do that. I have to go to my aides to figure out what companies are talking about when they come in with that formula. This time, when the beginning of the year rolls around, the Governor wants to come to you, united with the Legislature, with a package to deal with the biggest problems and regulations facing New Jersey business. We want to come together, post the bills, and move forward.

We thank you for working with us toward this end.

SENATOR KYRILLOS: Well, Secretary Hooks, I know that Senator Martin and the other members of the Committee join me in thanking you for asking us to join with you in this first discussion of many in a series.

We thank the representatives of the Farm Bureau for their testimony, and all who testified. This is an enormously broad and complex series of issues, really. We hope we can effectively reform the regulatory process in ways it needs and should be reformed as a very important component toward our overarching mission of improving New Jersey's economy and creating jobs for New Jerseyans. The Legislature, I know, wants to work in partnership with Secretary Hooks and the administration toward that end.

ASSEMBLYMAN AUGUSTINE: Assemblywoman Crecco would like to say something.

ASSEMBLYWOMAN CRECCO: I want to thank you, Madam Secretary. This was really an excellent hearing. I was particularly interested, because for many years my clients were industrial companies in this State. I have been listening to

the complaints and frustrations of these people, small industrial businesses. I lost quite a few businesses because they just could not comply with regulations.

I think this is just an excellent endeavor. Thank you.

ASSEMBLYMAN AUGUSTINE: Madam Secretary, if I may have a last word?

SECRETARY OF STATE HOOKS: Please do.

ASSEMBLYMAN AUGUSTINE: Just let me join in with my appreciation for your efforts in making this possible. I am sure, on behalf of all of my colleagues from the Assembly, we do appreciate it.

I certainly agree that our time for rhetoric is growing extremely short. I think it is vital that New Jersey either put up or shut up with regard to legislative reform. We have to make greater progress, move faster, with meaningful steps, as far as this particular area of responsibility and so on is concerned. I just think this is a giant step forward. I look forward to cooperating and working toward making this all come about.

Thank you.

SECRETARY OF STATE HOOKS: Thank you all.

(MEETING CONCLUDED)

APPENDIX



THE BUSINESS OMBUDSMAN: A PLEDGE TO ASSIST THE NEW JERSEY BUSINESS COMMUNITY

The Business Ombudsman was created by Governor Christine Todd Whitman when she signed Executive Order No. 15 on April 5, 1994.

The Ombudsman's office was founded on three simple premises:

- Fundamentally, business expansion and growth are critical to the economic health of New Jersey and its citizens;
- Businesses in the state of New Jersey have reported in large numbers the perception that there has been a lack of communication, consistency and predictability in the regulatory, licensing and permit process;
- New Jersey must implement a mechanism that will identify and examine the flaws in its existing regulatory, licensing and permit processes and follow through with a progressive, less burdensome scheme that will spur business expansion and create new jobs for New Jersey, both now and in the future.

The Business Ombudsman's Office is under the direct purview of The Secretary of State, Lonna R. Hooks, Esq., who has been charged by Governor Whitman with both the Mission and Authority to make New Jersey "Business Friendly"; while remaining committed to N.J.'s environmental goals and standards.

The Ombudsman's Office is open to all New Jersey Businesses and any business interested in locating in New Jersey.

Governor Whitman and her Administration seek to ease the burden and meet the challenges that our businesses, both small and large, must face today, that will improve the quality of life for our residents in their individual lives, their families, their communities and their workplaces.

The Ombudsman is charged with the critical task of making government in New Jersey more responsive to the business community and the regulated community at large.

THE OBJECTIVES

The First Objective is to listen.

In the Fall of 1994, the Ombudsman's office will conduct a series of **Regulatory Reform Hearings** throughout the state of New Jersey in order to outline the challenges that confront both State Government and the Business Community as we move toward becoming more "Business Friendly".

The Second Objective is to evaluate what we hear.

After completion of the hearing phase, the various advisory committees that participate in the process will report to the Governor on what they have heard at the grassroots. Together, we will attempt to draw out the policy implications - recommending state government action where necessary. The Office of the Business Ombudsmen will report at frequent intervals on state government's progress in meeting these goals.

THE STRUCTURE

William R. Healey, Director of Business & Economic Affairs, manages the Business Ombudsman's office. The office has a staff of four, and makes use of loaned executives from throughout the state.

The Office steers businesses through the regulatory, licensing and permit process, provides contact points within the different departments, and responds to concerns raised by businesses seeking to come to New Jersey, and especially to those already here. Finally, the Office keeps business intake records on which it will make recommendations for systematic reform.





**"What a Difference
a State Makes!"**

2
X Governor Christine Todd Whitman, and the
Business Ombudsman, Lonna R. Hooks, Esq.,
encourage those who need regulatory,
licensing and permit assistance in doing
business in New Jersey, or who are interested
in participating in the Regulatory Hearing
process, to contact:

**THE OFFICE OF
BUSINESS OMBUDSMAN
STATE HOUSE
CN 300
TRENTON, N.J. 08625
(609) 984-1900**

**Business Ombudsman's Office
State House
CN 300
Trenton, N.J. 08625**

Listening to New Jersey



**Office
of the
Business
Ombudsman**

***A Pledge to
Assist Business
and Rethink
Regulation***

**A Division of The
New Jersey
Department of State**

Lonna R. Hooks, Secretary of State



For Release on:
May 9, 1994

For More Information
Diana Hall, Nature Conservancy
908-879-7262
Sharon Schulman, Atlantic Electric
609-645-4858

STOCKTON ALLIANCE ANNOUNCES GROUND-BREAKING PARTNERSHIP

TRENTON, NJ -- Opting to become partners rather than adversaries, members of the Stockton Alliance, a unique partnership of leading New Jersey business and environmental leaders, today announced the first public details of its accomplishments since forming last year.

