
Public Hearing

before

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

*“Testimony from county solid waste officials on the
evolution of county solid waste management activities since the
Waste Management v. Shinn,
Carbone, and Atlantic Coast decisions”*

LOCATION: Committee Room 12
State House Annex
Trenton, New Jersey

DATE: February 11, 1999
2:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John E. Rooney, Chair
Assemblyman Peter J. Biondi, Vice-Chair
Assemblyman Larry Chatzidakis
Assemblyman Melvin Cottrell
Assemblywoman Connie Myers
Assemblyman LeRoy J. Jones Jr.



ALSO PRESENT:

Algis P. Matioska
Leonard J. Colner
*Office of Legislative Services
Committee Aides*

Thea M. Sheridan
*Assembly Majority
Committee Aide*

Yollette Ross
*Assembly Democratic
Committee Aide*

***Hearing Recorded and Transcribed by
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ASSEMBLYMAN JOHN E. ROONEY (Chair): I'm going to call this meeting to order. We still have some members that are on their way, but we also have members that are going to have to leave a little bit early. This meeting is being transcribed. There will be transcripts available whenever.

The first thing I'm going to do is ask for a roll call, and we will add whoever comes in to the roll call later.

MR. MATIOSKA (Committee Aide): Roll call.

Mr. Chatzidakis.

ASSEMBLYMAN ROONEY: He is here, but he is-- I know he is in the building, I just saw him. He will be here.

MR. MATIOSKA: Mr. Cottrell.

ASSEMBLYMAN COTTRELL: Here.

MR. MATIOSKA: Assemblywoman Myers.

ASSEMBLYWOMAN MYERS: Here.

MR. MATIOSKA: Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Here.

MR. MATIOSKA: Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Here.

MR. MATIOSKA: We have a quorum.

ASSEMBLYMAN ROONEY: Thank you.

The purpose of this meeting, basically, is to refocus on the solid waste problem that we have in the State of New Jersey. We a-- I guess we all know, since the *Carbone* decision, a lot of our counties have been thrown into at least confusion, if not total chaos in some counties. We are at a point where we are trying to decide how to take care of the stranded debt that was left by

the *Carbone* decision when garbage went other places other than to the normal facilities that they were going to. There is no way to pay off the stranded debt, nor any of the debt for that matter.

As of yesterday, in my own county, we had a meeting yesterday morning at 8:00 with all of the legislators, at 10:00 with the mayors. I attended both since I wear both hats, and the story was the same. The BCUA in Bergen County has basically put a proposal through to request a Plan Amendment to charge an EIC, an environmental investment charge. That Plan Amendment is now before the Freeholders. County Executive Pat Schuber has vetoed that for a 30-day period and is requesting the Legislature to solve the problem, to come up with some sort of a statewide solution that will alleviate this problem.

I can tell you from my own experience and my own county, as both a mayor and a legislator, there is no way that they are going to collect the \$26 a ton fee that they intend to charge. They are calling it a user charge; however, as a nonuser in my own community-- We have gone out for contract for disposal, and it's kind of unique -- ironic, I guess you would say. My disposal right now goes to, of all places, Clarkstown, New York. And if you remember the other half of *Carbone*, it was *Carbone vs. Clarkstown*. So Northvale, New Jersey, right on the border -- we are about three miles from the Hudson River and on the New York Border. We are probably four miles five miles from the Clarkstown facility. That's where our garbage goes.

We are at a very competitive rate. We went out to bid twice, and then we negotiated the contract after that. This year we are paying \$54 a ton flat. The Bergen County Utilities Authority is offering \$54 a ton or roughly

around there. But if I went there, I'd have to pay another \$26 a ton. They are saying, even if I don't go there I have to pay \$26 a ton. Well, wrong.

There are at least four, possibly five, cases right now against EICs that have been imposed by some of our counties. There has been one verbal comment in Atlantic County by Judge Gibson. I believe it's Judge Anthony Gibson if I'm not mistaken. He is the brother of Assemblyman Jack Gibson, who chaired this Committee two years ago. And in a motion for summary judgment by Atlantic County, which said that they had a right to impose this and they wanted the charges dismissed, Judge Gibson told them, No. He said verbally that he was-- He said he could not find anywhere in law where an EIC is allowed, where a county could charge for service or a municipal utility authority could charge for a service that was not rendered.

So that's the decision so far, and I believe all of these cases are now very currently being consolidated. And I believe if Bergen continues -- and I doubt it because I believe the county executive right now has vetoed it for the 30 days prior to going to the Freeholders. I have talked to the Freeholders in Bergen yesterday; they don't intend to vote for it either.

Basically we are talking about an EIC is a trash tax. Let's not kid ourselves. We are talking about a tax that is going to be put on garbage, or whatever, for all of our property taxpayers to absorb. It's wrong. There are many things wrong with the EIC itself, but since it's wrong to begin with and it can't be found in law, I can commit personally as the Chairman of this Committee -- and the Chairman's role is a powerful role in State government. The Chairman actually selects the bills that will come before this Committee.

I assure you, publicly, I am not selecting any bill that would authorize an EIC. And that's for the administration's knowledge, and it's also for anyone else's knowledge that wants that information. I believe EICs are wrong, and if we get down to the nitty-gritty of what happened when the solid waste issue came up in the late '70s, the State had said we had to find an instate solution. At that time, we were looking at -- actually the solid waste act was in the early '80s. We had to come up with -- each county had to come up with a solid waste solution.

At that time, I was a Commissioner on the Bergen County Utilities Authority, and any solution that was submitted to the state that was not an incinerator or, in the case of Somerset County which we discussed a little bit earlier, did not involve sharing of an incinerator was rejected by the State. You had to have somehow an incinerator in your plan. So if they are saying that they didn't mandate it, they are wrong. And I understand this administration didn't have anything to do with it.

But that's what happened, those are the facts. We all went down this path, and we went down it like the lemmings. We all did it at once. At one point in time we all marched over that cliff. And the problem was that when you set up a scenario that says you are closing all the landfills in the State, you all have to go out for incinerators at the same time. What happens? It becomes a seller's market. Whether it was solid waste landfill space, whether it was incinerators, we paid top dollar. We paid more than top dollar, we got ripped off. And that's what happened, and it was directly mandated by the State -- or indirectly, let's clarify that.

Further, every plan -- every Plan Amendment that went through, yes, went through your utilities authority, yes, went through your county, but had to be approved by the State. If it was wrong, if it was something that was excessive, the State should have picked it up. Every budget that every utility authority had went through the State Division of Local Government Services. Every bond issue that ever was passed went through the State Department of Local Government Services. The State has had its big fat fingerprints, footprints, every kind of print imaginable on every step of solid waste mismanagement in the state since the early '80s. That's what this is all about.

We have been put in this box, and up until-- I guess the first time I saw a change was at the League of Municipalities. I have spoken on this issue against the EICs, against the policies of the State for the *Carbone* decision since -- for at least five years. Some people in this room can testify to that fact. I have always had the same position. And at first it was, "You're crazy, it will never get done." Now, "Gee, you were right all the time."

Well, last year at the League, when we started looking at the lineup of the players on which side of the issue, it turned out that the State had only one ally -- one group of allies, the counties. And at that meeting at the League of Municipalities, Bob Prunetti, who was then the chairman of the solid waste part of NJAC and I believe he was President of NJAC at that time, stood up and said, after I spoke, that he agreed with me, I think it was, 85 percent or 95 percent -- I don't remember which -- and then proceeded to tell me the differences that he was looking for in the bills that I had passed out of this Committee. And I said, after he finished, "Bob," I said, "You don't agree with me 85 percent, 95 percent." I said, "You agree with me 100 percent," because

the changes that he was looking for were in my bill. Basically he was talking about the McNamara bill, the slight differences between the two.

And we'll come together-- As recently as yesterday, I spoke to Senator McNamara, who is chair of the Senate committee, and we spoke about the same issue that we will agree on what is going to happen, and we will have the conformity of the bills. I have given him my absolute word that whatever we agree on will go through -- I will post it in my committee, he will post it in his committee. So we are talking about the same thing, but it has to be on a statewide basis, and we have to have-- The administration has got to come to the table. They refuse to do this, and -- I say it as a Republican -- I am sorry to say that my own party has not come to the table and my own party is creating a situation which will result in higher property taxes in most of our counties. There is only two counties that have zero as far as its EIC, and some have some small ones, like \$5 a ton, or whatever, but the majority of these counties are looking at \$20 and up. In Warren County, the last look was \$120 a ton, Connie, or maybe more.

These are the kinds of things we have to correct. I supported the bond issue, the referendum, that was on the ballot last year as a first step in solving this problem. I haven't seen any other steps other than to impose again the trash tax, and every time I talk about the EICs, I am going to say it's a trash tax. That's what it is, and it's what your property owners are looking at.

You are going to see either a county tax increase or a municipal tax increase if EICs are passed, and that's not acceptable, not to the tune of what we are looking at at this point. So that's my position.

What I want to do is I will open it up to the Committee members for any statements that they would like to make -- opening statements -- and then we will start, and we'll take testimony from hopefully the counties. We have, I believe, 11 counties that are signed up today to speak. I'm going to ask that you try to limit it to about 10 minutes. I know you go over, but we'll try to bear with it, but we want to get this completed today. We want to have the transcript available for everyone. We want to know what is going on out there, how you're dealing with this.

We are trying to help. Both Senator McNamara and myself are committed to solving this issue. Solving the issue is not to pass this on to the property taxes or the residents of this state, and that's wrong.

In fact, I will give you one example why the EIC is so wrong. The EIC that they are talking about in my county and I think a couple of the other counties are saying that the municipality has to collect an EIC for the tonnage generated by the commercial and industrial generators. We never had anything to do with the commercial-industrial generators of garbage in our towns. Now, in my town, for example, I have 2000 tons of residential waste. They tell me I have 3000 tons of commercial-industrial waste. I would have to pay \$26 a ton on not 2000 tons, but 5000 tons of waste. I wind up paying \$119 a ton when the worse-case scenario, the last time we had flow control, was \$102. We'd actually pay more under this new scenario.

That's one of the things that's wrong with this program. So I want you to all understand where I'm coming from, and what I'm for is to try to do this on a statewide basis, not to have property tax increases. We don't want that. The Governor said she was committed to keep property taxes stable and

trying to reduce them. This is a way for her to do that and to fulfil her promise.

So with that I am going to ask members of the Committee if they would like to make opening statements.

Anyone?

Mel.

ASSEMBLYMAN COTTRELL: All I have to say is--

ASSEMBLYMAN ROONEY: Turn your mike on, Mel.

ASSEMBLYMAN COTTRELL: There's no way that I can support another tax. We have made a promise.

ASSEMBLYMAN ROONEY: Mel, you are not on. The microphone is not on.

ASSEMBLYMAN COTTRELL: We made a promise (indiscernible) to cut taxes. There is no way that I'm going to be part of raising another tax. You can call it trash tax, you can call it any kind of tax you want to be. I think we're better off-- I come from a county who runs well, that does a job well. I don't see why the State is interfering, and when the county (remainder of comment indiscernible) when the price, whatever it may be. And I believe straightly in home rule. Who knows better than Ocean County what to do. Who knows better than the municipalities what they need. So I can tell them that we're going to bail them out and go up by raising taxes of people who don't have a debt, already took care of it. It seems to me that double taxation is not fair. So it's going to be hard (indiscernible) here for anyone to convince me that we should have a (indiscernible) tax. I'm going to be very hard on this.

ASSEMBLYMAN ROONEY: Thank you, Mel.

Assemblyman Jones.

ASSEMBLYMAN JONES: Mr. Chairman, I just wanted to say for the record, since we were attempting to capture this on the record, we have talked about this issue for quite some time now, and you have been very, very impassioned about settling this issue. And I think we all share in the spirit of that passion and certainly with the intensity that you have embraced this issue with also.

But, as I listened to your comments just now, and specifically with respect to challenging your own party with respect to an opposing view that perhaps may exist in the majority of the party, I think that certainly it's worthy of notation, and I believe that it is certainly very much a part of the spirit of profiles and courage. And I think you should be commended for taking a position that is not necessarily the fashionable position, but the position that is certainly right and in the best interest of all that we represent in the State, and that is, the people and the taxpayers of this state.

So I am pledging without any barriers to partisan concerns to work with you to try to hopefully move forward with a piece of legislation that embraces the spirit and certainly captures the will of the people of this state, and that is, less taxation and better government.

Thank you, Mr. Chairman.

ASSEMBLYMAN ROONEY: Thank you, Mr. Jones. I'm overwhelmed.

Thank you very much.

Anyone else wishing to make a statement at this time?

Connie.

ASSEMBLYWOMAN MYERS: Can I come back later?

ASSEMBLYMAN ROONEY: Absolutely, we'll have plenty of time.

But this time we are going to go to the list. I'm going to go by the list that people requested. The first one will be Frank Giordano, Executive Director of the of the Pollution Control Financing Authority of Camden County.

Press the button until the red light comes on. (referring to PA microphone)

As I said before, the counties will be heard first. Anyone else wishing to testify should submit one of these forms. (indicating) They are up here. Please try to limit the testimony no more than 10 minutes. Kind of give us a gist of whatever you have printed. We'd really like to have printed testimony if that is possible.

FRANK E. GIORDANO: I've turned this in already.

ASSEMBLYMAN ROONEY: Thank you.

MR. GIORDANO: My name is Frank Giordano, and I am the Executive Director of the Pollution Control Financing Authority of Camden County, usually referred to as the PCFA. I appreciate the opportunity to appear before this Committee and relate the present condition of the PCFA of Camden County.

The PCFA is the authority in Camden County responsible for the financial obligations of the county solid waste system. The system consists of 1050-ton-a-day waste to energy burner and a landfill with limited future space

capacity. The PCFA owns and operates the landfill, which is in Pennsauken, and a subsidiary of Foster Wheeler Corporation, Camden County Energy Recovery Associates, CCERA, owns and operates the burner, which is located in the city of Camden.

The system has operated as described since 1992 and in its peak years processed about 500,000 tons a year. In 1998, last year, the system received 416,000 tons. Some of that shortfall can be attributed to competition in a changed marketplace. Some of it is due to incinerator operational problems. We believe those problems had been rectified, and we look to a good operational year and one that projects to about 430,000 tons.

This Committee's notice indicated that there were certain questions that needed answers. The first concern was that of tonnage changes. I have just reported those. The second is the comparison of present tipping fees to the ones that existed before November 1997. Prior to the U.S. Supreme Court's denial of New Jersey's appeal, the PCFA system was charging \$94.01 a ton for all waste except construction and demolition waste, which had and still has a charge of \$49 a ton. C and D waste makes up about 10 percent of our total waste stream.

This gave us an average tipping fee of approximately \$90 before the decision. During 1998 our tipping fees averaged about \$47.50 a ton, or a little more than half of the previous charge. When you review the revenues of the PCFA, you must always consider electric revenues which total between \$8 and \$11 million a year and make up about 20 percent of our pre-1998 revenue stream, or about one-third of our projected future revenue stream.

For the six years proceeding 1998 our revenue stream averaged about \$56 million a year. Last year we collected \$32.5 million and used about \$12 million more to pay our bills. That totals \$44 and a half million. In previous years it took over \$10 million to \$12 million more to pay our bills. And obviously the question needs to be asked, why can you do it cheaper now even though it's not to the point that you are financially intact? There are many contributing factors.

First and foremost is a reduction in the ash disposal costs and other pass-through volume-related costs associated with the operation of the Camden facility. There is a deferment of the interest-free loan payment and the reduction of the lease purchase of the landfill related to a reduction in tipping fee. However, even with this reduced cost structure, we continue to operate with less revenue than we need to meet our financial commitments. And to make matters worse, our debt repayment schedule spiked this year. Last year we had a debt obligation of about \$16 million, and this year it increases to a whopping \$27 million.

