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PUBLIC HEARING

before

ASSEMBLY INDEPENDENT AUTHORITIES COMMITTEE

Testimony on the Hackensack Water Company's  
land transfer proposal

September 22, 1988  
Oradell Borough Hall  
Oradell, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman William "Pat" Schuber, Chairman  
Assemblyman Ralph A. Loveys, Vice Chairman

ALSO PRESENT:

Assemblyman Patrick J. Roma, District 38  
Assemblywoman Elizabeth Randall, District 39  
Assemblyman John E. Rooney, District 39

Edward P. Westreich  
Office of Legislative Services  
Aide, Assembly Independent Authorities Committee

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Hearing Recorded and Transcribed by  
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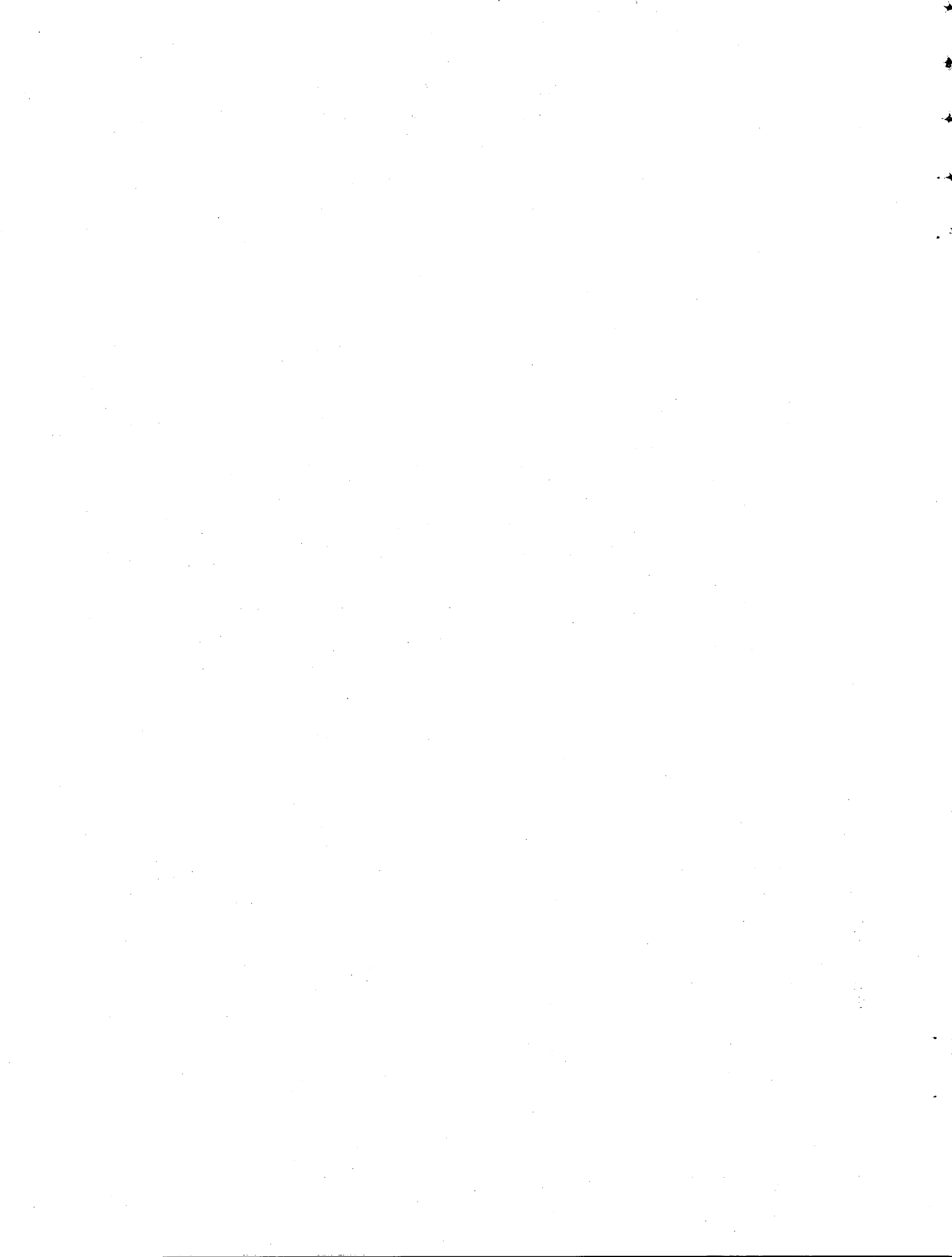
September 6, 1988

**NOTICE OF A PUBLIC HEARING**

The Assembly Independent Authorities Committee will hold a public hearing on Thursday, September 22, 1988 at 8:00 P.M. in the Oradell Borough Hall, Second Floor, 355 Kinderkamack Road, Oradell, N.J. concerning the Hackensack Water Company's land transfer proposal.

The Committee will be taking testimony from the Board of Public Utilities on the subject of the land transfer proposal.

Anyone wishing to testify at the hearing is requested to contact Edward Westreich, Aide to the Committee, at (609) 984-7381 for scheduling.



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Copy of a letter to the Editor of  
the Bergen County Record written  
by Assemblyman William "Pat" Schuber 20x

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ASSEMBLYMAN WILLIAM "PAT" SCHUBER (Chairman): I would like to call the meeting to order, if I might, please. Good evening, ladies and gentlemen. This is a special meeting of the Assembly's Committee on Independent Authorities. The issue we are examining tonight is that involving the transfer of watershed property by a public utility, and the role of the Board of Public Utilities in that procedure.

We would like to welcome all the citizens and members of the public here tonight at Oradell. We extend our thanks to Mayor Hague, who is here with us tonight, for her kindness and for the kindness of the official family here in Oradell and all of the employees, for helping us in the preparation of the facility and in making it available to us for this meeting.

Tonight, we would like to continue our effort to review the proposed land transfer of watershed property by the Hackensack Water Company to Rivervale Realty. Both companies are subsidiaries of a holding company known as United Water Resources. As Chairman of the Independent Authorities Committee, I would like to investigate the broad scope of this transfer, and review the proper role of the Board of Public Utilities in making their decision on this type of a transfer.

Presently, the BPU, or Board of Public Utilities, is preparing to render a decision on this transfer based solely on the question of water supply and quality. As Chairman of this Committee, I believe that the fate of development here in this county goes well beyond the water supply issue. It is obvious that the citizens convincingly oppose development. If this land is developed, Bergen County will lose almost 300 acres of open space in an already highly developed region. In exchange for these losses, Rivervale Realty and its investors will prosper, but the residents of the region will receive increased traffic, pollution, and further degradation of the water supply.

All of these issues will lead to an overall decline in the environmental quality of the land. The Board of Public

Utilities must ensure that Hackensack Water Company, in exchange for enjoying a State-granted and enforced monopoly, provide high quality service, and not do anything otherwise to abuse the public trust.

I hope this meeting will serve as the first of a series to exchange views and examine the methodology of decision-making made by the BPU involving land transfers. We welcome the public's testimony.

Basically, ladies and gentlemen, this is an issue with regard to not only water quality, but the preservation of open space here in our county and across the State. The preservation of open space in our State is a matter of high public policy and high public priority. I have seen statistics very recently for Bergen County which indicated that in 1986, 12.6% of the land in this county was undeveloped. In 1988, less than two years later, that figure has dropped to 6.5%. Those are startling figures for us who are residents of what is known as the Garden State. If this State is to really have any meaning with that type of a slogan, we must draw the line somewhere with regard to how much property will be allowed to go under the developer's plow.

This issue is one of those issues of priority. We welcome you here tonight for your testimony with regard to that.

Joining me on the Committee tonight, to my right, is Assemblyman Ralph Loveys, who is the Vice Chairman of this Committee. He is from Morris County. Further down is Assemblyman John Rooney, from District 39, from Northvale. On his right is Assemblyman Pat Roma, who is my colleague here in District 38, from Palisades Park. To my left is Assemblywoman Lisa Randall, also from District 39, who is from Westwood. And I think in the audience someone who will testify later, Senator Paul Contillo, from District 38 also -- over there.

Just to bring you up-to-date on the legislation, as I indicated to some of the folks in the audience who were asking

me before the meeting started, the Senate and Assembly versions of the bill which would provide for an 18-month moratorium on the transfers of these properties for the purpose of DEP establishing rules and regulations for their utilization-- The Senate version, of Senator Contillo, is out of Revenue and Finance, and the Assembly version, which is identical, came out of Appropriations this morning. Both will be listed in the next two weeks. It is our fervent hope that they will be on the Governor's desk very shortly.

Without any further ado, I would invite Mayor Hague, our host Mayor -- Carolyn Hague -- to come forward and greet the members and make a public statement. Mayor Hague, welcome.

**M A Y O R C A R O L Y N H A G U E:** On behalf of the Town of Oradell, and all of us who are very concerned with preserving our watershed, I want to thank all of you for coming, and welcome you most heartily. We appreciate all of your help in the past and, as you know, I am one who is very concerned about this, not only in our town, but the entire watershed. Also, as a stockholder, I am not as concerned with the money as I am with the two basic things in life -- the only two things that we need to live, namely water and oxygen. I think the watershed of the Hackensack Water Company provides that, which is of greater benefit than any monetary short-term reward to us who are stockholders.

So, I welcome you, and thank you very much for coming.

**ASSEMBLYMAN SCHUBER:** Thank you, Mayor. We appreciate it. (applause)

Assemblywoman Randall indicated to me that she would like to make a statement with regard to this issue.

**ASSEMBLYWOMAN RANDALL:** Thank you, Assemblyman Schuber. I thank you for convening your Committee here in Bergen County, and also for inviting me to sit up here with you tonight. I am not a regular member of this Committee, and I had intended to testify, but you invited me up to hear the rest of the testimony, and I am happy to do that this evening.

It was only about two years ago that the customers of the Hackensack Water Company were given small payments for their interest in property which the Water Company stated was no longer needed to protect our water supply. Many of you here tonight will recall that this was done as a result of a 1983 directive from the Board of Public Utilities, that the Hackensack Water Company review its real estate holdings and remove from its rate base those lands which were not "used and useful." A study prepared by the water quality consultants, Havens and Emerson, for the Hackensack Water Company, designated this land, at the time, as not being used and useful.

Now, in broad terms, we are talking about approximately 1000 acres of undeveloped land, which is now planned to become almost a million square feet of office space and more than a thousand housing units. As the applications for these developments come before our local planning boards -- all in Bergen County -- we are beginning to hear a ground swell of objection. I must say that the objections come from constituents of all of us who represent Bergen County here tonight.

The Water Company and its stockholders will perhaps legally and properly profit greatly from these development proposals. However, the citizens of this area will suffer immeasurably from the loss of this precious green space and from the effect of these developments on the quality of life here in Bergen County.

The Hackensack Water Company, during my tenure as an Assemblywoman since 1985, has maintained a very respectable and good public image. I must say that we do receive high quality water, purified by state-of-the-art techniques, and I am quite happy with that. However, most Water Company customers, if asked, would probably vote to return their \$18 a share -- the interest which we had all previously received from the transfer of 700 acres.

The county is currently working on an open space proposal to acquire these lands, and County Executive William McDowell has requested that the Board of Public Utilities delay the transfer of any additional watershed lands until the county has completed its plans. Unfortunately, we do not as of yet have a regional or statewide approach to planning. We, therefore, must rely on the wisdom of our local municipalities, our zoning boards, our planning boards, for proper development.

I have requested that the U.S. Army Corps of Engineers and the New Jersey Department of Environmental Protection visit the areas in question, and create accurate and detailed wetlands delineation maps to assist local municipalities, as well as the Water Company, in determining exactly what might be watershed properties. I have also, parenthetically I mention, introduced legislation which would allow municipalities to roll back taxes on these properties. However, all of these are measures which address the problems which have previously been created by the previous transfer of lands.

What we are faced with now is what I like to call "a quiet crisis" in New Jersey. As the most densely populated State in the United States, we are quietly losing our natural resources, our parklands, our recreational areas. This was an amazing statistic for me to hear, but if you take a 50-mile radius of New Brunswick, which extends into the greater New York/New Jersey metropolitan area, we have 10% of the United States' population living within the radius.

The full development of watershed land will certainly have an absolutely irreversible effect on the State of New Jersey. It is very expensive to resist the steady encroachment of developers, and very difficult to resist the lure of development dollars. The Garden State is no doubt swiftly losing its gardens. Traffic congestion alone is indicative of the very real need for statewide planning. I grew up in Westwood. My business is located on Kinderkamack Road, and I

must say that over the years I have seen such an increase in traffic, that I envision 10 to 15 years from now Kinderkamack Road looking like Route 17, if we don't do something about this problem soon.

Our natural resources are certainly finite and cannot be restored. We cannot make mistakes. It is finally time for citizens like yourselves, our local officials, our county officials, and we, as New Jersey legislators, to act.

Thank you, Mr. Chairman.

ASSEMBLYMAN SCHUBER: Thank you, Assemblywoman Randall. (applause)

I would indicate to the audience that this hearing is being recorded, and there will be a transcript available at a future date with regard to the testimony that is taking place here.

Assemblyman Loveys has indicated that he would like to make a statement later. Assemblyman Rooney?

ASSEMBLYMAN ROONEY: Well, I agree with my colleague from District 39. Basically, the Thirty-ninth District is probably affected by about 90% of the sale of the watershed. So we are here tonight for that purpose, to hear this-- This is the first time this has been available to us. Unfortunately, the Senate hearings were held on an Assembly session day. We were unable to attend the previous hearings, but we are concerned because this concerns our district.

One of the things that concerns me the most, however, happens to be the numbers that are thrown out by the Water Company. We are looking at 300 acres of land. This is prime land in probably the most desirable area in Bergen County. The prices I hear are somewhere around \$12 million -- that the Water Company is transferring this land to Rivervale Realty, their own company. This is the only number that is going to be reflected to the ratepayers of the Hackensack Water Company. So they will get a return on their investment based on the sale of \$12 million.

Now, to me, just looking at it from a local official standpoint, we are looking at \$40,000 per acre. I know in my community we are talking about a density of a minimum of four per acre. One building lot-- There are four building lots per acre, so you're talking about \$10,000 per building lot. When you look at \$10,000 per building lot, this is vastly, vastly underpriced. My concern is that this is a very low price that we are going to see as a return to the ratepayers. I would think we were looking at more like \$75,000 to \$100,000 per building lot. If Rivervale Realty weren't involved in the sale, and if it was not an inside deal, as I choose to call it -- this is more like insider trading -- then we would see a fair price put on this of approximately \$120 million. Then we would see some real returns on our investment, either from the ratepayers or from the bondholders and shareholders of the Hackensack Water Company.

So, this is my concern: If this \$12 million is the real price, then at least the State of New Jersey, the County of Bergen, and the local municipalities should have right of first refusal on maintaining this land as open spaces and to be used for environmental purposes. Twelve million dollars is a very, very small price to pay to maintain these in a park-like environment. I believe that is the way to go. If they really want to sell that land, and if the true price is \$12 million, by God, the State of New Jersey can well afford that, so can the County of Bergen, and so can the local municipalities. That is why I am here tonight.

Thank you. (applause)

ASSEMBLYMAN SCHUBER: Assemblyman Roma?

ASSEMBLYMAN ROMA: Mr. Chairman, I would like to hear from the townspeople from the surrounding communities before making any comments. Thank you.

ASSEMBLYMAN SCHUBER: With that, I am going to open the hearing then. I would ask if Senator Contillo would come

up, as our Senate representative from this district, to make a statement. (applause)

SENATOR PAUL CONTILLO: I was hoping to hear the Hackensack Water Company testify.

ASSEMBLYMAN SCHUBER: I have no problem with that.

SENATOR CONTILLO: But let me get a few things off my chest anyhow. I'll tell you a little story. That was very good, Assemblyman Rooney, and very quick.

ASSEMBLYMAN ROONEY: Brief -- I tend to be brief.

SENATOR CONTILLO: I just put a pool in my back yard, and I always test the water. You have to have 1.5 parts per million of chlorine in the water in order to swim in it. Over the past few months, I have been going in and testing the water that I get from the Hackensack Water Company. I was quite shocked to find not 1.5 parts per million, but over four parts per million of chlorine in our drinking water. I called my pool man up, and said to him, "What does that mean? I have four parts per million of chlorine in my water." He said, "My God, don't go swimming in it." (laughter) I said, "Swim? They want me to drink it."

So, it really disturbed me. It disturbed me in June, it disturbed me in July, it disturbed me in August. I wrote to the President of the Hackensack Water Company as a State Senator on September 8, and asked him to explain to me why that has to be; why so many of us have to buy bottled water? Why are water qualities so filled now with chemicals? I sit here tonight, gentlemen, still waiting for an answer, which in itself -- not even an acknowledgement of my letter. I was hoping I might hear it tonight from the Water Company.

I am primarily concerned about water quality. That is why I think we have to look very carefully at the watershed and what is going on there. But I have a bill, and it parallels the bill that Assemblyman Schuber has in the Assembly. It should be obvious to all that this is a bipartisan effort.

I would like to just touch on a few things. What we do is put a hold on any property conveyance by a utility for 18 months, while DEP determines, for the first time, what the standards for watersheds are. What do we need, and what do we not need? I think BPU will probably testify. They have no standards now. They are not releasing this property because they know it is not going to be detrimental to our water quality. They really don't know. There are no standards. I think all of us wish to know what the standards should be, so we can determine once and for all, not as laymen, but professionally, what standards are necessary for water quality. That is what the bill does.

There is a second leg in there, and this probably goes to the purpose of your hearing tonight. You have to determine what is happening to our open spaces. I look at the men who developed Central Park, and I think to myself, "My God, what geniuses they were. What courage it must have taken, what foresight." And you know, we are almost at that spot now, because we are going to be paved over from end to end.

The last time we got into this discussion, someone threw out the charge, "Well, what separates you from NIMBYs?" Of course, we in Bergen County are about to accept the largest incinerator in the world, that I know of, to burn the garbage of Bergen and, it appears to me, others. There is intense development in the area of the Meadowlands.

What we are trying to say, I think, is, "Everything in its place, and a place for everything." DEP will determine that, and say, "We need open space here; we need it there."

The third leg of the bill would allow the Public Utilities Commissioners, when they set the rates, to determine a few pennies more and the ratepayers, and we could narrow it down to the ratepayers in Bergen. We will pay to purchase that and keep it as open space.

There is another piece of the puzzle -- another piece of the pie, if you will. There is another parallel bill that is through your house -- it is going to come through my house shortly -- that would allow the County of Bergen to place on a ballot the question that has been placed in other counties, where it has passed overwhelmingly. We ask our citizens of this State, "Are you willing to spend 'X' dollars per year to buy open space?" I think it will pass overwhelmingly. I don't think we can get it on this November, but I am confident we can do it by next November.

I guess those are my general comments. I would like to sit in the back and reserve--

ASSEMBLYMAN SCHUBER: We appreciate it. I would ask you to stay. Hackensack Water is here, and I am anxious to hear what they say about your pool. So, wait until-- I saw them come in, I know they are back there someplace.

SENATOR CONTILLO: I think we are going to hear something like, "We don't use chlorine, we use chloramine." Chloramine is half chlorine -- or part chlorine and part ammonia. I read with great interest that the Hackensack Water Company is now trying to stop the Town of Ramapo from putting ammonia in the water supply, because it runs into our reservoir. So I have become very puzzled about these things.

ASSEMBLYMAN SCHUBER: Thank you, Senator. I appreciate it. (applause)

I think the issue, as has been indicated both by myself and Senator Contillo, is really one of bipartisanship on this particular issue, which, I think, really strikes hard at the quality of life that we, as citizens of this county, would like to continue to enjoy. I am sure there are many of us in this room who remember when Tices Farm was really a farm. Unfortunately, I think that probably symbolizes what is happening to the county. If anything comes from these hearings and these bills, we would hope that we could put a stop to this

type of thing, not from the point of view of some parochial interest denouncing anything ever built again. That is not the point. But there is an overriding issue that is further above all of these things, and that is really, what is the quality of life that we, as citizens, came to this county for, and are we rapidly losing it? Also, how do we go about stopping it? That is really the thrust of this hearing tonight. We hope that as a result of your testimony, we will be able to develop a series of standards that will help us to preserve what we have now, because once it is gone, we can never retrieve it again. That is what we are going to do tonight.

Mayor DeRienzo was kind enough to come over from Haworth. I understand he has another meeting, so I am going to ask him if he would kindly testify.

**MAYOR JOHN DEAN DERIENZO:** First of all, I would like to thank Mayor Hague for hosting this meeting. Now that I know she is a shareholder of the Hackensack Water Company, if Haworth needs money, we know where to come.

I am not going to talk about the Water Company. I am going to talk about the BPU, because it is my understanding that the BPU is the one that is making a decision to take this land out. I want to go back about a year and a half, because as a local official, I am hard-pressed to understand how you at the State level operate.

Over a year ago, the State Planning Commission attended a meeting of the Northern Valley Mayors Association to discuss the State plan. There was a very, very excellent report. That report now, in Bergen County-- Parts of it have been published. If you read that report, it clearly and specifically states that the land we are talking about should be preserved. Now, that is a State agency. When we asked the representative of the State Planning Commission if he talked to members of the BPU, the answer was, "No." That's preposterous. That is the first point.

The second point is the concept of the golf preservation versus the saving of our water supply. Nobody knows what that really is, but I hear a lot of dollars talked about -- \$12 million. Our friend, the Public Advocate, came in with a price. I don't understand this. In Haworth, there are 60 acres of land that are being considered. That land is under lease until 1999. That is a fixed price lease. If the land is transferred, the lease will be transferred. How is the ratepayer going to benefit, or get any money out of the existing lease? I don't understand that.

I also don't understand why the BPU would consider transferring land that has a 10-year lease and cannot be broken. Why now? Why not wait until the lease expires? It doesn't make any sense. The most that can come out of this -- and I compliment you and Senator Contillo for your bills -- is a letter from the BPU Commissioners stating that no action will be taken, no decision will be made, until both the Assembly and the Senate have a chance to react to your bills, because right now we are talking about time -- time. If you can attain that, you will do a service to all of the residents of Bergen County.

Thank you. (applause)

ASSEMBLYMAN SCHUBER: Thank you, Mayor. Yes, Assemblyman Rooney?