According to Jerry Jacobs, Stockton Alliance co-chairman and chief executive officer of Atlantic Electric, the Alliance hopes to establish itself as a singular voice in the ongoing debate on how public policy can best balance environmental values and economic interests. "We've written position papers that have been delivered to the New Jersey Department of Environmental Protection and Energy (NJDEPE) and other state agencies that address three critical issues facing the state," Jacobs said. "The beauty of our organization is that state policy makers don't have to second guess how most businesses or environmentalists will react to our proposals. We've already worked out the differences on our own."

Jacobs said one paper recommends changes to NJDEPE operations that will strengthen the department's ability to sustain the natural environment and the economy. Another paper presents new opportunities for eco-tourism in the state. The third outlines ways to effectively implement the New Jersey Development and Re-Development Plan to enhance efficiency, economic growth and environmental protection.

One of the first of its kind in the nation, this coalition of business and environmental leaders has grown to include top executive representation from 18 organizations across the state. Since coming together in June 1993, the Alliance has met regularly at The Richard Stockton College of New Jersey to carry out its stated mission of establishing a new relationship based on cooperation and mutual understanding.

c/o New Jersey - American Water Company
500 Grove Street
Haddon Heights, New Jersey 08035

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Michael Catania, executive director of the New Jersey Chapter of The Nature Conservancy and Alliance co-chairman, said, "The common element that first brought this group together was the belief that there had to be a better way for business and environmentalists to coexist. We felt that if we could take just a fraction of the resources we're using to disagree and focus that energy on finding common ground, we could all create a better future for New Jersey's environment and economy."

Among the first tasks of the alliance was to establish ground rules for the group's new relationship. Jacobs said the group had to re-learn how to interact with one another. "Over the past year, we've established a level of trust that allows us to freely explore new positions and consider each others' points of view." Jacobs said. "Through this kind of dialogue, we've been able to set aside our differences and work productively on issues that can benefit all of us. And on issues where we can't agree, we've worked out effective methods to understand and appreciate both sides."

According to Catania, the Alliance hopes to build on the power of its relationship during its second year. "Once we rejected the notion that adversity and gridlock are a necessary reality of our relationships, the rewards became richer and the possibilities endless," noted Catania.

Members of the Stockton Alliance are, Michael Catania, Alliance co-chair and executive director of The Nature Conservancy; Jerrold Jacobs, Alliance co-chair and CEO of Atlantic Electric; Daniel Kelleher, Alliance secretary and president of New Jersey-American Water Company; David Moore, Alliance treasurer and executive director of New Jersey Conservation Foundation; Fred Abbate, Atlantic Electric; Keith Campbell, Mannington Mills; Dale Choate, Mobil Oil Corp.; Arthur Davis, Richard Stockton College; Tim Dillingham, Sierra Club; Sally Dudley, Assoc. of New Jersey Environmental Commissions; Donald Fauerhach, Citizens United; Jane Galetto, Citizens United; Thomas Gilmore, New Jersey Audubon Society; Bonnie Hammerstedt, South Jersey Land Trust; Steve Howard, New Jersey Conservation Foundation; Joseph Kearny, U.S. Generating Company; Ed Lloyd, Rutgers Environmental Law Clinic; Gerald Pacella, First Fidelity Bank; Sally Brecht-Price, Pinelands Preservation Alliance; John Sieg, DuPont Corp. and Kathy Zelakowski, Mobil Oil Corporation.

####

I. DEPE OPERATIONS

The members of the Stockton Alliance believe that the following specific recommendations for changes in DEPE operations will contribute to the mission of enhancing and sustaining the natural environment and the economy.

It is our belief that, if these recommendations are implemented, DEPE employees will have clearer roles and responsibilities, and be better empowered to work cooperatively to solve environmental problems. This will, in turn, better the environment, improve the business climate, and help insure a sustainable economy in New Jersey.

The Stockton Alliance recognizes that the DEPE has achieved significant goals in several areas. For example, the Green Acres Program has an enviable 33 year record of land acquisition and recreational development, adding over a billion dollars worth of new open space land, leading the nation in land conservation innovation. New Jersey was the first state in the country to establish a recycling plan. Its hazardous waste management administration and Toxic Catastrophic Prevention Act program have also received high marks.

With these and other examples of excellence as models, continuous improvement needs to occur in other key areas. The Stockton Alliance, which is broadly representative of both business and environmental interests, can be of assistance with these improvements. Its voice is intended to help the new administration by recommending specific changes that might be made in keeping with the Alliance and DEPE mission statements. The Stockton Alliance recognizes as the goal of these recommendations the continuing improvement of the regulatory and management programs of the DEPE. These programs, in turn, should become increasingly effective in the implementation of the principles and policy goals contained within the laws authorizing them. Some of the specific changes recommended in this document include:

- Retain effective Assistant Commissioners and Division Directors from administration to administration.
- Re-establish the Division of Regulatory Affairs in order to provide knowledgeable and timely guidance to the DEPE employees.
- Provide leadership within the DEPE to insure predictability, accountability and timeliness throughout the organization.
- Establish a process within a new Office of Policy & Planning Coordination to clearly define, review and integrate statutory principles and policy goals into the management, programs and operations of the Department.
- Improve the rule-making process to take advantage of the experiences of the affected regulated communities and public in the design and content of regulations and rules, etc.
- Give greater prominence and budgetary stature to Natural and Historic Resource programs
- Establish a pilot program which examines an alternative regulatory compliance approach that allows flexibility in achieving specific results and clearly defines consequences for non-attainment.
- Re-examine funding approaches.
- Improve information management within the DEPE to reduce permit cycle time.
- Promote collaborative policy development.