These debt obligations do not include the repayment of the State loans, which to date are still deferred. More correctly, we hope these loans are deferred and soon to be forgiven. Repayment of our State loans, which have an outstanding balance of about \$21 million, were deferred for 1997 and 1998. Technically, we are scheduled to pay back \$1.7 million next December, and we should be setting that money aside on a monthly basis to make that payment.

I know that the forgiveness referendum passed last November, but that referendum only gave the State the ability to forgive. Although we

petition for a quick decision on forgiveness of our State bonds, we have yet to hear of any disposition.

What does this all mean in a practical sense? Our debt total is about \$185 million, including the approximately \$21 million of State debt. We're not collecting enough money to pay both our operating costs and our debt obligations. We have debt service payments due on June 1, 1999 and December 1, 1999. Our debt reserve should be sufficient to meet our June payment but most likely will not be sufficient to meet our December payment. At which time, unless there is assistance, the PCFA of Camden County will default.

That details the problem. The next obvious question is, what has the PDFA done to remedy the situation? I'd like to think that we have exhausted every potential. We met with the Freeholders, the DEP, appeared before the DCA, discussed our problems with members of this Legislature, including lengthy private sessions with Assemblyman Gibson, met with members of the Department of Treasury, requested and submitted to a State audit of our Authority back in the autumn of 1997, issued a request for proposal for new solid waste services in Camden County, and met with a present vendor of our Camden facility, CCERA, in an attempt to see if they could or would reduce operating costs. The solution does not seem to be readily obtainable. While Camden County has two very desirable solid waste facilities that are convenient and efficient, there is too large a debt to be able to pay for them in a competitive environment. Our remedial investigation process has lead us to believe that without State assistance there is no workable solution.

The Camden County debt -- solid waste debt is somewhat unique. Except for a very small portion, the Camden County Board of Chosen Freeholders does not guarantee repayment of the PCFA obligation. The bonds are pure and simple revenue bonds. The small county-guarantied portion of which I refer is a bond issue for ash disposal space that totaled about \$23 million and now has an outstanding bill and balance of about \$1 million.

There is no incentive for the Freeholders to assume responsibility of our debt. In 1997, the Freeholder Board considered the possibility of imposing an EIC. The idea was rejected in December '97 with the most recent Camden County Solid Waste Management Plan Amendment. Additionally, the Camden County Mayors Association has passed a unanimous resolution that opposes the imposition of an EIC. And there is no indication that the position has changed or will change, and I do not look for an imposition of such a charge by the county government.

While this problem is very complex, the basic elements are clear and simple. The number of stakeholders make remedial movement difficult. Reprocurement of waste disposal services does not, by itself, provide for continuing solid waste disposal and repayment of existing debt. The county does not feel that it's in its best interest to assume a repayment schedule responsibility. That leaves the leadership role to the State of New Jersey. Without State direction and assistance, it seems that the question is not if the PCFA of Camden County will fail, but when.

This testimony is a short synopsis of our Authority's financial condition. Last December, when the PCFA's trustee found it necessary to use the Debt Service Reserve Fund to make the full debt service scheduled

payment, the PCFA of Camden County issued a public notice detailing our present and projected financial condition. I have included a copy of that notice as an addendum to my submitted testimony, and I request that you keep it for the record or allow it to be placed on the record.

Again I am extremely grateful for the opportunity to testify. I hope that I have been able to acquaint you with some of the difficulties facing our Authority. And if I can clarify any issue now or later, I will be happy to do so.

ASSEMBLYMAN ROONEY: Mr. Giordano, you're saying last year you had a debt obligation of \$16 million. This year it goes to \$27 million. That's amazing.

MR. GIORDANO: That was-- Assemblyman, that was scheduled that way when it was incorporated. The bond issue was first promulgated back almost 10 years ago. There was some thinking that the ash disposal costs would reach that level of \$9 million, \$10 million, or \$11 million a year, and they were scheduled to do so, and that they would be over and we could put the ash in our landfill so there will be some kind of leveling out. But there was more pie in the sky than it was realism.

ASSEMBLYMAN JONES: Mr. Chairman.

ASSEMBLYMAN ROONEY: Go ahead.

ASSEMBLYMAN JONES: That's what drew focus to my attention on this -- when you mention the \$16 million dollars in a spike to \$27 million. You know I'm not all that convinced that that's perhaps a schedule or structure that was developed by the then financial team that structured the bond obligations and the ensuing payments into the future.

MR. GIORDANO: It was. This is from the original documents and it has not been changed.

ASSEMBLYMAN JONES: That's probably more of a structural issue than it is an issue that we are dealing with here. Had there been, you know, some more prudent planning with respect to perhaps someone's forecast as they began to structure the deal, then you wouldn't have had this violent spike that goes from 16 to 27. So I would imagine that the underwriter has some accountability with respect to this issue. Perhaps at some point some credibility rests with -- or lack of, perhaps -- rests with bond counsel and all of those who were involved with structuring such a deal for an authority that, at some point, had to pay as opposed to perhaps leveling the debt more up front so that the obvious would have taken place.

Because all that was done here was they took advantage of lower interest payments in the early stage of the transaction and they just pushed the inevitable off into some date in the future. And that date now has become a reality; therefore, it's time to pay the piper.

MR. GIORDANO: Well, it's an interesting premise to see if there is any culpability based on what was done 10 years ago, and we can certainly look into that. It's an interesting thought which really had not crossed my mind. I don't look for a lot of success, but certainly, we should not leave any stone unturned.

I don't want you to get too clouded by the difference of the \$11 million, while it is substantial. The fact of the matter is that we couldn't make the \$16 million payment if we had to, so the \$27 million just makes it worse.

ASSEMBLYMAN JONES: And that's even more reason to just draw, you know, some scepticism as to whether this was a prudent and reasonable structured obligation.

MR. GIORDANO: We will certainly look into that.

ASSEMBLYMAN ROONEY: Just to try and get a handle on what you're looking at. I feel the same way in my open remarks is that what we are really interested in the State looking at is stranded debt. Stranded debt -- this is my definition. Stranded debt is when you subtract out the value of the asset. You have an incinerator and it's worth something. Do you have any idea what your asset value is with that incinerator? What's the market value?

I want to go a little further and just explain why this is important. Union County -- as far as I'm concerned they should be applauded. Union County did a great thing. They went and negotiated a deal with Ogden Martin, Ogden Systems as they are now called, and they bought it out. The asset values have been taken over by Ogden. They are left with a debt of, I believe, \$90 million at the present time -- yes, \$86 million -- after they had somewhere around \$280 million I think was the original. So they are left with \$80 million. If you subtract out your asset value, what are you looking at as far as stranded debt? I know we can ask some of the incinerator people.

MR. GIORDANO: Yes, that's the problem, Assemblyman. We have a unique situation with them. We have a contract where -- when the ownership went to the vendor--

ASSEMBLYMAN ROONEY: And the debt went to you.

MR. GIORDANO: --and the debt went to us. The contract was for 20 years, of which I believe we are in our 8th year. In my own mind, there is some kind of credit for the number of years in which they operate.

ASSEMBLYMAN ROONEY: Right.

MR. GIORDANO: Meaning if they don't get the 20 years, they are not getting that facility scot-free. Now that matter is in court as the disclosure statement will say. But as an off-the-cuff guess, I would think somewhat of near half of the cost of the contract for building it, which is \$50 million to \$70 million of the half number, depending on who appraises it and what numbers you use and the landfill is worth something.

So I gave you a debt of \$165 million--

ASSEMBLYMAN ROONEY: We have \$187 million.

MR. GIORDANO: --without the \$21 million for the State. Maybe we have got between the landfill and the waste energy facility somewhere in the neighborhood of \$100 million worth of assets.

ASSEMBLYMAN ROONEY: Well, that's what we're trying--

MR. GIORDANO: So it's not all.

ASSEMBLYMAN ROONEY: Yes, that's what we are trying to focus on. If you have an asset, we are not interesting in absorbing your asset costs or subsidizing it. What we want to do is to try to make people whole again. That's been the intent of the bills that have been passed so far. Try to take care of the stranded debt to put you on a level playing field with everyone else-- If you want to stay in the garbage business, then you can be competitive in the fact that you have the asset, you write that off on whatever you are

charging on your tipping fees. This is what we want to try to do, and that was the attempt.

If I were there, I would probably say do the same thing Union did. Go out and see if this thing is sellable, leasable, or whatever and find out what your actual debt is going to be left.

MR. GIORDANO: Our problem is that we don't own it.

ASSEMBLYMAN ROONEY: Yes.

Well, the contracts that you signed probably have a force majeure in the change of the law.

MR. GIORDANO: I know.

ASSEMBLYMAN ROONEY: And that's why you are in court probably. So these are the things that we are trying to determine right now. Yes.

ASSEMBLYMAN JONES: By what authority does the stranded debt become validated? And what agency validates? And when will that agency validate what portion of this debt is stranded?

ASSEMBLYMAN ROONEY: Well, this was-- In the bills that we've put forward have been DCA Local Finance Board.

ASSEMBLYMAN JONES: Right.

ASSEMBLYMAN ROONEY: It's actually existing law as Mr. Matioska was saying. But this was the intent. In fact, I think in McNamara's bill -- in Senator McNamara's bill, he actually called for the selling of the assets, and then what was left was what the State was going to consider as far as the stranded debt, and that's what they were going to try to make the counties whole with.

ASSEMBLYMAN JONES: Right.

ASSEMBLYMAN ROONEY: So this is that you don't own it. You've got a unique situation as Gloucester County has, the same type of situation, where there is a contract with Wheelabrator, and Warren and Essex.

ASSEMBLYMAN JONES: So at what point or where is the DCA and Local Finance Board with respect to this issue?

ASSEMBLYMAN ROONEY: Well--

ASSEMBLYMAN JONES: In terms of a statement, a position, a status.

ASSEMBLYMAN ROONEY: I had gotten a sheet that showed the approximate value. And when I looked at the value, I couldn't believe it because I think they listed the Bergen County Transfer Station at a value of \$10 million when they have \$110 million worth of debt, and it cost much more to build it, and Atlantic County at \$20 million, and that's another one that costs probably \$100 million to build. So I don't put much faith in what has been posted. I don't know the source of that, but it came through. It was kind of an unofficial estimate trying to grab at what the stranded debt might be.

I think what we are trying to deal with here is to try to at least assess what the counties were looking at. Because again the counties hadn't before come to our side of the issue, yours and mine. Maybe we have some differences but-- These revenue bonds are a different situation altogether because you don't have the revenue now. That's another problem.

This is a 1050 ton per day facility, correct?

MR. GIORDANO: Yes.

ASSEMBLYMAN ROONEY: And we have-- As of August of last year, your debt was 187,572,061. Okay we are at 184,098,997. The State loan you are looking for that was passed, I don't know what is going with that.

We know-- Now we see some of the issues that have to be developed by DCA, and we're trying to do the broad picture, and then we are going to have to get into the various segments along the way of each facility.

ASSEMBLYMAN JONES: See, I'm a little confused now because we have a situation here, you know, that was built around the concept of a revenue bond. Am I correct?

MR. GIORDANO: That's true.

ASSEMBLYMAN JONES: Which that revenue no longer exists to the extent to--

MR. GIORDANO: Down to the extent that it covers the operation.

ASSEMBLYMAN JONES: And it would support the--

MR. GIORDANO: Yes.

ASSEMBLYMAN JONES: --interest and principal payment of the bond.

MR. GIORDANO: And the operation.

ASSEMBLYMAN JONES: And the operation.

So if the concept of the revenue bond embraces itself around revenue to support the interest, principal, and the operating costs, which is no longer there, then doesn't that gut the concept, thereby somehow challenging the legality of the entire obligation? It's probably a question that is best posed

to those legal minds, and that's something that I don't have in my briefcase over here.

Do you see where I'm going?

ASSEMBLYMAN ROONEY: I know the problems, and basically we've got to get basically the whole picture that we are going to step in as the State of New Jersey and say that we are going to try and make these counties whole again. But then we are going to get into the details of it, the devils and the details. You can see that we've got a problem in several counties that don't even own the facility or contracts.

Now, we did include, I believe, Camden and Gloucester in our bill that we passed through -- that we would acknowledge the franchises, and we put that in so that they would also be eligible for the assistance, but again, that formula is going to have to be left up to DCA and Local Government Services as to what the stranded debt is.

ASSEMBLYMAN JONES: If our Committee Aides can perhaps just give me a sense of what happens in this particular situation where a revenue bond was structured and there is no longer the components of revenue to support the interest, principal and operation--

MR. MATIOSKA: Very simply is--

ASSEMBLYMAN JONES: --of local bonds.

MR. MATIOSKA: Very simply is they default because they no longer have sufficient revenues. They have been now dipping into their reserves, which will also be depleted by the end of the year. And they have insufficient revenues to meet these bond obligations.

ASSEMBLYMAN ROONEY: Twenty-six million dollars at the end of the year. If they don't have it, then they are going to have to default on it. And that's what we are looking at in not only Camden, but several other counties are into this. Some of them are luckier than others where they can actually go for a while and use some other alternatives. And we'll get Bergen's take on that.

I mentioned some of the issues with Bergen, but they have a plan that might keep them whole for a couple of years. They are going to need an interim situation, but they are talking about taking the recycling grants that were originally given to the communities -- taking that and putting it into bond payments. Again, that has to go for a Plan Amendment.

So these are the kind of things -- unique things -- that the counties are coming up with, and I applaud the counties. I mean you've done a great job to try and survive up to this point. What we've got to do is try and help them. This is what we are here for, to try and get the message out. It's been too quiet too long, and I had hoped that something would have come to the table other than an environmental investment charge, which throws it back on the municipalities. We're basically saying to the municipalities, "Screw you, go raise your property taxes." That's what an EIC says to a municipality.

And then the next step is that I talked to the administration, and I said, "The only way I would accept something like that is if you did it on a county basis, assess it as part of the county taxes. Raise your county taxes or put a line item in your county taxes that says for EIC. Don't leave it to the municipality because we look like fools. We had nothing to do with this at the municipal level." And they said, "Oh, that's a good idea." I talked to some

county people, and they said, "Whoa, what do you mean you're going to raise your county taxes?"

So this is what's happening. The buck has been passed all the way down to the bottom, and we're down on the bottom saying, no, you're not going to do it, we're passing it back up to you. The State of New Jersey has got to step in. This is a critical juncture that we have in solid waste. It's got to do something. It would take roughly, we figured, about \$100 million a year and probably out of this budget not even that much because we have money left over. There is money left over probably in the tune of--

MR. MATIOSKA: Twenty-six--

ASSEMBLYMAN ROONEY: Twenty-six plus 20. Twenty again, I think, from the other one. Connie identified 27 from the tax. So we are looking at almost \$100 million. They wouldn't have to touch the budget just by going into those particular issues.

ASSEMBLYMAN JONES: So what's our drop-dead date for stepping in, Mr. Chairman?

ASSEMBLYMAN ROONEY: It's not our date, it's the administration's date.

ASSEMBLYMAN JONES: I mean in terms of-- We're the State of New Jersey, the administration, and something called the judiciary. What becomes-- What is the date that whoever has to have?

ASSEMBLYMAN ROONEY: I would say by July 1st you are going to find -- you are going to see some of the smaller counties having problems then and probably most certainly by the end of the year. Camden,

one of our largest counties, is going to have a definite problem and default on these bonds.

So this year and probably in the next couple of months is critical. And somebody better get the message that it is critical. Senator McNamara and I have been trying. Every time I see the administration people, "When are you coming to the table?" I get no response. I get a big smile and they walk away. Well, they better stop smiling because I'm not smiling anymore either.

So thank you, Mr. Giordano.

MR. GIORDANO: Thank you.