ASSEMBLYMAN ROONEY: Just one comment to Mayor DeRienzo. I have officially requested the Northern Valley Mayors Association and the Pascack Valley Mayors Association to put me on their mailing list for their monthly meetings, particularly when there are issues such as you just mentioned. We, as legislators, would not be aware of the meeting you had with the State Planning Commission unless we were at that meeting or knew of it and had your input directly. We do get a lot of letters on it, but that report we had when I was a Mayor, and as President of the Northern Valley Mayors Association-- It is just that personal contact is invaluable.

I would suggest to your new President that he possibly do that for the legislators in Bergen County -- invite them, especially when there are statewide issues you are discussing, so that we are aware of them a little bit earlier. That is just a suggestion.

MAYOR DeRIENZO: The next meeting is on September 29 at the Colonial Inn in Norwood. I will see that you are all on the mailing list. The topic will be, aside from this, garbage. (laughter)

ASSEMBLYMAN ROONEY: One of my favorite subjects, John.

UNIDENTIFIED SPEAKER FROM AUDIENCE: October 29, a Saturday morning?

MAYOR DeRIENZO: The twenty-ninth -- a Thursday night.

UNIDENTIFIED SPEAKER FROM AUDIENCE: What about the Saturday morning?

MAYOR DeRIENZO: All mayors in Bergen County -- all 70 mayors -- are meeting in Ridgefield Park on Saturday -- October 2?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Whatever that Saturday is.

MAYOR DeRIENZO: If you are not aware of it, over 15, 20, 30 mayors have met and passed resolutions concerning the garbage situation. You are cordially invited, and I will see that you get invitations to that, too.

Thank you for putting me ahead of schedule.

ASSEMBLYMAN SCHUBER: Thank you very much, Mayor.

Now I would like to hear from Anthony Zarillo, Chief Executive Officer of the Board of Public Utilities. Welcome, Mr. Zarillo. Would you please introduce those who are with you?

A N T H O N Y Z A R I L L O: On my right is our Supervising Engineer from the Division of Water and Sewer, Paul Giancaterino, and on my immediate left is Ms. Elise Goldblatt, who is the DAG in the case -- who represented the staff during the litigation of this proceeding.

At the outset, let me indicate to you and the members of the Committee that we appreciate the opportunity to appear here this evening. The matter, as you are well aware, is currently pending before the Board for determination. It has been deferred from today's meeting until the twenty-eighth, which is not unusual. Matters usually get deferred on a week-to-week basis.

I am not going to speculate or indicate as to what or when the Board may act. That is not within my purview. That is solely within the purview of the Commissioners. In addition to that, I must indicate that I cannot, and I would be precluded from discussing the merits of the proceeding as currently pending before the Board and what the outcome of that proceeding might be. However, I would be happy to discuss with you and the members of the Committee the staff's position -- the rationale that generated, or motivated the staff to recommend to the Board, through the briefs that were filed in the proceeding, that recommendation. So, I am pretty much at your beck and call as to how you want me to proceed.

ASSEMBLYMAN SCHUBER: Why don't you, at this point-- We have a copy -- the Committee has a copy -- of a memo dated September 6, which is addressed to the Board of Public Utilities Commissioners. It is signed by Ms. Goldblatt, who, I assume, prepared the memo, which is, I guess, the recommendation that has been set forth to the Board with regard to the Rivervale Realty matter. Is that right?

MR. ZARILLO: That is the official brief that the staff filed in the proceedings at the conclusion of all of the formal hearings.

At the outset, if I might, let me indicate what it was that revolved around the staff's position that we presented in the case. What was the strategy of the staff's case? What were the issues and controversy that the staff had to deal with?

I do not have to indicate to the members of this Committee that the Board is a regulatory agency and, as such, has been delegated certain authority -- certain statutory authority -- to operate within the framework of that statutory authority. One of the primary responsibilities of the Board is to ensure that the customers of the utilities that we regulate receive safe, adequate, and proper service at the lowest possible rates to the ratepayer.

The staff developed its strategy, or the issues in controversy, as we identified them in this case, by pretty much identifying as follows: One, we felt that a determination or finding had to be made that the land is no longer used and useful in the rendition of service. Two, there had to be an establishment of the fair market value of the land that was proposed to be transferred. Three, there had to be an equitable disposition of the gain on the fair market value between the ratepayer and the shareholder. Four, the Water Company must provide, in writing, assurances that the safety of the watershed will not be adversely affected by the transfer of the land. Five, there had to be a reporting, or there should be a reporting and/or a monitoring mechanism that is established to ensure that the full refund to the ratepayers is accomplished, and that only the properties identified in the Havens and Emerson report as being excess are the ones to be transferred.

Let me, if I may, expand a little bit on some of those issues. On the issue of used and useful, prior to considering whether any property which is owned by a utility may be disposed of, the Board must determine whether the property is no longer used and useful for utility purposes, and I underscore the word utility. The Board, in a prior order dated January 12, directed Hackensack Water Company to submit to the Board a detailed report on the justification of all protected lands. That was motivated at the time by a desire of the Board

to ensure that the ratepayers of the Hackensack Water Company were only returning to that company a return on its investment in property that was dedicated to the public use.

Accordingly, Hackensack Water Company engaged the firm of Havens and Emerson to conduct a study of the utility's entire land holdings. That resulted in their report on watershed management, which was filed with the Board in August of 1983. This study established the parameters to be applied to the vacant parcels owned by the company, in order to determine which properties can be considered excess, and I underline the word, considered. These parameters have now been applied to three parcels which are now under consideration by the Board for transfer to Riverdale (sic), and they approximate 717 acres of land.

In a docket they decided on December 8, 1983, the Board adopted a stipulation of the parties, which provided in part that the excess acreage be removed from the company's rate base as of October 1, 1983. To date, there is no evidence or testimony to prove any of the findings or conclusions in the above docket to be erroneous. That includes the extensive -- and I underline again the word extensive -- hearings that were conducted before the Board in the current proceeding.

In an order dated May 10, 1985, the Board reaffirmed that the property was no longer dedicated to the public use as utility property. The staff, taking into consideration all of the foregoing, recommended that the Board, if it were to act favorably on the proposal, provide certain restrictions or conditions so that there would be assurances that all of the issues that the staff felt had to be litigated and resolved were, in fact, protected.

I read the Board's approvals in matters of this type to be extremely sensitive to the protection of water supplies. There is a definite concern of the Board about potential environmental degradation of water supplies in our State.

Therefore, I would expect full compliance with all appropriate governmental bodies having jurisdiction in this area.

I must note, however, as has been testified earlier, that no State standards currently exist which define or set criteria for the amount of land necessary for proper and safe watershed management and protection, that will ensure the integrity of potable water supplies. Our staff was so concerned about that issue, that we exchanged correspondence extensively with the Department of Environmental Protection, asking for their guidance and assistance in indicating to us what they thought should be the proper protection parameters for the watershed.

On the issue of the fair market value, whether a land transfer is considered by the Board, it may be necessary to define, or determine the fair market value of the subject real estate. Fair market value is frequently determined through the use of independent real estate appraisal experts. It is done every day in the conduct of business. In this instance matter, similar to the process followed in the transfer of 717 acres, two appraisers, one who was chosen by the Board of Public Utilities, and one who was chosen by the company, prepared a detailed report as to what their appraised value of those properties were. These consultants are expert appraisers in the area of real estate evaluation, and carry the designation of M.A.I., which stands for Members of the Appraisal Institute, which is a designation that comes only after extensive work in the field and after testing and acceptance by your peers. These appraisals were done in strict conformance with all of the M.A.I. standards.

The Hackensack Water Company appraiser valued all of the real estate at \$14 million with the leases, and \$17.2 million without the leases. The Board's independent appraiser valued the property at \$10.6 million with the leases, and \$15.8 million without the leases. The average fair market value of

the foregoing was \$11 million, and without the leases \$16.5 million.

Regarding the equitable disposition of the gain of the transaction, the Board staff interprets the Board's orders to indicate that any time land is transferred under this type of a proposal, there must be a sharing determination. I want to indicate to you at this particular point in time, that while that sharing concept has been adopted by the Board, it has never been tested in any form, other than the Board. There are a number of cases involving other states that argue that the ratepayer does not have any interest in real estate of any utility, and there are other states where that issue has been found in favor of the ratepayer.

The Board, I believe, took the pragmatic approach that rather than litigating, we stipulated that there must be a sharing. We were concerned that after the sharing was implemented, the ratepayers would receive a full distribution of the net gain, and we recommended to the Board that there be a reporting mechanism to ensure that whatever dollars the ratepayer was entitled to were, in fact, received.

I want to indicate to you also that there was a stipulation in this case between the Company and the Public Advocate. The Board staff did not enter into that stipulation and, as was indicated, the reason was that we did not agree that some of the terms and conditions of that stipulation properly and adequately dealt with the protection of the integrity of the watershed and, as a result, we litigated that case for three days in hearing, cross-examining and presenting the staff position on that particular issue.

What is the bottom line of all of this? What is the staff's recommendation? The staff's recommendation can be summarized as follows: The land was found to be no longer needed in the current and future rendition of water service to Hackensack's water users. As a result of that finding that it

was no longer used and useful, we put a proviso on there that the land be transferred only with the following conditions being fully met and complied with:

Inclusion in the deed of conveyance a prohibition for as long as Oradell Reservoir is used for water supply purposes, uses, and activities inimical to the quality of the Oradell Reservoir water, against uses such as industrial use, septic tanks, and the storage of toxics or hazardous materials.

Further, that the covenant should require compliance with all zoning and other applicable land use laws, and with best management practices.

Compliance with DEP storm water management regulations, even if the municipality wherein the property is located has not adopted a storm management plan, as well as compliance with any future amendatory or superseding statutes or regulations.

Also, we recommend that in the deed, Hackensack must retain the right to enter upon the property to ascertain whether the property is being developed or used in such a way as to cause an adverse impact on the reservoir.

Further, Hackensack must retain the right to ensure compliance with storm water management regulations, best management practices, zoning laws, and other provisions of the covenant. These covenants would run with the land and, therefore, would be binding upon the immediate transfer and all successors in title.

In conclusion, let me emphasize and state that the staff and the Board take very seriously their mandate to ensure that potable water supplies in the State of New Jersey remain intact and preserved from any degradation, no matter how it may or may not occur.

Based on the evidence in the record, however, and given the existing standards, criteria, and precedent in the proceeding held before the Board, we recommended that the

Oradell Reservoir can, and should be fully protected and insulated from any environmental degradation. The adoption of our recommendation, with the conditions I have outlined, will ensure that objective, will allow the ratepayers the opportunity to share in the net gain on the disposition of the property, and will permit the Company to meet its responsibility of providing safe, adequate, and proper service to its customers.

I want to thank the Committee for the opportunity to present our position. Obviously, I am available, Assemblyman, for any questions you or the Committee may have.

ASSEMBLYMAN SCHUBER: We appreciate you and the staff being here tonight to help us to go through the decision that has been recommended, or the recommendations of the Board. Let me ask you a couple of questions on that, though.

One of the things I am interested in, which Assemblyman Rooney has talked about, too, is the value of the property itself and how that was arrived at. Now, as I understand it from what I have read, and what your testimony indicates to me, the property was appraised by two appraisers, and various values were arrived at as a result of that. It would appear to me in looking at the number of acreage that is involved here, that the per acreage value of that comes to about \$50,000. Is that true?

MR. ZARILLO: Roughly.

ASSEMBLYMAN ROONEY: Mr. Chairman, I have an exact number. On the 717 acres that were discussed, it comes out to \$17,000 per acre, and at a density of four per acre, you're talking about \$4285 per lot. That is absolutely highway robbery. That may have been true 25 years ago in this section of Bergen County, but \$4000 per lot? I would like to know the name of that appraiser.

SENATOR CONTILLO: (speaking from audience) Three hundred acres?

ASSEMBLYMAN ROONEY: No, 717 acres. It was just stated on the record.

SENATOR CONTILLO: (speaking from audience) It was 300 (remainder of Senator's comment indiscernible; no microphone)

MR. ZARILLO: The acreage that is currently before the Board is 717 acres.

ASSEMBLYMAN SCHUBER: Seven hundred and seventeen acres. What does it come out to in your figures, the per acre price?

MR. ZARILLO: I'm sorry, I'm sorry, strike that. That was the total. It's 287.

ASSEMBLYMAN SCHUBER: And what does that come out to-- As a result of the appraisals that were taken and your looking at that, what does it come out to per acre, as you understand it today?

ASSEMBLYMAN ROONEY: Two hundred, eighty-seven, was it?

MR. ZARILLO: Yes, 287.

ASSEMBLYMAN ROONEY: It's \$38,327 per acre, at \$11 million. So we're talking about \$9581 per lot on a zero per acre density.

ASSEMBLYMAN SCHUBER: What does it come out to be in your calculations?

MR. ZARILLO: I will accept the Assemblyman's calculations.

ASSEMBLYMAN SCHUBER: Mr. Rooney has indicated that it would come out to approximately \$38,000. Is that correct?

MR. ZARILLO: That is correct. There is the dispute involving the appraisals as set forth, or submitted in the proceeding, and what one would assume the value to be if the land were to be rezoned and sold in the market at a rezoned level. The appraisals have been done at the current zoned appraised-- The appraisers, in their testimony--

ASSEMBLYMAN SCHUBER: Right.

MR. ZARILLO: We had them at the hearing, and they testified, and it was verified, that that is the approved methodology of appraising property; that is, that you take into consideration the existing zoning to establish the fair market value of the property.

ASSEMBLYMAN SCHUBER: Well, what is the present zone there?

MR. ZARILLO: The present zoning is both--

MAYOR HAGUE: (speaking from audience) Recreation--

MR. ZARILLO: --recreation and residential.

MAYOR HAGUE: (speaking from audience) --and preservation.

MR. ZARILLO: There are some areas that have different zoning.

ASSEMBLYMAN SCHUBER: Okay. Well, let me say this: The \$38,000 per acre for prime land in northern and central Bergen County seems, to me, extremely light, number one. But number two, even from an appraisal point of view, it would appear to me that one of the cardinal rules of appraisal is that a property be appraised at its highest and best use. Now, it appears to me also that with these particular properties, obviously they are being transferred for the purpose of development. It would appear to me, therefore, that there could have been a more fair way to look at it; that the appraisals be based more on the fact of what potentially the property could be used for at its highest and best, given the nature of the fact of zoning changes for those developments.

Obviously, if it is zoned for recreation and park use, it is way undervalued compared to what it would be if it was zoned for residential or condominium development, or however you want to look at it. Therefore, this amount appears to be-- This struck me-- I mean, I do a certain amount of work in this area, and this strikes me as highly -- as extremely -- not even in the ball park, as far as what the value of the property should be.

MR. ZARILLO: Let me make one final comment on this particular issue. In the record, in the testimony of this proceeding, that is exactly the testimony of the two appraisers that, in fact, that is the highest and best use of the land, and that is what it is appraised at. Now, that testimony-- Appreciate, Assemblymen, that we have to deal with a record. We have to deal with the evidence in the proceeding, and if the evidence is uncontroverted, if the evidence is reliable, and if the evidence is documented and found not to be in error, that is the evidence that the record shows. We may sit here and speculate as to what we think the value is, but these gentlemen are qualified appraisers. They made the appraisals. We are satisfied that those appraisals represent the best and the highest use of that particular land for purposes of establishing value.

ASSEMBLYMAN SCHUBER: I think we could all agree to the fact that if this property were to be rezoned beyond what it is and, let's face it, that is what would happen to it if this happens, that is certainly nothing close to what the real value of the property would be. Is that fair to say?

MR. ZARILLO: Again, I don't want to speculate as to what it may or may not be. I'm telling you what I have to deal with. I have to deal with known quantities. And the known quantity is the result of the appraisals that were submitted in the record by the appraisers. Now, if there were other appraisers who could challenge those appraisals, there was ample opportunity for anybody to bring them forth to have those appraisals entered into the record before the Board. These were open public hearings.

ASSEMBLYMAN SCHUBER: I appreciate your point of view, Mr. Zarillo, as fact-finders, as to what that may be. It appears to me, though, that the public is not served with this type of a criteria, as far as that goes. Really the value of this property is way out of line compared to what it is going

to be to the company that is going to eventually get this property if this transfer goes in. I don't know if the public is really being served in that type of a system. I mean, to me, appraisal work is based on highest and best use. I appreciate what the zone is, but that is not what the zone is going to be within months after the transfer takes place. Therefore, you are going to involve a whole set of new values. That is one of the criteria I think we are going to have to look at.

Let me ask you another question with regard to that. I understand that the BPU rules could provide for this type of property, or property in this area could be put up for public bid. Is that true, under your rules? Could this property be advertised for bids for watershed property?

MR. ZARILLO: There is a provision in the Board's rules and regulations that would allow, or permit public bidding on the disposition of an asset, part of which is land.

ASSEMBLYMAN SCHUBER: Why wouldn't that recommendation be fitting for this property here, given the fact that this property is of such a premium value? We make other people in government bid publicly for types of acquisitions to ensure the lowest possible value -- the lowest possible price for the taxpayer. But in this case, for land, where you would publicly auction it, it would get the highest price. Why wasn't that recommended here? Why couldn't it be recommended here?

MR. ZARILLO: I responded to the earlier questions because I want to be as cooperative as I possibly can, but that is actually one of the issues before the Board. I have given you the staff's recommendation. That issue is before the Board. I can tell you that in the current case, it will have to be decided. I am indicating to you what the staff recommendation is, and what was the basis -- or what formed the basis of that staff recommendation.

ASSEMBLYMAN SCHUBER: I appreciate that, but I think you also indicated that you would enlighten us as to the reasons for the staff's recommendation. We are not asking what the Board's decision is going to be.

MR. ZARILLO: I just gave you the reasons for the staff's recommendation.

ASSEMBLYMAN SCHUBER: Yeah, but I'm asking why there is no recommendation that the property should be put out for bid for obtaining value?

MR. ZARILLO: We were satisfied, as a result of the record, that the record reflected what was the highest and best value use of that property, as appraised by the two appraisers. There was nothing else submitted, nothing. The record was void in all other areas.

ASSEMBLYMAN SCHUBER: My only feeling is, as far as this particular property goes, it would appear to me that, given the nature of the appraisals you had, recognizing that the record contained just those, it would appear to me still, you know, that that is highly inadequate, and that even putting it out to public bid would have been a far superior method of handling this, which was not done.

I assume what you are telling me is that the Board could opt to do that if they wanted to as part of their decision-making.

MR. ZARILLO: That certainly is an issue that is before the Board. I have indicated to you the basis for the staff's recommendation and the rationale behind that.

ASSEMBLYMAN SCHUBER: But that was not the recommendation of the staff.

MR. ZARILLO: To go to bid?

ASSEMBLYMAN SCHUBER: Correct.

MR. ZARILLO: No.

ASSEMBLYMAN SCHUBER: But is it an option that the Board does have under its rules?

MR. ZARILLO: There is an option. That is correct.

ASSEMBLYMAN SCHUBER: You're telling me then that the reason that you didn't -- or that staff did not, is the fact that you were satisfied that the appraisals you received were adequate to explain the value of the property.

MR. ZARILLO: That is correct. That is accurate.

ASSEMBLYMAN SCHUBER: Let me ask you another question here. As I understand the rate of return that has been recommended -- and I guess it is part of a settlement here -- it is that there be a 50% return to the ratepayer. Is that correct -- on the net--

MR. ZARILLO: That is the sharing concept, 50% to the ratepayer, 50% of the net gain to the shareholder.

ASSEMBLYMAN SCHUBER: Why not a full 100%? I think I have seen and read in the papers, or read in some of the utility regulation newsletters I have seen, that there have been some cases out of Connecticut where that has been the case. I mean, if we are going to do this in the end -- and we hope we are not -- why shouldn't there be a 100% return to the ratepayer, instead of just 50%?

MR. ZARILLO: Because, as I indicated earlier, there are also cases in other states where they have found that the ratepayer is entitled to nothing on the disposition of the property -- on property, not on buildings and structures, on land -- on land alone. As a result, rather than litigate that issue, rather than get involved in detailed, complex, prolonged litigation, the Board, back in the last proceeding, decided that a 50/50 sharing was an equitable way of resolving the net gain on the sale or disposition of the land. The staff, following that policy, continued that recommendation in the existing proceeding.

ASSEMBLYMAN SCHUBER: I have a hard time accepting the rationale, for the simple reason that to me -- and maybe it is the way I look at public utilities -- they are legalized

monopolies which, in my opinion, have a fiduciary duty to the public, especially to the ratepayers within their purview. It appears that anything they have really in the end belongs to the ratepayers.

MR. ZARILLO: But there is a school of thought, Assemblyman, that would argue that ratepayers, as far as land is concerned, are only buying from or paying for a service from that utility company and, therefore, the only thing they really invest, as far as if there is such an investment in the land by the ratepayer, is that they serve as the capital that is used to invest in that land, unlike property, which depreciates, and that depreciation expense is a cost which the ratepayers pick up. Land does not depreciate. Therefore, there is an argument -- and I am not suggesting how this argument would be sustained in New Jersey, because it has never been litigated in a court -- that is made that would indicate, and conclude that, as a result, the ratepayers are not entitled to anything on the disposition of land.

We did not want to litigate that issue and get involved in protracted litigation. It is costly, and it would go through the court, in all likelihood. We felt that a 50/50 sharing was an equitable way of treating the ratepayers.

As a matter of fact, if I might, that was agreed to, by the way, by the Office of the Public Advocate, which, as you know, is actively involved in all of the matters that come before the Board.

ASSEMBLYMAN SCHUBER: I appreciate what they may have done -- and I don't always agree with them -- but my concern here, I think, is that, given the nature of what I think other industrial states have done in this particular area, given the nature that this is still a legalized monopoly, that people have to obtain the services of, it appears to me -- and I appreciate why you did it -- that the 50% is not a fair return to the ratepayer with regard to the utilization of property that belongs to that monopoly.

I find it hard to make the distinction between buildings and land, as far as that goes. Maybe that is another criteria we are going to have to look at, if this goes on concretely.

Let me ask you-- You have indicated, too, sir, that-- Would it be fair to say that you have indicated that at the present time there exists no statewide regulations to govern the preservation or protection of watershed land -- is that correct? -- that you can utilize in that type of a judgment?

MR. ZARILLO: There is no statewide criteria that defines what is required by way of protection of a watershed.

ASSEMBLYMAN SCHUBER: And, would it be fair to say -- and I know you made the inquiry as per your testimony -- that that type of regulation should be established by the Department of Environmental Protection?