These and other recommendations are discussed in greater detail, and are categorized by short, mid-term and longer term actions that are necessary.

KEY PROBLEMS/SOLUTIONS ADDRESSED

Short-term Within 4 months

Continuity of leadership

Improved Responsiveness

Leadership embracing
and communicating
philosophy

Improved Efficiency

Building Partnerships

Restoration of the Division
of Regulatory Affairs

Natural and historic
resources prominence

Mid-term 18 month

Sunset provision

Funding

Pilot principle-based programs

Reduce permit cycle time

Cross-Media Pollution Control

Public Education

Longer term 4 years+

Results-oriented, cooperative
goal setting, long term goals/
consequences

RECOMMENDATIONS

SHORT TERM — Within 4 months

Continuity of Leadership/Philosophy Changes

The philosophy changes that are discussed throughout these recommendations need to be stated in the short term, and continued to be driven by committed leadership in the long term. Continuity of leadership is key. Assistant Commissioners and Division Directors who have proven to be effective in their positions should be maintained from administration to administration. This level of management continuity is invaluable to the newly appointed Commissioner. The cultural shifts and philosophy changes need to be embraced by the leaders and continually communicated to the many divisions of the DEPE to drive an integrated transformation of the Department.

Restoration of the Division of Regulatory Affairs

Currently all legal services are consolidated in the Attorney General's Office. In the past, DEPE had its own "law firm", which assisted in the drafting of regulations, conducted public hearings, and was available to provide unofficial advice to regulators working within the department. This consolidation into the Attorney General's Office was intended to improve financial efficiency. However, subsequent experience indicates that a loss of efficiency and accountability has occurred, and resulted in lengthening the time required for permits and regulatory preparation.

Prompt legal advice rendered by attorneys sensitive to the Department's needs, deadlines and priorities, is essential in order to give both management and staff the appropriate comfort level to make complex regulatory decisions in a timely manner. By developing a legal work force which is accountable and familiar with individual divisions, employees will be more effective. In turn, the public and the regulated community will also be better served. Accordingly, the former Division of Regulatory Affairs should be re-established, and the appropriate Deputy Attorneys General should be physically returned to the Department, with a supervisory agreement worked out with the Division of Law so that these individuals can better assist DEPE.

Improve Responsiveness

The ability of the DEPE to respond to questions of legal, regulatory and programmatic interpretation is a source of major frustration for the regulated community, the environmental community, and the general public. This often leads to a serious lack of guidance for the regulated community, the environmental community and the general public. Ambiguities and unresponsiveness detract from the effective and efficient implementation of DEPE's responsibilities. The turnaround times on permit decisions remain as a problem, due to poor management, utilization of staff resources and information exchange within the agency.

- Re-establishment of the Division of Regulatory Affairs will provide quicker and clearer guidance on questions of legal interpretation, thereby enabling the DEPE staff to be more responsive.
- The DEPE's policies must be clear and open to the public, and supported by statute. All relevant policy and programmatic guidance, to the greatest extent possible, should be formalized, and subject to public review as part of the rule making process.
- Responsibility for insuring and promoting predictability, accountability and timeliness clearly rests on the shoulders of the DEPE top agency administrators. There is an ongoing need for top agency administrators to lead the organization. Managers throughout all levels need to prioritize work and insure staff productivity and the timely review of permits and compliance evaluations. The Administration should insure that proper management training is provided effectively throughout the agency.
- Strengthen the liaison and guidance program which currently exists in the Office of Assistant Commissioner for Environmental Regulation. This will enhance the DEPE's ability to provide applicants and concerned citizens with clear, up-front guidance (possibly in the form of a matrix) concerning the information required for permit programs. This is critical for applications involving more than one division.

- Identify and establish processes that, consistent with the Administrative Procedure Act, improve the interaction between the DEPE and the affected regulated communities and public regarding regulatory reviews, and assist the efforts of the private sector towards compliance.

Improve Efficiency

The complexity of the environmental issues facing New Jersey, and of DEPE's statutory mandates place great strain on achieving the most effective use of the Department's human and financial resources. This challenge is exacerbated by the incremental nature of statutory development, which often occurs without legislative review for consistency with other state and federal programs. The interrelationship between federal and state programs offers another area of potential regulatory conflict. Regulations and program guidance developed by DEPE to implement these laws are rarely reviewed in any systematic or scheduled manner for currency or conflicts between programs or environmental goals. This situation clearly contributes to the criticisms of the Department's efficiency. The inefficient use of Department and public resources detracts from efforts to process permits, provide regulatory guidance to staff, the private sector and the public, and carry out necessary enforcement. These problems arise, in part, from the lack of a distinct, assigned responsibility within the DEPE for insuring policy and regulatory consistency within, and between programs. Neither is there a systematic process established to carry out ongoing reviews of the consistency of new programs with old. Additionally, there is no clear articulation of the programmatic and statutory goals, principles and objectives the DEPE is charged with carrying out. As a result, programs often "lose sight" of their intended direction, and become overly focused on process details and information requirements.