ASSEMBLYMAN ROONEY: We'll go to probably the worse-case scenario that we have. John Carlton, Executive Director of Warren County Pollution Control Financing Authority. Not Mr. Carlton personally the worst case, but their situation would require over \$120 a ton as an EIC if they were to go it alone, which is impossible.

Gentlemen, and identify the other person, please, for the record.

HARRY R. POOL JR.: Chairman Rooney, members of Committee, my name is Harry R. Pool Jr., Chairman, Pollution Control Financing Authority of Warren County. And, as you know, I have with me John Carlton, our Executive Director of the Authority. We have submitted written testimony, and now we would like to summarize the contents.

On behalf of the Pollution Control Financing Authority of Warren County, we are pleased to submit testimony to the Assembly Solid and Hazardous Waste Committee. The Assembly Solid and Hazardous Waste Committee had been, and will continue to be, instrumental in promoting a legislative solution to the financial difficulties facing many New Jersey counties

and authorities resulting from the deregulation of solid waste control. We applaud your efforts.

As you may know, the Pollution Control Financing Authority of Warren County financed and constructed Warren County's Solid Waste Disposal System, which consists of a 448-ton Resource Recovery Facility and a 45-acre landfill. The system was financed through the issuance of approximately \$115 million in revenue bonds. Subsequent to the issuance of the bonds, New Jersey's System of Solid Waste Control Regulations were invalidated. As a result, the Authority's tipping fees were drastically reduced to retain waste in the system. Revenues continue to be insufficient to provide for both operating expense and bond debt service.

In your invitation you had testified before the Committee, you requested the Authority focus on specific changes that have occurred in the management of solid waste within our district. John will now summarize the changes the Authority has made and continues to pursue.

JOHN G. CARLTON: Thank you, Harry.

Good afternoon.

The first item I will touch on is changes in the waste volumes and pricing. When waste flow went out the door in November of 1997, it took about a week for our Authority to act; although, we have been working on this issue for several years. We reduced, at that time, our tipping fee at the Resource Recovery Facility from \$99.43 per ton, which already was subsidized from a true cost at that point of \$118 per ton, and we reduced the rate to \$48 per ton. We also reduced our landfill right which was a smaller portion of our

total revenue and waste stream from \$99.43 to \$65 per ton, also a subsidized amount.

Based on a survey of the New Jersey Department of Environmental Protection, we understand those rates to be some of the most cheapest in the state based on that tariff, but nonetheless, they are not totally sufficient in keeping waste in the system.

Between the months of November 1997 and May of 1998 the Authority lost substantial amounts of waste from our system and revenues as well. During that period, we were losing about \$1 million per month in lost revenues, and we also lost a substantial amount of waste not only from just the loss of flow control, but also Somerset County stopped delivering waste pursuant to an interdistrict agreement, and we are currently litigating that action from Somerset County.

Beginning in May of 1998, the Authority went out for voluntary contracts to keep waste in the door. We, as the Authority, have the responsibility not only to fulfil the waste needs of the resource recovery system, but also of the Authority's budget which ties into the landfill.

And at that time we bumped up our waste loadings from around 600 tons a day, which is what the Resource Recovery Facility needed to keep operating, to around 1300 tons a day, and we have been operating at that level since then.

Even with the additional waste flow loadings and the revenues, we continue to still lose around \$600,000 per month. Resulting in that, as of December 1, 1998, we defaulted in a sense on our technical way on our

December 1st debt service payment and had to withdraw on \$750,000 in our debt service reserves.

In terms of the amount of debt that the Authority currently has-- And, first, I would like to express that, not only to the efforts of this Committee, but to the voters as well, we do appreciate the Legislature as a whole and the voters approving the forgiveness of the solid waste loans. We have written them off of our future projections, but, like Camden, we are going to have to get some closure to the actual forgiveness of them, but they totaled around \$5.6 million of our debt at that time.

We still have \$66.5 million in debt: \$45.6 million in Resource Recovery Facility debt, and \$20.9 million in landfill debt. The Authority has been very proactive over the past two years, and especially this past year, in doing restructuring of our system. And I'd like to just walk through a variety of things that we have done already and are still pursuing as we move ahead.

The first was the State audit and review. And beginning in the fall of 1997, the Authority was the first authority to get an audit of its system pursuant to the Partnership Agreement Program with the State of New Jersey. Realizing that Union County had gone through an audit, but necessarily pursuant to that Partnership Program, the Authority's audit report included 13 specific recommendations for action ranging from personnel layoffs to involuntarily contracts to a variety of other things. And as of today we have actually accomplished and/or in the process of accomplishing 12 of those 13 specific recommendations, which I will discuss moving forward a little bit.

One of the recommendations was that we pay down Resource Recovery Facility debt using our tipping stabilization account and our debt

service reserve funds. Well, those are gone. As a result of having to subsidize rates over the past year, we have lost that money, and that is no longer an option, and we can not, therefore, fulfil that part of the recommendation.

In terms of staffing reductions, the Authority-- Right after flow control went out the door, we have reduced our staffing by 50 percent. We were not a large Authority to begin with. We had around 19 employees, and we went down to 10. We did this through eliminating functions, consolidating job responsibilities, and improving efficiencies. We, also, specifically turned back the recycling program that we had taken from the county and given it back to the county for their operation.

We have been in the process of the last couple of years renegotiating contracts. As far as we were concerned, we were entering into a new era, and that opened up every contract, especially the two operations contracts, the Landfill Operations Contract and the Resource Recovery Operations Contract. We are currently trying to work with the Resource Recovery Facility to turn that into an emergent system, and by doing so, we are looking to have the facility valued, as Assemblyman Rooney has suggested. We find out what that asset value is, we make sure that that part of the asset value is not included in the stranded debt cost, and we move forward on that basis. We have renegotiated, or in the process of renegotiating, our host community agreements to reduce those impacts without necessarily trying to overburden our host communities. We are in the process of expanding our facility capacity. We are doing a vertical expansion on the landfill and are agreeing to expand the resource recovery capacity by 20 percent in order to improve the revenue flows to both facilities. We are increasing waste deliveries

as best we can to meet budgetary obligations given the constraints of the facilities. We are pursuing alternate sources of revenue. At the landfill we are trying to be as creative as possible using alternate daily cover, screen C and D, sludge ash, and whatever other revenues we can get into the facility. If we can pay for tours, we'd love to do that as well. And if we need to, we will hold bake sales and spaghetti dinners.

We also have implemented some innovative cost savings with respect to our landfill construction. We changed the liner design at the landfill that will reduce our current and future capital costs by over 50 percent without impacting on the sustainability of the landfill and performance of it.

You asked a question on the enactment of an environmental investment charge. This Authority has testified in the past, and continues to hold, that we have a statewide problem that was a result of statewide regulations and policy. The Authority was the first authority and county in the State of New Jersey to finance and construct a Resource Recovery Facility. It ended up being a regional facility servicing Somerset and Hunterdon. And as such, without our regional partners, it is not fair to Warren County to pay for that entire amount of debt as a stranded cost on the backs of just Warren County, and therefore, we do support a statewide solution. And the Board of Chosen Freeholders in Warren County have unequivocally stated that there will be no environmental investment charge in Warren County, and as we all know, an environmental investment charge based on the current rules requires a Plan Amendment and approval of the Freeholders.

And, therefore, we still have an additional need for State assistance. Like I said, we have done a lot of changes to our system. We are

looking at the asset value of the Resource Recovery Facility, we are making the landfill whole with our actions, but we are still in need of financial assistance. We are currently in technical default on our bonds. We had to tap \$750,000 of our resource recovery bond debt service on December 1st, and by next December 1st we will default on a payment on the bonds, which if we are not in litigation beforehand it's going to substantially reduce the possibility of saving and resurrecting using this facility to recover the cost of the (indiscernible) at this time.

And, therefore, we are asking for assistance from the State, either through the Governor's Office or the Legislature, to help us with our restructuring. But, again, we are not asking for a bailout, and we want that to be known.

That is about all that I have to bring at this time. Either Harry or myself will be pleased to answer any questions. But again we appreciate this Committee's efforts to promote some type of State response to the stranded debt problem.

ASSEMBLYMAN ROONEY: Staff brings up a good point. How are you going along with the Ogden renegotiations, or the service agreement?

MR. CARLTON: It is expected by next Friday we will have a signed restructuring agreement that will include Ogden Martin, our Authority, a bond insurance company, and our bond trustee. That will set forth a framework on which to restructure this system in order to have a market participant where the value of the facility is captured and is not stranded at that point. We will be doing-- Next Wednesday we are kicking off an engineering and financial evaluation of the Resource Recovery Facility to

determine its asset value, looking to extend bonds over 20 years, doing some refinancing on the debt. But we are still looking at a State piece, and in our restructuring agreement we are spelling out that we need the State to help in and step into that void that is still created by--

ASSEMBLYMAN ROONEY: The stranded debt.

MR. CARLTON: --the stranded debt. Again, the stranded debt is a role of market. If markets jump three times from where they are now, which is not necessarily a crazy thought, but it's not likely in the next five years, maybe this system is not stranded. It's all a function of market.

ASSEMBLYMAN ROONEY: I'm just looking at, if you had to do your EIC, it would be \$158 a ton is our calculation; that's in addition to your tipping fee. So it's triple your tipping fee. This is why an EIC is absolutely wrong and specifically in your county and many of the others.

I've been doing some calculations. The total annual debt -- total annual debt -- forget about stranded or anything, comes to about \$115 million plus whatever Union County's new debt is. What is the annual debt service? I would estimate that it's probably about \$8 million. So you are looking at about \$123 million dollars.

As I said before, there is about \$100 million that could help this, but \$100 million I was saying is stranded. You're helping the stranded debt and leaving the asset value alone. So it probably is a lot less than the \$100 million. In fact, we had numbers as low as anywhere from \$60 million to \$80 million could satisfy the stranded debt on an annual basis. Just so we are getting a better picture.

I really like the idea of what you're doing. You're doing the restructuring, you're also doing the asset value. As soon as you get those numbers, if you could pass it on to me, I would really appreciate it. Because this way we can get a handle on what's there. And you're the worst-case scenario. So that's why I'm glad you're up here real early. We hear your pain and we feel your pain, and we want to do something, and hopefully we will do it.

MR. CARLTON: We appreciate that.

And Assemblyman Jones raised a question as to when we need action.

ASSEMBLYMAN ROONEY: Yesterday.

MR. CARLTON: We want to close on a deal with Ogden to issue new bonds, to ease the crimp on debt service, take advantage of the current markets, and we want to do this by the summer. The Governor's Office, who we have been meeting with, has stated that they can not act without legislative approval. I don't know if that is true or not. We want to work with them, as well as the Legislature, to make this happen, but if it does require legislative approval, we are looking to this group, in particular, to try to make that happen.

ASSEMBLYMAN ROONEY: I don't know what they're talking about legislative approval. If you are doing a contract between the county or authority--

MR. CARLTON: It comes down to the State's participation in the stranded debt.

ASSEMBLYMAN ROONEY: And then it comes down to the nonparticipation of the administration in the stranded debt issue.

Assemblywoman Myers, the Assemblywoman from Warren County.

ASSEMBLYWOMAN MYERS: Thank you, Mr. Chairman. I'd just like to chime in on that note. In response to this problem, the administration, I feel, agreed to budget language in June of 1997, which set up the Partnership Agreement Program. Twenty million dollars was allocated by the Appropriations Committees, and the budget was signed with that language by the Governor to help counties with stranded debt. No money was expended. It sat there for a year, and July 1, 1998 they added another \$20 million to the pot, making \$40 million available to counties with stranded debt.

This is money from the administration, and there was a framework for the awards of these monies modeled after the legislation I had introduced in 1996, which asked counties to take all of these steps to take responsibility for their own debt situation first before they ask the state taxpayers to help them out. Warren County, since 1996, has responded as it did back in 1986 to what the State's demands were. They stepped up, did everything that the State said was the right thing to do under these circumstances.

And I haven't heard it said today and I think that everyone in the room needs to be aware that on July 21st the Union County Utilities Authority, making a deal with Ogden Martin, received over \$13 million under a Partnership Agreement Program from the administration. I don't know the details of this agreement, it's always interested me, but there was very little

publicity about it. And I think Union County might be here today. I'd really be interested in how they were able to shake loose this money because I know Warren County has tried, and they haven't been able to get the administration to give them a dime.

September 1, 1998, \$800,000 was given to the Gloucester County Improvement Authority by the State Treasurer, and November 13, 1998 the State Treasurer gave the Passaic County Utilities Authority \$950,000. These two allocations, it is my understanding, were made because both of those counties were about to default on a bond payment.

Warren County, if it hadn't taken all of these steps to rein in their costs and reallocate costs and cut costs, would have been in default as well, but they have done everything they possibly could to extend this date as far as possible, and now it might not be till the end of this year, even though that they are in technical default and they are spending down all the reserves.

So what the administration, in my mind, has been telling counties is, "If you're not responsible, and you look like you're going to default, we are there for you. But if you're responsible and you do everything that we say should be done, then we are just going to string you out."

Thank you.

ASSEMBLYMAN ROONEY: I think we could probably call this a fireman's fund. Where there is a fire, they use this to throw the money on this particular fire, and it will solve that for that time until another fire occurs. And that's what these three things look like to us.

I'm glad the staff picked this up. It's in all of your text today. I want to compliment staff because we had no knowledge of these allocations

being done and under what basis they were done. It's just handing out money because someone is screaming that they have got a problem. So I think we are going to do it a little better than that and we have to do it better--

ASSEMBLYMAN BIONDI: Just a simple question. You mention the litigation with Somerset County. If the State was to step in and bail you out -- you said you didn't want to bail out. I think you wanted a helping hand that walks like a duck and talks like a duck. It's a bailout. What happens to the litigation?

MR. CARLTON: That the Authority has no, I guess, crossed the bridge where we know that there is State response. If there is a State response, the Authority would have to consider whether or not it wants to continue pursuing the-- It costs us to litigate this. My board is not pleased with the fact that it costs us to litigate this, and there may be a willingness on the board to, you know--

ASSEMBLYMAN BIONDI: Read my lips. When do you think you would make a decision on it?

MR. CARLTON: As soon as we have some commitment from the State.

ASSEMBLYMAN ROONEY: The former Freeholder from Somerset County.

ASSEMBLYMAN BIONDI: How well they know.

ASSEMBLYMAN ROONEY: I know.

ASSEMBLYMAN BIONDI: They were down at my meeting three years ago telling me about it.

ASSEMBLYMAN ROONEY: If I may, let me also interject that I'm going to have Bergen County up next, but we have the same situation with Union County. And I want to say flat out that I know for a fact that all of these agreements were drafted by the DEP. They were actually forced upon Warren County, Somerset County, the other counties, and this is what happened. These were agreements that were not voluntarily entered into.

The Bergen agreement: we were told where to put the garbage, how much garbage to put, and at what price. And we also wound up with some terms and conditions that just about gave away force majeure, which meant if the world ended tomorrow, we would still, in Bergen County, have to produce so many tons of garbage or so many dollars in lieu of, and that is absolutely objectionable.

And this is what Somerset County is going through, Bergen County is going through because we were in the same agreement. So, Pete, we are on the same side. We are in litigation together, and this is something again created by your friends in Trenton. The State of New Jersey created this mess, and damn it, they better get us out. So the message is going pretty loud and clear and consistent. I'm glad that the counties are now finding out that we are really on the same side here on this Committee and we are in the same pot, and hopefully we are not going to boil together or die together, whatever, but we will get this thing resolved.

Thank you for your testimony.

If no one else has anything, I'm going to call on Bergen next.

MR. CARLTON: Thank you, Mr. Chairman, and members of the Committee.

ASSEMBLYMAN ROONEY: Steve Sinisi and Nancy Macedo.

