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**A P P E N D I X**

**to**

**NEW JERSEY SENATE SPECIAL COMMITTEE TO STUDY COASTAL AND OCEAN POLLUTION**

**and**

**NEW YORK STATE ASSEMBLY SUBCOMMITTEE ON INTERSTATE COOPERATION**

**Testimony concerning problems of water pollution in the  
New York/New Jersey Metropolitan Region**

**September 29, 1987  
Middletown Township Hall  
Middletown, New Jersey**

**New Jersey State Library**

**A P P E N D I X**

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July 14, 1987

## STRATEGIES FOR A WAR ON OCEAN POLLUTION

Position Paper of Freeholder John D'Amico, Jr. and Councilman Joseph Quinn, Candidates for New Jersey State Assembly, 11th District

The coastal waters of Monmouth County are a precious resource which is critical to the economy and environment of the 11th Assembly District. The Atlantic Ocean is the basis for our tourism industry and supports sizeable commercial and recreational fisheries. It also provides year-round recreation for the people of Monmouth County.

Our ocean coastline borders on the "New York Bight", which is bounded by Long Island and New Jersey and extends seaward about 100 miles. The Bight is fed by the Hudson River and also by major New Jersey rivers including the Hackensack, Passaic and Raritan.

The Bight receives large volumes of wastes from numerous sources, both directly and carried from upstream: industrial and municipal discharges; raw sewage; urban runoff; combined sewer overflows; agricultural runoff; and dumping of sewage sludge, dredged material, industrial wastes and construction debris.

Pollutants from these sources have caused many serious problems. Beaches have been closed because of the presence of sludge, sewage, filth and algae blooms in the ocean. Pathogens, metals and organic chemicals have been linked to diseases and population declines in marine organisms. High bacterial concentrations have resulted in widespread restrictions on shell fishing. High concentrations of PCB's have prompted restrictions on fishing and the sale of striped bass. It is suspected that swimming in the Atlantic Ocean water along the N.J. coast has resulted in ear aches, infections, nose and throat disorders, vaginitis,

skin irritations and several other ailments.

According to the Congressional Office of Technology Assessment in a recently issued report on "Wastes in Marine Environments", even if total compliance with today's regulations is achieved, existing programs will not be sufficient to maintain or improve the health of coastal waters such as the New York Bight. The report states that in the absence of additional measures to protect our marine waters, the next few decades will witness continued degradation for the following reasons:

- . Current programs do not adequately address toxic pollutants or nonpoint source pollution.
- . Pipeline discharges and nonpoint source pollution (particularly urban runoff) will increase as population and industrial development expands in coastal areas.
- . Federal resources available for municipal sewage treatment are declining.

Although much environmental legislation was passed in the 1960's and 1970's and lots of money has been spent on sewage treatment plants, there is still a lack of comprehensive waste management. Current programs established to manage wastes focus primarily on one waste source or on disposal in one environment. Attempts to control one problem, however, have generated other problems and pollutants often have been merely transferred among environments or waste streams without any significant overall reduction in overall pollution.

We must declare total war on all forms of pollution if we are ever going to clean up our ocean, bay and river waters. The war must be fought on land and sea and in the air. It will be expensive; and it will demand the participation of all of the people in the region who own homes, boats and cars and who work for or manage businesses,

industries and public facilities which produce or treat liquid wastes.

We shall need the cooperation of Federal, state, county and local government and agencies together with environmental groups and the private business sector and there will have to be interstate and bistate coordination of their efforts.

To win the battle against "point" pollution from identifiable sources, we propose the following plan of attack:

1. Develop alternatives to the dumping of dredged materials at the mud dump site off Sandy Hook, including land disposal, use of subaqueous borrow pits and construction of containment islands.
2. Complete and improve municipal and regional sewage treatment plants to provide at least secondary treatment and remove nitrates and other nutrients from effluent. (Hudson County continues to dump 88 million gallons of untreated sewage into coastal waters.)
3. Require extensive pretreatment of sewage to remove toxic and hazardous wastes from sludge, so that it can be used as a soil enhancer, as landfill cover or as a source of heat and energy instead of being dumped in the ocean.
4. Reduce the generation of toxic wastes, encourage the recycling of wastes that are produced and prohibit ocean dumping of toxic wastes and acids.
5. Repair, maintain and improve existing underground sewer lines, storm drains and sewage outfalls
6. Substantially increase staffing and funding for the Dept. of Environmental Protection to improve enforcement and facilitate the regulation of more types of sources of pollutants.
7. Prohibit incineration of toxic wastes, wood and other materials at sea.