- The Administration should designate a senior manager to oversee the operations of a new, separate Office of Policy & Planning Coordination. This office should be charged with:

- Establishing a process within the DEPE to clearly define, review and integrate statutory principles and policy goals into the management, programs and operations of the Department. A senior manager should be designated with full-time responsibility for this function, and not burdened with day-to-day regulatory responsibilities.
- An ongoing evaluation of the consistency of the Department's programs and regulations with each other, with federal programs and internal to each program.
- Additionally, the Office should develop guidance documents, in conjunction with each program, which reflect the legislative intent for each program for use by lower level managers and staff. On an ongoing basis, the office should develop methods to insure that there is a clear and consistent understanding between program managers as to Department policies.
- The Office should carry out an ongoing evaluation of the consistency between state and federal programs, re-examining the validity and need for policy decisions which establish stricter standards and requirements on the state level. Such a review should account for changed environmental conditions, or programmatic changes affecting the standard under review.
- Improve information management within the DEPE to reduce permit cycle time:
 - Data management needs to be given greater emphasis within the Department; the Administration should update and integrate computer communications between the various divisions and permitting programs.
 - Make use of updated information technology. Computer-based coordination of requirements is one example of information technology that would enhance the Department's ability to provide timely responses and permits.

- Information requirements for regulatory programs should be regularly assessed to avoid unnecessary requirements, duplication or conflict among programs.

Building Partnerships

- DEPE should utilize all available resources effectively by expanding the use of Industrial and Environmental Advisory Groups during the rule-making process. Current working groups have often been limited to data presentation requirements and discussion of other general issues. This limits the Department's ability to be effective by failing to take advantage of expert guidance on issues at no additional cost to the State.
- The Stockton Alliance, as a group representing both environmental and business leaders, is available to work with DEPE on implementing these recommendations.

Natural and Historic Resources Prominence

The Stockton Alliance recognizes New Jersey's abundance of rich, natural, and historic resources. These resources are vital to the recreational and environmental health of the state. In addition, natural resource management and economic development are mutually supportive. Proper management of the State's natural resources is essential to maintaining the quality of life that attracted so many people to live and work in the Garden State. According to the Division of Travel and Tourism, the tourism industry is New Jersey's largest single employer, generating more than 300,000 jobs. Each year, billions of dollars are spent in New Jersey alone, with a large percentage of this money tied to open space and the use of our State's natural resources.

The Stockton Alliance does not believe it is a necessity to create a separate cabinet level position for Natural and Historic Resources in order to achieve greater prominence. The Alliance believes there are benefits to the "*Natural and Historic Resources*" side and the "*Regulatory*" side, working within the same agency because of the interdependence of both

elements. We believe however, that there needs to be greater prominence given to "*Natural and Historic Resources*" - Fish, Game and Wildlife, Green Acres, Parks and Forestry, natural Heritage and Historic Resources.

We have outlined the following solutions and strategies to achieve better efficiency and improve focus on Natural and Historic Resources. The bottom line from the Stockton Alliance's perspective is any changes made to Natural and Historic Resources *must* be to strengthen, not weaken, its effectiveness.

- Suggested organizational changes in the Attorney General's office is a critical component in increasing effectiveness of "*Natural and Historic Resources*". (See Restoration of the Division of Regulatory Affairs.)
- "*Natural and Historic Resources*" budget funds should remain restricted, with designated funds not being diverted to other activities.
- Self-sustaining activities within "*Natural and Historic Resources*" should not be affected by across the board cut backs. For example: programs that are funded by dedicated revenues such as those derived from grants, bonds, tax check-off, wildlife stamp sales, hunting licenses, and the like, should not be frozen, as is typically the case during across-the-board hiring freezes.
- Increase the prominence of "*Natural and Historic Resources*" without removing it from its close association with the "*Regulatory*" side of the DEPE. The Assistant Commissioner of Natural and Historic Resources should be retained from administration to administration whenever the incumbent has proven effective. This level of management continuity is invaluable to the newly appointed Commissioner, and essential to the effective functioning of these programs.
- Any proposed mitigation must be evaluated based on the merit of the impact it intends to remedy. For example, if a specific species/habitat type is being impacted by proposed development, then the same species/habitat type must benefit from the proposed/implemented mitigation.

MID-TERM 18 months

Sunset Provisions

DEPE should make better use of sunset provisions as an opportunity to review regulations and retire or "fix" those that are not working well. The DEPE should include stakeholders in the process of using sunset provisions to provide needed "regulatory fine-tuning". This could be done by using such forums as interested party reviews and round table discussions. This will ensure that regulations on the books are meeting the real needs of all state stakeholders.

Pilot Principle-based Programs

From the analysis done to date, it appears that what is needed is a shift from focusing on how a result should be achieved to driving the results that are required. It is essential to specify the environmental results desired, as well as the consequences for not achieving those results. This allows flexibility in the method used to meet the desired results. Since this is a significant shift and would be difficult to institute all at once, a pilot program is suggested.

- Establish a pilot process to work collaboratively with members of the regulated community and the public to plan long-term environmental goals, interim milestones, results, and timelines with penalties for non-compliance.
- Ensure the program has explicit legislative authority.
- Monitor the progress of the pilot program and expand if it is successful.
- Include in the pilot program those members of the regulated community (large and small) who have demonstrated environmental leadership and have a track record of compliance with regulatory requirements, and provide appropriate incentives for permittees with good records.

- Establish partnerships with the regulated communities which encourage sharing of technology.

Cross-Media Pollution Control

- Re-evaluate the collective impact of media specific pollution control, and look for ways to achieve cross-media permitting and regulation which reduce overall pollution without merely shifting a source to a different media. This "facility-wide" permitting approach should provide better overall pollution prevention and facilitate both compliance and enforcement.
- Specific statutory changes may be required to achieve cross-media pollution control, particularly in order to remove statutory and regulatory disincentives, as well as provide incentives for the regulated community.
- Additional resources should be provided for the cross-training of DEPE permitting and enforcement staff.

