

COMMITTEE MEETING

before

SENATE JUDICIARY COMMITTEE

"Nomination Interview of Christopher J. Daggett to be  
the Commissioner of the New Jersey Department of  
Environmental Protection"

January 26, 1989  
Room 424  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Edward T. O'Connor, Jr., Chairman  
Senator Raymond J. Zane, Vice Chairman  
Senator Gabriel M. Ambrosio  
Senator Richard J. Codey  
Senator John A. Lynch  
Senator Carmen A. Orechio  
Senator Richard Van Wagner  
Senator Donald T. DiFrancesco  
Senator John H. Dorsey  
Senator William L. Gormley  
Senator Lee B. Laskin

ALSO PRESENT:

John J. Tumulty  
Office of Legislative Services  
Aide, Senate Judiciary Committee

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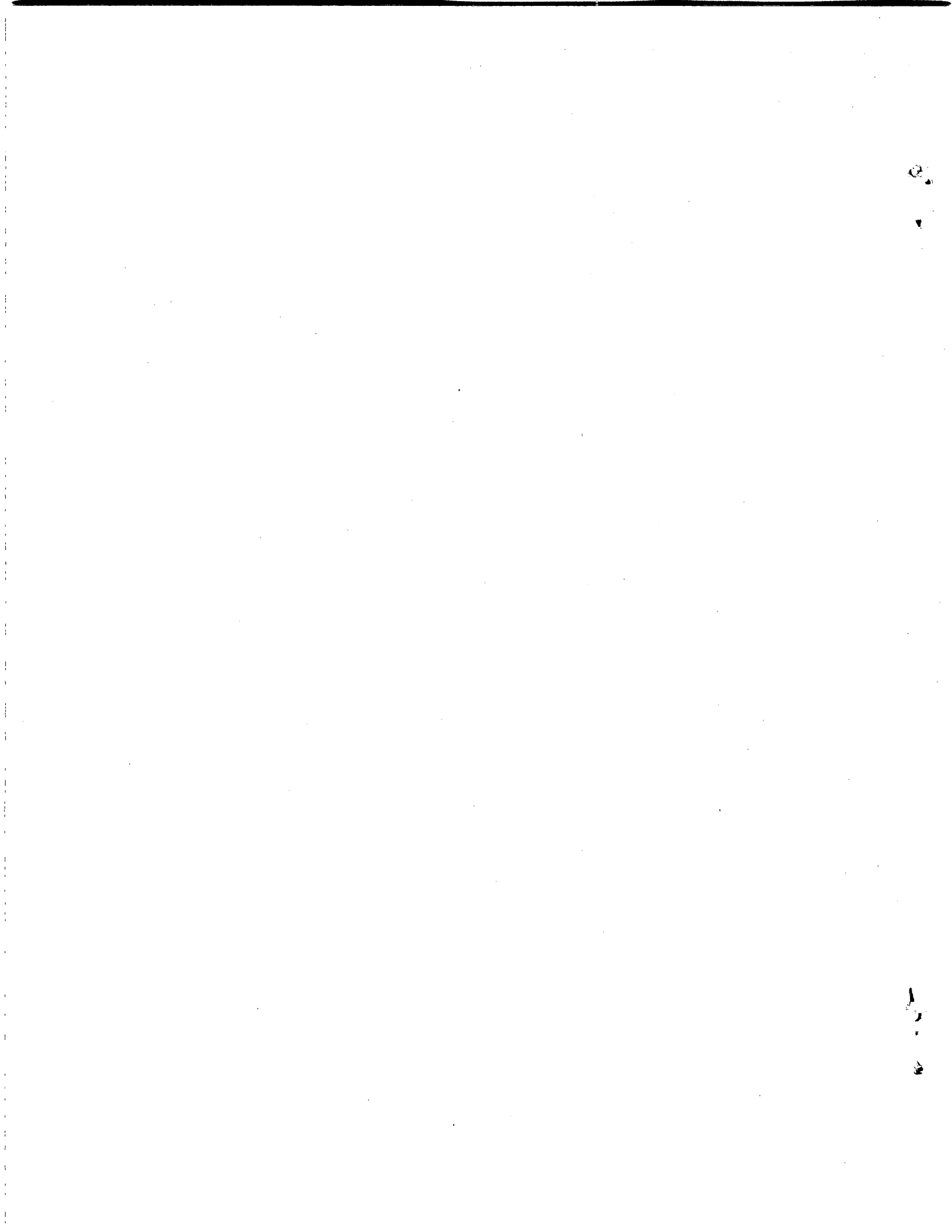
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New Jersey State Legislature

SENATE JUDICIARY COMMITTEE

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MEMORANDUM

TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE  
FROM: EDWARD T. O'CONNOR, CHAIRMAN  
DATE: JANUARY 5, 1989  
SUBJECT: TIME CHANGE  
COMMITTEE MEETING - JANUARY 26, 1989

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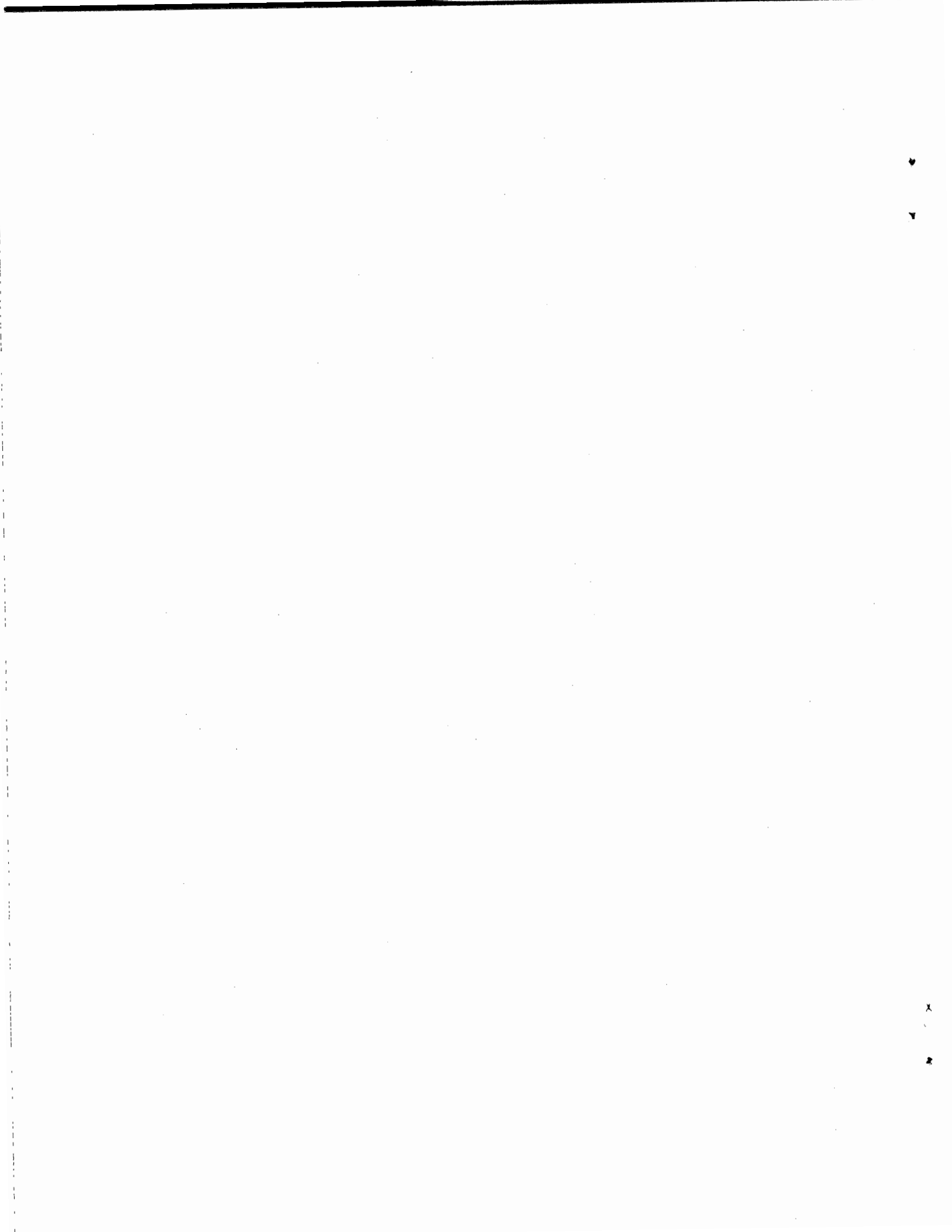
Please address any comments or questions to John J. Tumulty,  
Committee Aide at (609) 292-5526.

The Senate Judiciary Committee will meet on Thursday, January  
26, 1989 at 10:00 a.m. in Room 424 in the State House Annex,  
Trenton, New Jersey.

The following nominee will be interviewed:

TO BE THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL  
PROTECTION:

Christopher J. Daggett, of Basking Ridge, to replace  
Commissioner Richard T. Dewling, for the term prescribed by law.



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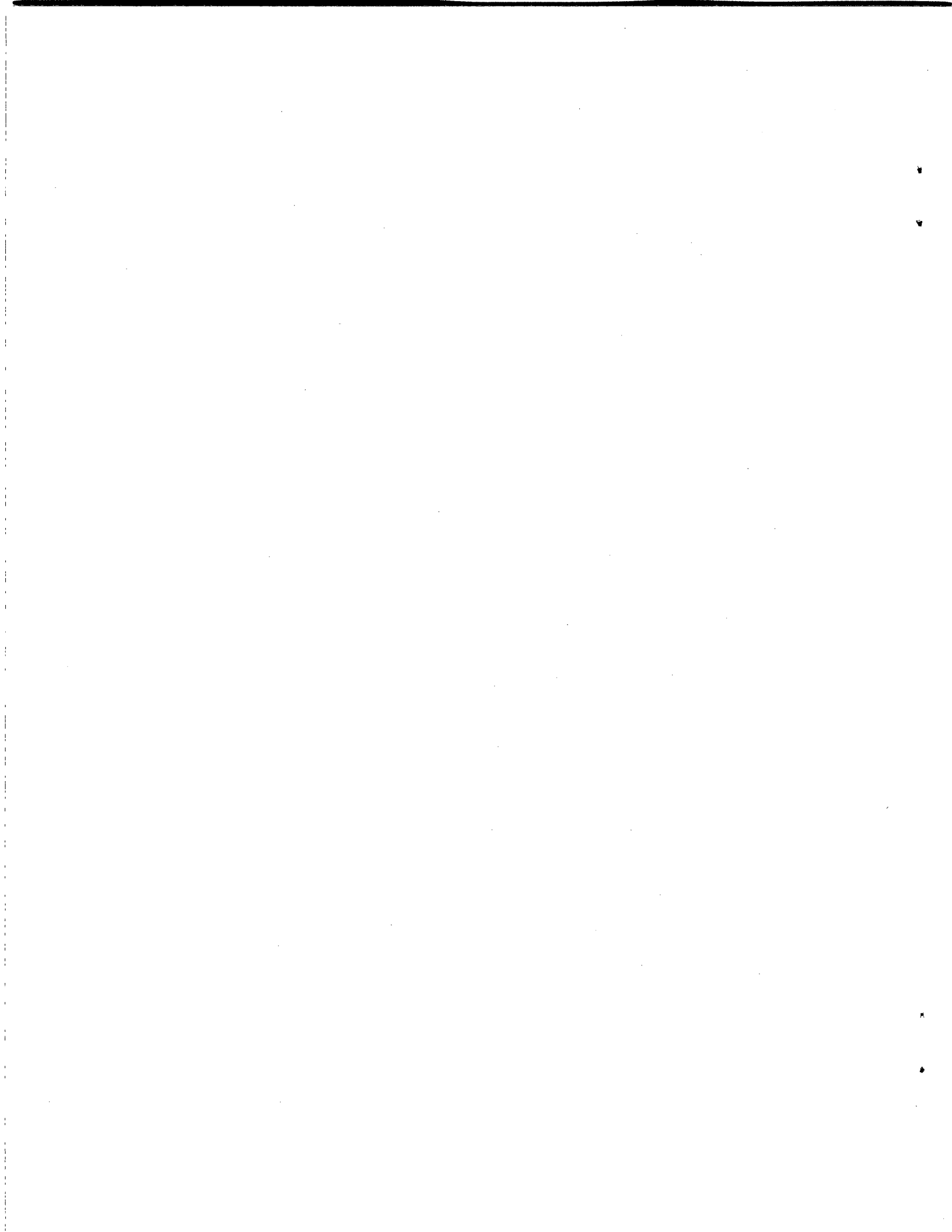
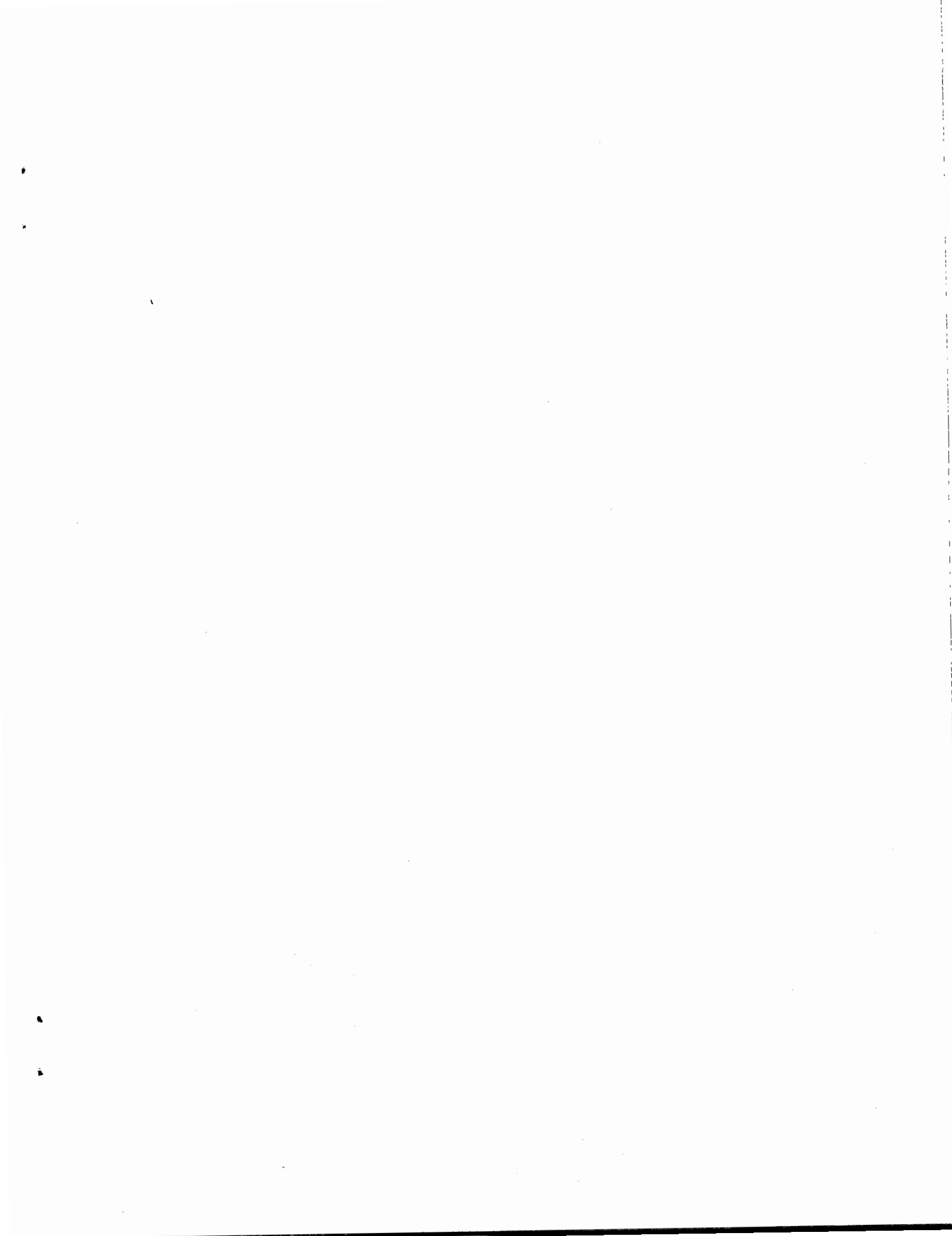


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dmw: 1-69



SENATOR EDWARD T. O'CONNOR (Chairman): Ladies and gentlemen, the meeting is about to come to order. As you know, today's meeting is dedicated to the consideration of the nomination of Christopher Daggett to be the Commissioner of the Department of Environmental Protection. We're going to start now, even though we don't have the whole membership here. They will be arriving as we progress.

Our normal procedure is to question the nominee, but given the large number of people who have indicated their desire to address the Committee, we'll depart from our normal procedure and we're going to-- After Mr. Daggett is introduced to the Committee by Senator Ewing, we're then going to try to make our way through the various people who have indicated a desire to address the Committee. Then, Mr. Daggett, we'll ask you to return and we'll have questions from the Committee of yourself. So, Senator Ewing, we acknowledge you and ask that you would introduce Mr. Daggett to the Committee.

SENATOR JOHN H. EWING: Mr. Chairman, members of the Committee, thank you very much for giving me this opportunity to bring before you an outstanding citizen of Somerset County, second generation. An individual who is willing to stand up and be counted, and somebody who certainly is well versed and well trained in the area that he is being nominated for, as Commissioner of the Department of Environmental Protection.

Among some of his many accomplishments when he was the head of the EPA Region II in New York, he took a firm stand in spite of individuals, about stopping the so-called Westway, because of the filling in of the Hudson River. There was tremendous political pressure brought on him, but in the good sense of what was best for the environment and best for the people in the region, he stood against it and was able to stop it. I think he has to be given a lot of credit for this.

He's had many other accomplishments dealing with ocean waste, which I know is uppermost in many people's minds

here in the State of New Jersey. I'm sure you've seen recently the pieces in the paper regarding the very innovative way it's been worked out between Governor Kean and the State of New York at the direction of Mr. Daggett, to make use of prisoners to help clean up the beach areas. This is a very inexpensive way. We could never have accomplished it without this type of innovation being done.

Also, it was through his efforts at the EPA that they were able to convince both DuPont and Allied to stop their dumping at the 106-mile industrial dump site where they were dumping acids, etc. Here again, these are hard decisions to have to come through with, but for the best interest of the people and the environment, he took the stand. So it gives me a great deal of pleasure to give to you Christopher Daggett.

SENATOR O'CONNOR: Thank you, Senator Ewing. It sounds like you have an objective opinion at this point. And I appreciate that.

For those who are here and who are going to testify before the Committee, I should tell you that there are approximately 30 witnesses; and we are dealing with a situation where the Committee will sit now until it's time to break for lunch, after which we will all be attending the Governor's budget message. But it's our intention to come back after the Governor's budget message if we are not completed with the witnesses that are here. So, I would ask all of you to help us in that regard, and if you have something to tell us which has already been said by a witness that preceded you, I ask that you try to be brief and summarize, if that's at all possible.

We'll begin-- Before we begin, I should introduce the members of the Committee who are here. Beginning on my far left is Senator Gabriel Ambrosio. To his right is Senator Richard Van Wagner. To my extreme right, Senator Don DiFrancesco. And as I indicated earlier, there will be other members who will be coming as we go along.

Mr. Daggett, if you would, I ask that you take a seat, because there will be people coming up to the table. We will begin with -- speaking together -- former Governor Brendan Byrne and former Senator Ray Bateman.

G O V E R N O R   B R E N D A N   T.   B Y R N E: Senators, and members of the Committee.

First, I asked to sit on Ray's left, because I'm more comfortable that way. Second, I also asked and we agreed, that if we could have the permission of the Committee, we would testify together, because I think that in itself symbolizes a message which we would like to bring to this Committee and to the Senate in considering the nomination of Chris Daggett. We don't think that this is a partisan matter. When I testify that I think Chris Daggett ought to be confirmed, I say that objectively, and without any partisan motives one way or another. There is no real political test, I don't think, or political philosophy that validly tests the qualifications of a candidate for the job of Commissioner of Environmental Protection. As a matter of fact, at my age, my memory fails me a little bit, but I have a sneaking suspicion that I may have offered the job to Ray Batemen at one time.

Chris Daggett, I've known over the years. I had an opportunity while he was in New York, to view his work, to talk to some of his people associated with him and even to get his views on what the problems are here in Trenton with the Department of Environmental Protection. Other than the broad policy enforcement that the Department is charged with -- and which I believe the Governor's judgment is correct -- that Chris Daggett can carry out with enthusiasm.

I think that Department has some other serious problems; and that is just the problems of dealing with the public. I'm a lawyer now, I represent clients who have problems in the Department. And one of the most frustrating things is to deal with somebody at a third or fourth level who

has no idea what the policy of the Department is, or what the Governor's or the Commissioner's desire is with respect to responding to problems that the public has.

So, I think Chris, with his practical background -- he did work here in Trenton, he did work with the Governor -- has, in his experience, probably unique qualifications for this job. And I would hope that this Committee would act favorably on the nomination, that Commissioner Daggett would be confirmed.

If I can make one other observation, and that is he's there. Then I guess at Senator Russo's request, taking his name off the signs on the State Parks pending his confirmation. But to have an Acting Commissioner, to have an uncertainty in that Department, to me, is inappropriate because it affects the effectiveness of the entire Department. So, I'm delighted with your announcement, Mr. Chairman, that you intend to conclude these hearings today, so that assuming Chris Daggett is reported favorably from this Committee and may go to the Senate for confirmation, and assume the difficult duties of Commissioner with full portfolio.

SENATOR O'CONNOR: Thank you, Governor.

SENATOR RAYMOND H. BATEMAN: Senator, in the spirit of getting this hearing going quickly, I'd just like to add a few things.

First of all, I feel a little older being here. I remembered coming down here that just 20 years ago this month, I was Chairman of this Committee. That's a long time. Chris Daggett-- I suspect I know Chris Daggett longer than anyone here, and longer than anyone in government, because he first came as a volunteer when I was running for Governor 13 years ago. And since that time, I've worked with him. We worked together in a business before he went with Governor Kean. He's sort of like a fourth son in my family. I know him about as well as you can know a young man. I can just tell you that he is intellectually honest, that he has the courage of his

convictions, that he's the kind of a person that -- when I was on this Committee I always hoped to see, because he has a total dedication to public service. Even when he was working for Governor Kean, he was an elected township committeeman in Bernards Township, because he cared.

The Governor has said he's had a great deal of environmental training, running the EPA region that includes New York, New Jersey, and Puerto Rico. He knows the territory, and I have to echo what Governor Byrne said. To me it's very important to have a person in that sensitive job that not only knows the environment, but also knows the political processes as they exist here in Trenton and in New Jersey. It's important to that Department. And I believe when he's finished, if he is confirmed -- and I urge your approval -- I think that -- well, he only has a year left-- In that year, you and New Jersey will see the Department responding better, responding quicker, and moving in very positive environmental direction. So, I'm delighted to just be able to add a word for Chris Daggett.

SENATOR O'CONNOR: Thank you, Senator.

Are there any questions by the Committee of either Governor Byrne or Senator Bateman? (negative response) Thank you very much. You're welcome to stay throughout the proceedings if you'd like. We thank you for coming today.

GOVERNOR BYRNE: Thank you.

SENATOR BATEMAN: Thanks, thanks Senator.

SENATOR O'CONNOR: The next witness is Cindy Zipf, of the Clean Ocean Action. (no response)

Is Nancy Menke of Save Our Ocean here? (positive response)

N A N C Y M E N K E: First, I'd like to thank you for giving me the opportunity to speak to you, and I'd also like to make it quite clear that even though I am in opposition to Mr. Daggett being named Commissioner, it's not a personal attack;

it's not a personal vendetta at all. I know that we say that experience is the best teacher, so I would like to show you my opposition by just sharing some experiences that Save Our Ocean Committee has had with Mr. Daggett, and perhaps, those experiences will teach us something.