MR. ZARILLO: My position would be -- and please appreciate this -- that as a senior staff member, I can only recommend. I do not make policy. Having said that, it is my opinion that the Legislature, in its wisdom when it created the Department of Environmental Protection, gave them jurisdiction over the environmental areas and concerns that you have expressed through your legislation. As a result, I believe they should have the primary responsibility, and that the Board of Public Utilities, obviously, would stand available to help and assist in developing whatever criteria the Legislature sees fit to deal with that problem.

ASSEMBLYMAN SCHUBER: Right. At the present time, basically the only way you can look at it is from whatever testimony is elicited to you from experts as to what the nature of the property is and how it should be preserved or should not be preserved. Is that correct?

MR. ZARILLO: That is correct.

ASSEMBLYMAN SCHUBER: But, if DEP were to establish those rules and regulations, you obviously would be bound by them. Is that correct?

MR. ZARILLO: I would think so, yes.

ASSEMBLYMAN SCHUBER: I assume you would welcome their regulations in this particular area.

MR. ZARILLO: We have, as I have indicated, a deep concern about it. If those rules and regulations were promulgated, obviously not only would we embrace them, but we would enforce them.

ASSEMBLYMAN SCHUBER: In fact, you had looked for those rules and regulations as you were going along in this. Is that correct?

MR. ZARILLO: That is the reason why we said-- I appended two letters to the Department of Environmental Protection, asking for their guidance.

ASSEMBLYMAN SCHUBER: Wouldn't it be fair to say, therefore, on the basis of all of that, that you folks should recommend that you wait on your decision in this particular area until the Senate and Assembly versions of our bills are passed and given to the Governor, so that we can establish those rules and regulations for this property, given the nature that we are dealing with a considerable amount of watershed acreage in this particular area of Bergen County?

MR. ZARILLO: I am attempting to be as cooperative and as forthright with the Committee as I possibly can. Again, I think that is something that is best left for the agency heads. I do not make that type of policy nor those decisions, and I think it would be presumptuous on my part to try to indicate what action, if any, should be taken in that particular area.

ASSEMBLYMAN SCHUBER: Well, I appreciate that from your position, but the point of view from our position is simply this: I think -- I was going to get to this question,

but I will bring it up now -- there is no doubt, based on State legislation and our Governor's messages over the last several years and beyond, that the preservation of open space is a matter of statewide public policy and priority; that preservation of our drinking water is a matter of statewide public policy and importance. I think if there is anything, given the nature of its controversy with regard to the statewide Master Plan, that is coming out of that, it is that we must balance development with open space. So, to me, it would appear that given the nature of that, it would be our forthright recommendation, or request to the Board, that in this particular area, with such a sensitive nature as this type of property, whereby action is obviously imminent on this type of matter, whereby actual rules and regulations would be established to deal with this, I think it would be a far better matter for the Board to consider the fact of waiting out the Legislature's action on this matter, so that it may implement concretely the public policy as announced in this State in the area of preservation of open space and the preservation of the quality of our drinking water.

While I recognize that you can't make a decision with regard to that, you obviously represent that Board here, and we would ask you to take that back; that it is our fervent hope that that would happen as a result of what we are doing here. I think it gets back to the fact of what Mayor DeRienzo was indicating before, which is the fact that sometimes the State works at cross purposes. We are all part of the same entity here, whether it is the Board, the Legislature, or DEP. But the public policy is supposed to be for all of us. It is not the policy that we all work at cross purposes.

There is no doubt in my mind from what I have seen, that one of the policies here-- There is an public policy here that is growing and growing and growing in importance, and that is the preservation of open space, and the aftermath of

development, which is the effect it has on our drinking water. To me, it would seem only fair and reasonable to wait out those rules and regulations, since they appear to be imminent.

MR. ZARILLO: May I make one other observation?

ASSEMBLYMAN SCHUBER: Yes.

MR. ZARILLO: I want to bring to the attention of the Committee -- and I would be glad and only too happy to see to it that each of you get a copy of this -- that the Board -- again I can't overemphasize this -- was keenly concerned about this problem, about not only the protection of the watershed and the integrity of the water that is in that supply, but also the authority and the jurisdiction of the Board, and its concern about whether or not the Board has any jurisdiction in the area of dealing with the issue of open space.

The Board asked for an Attorney General's opinion. I do not want to get into categorizing or interpreting this opinion. I think it reads for itself. But I would like, if you would allow me, to read to you two sections. I lost my page, so just bear with me. Here it is:

"It is clear that given an appropriate supporting record, the Board may approve, reject, or conditionally approve a utility's proposed property transfer. The exercise of the Board's power must further a legitimate utility service-related need, as outlined above. The fact that the Board action might also further more general State objectives with respect to open space and watershed area may be a second and incidental result. It cannot, however, be the determining factor." That is from an Attorney General's opinion on the authority and the jurisdiction of the Board of Public Utilities as it is now stated in the laws that we must operate under, and comply with.

So, therefore, even if the Board -- and I suggest to you that I know it exists -- has concerns about what happens at the local level, we cannot -- we cannot dictate to the local jurisdictions how that land can or cannot be used. That is a

local jurisdictional issue that is best left to that level of government, and not the Board of Public Utilities.

ASSEMBLYMAN SCHUBER: While I understand what the Attorney General's opinion may say, I also understand it to say that it does not necessarily rule out the fact that you can consider those types of issues in your determination. As a result of whether he may indicate to you, as a basis of the review of the statutes, that that cannot be the determining result, then maybe there is a need for the changing of the particular criteria in that way, which is the subject matter of this hearing. But I don't read that to mean that you can't consider that at all, by what I heard there. To me, I think it is a matter that should be considered, as far as that goes.

I assume that as a result of that, it would be fair to say-- I know you have outlined your criteria, and I am not going to go back and forth as to what they are, and what they are not. But I assume that as a result of that, you do not take into consideration the potential utilization of what that property may be, as to what the utilization's effect may be on the area, in the areas of traffic congestion, etc., etc. Is that fair to say?

MR. ZARILLO: Only as it could affect the potable water supply, and only to the effect that it causes additional runoff and seepage into that water supply. We then have recommended that through best management practices and watershed preservation, that any zoning -- or any transfer of the title provide those type of covenants for protection of that water supply.

ASSEMBLYMAN LOVEYS: What I hear, I think very loudly, is that maybe you are looking for the Legislature to act, even in addition to, Senator, what you and Assemblyman Schubert have already introduced to the Assembly and to the Senate. Maybe we should act further in this area, and dictate to the public utilities, or dictate to your area, and dictate to DEP, what should happen in these areas.

Let me just interject this at this time: I happen to be a developer. For 30 years, I have been building homes and have been involved heavily in that type of construction. I am very parochial when it comes to developers' rights to buy property, to improve property, etc. I am sure the builders associations of New Jersey and elsewhere would support the sale of this property, the use of this property for construction.

I take a very definite, strong stand in the opposite direction in this particular area. I would think that this has to be left as open space. I say that as an Assemblyman from Morris County. It would be easy for me to come here tonight to Bergen County and give any view I might have. I am not running in this area. I am not looking for votes. I say this sincerely. As I view this whole area, this whole problem, I think you people out there should ban together and show support and strength, to have this land remain open space in perpetuity.

If I may just go one step further: If the zoning -- the present zoning -- is correct at four to one -- four units to the acre-- I am not an M.A.I., but I will tell you right now that that property is worth more than \$12 million. I'll tell you right now \$60 million could be the sales price.

ASSEMBLYMAN ROONEY: One hundred million.

ASSEMBLYMAN LOVEYS: Well, \$100 million, you might change the density. With \$60 million, you're talking about \$50,000 for a unit based on a four to one density. That is a fairly good price even for Bergen County, knowing what improvements would have to be made. But even at that, 50% would be all the stockholder would realize -- \$180. Is that a lot of money for what you would be giving up? I think that is peanuts.

As Mayor of my community, as a developer-- I was Mayor of Florham Park for eight years, and I maintained to our Council steadfastly, never sell property. You can't produce it. Keep your property. You never know when you might need it. And if for some emergency reason you have to sell the

property, then let the Bergen County Planning Board, or let the local community get in and zone that property for its best and highest use. Maybe then \$300 million is not an unreasonable number. But don't sell it. Let's have it remain open space.

If I have an opportunity in any area, Mr. Chairman, to vote on this legislation, or to vote to retain this as open space, that is going to be the way I will go. I think it is very important. (applause)

ASSEMBLYMAN SCHUBER: Mr. Rooney?

ASSEMBLYMAN ROONEY: Yeah. The question I had before was basically, who was the PBU appraiser on this property? Do you have the name of the firm?

P A U L G I A N C A T E R I N O: The Water Company used a firm by the name of Stack and Stack. They generally do a lot of work for the Company, I understand. We used an appraiser by the name of Carl Carell (phonetic spelling). Ours was picked at random.

ASSEMBLYMAN ROONEY: From where? Where is he from?

MR. GIANCATERINO: From a full list--

ASSEMBLYMAN ROONEY: No, where is he located -- in what area?

MR. GIANCATERINO: He is down in Livingston, or South Orange. It is one of the two.

ASSEMBLYMAN ROONEY: The major objection I have to the application of the Water Company, as I said before, is, if it were not-- Just to address the point that was brought up that we need legislation in this area, I don't believe we really would need legislation in this area if the Hackensack Water Company was just simply selling off excess land. I don't believe any legislation would be needed. I don't believe we would be sitting here today, because what would happen would be, Hackensack Water Company would go into the open market, and they might want to sell the land at a various number. But, you have to consider, Rivervale Realty Company has been created

exclusively for the Hackensack Water Company to do development. Again -- I'll use the same term I used before -- there is an insider trading type of situation here. They are selling to themselves. They have come in with a very low number. They are able to produce units at a tremendous, tremendous profit. This is absolutely a ripoff of their ratepayers, and basically the State of New Jersey, trying to take this land at a very low price, develop it, and sell it at extremely, extremely high prices.

That is my major objection here. That is a complete ripoff of Bergen County. (applause) Please, I appreciate it (referring to applause), but we really shouldn't be doing that. Our Chairman knows that. We all do it at our other committees. But, what we really should be looking at is, the BPU should have had the Public Advocate's office in there looking and bringing in his own appraiser, so the public would have input into this process as far as the evaluation of the property.

The second thing I want to bring to mind is, for the local elected officials, there is such a thing on zoning that is called "reserved for parkland." Now, whenever you do that as a local mayor and put something in reserve for parkland, what you are generally doing is saying, that land cannot be used for anything else. Even though it is private property, it can't be used for anything else. What happens is, the borough has the right of first refusal of that property. If this was a simple situation with the zoning reserved for parklands, each municipality could go in and say, "Fine. You are no longer going to use that. You've got your appraisals in. We want to buy it at that price." And that would be it -- end of story.

Pat Schuber was my borough attorney when I was Mayor of Northvale, so I am sure we have discussed this in the past on several applications we had in a similar matter. So, I think that could happen here. But I would like to see --

again, as I stated earlier -- the BPU not act in a hasty manner, but first have to have-- I read some of the reports here. DEP has said they have not enough information to look at this as to whether the lands are going to be needed or not. The Department of Environmental Protection currently has in progress a study of watershed management, which will consider, among other things, the protection of lands adjacent to lakes and reservoirs. The study is expected to be concluded in early 1989. This was to President Whitman, Commissioner Barbour, Commissioner Guido, September 6, 1988, page 9 -- to the BPU. DEP is saying they don't have enough information.

I believe the Water Company would have to provide the type of applications they would be looking at and the type of development. I think if you put some office buildings and a lot of housing next to this, the runoff into that would be tremendous. But worse yet, the runoff of the oils and the road tars and everything else running into our reservoir would be totally devastating to this area.

So, I am really concerned with BPU not rushing into a quick decision. Let us work on it. The other thing is, let us have the opportunity in the State -- perhaps the BPU could recommend this -- if Hackensack Water is really looking to sell property, just the plain sale of property, give us the right to buy the property. Give the State, the county-- County Executive Bill McDowell, I believe, was going to be here tonight, or at one of the hearings. He recommended that the county look at buying this property. I think that is the way to go. Let's keep it for environmental purposes. We don't have enough open space.

Again, I appreciate the opportunity, Mr. Chairman.

ASSEMBLYMAN SCHUBER: Any other members of the Committee have any questions or comments? Assemblywoman Randall?

ASSEMBLYWOMAN RANDALL: Just very briefly-- I just have one comment, because we are all focusing primarily on the

issue of the valuation here and the two appraisers. I know you don't want to go into the detail of the report and qualifications and essentially read the record, but I must be missing something on this value issue. It doesn't strike me-- There is something here that seems fundamentally unfair. It may be a gut reaction on my part, but I think if you look at the assessment of the watershed properties that Hackensack Water has been paying taxes on over the years, they have been paying taxes on this property at an extraordinarily low rate, based on the assessment of the land for purposes which essentially are watershed purposes not usable to them.

Therefore, over the years, I assume they have been paying extraordinarily low taxes. Let's say, for the sake of argument, \$100 a year on 717 acres, ever since they got the land, let's say since 1900. So, for 88 years, they paid dirt cheap taxes. Doesn't it strike you as somehow fundamentally inequitable that they should be able to do what they are doing with the property, and ultimately divest themselves of the property, with the ultimate result being a huge cashing in -- ultimately to someone -- and all these years, someone along the line has never paid any taxes -- any assessed valuation -- that bears relationship to this proposed use of the property? Doesn't that strike you as somehow inequitable?

MR. ZARILLO: Not really, Assemblywoman, and I'll tell you the reason why. (much reaction from audience at this point)

ASSEMBLYMAN SCHUBER: Now, folks, please, please.

MR. ZARILLO: Let me explain something that maybe a lot of people do not recognize. From the standpoint of equity, the leases that are currently in place are obviously revenue generators. Those revenues have gone to the credit of the ratepayer. So, therefore, whatever taxes, whatever expenses have occurred with regard to those particular properties were pretty much washed by the revenues from the leases. So, the ratepayer received that equitable benefit. Therefore, I really

cannot agree with you that there has been some inequity, inasmuch as the appraisals, again -- at the risk of being repetitive -- were done on the basis of the highest and best value.

Now, you may not agree with that, and I respect your position and your opinion on that. But those are the facts that we have to deal with. They are uncontroverted. Therefore, there is nothing more that one can do, except look to the record. More important than that, the appraiser who was chosen by the Board was chosen at random from a list of all qualified appraisers, all having impeccable credentials, and his appraisal is not out of line with the other appraiser. So, we have two independent appraisers, one who we can check against the other. While some people may not agree with that, those happen to be the hard core facts and the result of that process.

ASSEMBLYMAN SCHUBER: I think what Assemblywoman Randall was saying, and what I was saying before, is simply this: The standard on this type of a case for that type of an appraisal was wrong. Pure and simple, it was wrong. That is not the highest and best use of that property -- prime residential land in Bergen County. That is what I think is fundamentally unfair, and that is what she is saying.

I know what the M.A.I.s did. I know how they operate, and I know how the opinions are arrived at. What I'm saying is, the standard for this type of transaction should be different. I think that is what is fundamentally unfair. I think Bergen County, in this particular case, is being treated very unfairly with regard to the valuation of that property.

ASSEMBLYMAN LOVEYS: Pat, I would like to also say that not for one moment, at least for me, do I question the integrity of those who did the appraising.

ASSEMBLYMAN SCHUBER: Right.

ASSEMBLYMAN LOVEYS: Not for one moment. But I do feel that there is something missing there, because the property, knowing its location, where it is, it is worth a heck of a lot more money, if the end use is going to be for some type of construction of residences or homes.

MR. ZARILLO: May I make one other observation in response to Assemblyman -- Rooney, am I correct?

ASSEMBLYMAN SCHUBER: Yes, right.

MR. ZARILLO: The Public Advocate actively participated in this proceeding, from day one right on through to the last day. As a matter of fact, as I indicated, he signed a stipulation with the Company that we did not sign.

Secondly, I want to make one other point. Our recommendation does not result in development of the land. That is left to local zoning. Our recommendation is to transfer the land. The land will be transferred at the current zoning. If that land is developed, it will be a decision at the local level, not at the Board of Public Utilities. I think that is an important point that may not be coming through. The local level still has the opportunity to continue that property in its current pristine state, but that decision is properly left with the local jurisdictions, and not with the State Board of Public Utilities.

ASSEMBLYMAN SCHUBER: No, I understand what you're saying, but I think it would be fair to say that right now the land is owned, obviously, by -- through the-- United Water Resources is owned by the Hackensack Water Company. Is that correct? That is a regulated utility, correct? If the property is transferred, it goes over to Rivervale Realty, which is another subsidiary of United Water Resources. Is that correct?

MR. ZARILLO: That is correct.

ASSEMBLYMAN SCHUBER: But that is not a regulated company under the Board of Public Utilities rules. Is that correct?

MR. ZARILLO: That is correct.

ASSEMBLYMAN SCHUBER: Therefore, that Company takes the land and goes to the municipalities that are ratable hungry, and seeks for the development of the property. Is that correct?

MR. ZARILLO: But don't blame the Board of Public Utilities for that, though, Assemblyman. That is my point.

ASSEMBLYMAN SCHUBER: I am not necessarily blaming you on this thing. I am looking to utilize your testimony so we can find out what should be the right approach of the Legislature here. Obviously, we know the municipalities are all looking for more ratables. The question is, is there a higher public purpose here to be served for which the State should establish criteria? And I think there is. I think there is.

I know some of the municipalities probably would like to see those develop, but I know that others would not. I think there is a higher public purpose to be served here, and that is the preservation of that open land that we can preserve. I think that is what we are looking to come up with criteria for here. I guess one of the things we are all harping on is the valuation of this property. Ralph is a developer who knows the value of land also. We are just flabbergasted about the valuation of the property.

Are there any more questions?

ASSEMBLYMAN ROMA: Mr. Chairman, I have a couple of questions.

ASSEMBLYMAN SCHUBER: Yes, Mr. Roma?

ASSEMBLYMAN ROMA: Being unfamiliar with some of the regulations of the utilities, I would like to know, in terms of setting up the values, given the sensitive nature of what we have, if additional appraisals might have been merited? We're talking about two appraisals where there was a variance. Perhaps a third one would have created another variance. If we

had different figures being utilized, perhaps a third appraisal might have been \$25 million.

MR. ZARILLO: Certainly, we can speculate as to what three appraisals might have resulted in -- four appraisals or six appraisals. I am not going to suggest to you, Assemblyman, that your points are not well taken. However, again, I have to deal with what the known quantities are. We have found from experience -- this is not the first time we have dealt with the disposition of land -- that two appraisals usually, in most cases that we have dealt with, give you a fair approximation as to the value of the property in question. So, we went with the winner. We stayed with what we found to be a successful process that we have been using, and that is the two appraisals.

ASSEMBLYMAN ROMA: The reason why I point that out is, I have also been involved in real estate, and I have seen a tremendous variance in figures. I have seen appraisals that are markedly different. Perhaps if another person had been brought into the picture, you may have seen something that would have required some additional time. For example, what we are talking about are two bills that are rapidly coming to a conclusion. I don't know what your timetable is for making the decision, but certainly within the next couple of weeks, we could certainly have the regulations that may be necessary.

Extremely important: Everytime we pick up the newspaper, we seem to hear about clean water, the oceans, all of the different problems that plague us in this State. And yet, we have the economy to worry about. We keep talking about the quality of life. Given the fact that we don't have any other properties readily available, and it is so sensitive, it would seem to me that this is the type of an issue that begs to wait for some time to put it on the agenda and to have legislation that would be necessary. Would you agree?

MR. ZARILLO: I certainly will convey to my Board tomorrow when I meet with them the desires, the requests, and

the pleas of this Committee. I will indicate to them exactly what you have indicated to me. Then, it will be entirely up to them as to the decision they are to pursue.

ASSEMBLYMAN SCHUBER: I realize the final decision is theirs as Commissioners, but one of the things we would ask you to do -- and we appreciate your volunteering to do so -- is to please, please convey that to them, because of the nature of our concern which has been elicited tonight, the concerns of the residents of the area, and the fact that the legislation is now clearing the last hurdles to passage.

MR. ZARILLO: You have that assurance, Mr. Chairman.

ASSEMBLYMAN SCHUBER: Thank you.

ASSEMBLYMAN ROMA: Mr. Chairman, if I may add--

ASSEMBLYMAN SCHUBER: Yes?

ASSEMBLYMAN ROMA: It was not too long ago that a moratorium was put on wetlands, and certainly we understand concerning the problems we have had in this State, and certainly the Governor's position, that the amount of land that is available is rapidly dwindling. As you bring that information back-- I'm sure the members are fully aware of the problems we face in this State. Given the fact that I have never seen legislation move as quickly as it has, we are now in a situation where I think, with Senator Contillo in the Senate, and we in the Assembly, that we certainly can have those regulations available.

Thank you, Mr. Chairman.

ASSEMBLYMAN SCHUBER: Thank you, Mr. Roma. Thank you, Mr. Zarillo. I appreciate it very much.

SENATOR CONTILLO: I know this is unusual, but may I ask--

ASSEMBLYMAN SCHUBER: Sure, go ahead.

SENATOR CONTILLO: Would you mind answering a question for me on the record?

MR. ZARILLO: Why not?

SENATOR CONTILLO: Okay, thank you. Otherwise, I would ask one of the Assemblymen to ask it.

I am not an appraiser. I would accept that the appraisals were accurate. Would you say that those appraisals would be accurate if it was kept open space? Is that the idea of it?

MR. ZARILLO: I am not an appraiser, and I do not profess to be an expert in this area, but from my reading of the testimony in the record, the appraisals were made, again, at the highest and best value for use, and that is the way they are currently zoned, which includes both recreational and residential.

SENATOR CONTILLO: So, it would be a fair price if the property was condemned, then?

MR. ZARILLO: I have no way of responding to that. I am not an expert. I don't even want to speculate on the answer to that question.

SENATOR CONTILLO: I wish you would.

ASSEMBLYMAN ROONEY: Reserved for parkland. We'll reserve it for parkland, Paul.

SENATOR CONTILLO: If it is a fair price for the sale to the Rivervale Company, then why isn't it a fair price for the sale to Bergen County?

MR. ZARILLO: I have no way, Senator, of speculating as to what a condemnation court might establish as fair market value in a condemnation proceeding. There are a whole bunch of variables, you know, that are taken into consideration. For me to go through that property now and say that, based on the appraisals, those appraisals would be synonymous with what would occur through a condemnation, would be speculative, and I think would serve no purpose for this Committee. I mean, my testimony-- I would not suggest that you give any credence or weight to my testimony, because I am certainly far from an expert in this area.