The battle against "nonpoint" pollution, which comes from many different sources and is carried by rainfall into storm sewers and coastal waters, must include the following:



1. Funding to eliminate combined sewer and storm lines which cause sewage treatment plants to overflow and release untreated sewage into coastal waters when it rains hard.
2. Require that all stormwater outfalls include a retention basin or treatment facility with adequate capacity to handle the first 15-20 minutes of stormwater from a heavy rainfall.
3. Ban or discourage the manufacturing and use of pesticides, herbicides, household chemicals and detergents which contain hazardous substances, carcinogens, phosphates and other toxic materials.
4. Eliminate the 25-unit loophole in C.A.F.R.A.; improve land use planning; and strengthen regulation of development to prevent erosion, loss of wetlands, and destruction of trees and grass in environmentally sensitive areas.
5. Enact a law requiring plastics and other floatables to be recyclable or biodegradable, as proposed in bills introduced by Sen. Frank Pallone and Assemblyman Alan Karcher.
6. Implement programs for the systematic safe disposal of household toxic chemicals.
7. Place controls on boats and ships to prevent the dumping of trash, the pumping of bilge and the spillage of fuel in coastal waters; prohibit the use of polluting bottom paints, as provided in Sen. Frank Pallone's bill; and require marinas to install sewage pump-out facilities.
8. Enact a "pooper-scooper" law requiring that owners remove their pets' fecal waste from the ground or paved surfaces and dispose of it in a sanitary manner.
9. Improve air quality by increasing controls on air pollution, such as vapor-capturing devices on gas pumps; encouraging energy conservation; improving traffic flow; and expanding mass transit.

To help coordinate these efforts and insure cooperation among responsible agencies at all levels of government and across state lines, new initiatives are needed. One such initiative would be the creation of a coastal authority whose members would include the DEP commissioner,

local officials from both political parties and members of the public with expertise in coastal issues. It is particularly important that the municipalities of Monmouth County and other coastal counties be adequately represented, because they are directly affected and are responsible for the life, health and property of coastal residents. The authority should be given broad powers to administer shore protection programs, be an advocate for the shore region, and take actions to protect and improve coastal rivers, inlets, bays and the ocean. It should develop reasonable and equitable policy guidelines for beach access and prepare a coastal region development resource protection plan for implementation by shore municipalities. The authority should work with coastal governing bodies in these areas. Moreover, any transfer of DEP jurisdiction to the authority should preserve existing protections for the environment in waterfront and wetland areas and strengthen the enforcement of environmental laws. In addition, the authority should assist and supplement DEP efforts and make recommendations to streamline the DEP's permitting process and make it more effective.

Cooperation and coordination must be taken one step further, however, because many of our coastal problems originate in New York. We have therefore asked Governors Kean of New Jersey and Mario Cuomo of New York to take immediate steps, in concert, to utilize the newly enacted National Estuaries Program as a framework for the development, implementation and monitoring of a bi-state management strategy for the New York Bight.

Established under the federal Water Quality Act of 1987, the National Estuaries Program authorizes the Governors to call upon the U.S. Environmental Protection Agency to convene a Management Conference

that includes all levels of government, affected industries, educational institutions and the general public. Utilizing available federal grants, the Conference would develop a Comprehensive Conservation and Management Plan, which, once approved by the two Governors, would be implemented by federal, state and local governments. The major goals of the plan would be to restore and maintain water quality; shellfish, fish, wildlife and recreational activities in the New York Bight.

The "Proposal for the Coast" recently released by Governor Kean estimates that overall funding needs for shore problems will run into the billions of dollars. But the solution proposed by the Governor and Assemblyman Villane, the N.J. Coastal Commission, will receive only \$10 million in the 1988 budget, plus \$35-40 million from other sources.

This is appeasement rather than engagement in the war on pollution. More realistic are proposals like Senator Frank Pallone's shore protection plan funded by a hotel and motel tax and Assemblyman Joseph Charles' \$200 million urban wastewater treatment bond act. Additional funding will be required for other point and nonpoint pollution control projects.

Nothing short of a massive mobilization of human and financial resources will enable us to attack and eliminate all of the forms of pollution which defile our waters.

We are ready to do battle and wish to enlist your help.

THE BOARD OF CHOSEN FREEHOLDERS  
OF THE  
COUNTY OF MONMOUTH

HARRY LARRISON, JR.  
DIRECTOR



THOMAS J. POWERS  
DEPUTY DIRECTOR

HALL OF RECORDS  
MAIN STREET  
FREEHOLD NEW JERSEY 07728  
TELEPHONE 201 - 431-7000

THEODORE J. NAROZANICK  
JOHN D'AMICO, JR.  
JOHN A. VILLAPIANO

July 9, 1987

The Honorable Governor Mario Cuomo  
State Capitol  
Albany, N.Y. 12224-0000

RE: The National Estuary Program and the New York Bight

Dear Governor Cuomo:

South Belmar Council President Joseph P. Quinn and I are writing to you and to New Jersey Governor Thomas Kean to urge that you take immediate steps, in concert, to utilize the newly enacted National Estuaries Program as a framework for the development, implementation and monitoring of a bi-state management strategy for the New York Bight.