We're very concerned, because we feel that someone who is going to be the top watchdog for the environment, in the long run for our health and our lives, should be someone that has shown a bit more of a commitment to the environment and has more of an educational background as far as environmental sciences. From what we have heard -- and I have not gotten an official resume from Mr. Daggett at all -- but we're concerned because we've heard that most of his educational background is in education, not in environmental sciences or any type of science at all. We feel that is an important requirement that the DEP Commissioner should have, so that he'd be able to understand and get more involved fully with some decisions coming out of his office.

We're also concerned because of the fact that it seems to us as if this is just a political patronage gift from Governor Kean to Chris Daggett. If you look in his background, a lot of his political background is with Governor Kean; not that there's anything wrong with politics, not that there's anything wrong with Governor Kean, we just felt that, perhaps, Governor Kean was looking more at these political considerations than at his background to be DEP Commissioner.

Another thing that we feel is important for the DEP Commissioner to have is a responsiveness to the public and to the community at large. One experience that we had with Mr. Daggett when he was with the EPA-- Our Committee had gone through the Federal Clean Water Act, and we felt that there were a lot of instances that the Clean Water Act had been violated by our State DEP in issuing a discharge permit to the Ciba-Geigy Corporation for their ocean pipe line. We got this

report together. We mailed it to Mr. Daggett along with a few political people in Washington and Trenton on August 1, 1985. The reply from Mr. Daggett didn't come until the end of September 1986, which is a little bit over a year, just about 14 months, before we ever even got an answer on this. Then the answer that we did get from him, wasn't really an answer. What he told us was that the EPA had given jurisdiction for a discharge permit to the states. He had deferred to the State's DEP and the State said that everything was fine, and he included in that letter for us, the State's response to it.

After we had our technical committee go through this, we felt that there were still some questions that were not answered by the State. Since this was a Federal regulation that we were speaking about -- the Clean Water Act -- we felt that Chris Daggett as the Federal EPA Region II Administrator should be able to answer some of these questions that the DEP wasn't satisfying us with. We sent a letter back to him asking him for additional help, and, I believe, that was in February of '87 we wrote that letter. To this day, we still have not gotten any response from Mr. Daggett as far as those unanswered questions. And I imagine we can't now, since he's no longer with the EPA, he's with our DEP.

Also with the Ciba-Geigy Superfund site cleanup, which Region II was handling, they had set up an 18-month study. They told the public that this 18-month study would take into consideration how much pollution was at the Ciba-Geigy plant, what it was, where it was, how to clean it up, what methods could be used to remove it, and then ultimately, how to dispose of any of the waste from the plant.

Now, the study was scheduled to take 18 months. It took three years before they finally got back with this study, and after 36 months of studying this -- and included in this, was supposed to be studying alternative to disposal,

because we were concerned about ocean pollution issues -- Mr. Daggett came back with his number one choice for cleanup to be the ocean discharge pipe line.

Ciba-Geigy had supported that option because basically it's the easiest and the cheapest way for Ciba-Geigy to clean up this Superfund site. But what's interesting to note, is that during those three years, there was really no outreach by the EPA to include the community at large. There were some meetings with EPA and Ciba-Geigy officials and consultants and also with Ocean County Citizens for Clean Water, but as far as during those three years, other than those two that I've mentioned, there was no outreach even though-- I mean, he's quite aware of all of the other environmental groups that are concerned about this plant site and just the community itself.

When he came back and made the decision that he felt the safest way to go was to put it out in the ocean, that's when he realized that there was a great amount of opposition from the community at large. And so, he very hastily put together a task force that met in Dover Township that consisted of EPA officials, Ciba-Geigy officials, environmental group representatives, mayors of some of the local towns, and planning board members, to look at alternatives to discharging into the ocean, which is essentially what they were supposed to have been doing for the past three years.

Even after this committee was done looking into things, Mr. Daggett said that he still preferred the pipe line; that he felt that it was the only safe way, even though he has mentioned that if they didn't have the pipe line there, he wouldn't make it mandatory for cleanup for them to build it. So, I don't know how, you know, you can equate that it's the only safe way to do it, but if they didn't have one, I wouldn't make them build it?

So, as he left EPA to come to New Jersey DEP, he was still saying that the EPA's position was that the pipe line was

the number one way to get rid of this. After Mr. Daggett left the EPA and came to New Jersey DEP, the new Acting Region II Administrator for EPA, after meeting with these groups, after going through some of the scientific data, said that it is definitely scientifically possible to clean up the plant site without using the ocean discharge pipe line, which is what the community, for a little bit more than two years, had been saying that they wanted done.

So, we brought that up just because we feel that he's not really responsive. And like I said, I can only speak from the Ciba-Geigy issue, because it's the only meetings that I've had with Mr. Daggett.

Like I said, it's not a personal attack. I just don't feel he's the right man for the job; nothing personal. When we've met, even though we disagree, we're personable and civil to each other. He's a nice, friendly gentleman; he's a nice looking man. I just don't think he's the right man for the job.

And I think the main reason that I'm questioning Chris Daggett right now is because of the credibility problem that the DEP has, right now. I think that all of us would agree that a majority of the people in this State question DEP's integrity, question the honesty of some of DEP's statements and reports -- and with good reason. A lot may just be that they would just question someone in authority, but I think that I know through my four years of working in the environmental field, there's been quite a few times when DEP has either misrepresented or misled the public as far as certain facts are concerned.

But the thing that I wanted to bring up about the credibility, and why when you're picking someone to head an agency in this State that is suffering from a credibility problem, I find it confusing as to why anyone would want Mr. Daggett, because of, you know, some of the credibility questions that can be raised about him.

I know some people complain that this will be the umpteenth time that Save Our Ocean or the environmental community has brought up Mr. Daggett's attendance at the Lawrence Bathgate political fund-raiser in Bayhead this past summer, but I think it's important to remember it and to bring it up, because I think that we should look at the matter, and we should look at how he was asked to be there, why he went there, who was there, and look at the consequences of him being there.

Mr. Bathgate is the attorney for Ciba-Geigy Corporation. At the time when Mr. Daggett was with the EPA, he was the ultimate man in charge of deciding how that cleanup was going to take effect. As I said, Ciba was pushing for the easiest, cheapest way out for them, and that was the pipe line.

To our way of thinking, to pick up a paper and read that Mr. Daggett was at Mr. Bathgate's party-- Not only was Mr. Daggett there, he was there as a complimentary guest -- that, he told us afterwards -- it should be noted that the plant manager at Ciba-Geigy was also there as a complimentary guest. So, I guess, it was just a nice big friendly party. But I think that some things that happened right before that might make you look at it in a different light.

I had said about the cleanup decision that was pretty unfavorable with the community-- And right after that, we had gotten a call from New Jersey Network wanting us, either myself or Frank Livelli, from Save Our Ocean, to be on a news show with Mr. Daggett to discuss this proposal for cleanup. We said fine. We worked out our schedules. I was going to go. Late in the evening, we got a called from New Jersey Network saying thanks, but no thanks, that Mr. Daggett would appear, but he said that he would not appear with Livelli or Menke from Save Our Ocean Committee, so he was able to go on with no opposing viewpoint presented. Then, lo and behold, at a time when a bill was down here pending before the Assembly that would

effectively stop Ciba-Geigy's ocean discharge pipe line, lo and behold, Mr. Daggett's little film clip from New Jersey Network News, with no opposing views on it -- because he said he didn't want Livelli or Menke there -- shows up as part of a video that gets delivered to the Assembly on the day of the vote telling everyone how wonderful Ciba-Geigy is, how you don't have to worry about their discharge, and this bill should not be passed.

Also, there were months -- and you gentlemen know, yourselves-- Before a bill even gets out of your Committee, there's months and months of hearings, whether there's delays or whether you have so many people that wish to speak. This bill went through the New Jersey Senate, and there were months and months of hearings on that, and Mr. Daggett never stepped forward to speak in opposition to the bill at that time. It went through the Senate-- It got passed through the Senate, then it went over to the Assembly. It was in subcommittees and committee meetings for months and months and months. Mr. Daggett never stepped forward to say anything in opposition to the bill. He waited until it was just about ready to be posted -- until it got brought out of Mr. Bennett's Committee and was, therefore, in a position to be posted by Assemblyman Hardwick -- and that is when Chris Daggett decided to get involved.

Instead of doing what everybody else had to do, and instead of being prepared when the hearings were taking place when he had an opportunity to speak, he waited. My thought was that he waited because it got scary, because it looked like maybe thing this thing was going to go through. It had already gotten through the Senate, got out of committee, which I think surprised Ciba and its supporters.

We just felt that it was wrong of them, because what he did, actually, was to stall the New Jersey State Assembly for a reason that he did not have to do it for. As I said, he had ample opportunity to discuss this bill and any opposition

he might have to it, but he waited until it was out of committee. He asked Assemblyman Hardwick to postpone this bill; he had important information that he had to discuss with the Assembly. Assemblyman Hardwick granted him that favor. They waited, and I think he scheduled a few meetings down here -- Mr. Daggett -- with the Assembly to go over the information. What it basically was, was, you know, things that he had said before, but never took the opportunity to come during regular public hearings.

Also, prior to going to Mr. Bathgate's party, when I questioned him at an EPA hearing on the cleanup proposal, he said that he had gone to the EPA's ethics officer and he had gotten approval to go to this party. We, at the time, sent a complaint to our Congressman's office -- who went to EPA and asked for the investigation -- I don't know if you've gotten a copy of it.

SENATOR O'CONNOR: Yeah.

Not to cut you off, but you don't have to spend a lot of time with that. We have the full report from the Inspector General.

MS. MENKE: Okay.

Well, I think that what should come out of there and what is real questionable is the fact that yes, he spoke to the ethics people in the EPA before he went to the party, but there were quite a few phone calls, from quite a few people that he spoke to before he ever volunteered the information about the connection between Bathgate and Ciba.

Now, I know the report says that there's no criminal wrongdoing, but I think that, like I said, it brings into question, credibility again. There is an ethics code for the EPA that says even if it appears that this will seem improper to people, then either you shouldn't accept this gift, or you shouldn't go here or there. We felt that he knew darned well that it was going to appear improper, and maybe -- perhaps

that's the reason why he didn't want to volunteer the Bathgate/Ciba connection at first. Because he did, as he said to me, he wanted the opportunity to see the Vice President, and I guess all of us feel like that, you know, when he's down in our county. But Mr. Daggett's the one who got to go. I don't think the DEP credibility is going to be enhanced by making Mr. Daggett the number one man.

And then I'd just like to end by-- As I said, it's nothing personal against Mr. Daggett, but I think that this points out that political appointments and political patronage positions can get out of hand sometimes. And I think that at a time when this State is faced with such enormous environmental problems that are really serious problems, that are going to have really serious consequences for our State, whether it's the economy being off, you know, because of tourism, or whether it's, you know, public health questions, we need somebody that's got a commitment.

And I wanted to just close with one line that I have heard-- Mr. Daggett has said this to me, and I've heard him say it to a few of the other environmental groups. He says that he's in a no-win situation sometimes. That if he's -- and this is regarding ocean water quality -- that if he says it's bad, then everybody gets hysterical and the businessmen get mad at him, and the tourism people, and the mayors in the local towns get mad at him. But if he says it's good and it's not, then all the environmentalists get on his back, and he can't win.

But I think what's important is that the DEP Commissioner is not there to win anything. He's not there to win a popularity contest. He's not there to get tickets to various events. He's there, as far as I am concerned, as far as our committee is concerned, he should have blinders. The political people should be blinded on that side and the business people should be blinded. The politicians and the businesses have lots of agencies, lots of people protecting

them. The DEP Commissioner has got to be someone whose sole focus is protection of the environment. If it creates a problem to clean up something for a business, or for an industry, or something political, then those other people are going to have to be ones to deal with it. The Commissioner has to tell it like it is, and the bottom line has to be that he tells the truth about the environment, about what shape it is, and not be concerned about whether it's going to bother his political buddies who he's known for years, or maybe some people that he's gotten to know through his regulatory work, at different businesses.

So I'd like, you know, to just end by thanking you again, and if you have questions, I'll be glad to answer them. If not, I'd just, you know, like to repeat that Save Our Ocean is on record in opposition to Mr. Daggett's confirmation.

SENATOR O'CONNOR: Thank you very much. Are there any questions from the members of the Committee? Question, Senator DiFrancesco?

SENATOR DiFRANCESCO: I'll be quick, I'll be quick. How are you?

MS. MENKE: I'm fine.

SENATOR DiFRANCESCO: As I see it, the thrust of your concern is twofold: One is the event, and the other is primarily or solely the Ciba-Geigy pipe line. Is that correct? I think you stated that, didn't you?

MS. MENKE: Well, not solely. The only thing that I can tell you is that even though our committee has been involved with other issues, for four years we have dealt specifically with Ciba, and I brought in Ciba issues just to try to show you our experience with working with Mr. Daggett.

SENATOR DiFRANCESCO: I've received your correspondence from time to time. So, I'm familiar with what you've done.

MS. MENKE: But, I'm not in opposition to Mr. Daggett solely because of Ciba-Geigy. I think that his reaction to Ciba and other things that he's done speaks more than just the Ciba-Geigy.

SENATOR DiFRANCESCO: Setting aside Ciba-Geigy, since he has been Acting Commissioner, is there anything that you would like to point to or point out to me, that he has done or not done with respect to the Department that you think is unfavorable?

MS. MENKE: Since he's been in?

SENATOR DiFRANCESCO: Yes.

MS. MENKE: Nothing that I can think of offhand, except I would like to see what he's going to do when this bill comes up for review in the Assembly again. I would want to see--

SENATOR DiFRANCESCO: The Ciba-Geigy bill?

MS. MENKE: Right.

SENATOR DiFRANCESCO: Now, prior to his appointment as Acting Commissioner, and other than the Ciba-Geigy incident that you've already mentioned in your correspondence and his turning over the jurisdiction to the DEP, is there anything that you can think of that you would like to tell me that is unfavorable?

MS. MENKE: Well, I'd like to say to EPA Region II Administrator, Chris Daggett, "Say, 'no' to wood burning at sea. I would have liked to have seen him in Red Bank at an ocean incineration hearing, stand up and say that this is absolutely crazy to be doing this. I never see Mr. Daggett say no to-- And like I said, I can only-- Unfortunately, I'm not involved with land use issues. I've just been involved with ocean pollution issues. I've never seen him really do anything diligently to stop anyone.

I know that there was mentioned before, in his introduction, about how he has persuaded Dupont and Allied. I

beg to differ, but I think that a lot of it-- And this was not a Save Our Ocean run or a Save Our Ocean sponsored struggle. So, that it's not that I'm trying to take credit for this-- I don't think it was Mr. Daggett. I think that it was a lot of things, and most of it was that the public was pushing -- that they were outraged and they didn't want anyone in their ocean any more. And I think a lot of it might have had to do with different influences as far as the tourism industry and its impact on our economy; that we just can't have people out there any more. I don't think it was just Mr. Daggett that got Allied and DuPont to get out of the ocean.

SENATOR DiFRANCESCO: Okay.

Well, let me ask you about the Ciba-Geigy pipe line -- just a small portion of it. You indicated that jurisdiction over that permitting process was with the DEP?

MS. MENKE: Right now, yes.

SENATOR DiFRANCESCO: That's been with the DEP for many years. Isn't that correct?

MS. MENKE: I don't know exactly how many years. I know it always hasn't been with them. It might have been in the, maybe, late '70s. Mr. Daggett might know that.

SENATOR DiFRANCESCO: Well, okay. But certainly in the '80s?

MS. MENKE: Yes.

SENATOR DiFRANCESCO: In other words when the original permit was expiring or had expired, or what have you--

MS. MENKE: It was DEP.

SENATOR DiFRANCESCO: --it was truly DEP. Isn't that correct?

MS. MENKE: Right.

SENATOR DiFRANCESCO: That's all I have.

SENATOR O'CONNOR: Any other questions? (no response) Thank you very much.

MS. MENKE: Thank you.

SENATOR O'CONNOR: The next witnesses to testify together will be two former Commissioners of the DEP. The first Commissioner is Mr. Richard Sullivan and Ms. Jerry English.

J E R R Y F. E N G L I S H: Good morning, Mr. Chairman. Good morning, Senators. My name is Jerry English. And this is the second time that I've had a chance to appear before this Judiciary Committee on matters of the environment. The last time I was here, was to be confirmed as Commissioner.

I urge the nomination, and your advice and consent to his nomination. I have known him over the past 13 years -- not only as the Region II Administrator -- but when he was working with the Kean Administration, and indeed, when he was trying to beat my Governor in the hustings.

He has also served as a member of my faculty at New Jersey Institute of Technology, as an adjunct professor, on matters of hazardous waste.

SENATOR O'CONNOR: Excuse me, Ms. English?

MS. ENGLISH: Yes?

SENATOR O'CONNOR: Some members of the Committee can't hear you. Maybe, if you could just pull this microphone -- this one, the middle one -- closer to you.

MS. ENGLISH: (adjust mike) This way? That's the way? How's it doing? Better?

SENATOR O'CONNOR: Better.

MS. ENGLISH: Okay.

Again, he has served as a member of my faculty at NJIT, as an adjunct professor, where a master's degree in hazardous waste and toxicology program is taking place. Previous Commissioners have come before you, and we have termed this job, "the best job in America." I would also term it the hardest job in America, because any Commissioner that serves in New Jersey, serves at the forefront of decision making in these very technical and difficult issues that are never as

simple as blinders. There is no ability for a Commissioner to have blinders to any side of society when we deal with these types of issues.

In reality, I think it's important at this point in time, with the constraints on the budget -- which, of course, you're going to hear a lot more about this afternoon -- to put this commissionership into some sort of context. It has been shown by students of EPA and even reported in -- hardly what you'd call a "wild rag" for the environment, The Wall Street Journal -- that EPA is presently at the staff level that it was and the funding level that it was in 1976. When you hear today from the Governor that there will be additional cuts to the Department, I think that it is imperative that -- and very, very lucky for our State -- to have someone who understands both systems, and who understands what the constraints in these budgets mean, and that it brings a true meaning to the New Federalism. The New Federalism affects all Departments of government, as you know, but it is critical in the area of the environment.

I also believe that the people who work in that Department are entitled to have a chief that has your advice and consent. And while I might not have believed it but from my own experience, I think that having some defuseness in that area is not only bad for morale, but it makes it impossible for the Legislature to meaningfully do its oversight role.

The Commissioner is trying to enforce the bills and regulations. But the bills primarily come from you, and unless he has your confidence, that poses managerial problems within the staff. As our mutual friend Harold Hodes would say, "There should be no lame duckedness" for this administration in this terribly important part of our government.

I have some more remarks to say that I think will be said during the rest of the day, so, I don't want to overstate them. However, I think that those of us who have been in that

position, have observed and worked with Chris Daggett at the regional level, and have watched him do some things that, in fact, probably upset EPA headquarters a lot. Because it was very courageous in matters certainly in Westway and in the wetlands issues; that this was not someone who was not operating within the sphere, and in context, in this State and in this region. He brings a wealth of experience. I think we're very lucky to have it, and I urge his favorable consideration by this Committee.

SENATOR O'CONNOR: Thank you. Mr. Sullivan?

R I C H A R D J. S U L L I V A N I thank you, gentlemen.

Mrs. English and I are here in a gesture of solidarity, but we have unrehearsed statements.

My very brief statement to you is made as a loyal alumnus of the Department. While I don't always agree with its policies or its techniques, I have an affection for its work and for the people who perform it. And it bothers me when I hear negative comments made about the way in which the agency carries out its tasks. I hear some of the people who quarrel with the agency, I think, are grouching because they think they're being confronted with the uncoordinated processes of government that unreasonably interfere with the normal commerce of the State. Of course, some of them are complaining because they don't want to be regulated in the first place, and would like to proceed to do what they want to do in their own way and on their own schedule.

There's also a lot of commentary, I think, however, from citizens who are angry and fearful that the entire regulatory system is simply not adequately protecting them against the encroaching problems of the environment. Now, if Chris Daggett is confirmed, he may only have one year more of tenure. He's not going to be able to deal with all of these, and many other issues that confront the agency. My impression in reading the statements in the press, and in hearing him

speaking on a few public occasions, is that the agenda he has proposed -- one of brisk and conspicuous enforcement, and one of tightening up of the internal processes of the Department; and perhaps most of all, one of reaching out much more to the public groups, to the citizens and to the citizens' groups that have been organized to deal with these problems -- is the place where the energies of that agency ought to be most directed at this time.

Now when Chris Daggett served in EPA, I like to think of that as an apprenticeship that helped to prepare him to come over here to where the real battleground is. I think when he was there, he took strong positions on environmental issues that were in favor of the public interest. And I think that's all the more remarkable, considering that he was a part of a national administration that was not especially sensitive to environmental concerns.

Now, I think he will come to New Jersey as a strong spokesman for the environment. I think he has an understanding of the issues, and an ability to articulate them. I think he will also bring -- even for a brief period -- energy, enthusiasm, and will try to deal with the enormously difficult problems of this demanding assignment.

Again, speaking as the loyal alumnus, I think his appointment would be in the public interest, and I respectfully urge the approval of this Committee. Thank you.

SENATOR O'CONNOR: Thank you. Any questions from the Committee of either witness? (negative response) Thank you both.

Is Mr. Wilbur Edwards here? You're next, sir.

W I L B U R E D W A R D S: Good morning, members of the Committee. I want to thank you all for making my appearance here possible.

I think I should say right at the beginning, that I am neither for, nor against, Mr. Daggett. I have had some

personal experience with the DEP. I recognize the tremendous value and importance that this organization represents for the people of New Jersey. But I am not at all satisfied that their conduct, in my limited experience, met the standards that I think it should have. And incidently, did I announce the fact that I'm from Ridgewood, New Jersey?

SENATOR O'CONNOR: Not yet.

MR. EDWARDS: The reason I mention that again, is that in our community we have had some experience with the DEP, and some with Mr. Daggett. I would like to state also, in the very beginning, that in my opinion, what is needed in that agency, is a leader, is someone with strong, tough, administrative experience. I believe that could be a major weakness of that Department.

Personally, it is my observation, as the gentleman who preceded me stated, that since the possibility exists that Mr. Daggett's term may be a very short one, I see no reason why he should not continue as he is to the end of the year, and allow the next Governor to select the person that he wants. And it might well be on the basis of Mr. Daggett's record, because this will give him the opportunity to demonstrate his ability. A very fine opportunity -- a year -- in which to show exactly how well he can perform. I think it's in his best interest, and in the best interest of the State, that he remain Acting Commissioner for the time being.

Now, to get to specifics. I believe that the DEP has two levels of dealing with problems that are their responsibility. They have one level for the private sector in which their requirements and demands are very tough and very stringent, and they have another for the public sector in which they are not anywhere near as demanding. I do not think this should continue to exist. I think we should have one level of justice -- if you want to call it that -- for everyone, regardless of whether they are in the private sector or the public sector.

Now, as we all know, this State is a manufacturing center for major segments of the chemical industry, and probably produces more toxic materials and pollutants than any other state in the Union. Therefore, the problems we have had, and will continue to have, will increase. In fact, I would like to ask Mr. Daggett how he envisions the future for the DEP? Does he expect that we will remain at the status quo? Will the responsibilities increase? Will they decrease? Will they exist in certain areas and be eliminated in others? There are a number of variables there that we must consider and deal with.

Now, I mentioned the fact again that I live in the Village of Ridgewood. In this particular matter, the Village made a determination to locate a new firehouse in the middle of a flood plain; despite the fact that a number of experts -- DEP, FEMA -- every organization that had anything to say about the subject, all said it should not be done. They have proceeded on that basis. And this again, is something I had hoped to ask Mr. Daggett some questions about.

But, for example, they filed an application for a permit that did not tell the truth. The truth of the matter is, they plan to take an existing building that was functioning as the so-called traffic and signal building where repairs were made for that particular division, and convert it into a firehouse. In their application, they state that this is a fire headquarters. There's no fire headquarters there, never has been, and hopefully never will be. Then finally when asked to describe the proposed project, they state, "garage extension to existing building and driveway construction." This is an absolute falsehood. It means a complete conversion of that building into providing living quarters for the firemen, and also to provide room for the fire engines where they may be kept for use. It has been proven conclusively and to the DEP's satisfaction that this particular project area is subject to heavy flooding which will restrict the use of that equipment.