SENATOR CONTILLO: Okay, thanks.

ASSEMBLYMAN SCHUBER: Thank you, Senator. Thank you very much, Mr. Zarillo, and thank you to the members of your staff.

I think it is appropriate at this point if we hear from the Water Company. I believe they are here. Mr. Capece, why don't you, for the purpose of the record, please identify those at the table with you, please?

F R A N K C A P E C E, J R., E S Q.: Thank you, Assemblyman. My name is Frank Capece. I am a partner in the firm of Waters, McPherson, McNeill and Fitzpatrick, which represents the Water Company on a number of issues. To my left is Barry Schwartz, Director of Water Quality Control and Treatment for the Hackensack Water Company, and to my right is John C. Lane, who is the Manager of Community Affairs.

Just briefly, a couple of comments, if I may, Assemblyman. Number one, my presence here tonight is primarily attributed to the fairness that you have exhibited on this issue. I know this is a difficult emotional issue, an issue that the Company has been involved in for a number of months. There have been some difficult discussions. I daresay there have been some difficult debates on the subject. I did speak to you this afternoon, and tell you that we would certainly come this evening, per your request, and that we would be happy to direct, as best we could, the answers to the questions, appreciating the concern of the residents. I think that is something that I didn't have at first, to be candid. I think it is something I have learned to appreciate just by the sheer quantity of discussions and meetings that have taken place on this. It has been an educational process, and I hope that as it goes on beyond the future of this bill, that, while our debates have been hard, and certainly we have had a different point of view, we do offer you now, and in the future, our continued cooperation as to the candor of our point of view.

It would be difficult for me, Assemblymen, to add a lot on the analysis beyond the more pithy review done by Attorney and Assemblywoman Randall, and the more extensive review done by the BPU regarding the issues. If I am a little reluctant to do that, I guess it is because I have done it so many times to so many legislators. But I would say that I thought the BPU review-- While it certainly may not be the position of the majority of the people in this room, I certainly thought their position was accurate as to the facts as we see them.

What I would do, with your permission, is just deal with a few issues that were raised, and then, Assemblymen, as I can, and with the assistance of the employees of the Hackensack Water Company, attempt to address the issues as best we can, with one proviso. I did not appear before the BPU. I would be very reluctant to reargue a case that was heard before the BPU, here. I will try to answer questions as best I can. I would point out to you, as I know you are aware, there was extensive testimony. There was extensive opportunity for input on that issue. That is the only thing I do ask of you tonight. I am really not here to reargue a case that has been argued before the Board of Public Utilities.

With that in mind, there are just a couple of brief points I would make, and I do mean brief points. An issue was raised regarding the appraisals. I am probably less of an expert than Mr. Zarillo is on the subject of appraisals, except to say, I would point out for the record that of the two appraisals, the appraisal that was done by the Hackensack Water Company was, in fact, in excess of the appraisal done by the independent appraiser selected by the BPU.

I would point out that the environmental studies that were done were, in fact, paid for by the Hackensack Water Company -- the Havens and Emerson report -- but I would point out also that the outfit that did the studies was, in fact,

selected by the Board of Public Utilities. So, while recommendations were made, selection of the actual study to be done was done by the Board, while the Company was required to make the payment.

Assemblyman Rooney makes an interesting point regarding the right of first refusal. I am not taking these in any order of importance, just as my notes were made tonight, Assemblymen. I would point out that that right of first refusal really does exist. It is a right that exists now and, irrespective of whatever happens to this bill-- And I would point out, Assemblymen, that, as you well know, this bill has wide implications beyond the Bergen County sale. I anticipate that whatever would happen with the Board, whatever would happen with this legislation-- If this legislation were to become law, it would have an impact far beyond the Hackensack Water Company. But beyond that, the right of first refusal exists in the term of condemnation. That right has existed, whether or not you are successful this year, next year, or any time in the future in getting a referendum, be it non-binding or binding -- a topic I know a little bit about -- on the ballot. I would point out to you that right now, today, and tomorrow, there is a mechanism to do so. Now, that's difficult. I would say that I am sure that whatever happens on this sale, I think you will start to see somewhat of a shift of the public, saying, "Okay, if the law is as the Board of Public Utilities has articulated it," and as I believe it to be, "there is an opportunity for the purchase of that property."

I would point out to you that the phrase was used tonight -- I'm not sure who said it, but whoever said it was correct -- there is a need for courage and foresight of legislators. I am not sure whether it was Rooney or Schuber, but whoever it was, that may be the first thing this evening, and I hope there are more things that we agree to. I would point out, Assemblyman Schuber, that, in the vernacular, "You

have put your money where your mouth is." I note today that in another committee, you were successful in getting Assembly Bill 3627 out of committee. That bill appropriates some \$3,300,000 for the purchase of another piece of property in Hackensack. I am submitting to you that that opportunity has existed, without getting into the debate as to the fair market value -- that opportunity for condemnation -- which I would point out to you would bring us around the horn again, in that there would be totally new market analyses that would be done on that property.

The right of condemnation exists by this Legislature, by the county and, as was accurately pointed out, by the municipality. What is happening before the BPU is not a sale of property. It is an inter-company transfer. While that may sound like a technicality, I wish to point out to you, again as was articulated I thought rather well this evening -- it made my job a little easier -- each municipality will have that right, to make the judgment.

Now, that is a tough call. It is the attractive way, and certainly an easy way to say, "open space, water quality." And that may be one of the difficulties with this bill, that it is such an encompassing bill. But, in fact, any municipality that desires-- Open space is a difficult subject for someone who spends 35 minutes a day on the Turnpike getting to work. It is a difficult, difficult subject to preserve the open space, and the concerns over traffic are real concerns. If, in fact, that is the goal of this Legislature, I am glad I don't have to make those decisions, because they are tough decisions. Eventually, those decisions boil down to one word. That word, unfortunately, is money, and that is a difficult, difficult thing to do.

Now, I would also point out to you that one of the issues that was raised here tangentially was, there are no standards from DEP. I am going to break my one rule. That issue has been discussed at length before the BPU. I would

point out to you that we submit that DEP does have wastewater management standards. However, I think you would find, if there was a review of the record, that, to the best of my knowledge, the State of Connecticut, which was mentioned before, has the highest -- the most difficult standards regarding the maintaining of property around a reservoir, and that at 250 feet-- I did make a goof at one -- not debate -- on TV with Senator Contillo. I said 250 acres, and I apologized for that. He slapped me down on that very quickly. The 250 feet parameter is the Connecticut rule, if you will, and that rule was readily agreed to. So, I would point out to you that as of today, as we speak, the Hackensack Water Company has taken the maximum standard by anyone who has a standard today.

Now, I am not going to speculate what our DEP is-- As someone who does a lot of ECRA work, our DEP sometimes makes very tough rules, I think. But I would point out to you that the fact is, right now there is a 250-foot limit.

One other issue. I try not to do this any time I appear before your Committee. I will put my lawyer hat on just for a second. As it related to the issue of the reimbursement, I would point out to you that I would go one step further. I think when Mr. Zarillo says there is some diversion of opinion, I think he is correct. I don't mean in any way to contradict that. I would point out to you, though, that it has been our position -- and I think it is demonstrated in the law -- that the overwhelming amount of litigation in the country, and in BPU decisions that have come down, have gone toward the premise that the ratepayer does not have an interest in that property.

An analogy that was used that is somewhat controversial, so I haven't raised it-- I do it respectfully today, not to raise a debate. I own a Cutlass. I bought that Cutlass from the Olsmobile people. I did not buy an interest in General Motors by buying that car. I think the analogy has

some benefit, though. I know there is some controversy with that, and I do say it respectfully.

Beyond those comments, I would point out to you that we have been somewhat troubled by the mad race on the bill. I understand the concern of this Legislature. It is troublesome, and I just point out to you that beyond this issue -- and I won't be the one deciding this issue either for the Legislature or the BPU-- I caution you to this extent: Beyond this issue, and when we leave this room tonight -- assuming I am allowed to leave this room tonight-- You promised, Assemblyman. But, I would point out to you that I think you run a danger in the Legislature with the overview of the BPU on every issue. I think you have a right of oversight. As one of your staff people pointed out to me today -- I will readily tell you when I lose debates -- that you have just done this on the Parkway Authority with the tolls, so you certainly have the right to do so. But I do point out to you that there is a purpose for a Board of Public Utilities. It is not an easy job, I wouldn't think, by any means, but if you start doing it now, I suspect you will really have an obligation to continue to do it on other issues, whether it be electric rates, or whatever rates that would come down subsequently.

I would point out to you that the 18-month moratorium has been especially a subject of concern to us. I think if you have the opportunity -- and I urge you to do so -- you should read the legal debates that went on at the Board. One of the issues I would raise to you is the taking of property of a private company -- which Rivervale Realty is -- or the private utility -- the Hackensack Water Company. It is our position -- and I know it is a controversial position, and I know it is a difficult position -- that the moratorium that is proposed in this bill constitutes a temporary taking of private property, without any compensation. I would point out to you that just recently, in the case of Nolan v. The California Coastal

Commission, a U.S. Supreme Court case, and more recently the Loveladies case, as it is referred to-- They deal with that issue, and say that those are compensationable activities.

I don't mean to raise the tenor of debate. I would point out that that has happened in the past. I don't think that is good. I think that comes more from being an advocate. Sometimes lawyers are the worst lobbyists, because we tend to be advocates in many degrees. But I would point out to you that there are difficult issues here. They are complex issues. The issue of open space, and the issue of water quality are issues that we take seriously. I would point out to you that there has not yet been any demonstrative proof of anything that would indicate anything less than that the Hackensack Water Company has consistently and fully complied with every standard -- the A-280 standard, which many of you were in the Assembly at the time and adopted it, as well as Federal EPA standards. We are in compliance with those water quality standards, to my understanding. I believe -- and if I am wrong, I again stand corrected -- the BPU tonight made reference to the tremendous amount of testimony that went into this matter and, in fact, to my knowledge, there has been no contravention of that statement.

I wanted to be brief. I thank you. I know I come here tonight, and I am not the most popular guy in this room. I understand that. But I thank you for the fact that you have allowed me this opportunity to speak on it. I especially thank you for allowing me to bring people who are somewhat more knowledgeable on some other aspects of the sale.

With that aside, Assemblymen, I am yours. I am ready for the questions.

ASSEMBLYMAN SCHUBER: I appreciate your coming here and giving us your side of the story. I think the difference here, Frank, is basically one of philosophy. On one level, it is our philosophies on this. Your analogy with regard to the

Cutlass was interesting. I also at one time owned a Cutlass, but I could go to any Olsmobile dealer I wanted to buy that Cutlass, and I can't go to any water company I want to to buy my water. That, I think, is the fundamental difference we are talking about here.

I'm glad you raised the authorities issue, because it goes right to the heart of that issue, too.

MR. CAPECE: I knew it was coming, Assemblyman.

ASSEMBLYMAN SCHUBER: When we looked at the Parkway and the Turnpike and all of those little -- not so little agencies, but all those authorities, they thought they were private businesses. They're not. They are public entities, as well as any other realm of government. I hold that water companies, and other utilities such as that, although having their own shareholders, are controlled monopolies. Let's face it, they are monopolies. They have a fiduciary duty to the public, and have to be treated differently in accordance with that, than other businesses. Therefore, the same rules do not necessarily have to apply that may apply there.

You know, there is a concern we have with regard to this potential transfer all the way down the line. You can talk frankly about the issue of Rivervale Realty as being a private company-- Yeah, it is. It is not even regulated. That is one of the concerns we have. This property is going from a regulated company to an unregulated company.

Sure, okay, local municipalities can have the choice of what they are going to do, but that gives you the right to pick them all off, one by one. That works to your benefit, but it is not necessarily to the public's benefit. I think in the end the courts and the Legislature are moving in this direction. There are regional rules that cross municipal lines that have to be applied, and there are matters of public policy that we have to enforce. I think this area of open space preservation, which is very clear here, and up and down the

State now, and the concern we have for the quality of our water, are others of those.

So, you knew, I disagree with your philosophy on that. I think that is why we look at this differently. The issue of the property value itself, Frank, you have to admit-- Given the nature of that property and where it is located, the valuation of it is clearly, clearly out of line as to what is fair. I mean, clearly it is not fundamentally fair that that property be sold at that amount.

ASSEMBLYMAN ROONEY: Except if it is sold to us, Mr. Chairman.

ASSEMBLYWOMAN RANDALL: If we can get it, it's fair.

ASSEMBLYMAN ROONEY: We'll take it at the price.

MR. CAPECE: I think Assemblyman Rooney has made an interesting point here. I have purposely avoided discussing the valuation issue tonight, except that I note with some interest the advocacy of many people here that that property is worth a lot more money than was set. I will be very interested in getting a copy of this transcript when this is over. What I am saying to you in all candor is, I think that is a two-edged sword.

Just two other issues you have raised, Assemblyman. Regarding the municipalities and the municipal land use--

ASSEMBLYMAN SCHUBER: Wait a minute, wait a minute. It may be a two-edged sword, but there is no doubt in my mind after listening to what I have heard tonight, that the criteria on that was way out of whack. I don't care how that may come down, but that is fundamentally unfair the way that has come down, regardless of what the experts have done, and what has been utilized in regard to that. It is totally-- I mean, it is just fundamentally unfair to the folks in Bergen County. It really is.

We all know-- We don't have to be M.A.I.s to understand what the value of that property eventually could be, and what it could mean to the Water Company.

MR. CAPECE: Assemblyman, the other two points you raised-- Obviously we do disagree on that. Regarding the municipalities, I would point out to you that the Municipal Land Use Law -- another creature of this Legislature -- gives those rights to the municipality. I do disagree with you -- respectfully -- about picking off municipalities. I think what you are saying there, with municipal officials in this room-- I think if, in fact, you believe that, and this Legislature believes that, you do have an alternative. Your alternative is to impede on home rule and set up tougher municipal law standards. I do not share that. As someone who appears before planning boards with some frequency, I think they are awfully tough sometimes, but if you do believe that -- and I would point out to you that you do have the right--

Finally, if I may, Assemblyman -- I am just dealing with the issues as you are shooting them at me -- the shareholder issue. Yes, it is--

ASSEMBLYMAN SCHUBER: Let's address that issue for a second.

MR. CAPECE: It is a private company.

ASSEMBLYMAN SCHUBER: Well, let's address the other issue for a second.

MR. CAPECE: Okay.

ASSEMBLYMAN SCHUBER: The issue of home rule.

MR. CAPECE: Okay.

ASSEMBLYMAN SCHUBER: I believe this is home rule. I think fundamentally the home rule is the tonality of the life of those communities. The dwindling open space preservation, I think, is far more important an issue of home rule than a ratable is. And that is what you are talking about -- the trade-off of a ratable for a certain amount of open space. We are not just talking about any particular type of property that is out there. It is not a homeowner's piece of property that he is trying to sell off for another building. It is a utility-owned piece of property. There is a difference.

What we are talking about here is not a carte blanche moratorium on everybody's property. We're not talking about that. We're talking about a certain type of property that is in a certain sensitive area -- I am talking about sensitive environmentally -- and that is watershed property. So, there is a difference here. It's a home rule issue. It's a home rule issue of preservation of open space, but I think it is a home rule issue.

I greatly empathize with the local officials. I have been one myself, and I know what the pressure is to try to cushion that tax base. We make some decisions that maybe in the long run are not the right ones, based on the fact that we are trying to cushion the taxpayers' burden. But in the end, are we robbing our children of the value of the property that they are going to have in doing that? That is the issue here tonight, not dollars and cents. There is no way you can put dollars and cents on this issue. It is a matter of how we look at where Bergen County is going to be after the year 2000. What is it going to be, and what is it going to look like to our children, not so much to us?

What we are trying to do here tonight is-- What are we going to leave the children of our children here? What kind of a county is this going to be? That is the issue.

MR. CAPECE: I'm not sure I agree with you that that is the issue, but I would say this to you, Assemblyman: If you feel that is the issue, I would point out to you two things. Number one, again, if you feel that the municipalities are not, in fact, for whatever reasons, responding -- and you think unjustly -- to the pressures, there are immediate remedies available to you. But I would point out to you that you are, in fact, dealing with one class of property here -- watershed property, golf course property. You have another issue, I would point out to you. If, in fact, you feel that these golf courses should be maintained, you have that ability, not by

having that property maintained in rate base, so it has to be paid by the Water Company users of both Bergen and Hudson Counties-- You do have an option. That option has been discussed here this evening -- the condemnation issue -- the ability to take that property.

I am not sure, and we have talked at length-- I don't mean to be disrespectful to the crowd, but we have just been through it so many times, it gets to be-- It's difficult. I don't know how an entertainer keeps singing the same song over and over. It must be difficult. But what I would point out to you is, the ability to maintain that property and rate base runs directly counter to the rules of the BPU, as far as used and useful. It is difficult to justify in my mind why the ratepayers of these two counties should have to pay for that property when, in fact, there are other alternatives available to you. It's difficult because they require the ability-- If you want to maintain the golf courses, if you feel they are necessary, for whatever reason -- anything from golf courses to water quality to watershed -- whatever reasons you feel that is necessary, my only argument to you is, there are other alternatives, as opposed to shareholders who, in fact, invested in this as a private utility and, in fact, their investments in that company helped to keep the water rates down.

I know those are difficult arguments, Assemblyman, and maybe we won't agree today. But that is our response.

ASSEMBLYMAN SCHUBER: We obviously won't, because you're mentioning the issue of the shareholders taking precedence here. I heard from the Parkway and the Turnpike that the bondholders should take precedence over the public. The question is: I am not going to buy the argument, not on this particular type of an issue.

MR. CAPECE: I understand that.

ASSEMBLYMAN SCHUBER: There is a far greater public interest involved.

MR. CAPECE: I would just say to you again, Assemblyman, there is an alternative. If that interest is as overriding as this Legislature feels, then you, more than anyone, have demonstrated that you are willing to do something, and you did that with one piece of legislation. There are alternatives. I would submit to you, though, that it is, in our judgment, improper to utilize this vehicle of the bill for the 18-month moratorium to achieve the goals. There are more equitable ways that we think are constitutional to achieve the goals that you desire to achieve.

ASSEMBLYMAN SCHUBER: John?

ASSEMBLYMAN ROONEY: I enjoy talking to Mr. Capece. I have seen him many times down in Trenton. I take your comments about the private aspects of the Water Company to heart, because I have, on many occasions, thought of putting legislation in to change it from a private utility to a public utility, which would solve the major problem. Then you would deal mainly with the question of supplying water to your customers, and you would take your real estate business elsewhere. You would do that on a separate level.

We're talking about your appraisal company -- the M.A.I. -- without the leases being \$17.2 million; with the leases being \$14 million. Are you saying that with this condemnation these would be the numbers that the Water Company would be looking for?

MR. CAPECE: Let me answer that two ways: One, I would never respond as to the Water Company's position on that, because I honestly don't know. My only point to you is, of the appraisals that were done for the BPU -- the two appraisals -- the higher one was the Hackensack Water. I only submitted to you that it is my opinion -- and I will take the Zarillo approach, where my opinion is no more important than anyone else's -- that if, in fact, this Legislature, or if the county, or anyone else, proceeded to condemnation-- It is my opinion

that we would start from square one all over again, and I don't know how much preferential value those two appraisals would have.

ASSEMBLYMAN ROONEY: In other words, your appraisal would be different than it is-- (laughter)

MR. CAPECE: I don't know.

ASSEMBLYMAN ROONEY: Your appraisal for sale to your own company--

MR. CAPECE: First of all, they are not my appraisals.

ASSEMBLYMAN ROONEY: --is going to be different than an appraisal for sale to an outside--

MR. CAPECE: I didn't say that. What I said to you was, you would start with new appraisals all over again. That is all I am saying -- square one.

ASSEMBLYMAN ROONEY: Yeah, I wanted to get that on the table, so it is also in the transcript when we review it. These were your appraisals for sale to your own company, but they may not be the appraisals for sale to the State of New Jersey or the County of Bergen.

MR. CAPECE: I would not speculate.

ASSEMBLYMAN ROONEY: Just from your own experience here in Bergen County, do you think \$38,000 an acre is a fair price for residential land in Bergen County? Obviously you know that particular area, because you have dealt with it.

MR. CAPECE: Sure, I spent a lot of time there. I've got to say to you again -- and it's the unpopular answer -- that my opinion is the least important. What are important are the appraisals. If you feel that those appraisals are improper, then that may be an area you want to deal with with the Board of Public Utilities, as far as their procedures are concerned. I submit to you that I understand that, and I understand the emotionalism of the issue of maintaining open space, but I think you deal in dangerous ground when the Legislature starts regulating utilities.

I would point out to you that you do have the authority to do so, if you desire to.

ASSEMBLYWOMAN RANDALL: I've got to tell you, Assemblyman Rooney, never try to cross-examine a lawyer.

MR. CAPECE: He does it with great-- Assemblywoman Randall, for the record, he does it often, and it does it with good success.

ASSEMBLYMAN ROONEY: Flattery will get you nowhere, absolutely nowhere.

MR. CAPECE: No, that's accuracy. That's accuracy; that's not flattery. I have been before your committee.

ASSEMBLYMAN ROONEY: Did you represent the Water Company when it was in on application to the Borough of Emerson, per chance?

MR. CAPECE: I did not. A member of my firm -- a partner of mine -- was involved. I have no knowledge whatsoever -- none at all.

ASSEMBLYMAN ROONEY: Okay, I'll check with Councilman Bob Hall from Emerson later to get some facts on that, but it will have to be off the record.

Basically that is all I have. But again, the problem I have with the entire situation is the transfer to your own company at a very, very low figure. The ratepayers aren't going to see much benefit. In fact, I think Senator Contillo showed me some numbers that came out to something like 10 cents per ratepayer. I believe that is what the return is going to be. Is that true, Senator Contillo? I don't think it is proper, but through the Chair, may I ask Senator Contillo--

SENATOR CONTILLO: (speaking from audience) What you are talking about is, presently the Board of Public Utilities Commissioners-- It is costing each one of us as a ratepayer, on the average, to keep those 300 acres as open space, 17 cents per year per ratepayer. However, many of those are commercial ratepayers, so if you really broke it down, it is probably less

than 10 cents for a residential ratepayer, to keep those golf courses the way they are, which, hopefully, is what we will end up doing.