Steve is the attorney on record for the Bergen County Utilities Authority. And Nancy Macedo is the Executive Director of the Bergen County Improvement Authority.

And also are you now chairman--

NANCY C. MACEDO: Chairwoman.

ASSEMBLYMAN ROONEY: Sorry. Well, it's generic as far as I'm concerned, old fashioned.

Chairwoman for the BCUA, the Utility Authority.

I explained earlier that we had the meeting in Bergen yesterday and went through some of the details. Coming from Bergen County, I know you probably got into a lot of traffic coming down here.

STEPHEN P. SINISI, ESQ.: Mr. Chairman, members of the Committee, I am Steve Sinisi. I'm a member of Sinisi and Sproviero, and we serve, and have served, for the past 16 years as the general counsel for the Bergen County Utilities Authority and have, by that statement, experienced the evolution of policy and law in solid waste representing these clients since 1982. And that begins, as you pointed out yesterday, Assemblyman Rooney, with the policy which was embodied in the State Solid Waste Management Act to have an incinerator in every county.

Having said that, I appear today to (a) request the opportunity to supplement testimony with a written statement on behalf of the Bergen County Utilities Authority. And so I would ask you to keep the record of this hearing open so that we may do that.

You apparently have addressed the audience and your fellow members with a statement as to events and circumstances occurring in Bergen yesterday. That actually has been a process, too, of evolution that started almost within hours of the ultimate decision by the United States Supreme Court in *C and A Carbone*. You brought it home, Assemblyman Rooney, when you joined as a plaintiff in *Atlantic Coast* who then sued our county and sued my client, the Bergen County Utilities Authority, to illustrate the points and to implement what you consider to be the prevailing state of jurisprudence in solid waste.

We've been on a long journey, both in the courtrooms and State court with Union County, in Federal court with Union County and the State of New Jersey and the National Solid Waste Management Association and others. And we have been undertaking, as we have been resisting positions in litigation, a deliberate policy of solid waste planning to prepare for the day when there would be the day of reckoning everybody has spoken about.

If I close my eyes and did not pay attention to the statistics that I think it was Mr. Giordano testified to -- his components of everything they have done in their district by way of checking off on everything that a solid waste district could do, or an implementing agency could do, has been done to the nth degree in Bergen County. And I know that you are personally familiar with that.

What can't be forgotten, and should not be forgotten by this Committee, is our role, who many of us are. We are merely implementing agencies. To implement means to implement that which others may have directed or ordained, either through the legislative and policy process or the

planning process, which is, of course, documented in the Solid Waste Management Act.

We are now here to ask you to extricate us from the vice that we find ourselves in. We can not change what the Supreme Court has decided, and so there is a cap on what we can do by way of generating revenues for our districts in a legally and constitutionally compliant way. On the other hand, we need you, the Legislature, to put on the Governor's desk a bill that can be signed that will, in essence, take away the dilemma we find ourselves in, in the absence of compelling a revenue stream through our system to fund the cost and the debt of our system.

We have gone through a series of specific planning functions at the Bergen County Utilities Authority, but limited as they are to our role as trustees of a public solid waste system, we can not promulgate legislation. We have to act -- or enact rates and charges consistent with what the legislation allows us to do. And as you know, and perhaps others have testified before we got here, there is litigation pending in the Superior Court Appellate Division on the entire EIC issue, the authority to charge it, as well as the methodology certain districts are using to assess that charge.

As I told you yesterday in one of the roundtables that we participated in, Bergen County is amicus in the Galloway case. We have moved for that status, and we will be participating in the ultimate outcome of that decision, I hope. So right now, when you ask the question what, if at all, can be done and when should it be done, our answer is to the latter question yesterday. We need relief yesterday by the Legislature.

When you talk about State government, I think we have to get out of the business of bifurcating state government and just say, "State government is Trenton. Whether it's coming out of the Legislature or the Governor's Office, we need a bill that will be responsive to the needs of implementing agencies." In the forefront of that discussion is the EIC, or user charge, debate, which, as you know, yesterday you heard from Bergen County that we will have a series of mayors, and you may be one of them, that may be initiating class action litigation to oppose that, and that was registered very loudly and clearly in response to the county executive's request for municipal input.

However -- and I know that you don't look at only one side of the argument, Assemblyman. I have always respected the fact that you've looked at both sides; although, sometimes you don't see it our way. One of the things that we've asked you do is consider the plight of the implementing agency as a trustee of a solid waste system. We have withheld in Bergen County the levying of, or the promulgation of, a user charge which was initially projected in October 29, 1997 to be \$26 and change. Yesterday we announced that the projected 1999 figure would be \$25.72.

The point is that last year we went an entire year in the hope and expectation that the Legislature would have enacted a law, signed by the Governor, that would have brought clarity to where chaos is reigning right now on the issue of whether a charge could be imposed and what a formula or uniform strategy for assessing it could be. It is desperately needed because we are finding out right now that we are receiving 17 of 70 municipalities waste at this time. Down from 70 -- actually 69 municipal solid waste, but 70 are

down -- were coming to us. We are down to 16 or 17 at this time. It's a significant diminution in our waste stream, as you know.

Secondly, what goes hand in hand with the diminution in waste is diminution in revenue. And we have utilized by aggressive supervision of the budgetary process all that we could muster to insure that our rates are the lowest possible rates. They are \$54 a ton right now, as you know, which is a subsidized rate, and we are trying desperately to hold out until you act. We did not assess that user charge despite having held the public hearing in the hopes that we would have heard from Trenton by now. We can not hold out any longer, and that is why you read that we adopted our user charge -- or recommended that the county adopt it in January of this year.

We could not, as trustees under (indiscernible) in our bond issues, sit by and wait any longer. We had to enact the user charge that we had promulgated, and now that user charge that we need to fund our system has been vetoed by our county executive. And yesterday we held, for the benefit of the other Assemblyman on your Committee, two hearings. We had a legislative liaison hearing--

ASSEMBLYMAN ROONEY: I went over that earlier.

MR. SINISI: Okay, and the Mayor's meting as well?

ASSEMBLYMAN ROONEY: Yes.

MR. SINISI: So that we've gotten the input and we briefed all of the public officials, and to a man I would say that there is certainly no debate on the issue that if a reprieve is forthcoming, the fastest way it can be forthcoming has to be from Trenton as opposed to piecemeal basis by the various counties.

And so we will supplement anything today that we say with our written specifics. We have, as you know, gone out for bid to operate and maintain the transfer station and to solicit bids for transport and disposal. It should be pointed out that we had a prior solicitation which got no response when we put the transfer station on the market so to speak.

ASSEMBLYMAN ROONEY: But you also had a requirement for about a \$17 million letter of credit in there, which meant that somebody had to put up \$17 million in cash. So I think you pretty well eliminated most of the potential people that would have done that. So that was partially your fault. Just so you know.

I would prefer to see the thing put up for sale. Coming from my own county, I would prefer to see a for sale sign on it to the highest bidder. You set a minimum price on it and get some good appraisals and just say that's it.

What we're trying to determine here, Steve, is, really what is the stranded debt for the county? That's part of the thing that we are trying to figure out. Each county, what's their stranded debt? What kind of stranded debt do we have left? And looking at asset values of these facilities, I think your asset value went up based on some of the discussion we had yesterday. With the interest of our neighbors across the river -- I guess Mayor Giuliani over there has made it very, very obvious that he looking to get rid of his garbage in New Jersey. So our station, having the capacity it does, which I have always argued about, would be a logical choice. So the value may have gone up just recently.

MS. MACEDO: Assemblyman, if I might.

ASSEMBLYMAN ROONEY: Ms. Macedo.

MS. MACEDO: I'm not sure how familiar the other Assembly people are with the Bergen system, but approximately 60 percent of our outstanding \$104 million debt is for the transfer station facility that the Assemblyman is addressing. The other 40 percent is for the closure and postclosure of a landfill. Now, unfortunately, it is a closed landfill and therefore is just one that needs perpetual, at this point, maintenance for postclosure, but it has no asset value. The funds were used to do the necessary environmental improvements as required and mandated by the DEP. So we are looking at clearly 40 percent of our debt as being allocated toward a closed landfill with no asset value. That is not something that in any way, shape, or form is going away.

The other part if it, yes, is for a physical transfer station that may have a certain value depending on the market conditions. Again, as you stated, with interests from New York maybe has greater value, I don't know. But the fact of the matter is we stepped up as a county to do the things we had to do, and Assemblywoman Myers's comments struck home. We are not just stepping up today, we stepped up each and every step of the way, through inner-district agreements that were mandated, that we participate in, in order to get the permit approvals we need to move forward in Bergen County through the '80s. Every step of the way we have done what we've been asked to do.

We have joined in, in the partnership with the administration and gone through a process. We have reduced staff. From the moment the *Carbone* decision was announced, we put together a bifurcated rate structure to become

a market participant on an operational side and look at the debt issue on the other side and to try and develop a system that would stand alone.

Unfortunately, without the State's help, it can not stand on its own. We have moved forward, we have taken the difficult steps, we have made the difficult political decisions, but unfortunately, the control of these issues are outside of us. The fact of the matter is what the county executive veto of a user charge, no State intervention, we are going to be in a serious financial situation by the fourth quarter of 1999. We do not have the surplus funds to continue to support this system any longer.

ASSEMBLYMAN ROONEY: Thank you, Nancy.

On the closure, postclosure, you should have some funds that you have been funding for that. Is any of that going to eliminate some of this debt?

MS. MACEDO: Very-- Actually I think it's less than about 20 percent is actually from the HMDC Postclosure Fund. The numbers are, I would say, maybe about 20 percent of that of the overall cost of the landfill closure itself.

ASSEMBLYMAN ROONEY: Okay. Because I remember at one point in time they had made a deal with the State that there was a fund that was about \$25 million and you were allowed to -- I guess it would only cost like \$9 million or something. I think you used that to actually reduce the rate over the last couple of years. I think there was something that-- That closure fund where the State actually negotiated it down in value became surplus and used that surplus to offset the rate to make it competitive.

I'm trying to give you some credit where it is due. I also have to say that on the incinerator, which I was there sited and also contracted for, it's probably the only incinerator in the State that ever showed a profit, a real profit to the county for the simple reason the (indiscernible) that we received since we were pre-defra. The arbitized money was approximately \$30-some-odd million, and that was used for many years to reduce the rate and to get it down to the \$102 a ton. So there were a lot of things that the BCUA did that was right. I'll tell you when you're right and I'll tell you when you're wrong, and you know that.

MR. SINISI: What a surprise. (laughter)

ASSEMBLYMAN ROONEY: But just to agree with you on that. And this is the point of this meeting is try and get focused on it.

One thing I want to say is that I was asked to hold this meeting later. What had happened -- I didn't realize it, but I understand that NJAC is actually going through their election of new officers, and they really don't have the new slate in. This may be a little bit early for them, but I intend to continue the hearings on this until we get a solution. Maybe we will have this once a month. If we don't see any action by the administration, we will do this every month and keep coming back and visit the issue. Maybe we'll go on the road and go to the different counties, such as Warren, who is going to have this and say that in Warren County your property taxes may go up this amount by the trash tax that the Governor is forcing us to pass, and then, we'll go to the other counties. I'm serious. I really am serious about this issue.

Damn it, it better be solved very quickly because you just hit the magic date again, the last quarter of this year. There are other counties that

are defaulting earlier, and we can't sit on our duffs any longer. So I appreciate you making the long haul. Now you know -- Well, you know almost exactly how long it takes me to get down because you come from only two miles away, three miles away.

And thank you for coming.

MR. SINISI: Thank you for the opportunity.

ASSEMBLYMAN ROONEY: Next we'll have John Hatzelis, Administrator from Sussex County Municipal Utilities Authority.

Sussex County here?

JOHN HATZELIS: Thank you very much for the opportunity and the invitation to appear before the Committee today. My name is John Hatzelis, I'm the Administrator for the Sussex County Municipal Utilities Authority. Fred Suljic is the County Planning Director for the County of Sussex.

We've distributed some graphs and charts that I'd like to get into in a few minutes, but, first, I would like to give an overview of the Sussex County system. I was originally coming down here today to impress on this Committee the importance of this subject. It's very obvious we don't have to discuss the importance of this subject because everybody here is aware of that. Everybody has a different problem, that's very clear.

Connie Myers, Assemblywoman from Warren County, her position and situation is much different than in Bergen County. In Sussex County it's all different than a lot of other counties, but I'd like to just give you Sussex County's point of view on this issue, what Sussex County has done. And once you hear that story, maybe you can put it into the pieces of a puzzle

that maybe we can come up with a picture for an answer. I don't know what the answer is because I think we need a multitude of answers or maybe one big answer. But that is going to require legislation, and that's your job here today.

Sussex County MUA was designated the implementing agency for Sussex County solid waste system in 1987. In 1988 Sussex County MUA issued \$46 million in solid waste revenue bonds. And there is a deficiency agreement with the county of Sussex, and they are really on the hook. They are the cosigner of the loans for those bonds.

Those bonds were used to purchase a site and construct a landfill, infrastructure improvements, recycling facilities, bulky waste recycling facility, administration and maintenance complex of mobile equipment, as well as the previous planning, legal, and engineering expenses related to the solid waste system. Between 1987 and 1997, Sussex County MUA provided a comprehensive solid waste disposal and recycling services on the tip fee. The tip fee paid for everything. And after the *Carbone* decision, of course, and the *Atlantic Coast* case, some things changed.

Sussex County and the MUA cooperated with the State, and the State mandated, as far as we're concerned under the Solid Waste Management Act, building comprehensive facilities and for each county to become self-sufficient or in some cases, like Warren and some of the other counties, building incinerators and getting into a cooperative effort. Sussex County said, "Well, we will build a landfill specifically for Sussex County for their needs," and we determined that we have 85,000 tons of solid waste coming into the facility in the foreseeable future every year and that we would be the landfill of about 51 acres, and that's what we went out and did, and we were self-

sufficient. We didn't look to impose on any other counties, nor look to attract any other county's solid waste.

What I distributed is a number of graphs. The first graph is Sussex County waste from 1993 to 1997. That's 85,210 tons a year we received on average between '93 and '97, and we charged about \$115 a ton. In 1998, the first full year after *Carbone*, our tonnage dropped to 64,000 tons, or almost a 25 percent decrease, and we dropped our tip fee an average rate of \$66 a ton. So even though our tip fee rate is cut almost in half, our tonnage dropped 24 percent. I think that's pretty interesting.

You can cut your tip fee and still not compete in a marketplace, and that's because a lot of our solid waste went down to Warren County, understandably, because their tip fee, even though it was at a posted rate of \$46 per ton, the incinerator had, let's say put or pay -- or rather spot market tip fees that were less than that. So a lot of that tonnage went down there. But I think in the last month or so now a lot of it has been diverted up to New York State, and we can't compete with that. I think the market rates are depressed, and they are probably below what they should be in a true system, but right now everybody is trying to juggle for their position in the market.

1999 tonnage is about six weeks or eight weeks on there of tonnage. And that's even less than 1998 tonnage, and I just need to point that out because it's not getting any better, it's getting worse.

The next graph is the financial status of the Sussex County MUA in Fiscal Year '98, and it's three lines on that graph. The blue line was expenses for 1998, that's \$7,951,000, and you can see two peaks, one in May and one in November, and that's when our bond payments are due. And the

revenue for 1998 was \$4,757,000, and then the redline is the surplus, and you can see it dropped off dramatically in November of 1998, and that's when the December bond payment was due. And that reduced our general fund, or our surplus account, by \$2.3 million. And so right now we have about \$1.5 million left in our surplus, and that's just enough to make the June payment in 1999.

So we can make our June payment in 1999 but December would require tapping into the Bond Reserve Fund and kicking in the deficiency agreement with the county of Sussex. So we are very concerned about that because our annual debt service is \$4.5 million a year, and we have sufficient revenues right now to cover our operating and maintenance expense.