SENATOR O'CONNOR: Sir, is there relevance to that directly to this nomination?

MR. EDWARDS: Yes, there is.

SENATOR O'CONNOR: Could you elaborate on that?

MR. EDWARDS: Yes, okay.

Now, in order to present Mr. Daggett with a picture of the project, I faxed to him, oh, about 19 sheets and pictures showing the condition of the area and a host of associated matters that were factual material directly related to this.

My associates and I received a letter from the Department of Environmental Protection addressed to us. The letter is dated January 6, 1989 and it starts, "Acting Commissioner Daggett has asked me to respond to your recent letter concerning stream encroachment permit number 13483." And he states that Supervisor Paul Inverso of the Inland Enforcement Section, will conduct a field investigation on January 11. Fine. Here's a letter that I haven't opened. It's the same letter that was sent to my colleagues. It is postmarked January 13. We would have liked to have been at that particular investigation. This letter has not been opened; you can open it if you doubt my word. We received it on a letter postmarked January 13, telling us about a meeting on the 11th.

My question is-- Now one other item we have recently been made aware of -- and this is the first time this has surfaced in the press, that -- and I have a picture of it here -- a project in which the public service organization sold a parcel land to a developer. I don't know how they were able to effect this transfer, because as far as I know, every time any questionable land or property is transferred, it is necessary to get what is known as an ECRA certificate. I wonder what examination was made of this land before this ECRA certificate was granted.

Anyway, within recent months, they have completely removed what they claim is between 500 and 600 or more, huge truckloads of contaminated soil at a cost of \$5 million to \$6 million. We have also been told the extent of on-site groundwater contamination still needs to be determined. One of the DEP employees said -- that's Mr. Kanakis, I don't know who he is -- that is still to be determined. This is very critical for our community, because we depend entirely upon well water for our potable water supply.

I also read in this article, that this area is going to be filled in. I wonder how that is going to-- How can we evaluate whether or not that water has been contaminated badly enough to affect our water supply? In addition to that, this property borders a public school where small children attend. I wonder whether or not the land there has been test bored to see whether there's any contamination under that school or under the playgrounds where those children are playing?

SENATOR ZANE: Sir, don't you think these comments are sort of general comments directed more at DEP than this nomination?

MR. EDWARDS: No. No. This is current while Mr. Daggett has been Acting Commissioner.

SENATOR ZANE: Yeah, I understand, but aren't you suggesting compliance? I mean, there was, apparently, a requirement to remove earth. That's what DEP is supposed to do if they find it contaminated. Are you suggesting that something was done improperly by Mr. Daggett, or under his administration?

MR. EDWARDS: I don't know that he did anything. There's no way that I know whether he did anything.

SENATOR O'CONNOR: Senator Orechio?

SENATOR ORECHIO: Mr. Chairman, I thought the purpose of the hearing this morning, was to rule on Mr. Daggett's qualifications to serve as the director of this Department.

Now, the witness indicated at the outset of his dialogue here, that he favored retaining Mr. Daggett until the end of the term. So, at this point, any testimony that he has to make is moot.

MR. EDWARDS: No, I don't think so. In other words, it all depends upon what you choose to consider. I think-- What I am pointing out, is what happened in this instance in the same community where our village people contaminated soil, and violated a number of the rules and regulations of the DEP -- and this, of course, precedes Mr. Daggett. Nothing was done about it.

SENATOR ZANE: Sir, sir--

MR. EDWARDS: They said, well-- And this is why I mentioned the two levels of compliance.

SENATOR ZANE: Sir, I can sense that you're upset and concerned with the administration of DEP, but I think that's something-- The specifics of what you're dealing with, I think, are something for another forum. We're dealing primarily with his qualifications as Commissioner, and not the particular problems of the community, as such.

MR. EDWARDS: But we are not dealing with the particular problems. I'm pointing these out as instances of what I consider to be questionable work done by the DEP. I consider granting approval and a permit--

SENATOR ZANE: Since Mr. Daggett has been Acting Commissioner or prior to?

MR. EDWARDS: Prior to-- But the question hasn't ended because--

SENATOR ZANE: Sir, then with all due respect, it's just not relevant.

MR. EDWARDS: Oh, it is, because this permit is being questioned right now.

SENATOR ZANE: Okay.

MR. EDWARDS: So, that is relevant, because Mr.

Daggett is going to be asked to make a decision on this. So, it is relevant. I'm not bringing anything in here this morning, sir, that is not relevant. It is relevant as to how the Department has been functioning, and I think supports my contention that somebody with strong administrative experience is required for this job. I don't know what Mr. Daggett's background is. I think somebody was pulling my leg. They told me the only job that they knew that he had was that he was a chauffeur to Governor Kean -- not that there's anything wrong with being a chauffeur -- but, I mean, that is a story that has circulated. And as I say, I imagine somebody was pulling my leg when they told me about it. But I mentioned it-- But I know nothing about Mr. Daggett's administrative experience.

SENATOR ZANE: That's what we're dealing with here today, sir.

MR. EDWARDS: Yes--

SENATOR ZANE: Not the specifics of a problem within a municipality--

MR. EDWARDS: Well, alright. I will say this--

SENATOR ZANE: --unless it's directly affecting his nomination.

MR. EDWARDS: I will say this, then. On the one instance where he was asked to do something, I don't think that his response indicated to me, at least, and many other people, that it was handled properly.

I cannot see what in the world the sense is to send a letter out to arrive on the 13th and is dated the sixth. There was no trouble with the mail at that time, sir. So, I think this directly reflects upon how the Department is being managed. And I think this is the critical thing. I don't know how-- As I say, I do not think a permanent appointment should be made at this time. I have no objections to Mr. Daggett staying in there to demonstrate his ability. Let him do so. But in the meantime, I think this body should not approve his nomination on a permanent basis. Thank you.

SENATOR ZANE: Thank you very much. Senator Jackman, please.

SENATOR CODEY: Another environmentalist.

SENATOR ZANE: Yes, one of the State's leading environmentalists, Senator Jackman.

SENATOR CHRISTOPHER J. JACKMAN: Thank you, Mr. Chairman.

I'm going to be very brief. I want to make it clear to my colleagues sitting here that I don't know Mr. Daggett. All I know is the inquiries that I made, that I thought were very important to the communities that I'm privileged to represent. I've checked his background in my own inimitable way. You know my attitude and how I feel about people. I've got documentation here. I've got maybe a couple of hundred photos and everything else that goes down the line.

And let me say at the outset, that Mr. Daggett is not a chauffeur by any stretch of the imagination. He's an individual who came into a job that was "a bastard job," so to speak. Everybody was picking on the DEP. And I make no bones about that. I made some inquiries and went into the field, and I'm proud of the fact that Mr. Daggett took the job the way it should be taken. He got into the field. He walked up and down those beaches, and he's put together a program now, to clean up the beaches. He's using people that, instead of wasting time sitting in jail, he's utilizing some of that -- so much so that it's almost going to be around the country; they're going to pick this kind of think up.

I'm not happy with some of the actions that took place prior. We've got a situation up in our county, where we've got buildings that have got to be demolished. I've made some inquiries on my own, and I've also made inquiries through the people who were interested. I made sure that they called Mr. Daggett's office, and I must say in all fairness, some of the reports I got back were very favorable. I think they were

tuned now to the fact that they have a leader, and it would be an injustice, I believe, to keep a man on an acting basis -- because when you're on an acting basis, nobody puts a value on you; you're more or less expendable. We don't want a man to be expendable. Either he's qualified or he's not qualified. And I say to you, based upon some of the investigations that I made with my friends and people who know more about the environment than I do-- And you know that up in my area we have the largest chromium deposits. That's been brought to the attention of Mr. Daggett and his colleagues. They are working with him in the DEP and action is taking place. That's all I want, is action. I recommend to my colleagues, that Mr. Daggett, I think -- and I say this without any fear of contradiction -- will make a truly good addition as the new Commissioner of DEP. I recommend to my colleagues that he be certified. Thank you and God bless you.

SENATOR ZANE: Thank you very much.

The next speaker will be Michael Grossmann, President, State Federation of Sportsmen.

M I C H A E L G R O S S M A N N: Honorable members of this Senate Committee, my name is Michael Grossmann. I am the President of the New Jersey State Federation of Sportsmen's Clubs, which represents over 50,000 members in New Jersey.

The Sportsmen's Federation, which is dedicated to the protection and wise use of our natural resources, and is the New Jersey affiliate of the National Wildlife Federation, endorses the appointment of Christopher J. Daggett to the position of Commissioner of the Department of Environmental Protection.

Mr. Daggett is highly qualified for this position. He has previously served as Region II Administrator of the U.S. Environmental Protection Agency, as Cabinet Secretary to Governor Kean, and as Deputy Chief of Staff to the Governor. Dr. Daggett's experience in environmental programs, at both the

State and Federal level, provide New Jersey with an unusual asset as Commissioner working for the betterment of our environment.

Critical wildlife habitat is being lost in New Jersey at an alarming rate. Quick and decisive action must be taken to reverse this trend. Dr. Daggett has stated that preservation of open space will be one of his top priorities as Commissioner. He has also made a strong commitment to environmental law enforcement. Dr. Daggett is a trained educator and recognizes the need for progressive natural resource education. These are all areas that the Federation has a strong interest, and we applaud him for his position on these issues.

In conclusion, we believe that Dr. Daggett would be an excellent appointment because of his outstanding experience and personal qualifications. His goals of preserving open space, protecting wetlands, taking a strong law enforcement stand, and cleaning up of New Jersey's coast line, are shared -- wholeheartedly embraced by the sportsmen of New Jersey. I thank this Committee for the opportunity to endorse Chris Daggett for one of New Jersey's most important and visible commissions. Thank you.

SENATOR ZANE: Thank you, Mr. Grossmann. Are there any questions from the Committee? (negative response)

Next up is Jane Towsman, speaking on behalf of Save Our Swamps.

J A N E T O W S M A N: Good morning and thank you for allowing me the opportunity to be heard today. My name is Jane Towsman and I wish to testify on behalf of the Save Our Swamps organization which is currently in litigation in Edison Township to try to save the Dismal Swamp from being developed with all of its wetlands for a 1045 unit planned unit development. We are suing Edison, Tyler Developers, and the Township Planning Board of Edison.

Obviously, one of my main concerns is the preservation of New Jersey wetlands. Recently with the enactment of the New Jersey Wetland Act, we are in much better shape than we were formerly. We need someone to enforce the Act, and I think Mr. Daggett is our man. I remember the remarkable courage that he displayed when he used his veto over the Westway project. I also remember the veto that he used in a project called Tiffany Woods, later called the Enclave, which was in the Dismal Swamp. The project called for a significant amount of wetlands to be filled in. After this project, the builders changed-- After the veto, the application was changed under the direction of the Army Corps of Engineers, and today there are many, many wetlands which were saved as a result of this particular action. I know that Mr. Daggett believes strongly in the State plan being put forth and I welcome this also.

With strong initiatives from the Legislature, such as the Right-to-Know on chemicals, and the ECRA law, again, we need unified enforcement. We need the right man at the helm of the ship. I believe that Mr. Daggett is that man. In our most critical areas of hazardous waste siting of landfills and solid waste management plans, there needs to be an emphasis on recycling and source reduction. I feel confident that Mr. Daggett will carry these burdens well.

In one of my favorite areas, air pollution, there are many challenging decisions ahead, especially when one looks at the Los Angeles scene, and the big decisions that have a lot of solid controversy behind them. So, you want the right man for the right job. For all of the above reasons, I truly hope that this Committee will endorse Christopher Daggett. Thank you.

SENATOR O'CONNOR: Thank you. Are there any questions? (negative response) Thanks, again.

I'll ask if Cindy Zipf is here again. Second call for Cindy Zipf.

SENATOR CODEY: She testified already.

SENATOR O'CONNOR: No. She did not, she was not here. That's the Clean Ocean Action group.

Irene Kelly is the next witness. Irene Kelly is not here. Frank Livelli?

D R. F R A N K D. L I V E L L I S R.: Gentlemen, I will be covering a few things that Nancy Menke had mentioned, only because of coherence in what I have to say.

My experience with Chris Daggett is related to the Ciba-Geigy issue. Ciba-Geigy is an excellent example for judging Mr. Daggett's fitness to serve as our DEP Commissioner, because this company has no redeeming qualities. They are the perfect polluter. They polluted our air, our ground, our underground water supplies, their neighbors, our beautiful river, and our once magnificent ocean. They are under two criminal indictments for pollution and have a history of pollution at other sites around this country. The question is, how did Mr. Daggett handle the Ciba-Geigy issue?

While Mr. Daggett was Regional Administrator of our EPA, Save Our Ocean sent him a detailed report documenting how that company was not in compliance with the Federal Clean Water Act and the ocean discharge criteria. After waiting for more than one year for an answer to that report with numerous prompting contacts in-between, we finally received an answer. We were told to take the matter up with the DEP.

A follow-up letter by Save Our Ocean, giving precise reasons why he was obligated by law to investigate this matter, was never answered. Later, when the bill was introduced into our State Assembly that would put an end to not only Ciba-Geigy's ocean dumping but would prevent any present or future industrial, commercial, or private discharges into our ocean, Chris Daggett launched an all out effort to block the passage of this environmental bill. He actually entered into the internal workings of our State government in an attempt to block this environmentally sound bill. During this period, I

had direct conversations with Mr. Daggett concerning his position on the Ciba-Geigy pipe line. He freely admitted to me that his EPA proposed solutions were meant to be divisive, hoping to turn ocean, river, and Pinelake Park people against one another.

I asked Mr. Daggett if he really believed that the best way to get rid of Ciba-Geigy superfund mess, was to dump it into our ocean, and he said, "Yes." He said the pipe line was there, and it was cheap. When pressed whether he really believed that ocean dumping was the best in environmental solution, he said, "Yes." I then asked two questions. First, since he was convinced that the pipe line was the best solution, would he have requested that the pipe line be built if it did not exist? His answer was "No."

My second question was, "If this were really the best solution, was he proposing that other superfund sites be dumped into our ocean?" His answer, again, was, "No."

If Chris Daggett spent more time rubbing shoulders with environmentalists, instead of the Larry Bathgates of this world, he would not have come up with such a perverted view of his responsibilities. Our environment cannot, and must not, be up for sale for political reasons. What Chris Daggett saw as an acceptable solution to this most serious environmental problem, was no more than a political solution that satisfied the big company, the big money, and the big influence people; and let the environment be damned.

Mr. Daggett carried this perversion of his duties even further when he became Acting Commissioner our DEP. In his first discussion with Senator Leonard Connors concerning ocean pollution, he tried to convince Senator Connors that Ciba-Geigy was dumping potable water into our ocean -- a claim that even Ciba-Geigy never had the guts to make. I confirmed this with Senator Connors.

I would like to point out that at that time, the most recent Ames test on the Ciba-Geigy's fluid, show that Ciba-Geigy was dumping the equivalent of 30 million mutagenic doses into our ocean every day. And mutagen can cause cancer and birth defects. In addition, several months earlier, John Seamus, the company's plant manager, made a public statement that he, his wife, and his children would not swim in Ciba-Geigy's effluent, even after their so-called, state-of-the-art treatment.

This raises two serious questions as to Mr. Daggett's fitness to serve as our DEP Commissioner. First, after all his exposure on the Ciba-Geigy issue, if he really thought that the Ciba-Geigy discharge was potable water, he showed either gross incompetence, or gross ignorance of the facts concerning the major decisions before him. In either case, he would be totally unfit to serve as our DEP Commissioner.

Second, Mr. Daggett obviously tried to mislead or lie to a State Senator, and probably others, about the true nature of the Ciba-Geigy effluent; again, rendering him totally unfit to serve as our DEP Commissioner.

Our State has severe environmental problems. We need a person who understands the science on his own; a person who will rub shoulders with the environmental interest in our State and not the Larry Bathgates, and above all, a person who will be truthful with the legislators and the public.

Businesses have many departments in government watching out for their interests: Commerce, Banking, Industry, the Governor. All the environment has, is the Department of Environmental Protection. When that Department is run as a department of business protection as it has been since I have been involved with these issues, our State has, and will, severely suffer for it. I hasten to add, the one bright spot in the DEP right now, is John Weingart of CAFRA, who has demonstrated his courage and a true dedication to a cleaner and

better New Jersey. Mr. Daggett, probably, should have been recommended for the Commissioner of Education. He is trained in education, and most likely, would be better suited for that position. But for our DEP, we need a scientifically trained, environmentally sensitive person dedicated to the truth, and in my opinion, Mr. Daggett is not that person.

SENATOR O'CONNOR: Are there any questions of Mr. Livelli? Senator Ambrosio?

SENATOR AMBROSIO: Mr. Livelli, you're with Save Our Oceans?

DR. LIVELLI: Yes, I am Gabe.

SENATOR AMBROSIO: What is the-- Mr. Livelli is somebody--

DR. LIVELLI: I'm sorry, yeah.

SENATOR AMBROSIO: --I've known for maybe, 40 year, and I just realized he's the same Mr. Livelli I knew 40 years ago. (laughter)

What is your background? You're a chemist, aren't you?

DR. LIVELLI: Yes. I'm a graduate chemist. I'm a former high executive in the chemical industry. I spent 35 years in the chemical industry as a high executive. I've been branch manager, I've been a plant manager, I've been vice president of marketing and sales worldwide for a \$50 million company. I represented a division in a \$300 million company, and I was a North American liaison for a \$30 billion company, all in the chemical industry, for the last 40 years.

SENATOR AMBROSIO: Thank you. I have nothing further.

SENATOR O'CONNOR: Mr. Livelli, I just have a question for you. Maybe you can give me your thoughts on this.

While I get the impression that you feel that Mr. Daggett is overly disposed toward Ciba-Geigy by reason of his statements and actions regarding the pipe line, how would you square that with the fact that in October of this year, while

he was the Acting Commissioner of DEP, the permit for Ciba-Geigy to build a pharmaceutical plant at that site, was denied?

DR. LIVELLI: I don't actually square it with Mr. Daggett. You have to understand that, that decision was the decision of John Weingart. My understanding is that decision is to be made by John Weingart. Certainly, Mr. Daggett could have overruled it, or tried to overrule it. But with the investigation going on with his relationship with the Bathgate incident and all of this stuff and the possibility of the hatchet standing over his head, he is now committed to a very touchy situation with the Ciba-Geigy issue, and I thought it was prudent that he step back and let it, you know, go through the way it was. But all my experience with him has been that he has not handled the Ciba-Geigy issue properly in any way whatsoever. And that's the only way in which I can judge him. Ciba-Geigy is not an incidental issue. Ciba-Geigy is a serious environmental issue in our State today.

SENATOR O'CONNOR: Okay, thank you. Any other questions? (no response) Thanks.

Is Karen Kiss from the Alliance for a Living Ocean here? (no response) How about Daniel Carluccio? (no response) Ben Epstein, Ocean County Citizens for Clean Water? You're next, sir.

BENJAMIN EPSTEIN: Senator O'Connor, and members of the Committee, I thank you for this opportunity to speak. But I would like to point out that we had sent to you, Senator O'Connor, a number of weeks ago -- running into the months now, since the nomination of Mr. Daggett -- a series of questions that we hope, that those who have the responsibility, not only to advise but also to consent, would ask before they either advise or consent. I hope those questions will be asked by the members of the Committee, because there, you are the ones who need those questions.

I want to return to one issue -- and I'm concerned now with current issues. I don't want to move into long areas of past -- and I want to, once again, raise a question that was raised just a moment ago by Mr. Livelli.

A very few days ago, the press in our area, stated that one of your colleagues, a Senator Connors in a discussion with Mr. Daggett, very recently, quoted Mr. Daggett as saying -- and this should be stressed -- that, "At this juncture, the outfall into the ocean, from the Ciba-Geigy Corporation" -- and we're concerned with Ciba Geigy because we live in the county where all of this exists -- "is completely potable". Now that means it's fit for drinking -- at least in whatever dictionary I've every read the word "potable," that's what it meant. I hope we haven't any technical definitions by executives of environmental agencies which change the meaning of these things, but at least that's what I heard.

As of yesterday afternoon, at a meeting of our task force dealing with this particular problem -- and I must say, one, it was formed in part, by the request of the Ocean County Citizens for Clean Water to Mr. Daggett, when he was still the Director of Region II of EPA-- I spoke to the plant manager of the concern, yesterday, "Is your water potable? He said, "No, it's not potable. It's not potable because it has a very high degree of salinity, and I don't mean just sodium chloride. And we would not recommend that anyone call it potable."

Now, under the circumstances, I think you had better ask of Mr. Daggett, whether, in fact, he thinks so. If he thinks so, I'm a little worried about the management of DEP. If he hasn't said it, I think that ought to be corrected as a matter of public record in terms of somebody who should be -- whom we're dealing with and moving into such a key cabinet position in the State of New Jersey.

I want to deal with another phase of it, and that is the espousal by Mr. Daggett, of -- and it seems to me it's

almost a love affair that the DEP is holding -- with incineration, and the building of incinerators. And I knew that on the basis of the fact that on the very first warmish day of this year, this past week, two days ago, we already were failing in our ozone situation in this State -- especially in the northern counties.

Now, the burning process of 21 incinerators around the State is hardly going to do anything to decrease our ozone problem in this State which is among the worst in the nation, but rather to enhance it. I'm not suggesting that incinerators alone will produce ozone, but certainly they won't detract from it. They will add to it quite considerably, and yet, that Department and its leadership has espoused the concept of selling, plugging, and pushing incineration. I think that that has to be a question that you raise, "Are there not other methods, and are there not other methods much more friendly to the environment than pouring out hydrochloric acid into the air, in a State that's complaining about acid rains?"

In dealing with particulates that are getting into our air in a densely populated area, and now in Ocean County -- and I suppose I reflect part of it, a great number of seniors who ought to be breathing better air than they have had the opportunity previously in the State of New Jersey -- whether that espousal should be acceptable and whether leading members of the Department of Environmental Protection of the State of New Jersey should be abusive, verbally in their statements about individuals who disagree with what their policy is. We're called economical -- pardon me -- environmental terrorists, chemophobe, I can give you a number of choice name calling devices that leading people in that particular Department are using. I think that question ought to be asked of Mr. Daggett in terms of what his approach is to these matters.

I'm also very much concerned -- and our organization is concerned -- that we hear from Mr. Daggett, why he describes himself, always, as having come into all of this operation through the political process. I would much rather he had come in through the environmental process, through the process of his deep dedication to cleaning up the air, and the soils, and the waters of this State and of all of the rest of the states, but not through the political process. That always scares a number of us. Which political process do you owe your allegiance to?

And there are questions that ought to be raised in that connection -- and the matter has been mentioned to you several times now. I must say, in all favor to Mr. Daggett, that we have, at least in my experience, had an Acting Commissioner whose door is far more open and who is far more willing to listen to what people have to say. The problem I have is, is it just a matter of listening, or is it a matter of also hearing? Thank you.

SENATOR O'CONNOR: Thank you. Any questions? Are there any questions? (no response) Thank you, Mr. Epstein.

The next witness is Ellis Vieser, President of the Alliance for Action.

E L L I S S. V I E S E R: Good morning. My name is Ellis Vieser. I'm the President of the New Jersey Alliance for Action. The Alliance is a coalition of some 500 business, industry, labor, professional, governmental, and academic organizations. Our commitment is to improve the quality of life for every resident of New Jersey.

On behalf of the Alliance, I'm here today to express strong support for the confirmation of Chris Daggett as State Commissioner of Environmental Protection. He is a man who truly has made, and will make, major contributions to upgrading the quality of life for the people of the State and the region. We believe he possesses outstanding administrative and

executive abilities. I, and the members of the Alliance, have had the privilege to work closely with Chris when he was with the Governor's Office, when he headed the EPA regional office, and most recently, and presently as Acting DEP Commissioner.

We have found him to be a public servant of ability, dedication, and integrity. On a weekly and a day-to-day basis -- personally as Chairman of the Wastewater Trust, that was a product of legislation and the Governor -- I work with him directly, on a week-to-week basis.