ASSEMBLYMAN ROONEY: Thank you, Senator. These were some numbers. I think the return, even on the last time, was a very minimal amount on the last sale -- \$70 per--

MR. CAPECE: Seventeen dollars.

ASSEMBLYMAN ROONEY: Seventeen dollars per household. I really think the ratepayers in the Hackensack Water Company system would prefer to forfeit \$17 per household, rather than give up this beautiful area. They would rather have something like this maintained in a parklike state, have the golf courses, whether they be developed into additional parks or whatever later. I don't know. I still have some real problems with it.

I guess the main problem is, you talked about this as the golf course preservation act, and I think that is a little derogatory on your part. I kind of feel-- I think you people should be labeled as the "inside trader company," because that, to me, tells it all. You are selling to yourselves, and you're selling at real low prices so you can make just exorbitant profits, and I resent that. As a public utility providing water for this area, it is just not right. It is not a position that you should be in. Maybe the ultimate is to get you out of the private business, and get you in as a public utility -- make it a public company for the water part only.

If you really want to be in the real estate business, Mr. Capece, go ahead. Be my guest. There is a lot of other land out there that could be developed. Maybe you should find that and really get into the real estate business.

Thank you.

ASSEMBLYMAN SCHUBER: Thank you, Mr. Rooney. Mr. Capece, thank you very much.

MR. CAPECE: I think Senator Contillo wants me.

ASSEMBLYMAN SCHUBER: You can talk to him about his pool over there.

ASSEMBLYMAN ROONEY: We never did get the answer to that, Paul. You didn't bring a sample.

MR. CAPECE: Assemblyman, one other point, if I may, not to be disrespectful. Two members of the Hackensack Water Company are going to stay for the entire hearing. I just have a little longer trip, but they will be here, and will respond in the future to any questions.

ASSEMBLYMAN ROONEY: Make sure that is reflected on his bill.

ASSEMBLYMAN SCHUBER: I have-- Of those who have responded, let me take these in order here. David Kuehne -- is David Kuehne here? (affirmative response) Did you wish to testify?

D A V I D K U E H N E: Yes, I did.

ASSEMBLYMAN SCHUBER: Would you come up, please? Good evening.

MR. KUEHNE: How are you doing? First of all, I would like to say-- Don't worry about it, this is not my testimony. (referring to material he is carrying) My name is Dave Kuehne. I am a citizen of Oradell. I hold a Bachelor of Science degree in Agriculture Sciences, which does not make me an expert in agriculture and pesticides, but I feel that I am fairly well-informed in the agricultural uses of pesticides.

I would like to share a few thoughts on the development of the Hackensack watershed. The only way land can be controlled and policed is through ownership. The purpose of a watershed is to prevent pollution from reaching the reservoir, thus making it safe to drink. The watershed area around the Oradell Reservoir should probably be increased, rather than sold for development, if the guidelines for pesticides are followed as listed in "Pesticides From New Jersey," 1986. It was prepared by Rutgers State University in

the Department of Environmental Protection Pesticide Safety Section. Because untrained homeowners use pesticides that can contaminate water through rain runoff, stream runoff, or through groundwater, under the 1986 guide, "The Chemical Weed Control," subtitled "Weed Control Around the Home Grounds," page 55 states:

"Total Vegetation Control: This type of weed control is seldom practical on home grounds, but there may be some instances, as around buildings, storage areas, driveways, or under fences, where no plant growth is wanted. The reason may be beautification or fire control. In any event, there are herbicides which, when applied to soils, will kill existing vegetation, and then prevent further regrowth for periods up to a year. Some trade names are Pramitol Triox, Chloren, and Hyvar. There are definite dangers associated with the use of these compounds. One is that they are deemed to be active in the soil for long periods of time, and they are. So, if a mistake is made, it is apparent for a long time.

"Another drawback is the mobility of these compounds if a rainfall occurs soon after application. The herbicide can be picked up in surface runoff and carried to wherever the water goes. The contact herbicide Paraquat is available to homeowners, but should be handled carefully. It is very effective in killing plants, but it is quite toxic to humans."

On the biological control of aquatic weeds, on page 46, the following from the Department of Environmental Protection is of great interest: "The purpose of these guidelines is to assist you in complying with the pesticide label directions and the New Jersey Pesticide Control Regulations. Many of the pesticides used in aquatic weed control programs have restrictions on the use of treated water. These restrictions apply to swimming and fishing and use of water for potable purposes, irrigation, crop spraying, and stock watering. It is the applicator's responsibility to

make sure that all users of the treated water are aware of the restrictions on use.

"However, the question arises, just what is considered treatable water? If only a part of a lake is treated with a pesticide, is the entire lake considered treated water? If a pond with a normal outflow is treated, how far downstream is considered treated water? The answers to these questions are not simple, since many factors come into play. Each application must be judged on a case-by-case basis. To assist in this judgment, this bureau presents the following guidelines to follow when there are water intakes or water use areas in the same body of water, or downstream of a treated area.

"The safest method, of course, is to not use the water for the specified uses for the specified number of hours or days as listed on the label. However, this is often not practical or economically feasible. In that case, there will be no restrictions on the water's use as long as the following guidelines are followed. For the purpose of these guidelines, a number of site situations have been developed, and they are as follows:

"Site 1: Treated water has no appreciable flow. Site 2: Treated water has no appreciable flow with water intakes or use, area down-current in the same body of water. Site 3: Treated water is in a body of water which has an appreciable flow and an outlet, and has water intakes or use areas downstream. Site 4: Treated water has shallow wells along the shoreline.

"Remember, water flow can be caused by gravity and/or wind. Therefore, the following general rules apply for all of the pesticides listed: Do not apply in fast-flowing water. Do not apply on excessively windy days.

"The following are the guidelines for specific pesticides for each site situation: Pesticide 2,4-D Aqua-Kleen, Site 1: Keep one-half mile -- 2640 feet -- from

water intake or use area. Sites 2 and 3: Calculate flow and apply only if .1 part per million, 100 parts per billion, or less can reach water intake or use area. Pesticide Diquat (Weed Trine D): Site 1: Keep 1000 feet from water intake or use. Sites 2 and 3: Calculate flow and apply only if .01 part per million, 10 parts per billion, or less can reach water intake or use area."

There are ponds and feeder streams on existing watershed property that can be kept pesticide free because the Hackensack Water Company owns the land and controls the safety of it. However, with the current proposal of a 250 foot buffer around the reservoir, a homeowner could use Aqua-Kleen 2,4-D within the half-mile guideline, and 2,4-D for lawn weed control will be used right up to the 250 foot buffer. Round-up and 2,4-D, the two very frequently used pesticides by homeowners, show the following properties: 2,4-D under many trade names contains polychlorodibenzo-p-dioxins. It is termed as a nonpersistent to a moderately persistent pesticide, which means that it will last anywhere from one to 18 months in the environment. As far as human toxicity goes, immediate toxicity, oral is medium to high, dermal is high, and inhalation is a question mark. As far as long-term toxicity goes, it is a suspected carcinogen. It is a mutagen, which means that it can cause cell mutation. It is a teratogen, which means it can cause birth defects, and it is a fetotoxin, which means it can poison a fetus.

Then, when it comes to the Glyphosate, or the Round-up, it also is a moderately persistent pesticide. It lasts one to 18 months in the environment. The immediate effect to humans is: oral, low to high; dermal, medium; inhalation, question mark. The long-term effect is chromosome damage in human lymphocytes.

Because of these dangers, as well as the increased runoff of other chemicals from the development, the Department of Environmental Protection must be given a time to come up

with safe watershed guidelines before the land is transferred. We may be told that new water purification methods will reduce pollution. However, the promise of the '50s of a better life through chemicals, has led us to additional problems we never dreamed of; for example, Love Canal, and contamination of ground and well water five miles away in Fair Lawn.

Who can guarantee us that the water purification methods of today will be sufficient for tomorrow's pollutants? Who here with the responsibility of decision will be willing to be held liable for the unforeseen pollutants and water quality of tomorrow, if this watershed is developed? The people making the decisions need to be held responsible. We need the watershed areas to protect our water supply. Once they are developed, they are gone forever. You cannot reclaim them. The ecology of our watershed should be maintained at all cost. Our quality of life and our very lives will depend on it.

Thank you very much. (applause)

ASSEMBLYMAN SCHUBER: We appreciate your testimony with regard to the environmental impact of the potential transfer of the property in very concrete chemical terms. Do any members of the Committee have questions of this witness? (no response) Thank you very, very much. We appreciate your sharing that testimony with us.

Mr. Meyer Kykle, of Dumont?

M E Y E R K Y K L E: Thank you, Mr. Chairman. I want to compliment the members sitting on the dais for the statements they made this evening. They just about covered pretty much of anything I wanted to say, so I do not have much to say. Each and every one of you make an excellent statement regarding the conditions of our environment.

I will talk briefly of my own personal experience. Each and every one is one unto himself, and each has something to offer in his life. To Senator Contillo -- I think it is -- I graduated from Central Park out of New York City as a

youngster and walked to the George Washington Bridge when it cost a nickel only. You could walk on the Palisades, and it was delightful that you could walk on the Palisades. I could always go back to my little cold-water flat up on 110th Street in East Harlem. I was happy to see that there was some open space.

I will be 69 next June, so I have been around for a couple of years. I have seen a few things. I own property up in the Catskill Mountains, have for over 40 years, and already the water is a little bit not so great. The salinity of the water -- I don't know if you are aware of this -- is showing up in New York City. That is because they dump a lot of salt on the highways. For some reason or other, you can't educate those guys. The salt washes away a little snow. They still take the easy way out, and they dump a lot. "This is really going to clean off the highways." So we have a little bit of salt in New York City water which, at one time, was one of the best water supplies in the United States.

I would like to dwell on just a few other things. I know you have been through a lot tonight. I have learned a lot; we have all learned a lot. You know, we seem to lose property personally around here. The Norwood tract up there in the Palisades is going. It is being sold off by a fine organization, the Boy Scouts of America. They need some money, I guess.

You know, it seems, after listening, that-- I think there has to be a coordinated effort by the State, together with each BPU outfit -- I don't care how many there are here in the State of New Jersey -- a liaison; a situation of cold turkey facts. The land is this. This is how much money it is. I have listened to all of the figures. I would like to buy some of that land at \$38,000 an acre. I happen to be a stockholder, by the way, of the Hackensack Water Company. I would like to sell off my stock and buy an acre for about 38 grand. I would have it made, man.

Actually, you know, I thought of it as I passed by the building tonight. This is a philosophical observation. Over there near me, it says, "Hackensack Water Company." They have a nice brick building -- 1892. That's almost 100 years. Perhaps they would consider, "Maybe we owe something to the community." Maybe this could be their legacy. They may be bought out by Bevis (phonetic spelling) next week. How do we know, with all of the corporations buying each other out? Maybe they would leave something behind and give us that land.

But, let me get back to the most important things I am trying to get at. You know, we are trying to teach our children about the environment. So we have courses at Rutgers; we have courses at every university on environment. Wouldn't this be a great place to preserve over here, and keep it open? Let's go to California, and take an outfit like Pacific Gas and Electric. I was out there just a month ago -- near San Francisco, and that area -- and I saw a state park. And then a few miles up the way I saw a lake. My friend said to me, "Do you know who owns that? PGE." I said, "No kidding." I said, "But there's picnicing and people enjoying the land." He said, "It is open to the public. They have somebody taking care of it. They have reserved the land for the future."

You know, speaking about land for the future and the water supply, the Hackensack Water Company owns the Spring Valley Water Company. Correct? (no response) Okay. I understand that about a year and a half ago -- I think it was, roughly -- the Spring Valley Water Company was running out of water. So they take their water from the Ramapo River. Okay. The Ramapo River is getting low, so they had to appeal to the Interstate Park Commission to allow other lakes to let water out to go into the river to supply Spring Valley. Are you gentlemen aware of that? (no response) I mean, that is pretty good news. We may be running out of water here pretty soon.

Now each and every town has its own water, and you've got small houses. All of a sudden, Mr. Donald Trump is here. He wants to build a thing over there -- a big glitz thing of 18 stories. They'll change those laws. Each and every one of these towns will change all the laws in years to come after we are gone, and there will be high-rises. The Palisades have those big things sitting up there, those big boxes with views on either side -- one to the back, one to the front. It is only a matter of time before we will have those things here, again maybe not in our lifetime.

The law will be changed. They'll need the space. This is no longer suburbia. It's exurbia. I think we have to take a look at this thing. We've got to save this land.

I could speak for the organization I belong to, but I am not speaking for them. I happen to be a former Director of the New York/New Jersey Trail Conference. We maintain over 800 miles of hiking trails throughout the interstate park system -- that's the Palisades Interstate Park system -- plus the Minnewaska tract. We are involved in saving Storm King Mountain. We are involved in saving the Minnewaska tract, which is now owned by the Interstate Park Commission, fortunately. I am also a former officer of the Palisades Nature Association.

I have walked these places. Before I ever moved-- I only moved out here in 1953 to Englewood, and then I came up to Dumont. I have walked this area. I remember what happened. I saw what was going on, and I see what is going on right up the way -- right up the way, right up to Greene County, to Ulster County. The growth is immense, and it is going to get worse here. We should save this land -- save this land for our children. We have no right to build up all those houses.

This gentleman just gave a good talk on the poisons, and what came back to me was Rachel Carson's, "Silent Spring."

Thank you for your time.

ASSEMBLYMAN SCHUBER: Thank you, Mr. Kykle. (applause) I would indicate to you that you touched on a point that really didn't come up before, but which is a concern in our minds; that is, the potential -- given the nature of these types of transfers and that they are corporations -- the potential takeover of those corporations by other entities, other than those that have them now, in this age of "takeoverism." That certainly is a concern of ours, given the nature of the type of that property.

We appreciate your coming down here tonight, sir. Thank you.

MR. KYKLE: Thank you.

ASSEMBLYMAN SCHUBER: Margaret Utzinger is here from the Hackensack River Coalition.

M A R G A R E T U T Z I N G E R: I am here tonight testifying as President of the Hackensack River Coalition. The Coalition is a nonprofit, State-incorporated, federally tax-exempt organization dedicated to preserving the wetlands around the Hackensack River, ensuring and trying to improve the water quality, and also increasing recreational use.

While my testimony here tonight is solely as President of the Coalition, I will say that I work as Water Resource Coordinator for one of the counties of northern New Jersey. So I spend virtually all day long trying to protect water resources in northern New Jersey. I go out every day and tell water purveyors, "Watch out, there's a spill coming to your intake valve." When I say we have a crisis in New Jersey, we do.

When we speak of one of the seven wonders of the world, I think we have to add pure, plentiful water to that -- potable water. The issue of development on watershed land goes beyond the loss of open space and the habitat that is associated with it. There are many areas in the State and in

the country where public community water supplies drawn from surface and groundwaters are threatened in quality and in quantity. Development close to reservoirs and rivers increases the chances of runoff from storm water pollutants which contain automobile exhausts, leads from them, and other metals. They have salt -- as was mentioned before -- pesticides, fertilizers. All of this is degrading our water supplies.

The public is often unaware that what goes into our storm waters often is a large percentage of what replenishes our reservoirs. The further away catch basins are, the greater the possibility to remediate undesirable introductions before they affect our supplies.

Certainly it is more prudent to protect the raw water supply from pollution sources than to continue to develop more and more technology to overcome contamination. In reality, technology almost always lags behind the introduction of toxic substances into the environment. Even now, there are many contaminants for which we have no remedy. GAC filters and reverse osmosis and air strippers and all the rest of these things are everyday words to me, and I tell you, we can't come up with methods to improve or to take all of the contaminants out of our water.

One of the reasons for allowing previous watershed land to be developed was that Bergen County was almost entirely serviced by sanitary sewers. Much to everyone's dismay, however, development has taken place on this watershed land that does have septic tanks. Currently the distance that the New Jersey Administrative Code provides for a septic field from a water course is only 50 feet. That includes reservoirs and rivers. I know a reservoir right now that has a septic tank and a field from a mortuary located on its banks. Now I know that is not a very appetizing thing to think about when you are drinking water, but a lot of our water comes from sewage treatment plants, and it is perfectly legal -- but not exactly what we would want.

One of the major problems with development is loss of pervious ground space. Impervious roads and building foundations increase the runoff of rain water to storm drains and the reservoir. Unfortunately, the storm water runoff reaches the reservoir very quickly, and the reservoir's capacity may be exceeded. In that case, the excess water must be released over the dam. Natural absorption of precipitation and groundwater runoff not only allows for the cleansing of the water, but also for the gradual recharge of the reservoir. On many occasions this year, Hackensack Water has not allowed any water to go over the dam. They are trying to fill the reservoirs. In effect, they are cutting off the ability of the lower Hackensack River to flush itself. It is just the tide sloshing up and down river with the pollutants in it.

It is time that New Jersey wakes up. The ratepayers, Hackensack Water, and the municipalities involved will not suffer great economic degradation or the loss of progress if these lands are not developed. But if we lose our ability to provide safe, plentiful potable water, then New Jersey, and these towns, and our citizens will all be in jeopardy. This is not a local issue. This is a State issue, even a country-wide issue. We must pass legislation to protect our water supplies now. Our Legislature must wake up, and must move to protect these resources before they are lost and degraded and beyond repair.

Watershed protection is but one of the issues we must address when speaking of water quality protection, but it is one of the major issues.

There are certain fallacies, I believe, involved with this transfer. Number one, the Havens and Emerson report is over five years old. There is a lot of water under the bridge; a lot more contaminants out there than there were five years ago, and that study does not address that. They said that it won't allow storage of toxic or hazardous material in the

previous watershed land. Every home is a storage area for hazardous and toxic material. Also, the 250 foot buffer zone-- That is only for the Oradell Reservoir. The upper lakes will only have a 100 foot buffer zone. I think Hackensack Water is in trouble, and I think all the other public community supplies in the State are having similar problems. Every day I hear complaints coming from citizens, from purveyors. They cannot treat their water fast enough to give good quality water to the public, and I think we have to address this issue, not only because we will lose open space, or we'll lose habitat, but we will lose a resource we cannot regain.

Thank you. (applause)

ASSEMBLYMAN SCHUBER: Thank you, Margaret. I know you have been long active in this area, and we appreciate your coming here and waiting to give your testimony. Thank you very much.

Let me see here-- Greg Gage, Bergen SWAN.

G R E G O R Y G A G E: Hello there. Thank you very much for having this hearing up here in Bergen County, and at a time when the citizens have the chance to come out and participate in it. I am speaking on behalf of myself as a resident of Bergen County -- I live in Hillsdale -- and also on behalf -- as a member of Bergen SWAN -- Save the Watershed Action Network.

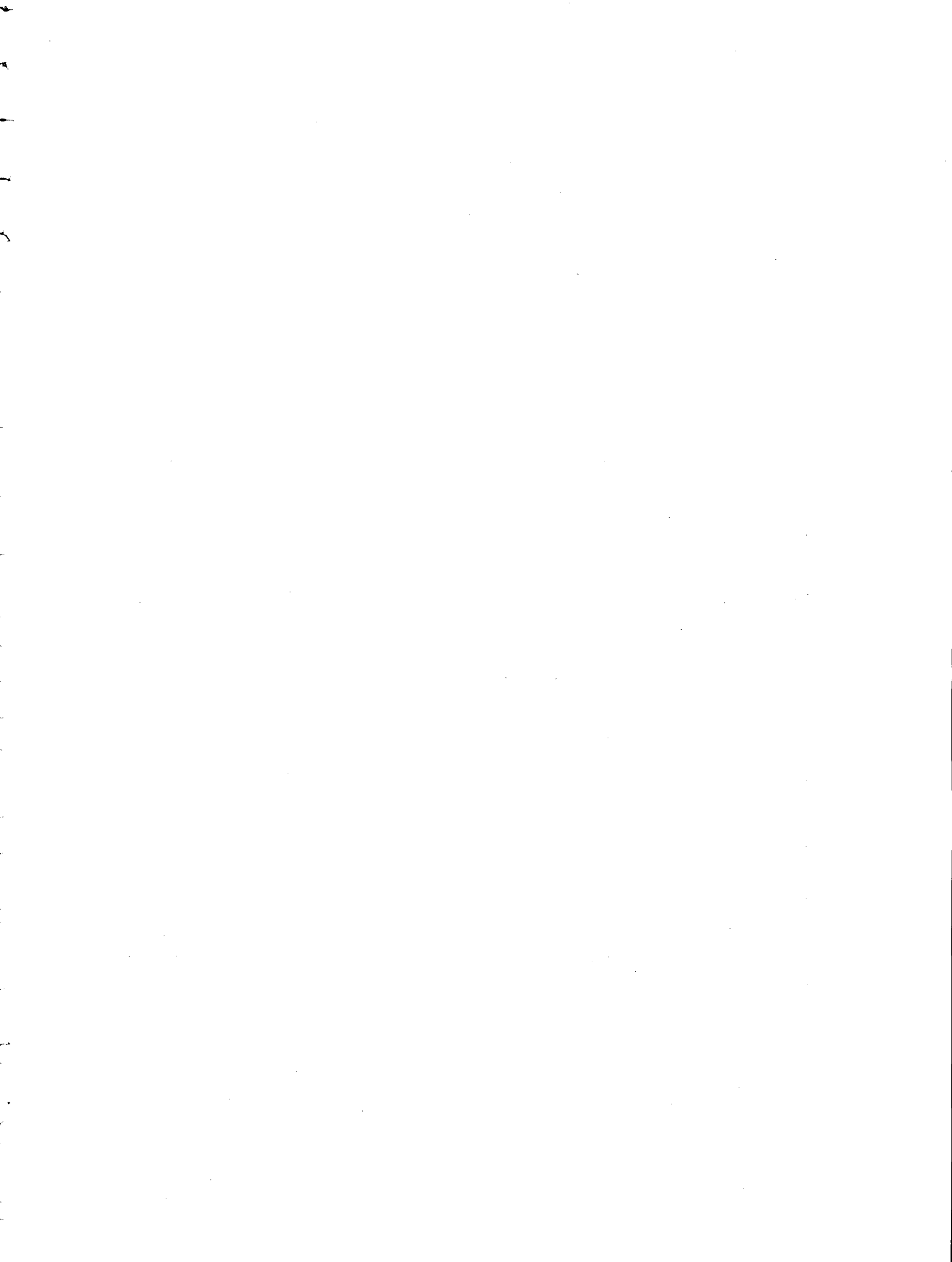
Tonight, I guess I would like to address myself to a couple of different points, one of them the BPU. I have concerns that in its present structure, it seems to have a lot of blinders on. It is only allowed to look at various aspects of any of these cases. A case in point is: It is not allowed to look at the environmental effects of the proposed land sale. It obviously has problems in looking at what the intended -- or what the price of the land might be. I am concerned that as you, as an organization, oversees the BPU-- I think something needs to be done to open up their blinders,

because while they have blinders on, the rest of the public is in the dark.