The next page that I have -- I'm going to go through this quickly because I know there are a lot of people to speak here today and I just want to give you Sussex County's picture. It's a graph -- a chart related to our budget history from 1995 to 1999. In 1995, our budget -- solid waste budget -- was \$10,162,000. In 1999, our approved budget is \$7,914,000, which is a considerable decrease, 22 percent. And that was done through reduction in staff; postcommunity benefits agreement was amended; we're doing some service contracts where we had personnel taking care of stuff before. So a 22 percent decrease in our budget. However, our debt service has not decreased. It actually has slightly increased. It increased from just under \$4.3 million to now \$4.5 million a year.

Basically what happened is we reduced our operating and maintenance expenses from \$5.9 million in 1995 to \$3.3 million in 1999 -- a lot of squeezing going on. Right now 58 percent of our budget goes to debt service, and that's a considerable portion, and charging \$58 a ton to \$65 a ton,

and we are getting reduced tonnage means that Sussex County taxpayers are going to have to pick up the difference.

The next item I have -- or graph I have -- chart -- is the debt service schedule for the Sussex County MUA beginning in 1987 to the year 2013. And the sixth column over shows that the annual debt service is about \$4.6 million a year. We have about \$68 million in debt service payments until these bonds retire.

And the last column shows a per capita debt which right now is about \$302 to \$316 per person, where I think in Warren County it's probably closer to \$1000 to give you an idea. Some counties are significantly less than that. We need to point those things out. Even though we are a very small county with a population of around 140,000, we have \$42 million worth of debt outstanding, and you have to look at the per capita debt to really get a feel for what debt means. You have Camden County with \$300 million debt, but if you know the population, actually the per capita debt may be less.

And I'm not saying that some counties are more deserving than others. I'm just saying you really need to look at the ability to pay. I think Warren County and Sussex County per capita-wise are the worst two in the State.

The last item I have is just a newspaper article from the *Star-Leger* that outlines what has happened in Sussex County. Even though it reduced our tip fee over 50 percent, the user charges have not decreased significantly, and actually they are coming back now. And so what's going to happen -- depending on what happens -- is that the disposal rates are not going to go down to the specific homeowner, significantly, but then they are going to get

hit with this huge tax increase if it falls on the property taxpayers, and we are very concerned about that. Because you think you would be saving if the tip fee was reduced by 50 percent -- you would see some real savings on your garbage disposal rate, and we are not seeing that in Sussex County. And I don't know how other counties compare, but it's unfortunate that all this surplus that is currently being gobbled up is ending up in somebody's pocket, but it's not saving the taxpayers, and I need to mention that.

Sussex County did what the State asked, and I just ask that this Committee and the administration do something before December 1st, and then it falls on the property taxpayers.

ASSEMBLYMAN BIONDI: Just a question. What's the interest rate on your bonds?

MR. HATZELIS: They were refunded in 1993, I believe. We are paying about 5.5 percent, I believe -- 5 percent or 5.5 percent.

ASSEMBLYMAN BIONDI: Five or five and a half.

MR. HATZELIS: Yes, we got a really good refunding back in 1992.

ASSEMBLYMAN BIONDI: Were the bonds guarantied?

MR. HATZELIS: Guarantied? Yes.

ASSEMBLYMAN BIONDI: So you paid the insurance to guaranty the bonds in case you defaulted, so the only one that gets hurt here is the insurance.

MR. HATZELIS: That's not correct from my understanding. The County Deficiency Agreement would kick in first prior to the insurance. And then the county taxpayers would be bearing the burden of \$4.5 million a year.

We figure in Sussex County that would be about a 13 percent increase in the county tax rate.

ASSEMBLYMAN BIONDI: I don't understand, if they are insured, where is the insurance? You paid for the insurance?

ASSEMBLYMAN ROONEY: Good question.

MR. HATZELIS: Yes.

ASSEMBLYMAN BIONDI: But it's not kicking in.

MR. HATZELIS: The Deficiency Agreement is the first line of defense for the bondholders. They would go to the--

ASSEMBLYMAN BIONDI: Then why pay the extra fee for the insurance?

MR. HATZELIS: To get the rates that were provided to us at 5 and a half percent.

I should also point out that the county of Sussex did not receive any State loans, so there was no forgiveness. And I think that needs to be pointed out. A lot of counties receive some significant forgiveness; although, I don't know if they received any official acknowledgment of that yet.

ASSEMBLYMAN ROONEY: No, they haven't. Not yet.

MR. HATZELIS: We also have not received any of the \$92 million that was made available by this recent ballot question No. 3 and the two fiscal year appropriations.

ASSEMBLYMAN ROONEY: Either did Bergen. There are only seven counties out of twenty-one that received anything from that particular legislation.

MR. HATZELIS: And Sussex County has never--

ASSEMBLYMAN ROONEY: That are eligible.

MR. HATZELIS: --asked for anything. They have only done what they have been told and what they felt they were responsible to do, and we are here today to say let's get an answer.

ASSEMBLYMAN ROONEY: Yes, actually according to last year's reports, June of '98, you would have had a \$51 surcharge or an EIC on top of your rate. So you are No. 2 now because Union was No. 2, and since they have done their deal, we are going to ask them next what they-- You'll be up next Union County. So we'll ask them what their present annual debt service is going to be.

I appreciate your testimony, and we're glad you pointed it out. We hear the same thing again as December is the drop-dead date for you guys, and some of them are June or July -- drop-dead date where people are going to have a problem. And I hope the Governor's Office is going to be Santa Claus this year and do a Merry Christmas for those of you who have a problem. But that's where it rests right now.

F R E D S U L J I C: Assemblyman Rooney, what we did, as a county planning director and solid waste coordinator since 1983-- Our Solid Waste Advisory Council did meet with all our municipalities on several occasions last year. The Board of Freeholders is not enthused about supporting an EIC. They were waiting to see what the legal actions would be, so we wouldn't have to expend any more money in order to put that on the taxpayers' burden.

ASSEMBLYMAN ROONEY: Right.

MR. SULJIC: A lot of the towns feel that because they need to go to other places where it is cheaper, it puts us in an uncompromising situation

where the waste is going out. As you heard from Mr. Hatzelis, we are going to be able to make the June payment and not at the end of the year. We don't think the EIC is all inclusive the answer. We think that some of the things you have proposed, along with Assemblywoman Myers, we just need to help to make up that difference. And as such as what happens in the next few years then we'll see what happens with that coming back.

One thing I have to say is that we made a decision back in the early '80s to be self-sufficient. We decided not to regionalize because we didn't think that was in the best interest of the county. We became self-sufficient to try to keep the cost down; although, it may seem high. We designed a triple-liner system when, at the time, it was only required to have two liners because we were made aware that within the next year there would be a triple-liner requirement. We made that careful decision from an environmental viewpoint to do that.

And as John has indicated, they have kept very prudent in keeping down the cost. And as our Municipal Utilities Authority, we are very proud of what they have done for us as the implementing agency for the Board of Freeholders.

ASSEMBLYMAN ROONEY: Don't you also have a composting facility that you tried in the early '80s?

MR. HATZELIS: That was sludge compounding. And it still operates today and is doing very well.

ASSEMBLYMAN ROONEY: Okay, I thought it was garbage composting.

MR. SULJIC: We have a convenient center at the county landfill that we are very, very proud of, that people can bring their own bags of garbage and it's weighed. We thought, initially, that would be for senior citizens and single-person households, but we have a lot more people driving to the county landfill to do that, and it's worked out.

ASSEMBLYMAN ROONEY: How many municipalities do you still have in your system now out of--

MR. HATZELIS: Sussex County is not like a lot of other counties where a lot of the municipalities do their own trucking or have contracts. We only have three municipalities that do their own DPW hauling. Seven other municipalities have contracts with haulers, and the rest of it is free market and whoever comes and picks up and they deliver wherever they deliver. So we don't have any real control over that to get into a contractual relationship.

ASSEMBLYMAN ROONEY: Okay, anyone else have any questions? (no response)

Thank you very much for coming.

MR. HATZELIS: Thank you.

MR. SULJIC: Thank you.

ASSEMBLYMAN ROONEY: We appreciate your input.

Next we are going to Union County Utilities Authority, Joe Spatola, Director.

JOSEPH A. SPATOLA, Ph.D.: Yes.

We have copies of our testimony, Mr. Chairman, which we can give you now or--

ASSEMBLYMAN ROONEY: Why don't you give it to us now.

DR. SPATOLA: I want to thank you, Mr. Chairman, and the entire Committee for allowing the Union County Utilities Authority to be here today to give you a rundown on our restructuring.

ASSEMBLYMAN ROONEY: Before you begin, I definitely want to compliment Union County because I have gotten a lot of mileage out of what you've done in the privatization of your facility that it does lead to a good example of other things -- what can happen when a county utility authority actually goes out and tries to do something that is positive. This was a positive thing. I want to say it right on the record that I wish there were more examples like this where you've gone to privatization and you can actually show us where your stranded debt is. This is--

I thank you for the mileage that I've gotten out of this as an example -- a good example.

DR. SPATOLA: And I want to thank you for that nice comment regarding all the work and effort that was done.

ASSEMBLYMAN ROONEY: Just so you know, even though we do have adversarial situation under the contract, but I think that is going to be resolved.

DR. SPATOLA: My name is Joseph Spatola. I'm the Executive Director of the Union County Utilities Authority. With me is Ms. Judy Verrone, who is with the law firm of DeCotis and Spatford and Gluk. That is the general counsel to the Union County Utilities Authority, and they have played a major role in our restructuring of the Authority under those terrible circumstances from the time the United States Supreme Court's decision.

You'll have to pardon me for having to read my statement today: (a) I didn't memorize it, (b) you wouldn't want me to ad lib it, and (c) so if you bear with me for a few minutes, I'll try to run down all of the salient points of our restructuring for you, and then we will be available to answer whatever question you are able to do after that.

I am here today in response to your invitation to provide testimony to the Committee concerning the changes that have taken place with respect to the Union County Solid Waste Management System since the United States Supreme Court denied certiorari in the *Atlantic Coast* matter in November of 1997. I thank you for providing me with the opportunity to address this Committee, as I had mentioned at the outset.

By way of brief background, the UCUA owns the Union County Resource Recovery Facility in Rahway, New Jersey. The facility is a 1540-ton-per-day mass burn waste energy facility. The County and UCUA developed, designed, sited, and began construction on the Resource Recovery Facility at a time when the State's policy mandated maximum use of resource recovery and required incineration as a means of waste disposal.

Construction of the Resource Recovery Facility was completed and commercial operation began in 1994. The Resource Recovery Facility was constructed by Ogden Martin Systems of Union, Inc. Ogden Martin operated and maintained the facility pursuant to an amended and restated service agreement between the UCUA and Ogden Martin. As I will explain to you in more detail in a moment, as a result of a major restructuring of the Union County Solid Waste Management System -- and this was in July of 1998 -- the

service agreement has been renegotiated and the parties' relationship is now governed by a Facility Lease Agreement and a Waste Disposal Agreement.

In any event, before the *Atlantic Coast* decision became final, all processible waste -- waste Type 10, designated by DEP as that designation -- and animal type and food type waste, Type 25, was directed by the State's flow control regulations to the Resource Recovery Facility for processing. Ash residue remaining from the processing of this waste was delivered to the Alliance Landfill, which was formerly the Empire Landfill, in Taylor, Pennsylvania, for disposal in accordance with a landfill agreement between the UCUA and the Alliance Landfill.

At that time, all bulky and construction and demolition waste, Types 13 and 13c, as well as the vegetative waste, Type 23, and dry industrial waste, Type 27, generated within Union County was directed to the Union County bulky waste processing facility, which was the former J and J Recycling Facilities and now is Waste Management of New Jersey, Inc., in Elizabeth for recycling and disposal of residue at the Linden Landfill in Linden, New Jersey. So one played the role of recycling and the other for alternate disposal for those types of waste streams. J and J received designation as the county's recycling facility following a competitive procurement process undertaken by the UCUA.

Also at the time that *Atlantic Coast* became final, the UCUA's outstanding debt totaled approximately \$293 million. The outstanding debt had previously been incurred to finance not only the acquisition of construction costs associated with the Resource Recovery Facility, but for other ancillary facilities utilized in providing solid waste disposal services, as well as

for recycling and landfill costs of the County Solid Waste Management System.

Based upon the State's waste flow control regulations that required all in-county solid waste be delivered to designated county solid waste facilities, including our facility, the annual debt service on the UCUA's outstanding bonds was fully recoverable as a component of the DEP-approved tipping fees that were charged at all designated county solid waste facilities for the disposal of in county solid waste.

As of the effective date of the *Atlantic Coast* decision, the DEP approved rates, or tipping fees, at the county's designated facilities were as follows:

They were \$83.05 a ton for all processible Type 10 and 25 waste disposed at the Resource Recovery Facility. And it should be noted before this Committee that thanks to the use of our stabilization funds, we maintained that rate for 1997, even though the rates should have, in fact, been \$87.26 per ton.

There was an \$85.63 per ton for bulky construction and demolition and vegetative wastes disposed of at the former J and J Recycling Facilities and a \$98.27 per ton for the dry industrial waste, the waste Type 27, disposed of at J and J.

As a result of *Atlantic Coast*, the UCUA was no longer able to legally direct solid waste to the Resource Recovery Facility, and its \$83.05 rate was simply not competitive in the changed market to foster voluntary use of the Resource Recovery Facility by either in-county generators or others. Faced with the inability to continue to collect sufficient revenues to pay its

outstanding indebtedness, the UCUA, in conjunction with the County of Union, determined to undertake a major restructuring of the Union County Solid Waste Management System. So we are going to finish up on the background here and get into the actual restructuring components.

This restructuring, which was completed in July of 1998, involved, first, a renegotiation of the relationship between the UCUA and Ogden Martin to reallocate the benefits and risks associated with the operation of the Resource Recovery Facility and, second, to restructure the Authority's outstanding debt to include the issuance of facility lease bonds in the some of \$201.2 million to, in pertinent part, refund a portion of the 1991 revenue bonds that we had originally obtained for the facility. The lease facility bonds are paid from the lease payments due from Ogden Martin under the Facility Lease Agreement. And this is important. The county and the UCUA are not responsible for repayment of this \$201.2 million debt. So this is where we shifted this debt responsibility from the public sector over to the private sector.

Restructuring also included the issuance of \$35.5 million in solid waste landfill taxable revenue bonds to, in pertinent part, finance the UCUA's payment of a portion of its easement and license rights in the Alliance Landfill Agreement. The repayment of the landfill bonds is the responsibility again of Ogden Martin, to whom the UCUA's disposal rights have been assigned pursuant to the contract. Again it is important to note that the county and the UCUA are not responsible for repayment of this \$35.5 million debt.

And, finally, the restructuring also included the issuance of county deficiency agreement solid waste bonds in the sum of around \$82 million -- I know you had mentioned this figure earlier, too -- in pertinent part, refund the

balance of the 1991 revenue bonds. Repayment of the county deficiency agreement solid waste bonds depends on the following sources:

Revenues derived from collection of the DCA- and the DEP-approved environment investment charge -- and I know those are words that you don't want to particularly hear this afternoon -- of \$18.51 per ton and all processible waste that is not under contract with UCUA for disposal at our facility.

And, two, any amounts collected from the Bergen County Utilities Authority in settlement, or otherwise, of pending litigation concerning the BCUA's put or pay obligations in a 1993 Interdistrict Agreement between both the UCUA and the BCUA.

And, three, the revenues to be collected as a rate component of tipping fees of nonprocessable waste over which the county and UCUA intend to exert regulatory flow control.