I'm also involved in many committees, one attacking the ozone problem, which Chris initiated through his own generation of his abilities to focus in on this problem and try and do something about it across-the-board. In addition to all the other things, flood control which is a serious problem in the State of New Jersey, he has taken a keen interest in. On many occasions, I have had the opportunity in working with him, that-- Like any thinking people, he is a deep thinker. He may not agree with what you're trying to prove to him, but if he errors at all -- and having seen him in action -- he will error on the side of improving the environment in every single case. I have personally had the opportunity, on all of these occasions, to interact with Chris, and have great respect for him, personally and individually, and his capabilities.

On behalf of the Alliance for Action, I urge this Committee and the Senate to vote for his confirmation.

SENATOR O'CONNOR: Thank you, Mr. Vieser. Any questions? Senator Ambrosio?

SENATOR AMBROSIO: Yeah, Mr. Vieser would you just tell me a little bit about what the Alliance is?

MR. VIESER: The Alliance is an organization of organizations created 15 years ago, to focus on improving the economy and the environment in the State of New Jersey through elimination of red tape and bureaucratic roadblocks.

SENATOR AMBROSIO: Is it basically a business oriented group?

MR. VIESER: No. We have 500 members that's spread through 10 categories of business, labor, industry, and professional groups.

SENATOR AMBROSIO: You have chemical companies in it?

MR. VIESER: Pardon?

SENATOR AMBROSIO: Do you have chemical companies in it?

MR. VIESER: Chemical companies are part of it, certainly. All businesses and industries and labor--

SENATOR AMBROSIO: You don't consider yourself an environmental group, though?

MR. VIESER: Well, we have all the professional engineering groups that are part of what we do, including the New Jersey Society of Professional Engineers, the Consulting Engineers Council--

SENATOR AMBROSIO: Okay, thank you.

MR. VIESER: --and municipal engineers, county engineers, Consulting Engineers Council. We have the opportunity to consult with them, and their canon of ethics, such as in the law profession, is that when they become professional engineers, they have a code of ethics that they operate from that is governed by law.

SENATOR AMBROSIO: Well, I was just trying to get whether the focus of your organization is environment or whether you're business oriented.

MR. VIESER: I stated in the opening comments that our major concern was to improve the quality of life for every resident of New Jersey.

SENATOR AMBROSIO: Okay, thank you.

SENATOR O'CONNOR: Thank you, sir.

Next witness is Mr. Joseph Williams.

J O S E P H W I L L I A M S: Thank you very much. I come before you with nothing to gain. I'm a lifelong resident of the shore area and a sports fisherman. I have no political ambitions. I'm taking time away from work to speak to you, because I feel so deeply about our ocean, the life it sustains -- both human and marine. I have three principal objections to Christopher Daggett's nomination for the position of New Jersey Commissioner of the Department of Environmental Protection:

First, there's absolutely nothing in his background to qualify him for his job; second, his record as Acting Commissioner of the DEP has been visibly deficient; and third, his ethics are highly questionable.

With regard to his background, his college degree was in education, and his only environmental experience has been as a regional EPA Administrator; a sour political plum for which this State has been forced to swallow.

I plan to assail his performance on several fronts, but we'll start with the issue of wood burning at sea, because I have a personal stake in the crusade to ban it forever.

On June 22, 1986, my boat was totally destroyed, and my crew and I barely escaped with our lives when we struck floating timbers while returning from shark fishing 17 miles off of Manasquan. Earlier in the day, we had witnessed 15 or 20 timbers, the size of telephone poles, roll into the sea from a wood burning barge operated by Weeks Stevedoring Company. Weeks Stevedoring Company was fined \$13,000, a small portion of its \$700,000 take for one day's burn.

I ask, why was this fine was so small? Permit regulations clearly state that violations may result in penalties of up to \$50,000 or one year in prison, or both. Also why did Christopher Daggett continue to issue wood burning permits, even though he knew the Coast Guard had halted all pollution patrols? This has left the ocean wide-open for illegal activity.

Now, two years later after many other harrowing experiences have been reported, almost nothing has been done to make the sea safer. Daggett admits the tons of wood are falling in the New York Harbor. This so-called driftwood, continues to be loaded on the barges, towed to sea, burned, and dropped overboard again. The barges often return, still in flames. Blatant disregard of law is a daily happening. Other attempts to control wood burning, such as barge inspectors, load limits, chains and stanchions, and a Memorial Day to Labor Day ban on burning, have proved totally ineffective. The logs remain in the water.

Here is more on Daggett's poor record. Under Daggett's leadership, the infamous Ciba-Geigy pipe line was becoming another national disaster -- another Love Canal. He lobbied against closing the pipe line, saying it was necessary for wastewater disposal. He recommended discharging treated groundwater through an open pipe line 3500 feet off of Dover. Isn't it ironic that Daggett's successor at the EPA, found a way to eliminate the wastewater hazard in just three weeks?

While in Washington, D.C. with the EPA, Daggett startled even anti-environmentalists by supporting test burns on PCB laden ships. This position was so glaringly unacceptable, that he was overruled.

Additionally, it doesn't speak well for Daggett that New Jersey ranks 49th in meeting Federal deadlines to upgrade secondary sewage treatment plants. The outpouring of sewage bacteria from Asbury Park into neighboring surfs last summer was an outrageous outcome of gross inefficiency.

Daggett's inexperience and incompetence add up to two strikes against him as DEP Commissioner. The third strike, which I hope will permanently put him out of environmental matters, is his poor judgment. The Bathgate caper, which sparked a costly three-month inquiry, demonstrates his sad lack of wisdom. Daggett, himself, belatedly regrets his actions and acknowledges his stupidity.

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More serious was Daggett's compliance with developers who want to turn Jersey City's Liberty State Park into a marina. Long cherished as a countrified haven for city dwellers, this tract will now only serve wealthy boat owners. Jersey City is suing the DEP.

The problem of illegal waste hauling was recently the subject of an Asbury Park Press investigation. The findings are damaging to Daggett, both as EPA Administrator and as Acting DEP Commissioner.

Here are just a few: 1) Brookdale Environmental Corporation, a West Orange hauler, holds a license in New York but not in New Jersey. It gets around this small inconvenience by subcontracting to firms licensed in New Jersey. In passing, I'll mention, it has also subcontracted to an unlicensed firm in Paterson. Evidence of Brookdale's illegitimate actions is in public records, but until the Press inquiry, the DEP remained unaware. I think it's deceptive of the DEP to keep violations confidential, but it's laughable to realize they've kept the information from themselves.

2) Trofe Incineration of Mount Laurel Township subcontracted illegally to haul Brookdale's medical waste from New York to New Jersey. They were caught in violation, but never prosecuted.

3) Standard Tank Cleaning Corporation in Bayonne has New York and New Jersey permits, despite a criminal history dating back to 1942. When asked, they denied violating the law. Last July its parent company, Standard Marine Services, Inc., was charged violating EPA regulations on ocean sludge dumping. Also, Standard Tank has dumped 6000 gallons of Agent Orange into Newark Bay. This company still holds its permits.

The Press found it takes six months or more for action to be taken on violations. Fines average less than \$5000. A manifest system has been set up to track waste, but there's no method to review it.

Christopher Daggett presents himself as concerned and educated about the environment, but the opposite is more true. He has allowed convicted felons to continue to prey upon our waters and allied himself with criminals. His actions all exemplify the typical political operative; always doing what's best for himself. He's a wolf in sheep's clothing -- the Joseph Goebbels of the EPA. It pains me to even contemplate New Jersey's DEP headed by a reinstated Rita Lavelle or Anne Gorsuch Burford.

We must never go back to the scandalous years of the past. Let us shape the future with the same determination as Winston Churchill expressed after he drove Rommel off the African continent. He said, "It's not the beginning of the end, but it's certainly the end of the beginning." Let us choose our next DEP Commissioner only after meticulous and conscientious study of the candidates. Thank you.

SENATOR O'CONNOR: Thank you. Are there any questions?

SENATOR ZANE: Yes.

SENATOR O'CONNOR: Yes, Senator Zane?

SENATOR ZANE: I'd like to inquire of you, and ask that you elaborate somewhat on your comment on page five, "that he has allied himself with criminals"?

MR. WILLIAMS: Okay, I've given you a videotape to watch. In this videotape-- It was called "Down the Shore," it was made last year. In this videotape, Christopher Daggett appears, I appear, John Gotti appears, the Columbo crime family appears, and numerous other people. It's worth watching.

There was also in that videotape-- A Newsday reporter did investigative work. There are transporters of waste that do have felony convictions dating back years and years and years. And the State of New Jersey has just given them permits to go ahead and handle this.

SENATOR ZANE: But you've indicated that he allied himself with criminals. Now they may be--

MR. WILLIAMS: He's given them permits, sir.

SENATOR ZANE: I'm sorry?

MR. WILLIAMS: He's issued them permits.

SENATOR ZANE: Is that the alliance you're suggesting?

MR. WILLIAMS: Yes.

SENATOR ZANE: Okay. Nothing more than that?

MR. WILLIAMS: Nothing more.

SENATOR ZANE: Are you suggesting that there is any personal gain derived by him out of that?

MR. WILLIAMS: No, I'm not.

SENATOR ZANE: Okay. You made mention of about four or five separate instances. One, Trofe Incineration, of Mount Laurel?

MR. WILLIAMS: Yes.

SENATOR ZANE: You don't have a date there as to when that happened. What are the dates involved? During his tenure?

MR. WILLIAMS: I've got the information right here.

SENATOR ZANE: I'm sorry?

MR. WILLIAMS: I've got the information right here.

SENATOR ZANE: Okay.

MR. WILLIAMS: Sir, I don't want to hold up the meeting. I can look through this and give it to you. (witness hands an article to Senator Zane)

SENATOR ZANE: Sir, you've handed me a clipping.

MR. WILLIAMS: Yes?

SENATOR ZANE: What is the date of this?

MR. WILLIAMS: It should be right up there.

SENATOR ZANE: I'm sorry?

MR. WILLIAMS: It should be on the bottom, or somewhere around there. It's very recent -- an Asbury Park Press investigation they did.

SENATOR ZANE: Well, what I'm asking you, is the Trofe incident that you referred to, during his tenure as Acting DEP Commissioner?

MR. WILLIAMS: As far as I know it is, sir.

SENATOR ZANE: I'm not trying to press you or embarrass you--

MR. WILLIAMS: No, I'm--

SENATOR ZANE: You don't know it for a fact?

MR. WILLIAMS: No, I don't know for a fact if that was during his tenure or not.

SENATOR ZANE: Okay.

MR. WILLIAMS: But this is through an Asbury Park Press investigation I read in the newspaper.

SENATOR ZANE: Was the Asbury Park investigation directed at DEP or Acting--

MR. WILLIAMS: No, I don't think it was directed at anybody in general, just directed at the very poor quality of our shores, the loss of business, the hypodermic needles continuously washing up on our shores.

SENATOR ZANE: Okay.

MR. WILLIAMS: The decrease of tourism has been tenfold below.

SENATOR ZANE: Let me ask you another-- You made reference of Standard Tank Cleaning Corporation--

MR. WILLIAMS: Yes.

SENATOR ZANE: --having, despite a criminal history dating back to 1942--

MR. WILLIAMS: Right.

SENATOR ZANE: Again, in regards to this nominee, what is the time period that you are referring to that would reflect upon this nominee, such as the dumping of Agent Orange in the Newark Bay? Is it related to his tenure?

MR. WILLIAMS: It is, sir, because of when he was with the EPA. If you watch the videotape I have given you, the videotape speaks a thousand words, and everything is explained in there beyond a shadow of a doubt.

SENATOR ZANE: Well, could you elaborate for me, on the relationship between this nominee--

MR. WILLIAMS: Okay, in the videotape, Standard Marine Services is-- In fact, Cary Edwards just caught them, I think, in December of last month (sic), discharging sewage waste as soon as they pull up to the facility where they're going to pick it up. They come with a small barge and take it out to a bigger barge, but before they even get away from the dock they're dumping it right into the Passaic River, right there. You know, if this is the type of company that the State of New Jersey is giving permits to, something is awful wrong.

SENATOR ZANE: You're saying this is recent?

MR. WILLIAMS: Yes sir, December 24 -- Cary Edwards, just before he left he did a big investigative report -- charged them with five or six different counts.

SENATOR ZANE: Sir, let me ask you this. Crime is probably the most profitable business in the nation. I think 2% of all people that are involved in crime, ever come into the criminal justice system, which means 98% get away with it. Was this violation called to the attention of DEP? Were they aware of it?

MR. WILLIAMS: Well, I think you're asking the wrong fella. You should ask Christopher Daggett.

SENATOR ZANE: Well, I'm not asking the wrong fella in that you made reference to it.

MR. WILLIAMS: Yes.

SENATOR ZANE: If you had personal knowledge of it, did you call it to the attention of DEP?

MR. WILLIAMS: I sure would have. I have on this wood burning case--

SENATOR ZANE: Would have, or did?

MR. WILLIAMS: Excuse me?

SENATOR ZANE: Would have, or did?

MR. WILLIAMS: No, I would have. I've done it in a few problems when we -- when my boat has been totally destroyed. We saw a wood burning barge. We've come to find out, finally, it was operated by Weeks Stevedoring Company.

Again, six days later, the Asbury Park Press took another videotape picture of the barge in action in the same scenario. There's no one watching them, sir. There's no Coast Guard patrols or any type of pollution patrols at all.

SENATOR ZANE: When the tape that you made reference to-- Who prepared it?

MR. WILLIAMS: Excuse me?

SENATOR ZANE: The tape that you made reference to that you presented to each Committee member.

MR. WILLIAMS: That was on the PBS Special, WYMY (sic), Channel 12. It comes out of Philadelphia and, I think, Wilmington, Delaware.

SENATOR ZANE: One other question. You indicated that, "Daggett startled even anti-environmentalists by supporting test burns of PCB on ships."

MR. WILLIAMS: Laden ships. Yes, sir.

SENATOR ZANE: Yeah, PCB laden ships. Can you elaborate on that at all? Do you know any more about it?

MR. WILLIAMS: He gave them-- Before there was a permit issued, I understand, that he gave them tentative permission to go ahead and burn 106 miles offshore.

SENATOR ZANE: And that's when he was with EPA?

MR. WILLIAMS: Yes, sir.

SENATOR ZANE: Just one remaining question. You indicated that you had an accident at sea--

MR. WILLIAMS: Yes, sir.

SENATOR ZANE: --on June 22, 1986--

MR. WILLIAMS: 1986.

SENATOR ZANE: --and apparently you lost your boat. Is that correct?

MR. WILLIAMS: Yes.

SENATOR ZANE: Please tell me how this relates to this nominee.

MR. WILLIAMS: Christopher Daggett was at the EPA at that time and issued the permits for wood burning.

SENATOR ZANE: Okay. And you're alleging that wood wasn't totally burned is what--

MR. WILLIAMS: Oh, it's not alleging. The EPA fined Weeks Stevedoring Company \$13,000. I had to go ahead and sue Weeks Stevedoring Company on my own, because the EPA and the DEP would not give me any information at all.

SENATOR ZANE: And that permit was issued at the directive of the nominee?

MR. WILLIAMS: Yes, it was.

SENATOR ZANE: Thank you.

SENATOR O'CONNOR: Thank you, sir. The next witness is Patricia Griffith. (no response) Next witness is Lorraine Sansone.

L O R R A I N E S A N S O N E: Good afternoon, my name is Lorraine Sansone. I'm from Ocean County. I am President of a citizens' environmental group named SAIN, Stop All Incineration Now. I am here to speak out against the approval or confirmation of Christopher Daggett as permanent head of the Department of Environmental Protection.

SAIN has very deep reservations about the direction in which the policies of the DEP have been headed. We have consistently read newspaper accounts of air quality deficits in this State. The State of New Jersey is, or will be, out of compliance with Federal air quality standards. The DEP's policy of approving only those counties' solid waste management plans which stress mass burn incineration as the primary resource recovery method, goes in direct opposition to the air quality standards which are currently intact.

What I would say, if I may go off my statement for a minute, is it's flying in the face of common sense. Here the State of New Jersey is whining and moaning, "Oh, the western states, Ohio, Pennsylvania is giving us poor air quality." Gentlemen, I suggest very strongly, that it's time we look in our own backyard.

The DEP's policy of only permitting mass burn incineration, is contributing more NOX, more particulate matter right over our own State. We can't look toward someone else, when our own backyard will continue to be polluting for the next 20 years.

Well, some county freeholders have expressed a desire to meet their responsibility to manage garbage disposal problems of other methods rather than mass burn incineration. The DEP has refused to permit these counties to look into alternative methods.

The County of Ocean has requested that the DEP grant a moratorium so that other methods may be identified, researched, and, hopefully, implemented. At that meeting, I believe it was Mr. Dewling and Mr. Deieso -- this was a little bit before Mr. Daggett-- However, Mr. Deieso, I believe, has since been elevated. Mr. Deieso's rapport with the public is certainly lacking, and I find Mr. Daggett's tacit approval of Mr. Deieso's methods totally unacceptable. (applause)

I would quote, if I may, a quote of Mr. Daggett's from The New York Times, Sunday, January 8. And these are quotes from Mr. Christopher Daggett: "I don't mean to downplay concerns about technical problems, but we've done enough study. We're at the point of acting, we don't have time to examine options." He was referring to mass burn incineration.

Now this is where the grand lie comes in. Because I have sat at Ocean County Freeholders' meetings, and I have heard those Freeholders say, time and again, "The DEP has held a gun to our heads. We have no choice about mass burn

incineration." To quote Mr. Daggett, "The DEP didn't select incineration, the counties did." Now gentlemen, who's telling the truth, and who's lying?

As a member of SAIN, we have been bounced between the Freeholders and the DEP. The DEP quoting the law, saying, "Resource recovery can mean many things." That was the quote we got via Mr. Bartlett's letter from the DEP. Then the County of Ocean saying, "The devil -- the DEP -- is making us do it." Further, the DEP didn't select incineration, the counties did. Now we're holding their feet to the fire to carry out the plans they put forward.

Gentlemen, what kind of State are we in? The County of Ocean says the DEP has a gun to its-- The DEP put a gun to its head. And now, Mr. Daggett is saying, "We're holding their feet to the fire." Common sense tells you the DEP is not listening to the counties and, I believe, it's the State Legislature that has to act on the problem.

There is one more concern I would like to express. There's been some question with regard to Mr. Daggett's attendance at a political fund-raiser, hosted by Mr. Lawrence Bathgate. While these questions raised revolve around Mr. Bathgate's firm representing Ciba-Geigy, our -- SAIN's -- reservations about Mr. Bathgate, concern Mr. Bathgate's representing the County of Ocean as County Bond Counsel.

As long as Mr. Daggett continues to push mass burn incineration, a very expensive way of disposing of garbage, Mr. Bathgate will continue to benefit financially in Ocean County. As County Bond Counsel, he stands to make over \$10 million if a mass burn incinerator is implemented in Ocean County. There shouldn't even be a hint of conflict of interest. I think, Mr. Daggett, by his attendance at that party, has, perhaps, supplied that hint.

We feel that Mr. Daggett's track record in the EPA and his record since becoming Acting Commissioner of the DEP has

not been geared toward aggressive and responsible action toward addressing the problems of the past, and even more importantly, avoidance of future catastrophic occurrences. The DEP is probably the one State agency with which the people of the State of New Jersey have the most direct contact. We see the pollution of the ocean. We see the burning and the results of burning timbers in the ocean, and we see the aggressive and unrelenting promotion of garbage incineration which results in toxic ash.

The State of New Jersey is in very deep trouble financially and economically. Therefore, SAIN would respectfully request that you deny the approval of Mr. Daggett's confirmation. We are well aware that he can continue to be Acting Commissioner. And quite frankly, gentlemen, I don't think he deserves the honor of being approved. Thank you. (applause)

SENATOR O'CONNOR: Thank you.

SENATOR LASKIN: Ed?

SENATOR O'CONNOR: Senator Laskin.

SENATOR LASKIN: Yeah. If we could have the witness for another minute?

I'm going to make a comment that's really not a question to you, but, I've listened for many years, about the solid waste problem. Some of us, many years ago, were "gutsy" enough to tell the people that they were slobs, and using too much, wasting too much, etc. -- some of us, very few, but some were, over the years.

I want you to know that this doesn't have a direct bearing on Mr. Daggett, because the problem has been with us for a long time. But when I hear citizens from every county, not just Ocean, my own, especially, which is Camden, which is probably the biggest disgrace in the State of New Jersey-- But when I hear citizens from all the counties say it's the DEP that's making us burn trash, it bothers me a little bit.

Because since the early '70s, through Democrat administrations, through Republican administrations, the solid waste crisis has been around. The counties were obligated to take steps to solve the county problem with two exceptions in the whole State. These exceptions came very late, but they were exceptions. Nineteen counties did nothing, they just postponed the inevitable because while they had dump sites, while they had holes in the ground to dump the trash, and while the holes weren't filled up yet, nobody did anything about it, because politically, for a county freeholder of either party to stand up and take an unpopular position and advocate an alternative method of disposing of solid waste, they didn't do it. For years, and years, and years, until this Legislature -- again, both parties -- until this Legislature said, "We've had enough from the counties. They are not doing what they are supposed to do. The voters don't seem to understand that it's not the State of New Jersey that should be doing these things, the law requires the counties to do it." The voters never got upset; never. The same freeholders were elected.

No matter where you are from, year after year, but until this State Legislature -- taking a very unpopular position, I might add -- said, "We've had enough. We're now going to mandate the solid waste disposal by some method -- whatever that method is, we're going to have the DEP start putting the squeeze on the citizens to get them mad enough at their county freeholders. We're going to start closing dump sites." And we did, little by little, throughout the State. And so that the disposition of solid waste became so astronomically expensive -- because there were fewer and fewer places to put it -- that the county freeholders of both parties, started to feel a little heat finally, and started to look at different ways to dispose of solid waste. Fortunately, or unfortunately depending on what side of the issue you belonged, incineration was grabbed and was thought to be the best solution. It may not be.

But I want you to know, by way of background, that this problem comes directly because county freeholders of both parties, did not have guts enough to take on the solid waste issue and it was not until this Legislature showed its guts, and said, "This is what you're going to do, whether you like it or not." Now we're in this position, and it's a very difficult position for everybody to be in.

MS. SANSONE: With all due respect, I do agree with you. However, I was referring to the County of Ocean. The County of Ocean has been very responsible in terms of planning for their future garbage disposal.

SENATOR LASKIN: Yeah, that's one of the two.

MS. SANSONE: However, the County of Ocean has been unfairly penalized by the DEP because of this. Some of the northern counties did not have the foresight, or couldn't make the tough decisions -- refused to make the tough political decisions. However, counties like the County of Ocean, that while it does have enough landfill space, would request the time, since now that so much more data is coming in about incineration, and about the ash, which must be landfilled-- Don't delude yourself, that ash will wind up in a landfill.

What we're hearing from Warren County -- the state-of-the-art incinerator, which has been built in New Jersey -- is not positive. Therefore, common sense dictates, if a county can continue to deal in a responsible manner with their own solid waste, they should be granted the time to come up with a more positive environmentally and economically sound method. I don't disagree with you. None of those freeholders are willing to make those hard choices. They were all afraid of us "NIMBYs" sitting out there. Well, with due respect, the "NIMBYs" of this State are the ones who are making things move.

Personally, I live in Ocean County. I wasn't terribly concerned about what was going on in Sussex. I wasn't terribly concerned about the Essex incinerator. Then I found out what

can happen to my county. It is the "NIMBYs" of the State, rather than being denegated, should be applauded. Those are your truest and best allies. Their motives are good. They see the evils, and they try and do something to correct it. But again, I refer only to Ocean County and Mr. Daggett's disregard for a county who is, hopefully, doing the right thing.

SENATOR O'CONNOR: Thank you very much.

The next witness is Madelyn Hoffman from the Grass Roots Environmental Organization.

M A D E L Y N H O F F M A N: Thank you very much. My name is Madelyn Hoffman. I'm the Director of the Grass Roots Environmental Organization. I live in Bloomfield, New Jersey, and I'm here to express opposition to the nomination of Christopher Daggett to be the new Commissioner of the New Jersey Department of Environmental Protection.