Funding

- All new legislation should provide an appropriate and adequate funding mechanism in order to allow the Department to carry out its legislative mandates.
- Funding for programs that are run by dedicated fees should not be diverted to other activities or frozen by across-the-board freezes.
- Program costs charged to the private sector, where reflected in fees, should accurately reflect the actual costs of running the programs as efficiently and fairly as possible. This should result in the costs of compliance (fees, fines, services, permits) being similar to other comparable industrialized states, so businesses are encouraged to continue operations in New Jersey.

- In order to facilitate the implementation of these recommendations, consideration should be given to increasing general fund support of DEPE, thereby providing a better balance between general fund and fee supported programs.

Reduce Permit Cycle Time

The time it takes to get a permit or to receive a decision that the permit has been denied can sometimes be measured in years. This results in wasted resources, lost business opportunities and business choosing to expand elsewhere. The regulated community is entitled to timely issuance of permits if the regulatory requirements have been met.

- Strengthen the existing liaison and guidance program, currently located within the Office of the Assistant Commissioner for Environmental Regulation. This will enhance the DEPE's ability to provide clear, up-front guidance (possibly in the form of a matrix) concerning the information required for the permit process. This would be especially helpful if the permit involves more than one division within the DEPE.
- Make use of updated information technology within the DEPE. Computer-based coordination of requirements is one example of information technology that would enhance DEPE's ability to provide timely responses and permits.
- Update and integrate **computer** communication between divisions, so that a **common language** is spoken, and integrate permitting facility wide.

Public Education

Establish partnerships with **the regulated communities**, environmental organizations, educational **institutions**, and citizens to improve public education, thus enhancing **and sustaining** the environment and the economy.

LONG TERM 4 years+

The short and mid-term recommendations should result in an environmental policy that is results oriented, and has been developed through collaborative goal setting. An environmental policy such as this would drive sustainable results of keeping businesses in New Jersey, providing a better environment for its citizens and protecting its natural resources.

Envisioned are environmental policy plans that set long term goals at the state or national level to which each segment of society must comply, be it government or the private sector. Negotiated schedules for compliance would be established with industry groups and they would be backed by legally binding agreements with both civil and criminal penalties pegged to a compliance time schedule. The result is a standard based system that allows industry to determine how goals can be best met, and long term remediation and compliance planning. Such a system encourages one step permit processing, polluter pays methodology, and science based emission standards, which can be constructed to err on the side of conservatism. Several nations, including Holland, Canada, and New Zealand, have moved to establish national environmental policy plans, incorporating sustainable development goals. New Jersey would do well to examine those concepts closely.

II. ECO-TOURISM OPPORTUNITIES

New Jersey has tremendous natural and historic attractions and resources which attract a wide variety of in-state and out-of-state visitors. Increased opportunities for eco-tourism can be achieved by improved coordination and marketing or advertising of the state's resources and attraction potential. At the same time, however, it is essential to expand planning efforts for the preservation and protection of these resources. Following are items which deserve further examination in developing a coordinated approach in this area:

- By supporting the concept of eco-tourism, the Stockton Alliance can be a powerful conduit toward creating an atmosphere for developing economic and conservation interests which could benefit the entire region and the state.
- There is potential in developing links between cultural, historic and recreational sites with emphasis on the state's significant ecological resources. For example, tourists could be attracted to natural areas as an extension to a visit to Atlantic City, New York or other destinations.
- There is recognition that care is needed in creating attractions to avoid excessive stress on sensitive natural and historic areas. Respect for our resources while showcasing them is paramount. Therefore, in tandem with any eco-tourism initiative, there needs to be protective regulations, established carrying capacities, structure and guidelines that guarantee natural resources and cultural landscape are maintained.
- Opportunities exist to enhance economically depressed areas of the state by capitalizing on eco-tourism. These opportunities will also stimulate private/public partnerships which can be stimulus for our economy. Also, there are private sources of funds available for eco-tourism projects, which will reduce or preclude the need for public funds.

- Specific areas of New Jersey merit special protection, such as the Pinelands area, Delaware Bayshore, the Jersey shore, and the Highlands.
- Models are available in other states which will allow direction of efforts.
- Two initiatives are under way which exemplify the type of programs which are possible:
 - The South Jersey Land Trust has received a grant from the Delaware Estuary Program to produce a video of natural areas to visit in South Jersey.
 - The Cumberland County Planning offices have just gone to press with a birding guide to the county.
- Chambers of Commerce and other active organizations can be enlisted to help support any initiatives, and planning officials must be kept informed of any opportunities for effectiveness.
- The new administration should coordinate the preparation of a public/private master plan to promote eco-tourism. This plan should:
 - **Increase financial and political support for natural and historic resource protection by demonstrating the economic benefits of carefully planned eco-tourism**
 - **Address legitimate local economic concerns about the potential impact of eco-tourism**
 - **Move beyond the talking stage to actual eco-tourism demonstration projects**

This Stockton Alliance looks forward to being an active partner in this venture.

STATE PLAN IMPLEMENTATION

New Jersey has a dilemma. We have put in place a State Plan that offers a vision for the future, a way to promote efficiency in government, a basis for sound economic development, and a framework for revitalizing our cities. Hundreds of local officials participated in putting the Plan together. Poll after poll shows that New Jersey citizens support growth management and planning.

And yet, neither the executive nor legislative branches have adopted the Plan enthusiastically. There have been some expressions of general support, but little in the way of specifics. The Departments of Environmental Protection and Energy and Transportation and the Council on Affordable Housing have adopted memoranda of agreement with the State Planning Commission but have not made any significant changes in the way they do business. They have sometimes ignored the Plan, continuing to allocate funds and develop policies with little or no coordination. The Governor took a firm step forward when she proposed a \$1.4 million funding level for the Office in her 1995 budget. The Legislature's reaction to this proposal is unknown at this moment.