The public, as a whole, is opposed to these land transfers, and sales, and building on the land. Somehow, the wool has been pulled over our eyes. Maybe this is all legal -- what has been going on -- but it is unethical.

The Havens and Emerson report that these land sales have been based on, is the report that was put together-- I was present at the hearings down in Newark -- one particular hearing -- and Mr. Adplanalp, the technical director who put his name to that report, testified that this was the first report of its kind; the first time that that particular company had been asked to draw up a report on what is a necessary watershed buffer. They, in fact, just turned, for the most part, to available reports on the subject, which happened to be from Connecticut. Now I don't know what the circumstances were or why Connecticut had chosen the particular 250 foot buffer zone, but maybe the case was that that was all they had around there, or not. I don't know. I know in The New York Times a couple of weeks ago, there was an article about eutrophication in Connecticut's lakes, and how it is a big problem. Is that going to be the same problem that happens here?

The Havens and Emerson report, in its final summations, talked about zoning. It said that there would be further degradation of the water. That is one of the points that was made in the report, but it said it could be minimized by maintaining present zoning. It said it could be minimized by having a good working rapport with the towns involved. As far as I have seen, going around to each of the town council meetings and planning board meetings, this has not been the case. I know that quite a few towns around the reservoir that have not had a good rapport with the Water Company. They fought them tooth and nail over taxes for many years. Now they



this particular issue. Also, we appreciate your support for the legislation, which is pending for a vote now imminently in both the Senate and the Assembly, that would propose a moratorium in this area and allow DEP to establish those rules. We appreciate all that you have done with regard to making that happen. Again, thank you very much.

Are there any questions for this witness? (no response)

MR. GAGE: I would like to make one further point. It is not a point, but a statement.

ASSEMBLYMAN SCHUBER: Sure.

MR. GAGE: There is a walkathon and a rally concerning this issue, that is going to be sponsored. It is going to start at 11:30 in the Town of Oradell here, on the corner of Grove and Oradell Avenue. We are going to walk an eight-mile course around the reservoir to help to raise money for further independent reports -- environmental reports -- and some legal defense on this issue. At three o'clock, we are going to come back to the rally site. There will be a rally and several of you people on the panel here will be speaking. You are all invited to come and participate in it. We'll have music, food, and a good time. We are going to show the opposition of the public to the plans by the Water Company. Thank you.

ASSEMBLYMAN SCHUBER: Thank you. Mark Becker?

MARK BECKER: Good evening, ladies and gentlemen. I will keep my comments brief. I am Mark Becker. I am also with Bergen SWAN. Many of the things Greg said, I had planned to say.

There are a few things, though. What I would like to start with is a quote from the public relations piece that was circulated by the Water Company about 10 years ago. I take it this piece was written before the advent of Rivervale Realty. It says: "Riparian ownership, continuous patrolling and monitoring of construction, and water quality have enabled us

to preserve for future generations this heritage of water and forest, flowers and wildlife, a quiet oasis in a heavily developed region" -- heavily developed 10 years ago. Over that 10 years, you know, it has quadrupled as far as being developed around here. I would like to know what happened to that pledge? I think the 4000 people who signed our petition would like to know what happened to that pledge?

I think the Water Company is really, really jeopardizing their good name. They have had a good name in this county for as long as they have existed. The people who are in control of it now are really throwing it away. I don't think they will ever regain it if they continue with their plans.

I would like to address the issue of the conflict of interest between Rivervale Realty and the Hackensack Water Company. I am not a lawyer. I don't know if there are any illegalities between that relationship. I certainly wouldn't mind it being checked into by someone who has that knowledge. I certainly know it is totally unethical, immoral, and totally ripping off the public.

We know that these lands were purchased over the course of 100 years for the public good, and now they are being used for private profit by a select few people. That is just wrong, wrong, wrong.

Now about the Havens and Emerson report, which has been quoted around here like the Bible. This document was the basis for the decision previously -- the 700 acres that were transferred back in '84. It is also being used as the basis for the decision on this 300 or so acres that are under consideration. As Greg just said, this was done by a guy who was taken out of retirement and asked to do a study. He said he had never done this kind of a study before. He just used the most available data in Connecticut to do it.

There are many quotes in here -- I will read them into the testimony -- which clearly show that transferring these lands and developing them are not the best things to do. It has been interpreted by the Water Company for their best interest.

Here are some of those quotes: "Land should be purchased in some areas to actually fill out the buffer zones in environmentally sensitive areas." To my knowledge, that has not been done. "Working with municipalities and zoning boards is a must in developing these watershed lands." As Greg said, I went out to those meetings too, and I could see that they just feel threatened, and they don't know what to do. They feel threatened because of the Mt. Laurel decision of putting in a certain amount of affordable housing. I can't understand how they are affordable, when I can't even afford this affordable housing.

The increase of these properties for development near the reservoir could increase the vulnerability for transport-related accidents. Roads have been known to be used by midnight haulers as disposal sites for hazardous liquid materials which, without adequate buffer, could enter the water supply. If a fuel or a liquid chemical spill occurred, it would be a matter of serious concern to the Water Company and, therefore, to all the residents of the community. The natural filtering process of the land and the need to prohibit certain contaminants from entering the water supply have not been fully evaluated or established.

When you listen to these things, how can these people actually read this and say, "Well, let's do it anyway"? What we do know, is that restricted construction and development is the most effective measure to prevent or decelerate reservoir deterioration.

Here is one of the best ones. One major recommendation of this report specifically states: "The

evaluation of this report is not to be the sole definitive basis for the sale of these company lands." This is being used as just exactly that.

Now, with regard to the lands that are currently being transferred -- or being proposed to be transferred-- It is curious to me that the BPU has said that their main concern is water quality -- they are making their decision on that issue -- when Rivervale Realty has not been made to submit their development plans for these properties nor an environmental impact study. I mean, how can you judge the impact of what this transfer will be if you don't have those plans? It is like saying, "Well, okay, these lands are not going to adversely affect the water quality." But, of course, they are going to change the zoning. They are going to build on these things, and that is what is going to be detrimental to our water quality.

I would like to state our position as a group. We are a watershed watch group. Our job is to monitor more than just the gallons the Company is putting out, as their public relations firm has tried to make the boom for them. We don't want to be a thorn in their side. We just want to ensure good quality water and open space.

We fully support Senator Contillo's bill, and the Assembly version which you have introduced. We hope for a swift passage. I would also like to say that after hearing all this back and forth legal stuff, you guys have to do something. You really do. If it is condemnation and it is purchased by the county, you've gotta do it. You just gotta do it somehow because, like you are all saying, it is for our kids. If you give this away, that's it. It's gone forever. You know it; you know it.

Thank you. (applause)

ASSEMBLYMAN SCHUBER: Thank you. We appreciate it.  
Robert Hague?

R O B E R T   Z.   H A G U E: While there are many other things that are important here, I will limit my comments to water quality because I feel this has been overshadowed by some of the other things.

I grew up in this area, and my parents did before me. I have seen the raw water that passes under the Oradell Bridge go from perfectly clear water to water that I don't know that I would care to swim in any more. This is how, over the years, the quality of water going down to that plant has been degraded. We don't need any more of this by bringing development up close to the shores where it can get in more quickly. This development is going to lace the shoreline with sewers. I think you are all aware how frail they are. We had a major sewer break a year and a half ago over here on Oradell Avenue, and it came within a few minutes of getting right into the intake basin. As far as I know, it took the Water Company a long time to catch up with that fact.

We have given up a lot in this area because we should have clear water. They were given the privilege of taking this water that came down the river and piping it out. They have gradually taken a strangle hold on the valley. We gave up boating, swimming, hiking, skating, all of the things that were part of this area years ago, all for the idea of having safe water. Now that all goes by the board. As a boy, I used to like to walk along the reservoir to watch ducks and other birds. A friend of mine is a fine ornithologist. Then a fence was put up. We weren't even allowed to walk close to it. This land that was fenced so that we couldn't even walk on it, is now going to be developed. It doesn't make much sense. It was never threatened with development or septic tanks or anything. It was just fenced, supposedly to keep the water safe.

I'll say this: George Spalding, who was the chief chemist for many years, must be rolling over in his grave today. His life was spent improving the treatment of the water of this Hackensack Water Company. He watched it every second.

I was very interested in the report by the Public Utilities people here tonight, because they mentioned this hearing they had. I attended every second of that hearing. At Hackensack, people like myself were allowed to speak. This was before the Hackensack Water Company had made their presentation. I then spent three days in Newark listening to their witnesses. These witnesses were all people brought in and paid for by the Hackensack Water Company. Is it small wonder that no one spoke against what was going to be done because it would hurt the quality of the water? People like Mr. Kuehne or Mrs. Utzinger, who just spoke-- They weren't even brought in on this. None of us had a chance to speak after the Water Company was done.

Now, the Havens and Emerson report, which has been described as like the Bible-- This report-- True, Havens and Emerson is a well-respected civil engineering company. Glen Adplanalp I have known of for over 50 years -- a well-respected sanitary engineer. But, when they were asked for this report, they had no previous experience in that. Mr. Adplanalp was brought out of retirement to take care of this. He has said that he had no previous experience. So, what did he do? He looked around for a report in another state, and he found Connecticut. He used that. Later, during the hearing, it was said, "Well, like, it was similar." The only thing similar about Connecticut and this watershed here, as I see it, is that both states are on the East Coast.

Another point about this report. It was asked for in February, submitted in June. This does not seem like the kind of an investigation that should be carried out on something as important to this area as water quality, particularly when the participants had no previous experience. I think had we had a chance to speak later in that hearing, the experts presented by the Hackensack Water Company would have been ripped to ribbons. I sat there writhing over the things I was hearing presented, with no chance to respond.

I asked the people from the Board of Public Utilities tonight if they wouldn't stay until the end of this. I think they ought to observe for themselves how we feel about that investigation -- that hearing. It was just a very biased hearing. There was no opportunity for the proper things to come out.

Thank you. (applause)

ASSEMBLYMAN SCHUBER: Thank you. Obviously, we wanted to hold this hearing in the evening to give as many people as possible a chance to testify on this issue, recognizing the importance of it to the area, the concerns of the citizens, and the numerous pieces of correspondence and phone calls we have all received on this issue. I appreciate that you didn't get the opportunity down there, but we wanted to make sure that you had it here. Your comments have been heard, and action will be taken with regard to that. In the first instance, the legislation, we hope, would -- again, as we indicated in the prior parts of this hearing -- we hope would be within a position to be passed within the next 14 days.

We appreciate your coming down and waiting so late to get a chance to testify. I am glad we could give you the opportunity.

MR. HAGUE: I was speaking to you, but I was also speaking to the Board of Public Utilities.

ASSEMBLYMAN SCHUBER: I appreciate that.

MR. HAGUE: I would like to send a transcript of this to them.

ASSEMBLYMAN SCHUBER: I think someone is still here from the Board. (affirmative response from audience) Yes, someone is still here.

MR. HAGUE: Is someone still here?

ASSEMBLYMAN SCHUBER: Yes.

MR. HAGUE: I did not recognize, until it was all over, what had happened.

ASSEMBLYMAN SCHUBER: We will make sure that they get a copy of the transcript anyway. One of the key things, obviously, Bob, of our concern was-- What we are concerned about is that the BPU delay their decision on this matter until this legislation comes into being. That is a key thing to us. If anything comes out of the hearing tonight, at least we got the assurance from Mr. Zarillo that he would convey that thought to the Commissioners themselves. We are hoping that as a result of that there will be some type of a waiting period until this can take place.

MR. HAGUE: I think there is reason to question the validity of that hearing.

ASSEMBLYMAN SCHUBER: Well, I appreciate that; I understand that.

MR. HAGUE: I point that right at water quality.

ASSEMBLYMAN SCHUBER: Yeah. Well, I understand that.

MR. HAGUE: All of these other things just hide the thing that is going to stop this. Of their own statements-- That is the only thing they can stop it on -- water quality.

ASSEMBLYMAN SCHUBER: Right. And I am concerned about the procedures that are utilized with regard to making those judgments also. Thanks, Mr. Hague; thank you.

Let me see here. I have Peggy Blumenthal, of Haworth.  
P E G G Y B L U M E N T H A L: Assemblyman Schubert and Committee people: I am Peggy Blumenthal of Haworth. Everybody thinks that somebody is watching out for them. On the watershed issue, I saw firsthand that there are no powers that be in the checks and balances control through. I read for myself the Havens and Emerson report. In this very report, paid for by the Hackensack Water Company, it says: "This land transfer should not be based solely on this report." I thought the BPU would pick up on that and demand an in-depth, non-biased report by the State. That never came to pass. Then the Public Advocate chose to ignore health and environmental

concerns, and based this transfer solely on how much money we, the ratepayers, would receive, even though the lands to be transferred are golf courses, whose economic benefits go directly to the ratepayers, as it is stated in Havens and Emerson.

Then I thought, well, the evidentiary committee hearings at the BPU, that they were going to hold in Newark, would be where these and other concerns would be voiced. I decided to see for myself how this grave and important decision would be made. So I, along with Mayor Hague and others, went to Newark and sat in the BPU chambers, along with a lot of other people, and listened to very long hours and days of testimony. To my utter surprise, there was no testimony against the transfer.

Now, people may say, "Well, it is a sound idea then. There is nothing against it." But after being there, I say it was a sham and it was a kangaroo court. Not one expert chose to speak against the transfer for the people, because the only experts there were five experts paid to be there by the Hackensack Water Company. They all work for the Water Company, or were brought in by the Water Company to testify for the transfer.

Now, I am not a genius, but I don't think the experts are going to say, "Gee, I think this is a really bad decision. I have a problem with this transfer." Where was DEP? They chose not to be there. Isn't this of environmental concern? At a meeting in Trenton in September -- which I went to -- DEP said that there would be a recommendation on buffer zones done by Cook College in December, but at the time there were no recommendations. Where was the Public Advocate? He chose to count the ratepayers' money and spend his time deciding whether we should get a rebate check or a credit, instead of bringing up water quality, which is important to the people.

Interesting points were brought up, even by the Hackensack Water Company's paid experts. The engineer from Havens and Emerson, Mr. Adplanalp, while testifying, when asked by Mrs. Goldblatt, "So, until the 1983 Havens and Emerson report, you hadn't done work regarding adequate buffers?" replied, "Yes, we have never undertaken that specific undertaking. To us, this was quite unique." No one questioned the fact that this was their first report on adequate buffer zones. Mr. Adplanalp also said, "Open space is better for water quality," and that, "algae growth would increase treatment costs."

I spoke to BPU Commissioner Guido after the first hearing, and asked if he could wait until these bills by Assemblyman Schuber and Senator Contillo were passed, before making a hasty decision that would have severe ramifications on the people. Commissioner Guido answered me, "First they want the transfer; now they don't. We can't wait. Look, I'm from Paramus, and we are already paved over. Now it is your turn."

I don't want a man -- an appointed official, not an elected official -- with this attitude deciding on the quality of my drinking water. Senator Contillo, Assemblyman Schuber, your legislation is a light at the end of a tunnel. It is the only light we have. I appreciate the time, effort, and dedication you have put in, for you are the only ones representing the people on this issue with your bills, and I thank you very much for that. (applause)

ASSEMBLYMAN SCHUBER: Thank you very much. We appreciate your being here tonight. Thank you so much.

For the record, I would indicate that we are in receipt of a letter that was hand-delivered to us by Doris and Henry Gripenburg, 34 Terrace Street, Haworth, who, I think, have also communicated with my office, which is a letter directed to the BPU. It is in opposition to the transfer, and it will become part of the record. All right, Mr. Gripenburg?

H E N R Y G R I P E N B U R G: (speaking from audience) Yes.

ASSEMBLYMAN SCHUBER: Okay, fine, thank you so much.

Next on my list I have Harlan Bliss, of Haworth.

H A R L A N B L I S S: Thank you, Mr. Chairman. A couple of brief comments. One, I did some calculations. The 66 acres in Haworth, of the total of 287 acres, represents 23% of the total land. That 66 acres is all zoned residential; most of it one acre residential, some of it a third acre residential. Land in Haworth, an acre, is going for anywhere from \$250,000 to \$400,000. If we calculate that out, the Haworth portion is then \$16 million to \$26 million, at the current zoning.

I really have to question the validity of the appraisals that were made. I have to ask, did the appraisers look at comp prices, etc., because they are readily available? Some of the land that is now for sale -- five acres at \$2 million -- is within a half a mile of this property very similar to it.

This is an economic situation. The loss of this open area, without question, will severely damage the value of anyone's property in this area. The impact is tremendous.

I support the bill before Senator Contillo's committee. I am pleased to see that it does have bipartisan support.

I have had occasion recently to visit several houses in Haworth and, without exception, everybody who is a resident of this area is very deeply concerned about this issue. Everybody feels total frustration, reading the various things in the newspapers. Apparently the Water Company has a single-minded approach. We all agree on what should be done, but we, as citizens, are concerned that we don't have the proper leadership to get it done. There has to be a way. I think we have to look to our legislators to find the way. We are right behind you.

Thank you. (applause)

ASSEMBLYMAN SCHUBER: Thank you, Mr. Bliss. John Ryan, Councilman of Haworth? There he is.

C O U N C I L M A N J O H N R Y A N: Good evening. I promised the Committee aide that I would be very quick, and I will be very quick.

Obviously, this is a very important issue. I don't want to rehash anything that has been spoken about this evening, but there is one thing that we all feel on the local level; that is, we are absolutely powerless in this particular controversy to do anything about it. This is a State issue. This is an issue for our Assemblymen; this is an issue for our State Senators. This is something that you control. If you cannot get Mr. Hardwick and other members of the Assembly behind this bill, it will have a devastating impact on this particular area.

I can guarantee you only one thing: If you do not get together, and you do not push this bill through and delay the BPU and have it studied, there will be a lot of fresh faces in Trenton the next election.

Thank you very much. (applause)

ASSEMBLYMAN SCHUBER: I would indicate for Mr. Ryan's benefit, too, that this bill came out of Appropriations, bipartisanly, with one abstention. The one abstention was a Democrat from Hudson County. (laughter) I understand that the members of our caucus are in support of the bill, and hopefully it will be posted on the twenty-ninth.

With that, I thank everyone for coming tonight. I appreciate it very much.

J U L I A L A M B: (speaking from audience) Mr. Chairman, may I make an announcement. I failed to register.

ASSEMBLYMAN SCHUBER: Sure, that's okay. Please just tell us who you are.

MS. LAMB: I am Julia Lamb, President of the Palisades Preservation Coalition, a coalition of about 15 nationwide organizations, as well as regional ones. I am also on a seven-member legislative mandate council called the Citizens Advisory Council of the Palisades, which is supposed to be advising and helping and working as a liaison between the citizens and the Palisades Interstate Park Commission.

The reason I bring this up is, they are having a meeting on Monday afternoon at four o'clock at Bear Mountain, with a presentation by the Regional Plan Association, challenging them to change the legislation in their jurisdiction to take over urban parks in Hudson County on the Palisades from the George Washington Bridge south to Jersey City. They have been absolutely turning their backs on the Palisades' western slopes and the watershed in the Norwood and the Boy Scout camp -- their own holdings -- and especially the Hackensack Water Company guardianship, which is their trusteeship.

I am a stockholder. I have been to the various annual meetings, at which, understandably, they have emphasized over the last years that their sole interest is money. They are completely oblivious of the fact that my family have been stockholders -- in fact, one of them has been the treasurer of the Company -- ever since it was founded, or thereabouts. So, I am very interested in the fact that the people we turned to and who we assumed were our trustees and guardians of, not only water, but the whole area they service, which they boasted about-- Ever since they have been pumping from another watershed, which now is threatened with ammonia, and so forth, they have been very flip about using the water.

On the other hand, about several years ago, when I went to testify in Parsippany about the water quality plan of New Jersey, I was told by Major Whipple to, "Get off my back and my coattails. Don't come in here with your open space

problems in the northern part of Bergen County. You've got more water to waste than we know anything about in the rest of New Jersey." I wonder if the rest of New Jersey realizes the density of the population, the density of the number of people who are going to use the water, and misuse the water -- use the water which will go into the sewer, which will threaten the water quality of the land that was always protected by the Water Company?

Being a member from Englewood on the Northern Valley Planning Association years ago, the Water Company representatives used to be taunted and teased, "When are you going to develop your land? Why are you holding onto it? It is all open land. It should be developed. You're wasting it," and so forth. So it is understandable that there is a feeling that land is worth money. Land is priceless real estate. It is beyond the value that anybody can put a dollar sign to. If it isn't balanced with the urbanization of our northern county, we will be like Fort Lee and the cities south of there on the Palisades. We won't have anything that we can call a balanced community.

I think it is very sad that the Palisades Interstate Park, as the-- It looks as though they were the guardians of open space, but I ask you Assembly and Senate people if there is any commissioner in New Jersey-- They are appointed by the Governors of New York and New Jersey -- five in each state -- to oversee and plan and manage the Palisades Interstate Park in both states jointly. But the New Jersey ones are builders, developers, and construction people, and they haven't added an inch, as far as I can see, of forest and open space on the Palisades. So they might very well be our partners in all of this to take it under advisement, rather than go into an area where they have no expertise, no management, no training. I don't think New York State would even allow them to talk about it.

New York State has expanded to Minnewaska. They are expanding way beyond the Hudson -- way west of the Hudson River, to that area as open space, and this State is paying for it. New Jersey is crying for open space. The head of the State Planning Commission lives in my city, and he is advocating nine-story buildings and things that, in this watershed, are not very feasible.

So, I think it needs a lot more alliance. I thank you very much, Assemblyman Schuber, and all of the SWAN group, for forming this organization and getting us all together. This is the most viable, potent, active group that I have ever worked with, and I think I've got 40 years of conservation work. Some of you know me quite well.

I am available, and I am going Monday. I would be glad to take a statement from the Mayor of Oradell, or from any of you, asking the Palisades Interstate Park to please come into this and work on it, particularly the New York Commissioners, because some of them are great conservationists -- the Harrimans and Larry Rockefeller, who is the President of the organization, and so forth. They have the Natural Resources Defense Council. They could get their expertise in to give us an overall balanced opinion. Perhaps the Regional Plan Association would address itself to the very, very threatening problems that are right here in our midst.