Other people have already testified about Mr. Daggett's lack of credentials for the job and the fact that he holds positions on issues that are the opposite of what many of New Jersey residents would like them to be; in particular, on garbage incineration, composting, and ocean dumping.

There was a question raised earlier this morning. The question was, "If you set aside Ciba, were there other issues that Christopher Daggett has been involved with during either his tenure as EPA Administrator or Acting DEP Commissioner, that would raise questions about his qualifications?" I'd like to answer those first, because I think that there are.

First of all, Lorraine Sansone spoke very well about the questions of Christopher Daggett's support of a State policy that favors garbage incineration, and we have seen that time and time again in various counties.

In addition, I sent a letter to the members of this Committee a number of weeks ago, regarding Christopher Daggett's attitude and response to questions on the issue of composting and whether composting can be done successfully in

this State; how well it can be done; where it can be done; at what cost? I have an extra copy of it here today, if you need another copy of it. In this, it basically shows that the scientific community -- one Melvin Finstein, who's been trying for years to get the DEP to look carefully at composting -- has continued to be rebuffed by the DEP and the now Acting Commissioner, Christopher Daggett on these matters. If you went around this State, from community to community, you would find there's enormous support for a rational solid waste disposal plan that would include composting.

We would also say, that in terms of the battles between the county and the State, and the State's solid waste management plan, the DEP always had the authority to get the counties to do something with the waste. They were also supposed to come up with a State solid waste management plan. A number of years ago, that was criticized by a number of people, including Congressman Florio. So I'm not real sure where the blame lies, but I do know, that Christopher Daggett has been quoted in the papers saying that he supports the State's policy on this matter and would want to see a quick implementation of what's been weighed out in the past which is a commitment to garbage incinerators.

In addition, there is one whole other area of Christopher Daggett's tenure which, I think, bears a closer look. We have received a commitment-- Our organization had received a commitment from residents of Puerto Rico to come and testify at this hearing today. Unfortunately, however, a last minute change of plans prevented them from attending. I think it's very important to take a look at what Christopher Daggett has done as EPA Administrator in Puerto Rico. I think it adds something to the argument made by residents here, about his method of treating the situation at Ciba-Geigy, his lack of sensitivity to environmental problems, and so on down the line.

Instead of having people in the flesh sitting here next to me, I conducted a lengthy interview last night, with a Dr. Neftale Garcia Martinez, a scientific advisor to several Puerto Rican communities, dealing with environmental problems in Puerto Rico. I think Mr. Daggett's record is important to consider there, as it shows the kinds of decisions he has made in the past.

In a State loaded with environmental problems, it is important that the new DEP Commissioner be someone who inspires confidence, helps rebuild DEP's lost credibility, and acts swiftly to solve environmental problems. Unfortunately, I feel his record in Puerto Rico does not do that.

Number one: Superfund activities in Puerto Rico were extremely slow during the Daggett administration. Only eight Superfund sites were chosen for possible cleanup out of a total of 150 sites known or suspected to contain hazardous waste. No cleanup has occurred at any of those eight sites. Only one person was assigned by EPA Region II to work in Puerto Rico. Others worked part-time out of the New York office.

Number two: Between 1983 and 1988, in a town called Vega Alta, 28,000 people drank water from the public water supply containing 30 to 40 parts per billion of trichloroethylene. Officials suspect the chemicals came from industries such as, General Electric, Teledyne, Hartmann Automotive, Motorola, and others. The U.S. Geological Survey found the contaminants through sampling and analysis done between 1981 and 1983. A group of citizens asked EPA and the Department of Health in Puerto Rico to close four polluted wells in 1983. The Puerto Rican Department of Health closed only two of the four polluted wells. The other two remained open for five more years. In that time period, EPA did nothing to stop this and to provide clean water to residents. Finally, the other two wells were closed, because the citizens generated enormous pressure, between August 1987 and October 1988, a few days prior to the elections.

In Juana Diaz, a town in southern Puerto Rico, underground water and soil was polluted with mercury, trichloroethylene, and tetrachloroethylene. The problem was identified in 1983.

After five years of study, the mercury present in the soil and water had not been removed. The mercury was found in the soil of the houses at the level of one part per million, in the yards, and up to 10 parts per million in some areas within the soil of the plant. Some of the mercury gained access to the soil in the yards of private homes. The two organic solvents were found in a public well -- at levels of around 200 parts per billion -- that had been used for years to provide water to the town's inhabitants. EPA has not found out who polluted the well, although because of its location, the General Electric plant is a logical source of the solvents. General Electric has admitted to being the source of the mercury.

In one other town -- Juncos (phonetic spelling) -- since the early 1970s, Becton Dickinson disposed of broken thermometers in a municipal waste dump. Other industries deposited solvents in the area. Even though this was known, a few years ago the Puerto Rican government and EPA allowed the construction of single-family homes on top of a portion of the waste dump. The waste dump has not yet been cleaned up, even though it is on the Superfund list.

Both events occurred -- being listed as a Superfund site, and the construction of the development -- at more or less the same time.

And lastly, it was here that we had hoped to have some residents come to testify in regard to a place called Ciudad Christiana.

In 1978 and 1979, EPA and the Environmental Quality Board of Puerto Rico, discovered the presence of mercury, lead, lindane, phenol, phthalates, and other pollutants in water and

sediments of the Frontera Creek. In 1979 and 1980, the Puerto Rican government and EPA allowed the dredging of the creek and the use of the sediments to partially fill an area where a development called Ciudad Christiana was going to be built.

Ciudad Christiana contained 450 single-family homes and approximately 2000 residents. After three-and-a-half years, the residents who had been experiencing health problems, and had been unable to get the EPA or the Puerto Rican government to do anything about it, began a rent boycott and a lawsuit against a Puerto Rican government agency cooperative development company. Then together with Farmers' Home, provided funding for the construction of the development.

After putting pressure on the Puerto Rican government for more than one year, and having found that many residents had mercury in their blood, above 2.8 micrograms per deciliter -- the tests were conducted at residents' own expense, I may add -- the Puerto Rican government decided to relocate the residents on February 25, 1985.

EPA's position, together with the Center for Disease Control, was, and continues to be, that there was no imminent danger to the health of the residents and that the relocation was conducted without scientific basis. The residents have submitted results of analysis of 312 blood, urine, and hair samples to the EPA and CDC. Fifty-six percent of the blood samples show levels above 2.8 micrograms per deciliter, which according to most labs would be considered above normal for people that do not work in industries where mercury is used. EPA and CDC's official position has been that they have doubts about the methodology used to take the samples. However, according to the people I spoke with in Puerto Rico, they have never taken the time to find out what method was used by the laboratories. As a matter of fact, the laboratories used a method that is used in the United States by Hoffman-LaRoche and other prominent laboratories.

Among the symptoms present in the Ciudad Christiana ex-residents are loss of teeth, gum problems, damage to the kidneys, use of dialysis, dermatologic conditions, reduction in short-term memory capacity, reduction in learning capacity of primary school children, and increased irritability.

The economic and social consequences of this nightmare include ostracism of children in the schools -- they are called the "murpurials" (phonetic spelling) -- loss of jobs due to reduction in working capacity, disruption of marriages, and so forth.

As Administrator of EPA, Christopher Daggett went to Puerto Rico a number of times, maintaining the official position that the relocation was unwarranted. In fact, EPA and CDC have been talking about the possibility of asking people to return to their homes.

When one deals with mercury -- a pollutant that accumulates in the human body -- imminent danger cannot be defined as a concentration of the substance that kills instantly. It must be defined based on the rate of accumulation and the level accumulated in the body throughout the years, and of course, the damage being done to different organs in the body. In the case of Ciudad Christiana, therefore, the EPA has been using the term "imminent danger" incorrectly and with a lack of sensitivity for human health.

This information was obtained from Puerto Rican environmentalists, particularly Ciudad Christiana ex-residents, and Dr. Neftale Garcia Martinez. If any of you are interested in pursuing this any further and talking specifically with any of the people in Puerto Rico, I can give you the phone number of Dr. Martinez. He is willing to speak with you at length, about the problems there.

I just submit, again, that in looking at and examining Christopher Daggett's qualifications for this position, it's important to look at what he's done everywhere that was under his jurisdiction, including Puerto Rico. Thank you very much.

SENATOR O'CONNOR: Thank you. Any questions? (no response)

All right. The next witness, then, is Dr. Dennis Sternberg from Save Our Shores.

D R. D E N N I S S T E R N B E R G: Gentlemen, this State, and indeed the entire country and the world, are filled with environmental injustices. In 1981 until very recently, all of our institutions of DEP and Federal EPA refused to listen. You have in this room, environmentalists from different parts of this State, with the interest of making their State, and I believe, this country and the world, a better place to live for your children and my children.

The spotlight on the environmental situation in this country, and specifically in this State, is going to focus, not dim, on how we treat all of the problems that are so crucial to the health of the individuals in this State and this country. Everybody, myself included, at one time or other in their lives, let laissez-faire be the rule. We all did not think it really pertained to us, whether it was an incineration site, or ocean dumping, or just a neighbor dumping their garbage in the street.

We have to now use the publicity which has been so negative as an impetus for two things to happen: That the Legislature, not just enact new laws, but help to make laws that enforce existing laws. Save Our Shores has been an advocate that the Legislature create a standing grand jury and an environmental prosecutor or environmental prosecutors throughout this State to take care that the people who continue to commit -- whether on the corporate level, or on the individual level, or in the governmental level -- violations of the laws pertaining to pollution; that these people are prosecuted, thereby help to end the flow of the continued pollution.

As far as Mr. Daggett is concerned, I want to have somebody in the office who has a very thorough idea of the all-encompassing situations that pollution has shown us, especially the last two years.

This letter comes in support of the nomination of Christopher Daggett, to the position of Commissioner of the State's Department of Environmental Protection.

As Region II Administrator for the Federal EPA, Mr. Daggett has seen the development of ocean pollution crisis reach the unfortunate proportions evidenced these two past summers.

Save Our Shores has always been frank with Mr. Daggett, and we believe that he, in turn, has been frank with us. Mr. Daggett has affirmed that his priority is to get the ocean cleaned up. It is really quite simple: Either the ocean is clean enough to swim in and fish from, or it is not. We cannot be secure in rationalizing that a beach which is polluted in the morning will be okay in the afternoon, or that fish caught on a weekend that are inedible, are okay for consumption if caught during the week.

It is with this understanding, that SOS believes that the solution to ocean pollution must be comprehensive and must be accomplished, from analyzing the most evident problems that we know exist and tracing those problems back to their source. Mr. Daggett has sincerely conveyed his understanding of the severity of the problem and his goals for the intended methods of reaching solutions. We believe that his stated commitment to the people of New Jersey is real, and that he will make every effort to implement whatever is required to stop pollution at its sources and provide the means necessary to clean up already polluted ocean waters.

Mr. Daggett brings a history of experience to this issue that provides a further positive consideration for his ability to quickly and carefully act on the problem and provide realistic solutions.

SOS hopes and believes that Mr. Daggett will work with the people in the environmental movement and with the citizens of our State, and that together, all of us will make this priority a reality, because all of us really want the same thing. We want our ocean back, and we want our environment back. I hope that in the confirmation of Mr. Daggett -- with him seeing just how strong the environmental issue is, and just how strong and how difficult it is for any politician to continue to turn their back on the environment, or for any group to continue to press in a way that's not going to be a positive way -- will help him to make the ending of ocean pollution and pollution in general, a more realizable goal in this State. Thank you.

SENATOR O'CONNOR: Thank you.

Doctor, Save Our Shore is primarily located in which county?

DR. STERNBERG: Monmouth County.

SENATOR O'CONNOR: Monmouth. Your doctorate is in what?

DR. STERNBERG: Mine is in dentistry. The other co-founders are head of Orthopedic Surgery in New Jersey Shore Hospital. There are a thousand physicians who are members of Save Our Shores, as well as thousands of citizens who are from all different walks of life.

SENATOR O'CONNOR: Thank you. Any questions? (no response) Thanks, again.

Next witness is R. William Potter. (no response) Mr. Potter not being here, next witness is Rob Stuart, New Jersey Public Interest Group.

R O B S T U A R T: Thank you, Mr. Chairman. I do have a written statement, but in the interest of time I want to summarize.

Good afternoon, my name is Rob Stuart. I'm the Legislative Program Director for the New Jersey Public Interest

Research Group. NJPIRG is a nonprofit, nonpartisan research and advocacy organization, working on environmental, consumer, and good government issues. NJPIRG represents 70,000 members statewide. Thank you for the opportunity to testify before the Judiciary Committee today.

NJPIRG views the position of a Commissioner of Environmental Protection as one of the most important posts in State government. No single individual has more of an opportunity to have an impact on New Jersey's pressing environmental problems. And as we speak today, clearly, the State is at a critical juncture. Without dynamic leadership from the DEP Commissioner, environmental problems have the potential to overwhelm us.

The testimony we prepared today is not designed to support or oppose the nomination of Mr. Daggett, but rather to inform the Committee members of NJPIRG's view of New Jersey's environmental problems, and to outline some of the changes in approach we believe are necessary if we're to provide a healthy environment for future generations.

Last year was the worst year on record for air quality. New Jersey experienced over 40 days which ozone levels exceeded Federal standards. THE DEP estimates that approximately 20% of our public drinking water supplies are contaminated with hazardous chemicals. Only 29% of the State's waterways are both swimmable and fishable. That percentage has remained virtually unchanged for the past 10 years.

Fifteen hundred municipal and industrial facilities discharge directly into our waterways, and another 4000 industrial facilities discharge into publicly owned treatment works.

Each New Jersey resident generates over 1.5 tons of solid waste each year. Over 50% of this total is currently exported to landfills in other states. Despite passage of the

1985 Mandatory Recycling Law, the amount of unrecyclable waste continues to increase in the State and will be destined for incineration.

New Jersey has over 1200 known, and suspected toxic dump sites, including 100 Superfund sites which pose threats to ground and surface water, air quality, and public health of nearby communities.

Given the above facts, NJPIRG is concerned that the State's environmental policy to date, has almost exclusively been reactive without appropriate attention to preventive strategies. This inattention has had serious repercussions for environmental quality. We believe it is clear that we must move from a patchwork regulatory system to a comprehensive program aimed at pollution prevention.

The failure of the State and Federal agencies to protect waterways from intentional discharges from industrial municipal facilities is well documented. Reports issued by the GAO, NJPIRG, and the Office of Technology Assessment from 1981 to 1987, all found widespread noncompliance with New Jersey's Clean Water Act. These reports showed very little response rates by the DEP and the U.S. EPA to violations. Therefore, a top priority of NJPIRG is passage of the Clean Water Enforcement Act, which would hold polluters accountable through mandatory minimum fines and would discourage industries from violating the law in the first place, by negating any unfair economic profit they receive.

It was mentioned earlier, but the recent experience with the Warren garbage incinerator clearly demonstrates that the State still does not have an effective solid waste policy. To date, the Department has not implemented the solid waste disposal hierarchy as established by this Legislature and the Federal government. Until our solid waste policies address the problem of solid waste generation and seek to promote source reduction, reuse, and materials recycling, our solid waste crisis will continue.

The Department has also failed to recognize the value of a comprehensive program to reduce the use of toxic substances. Whereas existing programs regulate the discharge of only a few hundred chemicals, U.S. industries commonly use over 70,000 toxic compounds. In addition, 500 to 1000 new hazardous substances are created each year. The only way to effectively combat this continued assault on the environment, is to establish a comprehensive program to reduce toxic use. Only by implementing the system to stop toxic pollution at its source, can we ensure that the State's environment will be protected in the future.

Much has been said about the role concerned citizens play in the environmental decision-making. NJPIRG contends that involved citizens are a positive and effective component in the overall protection of our environment. Citizens are often the first to know of an environmental problem and can be effective in bringing polluters into compliance with the law. The Department must work to recognize the value of active and informed citizens who are providing timely and reliable information in response to citizen requests; because too often the Department and citizens work at cross purposes because of an unwillingness to trust each other. Legislative measures designed to further empower citizens should be supported.

In conclusion, we urge the Judiciary Committee and the members of the Senate to consider the magnitude of our environmental problems and the need for an integrated approach in addressing these issues and the value of preventive strategies when considering the next Environmental Commissioner. An effective Commissioner must be willing to admit past regulatory mistakes, be aggressive against polluters, and be prepared to support innovative measures that strike at the heart of our environmental problems. For too long, New Jersey's reputation has suffered because of our

environmental situation. To revive tourism, to attract quality business, to preserve a healthy economy, we must improve our environment now and throughout the future.

Thank you for the opportunity to provide our views on this important position. We'd be happy to answer any questions any of the members may have.

SENATOR O'CONNOR: Any questions?

SENATOR AMBROSIO: Just one or two.

SENATOR O'CONNOR: Senator Ambrosio.

SENATOR AMBROSIO: Does NJPIRG oppose incineration of solid waste?

MR. STUART: Our position on solid waste incineration is that before we make a full and financial commitment, we must explore the hierarchy which promotes reduction, reuse--

SENATOR AMBROSIO: Yeah, that begs the question. Because we all want to reduce the waste flow--

MR. STUART: Yeah, right.

SENATOR AMBROSIO: --but when you're left with the stuff you can't get rid of, what do you want to do with it?

MR. STUART: We want to reduce that to the furthest amount--

SENATOR AMBROSIO: Yeah, you've done that.

MR. STUART: --and we want to see clear standards for any kind of residue which is ash, as well as--

SENATOR AMBROSIO: Do you support burning?

MR. STUART: Do we support burning? We do not support burning without strong regulation as it relates to residue which is ash and/or emissions, which is the air. Currently, we do not have those standards on the books.

SENATOR AMBROSIO: So you oppose burning solid waste at this time?

MR. STUART: At this time, yes.

SENATOR AMBROSIO: Do you support burning sludge?

MR. STUART: We have not fully explored the sludge incineration question, though our sense of the matter is that through aggressive pretreatment as well as toxic use reduction, there could be more beneficial uses for sludge, rather than contributing, again, to our air quality situation through increased incineration. So we have implored the Department, and are interested in working with the environmental community, to explore options that may, in fact, include incineration, but do not put incineration at the top of the list.

SENATOR AMBROSIO: What do you want to do with the sludge we now have?

MR. STUART: We want to clean it up, and we want to make sure that it can be used--

SENATOR AMBROSIO: And until you clean it up, what do you want to do with it?

MR. STUART: We want to make sure that it's not put in a position where it's damaging to either our air or our water.

SENATOR AMBROSIO: Where are you physically going to put it?

MR. STUART: Well, I imagine at this point, if, in fact, the sludge is hazardous -- and we want to see to make sure that it's not -- it would have to be treated as a hazardous waste and put into a secure hazardous waste landfill.

SENATOR AMBROSIO: And where's that?

MR. STUART: I think we may have one in-state, but more often we have to export our hazardous waste out-of-state.

SENATOR AMBROSIO: We'll let this go for another time.

MR. STUART: Okay, we'll continue to talk about this.

SENATOR O'CONNOR: Thank you very much, Mr. Stuart.

May I ask, are Jane Nogaki, Ian Walker, Phyllis Elston, Sally Dudley, and Candace Ashman all here?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes.

SENATOR O'CONNOR: Okay. All right, we're going to take a two-minute break. I'd ask if you would, to remain in the room, and we'll be back here in two minutes.

(SHORT RECESS)

AFTER RECESS:

Ladies and gentlemen, please take your seats.

We are going change course here. It was our intention to get through all those who had signed up to speak today, either before the Governor's budget message or perhaps, thereafter. We have a problem in that we don't know what time the Governor's budget message is going to be concluded, and there are persons on the Committee who have other commitments this afternoon.

So, in the interest of giving everyone who has come here and signed up to address us an opportunity to be heard, and so that we can spend the time that we feel is required with questions that we have for the nominee himself, we're going to carry this matter until the next meeting of the Committee, which is February 6. We will, at that time -- so you understand clearly how we're going to proceed-- We're going to take the remaining five witnesses and no others, and then we'll hear from Mr. Daggett in response to the questions that we have. So we are now adjourned until February 6. Meeting is scheduled for 10:00 a.m. on that date.

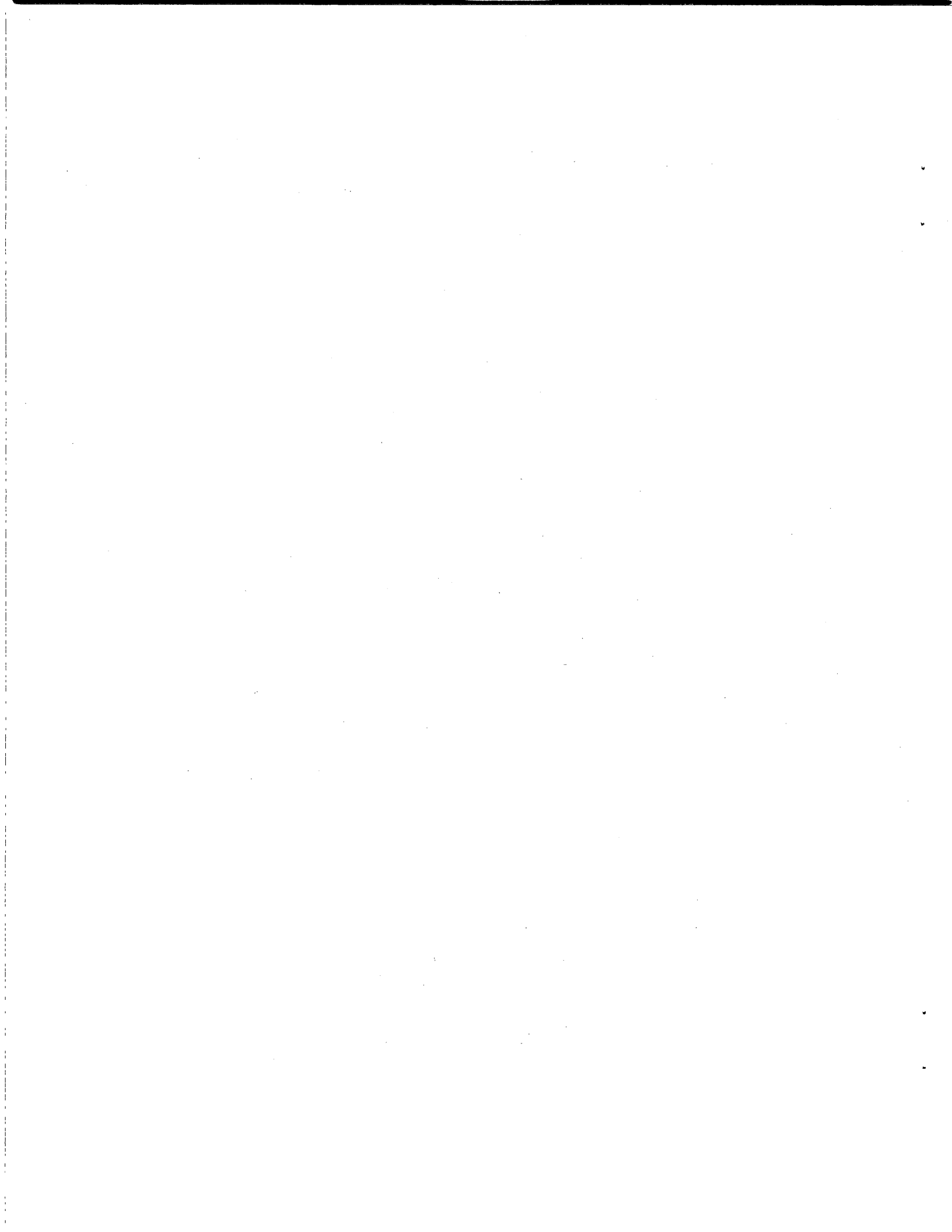
UNIDENTIFIED MEMBER OF AUDIENCE: What time, Senator?

SENATOR O'CONNOR: 10:00 a.m.