According to an economic impact assessment of the Plan conducted by Rutgers Center for Urban Policy Research, the Plan will save municipalities and school districts \$400 million annually in operating expenses, reduce state and local infrastructure costs by \$1 billion over the next 20 years, protect 30,000 acres of sensitive environmental lands and preserve 30,000 acres of prime farmland.

The State Plan offers a way to save money and get more for the dollars we spend. By promoting state and local coordination the Plan will reduce red tape and lower costs for government, for business and for industry, and provide clearer and more predictable guidelines for decisions about the future. But attaining these results depends almost entirely on the governor.

New Jersey will make significant progress in government efficiency, lower taxes, economic growth, and environmental protection when state agencies integrate their policies with the Plan.

Recommendations for the Governor

1. Support existing Executive Order requiring all state agencies to conform their spending plans, permit decisions and other programs to the principles of the State Plan.
 - State agencies (especially DOT and DEPE) should develop infrastructure investment plans that direct the bulk of available funds to cities and designated centers. These infrastructure investment plans would embrace spending by state departments and authorities as well as state aid programs for counties, municipalities and local authorities. This kind of planning will provide economic incentives for the redevelopment of cities and for development in designated centers. State agencies should not approve any direct expenditures or grants that expand infrastructure capacity to serve sprawl development.
 - DEPE, DOT, COAH and other applicable state agencies should review permits for projects in designated centers concurrently. This will coordinate state agency decisions, saving time and money for all concerned.
2. Encourage the Office of State Planning to educate local governments on ways to implement State Plan recommendations. Specifically, that office should:
 - Show local governments how to link land use policies to infrastructure availability, and what the benefits are. This will help towns get away from the practice of extracting "impact fees" that force developers to pay for facilities that are not always related to their specific project.
 - Demonstrate to local governments that the State Plan is not a new layer of bureaucracy but a set of guidelines to achieve important economic and environmental objectives.
 - Encourage coordination between state, local and county governments to facilitate communication between levels of

government, and help resolve conflicts. This will promote more efficient planning and permitting processes and also develop regional perspectives.

- Train local governments to use creative techniques like lot-size averaging and transfer of development rights to avoid sprawl development.
3. Publicly recognize and provide economic incentives for cities and for towns that have gone through "centers designation" process.
 4. Work with the Department of Agriculture to expand programs to preserve farming, not just farmland.
 5. Find ways to require the Department of Transportation to widen transportation options. Clean Air Act mandates require New Jersey to reduce its dependence on the automobile or face drastic federal funding cuts.
 - Provide incentives to get people out of single-occupancy automobiles by supporting ride-sharing, low cost public transportation, providing bike paths, park and ride lots and high occupancy vehicle lanes.
 - Encourage mixed use development around transit hubs like rail stations.
 6. Direct key cabinet officials to support the State Plan and to shape their agencies' programs and policies to implement the Plan through grants, the permit process and infrastructure investments. This is particularly important for the Commissioners of Environmental Protection and Energy, Transportation and Community Affairs. Continuity of leadership of the Office of State Planning is an important dimension of this issue.
 7. Mount a strong program of education and publicity to explain the importance of the Plan's principles. She should follow this with an equally strong program of technical and policy assistance for local and county governments.

Recommendations for the Legislature

1. Provide the Office of State Planning the resources it needs to fulfill its mission.
 - Approve the funding for the Office of State Planning of \$1.4 million per year that the Governor has recommended in the fiscal year 1995 budget.
2. Enact legislation that allows the transfer of development rights within and between cooperating municipalities.
3. Review Industrial Site Remediation Act (ISRA) for additional enhancements which encourage reuse of "brown fields" for economic development and growth. This would reduce the use of "green fields" and would revitalize idle and abandoned industrial sites.

Recommendations for the Stockton Alliance

1. Members of the Stockton Alliance should work actively with the Governor's Office, the Office of State Planning, members of the legislature, key cabinet departments and local officials to implement the State Plan by:
 - **supporting the development and distribution of educational materials that explain the benefits of State Plan implementation**
 - **featuring information on the benefits and techniques of State Plan implementation in their member, in-house and corporate newsletters**
 - **publicly supporting appropriate state and local initiatives to implement the State Plan.**

The State Plan offers New Jersey a unique opportunity for national leadership. The State Plan is a strategic plan, a vision for the future.

arrived at by consensus. With strong support from the Governor, and from the business and environmental communities, agencies at all levels will adopt the Plan and New Jersey will be stronger, healthier and better prepared for the challenges that lie ahead.



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TESTIMONY TO PUBLIC FORUM ON REGULATORY ISSUES

OCTOBER 17, 1994

PRESENTED BY:
PETER J. FUREY, EXECUTIVE DIRECTOR

THOMAS EDISON COLLEGE,
TRENTON, NJ

On behalf of our farmer members and the \$700 million industry they represent, we in New Jersey Farm Bureau would first like to commend the Whitman Administration for taking up the issue of excess regulation of the private sector by state government. We believe the studied approach being undertaken is a true indication that this effort is more than mere lip service. The Administration and leading members of the Legislature who share a commitment to bring meaningful reform to agencies of state government have a huge and complex task ahead of them. Every resident of the state has a stake in the outcome.