Unlike the Lease Facility Bonds and the Landfill Bonds, this \$82.7 million debt is secured by the county of Union in the event, and to the extent, of any repayment shortfall. So that's handled through the deficiency agreement. That, in sum, is the nature and extent of Union County's restructured solid waste debt.

Now, turning to the restructured relationship with Ogden, this portion of the restructuring included renegotiation and replacement of the existing amended and restated service agreement under which Ogden Martin had simply borne the responsibility to operate and maintain the facility for the UCUA's benefit. In this place, the parties negotiated a Facility Lease Agreement and a Waste Disposal Agreement. And to get into some of these

specific terms here, under the Facility Lease Agreement, the Resource Recovery Facility was leased to Ogden Martin, which means we retain the ownership of this facility. So it was released to Ogden Martin for an initial term of 25 years. The rental payments due from Ogden to the UCUA under the Facility Lease Agreement will be sufficient to pay principal and interest, when due, on facility lease bonds.

Under the Waste Disposal Agreement, Ogden Martin became solely responsible to operate and maintain the Resource Recovery Facility while the UCUA becomes simply a customer of our own home facility, in essence. In accordance with the Waste Disposal Agreement, the UCUA presently has a responsibility to deliver 250,000 tons annually. Ogden Martin bears responsibility to market the balance of the facility's total capacity of 517,000 tons.

In an effort to satisfy its delivery obligations to Ogden Martin, the UCUA entered into local waste agreements with 13 Union County municipalities, as well as the county of Union, for delivery of its processible waste within the respective control to our facility, or under our agreement with Ogden Martin. On April 30, 1998, the DEP certified the County's Plan Amendment which, in pertinent part, set forth the county and UCUA's new disposal strategy relying upon voluntary contracts for disposal of this waste at the Resource Recovery Facility.

If you want I can go through the list of which municipalities they were.

ASSEMBLYMAN ROONEY: No, please.

DR. SPATOLA: But they were 13 plus the county of Union.

ASSEMBLYMAN ROONEY: We have some questions and we want to get onto other testimony, also. We try to limit it to 10 minutes.

DR. SPATOLA: Do you want me to take just a couple of more minutes?

ASSEMBLYMAN ROONEY: Yes, why don't you just summarize and get your highlights. We have your written testimony, which will be in the record. There is no problem there.

DR. SPATOLA: Okay.

I know it looks like it's a lot of pages, but it is fast reading.

The point is this. Union County has reduced its \$293 million debt that was brought upon by the *Atlantic Coast* decision. The newly restructured Union County system is a good one and it's a fair one to all generators of solid waste in the county, so long as the EIC is collected. Again we need help with this remaining component by way of legislative action expressly authorizing the EIC. So, too, we would welcome assistance in the form of State funds geared to debt relief. In this regard, we would not want to be penalized for having taken such active and timely steps to substantially reduce our solid waste debt in the wake of the *Atlantic Coast* decision, but we would expect to share in whatever funds may be available through the referendum legislation, Chapter 66 of Public Laws 1998, or otherwise.

And on that note, I would like to thank this Committee for this opportunity to share with you our goal.

ASSEMBLYMAN ROONEY: Thank you.

You mentioned EIC several times, which is a dirty word as far as I'm concerned. I think that if the State were there to help you with your

stranded debt -- and this is the perfect example that I give for stranded debt. You've gotten rid of the facility; what's left is stranded. There is absolutely no question--

DR. SPATOLA: We got rid of the facility portion of the debt.

ASSEMBLYMAN ROONEY: Right.

DR. SPATOLA: The lease agreement.

ASSEMBLYMAN ROONEY: And the asset is now removed from the debt. But is it yours in 25 years fully?

DR. SPATOLA: Yes.

ASSEMBLYMAN ROONEY: All right, then there is still some asset value there, and that will have to be determined by Local Government Service, which goes to Assemblyman Jones's point. That \$80-some-odd million that you are looking at-- What I'm saying and what our legislation that's been moved on to the Appropriations Committee is saying is that the State should step in and assist you in paying that rather than having an EIC. So if they do that, and if there is some portion of that is still an asset value that you have, then it's your obligation to pay that part off and then everything should be a level playing field.

The other follow-up is that what is now your annual debt service on the \$83 million?

DR. SPATOLA: I know that-- I heard -- just heard you ask that you were going to ask that question, and I didn't come prepared today to answer that question for you, but I can provide that to you in writing.

ASSEMBLYMAN ROONEY: We appreciate that. That would help. Because this is what we are looking at. The way the bill is structured at

the Appropriation's level is to do it on an annual debt service basis, to give you a certain amount of years to help you pay down that debt. And what we are looking at-- We believe that the total debt should be -- with yours included, should probably be in the neighborhood of \$125 million. If we put \$125 million in the budget, it would pay down all the debt. However, in your situation, there is still some asset value. In Atlantic, Bergen, and the others, there is asset values in there that have to be reduced out. That is where I believe the actual number -- and Senator McNamara-- We looked at this.

The closest we can come is between \$60 million and \$80 million a year is what we would need to assist the counties to pay down the stranded debt, to subtract out the asset value, to let you take care of that, and put it into your cost structure or whatever you want to do on your tip fees. Yours is going to be a little difficult because you have a contract now, but it's still your facility. These are the things that we are looking to determine right now.

I sincerely appreciate what you've done.

Anyone else?

ASSEMBLYMAN BIONDI: Just a statement, Mr. Chairman, on the EICs. I think what we are continually hearing is that there is a disparity on what needs to be charged for each incineration unit for the EIC. And I think all the EIC will do is continue to divert garbage to other facilities that are less expensive to use. I don't think the EICs is the proper way to go.

ASSEMBLYMAN ROONEY: Thank you.

One other thing is that-- Since you are the first -- actually we had Warren up as far as the incinerator-- I think you would be probably closer to

this. How much garbage are you accepting right now or have you been accepting from New York? A rough estimate of--

DR. SPATOLA: As I said to you earlier, Mr. Chairman, we are only a customer of the facility that we own. So we only have responsibility for a 250,000--

ASSEMBLYMAN ROONEY: I'm saying while you own the facility. What I'm getting at here is that I live right on the border.

DR. SPATOLA: Right.

ASSEMBLYMAN ROONEY: The next county from me is Rockland County, New York. In there is Clarkstown. Clarkstown had a capacity of 600 tons of garbage a day. Every so often the operator of that facility would get a phone call, and he'd get it mainly from Essex County. They are not here, so I can't ask them the question. Essex County would say, "How many tons do you have?" He says, "I tell you the same thing every time you call. I get 600 tons a day, that's my capacity." And he said, "Well, today we are going to give you" -- and it's been down as low as \$26 a ton -- "if you bring your garbage to the Essex County incinerator." Because they had the put or pay commitments with various people, and they weren't meeting them. So somebody was paying that difference. The people in New Jersey were subsidizing the price of garbage disposal for New York.

When Bergen was going there, they were paying Essex about \$60 a ton plus the processing, about \$24. It would go from, for example, my municipality to the North Arlington Transfer Station. He repacked at \$24 a ton, put it on another truck down to Essex. Sixty plus 24 is \$84 a ton. They charged may be a 100 and some-odd dollars a ton. And then we were going to

you for \$80 a ton, again mandated where we moved from Essex to Union at a \$20 increase. That's what the State did to us.

In the meantime, Essex now is getting the shortfalls because they are not getting the garbage delivered from Essex County. They are going out filling their quotas and filling -- as low as \$26 a ton that New York was paying to burn their garbage here. That to me is obscene that we were subsidizing New York's garbage. And that's what this flow control did to the State of New Jersey. That's why it was one of the reasons -- one of the many, many reasons -- that it was wrong.

So I'm just wondering if you had the same situation when you had shortfalls and you would void the capacity. Obviously, you went out to solicit garbage. You're probably closer to Staten Island or something like that where something could come through from there.

DR. SPATOLA: How it's set up is that Ogden Martin has the merchant capacity of the plant and can market in any way that they want. So they are doing that as the lessee of the facility.

ASSEMBLYMAN ROONEY: Right.

DR. SPATOLA: And basically we are just working with our own Union County commitment for our municipality.

ASSEMBLYMAN ROONEY: But what an EIC does-- An EIC, if you impose it, is going to divert garbage again, and I say this to anyone, and I will prove it. If you are going to charge \$60 a ton average tipping fee and then you are going to charge another \$20 EIC, \$80 a ton, the hauler is going to find a way to go somewhere else.

When he goes somewhere else, he gets a lower cost, and then if he goes up to Rockland County, he might be up there for \$40 or \$50 a ton and then wind up back in Jersey burning the same garbage. And we are eating whatever the emissions are from that plant, and we are not getting the benefit. You may not be doing it, but Essex was -- the refuel facility was.

DR. SPATOLA: Could I just make on last point though, Mr. Chairman?

ASSEMBLYMAN ROONEY: Sure.

DR. SPATOLA: Is that in our restructuring, though, where we in 1997 required a charge to meet all of our financial obligation, \$83.05 a ton, we are now under the restructured arrangement at the Authority for our municipal towns that have contracted with us. Their tipping fee has dropped to \$50, and it's really actually under \$50 with some of the good financing we are able to do.

ASSEMBLYMAN ROONEY: You're at -- what? -- \$19-- What's your EIC--

DR. SPATOLA: The EIC is \$18.51.

ASSEMBLYMAN ROONEY: Okay.

DR. SPATOLA: But the all-inclusive tipping fee for the contract municipalities in the county is actually \$47.50. It was right after we restructured.

ASSEMBLYMAN ROONEY: Gee, maybe I should send you my garbage. Why didn't you bid on my contract? That would have been great.
(laughter)

DR. SPATOLA: Is there any other thing that we could answer for any other member of the Committee?

ASSEMBLYMAN ROONEY: Assemblywoman Myers has a question.

ASSEMBLYWOMAN MYERS: Could you please explain how you got the \$13 million from the Treasurer since, apparently, you are the only county that's been able to get money under a partnership agreement.

DR. SPATOLA: It isn't really-- Assemblywoman Myers, that \$13 million was our zero interest loan that was forgiven. It wasn't really part of the Partnership Program at all, and it was-- What it was it was given contingent with the referendum passing in November. So we really did not-- I don't think anyone in the State of New Jersey, as I'm aware of, has really benefited at all from the Partnership Program financially at this point.

ASSEMBLYWOMAN MYERS: So that was put in writing that this was your loan forgiveness?

DR. SPATOLA: That was from the \$13 million-- It was a zero interest loan that was converted from a loan to a grant.

ASSEMBLYWOMAN MYERS: So that was like a written letter or document or something?

DR. SPATOLA: I don't know what documentation follows. I'm sure there is the appropriate documentation, I just don't know what it is. It was not -- and I want to be clear here -- it was not part of this Partnership Program, which we are a participant in and are still waiting to benefit from all of the recommendations that we implemented that came from the Treasury's evaluation part of our facility.

ASSEMBLYWOMAN MYERS: Thank you.

ASSEMBLYMAN ROONEY: Thank you very much. I appreciate your testimony.

DR. SPATOLA: Thank you.

ASSEMBLYMAN ROONEY: I'm going to call Joseph Maraziti from the Passaic County Utilities Authority next.

We are going to put a time limit at 5:00 on the hearing and hopefully everybody-- We still have several people to testify. If we have written testimony, please summarize because it will all be printed and we just want to go over highlights.

JOSEPH J. MARAZITI JR., ESQ.: I understand and I will be very brief.

Thank you, Mr. Chairman and members of the Committee. I am special counsel for actually the Board of Freeholders, not the Passaic County Utilities Authority, but I come to explain to you very briefly what the facts are with respect to Passaic County. Passaic County finds itself in a very unique position. I haven't heard it described so far today. And that is that Passaic County has on the books a \$78 million outstanding debt. It has one asset owned by the Utilities Authority, and that is a lot -- a vacant lot -- in the city of Passaic. That lot is the site of the now abandoned plan to build a Resource Recovery Facility in the city of Passaic.

It's expected that the sale of that property will yield for \$1 million when that closing takes place, which we understand is imminent. The control over the decision making with respect to all of that is with the Utilities Authority. As I said, I represent the Freeholder Board, which has been

struggling for over a year with a problem of what to do with \$78 million, netted out at let's say \$74 million in debt, without any assets, without any solid waste system. There is no transfer stations, there is no services being provided today by the Utilities Authority. The Utilities Authority has been significantly cut back in its structure and operations.

I mention that the county has struggled for a year to come up with a Plan Amendment to deal with this. And there has been considerable disagreement between the Utilities Authority and the county in terms of exactly what to do to deal with this. A Plan Amendment was finally adopted by the Board of Freeholders in December of 1998. It is presently before the Department of Environmental Protection for review and hopefully approval.

However, I think it's fair -- although I don't speak for the Utilities Authority, I do think it is fair to say that there is certain issues upon which there is agreement. And that is, number one, Plan A would be that this is a statewide problem, and Passaic County has probably one of the strongest cases to make with respect to that, particularly concerning the Resource Recovery Facility portion of the debt, which is approximately \$28 million of the outstanding debt.

And I mention that because that is a classic example of how the county got caught in the shifting sands of changes in statewide policy. On the eve of obtaining a permit to build the facility, the State decided that resource recovery incineration was not the preferred way to go and the project was canceled, and therefore, we have a considerable amount of debt. So the county is faced with a situation of having \$78 million, and if the State were willing to step up and say that it would take care of that stranded debt, then I could

conclude my comments and I would be able to leave for you to go to the next county.

The stranded debt in Passaic County is roughly \$74 million. Now, the problem that county has and the reason that I am here instead of the Utilities Authority I presume is because there are county deficiency agreements to underwrite, to guaranty this debt. These are not revenue bonds where the choice can be made to default. Although, the argument has been made with respect to one of the deficiency agreements that has been challenged by the city of Paterson that the county should, in fact, abandon the obligation there and default on roughly \$28 million in outstanding debt for the incinerator.

I mention litigation, and the county is presently involved -- the Utilities Authority is involved in litigation that's pending in the Appellate Division to question two issues: one, an environmental investment charge and the other the validity of the second of the two major deficiency agreements.

The county has chosen this course, faced with the situation where \$74 million is, in effect, arriving at the doorstep of the county. The municipalities have said in the course of this yearlong debate that they would rather that there be -- and I'm going to use that dirty phrase -- an environmental investment charge assessed against the municipalities. They would rather do that than have this debt go into the county tax base.

Now two municipalities take a different point of view; Paterson and city of Passaic. And they do that because they are different than the other municipalities. They would do better if this went into the county tax base. Fourteen of the sixteen municipalities have begged the County Freeholder Board not to let that happen, because they see that if we don't have an EIC--

Ironically, in Passaic County, the exact concern that you have about a property tax increase is what the outcome will be. So the Freeholders have responded to the argument that the fairer thing to do is to continue on the course of having the debt paid for from the users of the system rather than from the county tax base. And by doing that and calculating an EIC based on historical generation of waste rates, it will result in the absence of putting this debt on the county taxpayers.

The municipalities feel so strongly about this point that they have said an astonishing and surprising thing. They don't want waste flow control, and there isn't any waste flow control in Passaic County at this point, and there hasn't been for roughly for a year, and the municipalities don't want it. They are happy going out and making their own arrangements, but they said to the Freeholder Board that in the event that the EIC is invalidated by the court and in the event that the Legislature and the Governor don't see fit to provide legislative authority to impose an EIC, they say reinstitute waste flow control and somehow avoid having this debt go back on the backs of the taxpayers.

Therefore, I would conclude, and I am going to conclude in almost five minutes I think, by saying that as you consider this issue with respect to the environmental investment charge and assuming there is a solution that takes care of the debt from Passaic County -- because that is Plan A. If Plan A takes place, there is no problem. If we have anything left of the debt, the county prefers doing it through an EIC, and I would ask that you recognize that there are 22 solid waste planning districts in this state. There are 22 different situations. There is a different situation with respect to the EIC in

Passaic County, and perhaps you can craft language that would permit an EIC to be imposed in a situation of the type that exists in Passaic County, because if you don't the result that you argue you don't want to have occur is the result that will occur. And 14 of 16 municipalities have said that to us.