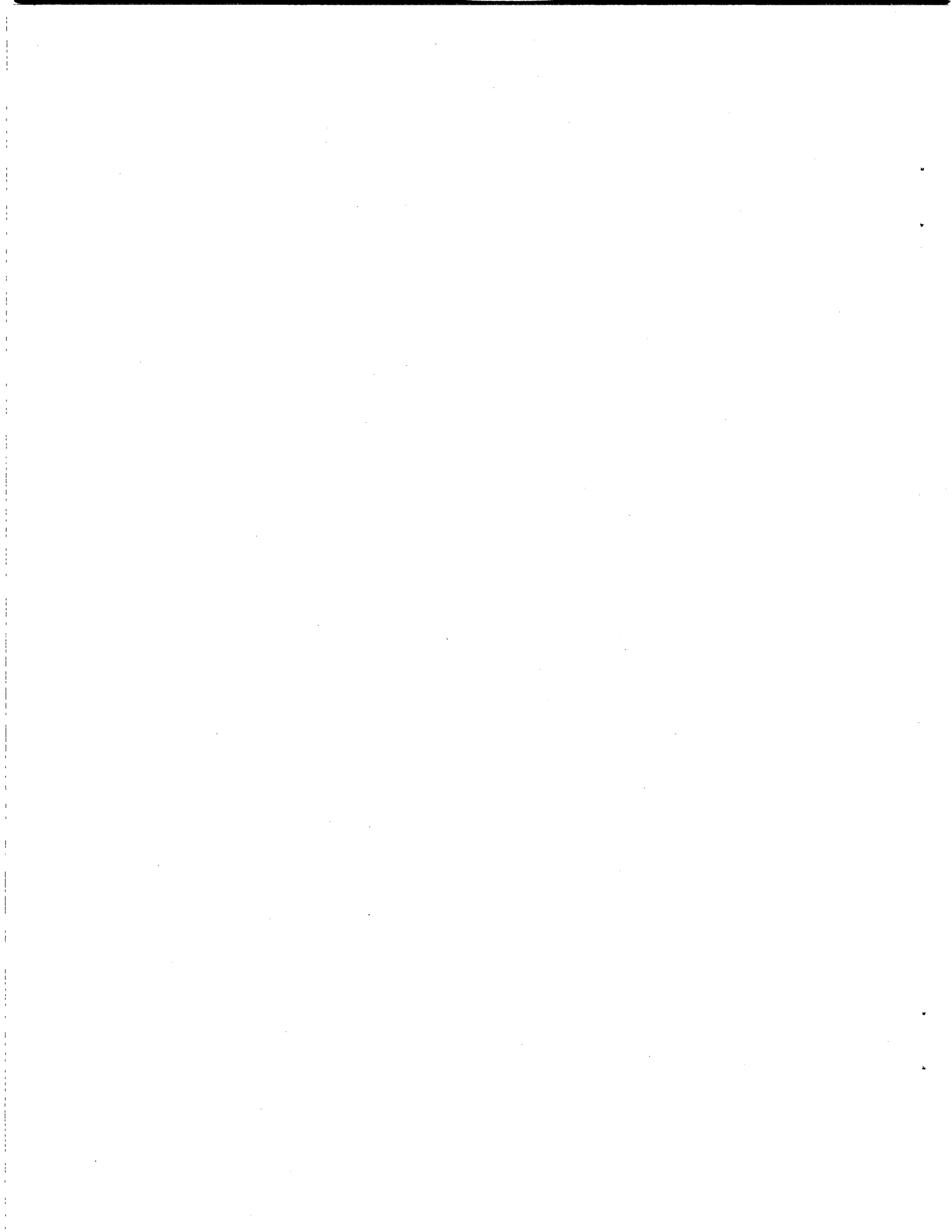
UNIDENTIFIED SPEAKER FROM AUDIENCE: What time?

SENATOR O'CONNOR: Had you listened to the end, you would have heard 10:00 a.m. Thank you.

(MEETING CONCLUDED)



**APPENDIX**



# **NJPIRG**

New Jersey Public Interest Research Group  
99 Bayard St., New Brunswick, NJ 08901 (201) 247-4606

## **Testimony Before the Senate Judiciary Committee On The Nomination of Christopher Daggett To Be Commissioner of The Department of Environmental Protection January 26, 1989**

Good afternoon. My name is Rob Stuart, and I am the Legislative Program Director for the New Jersey Public Interest Research Group (NJPIRG). NJPIRG is a non-profit, non-partisan, research and advocacy organization working on environmental, consumer, and good government issues. NJPIRG has over 70,000 members statewide.

Thank you for the opportunity to testify before the Judiciary Committee today. NJPIRG views the position of Commissioner of the Department of Environmental Protection (DEP) as one of the most important posts in state government. No single individual has more of an opportunity to have an impact on New Jersey's pressing environmental problems. As we speak the state is clearly at a critical juncture. Without dynamic leadership from the DEP commissioner, our environmental problems have the potential to overwhelm us.

The testimony we have prepared is not designed to support or oppose the nomination of Mr. Daggett, but rather to inform committee members of NJPIRG's view of New Jersey's environmental problems and to outline some of the changes in approach we believe are necessary if we are to provide a healthy environment for future generations.

### Current Environmental Problems

Last year was the worst year on record for air quality. New Jersey experienced over 40 days during which ozone levels exceeded federal standards. In addition, industrial facilities continue to emit millions of pounds of largely unregulated toxic substances into the air each year.

The DEP estimates that approximately 20% of our public drinking water supplies are contaminated with hazardous chemicals. There are no official estimates on the number of contaminated private wells.

Only 29% of the state's waterways are both swimmable and fishable. This percentage has remained virtually unchanged over the last 10 years. 1500 municipal and industrial facilities discharge directly to our waterways and another 4000 industrial facilities discharge to publicly owned treatment works. A recent report by NJPIRG indicates that 50% of the major industrial dischargers in New Jersey routinely violate the law.

Each New Jersey resident generates over 1.5 tons of solid waste each year. Over 50% of this total is currently exported to landfills in other states. Despite passage of the 1985 mandatory recycling law the amount of unrecyclable waste continues to increase in the state, and will be destined for incineration.

New Jersey has over 1200 known and suspected toxic dumpsites, including 100 Superfund sites which pose threats to ground and surface water, air quality, and the public health of nearby communities. Further, a recent study by the General Accounting Office (GAO) found that mismanagement at many hazardous waste treatment facilities throughout the country was serious enough to result in contamination comparable to that found at many Superfund sites.

#### The Need For A New Preventive Strategy

Given the above facts, NJPIRG is concerned that the state's environmental policy to date has been almost exclusively reactive without appropriate attention to preventive strategies. This inattention has had serious repercussions for environmental quality. We believe it is clear that we must move from a patchwork regulatory system to a comprehensive program aimed at pollution prevention.

The failure of state and federal agencies to protect waterways from intentional discharges by industrial and municipal facilities is well documented. Reports issued by the GAO, NJPIRG, and the Office of Technology Assessment (OTA) from 1981 through 1987 all found widespread non-compliance with New Jersey's Clean Water Act by both industrial and municipal facilities. These findings were reaffirmed by NJPIRG's 1988 report entitled "Polluter's Playground". this report Further showed very low response rates by the DEP and U.S. EPA to violations. Therefore, A top

priority of NJPIRG is passage of the Clean Water Enforcement Act which will hold polluters accountable through mandatory minimum fines and will discourage industries from violating the law in the first place by negating any unfair economic profit they may receive.

The recent experience with the Warren garbage incinerator clearly demonstrates that the State does not yet have an effective solid waste policy. Despite assurances to the contrary, the state's first municipal waste incinerator is causing air pollution problems, generating thousands of tons of hazardous ash, competing with the county's mandatory recycling program, and will undoubtedly cost taxpayers many more millions than predicted. Current policy envisions at least 17 mass burn incinerators, but does not take into account the environmental as well as the financial drawbacks of such plants.

To date, the Department has not implemented the solid waste disposal hierarchy as established by this legislature and the federal government. Until our solid waste policies address the problem of solid waste generation and seek to promote source reduction, reuse, and materials recycling, our solid waste crisis will continue.

The Department has also failed to recognize the value of a comprehensive program to reduce the use of toxic substances. Whereas existing programs regulate the discharge of only a few hundred chemicals, U.S. industries commonly use over 70,000 toxic compounds. In addition, 500-1,000 new hazardous substances are created each year. Research by NJPIRG reveals that millions of pounds of these same substances are released directly into the environment each year by companies across the state. Clearly, the current "end of the pipe" approach cannot keep pace with the industrial generation of toxics. The only way to effectively combat this continued assault on the environment is to establish a comprehensive program to reduce toxics use. Only by implementing a system to stop toxic pollution at its source can we ensure that the state's environment will be protected in the future.

#### Citizens As Positive Force For The Environment

Much has been said about the role concerned citizens play in environmental decision making. NJPIRG contends that involved citizens are a positive and effective component in the overall protection of our environment. Citizens often are the first to know of an environmental problem and can be effective in bringing

polluters into compliance with the law. The Department must work to recognize the value of active and informed citizens by providing timely and reliable information in response to citizen requests. Too often, the Department and citizens work at cross-purposes because of an unwillingness to trust each other. Legislative measures designed to further empower citizens should be supported.

Conclusion

NJPIRG urges the Judiciary Committee and the members of the Senate to consider the magnitude of our environmental problems, the need for an integrated approach in addressing these issues and the value of preventative strategies when considering the next Environmental Commissioner. An effective commissioner must be willing to admit past regulatory mistakes, be aggressive against polluters, and be prepared to support innovative measures that strike at the heart of our environmental problems. For too long New Jersey's reputation has suffered because of our environmental situation. To revive tourism, to attract quality business, and to preserve a healthy economy, we must improve our environment now and through the future.

Thank you for the opportunity to provide our view on this important position. We would be happy to answer any questions members of the Committee may have.

SPEECH AGAINST NOMINATION OF CHRISTOPHER DAGGETT AS D.E.P.  
COMMISSIONER

I come before you with nothing to gain. I am a lifelong resident of the Shore area and a sports fisherman. I have no political ambitions. I'm taking time away from work to speak to you because I feel so deeply about our ocean and the life it sustains, both human and marine.

I have three principal objections to Christopher Daggett's nomination for the position of New Jersey Commissioner of the Department of Environmental Protection. First, there is absolutely nothing in his background to qualify him for the job. Second; his record as Acting Commissioner of the DEP has been miserably deficient, and third, his ethics are highly questionable. With regard to his background, his college degree was in Education and his only environmental experience has been as a Regional EPA Administrator - a sour political plum which this state has been forced to swallow.

I plan to assail his performance on several fronts, but will start with the issue of woodburning at sea because I have a personal stake in the crusade to ban it forever. On June 22, 1986, my boat was totally destroyed and my crew and I barely escaped with our lives when we struck a floating timber while returning from shark fishing 17 miles off Manasquan.

Earlier in the day, we had witnessed 15 or 20 timbers the size of telephone poles rolling into the sea from a woodburning barge operated by Weeks Stevedoring Company. Weeks Stevedoring was subsequently fined just \$13,000.00 a small portion of its \$700,000.00 take for one day's burn.

I ask, why was this fine so small? Permit regulations clearly state that violations may result in penalties of up to \$50,000.00 or one year in prison, or both. Also, why did Christopher Daggett continue to issue woodburning permits even though he knew the Coast Guard had halted pollution patrols? This has left the ocean wide open for illegal activity.

Now, two years later, after many other harrowing experiences have been reported, almost nothing has been done to make the seas safer. Daggett admits that tons of wood are falling into New York Harbor. This so called driftwood continues to be loaded onto barges, towed to sea and burned, and dropped over board again. The barges often return, still in flames. Blatant disregard of the law is a daily happening.

Other attempts to control woodburning, such as barge inspectors, load limits, chains and stanchions, and a Memorial Day to Labor Day ban on burning, have proved totally ineffective. Logs remain in the water.

Here is more on Daggett's poor record. Under Daggett's leadership, the infamous Ciba-Geigy pipeline was becoming a national disaster - another Love Canal. He lobbied against closing the pipeline, saying it was necessary for wastewater disposal. He recommended discharging treated ground water through an open pipeline 3500' off Dover. Isn't it ironic that Daggett's successor at the EPA found a way to eliminate the wastewater hazard in just three weeks?

While in Washington, D.C., with the EPA, Daggett startled even anti-environmentalists by supporting test burns on P.C.B. laden ships. This position was so glaringly unacceptable that he was overruled.

Additionally, it doesn't speak well for Daggett that New Jersey ranks 49th in meeting federal deadlines to upgrade secondary sewage treatment plants. The outpouring of sewage bacteria from Asbury Park into neighboring surfs last summer was an outrageous outcome of gross inefficiency.

Daggett's inexperience and incompetence add up to two strikes against him as DEP Commissioner. The third strike, which I hope will put him permanently out of environmental matters, is his poor judgment. The Bathgate caper, which sparked a costly three month inquiry, demonstrates his sad lack of wisdom. Daggett himself belatedly regrets his actions and acknowledges its stupidity.

More serious was Daggett's compliance with developers who want to turn Jersey City's Liberty State Park into a marina. Long cherished as a countrified haven for city dwellers, this tract will now serve only wealthy boat owners. Jersey City is suing the DEP.

The problem of illegal waste hauling was recently the subject of an Asbury Park Press investigation. The findings are damaging to Daggett both as EPA Administrator and as Acting DEP Commissioner.

Here are a few:

1. Brookdale Environmental Corporation, a West Orange hauler, holds a hauling license in New York, but not in New Jersey. It gets around this small inconvenience by subcontracting to firms licensed in New Jersey. In passing I'll mention that it also has subcontracted to an unlicensed firm in Paterson. Evidence of Brookdale's illegitimate actions is in the public records, but until the Press' inquiry, the DEP remained unaware. I think it's deceptive of the DEP to keep violations confidential. But, it's laughable to realize they have kept the information from themselves!
  
2. Trofe Incineration Inc., of Mt. Laurel Township, subcontracted to illegally haul Brookdale's medical waste from New York to New Jersey. They were caught in violation but never prosecuted.
  
3. Standard Tank Cleaning Corporation in Bayonne, has New York and New Jersey permits despite a criminal history dating back to 1942. When asked, they denied violating the law. Last July, its parent company, Standard Marine Services, Inc., was charged violating U.S. EPA Regulations on ocean sludge dumping. And, Standard Tank dumped 6000 gallons of Agent Orange into Newark Bay. The company still holds its permit.
  
4. The Press found that it takes six months or more for action to be taken on a violation. Fines average less than \$5000. A manifest system has been set up to track waste, but there is no method to review it.

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Christopher Daggett presents himself as concerned and educated about the environment, but the opposite is more true. He has allowed convicted felons to continue to prey upon our waters; he has allied himself with criminals, and his actions exemplify the typical political operative, always doing what's best for himself. He is a wolf in sheep's clothing - the Joseph Goebbels of the EPA and DEP. It pains me to even contemplate New Jersey's DEP headed by a re-installed Rita Lavelle or Anne Gorsuch Burford.

We must never go back to the scandalous years of the past. Let's shape the future with the same determination as Winston Churchill expressed after he drove Rommel off the African Continent. He said, "It's not the beginning of the end, but it's certainly the end of the beginning." Let's chose our next DEP Commissioner only after meticulous and conscientious study of the candidates.

NOTE !!!!!

I, Ann Bishop, have been reading most all of Mr. Williams' reports on this horrible situation.

I can only say I agree whole-heartedly with him that something has to be done. We americans are so accustomed to sitting on our rear ends and letting the politicians run all over us.

I think it's about time we put a stop to it and got some decent leadership in the EPA and DEP, that will put a stop to this woodburning at sea.

10X

# New Jersey Conservation Foundation

300 Mendham Road, Morristown, N. J. 07960

201-539-7540

January 24, 1989

Hon. Edward O'Connor, Jr.  
1662 Kennedy Blvd.  
Jersey City, New Jersey 07305

Dear Senator O'Connor:

I write in support of the confirmation of Christopher Daggett as Commissioner of the Department of Environmental Protection.

In dealing with him in his tenure in State government, as an Assistant to Governor Kean, as Regional Administrator of EPA, and as Acting Commissioner of DEP, I have found him reasonable and honorable. He has always considered my point of view, given fair hearing and made decisions that were clearly felt to be in the public interest.

I urge his confirmation.

Sincerely,



David Moore  
Executive Director

11X

AUG 25 1988

August 23, 1988

Senator Edward T. O'Connor, Jr.  
Chairman  
SENATE JUDICIARY COMMITTEE  
1622 Kenneday Blvd., First Floor  
Jersey City, NJ 07305

Dear Senator O'Connor,

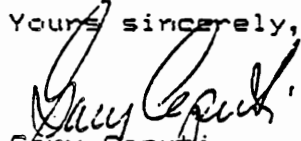
Please consider this an open letter to the committee that you chair.

I'm very concerned about the nomination of Christopher Daggett to head the New Jersey DEP and would like to voice my opposition loudly and clearly.

Christopher Daggett's performance in protecting the environment while at the EPA was abysmal, at best. He consistently sold out the environment to the highest bidder, be it industrial polluters or municipal and city sewage authorities, and proved his total disregard for the health and safety of the people of New Jersey with his every ruling. He is the environment's Public Enemy #1 and now our Governor has the audacity and the arrogance to appoint him to head the DEP.

PLEASE do not let this nomination be approved. It is a slap in the face to every citizen of the state who has concern for the ocean, fresh water and air! Can the economy of New Jersey's shore area stand additional years like the last two, with beach closings, dying dolphins and shell fish being diseased by the continuing pollution that Daggett supports? PLEASE do the right thing and show Daggett what it's like to be dumped!

Yours sincerely,

  
Gary Caputi  
118 Harding Drive  
Brick, NJ 08742

12X

Citizens'  
Conservation of Ocean County, N.J.  
Council

8-19-88

The Hon. Edward P. O'Connor, Jr.  
NJ Senator

Dear Senator:

Our coalition applauds Senate President Russo's opposition toward Chris Daggett's nomination as DEP Commissioner.

The State would be better served by someone who knows the conservation ethic. Daggett, for instance, does not realize the ocean is a wildlife preserve - he seems to think it a handy receptacle for dumping.

We would respectfully urge you to deny this appointment.

Sincerely,

Bob Cristoff

Pres. CCC

January 20, 1989

Hon. Members  
Senate Judiciary Committee  
Office of Legislative Services  
Trenton, N.J. 08625

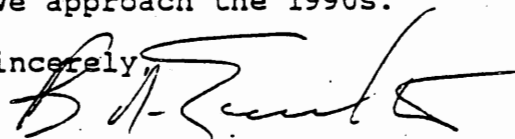
c/o John Tumulty, Committee Aide  
CN-068

Dear Sirs:

As a resident of the State of New Jersey at the address indicated below, I urge you to reject the nomination of Christopher Daggett as Commissioner of the Department of Environmental Protection for the following reasons:

1. These are critical times for the State of New Jersey, which has seen the emergence of a DEP with considerable power and budgetary influence. While a person of Mr. Daggett's stature might certainly have been appropriate a decade ago, the pressing needs of this state today require the leadership of an individual with a pro-environment record and an educational background that is more closely related to the responsibilities of the department.
2. Daggett's record as head of EPA Region 2 shows a history of failure to enforce existing regulations for protecting the environment. This record of loose enforcement, which is at the heart of the EDF suit against Wheelabrator in Federal Court for the Southern District of N.Y. is one that we should hold unacceptable as we move ahead with serious environmental decisions.
3. He has supported quick and expensive solutions for dealing with problems of solid waste, and his open public support of incineration lacks the appropriate substantiation or research that should accompany the expenditures being proposed.
4. He has shown an inability to differentiate between scientific fact and marketing information from scientific businesses.
5. He has failed to assign in public appearances top priority to the basic charge of the DEP as the citizens of this state have understood it, i.e., to protect the environment, and instead has given indications that the department should assume the role of a big business in promoting selected interests.
6. He has failed to be critical of problems at a new incinerator in Warren County, which has produced toxic residue, reportedly, in 45% of burns. His failure to be a forceful spokesman with regard to shortcomings at the Warren facility serves to encourage inferior contract performance and shows a disregard for the rights of taxpayers.
7. His overconcern for solving solid waste problems has resulted in an imbalance in priorities at the DEP, which is also charged with preserving New Jersey's basic air and water supplies. Ironically, the DEP has urged self-sufficiency in garbage while it predicts dependency on other states for water as we approach the 1990s.

Sincerely,



Signature: BERNHARD D. GWENTHER  
Address: 20 CARSON RD.  
14X BUDA LAKE NJ. 07825

# njas

NEW JERSEY AUDUBON SOCIETY

P.O. BOX 125 • 790 EWING AVENUE • FRANKLIN LAKES, NJ 07417

(201) 891-1211

January 24, 1989

The Honorable Edward T. O'Connor, Jr. |  
1662 Kennedy Boulevard  
Jersey City, NJ 07305

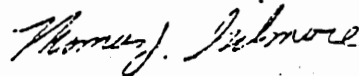
Dear Senator O'Connor:

I am writing to support the confirmation of Christopher Daggett as the Commissioner of the New Jersey Department of Environmental Protection (DEP). New Jersey Audubon Society has worked with Mr. Daggett both in his capacity as Administrator, Region II of the U.S. Environmental Protection Agency (EPA) and in his current position as acting Commissioner of New Jersey DEP on various environmental problems we face in New Jersey. We have developed a deep respect for Mr. Daggett's abilities as a tough, effective and open administrator. He brings to the New Jersey DEP a wealth of experience in dealing with some of New Jersey's most difficult environmental problems, including air and water pollution, hazardous waste, ocean dumping, wetland protection and industrial discharges.

He is dedicated to serving the people of New Jersey and we urge you to confirm Mr. Christopher Daggett as Commissioner of the New Jersey Department of Environmental Protection.

Thank you for your consideration.

Sincerely,



Thomas J. Gilmore  
Executive Director

Attn: Mr. John Tumbilly

CAPE MAY BIRD OBSERVATORY, 707 E. Lake Drive, P.O. Box 3, Cape May Point 08212 (609) 884-2738  
LORRIMER SANCTUARY, 790 Ewing Avenue, P.O. Box 125, Franklin Lakes 07417 (201) 891-2185  
OWL HAVEN, Englishtown-Freehold Road, P.O. Box 26, Tennent 07783 (201) 780-7007  
RANCOCAS NATURE CENTER, R.D. 1, Rancocas Road, Mount Holly 08060 (609) 281-2495  
SCHERMAN-HOFFMAN SANCTUARIES, Hardscrabble Road, P.O. Box 693, Bernardsville 07824 (201) 766-5787

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SEP 0 1988

SEP 0 9 1988

September 6, 1988

Edward T. O'Connor, Jr.  
Senate Judiciary Committee  
1662 Kennedy Boulevard  
Jersey City, New Jersey

Dear Senator:

The Judiciary Committee of the New Jersey State Senate will soon be considering the nomination of Christopher Daggett to the key cabinet position of Commissioner of the Department of Environmental (DEP) of New Jersey.

Before the committee under your chairmanship makes its recommendations to the Senate on this nomination by the Governor there are a number of key questions that need to be asked and answered publicly by Mr. Daggett prior to your action on his candidacy for the position.

Ocean County Citizens for Clean Water, a voluntary organization concerned with the restoration and preservation of a clean and healthy environment in our immediate area in our state, finds it unusual and inappropriate that Mr. Daggett is already acting as the Commissioner, even prior to his confirmation. Surely his installation in the position could have waited until the action of the Senate had been taken rather than having become an attempt at a fait accompli.

On several occasions Mr. Daggett has publicly stated that he has been appointed or nominated to the position of administrator of environmental protection agencies not by virtue of any recognized professional competence in the field but rather by way of the "political process".

What is the meaning and ultimate implication of this process in a field of service requiring extensive training and experience in complex and highly technical areas at top professional levels? For example, given the constant making of key decisions in areas regarding which even recognized authorities disagree, what creative conclusions can such a political appointee make when it should far better be determined by a competent scientist, engineer, or trained environmental expert?

OCEAN COUNTY CITIZENS FOR CLEAN WATER  
P.O. Box 4724 Toms River, New Jersey 08754-4724 • (201) 240-7241

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Does the "political process" mean that, as an administrator, Mr. Daggett may be willing to subordinate health and environmental considerations to those that may be felt to be more prudent and expedient in a political sense?