The "New York Bight" is the body of water bounded by Long Island and New Jersey and it extends seaward about 100 miles. It is fed by the Hudson River and also by major New Jersey rivers. The Bight receives large volumes of wastes from numerous sources, both directly and carried from upstream: industrial and municipal discharges; raw sewage; urban runoff; combined sewer overflows; agricultural runoff; and dumping of sewage sludge, dredged material and industrial wastes.

Pollutants from these sources have caused many serious problems for both New Jersey and New York. Beaches have been closed because of the presence of sludge, sewage, bacteria and algae blooms in coastal waters. Pathogens, metals and organic chemicals have been linked to diseases and population declines in marine organisms. High bacterial concentrations have resulted in widespread restrictions on shell fishing. High concentrations of PCB's have prompted restrictions on the fishing and sale of stripped bass and warnings about consumption of blue fish. It is suspected that swimming in the Atlantic Ocean water along the New Jersey coast has resulted in ear aches, infections, nose and throat disorders, vaginitis, skin irritations and several other ailments.

Established under the federal Water Quality Act of 1987, the National Estuary Program authorizes the Governors of the affected states to call upon the U.S. Environmental Protection Agency to convene a Management Conference that includes all levels of government, affected industries,

"SEPTEMBER 24, 1609 THIS IS A VERY GOOD LAND TO FALL IN WITH AND A PLEASANT LAND TO SEE."

Entry in the log of Hendrik Hudson's Ship Half Moon made after the Dutch Explorer became the first European to come ashore in what later was known as Monmouth County

July 9, 1987

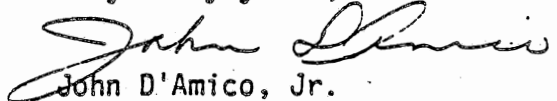
educational institutions and general public. Utilizing available federal grants, the Conference would develop a Comprehensive Conservation and Management Plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution. The major goals of the Plan would be to restore and maintain water quality, shellfish, fish, wildlife and recreational activities in the New York Bight. The plan would also assure that the designated uses of the estuary are protected.


The coastal waters of New York and New Jersey are a precious resource which is critical to the economy and environment of the bi-state region. The New York Bight is the basis of a substantial tourism industry and supports sizable commercial and recreational fisheries. It also provides year-round recreation for the people of the New York--New Jersey Metropolitan region. Decisive action on your part along the lines recommended in this letter would do much to protect, improve and preserve this vital resource for this and future generations.

I enclose with this letter a technical fact sheet which will provide your staff with references and citations to the appropriate sections of the Water Quality Act of 1987. We thank you in advance for your consideration of this matter and look forward to a favorable response. Thank you.

JD:rf  
enc.

Very truly yours,

  
John D'Amico, Jr.  
Freeholder

  
Joseph P. Quinn  
South Belmar  
Council President

TESTIMONY OF LOU FIGURELLI  
NATURAL RESOURCES PROTECTIVE ASSN. OF STATEN ISLAND  
BEFORE THE SENATE SPECIAL COMMITTEE  
TO STUDY COASTAL AND OCEAN POLLUTION  
ON TUESDAY, SEPTEMBER 29, 1987 AT 10:00 A.M.  
MIDDLETOWN TOWNSHIP HALL  
MIDDLETOWN, NEW JERSEY

THE SUBMISSION OF OUR COURT ACTION TO THIS HEARING SHALL BE OUR WRITTEN TESTIMONY FOR THIS HEARING. ORAL TESTIMONY WILL BE PRESENTED 9/29/87.

WHAT PURPOSE DOES IT SERVE TO ENACT NEW LAWS WHEN THE PRESENT LAWS ARE BEING IGNORED AND NOT ENFORCED. ARE THE AGENCIES ENPOWERED TO ENFORCE THE LAWS VIOLATING THE LAWS?

MANY OF OUR CITY, STATE AND FEDERAL LEGISLATORS AND RESPONSIBLE ENVIRONMENTAL PROTECTION AGENCIES HAVE COMMITTED OUR OCEANS AND BAYS AS THE MOST ECONOMICAL METHOD FOR THE DISPOSAL OF BOTH TOXIC AND SOLID MAN-MADE WASTE. THE DESTRUCTION TO THE ENVIRONMENT AND THE WATERS IS SECONDARY TO MONEY IN THE DISPOSAL OF WASTE.