Now, I will conclude with this comment. I mention that the Utilities Authority and the Freeholders have been in disagreement for the entire year, and it has been very contentious. I don't think anything I've said here would be debated by the Utilities Authority and disagreed with. One of the issue -- the major issue that has been the disagreement between the PCUA and the County Freeholders is not whether there should be an EIC, but how long should the maturity schedule be. The Freeholders suggested that it be paid off in 15 years. The PCUA and the municipalities said, "No, we want to do it in 10." So the municipalities have been pressing for a faster payoff period.

The Plan Amendment that has been submitted to the DEP will provide an alternative to the municipalities. If they want to, they can pay off their proportion share of the debt in one lump sum. If they want to, they can join a 10-year amortization plan or, if they prefer, they can join a 15-year amortization plan. And the county has said that it will directly bill the commercial and industrial waste stream, not imposing that obligation on the municipalities.

I'll conclude with that. If there are any comments or questions I would be happy to answer them.

ASSEMBLYMAN ROONEY: One-- I've been around, I guess, too long because I remember the Passaic County incinerator being blown up by the

Florio administration at that time. And there were about \$98 million worth of bonds that were out there for that incinerator. Then there was a lawsuit against the State because the State then said, "You can't build it." The moratorium went on, and you can't build it near a hospital or whatever the thing was. We were being sued for about \$31 million of costs. Now we are looking at \$98 million. If you (indiscernible) the bonds at that time and there was \$31 million in cost left over and you virtually done nothing since then, what's the difference?

MR. MARAZITI: Well, I can explain that. The debt breaks down this way. About \$28 million of the debt is attributable to the failed incinerator project. The balance, roughly \$50 million, is a result of other finances undertaken by the PCUA over time with respect to the landfill operations and other activities that the PCUA was involved in.

ASSEMBLYMAN ROONEY: But isn't part of that landfill operation that you are talking about is a long-term contract where Grows (phonetic spelling) Landfill-- I thought it was airspace at Grows.

MR. MARAZITI: It was airspace at Empire--

ASSEMBLYMAN ROONEY: Oh, Empire.

MR. MARAZITI: --but is not being utilized. There is virtually no value left in that transaction sadly. This is one of the reasons for the contention between the Freeholders and the Utilities Authority because the Freeholders had pointed a finger of accusation at the Utilities Authority saying, "How did this happen?" Because that's one of the disputes.

ASSEMBLYMAN ROONEY: Just clarify for me because again these are questions that I've had.

MR. MARAZITI: Sure.

ASSEMBLYMAN ROONEY: The air right that you had, you had at least 20 years and somebody thinks maybe 30 years of air rights at Empire. And I think it was probably the fixed number. Maybe the number is too high at the present rate, and that's why this thing is not of any value or that's why you still have the debt. You paid for it in advance, I guess.

MR. MARAZITI: That's right.

ASSEMBLYMAN ROONEY: And if you deliver the garbage there, it's going to cost you probably more than you can deliver garbage elsewhere.

MR. MARAZITI: Two facts. The term is nearly up. I think there may be another five or seven years left on the landfill. The last landfill agreement that I have seen -- remembering now that I don't represent the Utilities Authority who has entered into these arrangements, but we have been looking at documents. But you're right. The rates that are available to Passaic County under that arrangement are not attractive in today's market.

ASSEMBLYMAN ROONEY: But again, if you use those rates-- Let me just do a theoretical. Let's say it was \$60 a ton, which I think was the number, and \$60 a ton was a great number several years ago when we were all paying \$100. If you use the \$60 and now the rate is like \$50 or \$45, or whatever it happens to be, the loss is going to be \$15 a ton or something like that. I hope you are just not going to abandon this contract that you have for the air rights because they are paid--

MR. MARAZITI: Let me address--

ASSEMBLYMAN ROONEY: --and not take advantage it and just pay off the difference. Do you follow what--

MR. MARAZITI: Yes, I understand what you're saying. There is no system in place in Passaic County at this point. Passaic County never owned any facilities; it never owned a transfer station. Once *Atlantic Coast* came into the final decision here, it all basically fell apart in Passaic County. And to get the waste out to Pennsylvania obviously you need a transfer station system. The municipalities would not undertake that arrangement because they have better arrangements that they have, like you, been able to enter into for four- or five- or three-years period, whatever it may be.

ASSEMBLYMAN ROONEY: That's probably a question, again, from Assemblyman Jones's standpoint that has to be dealt with at Local Government Services when we look at-- I know the problem that you have with the EIC verses the county tax. On a county tax basis, it's going to go out as a county tax, and if it's on a per ton basis, Passaic and Paterson will generate much more tonnage--

MR. MARAZITI: That's right.

ASSEMBLYMAN ROONEY: --per capita, etc., than anyone else. You are going to have a difference. And I think that's what Assemblyman Biondi wants to get into.

MR. MARAZITI: Yes.

ASSEMBLYMAN ROONEY: Go ahead.

ASSEMBLYMAN BIONDI: You're saying the Freeholders are in favor of an EIC. Are your municipalities in favor of an EIC?

MR. MARAZITI: Most definitely. They have begged that there be an EIC, and they want it so badly rather than having it go into the county tax base.

ASSEMBLYMAN BIONDI: But the disparity with the EICs, who needs to charge \$18 for an EIC, who needs to charge \$28 or \$32 for an EIC, it's going to continue to divert garbage away to the cheapest bidder.

MR. MARAZITI: Well, this is the way that-- To answer your question, all of the municipalities except two have asked that there be an EIC. The two who have not are Paterson and Passaic.

ASSEMBLYMAN ROONEY: Who generate the most garbage and they have the lowest rateables relative--

MR. MARAZITI: That's right. And the way this is envisioned it would happen is that the outstanding debt would be divided up on historic waste flow, and everybody has a number, they know what their numbers are pretty much, depending on what comes out of the forgiveness of the loan and all that sort of thing.

The municipality will budget each year in its annual budget for its respective share of that outstanding debt. And many of the municipalities are waiting for answers to come in from all of them, but many of them have said they want to do it faster and get it paid off sooner and pay more. We were surprised to hear that. They are so eager to do it and get rid of it. They want to do it on a 10-year, rather than a 15-year, plan.

ASSEMBLYMAN ROONEY: But if the State steps in and helps out that will be much more--

MR. MARAZITI: That's Plan A. Plan A is pick up the stranded debt, and we don't have a problem, and we don't argue for an EIC then.

ASSEMBLYMAN ROONEY: Anyone else have any questions?
(no response)

Hearing none, thank you very much.

MR. MARAZITI: Thank you very much.

ASSEMBLYMAN ROONEY: All right, what I wanted to do is go to Larry Gindoff, Solid Waste Coordinator, Morris County Municipal Utility Authority.

I am going to turn it over to the Vice-Chair for one moment, for a little while. I've got to make a return emergency call.

LARRY GINDOFF: Thank you for inviting me to speak to you on this issue. I think I will be telling you a different story than you have heard from all the other counties so far. And just to let you know, I did submit some written comments that look like this (indicating), so I won't be reading them and I'll try to be brief.

First of all, I'd like to say that after Morris County analyzed the decision of *Atlantic Coast*, we did decide to file an administrative action seeing that our solid waste system was procured in accordance with inner-state commerce and we did file an administrative action in December 1997, which was eventually approved by DEP in January 1997 validating the existing flow control regulations we had in Morris County. With that approval by DEP, Morris County has been operating with waste flow control in it ever since that decision.

With respect to tonnage that you asked about in your invitation, Morris County initially saw a drop before we had the administrative action approved, and then, after we got our towns on board, got the haulers on board, we have noticed about a 7 percent decrease during the post-*Atlantic Coast* decision in comparison to what was going on beforehand. But just to let you

know, that was pretty much consistent with historic trends, and we can't say that is necessarily based on people leaving our system. And we illustrate that in a graph that looks something like this for you (indicating).

With respect to tipping fees, Morris County, even prior to *Atlantic Coast* with a purchase of the two Morris County Transfer Stations and a long-term landfill easement agreement in Pennsylvania, started a tipping fee reduction phase with a purchase of the transfer stations back in 1994, and that is illustrated here, when we purchased the transfer stations. We were able to lower the tipping fees from \$131 a ton to \$110 a ton, and with the restructuring and recontracting of the operation of our transfer stations, we eventually brought it down to \$89 a ton. And with our most recent reduction we are now at \$79.90 per ton.

Let me tell you that even though we do have the mandated waste flow control in Morris County, we do have the full support of our Board of Freeholders and the municipalities of the county. And our system has remained whole with respect to operating our transfer stations and getting tonnage in. And that was the primary reason that we were able to implement our most recent rate decrease. And after the first year of going through the post-*Atlantic Coast* phase, we were actually able to see that waste was continuing to come in, and we were able to afford to drop our rates once again to \$79.90.

With respect to debt, the county assumed -- we don't have a massive debt problem the way you heard from most of the other counties -- about \$9.8 million debt obligation when we purchased the transfer stations back in 1994. We have been paying that debt over time, and it was about \$4.8

million or \$4.9 million at the beginning of 1998 when the *Atlantic Coast* decision hit. We've paid about \$1.5 million of that debt payment over the course of the last 12 months. It brings our debt down to about \$3.8 million, which does equate to about \$6 a ton on our tipping fee that we have been paying off.

And I would just like to close by saying that the concept of the waste flow control and that element in Morris County does appear to work. We have the support of the towns; we have the support of our Freeholders. It keeps us whole; it keeps our system solvent, working. We believe it is a long-term solution for Morris County. When you start considering any issues that you are thinking about, we are not asking for an EIC, we're just asking that the flow control element be permissible in whatever legislation you consider. Because for all of the 22 different stories you hear, this is one where it works for Morris County and for the waste generators of Morris County.

And with that -- I think I was pretty quick -- and I will conclude my statements and answer any questions.

ASSEMBLYMAN BIONDI: Thank you.

Any questions? (no response)

Is the Director of Cumberland County Improvement Authority here?

STEVEN R. WYMB S: Yes.

ASSEMBLYMAN BIONDI: Would you introduce yourself, please? Only because I'm not sure what it is. (laughter)

MR. WYMBS: It's Wymb's. (indicating pronunciation) And thank you very much. I have lived with that all my life. It's a rather interesting attempt, but I appreciate you for recognizing me.

I'd like to first thank this Committee, as everyone else has, for this opportunity. I have never testified in front of this Committee before, and I'm sure you are wondering why a landfill community in South Jersey with little debt wants to come up and tell its story.

Up until January 1, 1999 that story was a very positive one. Since 1991 we have maintained a tipping fee that has not changed. Our base rate without pass-through taxes was \$55.98. It was the fourth lowest in the State of New Jersey and post-deregulation, post-November 10, 1997, we decided as a board and as an Authority that we would ride out the market to see what a competitive rate truly was, and we chose not to lower our tipping fee.

During 1998 we lost approximately 6 percent of our waste stream. So we felt that we proved that in our area of the State of New Jersey a sustainable tipping fee could have been very close to \$60 for that time. Since then we have reduced our operating budgets by over 10 percent, we refinanced our bonds to a savings of \$140,000 a year, we are getting competitive interest rates on our bonds that are just over 4 percent. We took advantage of a fantastic market. And, of course, you will hear from every executive director of every authority that they have done everything they could to reduce costs as much as possible. We tell you the same story.

The problem with that wonderful picture came on January 1 of this year. On January 1, a sister county who has an environmental investment charge in place, but that environmental investment charge is not collected at

the gate, lowered their tipping fees to \$47.50 a ton. That was \$13 a ton lower than my “bundled rate,” and I was no longer able to compete with what is a subsidized tipping fee.

I would not be in front of you today if the equitable solutions that the State should have come up with at this point in time, or up to this point in time, has allowed me to be able to compete on a level playing field. We had a level playing field -- what we felt was a level playing field. Our waste stream continued to come into us albeit in a slightly lesser amount, but in January of this year, over 20 percent of our waste began to funnel to a sister county who was operating with a subsidized tipping fee. I do not believe that to be a fair market ability to be able to compete.

We have since taken the entire debt service component of our tipping fee out. We have no visible means of paying that debt service component without collecting it. The county has never anticipated an environmental investment charge and doesn't believe in one, but we may very well, because of the situation, be forced into it. And we do not want to make that move.

We have a tipping fee right now of \$38.77 per ton, which is a base rate, plus pass-through taxes of \$4.09, which takes it to \$43.26 per ton. It may be one of the lowest, if not the lowest, in the State of New Jersey. We have only been able to entice back the waste we were losing. At that kind of tipping fee, we are projected to lose \$2.3 million this year. It's not a lot money from some of the numbers that you've heard, but my budget is only \$8.8 million per year. So it's an extremely large percentage of my overall budget.

My debt service is to be paid off in 2008. In 2008 my tipping fees can be real at these numbers. My tipping fees can be \$38.77 or thereabouts because those are my operating costs, but right now we are dealing with the lack of the ability to compete in the market due to a subsidized tipping fee of a sister county.

One of the other issues that I'd like to bring up, and that I have brought in the past via a letter to every one of the State legislators -- that is, the pass-through taxes that we are being assessed. The solid waste services tax that continues to increase a nickel per year is a tax that continues to perpetuate the lack of competitiveness that we have in the State of New Jersey in publicly owned facilities. And the solid waste services tax is collected on landfills. It is not collected on incinerators. Cumberland County pays the State of New Jersey over \$140,000 a year from that tax and gets back just under \$67,000 a year. And I'd like the ability to bring that back under home rule. It does support some positive programs countywide, but those programs right now are being supported in my budget anyway, so I don't necessarily need that tax.

I thank you very, very much, and I would be open to any questions that you have.

ASSEMBLYMAN BIONDI: Thank you, Steven.

Any questions? (no response)

Thank you, Steven.

MR. WYMBS: Thank you very much.

ASSEMBLYMAN BIONDI: The Chairman has said he was going to cancel us at 5:00. It's 25 of, so I would just ask in fairness to everyone else--

We have one, two, three, four, five speakers left. So if we can really be laconic, I think, in fairness to each other.

George Marinakis, Executive Director of Cape May County Municipal Utilities Authority.

GEORGE MARINAKIS: My name is George Marinakis. I'm the Executive Director of the Cape May County Municipal Utilities Authority. Because of the limited time, I'm giving you the written statement, and I will try to condense the essence of it and leave an opportunity for discussion if necessary.

In response to the waste flow control situation, Cape May County set in motion the steps necessary to position itself to be able to put in place a system that we believe met the rulings of the Federal court. We took that initiative before the November 1997 action by the U.S. Supreme Court and produced an amendment to the county plan that includes an environmental investment charge. I know that is something that seems to be viewed negatively by most of the members here today, and I'd like to point to our situation and the manner in which we have implemented this environmental investment charge, which we believe does not affect the county tax rate -- I'm sorry the municipal tax rate, and deliberately so.

The environmental investment charge that we adopted is based on actual weight. It's not based on historical tonnage of previous information. We use a current time weight-base system. We require all the vehicles to be weighed that carry waste generated in Cape May County. That weighing in the original Plan Amendment of 1997 requires the weights be taken at one of

our facilities or an alternative weighing facility in county included in the plan itself.

We subsequently had to amend that pursuant to N.J. DEP regulations and have expanded it out-of-district wing in response to these state requirements. That amendment was approved by the N.J. DEP also, and that is currently in place. At this time, weighing can be performed at our facilities and approved in-district facility included in the plan but one of six weighing facilities of publicly owned weighing stations at our adjoining counties. We have a cooperative program with our six southern New Jersey counties, whereby weighing can be performed at their facilities. They send back the data to us, and we in turn bill the hauler for the waste that was collected and weighed at their facility. If the load is not disposed of at the facility, they send us back the volume information, and we in turn bill based on volume.