Let me also explain up front that I have been executive director of Farm Bureau for twelve years. Part of our primary function for our members is to act as their agent on matters of state regulation. I have seen many of these issues from the perspective of sitting with a farmer at his or her kitchen table all the way up to and including conversations with the Governor. We try to keep a credible and cooperative relationship with all those administering regulation affecting farmers and constantly challenge ourselves to look at the public interest in any of these issues. We invest a lot of time in this work.

As a small historical footnote to these hearings, it might be useful to start my remarks by explaining the concept of a "regulatory summit" we developed during the summer of 1993. It started at one of our county meetings after a speaker from a pharmaceutical/farm chemical manufacturer located in the state was explaining how growing state and federal regulations were blocking the normal flow of getting patents and bringing new products to market. They reluctantly concluded that their only alternative was to go off-shore and then ship their products back to the U.S. - at a cost of both jobs and a loss of tax base. Several farmers in the audience nodded in agreement and said they felt like they experience the same interference in their businesses. We came to think that other industry groups must be experiencing the same thing and approached them about jointly sponsoring a "summit conference" during which each

candidate for Governor could explain their position on over-regulation. We organized several meetings to discuss the plans for such an event and came very close to pulling it off. It was a constructive exercise, nonetheless, where some of the major trade groups matched notes on these problems.

From the discussion at those meetings, it was obvious that each industry group is beset with inefficient and costly regulations that have grown worse in recent years. Each group had their own horror stories. It was illuminating to hear all this around the table, but none of us had the overall responsibility to cure the problem. We were curious about the effect of pooling our concerns, and now with these hearings it can be started again.

I would like to dispose of the notion here that the public interest inevitably loses when steps are taken to reduce regulation. Some in what might be referred to as the "advocate community" like to think of layers of regulation as if they were like layers of clothing on a cold day - keep them on or you might get sick. Any effort to shed those layers is repugnant to them. Let's keep in mind, however, what is perhaps the most powerful, over-riding concern among the public today: maintaining economic growth and job maintenance/creation. All the polls show this, and we are witnessing a remarkable transformation in recent politics as well. To the extent that reforming the regulatory structure assists the performance of the general economy, such reforms are in keeping with the public interest.

To give you a flavor of the broad sweep of regulations affecting the agricultural industry, please refer to the attachment to the text of these remarks. Most of our regulatory issues are related to open space and the environment, labor, building codes, taxation, motor vehicles and insurance. I can say, without hesitation, that most farm operators are extremely frustrated with the current regime of state regulations. They are seen as a sign that government has grown too large, acts as a nit-picker and generally is

unconcerned about the impact of regulations on the cost of doing business. This is a very strong feeling that comes up again and again in all our policy development meetings. So let me say here that our constituency is certainly aligned with other business groups in this respect.

The following areas of state regulation are representative of the problem, which are presented in brief to illustrate the problem:

- freshwater wetlands. We believe the DEP is using the wrong set of criteria to delineate freshwater wetlands. The state law says the prevailing federal criteria should be used, which is close to something called the 1987 manual. New Jersey uses the 1989 manual, a stricter set of criteria that is more expansive and covers by one estimate approximately 200,000 additional acres of land. This problem is one of rule interpretation.

- underground storage tanks. These rules present a Catch-22 situation for owners of regulated tanks and, to a degree, bad faith by the regulator community. About eight years ago, anyone owning underground storage tanks above a certain size were told to register their tanks with the DEP. That was all-just announce that you had them. Since we saw no harm in that and believing we were acting in good faith, we advised our members to do so. A few years later, the federal and state government changed the rules and required the installation of expensive monitoring devices. Looking at those deadlines and the high cost of liability insurance, we looked to the prospect of removing the tanks. However, those rules were tightened during the same time and any tank removal requires the use of expensive consultants and contractors. Many farmers feel that they were mis-led and even duped by the whole program. (State personnel, it should be noted, say they were simply following federal mandates.) This is a case of passing through rules from another source.

^{TAX}
- fuel tanks. Several years ago, the state decided to crack down on unscrupulous wholesale merchants who refused to pay excise taxes. They did this by imposing strict licensing, bonding and reporting requirements on those merchants. Anyone purchasing such fuel needs to show documentation now and the crack-down has worked to find over \$30 million in new revenue to the state. However, because our farm businesses receive "special fuels" and dispense it by a pump, we are covered by the fees, licensing and paperwork requirements. We had nothing to do with the problem for which the statute and rules were intended, yet we were impacted by the corrective measures. This is a case of being regulated when it was unintended.

There are many, many other similar anecdotes of problems with regulations, but let me offer some observations from our experience and then a few specific recommendations for consideration.

1. we strongly believe that there should be a commitment to the principle of regulatory reform by all of state government. This could be done by an executive order by the Governor that incorporates the findings of these hearings. Such an order would send out the word to the general public that government has a new attitude on this issue, which might begin to reverse the poor public relations that has accumulated over the years.

2. we are strong believers in the need for risk-based assessments and cost-benefit analysis prior to the adoption of any regulation. Politics can often be driven by perception and interest group zealotry, which in turn could lead to ineffectual regulation. Somewhere in either the legislative or rule-making process, there should always be analyses like this prior to rule adoption.

3. another key element to the regulatory burden is the issue of unfunded mandates. Part of the above-noted analysis should include the question of who pays. If

something is not important enough to be part of the general tax levy, is it fair to place it on the back of private business?

4. with regard to environmental regulations, there should be a recognition of the need to protect private property rights. This issue of takings and partial takings is one that is scarcely acknowledged by state government in New Jersey. In fact, we would argue that any investment in business activity must know that private property is secure prior to making those investments. This a point that goes beyond environmental regulation, but certainly has many applications in this body of regulations.