There is an unconfirmed but persistently repeated allegation that Mr. Daggett is being appointed, in part, because of a family relationship to the Governor. Is there any substance to this allegation, and, if so, is this also part of the "political process"?

In terms of his background as the Director of Region II of the United States Environmental Protection Agency (EPA), he shall certainly be asked what major Superfund cleanups were effectuated in Region II, especially in New Jersey, during his period in office?

Why is it that in the Remedial Investigation of the vast Ciba-Geigy Superfund site, the Ciba-Geigy pipeline and its present, past, and potential effect on the New Jersey coast area of the Atlantic Ocean was deliberately excluded by the EPA from the Superfund Remedial Investigation under Mr. Daggett's administration?

Despite this exclusion from the Remedial Investigation and despite the efforts of our organization to have the pipeline included in such an investigation how is it that Mr. Daggett recently proposed that same pipeline be used as a conduit for disposing of the Superfund treated groundwater wastes (on top of the current production wastes for which it has been used for the past 19 years)?

Despite this pending legal action against the New Jersey DEP by our organization, OCCCW, and others for issuing the present permit for Ciba-Geigy to discharge via the pipeline into the ocean because of its harmful potentials, what has made Mr. Daggett so confident the Ciba-Geigy discharge into the ocean is not harmful to the ocean, its marine life and human users?

Moreover, by what legal or ethical right or protocol did Mr. Daggett abuse his position as the outgoing Regional EPA administrator (and the nominated candidate for the position of New Jersey DEP Commissioner) asking the elected members of the Assembly to avoid acting on legislation involving the Ciba-Geigy pipeline, regardless of the fact that such legislation had already been properly voted out of committee for the consideration of the Assembly?

In so acting, does Mr. Daggett hold the view that a private corporation, and a foreign-owned one at that, has an inherent and permanent proprietary right to dump its waste or anything else, into the ocean? Or does Mr. Daggett feel that the pipeline and ocean simply afford the easiest and cheapest solution to a difficult problem regardless of the dangers involved? Is this what he calls the "political process"?

Very recently Mr. Daggett attended a large gathering sponsored by Mr. Lawrence Bathgate II as a major fund-raising event for the election campaign of George Bush as the Republican candidate for the Presidency. The tickets of admission cost, at least, \$5000. Mr. Daggett attended. However, he has publicly stated that he did not buy a ticket. While Mr. Daggett has every right to attend political fund-raisers the situation is beclouded with problems of propriety and ethics of a public office-holder in view of the fact that Mr. Bathgate is not only the chairperson of the financial committee of the Republican National Committee but quite recently became the attorney for the Ciba-Geigy Corporation. As such Mr. Bathgate spoke out on behalf of the Ciba-Geigy application for six important CAFRA permits including the building of a new pharmaceutical plant at the public hearings in Toms River; he spoke in opposition to the legislation designed to prevent any use of a pipeline by a private corporation for dumping into the Atlantic Ocean (Ciba-Geigy is the only such pipeline user) after 1991; and he is representing Ciba-Geigy in its fight against a Dover Township new zoning ordinance which would make it very difficult to erect the desired pharmaceutical plant in Toms River. It would appear that the presence of the Director of Region II of EPA, while officiating over the Ciba-Geigy Superfund Site Remediation Investigation-Feasibility Study, while at the same time being nominated to head the New Jersey DEP which will determine action on the CAFRA permits--that presence at a Bathgate-sponsored political fund raiser raises some very crucial questions. Among them are: Who paid for Chris Daggett's ticket or tickets of admission? Was his presence dictated by his desire to continue to benefit by way of appointments to high office via the "political process"? Will the "political process" be a consideration and how much will it be in his handling of Ciba-Geigy related environmental problems when Mr. Bathgate II comes before the Commissioner as he represents Ciba-Geigy's interests in such situations?

*Kathleen A. Terry*

Kathleen A. Terry  
President

*Benjamin Epstein*

Benjamin Epstein  
Vice-President

Respectfully,

*Moe Alpert*

Moe Alpert  
Vice-President

CARLUCCIO & LISTON

ATTORNEYS AT LAW  
213 WASHINGTON STREET  
TOMS RIVER, N.J. 08753

DANIEL J. CARLUCCIO  
CERTIFIED CIVIL TRIAL ATTORNEY  
CERTIFIED CRIMINAL TRIAL ATTORNEY

EDWARD F. LISTON, JR.

HAROLD N. HENSEL

JOSEPH PINIZZOTTO  
MEMBER N.J. & PA. BARS

MAILING ADDRESS  
P.O. BOX 1056  
TOMS RIVER, N.J. 08754  
201 244-5900

August 19, 1988

Senator Edward T. O'Connor, Jr.  
1662 Kennedy Boulevard  
Jersey City, NJ, 07305

Dear Senator O'Connor:

Enclosed herewith please find a copy of a letter that I wrote to Art Athens at CBS News Radio 88, which I thought you might find amusing. Christopher Dagget was interviewed on New Jersey Public Television on Sunday evening, August 14, 1988, and indicated, during the interview that he and Bathgate had exchanged correspondence with regard to a local zoning issue involving Ciba-Geigy. That zoning issue is the rezoning of the Ciba-Geigy tract to a Preservation/Reclamation Zone in which the only permitted use is the clean up of the Superfund Site. This innovative approach to the Ciba-Geigy problem was the brain child of our two Dover Township Democratic Committee people, Joan Allen and Paul Brush, and was passed unanimously. It is now being challenged in the Superior Court by Ciba-Geigy, represented by Bathgate. This firm is being permitted to participate in that suit Amicus Curiae on behalf of Ocean County Citizens for Clean Water.

I would be very interested to have available to me that exchange of correspondence between Bathgate and Dagget and to that end I have requested Bathgate's office to provide it to me. The Dover Township attorney, Edmund Corrigan, will be making a similar request to Dagget and if we are successful I will provide you with copies of same. I would think that you might also attempt to obtain this correspondence in connection with your hearings. I would also suggest that if you did not have an opportunity to view the New Jersey Public Television interview of Daggett you attempt to obtain a copy of same as I believe it is full of material you may wish to use in the confirmation hearing.

Good luck and best wishes.

Very truly yours,

Edward F. Liston, Jr.

EFL:lr

19X

CARLUCCIO & LISTON

ATTORNEYS AT LAW  
213 WASHINGTON STREET  
TOMS RIVER, N.J. 08753

DANIEL J. CARLUCCIO  
CERTIFIED CIVIL TRIAL ATTORNEY  
CERTIFIED CRIMINAL TRIAL ATTORNEY  
EDWARD F. LISTON, JR.  
HAROLD N. HENSEL  
JOSEPH PINIZZOTTO  
MEMBER N.J. & PA. BARS

MAILING ADDRESS  
P.O. BOX 1056  
TOMS RIVER, N.J. 08754  
(201) 244-5900

August 16, 1988

Art Athens  
CBS News Radio 88  
51 West 52nd Street  
New York, NY, 10019

Dear Mr. Athens:

I frequently listen to CBS News Radio 88, specifically to your "Lets Find Out" program, when it is being aired on Sunday evenings.

On Sunday, August 7, 1988, I was returning to New Jersey from my vacation home in Vermont and had occasion to listen to your interview of Christopher Dagget, Acting Commissioner of the New Jersey Department of Environmental Protection. To say I was disappointed with the quality of reporting and the lack of indepth questioning on tough issues is putting it mildly. Frankly, your show on that evening sounded like a public relations puff piece, written and directed by the interviewee. Had you bothered to do your homework with regard to Mr. Dagget and the brewing controversy involving his recent activities here in Ocean County, you undoubtedly would have had a much more interesting program and might have been the first to report on the controversy which may result in his not being confirmed by the New Jersey Senate.

Enclosed you will find a copy of a press release issued by the "Save Our Ocean Committee" of Lavallette, New Jersey, criticizing Dagget for hobnobbing with Republican bigwigs, including the attorney for Ciba-Geigy, at a \$2,500.00 per person fund raiser for George Bush which Dagget attended on a ticket he did not pay for. Also enclosed is an excerpt from the Code of Ethics which applies to New Jersey State officers and employees. Further, I am enclosing a photocopy of Alexander Cockburn's column published in the Wall Street Journal of July 28, 1988. Perhaps after reviewing the enclosed material you will have some understanding of why I am writing this letter. Parenthetically, I should note that in a television interview of Dagget aired on Sunday evening on New Jersey Public T.V., he was asked some of the tough questions I

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Art Athens  
CBS News Radio 88

August 16, 1988  
Page 2

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referred to above and claimed, still, not to know who paid for his ticket to the George Bush fund raiser at Mr. Bathgate's home. Perhaps by the time you interview him again he will have found out.

Hopefully in the near future you will consider doing a program which focuses on the people who are really getting the job done when it comes to cleaning up our environment - the citizens' action groups such as the "Save Our Ocean Committee," "Ocean County Citizens for Clean Water," "Greenpeace," and others.

Very truly yours,

Edward F. Liston, Jr.

EFL:lr  
Encl.

21X

Indian Hollow Road  
Mendham, New Jersey 07945

September 6, 1988

Hon. Edward T. O'Connor, Jr.  
Chairman  
Senate Judiciary Committee  
1662 Kennedy Boulevard  
Jersey City, New Jersey 07305

Dear Senator O'Connor:

I have been advised that a hearing will be held by your Committee on September 19 relating to the confirmation of Christopher J. Daggett as Commissioner of the Department of Environmental Protection. I have known Mr. Daggett for well over ten years and have had frequent contact with him since he first served as a member of the staff of Governor Kean in various positions, particularly with reference to matters concerning the New Jersey Pinelands Commission, and subsequently during the years he served most recently as Regional Administrator of the Environmental Protection Agency. The effective measures he initiated while at the EPA have been of unusual significance and are worthy of great praise. I served as Chairman of the Pinelands Commission from March 1979, when the Commission was established, until June of this year.

In my view, Christopher Daggett is a man of outstanding ability, possesses total integrity and would be an excellent Commissioner of the Department of Environmental Protection. He has a very keen mind and I know he is intimately familiar with virtually all of the significant pressing issues which face the Department at this time. In essence, I believe that New Jersey would be greatly benefited by having a man of his caliber serve as Commissioner and I urge your Committee to confirm his nomination at the earliest possible time.

In 1988 more than at any other time all of us who reside in New Jersey have become more familiar than perhaps most of us would wish with the critical environmental problems facing our State. We can no longer sweep those problems under the rug for possible future action; it is essential that we move forward to solve those problems with reasonable measures and this should be achieved through the continuous cooperative effort on the part of both the Administration and the New Jersey Legislature. I can think of no person better

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qualified than Chris Daggett to implement the measures which must be implemented forthwith if we are to halt the environmental degradation which continues to imperil our very existence and our livelihoods in New Jersey.

I hope very much that your Committee will confirm Mr. Daggett immediately following the hearing on September 19. I know that we cannot find a better man for this job at this time. If I can be of any further help to your Committee please do not hesitate to get in touch with me. I can be reached either at my home in the evening at (201) 543-4144 or at my office at (212) 698-2640.

Sincerely yours,



Franklin E. Parker



NEW JERSEY SENATE

AUG 20 1988

FRANK PALLONE, JR.

SENATOR 11TH DISTRICT

540 BROADWAY ROOM 119

LONG BRANCH, N. J. 07740

201-571-1140

MANASQUAN RAILROAD STATION

229 MAIN STREET

MANASQUAN, N. J. 08736

201-681-1334

August 18, 1988

Senator Edward T. O'Connor, Jr., Chairman  
Senate Judiciary Committee  
1662 Kennedy Blvd., First Floor  
Jersey City, New Jersey 07305

RE: Nomination of Christopher Daggett

Dear Senator O'Connor:

I am writing to express my opposition to the nomination of Christopher Daggett for the position of Commissioner of the New Jersey Department of Environmental Protection. My opposition arises out of Mr. Daggett's shocking insensitivity to environmental issues and his extremely poor record on environmental protection.

Mr. Daggett has demonstrated a serious disregard for the ocean. To my knowledge, he has granted every permit to dispose of wastes in the ocean that has been submitted to him. He supports wood burning at sea, he supports acid waste dumping at sea, he supports incineration of toxic wastes at sea, he supports sludge dumping at sea, he supports dredge spoils dumping at sea and he supports the continued use of the Ciba-Geigy pipeline as New Jersey's only direct industrial discharge into the ocean. In a sentence, Mr. Daggett supports ocean pollution.

Mr. Daggett's strong support in favor of Ciba-Geigy's continuing use of the ocean discharge pipeline is particularly disturbing to me. He personally intervened in the state legislative process when he lobbied Assembly Speaker Chuck Hardwick to postpone Assembly consideration of Senate bill 128. Mr. Daggett has stated that the reason for his intervention to delay the vote on S-128 was to provide the EPA with more time to develop information about the continued need for the pipeline. The facts speak otherwise; Mr. Daggett had already had more than enough time to develop this information. The legislative history of S-128 makes this abundantly clear.

S-128 was introduced by Senate President John Russo on January 12, 1988, and had previously been introduced in the last legislative session. After extensive hearings and tremendous public input, the Senate on May 23, 1988, passed the bill. The bill was heard and discussed in a lengthy public hearing in the Assembly Environmental Quality Committee on June 2, 1988, and was released favorably on that date.

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Mr. Daggett and the EPA had more than six months to develop the information he told the Assembly Speaker he needed. Nevertheless, he sought to delay Assembly consideration of the bill. This is a typical example of Mr. Daggett's lack of concern for the ocean; he worked hard to prevent passage of a bill which would have prohibited the use of the ocean for any direct industrial discharges.

In spite of repeated requests, Mr. Daggett also has failed to take any significant action to curtail the pollution coming from New York's waterways which are seriously damaging the Jersey Shore's entire economy. His failure to carefully regulate plastic floatables, medical wastes and raw sewage from New York continues to have a devastating impact on New Jersey and our economy.

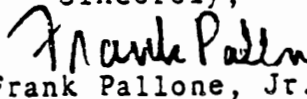
Commercial fishermen report alarming decreases in their catches. Local hotels, motels, bed and breakfast establishments, restaurants, concessionaires and other tourist-dependent businesses are having a disastrous summer season with tourists choosing to stay away from the beach resorts in New Jersey. Indeed, too many people are going elsewhere for their summer vacations. Rather than providing leadership in combating this overwhelming and difficult set of problems, the EPA, headed by Mr. Daggett in New York, has been a significant part of the problem.

Ocean pollution is now the most serious environmental threat to our state. The next Commissioner of New Jersey's Department of Environmental Protection must be an environmental advocate -- not an environmental bureaucrat. This person must be strongly committed to protecting our oceans--at whatever cost. And this person must be strong enough to stand up to the lobbying efforts of politicians and business representatives when they seek to weaken our environmental laws or ask that enforcement actions against their companies be dropped.

Christopher Daggett is not that person. His record is one filled with a lack of concern for ocean pollution and is replete with actions accommodating industry at the expense of the public and our environment. Christopher Daggett should not be allowed to become the next commissioner of the DEP. He has not earned that right.

For these reasons I urge you to reject the nomination of Christopher Daggett as the next Commissioner of the New Jersey Department of Environmental Protection. By rejecting his nomination you will send a message to all government officials, both Democrat and Republican, that their nominees for such vitally important positions as the DEP Commissioner's job must have the record and commitment to fulfill the agency's mandate. To allow Mr. Daggett to be confirmed would send just the opposite message. Our oceans and our state's citizens can not accept this alternative.

Thank you very much for your consideration.

Sincerely,  
  
Frank Pallone, Jr.

cc: Senate Judiciary Committee members

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



OFFICE OF THE INSPECTOR GENERAL OFFICE OF INVESTIGATIONS

REPORT OF INVESTIGATIONS

CHRISTOPHER PAGGETT Former EPA Regional Administrator Region II New York, New York OT File No. 88-10.3

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Distribution:

Headquarters

Approvals:

*[Signature]*  
Special Agent

*[Signature]*  
Divisional Inspector General for Investigations

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OFFICE OF THE INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS



OI FILE NO. 88-1043  
REPORT OF SA Joseph F. Slattery

DATE : DEC 5 1988  
OFFICE : EASTERN DIVISION

SECTION A -- Narrative

PREDICATION

This investigation was predicated upon a complaint forwarded by the Office of Congressman JAMES J. HOWARD, 3rd District, New Jersey, to the EPA Office of Inspector General. The complaint which was received from Mr. DANIEL CARLUCCIO Esq, attorney for the SAVE OUR OCEAN COMMITTEE of Lavallette, N.J., concerned an alleged conflict of interest by EPA Region II Administrator CHRISTOPHER DAGGETT because of his attendance at a \$2500 per person fund-raising dinner held at the home of a Mr. LAWRENCE BATHGATE II, who has been identified as an attorney for the CIBA-GEIGY CORP. CIBA-GEIGY is a firm whose activities are regulated by EPA and is the owner of a designated Superfund site in Toms River N.J. The complaint further alleged that Mr. DAGGETT had acknowledged that he had attended the dinner as a complimentary guest and that before he went he had checked the question of propriety with the EPA Ethics Officers and had been advised that he could go.

Investigation was initiated to determine if former EPA Region II Administrator CHRISTOPHER DAGGETT had violated:

1. Conflict of Interest 18 USC 201
2. Hatch Act 5-USC 7321 to 7327
3. Employee Responsibilities and Conduct  
40 CFR Part 3 Sect. 3.103 E. 1 to 6  
40 CFR Part 3 Sect. 3.400 A 2 to 4

SUMMARIZATION

Investigation revealed the possibility of less than full disclosure by former EPA Regional Administrator CHRISTOPHER DAGGETT to EPA Ethics Officers of the identity and involvement of LAWRENCE BATHGATE II and his association with CIBA-GEIGY prior to DAGGETT's attendance at the Republican Party fund-raiser at the BATHGATE home on the evening of July 22, 1988. (Exhibit 1).

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It also revealed a lack of full and complete inquiry by the Ethics Officers into the circumstances surrounding the invitation which could give rise to the appearance of impropriety which is specifically prohibited in the Code of Federal Regulations. (Exhibits 3, 4 and 5).

On September 18, 1988, Mr. DAGGETT advised that he and his wife attended a Republican Party fund-raising dinner on July 22, 1988 at the home of Mr. LAWRENCE BATHGATE II. He stated that the dinner was announced as a \$2500 per plate affair but that his invitation was complimentary.

He further advised that he received his invitation from Mr. BATHGATE whom he has known through political activities since the early 1980's. He knew that Mr. BATHGATE was the Chairman of the Republican National Finance Committee and that he was the attorney for the CIBA-GEIGY CORP., a firm whose activities were regulated by EPA and which was the owner of a large Superfund site in Toms River, N.J. Because his invitation was to be on a complimentary basis, DAGGETT was concerned about the propriety of his attendance. (Exhibit 1).

He consulted with Mr. JAMES BARNES, former Deputy Administrator of EPA, who advised him that he didn't think there would be a problem but nevertheless advised DAGGETT to seek an official opinion from Mr. GERALD YAMADA, Ethics Officer of EPA. (Exhibits 1 and 2).

Mr. DAGGETT also consulted with Mr. DOUGLAS BLAZEY, Regional Counsel for EPA Region 11 and requested that BLAZEY contact Mr. YAMADA and obtain a ruling on the propriety of his attendance. He didn't recall advising BLAZEY that the fund-raiser was sponsored by LAWRENCE BATHGATE nor did he recall advising BLAZEY of BATHGATE's relationship to CIBA-GEIGY. (Exhibit 1).

On October 5, 1988, DOUGLAS BLAZEY advised that he was contacted by DAGGETT concerning the propriety of DAGGETT and his wife's complimentary attendance at a \$2500 per person Republican Party fund-raiser to be held on July 22, 1988. BLAZEY attempted to contact GERALD YAMADA, EPA Ethics Officer, but was unsuccessful. He then contacted YAMADA's Deputy, Mr. DONNELL NANTKES. He informed NANTKES of the invitation and its complimentary nature. On the following morning NANTKES advised BLAZEY that he had discussed the matter with GERALD YAMADA and that YAMADA had approved DAGGETT's attendance at the fund-raiser. (Exhibit 3).

On September 14, and 20, 1988, DONNELL NANTKES confirmed that he had been contacted by DOUGLAS BLAZEY concerning DAGGETT's attendance at a Republican Party fund-raiser. He considered the matter of who issued the invitation irrelevant. His primary concern was whether or not a ticket had been purchased for DAGGETT by a third party, particularly CIBA-GEIGY or another regulated entity or if a contribution had been made to the campaign on DAGGETT's behalf. He conferred with GERALD YAMADA. They agreed that DAGGETT's attendance was proper and he orally notified either BLAZEY or DAGGETT's secretary of their decision. (Exhibit 4).

On September 14 and 20, 1988, GERALD YAMADA confirmed that he had been contacted by DONNELL NANTKES concerning the propriety of DAGGETT's attendance at a Republican Party fund-raiser. His advice was that DAGGETT could attend; however, at the time he gave the advice he did not know, (1) who was giving the fund-raiser, (2) who invited DAGGETT, (3) where it was being held, or (4) what the price of the tickets were. Mr. YAMADA stated that Mr. NANTKES had discussed the details of the matter with Mr. BLAZEY. YAMADA further advised that subsequent to the fund-raiser he was contacted by DAGGETT who then advised him of the involvement of BATHGATE and BATHGATE's relationship to CIBA-GEIGY. YAMADA advised DAGGETT that he still had no problem with DAGGETT's attendance. (Exhibit 5).

On September 19, 1988, Mr. LAWRENCE BATHGATE advised that DAGGETT and his wife attended the fund-raiser on a complimentary basis. He further advised that 65 or 31.5% of the 206 people attending, attended on a complimentary basis. The complimentary invitations went primarily to political figures both elected and appointed and their spouses. Included in the list of complimentary invitees were members of Congress, State and local officials, members of the press and Republican Party functionaries. Also included in the complimentary list were BATHGATE's neighbors, house guests and the plant manager of the CIBA-GEIGY plant. (Exhibit 6).

A review of the list of attendees provided by Mr. BATHGATE disclosed that a number of these attendees were listed as attending on a complimentary basis. Contact with a sample of the complimentary attendees confirmed that they attended on a complimentary basis. (Exhibit 7).

On November 29, 1988, OI discussed this matter with Assistant U.S. Attorney Michael Chertoff, District of New Jersey. AUSA Chertoff determined that no criminal violations of the Hatch Act or conflict of interest had occurred and declined prosecution.

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88-1043

The question of violations of the Employees Responsibilities and Conduct Regulations does not appear to have been addressed by the Ethics Officers, although it was applicable. At this stage however, its application is moot, since the subject, CHRISTOPHER BAGGETT, has left the Federal Service.

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## Section-B-ENTITIES AND INDIVIDUALS

1. CHRISTOPHER DAGGETT - SUBJECT  
Former Regional Administrator  
US EPA Region II  
34 Holmasbrook Rd., Basking Ridge, New Jersey  
201-221-0491
2. JAMES BARNES  
Former Deputy Administrator  
US EPA Region II  
Dean of the School of Public Affairs  
and Environmental Issues  
Indiana University  
Bloomington, In.
3. DOUGLAS BLAZEY  
Regional Counsel  
US EPA Region II  
26 Federal Plaza  
New York, New York 10007
4. DONNELL NANTKES  
Deputy Ethics Officer  
Office of General Counsel  
US EPA Region II  
401 M. Street, SW  
Washington DC
5. GERALD YAMADA  
Ethics Officer  
Office of General Counsel  
US EPA Region II  
401 M Street, SW  
Washington D.C.
6. LAWRENCE E. BATHGATE II  
Chairman  
Republican National Finance Committee  
310 First Street, S.E.  
Washington DC 20003  
202-863-8720

Section -C-BACKGROUND

- 1. Conflict of Interest 18-USC-201
- 2. Hatch Act 5-USC 7321 to 7327
- 3. Employee Responsibilities and Conduct 40 CFR

Section 3.400 of Title 40, Code of Federal Regulations concerning EPA Employee Responsibilities relating to Gifts, Gratuities or Entertainment, revised as of July 1, 1987, states as follows:

Subpart D - Gifts, Gratuities, or Entertainment

3.400 Policy.

(a) Except as provided in paragraph (d) and in 3.104(e), no employee may directly or indirectly (for example, through spouses or children) accept any gift, gratuity, entertainment (including meals), favor, loan or any other thing of value from any person, corporation or group which:

- (1) Has or is seeking to obtain contracts or assistance agreements with EPA;
- (2) Has interests which may be substantially affected by the employee's performance or nonperformance of official duty;
- (3) Is in any way attempting to affect the employee's official action; or
- (4) Conducts activities that EPA regulates.