I was very glad to be here. Thank you for allowing me to speak at this late hour. (applause)

ASSEMBLYMAN SCHUBER: Thank you very much.

I would just indicate, as this hearing concludes, that the issue that was before us tonight is one of paramount importance. We who have either moved to Bergen County, or who grew up here, all have some view of what we like about Bergen County. There are a number of different things which go into our view of what makes Bergen County unique to us. To some, it is the schools; to some it is its accessibility to work; to

some maybe it is our road system. But to most -- I think all of us -- I would have to say it has to do with our parks and the openness it had during the course of time. There is no doubt in our minds that that is rapidly going by the boards. It really comes down to an issue that we would probably call in the '80s, "the quality of life." It is an issue that does not lend itself easily to dollars. It is something that is very intangible, but it is something where we all know what it is.

There are a lot of people out there who would like to take it away for their own purposes and their own reasons. It becomes important and it becomes a matter of high public policy, probably of utmost public priority, that those in government, both on the State level and on the local level, and those who are citizens, ban together for the purpose of preserving what we have. If we don't, it is not going to be there any more.

As I said at the beginning of this hearing -- and it is a phrase I have used quite often -- there are some of us who really remember when Tices Farm was a farm. That, I would hate to say, is what Bergen County is going to be. The statistics are alarming, and I would repeat them. Two years ago, we had more than 12% of our land undeveloped. In only two years, that is down to six point some odd percent. It is a tragic, tragic figure. That is 6% more that we will never get back. That which is there now-- You know, we must draw the line. Not everybody is going to be happy about that. This legislation that is going through both houses now and is imminent for passage had to face a lot of opposition. There were labor unions that didn't like it. There were builders that didn't like it. DEP was not wildly enthusiastic in the beginning, quite frankly. Obviously, the Water Company didn't like it, and other utility companies didn't like it. But, it has met the hurdles and it is now imminent. That has only come about because of the efforts of all of the people working together for that purpose.

We appreciate all of you coming here tonight. We thank you. Our Committee wanted to give everyone the opportunity, at a reasonable hour, to speak. I am sorry it grew so late, but I think we took a lot of interesting testimony tonight on various aspects on this, which will help us to go beyond the scope for future legislation in this area than the particular bills that are under consideration at the present time.

Again, I appreciate everyone being with us. We appreciate the staff. Mayor Hague, again I would indicate to you that I appreciate, very sincerely, you and all of the folks who helped to set up here tonight. We appreciate all of your work, and your hospitality.

Assemblyman Rooney?

ASSEMBLYMAN ROONEY: Yes, Mr. Chairman, I want to thank you for the opportunity to come here and be heard tonight. I am not a regular member of the Committee, but it is an issue that is important to me because it affects my district also.

Some of the things, I think, that have been brought out tonight are very important. I think the message should go back to the BPU that what we have heard tonight indicates that they are really not prepared to issue this acceptance by the Water Company.

One of the things that I have a problem with is that the hearings were not conducted in really good faith, and not even in the area that was concerned. I believe this is the format for issues like that -- to come to the area and have a hearing here. That was not done. People had to go to Newark. It also happened to coincide with Assembly days and Senate sessions, when we, as legislators, could not represent our constituencies. That is a major problem.

The other problem I see is that some of the environmental aspects of this have never been considered. When

you talk about a report -- and I didn't realize that the Havens and Emerson report was five years old-- I heard that tonight that it was five years old. I know Havens and Emerson, and I know they are not a water management company. I know them through the trade as a sewage treatment company. So it is a totally different avenue there.

We are looking at some legislation that should come out of this Committee. The State should ban insider trading, and should have what is known as "arm's length transactions" between parties. An arm's length transaction means that you can't sell to yourself for the purposes of hiding prices. That should be one of the things that should come out of here. We should mandate the municipal, county, and State right of first refusal. This is something that is extremely important -- that we have the right to purchase that property first, before it goes out to development.

We are not trying to stifle development. But give us the opportunity to preserve it. If we feel truly that it should be preserved, then we should be bearing the cost to do it and have that right. The environmental impact study-- This application should have been brought to BPU with all of the application details as to what the proposed use by the Water Company would be for the property. DEP should, at that time, have decided whether it was feasible or non-feasible to have that use in a watershed area. Those things are very obvious. As far as I am concerned, these are the things we should look at in the future. We've got to get this bill passed.

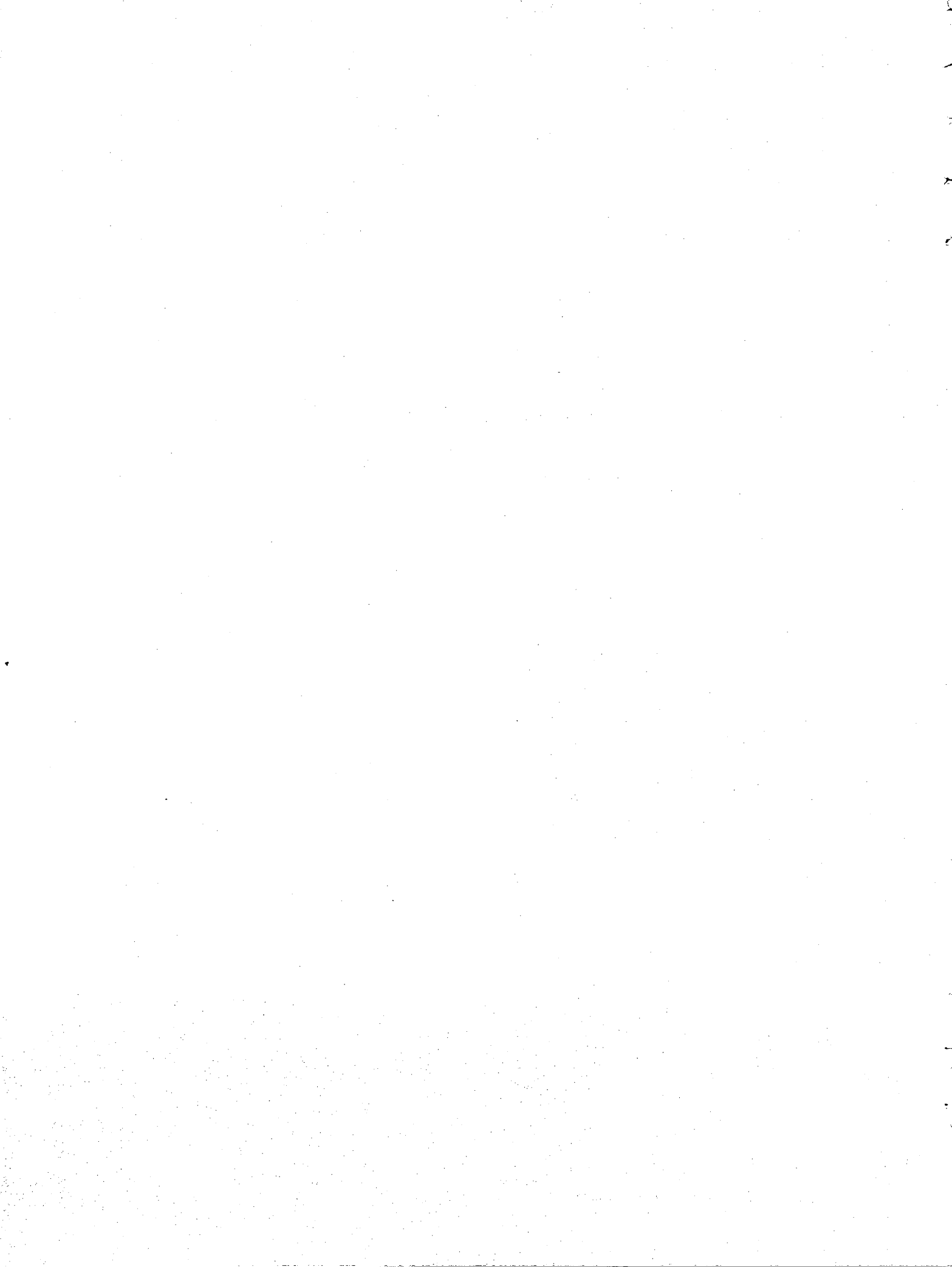
Assemblyman Schuber, I would be very happy -- if I am not already a co-sponsor of the bill -- to be added as a co-sponsor, as I believe the other members of the Committee who are not would like to be added.

I thank you for the opportunity, and I thank you for the fine work you are doing on this Committee. (applause)

ASSEMBLYMAN SCHUBER: Thank you again, ladies and gentlemen. This hearing is concluded.

**(HEARING CONCLUDED)**

**APPENDIX**



STATEMENT  
BY  
ASSEMBLYMAN WILLIAM SCHUBER AND PATRICK ROMA  
BEFORE  
THE NEW JERSEY BOARD OF PUBLIC UTILITIES  
ON  
HACKENSACK WATER COMPANY'S LAND TRANSFER PROPOSAL  
JUNE 2, 1988

DELIVERY PRESENTED BY  
MICHAEL RODAK  
LEGISLATIVE ASSISTANT

I am appearing here today on behalf of Assemblyman William Schuber and Assemblyman Pat Roma. I wish to request that the Board of Public Utilities disapprove Hackensack Water Company's proposal to sell 287 acres of prime watershed property to its development subsidiary, Rivervale Realty.

If this sale is approved, Rivervale Realty will be free to develop this land, a development that the citizens flat out and convincingly oppose. If this land is developed, Bergen County will lose almost 300 acres of open space in an already highly developed region. This land is also necessary to protect the water quality of the Oradell reservoir. In exchange for these losses, Rivervale Realty and its investors will prosper, but the residents of this region will receive increased traffic, pollution, and degradation of the water supply. All of these will lead to an overall decline in the environmental quality of the land.

As with any controversial issue concerning a regulated public utility, we believe that Hackensack Water Company's land transfer proposal requires the Board to carefully balance and analyze two very different interests. On the one hand, the Board must insure that Hackensack Water Company, in exchange for enjoying a State granted and enforced monopoly, provides high quality service and does not otherwise abuse the public trust. On the other hand, the Board must assure that Hackensack Water Company is kept financially sound enough to provide high quality service and attract investment capital at competitive rates.

When we look at the proposed land transfer from each side we conclude that it is not necessary to assure the continued financial soundness of the Hackensack Water Company, and it is not required to enable the company to continue to provide high quality service. We are also unable to see how this sale would provide a meaningful economic benefit to ratepayers. The Public Advocate and Hackensack Water Company yesterday announced that they had agreed that if the land is sold each ratepayer would receive a credit of five dollars on each quarterly water bill for two years, or about forty dollars.

While we appreciate that everyone welcomes an annual twenty dollar reduction in their water bills, we don't think this nominal short term gain should be exchanged for a permanent loss, an environmental and natural resource loss which cannot be calculated on the market value of the land.

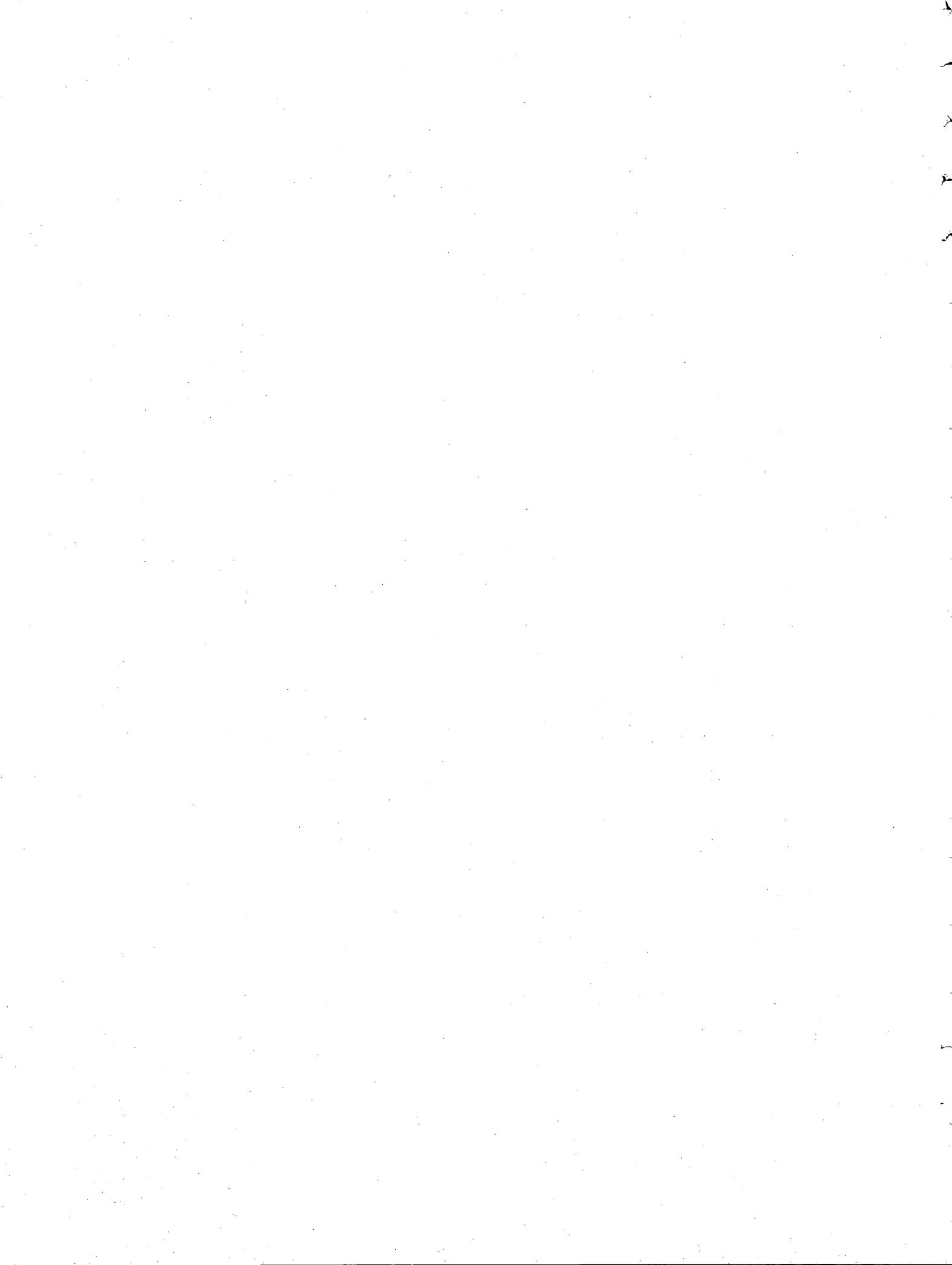
Although we feel that economic aspects of this proposal are not in the best interest of the public, we ask the board to consider if a public utility must simply provide safe and adequate service to the residents of its service area or whether it must consider the consequences of its actions to the future prosperity of the region. We all are aware that although the Hackensack Water Company is a publicly regulated utility, it is investor-owned and therefore the two hundred and eighty seven acres which are the subject of this sale are technically owned by the companys investors, not its ratepayers. However the ownership

of the land is not the question here but the purpose to which the ownership is dedicated is. The behavior of a public utility must be held to a higher standard than would otherwise apply to firms competing in the open market. Hackensack Water Company should not be in the same business as the I.B.M.'s and the General Motors' of America, but rather in the business to serve the public interest as a public utility. If the board asks itself if Hackensack Water Company's land transfer is in the best interest of the people it would surely see that it is not.

In determining if this land proposal is in the public interest, we urge the Board to note that two of the major environmental problems now confronting the state are the dwindling amount of natural resources and the contamination of drinking water. Hackensack Water Company's proposal will exacerbate both of these problems. Members of the board I beg you to ask yourselves why the state should allow watershed property to be developed, when at the same time it is trying to find funds to purchase the limited amount of reasonably priced undeveloped land. And why, in the light of the increasing water contamination problems which are being faced in many regions of this state, should the state allow action which would jeopardize the quality of our water supply? Certainly none of the water quality studies done ten years ago predicted the water contamination problems we presently face. So why should we risk our future water supplies so that Hackensack Water Company, its development subsidiary Rivervale Realty, and its parent company United Water Resources can pursue their diversification strategy?

Recently our office has received several calls in regard to this proposed development. The development that the citizens of Haworth and Oradell which are in our district and other towns in Bergen County. The citizens, the people all ask the same question in which we ask: How will local roads be able to handle increased development in an already saturated area? How will the citizens benefit from a decrease in open area not to mention the loss of recreation that is provided by three of the finest golf courses in Bergen County.

Simply, we have looked at this proposal in detail and have listened to our constituents views on this mater and hence we have concluded that this proposal is a bad one, bad for the residents, bad for the ratepayers, and bad for all the people of New Jersey. We therefore urge the Board of Public Utilities to resoundingly defeat this proposal. Thank You.





# NEWS

Assemblyman  
Pat Schuber

71 Park Street  
Ridgefield Park, NJ 07660  
(201) 440-1165  
(201) 440-1505



From Assemblyman Pat Schuber

FOR IMMEDIATE RELEASE

## SCHUBER OPPOSES HACKENSACK WATER COMPANY'S LAND TRANSFER

In an open statement to the Board of Public Utilities on June 2, 1988, Assemblyman Schuber announced his opposition to the Hackensack Water Company's Land Transfer.

Assemblyman Schuber said "If this proposal is approved, it will effect the quality of our water supply environment, and the general quality of life in the Pascack Valley Region." He further added "If this sale is approved, Rivervale Realty will be free to develop this land, a development that the citizens flat out and convincingly oppose."

Mr. Schuber later called upon the board to insure that Hackensack Water Company in exchange for enjoying a State granted and enforced monopoly, provides high quality service and does not otherwise abuse the public trust. "I believe the behavior of a Public Utility must be held to a higher standard than would

(MORE)

6X

SCHUBER-- two

otherwise apply to firms competing in the open market...Hackensack Water Company should not be in the same business as the I.B.M.'s and the General Motors of America, but rather in the business to serve the public interest as a Public Utility."

Assemblyman Schuber than informed the board that the state is trying to find funds to purchase the limited amount of reasonably priced undeveloped lands.

In regard to the water supply and quality, Mr. Schuber reminded the board that no water quality study done ten years ago had the foresight into the contamination problems we face today. "Why should we jeopardize the quality of our future water supply for the benefit of the investors of the Hackensack Water Company."

In conclusion, Schuber warned of the potential problems that the region will face. "The roads, sewer systems and the traffic caused by any new development will be a threat to the communities" said Schuber. Finally Schuber added "We have looked at this proposal in detail and have listened to our constituents views on this matter and I have concluded that this proposal is a bad one, bad for the residents, bad for the ratepayers, and bad for all the people of New Jersey."



THE ASSEMBLY  
STATE OF NEW JERSEY  
TRENTON

BERGEN COUNTY DELEGATION LEADER

WILLIAM P. SCHUBER

ASSEMBLYMAN 38TH DISTRICT

~~71 PARK STREET~~ 219 MAIN STREET

RIDGEFIELD PARK, NJ 07890

201-440-1168 OR 440-1808 (DO)

COMMITTEES

CHAIRMAN

INDEPENDENT & REGIONAL AUTHORITIES

DIVISION OF MOTOR VEHICLES

MEMBER, JUDICIARY

May 6, 1988

Honorable Alfred Slocum  
Public Advocate-State of New Jersey

Dear Mr. Slocum;

On May 31, 1988, it was announced that the Office of the Public Advocate and the Hackensack Water Company reached an accord on the rebate to the ratepayers of the company if the proposed land transfer takes place.

Although I appreciate the attempt by the Public Advocates office to reach an economic compromise with the company, I feel it is short-sighted for the following reasons...

1. The agreement is based on present land values and not the land values when the sale and purchase of property takes place in the future.
2. The Public Advocate's Office also neglected the fact that this land should be available for public bidding instead of an inhouse sale from Hackensack Water Company to Rivervale Reality.
3. The compromise I feel also neglected the most major fact: that of the environment and the impact on the future quality of life. This is the most important issue for the citizens will be deprived of water quality, and suffer from increased traffic.
4. Lastly, should a utility be able to establish "dummy" corporations for the benefit of their investors while forgetting the sole purpose of their establishment which is that of serving the public.

If you can possibly look into these matters I would appreciate it. But undoubtedly I feel that the economic concerns far outweigh the other ones which are outlined in my enclosed speech.

With hope you will review your decision in favor of the people-  
I thank you for your help.

Sincerely,

William P. Schuber  
District 38 Assemblyman

8X

New Jersey State Library

# Watershed development opposed

By Scott Friedman

Staff Writer

**HACKENSACK** — Bergen County — caught in a rush of development — needs to preserve, not develop its precious open space, residents and elected officials said in protests of Hackensack Water Co.'s plan to develop 290 acres of watershed.

Opposition to the sale of the undeveloped land to the water company's sister real estate company was the resounding message at a public hearing held last week by the state Board of Public Utilities. The BPU must decide whether to allow the water supplier to transfer three tracts of land to the Rivervale Realty Co., which plans to construct offices and housing on the site.

## Utility board to decide fate of Hackensack Water's land

Hackensack Water and Rivervale both are subsidiaries of United Water Resources of Harrington Park.

The state Office of the Public Advocate this week recommended to the BPU terms by which the transfer would take place and the amount of money the company's 170,000 ratepayers would receive from the sale.

The water company serves 750,000 residents in 60 New Jersey communities, including Carlstadt, East Rutherford, Fair Lawn, Hasbrouck Heights, Lodi, Ridgefield, Rutherford, Saddle

Brook, Teterboro, Wallington and Wood-Ridge.

Statements opposing the transfer were filed at the hearing Thursday by state Assemblymen William Schuber and Patrick Roma, both R-38th-Bergen; Sen. Paul Contillo, D-38th-Bergen; Bergen County freeholders; County Executive William McDowell; and other local officials, citizens' groups and homeowners.

All agreed that allowing the land to fall into the hands of a developer would jeopardize the purity of the water in the Oradell

Reservoir, which all three tracts border, and reduce the amount of open space in the county.

"In exchange for these losses, Rivervale Realty and its investors will prosper, but the residents of this region will receive increased traffic, pollution and degradation of the water supply," said Michael Rodak, an aide to Schuber. "Simply, we have looked at this proposal in detail ... and we have concluded that this proposal is a bad one, bad for the residents, bad for the ratepayers and bad for all the people of New Jersey."