In either case, the environmental investment charge is billed to the hauler who in turn bills that to the generator. And this way we address the problem that has been voiced several times today; whereby, the rateable base is different than the waste generation base. That is not unique, and it's extreme in the case of Cape May County. We have a rateable base that includes-- Only 18 percent of our rateable base is commercial in nature, but the commercial waste generation is approximately 50 percent of the total. And to allow the distribution of the environmental investment cost through the municipal tax base or the county tax base, in either case, would be highly, highly unequitable, and therefore, the county elected to sustain a system of a weight base -- current weight-base system.

That is in place today, and it's been working, I must say, very well. We have not seen the loss of waste. We have not seen an increase in the municipal taxes as a result of this system because essentially it duplicates the previous system in terms of recovering the environmental investment cost. And the net result has been that the waste quantities in the county have remained relatively stable; in fact, they have increased. We have had generally a good economy, and we had a very significant increase in the construction demolition waste in recent months.

I think the important thing to note, though, is it does not do what has been emphasized as the major flaw of the environmental investment charge, which was to become what is alleged to be a municipal tax or a tax on property owners. That's not the case in our system, and it has worked and we urge your Committee not to destroy a system that works well as you try to fix a problem that may be elsewhere.

ASSEMBLYMAN BIONDI: Any questions from members? (no response)

With the interest of time, I am not going to debate it. The Chairman is out. We are going to let it go as the way it's on the record.

MR. MARINAKIS: I just call your attention to the last page of that document where the chart shows the reduction in rates for the last five years continuing, and we have been able to do that under this system.

I will add one other thing that we have been able to point out the inequities of the alternatives, and all 16 municipalities in the County of Cape May have signed service agreements with the Cape May County MUA, three-year service agreements, and they send their waste to us.

ASSEMBLYMAN BIONDI: Okay, thank you.

Alan Avery from Ocean County Department of Solid Waste.

I ask you to try to be brief if you can.

A L A N W. A V E R Y JR: I will be brief.

ASSEMBLYMAN BIONDI: Okay.

I do thank you and Chairman Rooney for inviting me to testify. I am Alan Avery. I am the Director of the Ocean County Department of Solid Waste Management. To my right is my Assistant Director, Ernest Kuhlwein.

I have really sliced down my remarks. With your permission I will submit a written copy for the record.

ASSEMBLYMAN BIONDI: Absolutely, and that will be put into the record.

MR. AVERY: Ocean County has developed a unique public and private partnership which has served the ratepayers, its municipalities in the county well. We have a privately owned and operated sanitary landfill, the Ocean County Landfill, Inc. -- I believe it's the only one remaining in the state -- which provides an environmentally secure disposal capacity for solid waste generated in Ocean County. We have structured this arrangement so that municipalities and all that use the landfill are secure in the knowledge that they have a facility that meets all of the environmental regulations posed by the State at a stable cost.

The rate structure developed with the landfill operator and with the various State agencies ensure that the necessary capital improvements were constructed with no debt. The landfill has collected significant funds for closure and postclosure costs, which are held in a DEP escrow account. The

County, through a cooperative measure with our municipalities, has developed a profitable recycling program, and we have a household hazardous waste management system, again with out significant debt to the taxpayers of Ocean County.

Our situation in Ocean County has not changed much since flow control was declared unconstitutional. As I stated previously, debt was not incurred in constructing our new facilities. This continues be the case today. Since we are debt free, there has not been any consideration of implementing an environmental investment charge. To remain regionally competitive, the Ocean County Landfill Corporation reduced its tipping rate for municipal waste from \$63 per ton to \$5 per ton in 1998. This was done in response to reduced tipping rates of surrounding counties. I might add that one of those rates, probably the most competitive with us in terms of its location, was Monmouth County, and that is a subsidized rate.

The rate reduction was made possible by extending the construction timetable for environmental improvements at the facility. These savings, however, did come at a small cost to the ratepayers since they would have benefited from a significant rate increase sooner had the improvements remained on their original schedule. In essence, we just deferred that savings out.

Most likely as a result of the reduction of the tipping fee and of Ocean County's geographic location, there has not been a great deal of waste tonnage fluctuation at the landfill. The tonnage at the facility has actually increased over the past three years from 433,000 tons in 1996 and 1997 to

440,000 in 1998. We don't have a firm figure. We think about 25,000 tons has probably leaped out of the system, mostly in C and D waste.

To summarize, Ocean County has not experienced any major problems as a result of the deregulation of waste flow. It's primarily due to the way in which our infrastructure was initially established and the means in which it operates. Finally, as I stated previously before this Committee, since Ocean County has carefully managed the cost of its solid waste management program, it is reluctant to assume the burden of financing other county solid waste management decisions. We do have some concerns, and we will be happy to participate as this Committee debates on future legislation. Some of them have been mentioned here today.

Our primary concern is the ability to compete with subsidized rates. We have no ability to subsidize our rates, the ability to maintain our successful system, and the public-private partnership that we enjoy. If State funding is to be used to address this issue, we would hope that it be minimized. And I think you have heard today many creative ways that the districts have used to address the debt problem, and we would hope that any solution be structured only at the remaining stranded debt, the minimal amount of debt that's out there.

With that I will conclude, and I will answer any questions if you have any.

ASSEMBLYMAN BIONDI: Any questions from the Committee?
(no response)

MR. AVERY: Thank you.

ASSEMBLYMAN BIONDI: Thank you, Mr. Avery.

Next we have Peter DeWilde, Salem County Utilities Authority.

(no response)

Richard Hills, Middlesex County.

RICHARD J. HILLS: Assemblyman Biondi, in light of the fact that my testimony, I believe, is extremely short, I would like to read from my prepared statement as four county agencies were responsible for input into this statement.

My name is Richard Hills. I am Division Head of the Middlesex County Division of Solid Waste Management. I wish to thank the Assembly Solid and Hazardous Waste Committee for inviting me to testify at this public hearing.

As a result of the November 10, 1997 United States Supreme Court decision denying our State's appeal of the Third Circuit Court of Appeals ruling on waste flow, the Middlesex County Board of Chosen Freeholders approved Solid Waste Plan Amendment 1997-3. This Plan Amendment, approved by DEP Commissioner Shinn on January 21, 1998, established a market participation system of solid waste management. The system as it now exists provides for Middlesex County opting for a market participation system, the assessment of a solid waste management service fee, option of in-district weighing or self-weight, self-reporting, and obligation of solid waste generators.

A comprehensive waste flow strategy package was prepared with input from the County Utilities Authority, operator of the Countywide Recycling Program -- strike that -- the County Utilities Authority, operator of the county landfill, the County Improvement Authority, the operator of the

Countywide Recycling Program, the County Health Department, the County Solid Waste Enforcement Authority, and the County Division of Solid Waste Management, County Solid Waste Management and Planning Authority.

The package was mailed to all solid waste collectors and haulers providing service for Middlesex County-generated solid waste. A copy of that package has been submitted to this Committee for review. The package provides the information required for collectors and haulers to achieve compliance with the county solid waste strategy. Collectors and haulers can opt to dispose of their waste at any properly licensed solid waste facility that complies with applicable law.

Those opting to dispose of waste out of district are governed by reporting requirements and payment of a solid waste management service fee. The reporting requirements stipulate that hauler/collectors opting to dispose of waste elsewhere must file a tonnage report by the 20th of the month following the reporting month. The \$4.27-per-ton solid waste management service fee is not an environmental investment charge. Rather, it is a fee utilized to support services provided by the aforementioned county agencies.

These services include compliance monitoring and enforcement, public outreach and education and community projects, the recycling program, and solid waste tracking, reporting, and record keeping. Middlesex County did not opt for an EIC in light of the fact that its approximate \$25 million balance of bonded debt on the landfill is due to be paid off in the early part of the year of 2001. The present projections of anticipated disposal tonnages indicate that the county will be able to fund its remaining debt payments.

Collectors/haulers opting to utilize the Middlesex County Landfill have been offered voluntary contracts for county-generated waste disposed of at the facility. A three-year contract signed before March 15, 1998 assesses a tip fee of \$48 per ton. Contracts signed after that time assess a tip fee of \$49 per ton. Collectors/haulers opting for a spot fee pay \$51 per ton. According to the January 21, 1999 tip fee information provided by the New Jersey DEP, Middlesex County's contracted tip fee is one of the second to lowest in the state. The general tipping fee assessed prior to the County's current waste flow strategy was \$55 per ton.

In reviewing information since 1983, Middlesex County has seen the waste disposal tonnages at the landfill drop from a high of 2.63 million tons in 1986 to a 1998 year-end total of 425,044 tons. Several factors contribute to this drop: first, waste disposed of from sources out of county was abated; second, proliferating rates of recycling diverted waste; and finally, Middlesex County-generated waste began being disposed of out of district. It is important to note that since our current market participant system of waste flow was implemented, over 155,000 tons have been reported by haulers/collectors opting to dispose of waste out of the district during 1998.

Documents containing the information used in the preparation of my testimony have been provided to the Committee. And again I wish to thank the Committee for inviting me to provide testimony at this Public Hearing.

ASSEMBLYMAN ROONEY: Thank you very much.

Any questions from the Committee? (no response)

Thanks again, I appreciate it.

Last but not least Dave Pringle.

Should I start the tape machine or do you want to do it--

(laughter)

DAVID PRINGLE: I'll be very brief.

Thank you, Mr. Chairman. I wasn't expecting to testify today, but in listening--

ASSEMBLYMAN JONES: We weren't expecting you either, Dave. (laughter)

MR. PRINGLE: I know all too well the Committee knows quite clearly our views on this issue, but there are three things that I thought deserved some edification or clarification that I heard today. So I promise to be under three minutes, the clock is ticking.

I think what you heard today demonstrates what we've been saying all along, that for the past two years the sky is not falling. It's still up there. Folks aren't defaulting yesterday. Passaic and Warren said they were going to default last year; they didn't. There is almost a quarter billion dollars of State funding available to ensure funding of solid waste debt for the next year and a half from the referendum and from \$20 million from the last three fiscal year budgets.

In short, there is no emergency, there is no crisis, and that mentality that there is, is what got us in this mess in the first place when folks panicked with landfills closing in the '80s. This provides us the opportunity to look at this in the longer term, which is what we have been encouraging the Committee to do all along.

You further now have more information to support that position. You have a public mandate demonstrate last November that opposes -- that the taxpayers of New Jersey oppose taxpayer-paid unconditional bailout of the incinerator industry. Forty-seven percent of the voters said no to a partial bailout. Clearly a majority oppose a total bailout.

You have a political impasse because two sides are right. The State mandated this in some instances, the counties made mistakes in others. The only way out of this is to get everyone to pay their fair share. You're asking citizens to pay. Every proposal on the table is a tax. The Chairman is right, the EICs are a tax, but so is a 3 percent or a 6 percent garbage tax, so is money from the General Fund, and so is, in some instances, defaulting on debt.

The only way out of this is to get everyone to pay their fair share. And the only way to ensure New York City doesn't bring its trash to New Jersey is to shut down the incinerators. The way out of this mess is a covenant with taxpayers. You're asking them to make utilities and polluters solvent that are responsible for raiding citizens' wallets and degrading our health and environment.

Give the taxpayers something in return. Shut down the incinerators, restore the Florio hierarchy of reduce, reuse, recycle. You can't separate solid waste management from solid waste finances. And, again, with or without incinerators, you still have the debt, and by increasing recycling, source reduction, and composting by 10 percent each, you can eliminate the need for incinerators, you can eliminate the export of out-of-state trash, you can prevent New York City and Philadelphia trash from coming into New Jersey, which is currently happening, and you can lighten the wallets of the

citizens of New Jersey -- excuse me, not lighten the wallets of the citizens of New Jersey.

Thank you.

ASSEMBLYMAN ROONEY: Dave, just run the tape of where I just disputed everything you just said. You know what-- But for the record, the facts of the matter are we have -- as the staff just so ably said, we have private facilities with public debt which won't help the debt situations such as Camden County and some of the other counties.

MR. PRINGLE: But--

ASSEMBLYMAN ROONEY: I'm speaking, please give me an opportunity. The situation is even if we took everyone of those facilities and let them default, as you wanted them to do--

MR. PRINGLE: I have to correct. We never advocated default. We advocated--

ASSEMBLYMAN ROONEY: I beg to differ. I think we have some testimony--

MR. PRINGLE: We advocated default on revenue bonds. We did not default here. There is a huge difference there. We're talking at a default on about \$250 million.

ASSEMBLYMAN ROONEY: If we actually let those bonds default, if we didn't make arrangements to pay them off, what you're going to have is the facilities that you're talking about that you want to shut down are going to be sold to the, basically, the highest bidder. The highest bidder is going to be the incinerator operators. They are going to come in and pick it up at 10 cents on the dollar and wind up even more competitive than other

means of resource recovery, whatever it happens to be that's going to be helpful to the environment, so you are going to make them more competitive.

What we're trying to do is level the playing field, and I don't think you'll ever see a situation where the resource recover plant or the incinerator -- and I call it an incinerator because I was one of the sponsors of the original moratorium.

MR. PRINGLE: And you still have a bill in that we like.

ASSEMBLYMAN ROONEY: And I still say that we didn't need 21 or 22 incinerators. You got 5, and maybe you don't even need those. But the thing is that it is another method of garbage disposal. I promise that we will get into the issue of whether it's environmentally safe or not. I still want the DEP to do that investigation. They are not monitoring for certain chemicals in the stack emissions that are hazardous to your health, and I want that resolved.

So those are the things that I promise you we will do. But this is a crisis. I don't know, you started in-- I don't want to say you weren't listening, but I heard from all of these people they are in trouble as of December of this year, and the only reason that some of these haven't defaulted by now is that there have been emergency measures that have been taken to get them beyond the default stage.

And like I said before, there is this fireman's fund in there that when the administration sees a fire and it's going to default, oh, well, we'll spend this amount of money on the situation. We got information on three of those situations so far. And I'm sure it's going to happen again.

But you've got a lot of counties out there-- I'm not only talking about the incinerators, there are only five. I've 21 counties to worry about. It's not five incinerators that are going to take the total time of this Committee, it's the other counties also that are in trouble. My own in Bergen, I've got a \$26-a-ton fee for my damn transfer station. Those are the kinds of things we have to resolve, and it's got to be an omnibus proposal. You can't be selective and say, "You're not eligible, you are." That's unconstitutional, and we got to resolve it.

I've said it again, which I wanted to run the tape, but I haven't run one.

Do you want to respond? I'll let you respond. We're going to leave now because it's 5:00. (laughter)

MR. PRINGLE: Two very brief points. We recognize and we want to address this issue of debt, but we do have \$235 million in this budget to help us so we don't need a fix to stay. And you're right, the Governor needs to come to the table, and she hasn't done that.

Second, is every option that's been talked about is asking taxpayers primarily to foot the bill. We recognize that there is no alternative that isn't going to require taxpayers to pay something, but give them something back besides the solvency of utilities and polluters that are responsible for getting us in this mess in the first place.

ASSEMBLYMAN ROONEY: Like I said, five of twenty-one counties is all you're talking about--

MR. PRINGLE: No, we're not.

ASSEMBLYMAN ROONEY: --and I've got to deal with twenty-one.

MR. PRINGLE: Why should Mercer--

ASSEMBLYMAN ROONEY: We're not going to argue any further.

Motion to adjourn?

ASSEMBLYMAN BIONDI: Moved.

ASSEMBLYMAN ROONEY: Seconded.

All in favor? (affirmative responses)

Thank you very much, and I appreciate the testimony today.

(HEARING CONCLUDED)