5. one of the most compelling reasons to revise and reform government regulations at all levels is the reality of increased competition in the marketplace and competitive disadvantages for states that have too much regulation. Our businesses cannot grow if they are not competitive. Without business growth, employment is stagnant and the tax base is unable to generate the revenue for basic government services. This certainly applies to the advent of increased global trade in goods and services, where low-cost competition stands ready to take our business and market share.

6. let's all agree up front that there is a core of regulation that is legitimate to protect public health, safety and welfare. Those interested in regulatory reform should keep this in mind so that these criticisms are not simply dismissed as a display of self-interest. The emphasis, however, should be on keeping the rules to a minimum, achieving measurable efficiencies in their administration and putting forward a cooperative rather than adversarial attitude toward the regulated public.

7. there must be a greater discipline by government agencies in the conduct of regulations. One of the most irritating things to encounter (and easiest to correct, incidentally) is an absence of common courtesy on the telephone, missing deadlines and

never receiving a straight answer to a question. Somehow, program managers ought to at least insist on a high level of professionalism in all contacts with the regulated public.

Some suggestions:

A. Initiate a procedure within the State Department's Office of the Business Ombudsman to review all rule notices in the N.J. Register. This review should verify and if necessary challenge any executive department statements regarding "economic impact," "regulatory flexibility," "social impact" and the like. We get the uneasy feeling that these statements are never challenged and therefore do not achieve the critical review of proposed rules that was intended.

B. Each department of state government ought to have a special advisory committee to review final rule proposals that is made up of those in the regulated community. This should be a standing committee and answer to the commissioner directly. We already do this in agriculture through the State Board of Agriculture.

C. We would like to see a more vigorous position taken by the Governor's Office vis-a-vis the federal bureaucracy on behalf of New Jersey residents. It is nearly impossible for a single individual or group to have an impact on the process of adopting federal regulations. New Jersey needs a regulation ombudsman to interface with federal agencies in a manner that is consistent with the purposes of this overall initiative.

We suggest that rather than regulate specific business practices, agencies ought to adopt a range of practices that are deemed acceptable. Activity outside those parameters should be the target of enforcement, rather than have everyone who is in compliance spend wasteful time and money filing reports that are hardly ever read. In agriculture, we call this "best management practices" under the right to farm.

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These are just a few comments to place on the record at this time. We will be full partners with the work effort that is now underway on reforming the regulatory regime. We commend you for your interest and thank you again for the consideration of our views.

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Partial Listing of Information Units

Regulation Fact Sheets

- 1. Labor Management**
 - Wage and hour
 - Housing
 - Transportation
 - Recruitment
 - Unemployment Compensation
 - Workmen's Compensation
 - Field Sanitation
 - Right to Know/
 - Hazard Communication
- 2. Farmland Assessment**
 - Basic Facts
 - Typical Questions and Answers
 - Leading Policy Questions
 - Assessor Issues
 - Forestry Issues
 - Other
- 3. Land Use**
 - Municipal Planning and Zoning
 - Site Plan/Subdivision Procedures
 - Farmland Preservation/
 - Agriculture Retention
 - State Development and
 - Redevelopment Plan
 - Pinelands/Highlands
 - Transfer of Development Rights
 - (TDR)
 - Regional Programs/Watershed-
 - Based Planning
 - Other
- 4. Miscellaneous Environmental Regulation**
 - Water Supply Allocation
 - Wetlands
 - Soil Conservation
 - Ground and Surface Water
 - Quality
 - Air, Noise and Solid Waste
 - Underground Storage Tank
 - Pesticide (see separate section)
 - County/Municipal Regulations
 - Sludge Application on Farmland
- 5. Building Code**
 - Uniform Commercial Code
 - BOCA
 - Temporary Buildings
 - Fee Structure and Application
 - Procedures
 - Other
- 6. Motor Vehicles**
 - State Licensing and Registration
 - Federal Motor Carrier
 - Regulations
 - Commercial Licensing
 - Inspection
- 7. Taxation**
 - Property Taxes
 - Federal Income Taxes
 - Excise Taxes
 - Motor Fuels Taxation
 - Sales Tax
 - Estate/Inheritance Taxes
 - Other
- 8. Fire Code**
 - State Fire Code
 - Municipal Regulation
- 9. Pesticides**
 - State Pesticide Code
 - Product Registration/FIFRA
 - Farmworker Safety
 - SARA Title III/Federal Right to
 - Know
 - Food Safety/Residue Regulations
 - Other
- 10. Fish and Game**
 - State Game Code
 - Deer Management Issues
 - Other Wildlife Management
 - Issues
 - Hunters for Your Property
 - Federal Rules on Wildlife
 - Management
 - Other
- 11. Seed, Feed, and Fertilizer**
 - rules
 - State Regulations
 - Federal Regulations
- 12. Marketing/Consumer Protection**
 - Food Safety
 - Produce Grading
 - Broker/Dealer Licensing
 - Health Inspection and
 - Registration
 - Commodity Promotion
 - International Trade
 - Other
- 13. Livestock Issues**
 - Care and Handling
 - SPCA
 - Auction Requirements
 - Slaughtering Rules
 - Waste Handling
- 14. Farm Credit**
 - Farm Credit Service
 - Farmers Home Administration
 - Commercial Banks/
 - Seasonal Credit
 - ASCS Crop Loan Program
- 15. Federal farm programs**
 - Soil Conservation Service
 - Support Programs
 - Dairy Program
 - Disaster Relief
- 16. Insurance**
 - General Liability
 - Pick-Your-Own Liability
 - Auto and Truck
 - Health
 - Life
 - Other
- 17. Others**