The settlement would give \$6.1 million to the utility's customers.

The customers would receive \$5 credits on their utility bills four times a year for two years.

**T**HE LATEST dispute over the development of watershed lands is taking place in Bergen County, where a local environmental group opposes plans for construction adjacent to the Oradell Reservoir and other water sup-

plies. The Rivervale Realty Company plans to construct 200 town houses and three office buildings on a portion of a 160-acre tract in Emerson that it purchased three years ago. The transaction was part of a 700-acre transfer from the Hackensack Water Company, which provides water to most of Bergen County.

Both companies are subsidiaries of the Hudson Water Resources Inc. of Harrison Park.

The companies have requested approval from the state's Board of Public Utilities for another 290-acre transfer.

Some area residents fear that the companies' development plans will destroy much of what little unspoiled scenery remains in Bergen County.

The area's very congested as it is, said Lawrence Kuttner, a Creskill photographer and member of the Watershed Action Network. "There's lots of traffic, and there's no room to improve the roads."

Besides the loss of open space, Mr. Kuttner and others fear that too much development around the reservoir, Lake Tappan and Woodcliff Lake will eventually threaten the county's water supply.

Fred Laurino, president of Rivervale Realty, said that the company would not permit any development that might jeopardize the water sup-

ply. On the advice of an outside consultant, the Emerson development, he said, will be built on the 60 acres farthest from the reservoir. There is a 250-foot buffer around the reservoir that the water company allows.

The Emerson Planning Board has already approved the project, but the Army Corps of Engineers must still view it because there are wetlands at the site.

None of the wetlands will be filled, Mr. Laurino said.

Helen C. Fenske, assistant commissioner for natural resources in the state's Department of Environmental Protection, expressed concern about development plans on lands owned by several North Jersey water-supply companies.

She said that New Jersey should consider adopting a Massachusetts law that bars the development of lands acquired with public subsidies, including water-usage fees, without state approval.

David Moore, executive director of the New Jersey Conservation Foundation of Morristown, said that some restrictions should be placed on the sale of lands purchased with money from ratepayers. The foundation has charged that consumers received only about 5 percent of the market value of the lands transferred in 1985.



The New York Times/Ray Stub

A jogger running alongside the Oradell Reservoir in Emerson. A developer proposes to construct 200 town houses and office buildings on a tract of land adjacent to the reservoir.

planned up on the New Jersey coast last summer.

"When we had the hiatus, we thought we were out of the woods, but we were wrong," Michael Tillman, chief of the Division of Conservation Science for the National Marine Fisheries Service, said at a symposium held recently at Monmouth College.

The deaths followed the migratory pattern of most dolphins, according to Gerald Scott, a biologist at the Southeast Fisheries Center of the Fisheries Service.

Scientists are still puzzled by the deaths, and are hampered by a lack of knowledge about healthy dolphins to compare them to the dead specimens, Dr. Tillman said.

The lesions were caused by a herpes-like virus, according to William Medway, a professor of veterinary medicine at the University of Pennsylvania. He examined more than a dozen of the dolphins that washed ashore in New Jersey. **10X**

The virus did not kill the dolphins.

phins.

Dr. Medway offered some slight reassurance to those members of the audience who asked whether an ocean that killed dolphins was safe for humans.

"I don't think that people should stay out of the water because the dolphins are dying of a dolphin disease," he said. "I think there are other reasons to stay out of the water."

## Smog and Monoxide

Sometime in the next month, the Federal Environmental Protection Agency will order New Jersey to redraft its State Implementation Plan for reducing the unhealthy levels of smog and carbon monoxide in the state.

Like many other states, New Jersey has been missing Federal deadlines for clean air for more than a decade, and the E.P.A. Regional Administrator, Christopher J. Daggett, is urging the state's leaders to recog-

mass transit and other forms of transportation. Higher tolls, pools and reduced insurance premiums for people who use cars were among the ideas being discussed, Mr. Daggett said.

The state also may have to consider a change in automobile fuels, he said.

Denver requires cars to run on a mixture of gasoline and alcohol to reduce pollution emissions there.

## Calendar

**Tomorrow** — The state's Water Council sponsors a seminar on water-quality issues. Berkeley Hotel, 1401 Ocean Avenue, Jersey City, 8:30 A.M.

**Tuesday** — The state's Noise Control Council meets at the Education Center, Cook College, 200 Rutherford Lane, New Brunswick, 8 A.M.

**Wednesday** — The National Lands Policy Forum holds its regular public meeting. Summit Hotel

# Bergen gives priority to saving suburbia

By MICHAEL ROZANSKY

Bergen County officials have targeted three areas—improving transportation, guiding redevelopment and preserving dwindling open space—as key problems the county must wrestle with in the coming decades.

In a 28-page report released yesterday, officials cited the intensifying need for regional planning to preserve a suburban way of life and prevent the county from acquiring a near-urban, overbuilt and congested character.

In the last six years, officials said, development has slashed the amount of privately owned open land in the county in half, to about 9,000 acres.

"Were that trend to continue, we'd have nothing left 10 years from now," said County Executive William D. McDowell. "Our transportation system would probably come to a screeching halt."

McDowell said Bergen County should not "expand and look like anything east of the East River. I wouldn't like to see Queens or Nassau (County) come to Bergen County.

"If we keep Bergen County relatively stable, the way it's been, I think we'll have achieved something," he said.

The plan is being sent to municipal officials in the county's 70 towns in anticipation of a larger planning process that will begin in the fall when the state planning commission releases its draft development plan for the state. Then, towns and counties will begin a process called "cross-acceptance" to reconcile the different plans.

Beth Guididas, a public information officer for the Office of State Planning, said all 21 counties are preparing for the state report, though Bergen's plan appears to be unique in its detail.

Other counties will carve out different areas of concern, she said.

"A more rural county might not have redevelopment on its list. Agriculture might be its primary concern," she said.

Bergen, the state's second most populous county with 836,000 people, has a largely white-collar, middle-class population and is dominated by a service economy, chiefly offices.

But Chester P. Mattson, the county's director of planning and economic

development, said communities must learn that redeveloping a tract as a shiny new office building, for ratables rather than housing, could produce a "quick economic fix" but a "long-term migraine" from transportation problems.

Mattson said the county must learn "how to become a less costly system. Suburbia is very expensive to run. It's easier to build than we ever thought and harder to run than we ever dreamed."

Mattson, who wrote the county report, said suburban planning has been often characterized by its absence, as amateur planning board members struggle to cope with experts hired by developers.

"The planners today are the developers," he said. "Local and county and state planners are outgunned, and this is an opportunity to change that."

The linkage of different types of planning—such as transportation, open space and redevelopment—is "very uncommon," Mattson said, and was last seen in the "imperial planners," like Robert Moses of New York City.

As a model of planning cooperation, Mattson cited a recent public-private effort by Mahwah and Ramsey and several private developers to study whether to ask the state to build a highway interchange from Route 287 onto a local street.

The \$75,000 study showed the interchange would bring more traffic onto already crowded streets, instead of solving a traffic problem, Mattson said.

Bergen County's transportation problems are being played out against an enormous national change in commuting patterns. Suburb-to-suburb commuting now involves more people than suburb to city or city to city, according to "Commuting in America," a study by the ENO Foundation.

Among Bergen County's priorities outlined in its report are an effort called "Bergen's last stand" to save four clusters of open space; transportation plans for the revival of the West Shore rail line and construction of the public-private "Allied Junction," a Secaucus rail-bus transfer station, and ideas to control redevelopment, such as use of design codes to protect a town's character.

# NEW JERSEY RECORD

LIFESTYLE

CHURCH

EDITORIAL/OPINION

B-5

B-6

B-10

THE RECORD ☆

FRIDAY, JUNE 3, 1988

SECTION I

## Bergen asks time to block watershed land sale

By Kathleen O'Brien  
Record Staff Writer

Bergen County officials called the proposed development of Hackensack Water Co. watershed land "a mistake" and asked the state utilities board to give them time to stop it.

William McDowell, the county executive, also urged the Board of Public Utilities to postpone any approval of the development proposal until the state sets environmental standards for the development of the watershed land surrounding reservoirs.

McDowell was just one of a long line of people who complained about the proposal by Hackensack Water Co. to sell off 287 acres of surplus watershed land to Rivervale Realty Co., a subsidiary of United Water Resources, the water firm's holding company. No formal development proposal has been made for the property.

No one spoke in favor of the sale at Thursday's public hearing before the BPU, which has final say over the utility's plan.

Residents of Oradell, Haworth, and

Emerson packed the hearing room to plead with officials to prevent any building on the golf courses that now occupy the property. New houses and office buildings press in on them from all sides, those residents said, making it crucial to keep the reservoir land vacant.

Hackensack Water Co. spokeswoman Martha Green said she disputed the residents' claims that any development would pollute the reservoir water.

"The protection of the water system remains a very affirmative commitment of the company," she said. "There's no

truth to the rumor that we're walking away from that commitment."

Many at the hearing were critical of the plan.

"The only green areas left are cemeteries or golf courses," said Edward Hynes, a former BPU commissioner who also asked that the sale be delayed. "What is the rush?" he asked.

McDowell was not specific on how the county could protect the land from development. But Hynes suggested some form of purchase, using state parklands money or special municipal bonds. The utility would get the market price for its land

but would be unable to make any money from developing it.

Green, the Hackensack Water spokeswoman, said she could not comment on the suggestion until officials could study it.

The 287 acres at issue are now leased by Pascack Brook Golf and Country Club, Haworth Golf and Racquet Club and Emerson Golf and Country Club. They are among a handful of large tracts that the county calls "Bergen's last chance" to protect its open space from development.

See WATERSHED Page B-1

## WATERSHED: Sale

From WATERSHED Page B-1

The water company in 1984 sold 720 acres to the real-estate subsidiary. In that transaction, ratepayers got their share of the proceeds in the form of an \$18 check. The real estate company then set out to build nearly a million square feet of office space and more than 1,000 housing units on the land. The proposal has gotten all local approvals, but the work has not begun.

This time around, ratepayers would receive about \$40 over the next two years under an agreement between the utility and the state public advocate. It pegged the combined value of the land at \$16.5 million, a compromise price between the company's appraisal of \$17.2 million and the BPU's outside appraisal of \$15.8 million. But many who spoke yesterday said they would gladly forgo a one-time payment if that would keep the land vacant. Several said they would even pay the money to the company if that's what it would take to preserve the land.

"I think what we have here far transcends the dollar value of the land," said Charlotte Vandervalk, a freeholder.

A 1983 engineering report commissioned by the utility determined the tracts were no longer needed as watershed land, that is,

land that helps purify water as it runs into the reservoirs. But those at the hearing scoffed at that report, saying it was out-of-date and biased. They urged the BPU to get its own evaluation instead of relying on the utility's report.

BPU Chairwoman Christine Todd Whitman said the board would accept written comments on the sale until June 20. A formal evidentiary hearing before the BPU is scheduled for June 23.

Henry J. Gripenburg  
34 Terrace Street  
Haworth, N. J. 07641

September 18, 1988

B.P.U. (BERGEN PUBLIC UTILITIES)  
2 Gateway Plaza  
Newark, N.J. 07102  
ATTN: CHRISTINE TODD WHITMAN

Dear Christine Todd Whitman,

It is with regret that I'm writing this, a second letter to you and your commission concerning the Hackensack Water Company plans for development of the water shed areas. Recent newspaper articles have stated that in a report, your commission stated the water company should be allowed to proceed with the land development (thru Rivervale Realty Company.)

If I can fully base my opinion on newspaper articles, I find it ludicrous to conclude the sale, when according to the articles, no data was requested from the DEP or Army Corps of Engineers concerning water safety safeguards. The newspapers seem to show that presently there are not any existing guidelines to properly evaluate watershed safety. Leaving the land natural would not increase the danger of additional pollution to the reservoir. Land development would greatly enhance the possibility of future problems of our water supply. It seems at the present time, the only opinion of the development being safe came from studies by the Water Company. How is this single advisor fully safeguarding our water. If they made a mistake, they say we made an error and now will get water from another source. We will pay the tab for future expansion.

Questions which greatly bother me are as follows:

1) While serving on the local recycling committee, we were advised by the state that we could not have a grass clipping site (compost) for town wide residents as we would be operating a toxic dump. Yet development of buildings, parking lots, motor vehicles, sidewalks, bushes, trees and lawns would be allowed to encroach closer to our water supply. Explain.

2) We now see extreme problems with the environment that weren't considered problems just a few years ago. The occurrences of acid rain: sewerage buildup in the oceans: trash disposal: and the latest, radon. With the exception

of radon, control of the environmental problems have been regulated and monitored by control agencies with poor results. So who suffers with these errors?

3) Most residents in the local area depend on bottled water as their food supply. Yet in your letter to me on 6/20/88 although you show concern for water quality, has your committee received any data on what the consumer feels concerning the quality and safety of the present water?

4) What documentation have you reviewed showing the variation in water quality over the past 30 or 40 years. i.e. How has the water source quality changed over the years so as to require better filtration and additional chemicals over the past decades? How effective have these new and additional methods been to the water supplied to the consumer? How has the water source changed over the decades? Not just the past 3 or 5 years. Why have more chemicals been added over the years? Has the water source become more contaminated over recent decades? (Local wells have been closed over recent decades due to pollution from local development.)

5) Why did Hackensack Water Company conceive another company to transfer the land? Are there state statutes prohibiting water companies from selling land for development? Why are they allowed to sell lands that were originally purchased for water protection?

6) Has correspondence to your commission; shown great satisfaction with the water or are most of the residents unhappy with the quality of the water?

7) Ads are placed in many local papers stating a cure to "our tap water being contaminated." I never see them sued for libel!

8) Why does only the Rivervale Realty Company have exclusive rights to purchase the land from Hackensack Water Company? Why is Rivervale Realty buying the land under market, but allowed to sell at market, thus allowing only the stock holders to benefit. The water users get token sums via Hackensack Water Company. This appears to be a legal way to ignore the water utilities customers while enriching the stockholders.

A few years ago, the general public forced the New Coke from replacing the old Coke. Yet, we cannot protect our watershed.

I found a great statement in Lancaster Pa. by the farmers of the richest farmland in the country.

" Land is not inherited from our parents but borrowed from our children."

I wish that simple truth would prevail in the reasoning of the water shed.

Sincerely,

Henry J. Gripenburg

cc: various government officials  
: local newspapers

Doris and Henry Gripenburg  
34 Terrace Street  
Haworth, N.J. 07641

June 6, 1988

B.P.U. (BERGEN PUBLIC UTILITIES)  
2 Gateway Plaza  
Newark, N.J. 07102  
ATTN: CHRISTINE TODD WHITMAN

Dear Christine Todd Whitman,

I wish to express our extreme displeasure concerning the Hackensack Water Co. plans to develop "SURPLUS" watershed land. I can not ever agree that watershed can ever become surplus. There is never enough of a barrier to protect our water supply. Over the years, due to the lack of a larger barrier for water quality safeguard, the quality of our water has deteriorated as to become undrinkable. Our family and most of our friends, drink only bottled water. With all the present chemicals placed in our water to make it "safe?":we feel deep concerns of health when using it as a food item.

Do not feel that we haven't seen the decay of the pleasure of good water. Both my parents and grandparents, moved to Bergen County prior to 1910. My fathers parents had a farm in Dumont and my mothers parents had a farm in Hackensack. My parents moved to Haworth in the late 1930's. I was born in 1940 and lived my entire life in Bergen County. (Haworth less 9 years in Dumont) My wife's parents moved to Bergen County in the late 1930's and mother remains there to date. Both Doris and I grew up as customers of the Hackensack Water Company. We both remember when the water was drinkable; when visitors always commented on how great our water tasted. You could cook with it or totally enjoy drinking it alone or with flavorings. It greatly added to our enjoyment of living in this area.

Today we rely on bottled water for our main water food source. When you step into the shower, various odors from the water greet you. The strength and assortment seem to vary on different days but you are always assured that the water company is doing its job of protecting our water. The scent conforms their work. If our water were so free of contamination because of present watershed safety, why all the heavy chemicals. To me this shows a weakness in the present system and not a strength. We stopped having a fish tank in our house because unless we used only bottled water the fish would die. We tried the various methods recommended by the Hackensack Water Company to treat the water before using in the fish tanks, but there was always death to the fish within hours to a day after using the

treated water. As long as we used bottled water the fish remained alive. This makes me really trust them as experts.

Around 1900, an artesian well was sunk at the north end of Owatonna Street in Haworth. The well along with a storage tank atop of "Tank Hill" was Haworth's water supply until 1925. This is when the Hackensack Water Company took over complete supply to Haworth. The well was 'used' as an enjoyable source of 'spring water' until it was closed due to contamination in the 60's or early 70's. As a child, I spent many enjoyable times stopping for a drink of the great spring water. You would meet many people who would also stop by with a jug to get some water for home. Most were people visiting from the city and we were proud that we didn't have to get jugs of spring water to use at home. After the Haworth well was closed, I've noticed other wells that were enjoyed by many throughout the Northern Valley area; were also being closed. Again it was claimed due to contamination. Here were wells that existed 50 to 80+ years suddenly being closed due to contamination. We were told it was due to all the new construction. This shows how over the years, as the area density increased, so did our local pollution. Again a vivid reason to always try to increase the watershed area.

It should be noted here, the difficulty of local area wells and other supplies, that have become polluted. New Jersey and the rest of the country have suffered water problems due to contamination with greater frequency in recent years. This is an important fact that supports the most protection you can offer a water supply, the greater the purity.

I'm also of the opinion that if the watershed is no longer needed(I feel it is needed) that all the land that was condemned should be returned to the original owners. Then they or their families could build or enjoy the land that was taken away from them. It is interesting that land that was condemned since 1980, is also now considered part of this surplus watershed. How in such a short period of time can the water company reverse its needs, except to gain large profit. It is interesting, the expense and expert testimony the water company used in condemning this land. Could not the present experts be just as wrong as they claim the need to no longer exist. If a few years into the future we find that the land should have remained as a safety barrier; how do we reclaim the built upon land?

With the extreme building density presently occurring in Northern New Jersey, I feel it necessary to protect the water supply every way possible. The closer you get to the water, the greater the risk of contamination. Beside relative location, greater density also increases the risk.

Anyone who says the present sewer system is 100% perfect, is guilty of either ignorance or deception. Our water ways and oceans show great overuse of the present system. Again we are told by experts that we can keep building and our system can handle it. All the evidence again later proves the experts wrong. The only ones who pay for their "errors" are the taxpayers and their families. When the mistakes are fully evident, it is often too late to be corrected and the experts are long forgotten. They never share the problem or take the responsibility. It is always just the taxpayers.

As a customer of the Hackensack Water Company, I feel they should be forced to keep and protect all the watershed property that they can control. This is a small price to pay to assist in keeping our water safe. Actually I wish our water was as good as it was 30 to 40 years ago. I'm tired of getting less of a product and paying more for it.

Doris M. Gripenburg

Henry J. Gripenburg

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Op/Ed

# Development in watershed could affect water quality

Editor, The Record:  
I'm writing to you on behalf of the citizens of Legislative District 38, in particular the citizens of Haworth and Oradell.

Over the last five months, The Record has covered Hackensack Water Co.'s proposal to sell 287 acres of prime watershed property to its sister company, Rivervale Realty.

If this sale is approved by the state Board of Public Utilities, Rivervale Realty will be free to develop this land — a development that many citizens oppose. If this land is developed, Bergen County will lose almost 300 acres of open space in an already highly developed region. This land is also necessary to protect the water quality of the Oradell Reservoir.

In exchange for these losses, Rivervale Realty will prosper, but the residents of this region will receive increased traffic, pollution, and degradation of the water supply. All of these will lead to an overall

decline in the environmental quality of the land.

As with any controversial issue concerning a regulated public utility, we believe that Hackensack Water Co.'s land transfer proposal requires the board to carefully balance two very different interests. On the one hand, the board must ensure that the water company, in exchange for enjoying a state granted and regulated monopoly, provides high quality service and does not otherwise abuse the public trust. On the other hand, the board must assure that the water company is kept financially sound enough to provide high quality service and attract investment capital at competitive rates.

In my view, the proposed development is not necessary to assure the continued financial soundness of the Hackensack Water Co., or to enable the company to continue to provide high quality service. I am also unable to see how this sale would provide a meaningful economic

I have listened to my constituents' views and have concluded that this proposal is bad for residents, bad for ratepayers, and bad for the people of New Jersey.

benefit to ratepayers.

The public advocate and Hackensack Water Co. yesterday announced that they had agreed that if the land is sold each ratepayer would receive a credit of \$5 on each quarterly water bill for two years, or about \$40.

While I can appreciate that everyone welcomes an annual \$20 reduction in his water bills, I don't think this nominal short-term gain should be exchanged for a permanent environmental and natural resource loss that cannot be measured by the market value of the land.

Although I feel that economic

aspects of this proposal are not in the best interest of the public, I ask the board to consider if a public utility must simply provide safe and adequate service to the residents of its service area or whether it must consider the consequences of its actions to the future prosperity of the region.

I am aware that although the Hackensack Water Co. is a publicly regulated utility, it is investor-owned and the 287 acres that are the subject of this sale are technically owned by the company's investors, not its ratepayers. However, the ownership of the land is not the question here; the purpose to

which the ownership is dedicated is.

A public utility must be held to a higher standard than firms competing in the open market must meet. Hackensack Water Co. should not be in the same business as the IBMs and General Motors of America, but rather in the business to serve the public interest as a public utility. If the board asks itself if Hackensack Water Co.'s land transfer is in the best interest of the people, it would surely see that it is not.

In determining if this land proposal is in the public interest, I urge the board to note that two of the major environmental problems now confronting the state are the dwindling amount of natural resources and the contamination of drinking water. Hackensack Water Co.'s proposal will exacerbate both of these problems.

Why should the state allow watershed property to be developed, when at the same time it is trying

to find funds to purchase the limited amount of reasonably priced undeveloped land that remains? And why, in the light of the increasing water contamination problems in many regions of this state, should the state allow action which would jeopardize the quality of our water supply? Certainly none of the water quality studies done 10 years ago predicted the water contamination problems we presently face. Simply, I have looked at this proposal in detail and have listened to my constituents' views on this matter and have concluded that this proposal is a bad one, bad for the residents, bad for the ratepayers, and bad for all the people of New Jersey. I therefore urge the Board of Public Utilities to resoundingly defeat it.

WILLIAM P. SCHUBER  
Ridgefield Park

The writer is an assemblyman from District 38.

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