(b) The following are exceptions to the general rule set forth in paragraph (a):

- (1) Accepting modest entertainment, such as meals or refreshments, in connection with participation in widely attended gatherings sponsored by industrial, technical or professional organizations or in connection with attendance at public ceremonies or similar activities where the employee officially represents EPA. Acceptance of ordinary "business lunches" is not permitted.
- (2) Accepting gifts, favors or entertainment where there is an obvious family or personal relationship between the employee or the employee's family and the donor, and where this relationship clearly motivated the gift.
- (3) Purchasing at advantageous rates offered to Government employees as a class.
- (4) Accepting loans from banks or other financial institutions on customary terms.

Accepting unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars or other items worth less than \$10 (U.S. retail).

(6) Accepting incidental transportation (such as rides to and from airports) furnished in connection with official duties and customarily provided by private organizations. (For further guidance concerning acceptance of travel and related expenses, see 3.505).

(7) Accepting transportation, lodging and meals of modest value in connection with interviews for future employment, provided the employee is in an annual leave status at the time such interview occurs.

(8) Accepting gifts and honors from foreign governments as authorized by 5 U.S.C. 7342. (See 41 CFR part 101-49).

(9) Awards incident to training or meetings under 5 U.S.C. 4111 and 5 CFR Part 410, Subpart G. This requires the specific written approval of the Designated Agency Ethics Official or the Alternate Agency Ethics Official. See 3.504 (c)(1).

(c) Where circumstances require temporary acceptance of a prohibited gift or gratuity, the acceptance must be reported to the Designated Agency Ethics Official who shall return it to the donor with an explanation, where practical. Otherwise, the gift or gratuity will be donated to a public or charitable institution and, where practical, the donee will be informed of the disposition. (But see 41 CFR Part 101-49 regarding gifts from foreign governments).

Section 3.103 of Title 40 Code of Federal Regulations concerning EPA Ethical Standards of Conduct for employees states as follows:

- (e) He shall avoid any action, whether or not specifically prohibited by law or regulation (including the provisions of this part), which might result in, or create the appearance of:
- (1) Using his public office for private gain;
  - (2) Giving preferential treatment to any organization or person;
  - (3) Impeding Government efficiency or economy;
  - (4) Losing his independence or impartiality of action;
  - (5) Making a Government decision outside official channels; or
  - (6) Affecting adversely the confidence of the public in the integrity of the Government.

## Section -D-List of Exhibits

1. Interview of CHRISTOPHER LAGGETT, former EPA Regional Administrator, Region II, dated September 18, 1988.
2. Statement of Mr. A. JAMES BARNES, former EPA Deputy Administrator, dated September 23, 1988.
3. Statement of Mr. DOUGLAS ELZEY, EPA Regional Counsel, Region II, dated October 5, 1988.
4. Statement of DONNELL HANTKES, Deputy Ethics Officer, EPA, Office of General Counsel, Washington DC dated September 20, 1988.
5. Statement of GERALD YAMADA, Ethics Officer, EPA, Office of General Counsel, Washington D.C., dated September 20, 1988.
6. Interview of Mr. LAWRENCE E. BATHGATE II, Chairman, Republican National Finance Committee, Washington D.C., dated September 19, 1988.
7. Review of Documents supplied by LAWRENCE BATHGATE.

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OFFICE OF THE INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS



On September 17, 1988, Special Agents Robert M. Byrnes and Joseph F. Blattery interviewed Mr. CHRISTOPHER DAGGETT, former Regional Administrator, EPA Region II, at his home in Hasting Ridge, NY. The purpose of the interview was to determine the circumstances and events surrounding the attendance by DAGGETT and his wife at a political fund-raising affair for Vice President GEORGE BUSH which was held at the home of LAWRENCE E. BATHGATE in Dry Head, N.Y. on July 22, 1988.

Mr. DAGGETT was advised of the identities of the agents and the purpose of the interview. DAGGETT supplied the following information in assistance:

Mr. DAGGETT stated that he received the invitation several days before the event was to occur. He was aware that there might be some questions as to the propriety of his attendance since the affair was billed to a \$2500 per plate fund-raiser and his invitations were complimentary. Additionally he had received the invitation from LAWRENCE E. BATHGATE II, Chairman of the Republican National Finance Committee and he was aware that BATHGATE's law firm represented the CIBA-GEIGY CO., a firm whose activities were regulated by EPA and whose facilities were located on a designated superfund site.

DAGGETT consulted with DOUGLAS BLAZEY, Regional Counsel for Region II. He explained to BLAZEY that he and his wife, BEA, had been invited to attend on a complimentary basis a \$2500 per person Republican Party fund-raiser at which Vice President GEORGE BUSH was to be the featured guest. He did not recall advising BLAZEY that the invitation had been extended to him by LAWRENCE BATHGATE. DAGGETT requested BLAZEY to expedite the inquiry since there were some Secret Service security checks which would have to be completed if he elected to attend.

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Investigation Conducted on	Conducted at
September 18, 1988	New York, New York
Conducted by	OI File Number
SAs Robert Byrnes/Joseph Blattery	88-1043
Date Dictated	By
September 23, 1988	Eleanor Walker
Date Transcribed	
September 27, 1988	

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OFFICE OF INVESTIGATIONS



DAGGETT was subsequently advised by BLADY that the matter had been discussed with GERALD YAMADA and DONALD HANSEN, Ethics officials at EPA headquarters and that their opinion was that it would be permissible for him to attend.

DAGGETT also discussed the matter with Mr. JAMES BARNES, Deputy Administrator of EPA, who felt that there would be no problem but nevertheless advised DAGGETT to consult the EPA Ethics Officers in the Office of General Counsel to obtain an authoritative opinion.

Prior to his leaving his position with EPA, DAGGETT called GERALD YAMADA, CGC, to secure his advice relative to the completion of his (DAGGETT's) Financial Disclosure Statement. He asked YAMADA if he should list his attendance at the BATHGATE's affair on the statement, since the normal cost of attendance was \$2500 per person. YAMADA advised him that if no tickets were issued to him, there was no need to list this as a gift.

DAGGETT advised that he has known LAWRENCE BATHGATE II since the early 1980's when he, DAGGETT, was active in Governor KEAN's election campaigns and BATHGATE was active in Republican politics. DAGGETT further advised that he has made no decisions as Regional Administrator which were not the product of thorough technical and scientific staff work and which were recommended to him on their merits as being the most environmentally sound. His decisions concerning CIBA-GEIGY were based upon this policy.

Page 2 of 2

Investigation Conducted on	Conducted at
September 18, 1988	New York, New York
Conducted by	Of File Number
SA's Robert Byrnes/Joseph S.attery	22-1043
Date Dictated	Date Transcribed
September 18, 1988	September 27, 1988
	By
	Eleanor Walker

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OFFICE OF THE DEAN

September 23, 1988

Mr. Gary Heuer  
U.S. EPA - OIG  
90 Church St., Room 804B  
New York, NY 10007

Dear Mr. Heuer:

This statement confirms information provided in the course of an interview conducted on September 20, 1988, at Bloomington, Indiana, by you and special agent Miriam Arroyo, U.S. EPA office of the Inspector General.

- (1) During the week of July 18, but sometime prior to July 22, I was contacted by phone by Chris Daggett, Regional Administrator for Region II, to ascertain whether he, as a non-career appointee, could attend as a guest a fundraising dinner that was being held to support the candidacy of Vice-President Bush.
- (2) As I recall, Chris indicated that he had been trying to reach the EPA ethics officer, Jerry Yamada, but that he had not yet returned his call.
- (3) To the best of my recollection, Chris was concerned whether the Hatch Act restricted his ability to attend and whether there was a problem with being given a complimentary ticket or utilizing a ticket from a donor. I do not recall having any discussion about the actual source of the ticket, nor any reference being made to any connection of Ciba-Geigy to the fundraiser.
- (4) To the best of my recollection, the phone conversation concluded with a reaffirmation of Chris's need to discuss the matter with Jerry Yamada and his determination to do so.
- (5) I had no subsequent conversations with Chris about this matter.
- (6) To the best of my recollection, I did not discuss the phone call from Chris Daggett with any other U.S. EPA officials.

Sincerely yours,

A. James Barnes  
Dean

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OFFICE OF THE INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

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On October 5, 1988, Divisional Inspector General for Investigations Robert M. Byrnes and SA Joseph Slattery met with EPA Regional Counsel, DOUGLAS BLAZEY, for the purpose of obtaining a signed statement concerning the advice, EPA Deputy Ethics Officer, DONNELL WATKINS and EPA Ethics Officer GERALD YAMITA and himself (BLAZEY) may have given to Region II Administrator, CHRISTOPHER DAGGETT regarding DAGGETT's attendance at a Republican Party fund-raiser held at the home of Mr. LAWRENCE BATHSATE II in Bay Head, New Jersey on the evening of July 13, 1988. BLAZEY provided the following statement:

STATEMENT

26 Federal Plaza  
New York, New York  
October 5, 1988

I, DOUGLAS M. BLAZEY, EPA Regional Counsel, Region II, make the following statement to Special Agents Joseph Slattery and Robert M. Byrnes, Office of the Inspector General, Environmental Protection Agency:

On or about a Wednesday morning in late July 1988, I was telephonically contacted by the EPA Region II Administrator CHRISTOPHER DAGGETT. DAGGETT advised me that he and his wife had been invited to attend a Republican Party fund-raising affair at which Vice President Bush was to be the featured guest. The affair was to be held on the following Friday and DAGGETT requested me to obtain a ruling on the ethical propriety of him and his wife attending on a complimentary basis since the tickets cost \$2500 each.

Investigation Conducted on October 5, 1988		Conducted at 26 Federal Plaza	
Conducted by SAs J. Slattery/R. Byrnes		OI File Number 88-1043	
Date Dictated October 5, 1988	Date Transcribed October 11, 1988	By Eleanor Walker	

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OFFICE OF THE INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

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Statement of Douglas Blazey

October 5, 1988

DAGGETT requested an expeditious determination since there were Secret Service security clearances which would require attention if he elected to go.

I advised DAGGETT that I was not authorized to make a ruling regarding his activities and that I would contact the appropriate officials at the Headquarters level.

I attempted, unsuccessfully to contact Mr. GERALD YAMADA, Ethics Officer, Office of General Counsel. I then contacted YAMADA'S deputy, Mr. DONNED NANTKES. I informed NANTKES of the circumstances of the violation, it's complimentary nature, and of Mr. DAGGETT'S request for an expeditious ruling.

On the following morning NANTKES telephonically advised me that he had discussed the matter with GERALD YAMADA and that YAMADA had approved DAGGETT'S attendance.

I advised DAGGETT of the YAMADA/NANTKES decision and he informed me that he, DAGGETT, had obtained a similar opinion from JIM BARNES, former Deputy Administrator, however, BARNES had advised DAGGETT to seek an authoritative opinion from YAMADA.

Page 2 of 2

Investigation Conducted on		Conducted at	
October 5, 1988		26 Federal Plaza	
Conducted by		Of File Number	
SAE J. Slattery/R. Byrnes		88-1043	
Date Dictated	Date Transcribed	By	
October 5, 1988	October 11, 1988	Eleanor Walker	

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OFFICE OF THE INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

Interview of DONNELL NANTKES

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On September 14, 1988, DONNELL NANTKES, Alternate Agency Ethics Official, EPA, was interviewed at his office, 401 M Street S.W., Washington, D.C., by Special Agents Joseph Slattery and Lorraine Gentile. NANTKES was interviewed to determine what guidance, if any, on conflict of interest prohibitions he may have given to CHRISTOPHER DAGGETT, Regional Administrator, EPA Region 2, regarding DAGGETT's attendance at a \$2,500.00 per person fundraiser held at the house of LAWRENCE BATHGATE, who has been identified as an attorney for the CIBA-GEIGY CORPORATION.

On September 20, 1988, NANTKES provided a written statement detailing the substance of the September 14, 1988, interview. That statement is reproduced in its entirety below. The original statement is retained in the Office of Investigations, Eastern Division, New York, N.Y.

On September 14, 1988, I, DONNELL NANTKES, Alternate Agency Ethics Official, was interviewed at my office, 401 M Street S.W., Washington, D.C., by Special Agents Joseph Slattery and Lorraine Gentile. I was interviewed to determine what guidance, if any, on conflict of interest prohibitions I may have given to CHRISTOPHER DAGGETT, Regional Administrator, EPA Region 2, regarding DAGGETT's attendance at a \$2,500.00 per person fundraiser held at the house of LAWRENCE BATHGATE, who has been identified as an attorney for the CIBA-GEIGY CORPORATION. My response was as follows:

I was contacted telephonically by either DOUGLAS BLAZEY, Regional Counsel, Region 2, or GERALD YAMADA, Designated Agency Ethics Official, concerning the ethical propriety of CHRISTOPHER DAGGETT's attendance at a Republican Party fundraising dinner. The fundraiser was on behalf of the Bush Presidential Campaign and the Vice-President was to be in attendance.

I was aware that there was an entrance fee for the affair, but I do not recall if I knew then what the amount was. I

INVESTIGATION CONDUCTED ON		CONDUCTED AT	
September 20, 1988		Washington, DC	
CONDUCTED BY		OI FILE NUMBER	
SA's J. Slattery and L. Gentile		88-1043	
DATE DICTATED	DATE TRANSCRIBED	BY	
Sept. 20, 1988	Oct. 3, 1988	lmq	

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was aware that the fee was to be waived for DAGGETT because those attending the gathering were interested in nominating DAGGETT to head a New Jersey association and wanted him to attend the fundraiser.

I did not know whether DAGGETT was invited by the sponsors of the affair or by members of the Vice-President's party. In any case, I considered the matter of who issued the invitation irrelevant since the primary question was whether or not a ticket had been purchased for DAGGETT by a third party, particularly CIBA-GEIGY or another regulated entity, or if a contribution had been made to the Campaign on behalf of DAGGETT.

I felt that the matter concerned two issues: 1) the Hatch Act prohibitions; and, 2) the prohibitions concerning gifts and gratuities to employees.

Since DAGGETT was simply an attendee at the party as opposed to officiating in any manner, the Hatch Act prohibitions did not apply, and since no ticket was being purchased on behalf of DAGGETT, then there was no question of unlawful gifts or gratuities.

I realized that there was a possible intangible political benefit that would accrue to DAGGETT through attendance at such an affair, but I did not consider it to be a benefit within the meaning of the prohibited acts.

Either initially or after a discussion with Mr. BLAZEY, I conferred with GERALD YAMADA concerning this matter. We agreed that Mr. DAGGETT's participation was proper based on the assumption that the entrance fee would be waived and that there would be no violation of the Hatch Act as DAGGETT would not be addressing the gathering.

I did not give my opinion on this matter in writing; I gave my opinion orally to either BLAZEY or to DAGGETT's secretary. I did not speak directly to DAGGETT regarding this matter.



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Interview of GERALD H. YAMADA

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On September 14, 1988, GERALD H. YAMADA, Deputy General Counsel, EPA, was interviewed at his office, 401 M STREET S.W., Washington, D.C., by Special Agents Joseph Slattery and Lorraine Gentile. YAMADA was interviewed to determine what guidance, if any, on conflict of interest prohibitions he may have given to CHRISTOPHER DAGGETT, Regional Administrator, EPA Region 2, regarding DAGGETT's attendance at a \$2,500.00 per person fundraiser held at the home of LAWRENCE BATHGATE, who has been identified as an attorney for the CIBA-GEIGY CORPORATION.

On September 20, 1988, YAMADA provided a written statement detailing the substance of the September 14, 1988, interview. That statement is reproduced in its entirety below. The original statement is retained in the Office of Investigations, Eastern Division, New York, N.Y.

On September 14, 1988, I, GERALD H. YAMADA, DEPUTY GENERAL COUNSEL, was interviewed at my office, 401 M STREET S.W., Washington, D.C., by Special Agents Joseph Slattery and Lorraine Gentile. I was interviewed to determine what guidance, if any, on conflict of interest prohibitions I may have given to CHRISTOPHER DAGGETT, Regional Administrator, EPA Region 2, regarding DAGGETT's attendance at a \$2,500.00 per person fundraiser held at the home of LAWRENCE BATHGATE, who has been identified as an attorney for the CIBA-GEIGY CORPORATION. My response was as follows:

Shortly prior to July 22, 1988, (the date of the fundraiser), I was contacted by DONNELL NANTKES concerning a question of the ethical propriety of CHRISTOPHER DAGGETT's attendance at a Republican Party fundraising dinner.

NANTKES had been contacted by DOUGLAS BLAZEY, Regional Counsel, Region 2, concerning the matter on behalf of DAGGETT

I considered the matter to be a Hatch Act question and [decided that so long as DAGGETT purchased his own ticket or

INVESTIGATION CONDUCTED ON	CONDUCTED AT
September 20, 1988	Washington, DC
CONDUCTED BY	OFFICE FILE NUMBER
SA's J. Slattery and L. Gentile	88-1043
DATE DICTATED	DATE TRANSCRIBED
Sept. 20, 1988	Oct. 3, 1988
	BY
	lmq

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received a complimentary ticket, there would be no problem. A problem might arise if a third party, particularly a regulated third party, purchased the ticket. Since this was not the case, my advice was that DAGGETT could attend.

Explanation (of wording between the brackets): This was the subject of a subsequent telephone call that DAGGETT made to me. At that time he informed me of additional facts as to location of the event and connection between host and CIBA-GEIGY. DAGGETT stated that he received a complimentary ticket from other than CIBA-GEIGY. I advised that I did not have a problem with his attending..

At the time this advice was given, I did not know who was giving the fundraiser, who invited DAGGETT, where it was being held, and I'm not sure if I knew the price of the tickets. Mr. NANTKES had discussed the details of the matter with Mr. BLAZEY, and I concurred with his opinion.

I did not discuss the matter with either CHRISTOPHER DAGGETT or DOUGLAS BLAZEY prior to rendering the opinion.

In most instances, it is normal procedure for Regional Counsel to request an opinion from the Ethics Official by telephone. In this instance, a written opinion was not requested nor considered necessary.



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These records were reviewed by OI with the following results:

1. A reconciliation of the financial report which was accomplished by SA Slattery with the assistance of LORRAINE RUSSO, Secretary to Mr. BATHGATE, indicates that the total amount received was \$391,160.
2. A sampling of the names listed as having attended the affair on a complimentary basis was conducted. All of the persons contacted confirmed their attendance on the complimentary basis.

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Sept. 20, 1988 to Oct. 11, 1988		Various Locations
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Joseph F. Slattery et al		88-1043
Date Dictated	Date Transcribed	By
October 20, 1988	October 20, 1988	Eleanor Walker

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On September 18, 1988, Mr. LAWRENCE W. BATHGATE II, Chairman of Republican National Finance Committee, 310 First Street, S.W., Washington DC, provided OI with business records concerning the Republican Party fund-raiser held at his home in Bay Head, New Jersey on the evening of July 22, 1988. The records contained the following information:

1. A listing of persons invited from whom the \$2500 donation was anticipated. This listing contains 245 records many of which reflect husband and wife or business entities.
2. A listing of those persons who responded positively showing the amount donated. This record indicates that the amount raised was approximately \$375,000 to \$391,000 pending final accounting and collection of accounts receivable.
3. Copies of checks received from donors. This record consists of copies of 74 checks totaling \$317,950.
4. Alphabetical listing of attendees consisting of a total of 206 persons of whom 65 are noted as complimentary. CHRISTOPHER DAGGETT and BEA DAGGETT, his wife, are carried on this list as complimentary.
5. Distribution of guests by table assignments. List consists of 206 persons variously distributed.

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B. Distribution of guests by table assignments. List consists of 216 persons variously distributed.

BATHGATE further stated that no representatives of the CIBA GEIGY COMPANY bought tickets nor did the company make any donations.

The CIBA-GEIGY plant manager, JOHN SIMAS and his wife did attend as complimentary guests based upon a donation to a previous fund-raiser.

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Investigation Conducted on September 19, 1988		Conducted at Washington, DC	
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Date Dictated September 19, 1988	Date Transcribed September 28, 1988	By Eleanor Walker	

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Mr. BATHGATE advised that he has known CHRISTOPHER DAGGETT through political activities since 1961 when DAGGETT served as an aide to N.J. Governor KEAN in his political campaigns. He considers DAGGETT to be a personal friend. He personally extended the invitation to DAGGETT to attend the fund-raising dinner. DAGGETT was one of sixty-five persons who were invited to attend on a complimentary basis. These persons consisted primarily of public officials both elected and appointed. BATHGATE explained that this pattern of complimentary invitations to political figures is the normal procedure in fund-raising activities.

BATHGATE provided records concerning the affair as follows:

1. A listing of persons invited from whom the \$2500 donation was anticipated. This listing contains 245 records many of which reflect husband and wife or business entities.
2. A listing of those persons who responded positively showing the amount donated. This record indicates that the amount raised was approximately \$375,000 to \$391,000 pending final accounting and collection of accounts receivable.
3. Copies of checks received from donors. This record consists of copies of 74 checks totaling \$317,950.
4. Alphabetical listing of attendees consisting of a total of 206 persons of whom 65 are noted as complimentary. CHRISTOPHER DAGGETT and BEA DAGGETT, his wife, are carried on this list as complimentary.

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On September 19, 1988, Special Agents Robert M. Byrnes and Joseph F. Slattery interviewed Mr. LAWRENCE E. BATHGATE II, Chairman of the Republican National Finance Committee at his office at 310 First Street, S.W., Washington DC. The purpose of the interview was to determine Mr. BATHGATE's knowledge of and involvement in the events and circumstances surrounding the attendance by CHRISTOPHER DAGGETT, former Regional Administrator, EPA Region II at a political fund-raising affair for Vice President GEORGE BUSH held at Mr. BATHGATE's home in Bay Head, New Jersey on July 22, 1988. Mr. BATHGATE was advised of the identities of the agents and the purpose of the interview. BATHGATE supplied the following information in substance:

Mr. BATHGATE stated that in addition to his position as Chairman of the Republican National Finance Committee, he is also the head of a private law firm with offices in Toms River and Newark, NJ. As part of his law practice his firm represents the CIBA-GEIGY CORP which Mr. BATHGATE characterized as a fairly significant client which represents about 5% of his firm's business. His representation of CIBA-GEIGY concerns several issues, the major one being an effort to advance the firm's intention to expand the activities of its Toms River N.J. facility which is being forestalled by some local zoning problems. In connection with this matter he has occasion to send letters to EPA Region II in compliance with the local requirements.

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Mr. BATHGATE advised that he has known CHRISTOPHER DAGGETT through political activities since 1981 when DAGGETT served as an aide to N.J. Governor NEASE in his political campaigns. He considers DAGGETT to be a personal friend. He personally extended the invitation to DAGGETT to attend the fund-raising dinner. DAGGETT was one of sixty-five persons who were invited to attend on a complimentary basis. These persons consisted primarily of public officials both elected and appointed. BATHGATE explained that this pattern of complimentary invitations to political figures is the normal procedure in fund-raising activities.

BATHGATE provided records concerning the affair as follows:

1. A listing of persons invited from whom the \$2500 donation was anticipated. This listing contains 245 records many of which reflect husband and wife or business entities.
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September 28, 1988	

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3. Distribution of guests by table assignments. List consists of 106 persons variously distributed.

PATHEGATE further stated that no representatives of the CIBA GEIGY COMPANY bought tickets nor did the company make any donations.

The CIBA-GEIGY plant manager, JOHN SIMAS and his wife did attend as complimentary guests based upon a donation to a previous fund-raiser.

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