NOTES:

1. ABOUT 10 YEARS AGO AGENTS FROM JAPAN WANTED TO SET-UP A RECYCLING PLANT AT FRESH KILLS AND WAS DENIED BY THE SANITATION DEPARTMENT.
2. NOTICE SIGNS ON FEDERAL PROHIBITIONS FOR FINES AND PENALTIES ON BEACHES.
3. LECHATE CONTROLS AND THE INTENT OF THE NYS DEC AND OTHER AGENCIES TO USE THE OAKWOOD SEWAGE TREATMENT PLANT WOULD BE A DISASTER. THE LANDFILL SHOULD HAVE ITS OWN TREATMENT PLANT FOR LECHATE.



DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS

# WARNING NOTICE

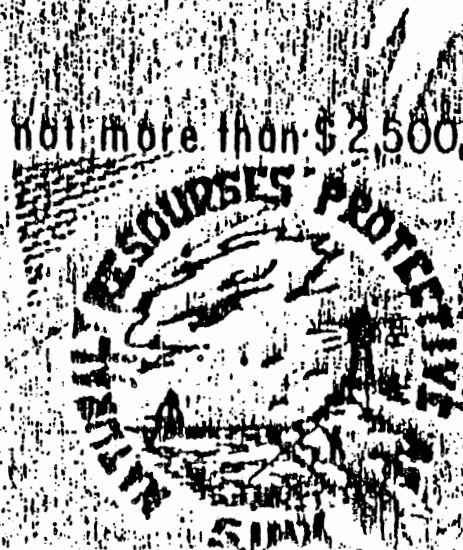
10X prohibit the deposit of any SLUDGE, GARBAGE, and REFUSE of any kind in any navigable water of the United States or its tributaries, or to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, where the same shall be liable to be washed into such navigable water.

Any Person or Persons Violating these laws may be subjected to a fine of not more than \$2,500, and not more than one year imprisonment, or both.

NATURAL RESOURCES PROTECTIVE AGENT  
OF STATEN ISLAND, N.Y.  
P.O. BOX 516 OF FILLIS  
STATEN ISLAND, N.Y. 10308  
MRS. L. BRADY  
Respected by

APPLICABLE UNITED STATES LAWS

Federal Refuse Act of 1899  
River and Harbor Act of 1888





NATURAL RESOURCES PROTECTIVE ASSN.  
OF STATEN ISLAND, INC.

P.O. BOX 306 GREAT KILLS  
STATEN ISLAND, NEW YORK 10308

PRES. L. FIGURELLI

TESTIMONY OF LOU FIGURELLI

NATURAL RESOURCES PROTECTIVE ASSN. OF STATEN ISLAND  
BEFORE THE SENATE SPECIAL COMMITTEE  
TO STUDY COASTAL AND OCEAN POLLUTION

ON TUESDAY, SEPTEMBER 29, 1987 AT 10:00 A.M.

MIDDLETOWN TOWNSHIP HALL

MIDDLETOWN, NEW JERSEY

Also January 7, 1987

The following testimony has been prepared by the Natural Resources Protective Association of Staten Island, to be presented at the Hearing conducted by the New Jersey State Legislative Service on Ocean and Coastal Pollution. The Hearing will be conducted at Long Branch City Hall, Long Branch, N. J., at 10:00 A.M., January 7, 1987, chaired by New Jersey Senator Frank Pallone.

I would like to thank the N. J. Legislative Services for requesting the testimony of the Natural Resources Protective Assn. here today.

For the record, my name is Lou Figurelli, President of the Natural Protective Association of Staten Island. Having testified at the previous Senate Special Committee Hearing, held September 24, 1986, at Woodbridge, N. J., I am sure many of the same issues will be presented here today. To avoid repetition of the N.R.P.A.'s previous testimony, I feel that what has transpired since the September 24, 1986 meeting should be of great importance to all present here today.

As we of the N.R.P.A. are located in Staten Island, N. Y., we do not have access to information and the coverage by your news media of these hearings, and I am sure the same situation exists with you. I am submitting at this time, a packet of documents and information we have gathered to support the following testimony. I would like to also thank the staff of the Asbury Park Press and the Staten Island Register for helping me to gather much of this information and for their comprehensive coverage of these hearings by keeping the public informed.

1) To my knowledge, the conditions previously stated by the N.R.P.A. in the September 24, 1986 Woodbridge Hearings have not changed. The entrance of the Interstate Sanitation Commission and the N. J. Attorney General as interveners in the Woodbridge suit, should have been done when the suit was instituted years ago. Both the Natural Resources Protective Assn. and Groups Against Garbage have retained legal council in preparing intervener action to join the Woodbridge suit with the I.S.C. and the N. J. Attorney General in their action against the Freshkill Landfill operation (documents enclosed).

2) At the September 24, 1986 meeting, we of the N.R.P.A. informed the Senate Special Committee of the lifting of a raw sewage moratorium which would have allowed over three million gallons and possibly more of raw untreated sewage to be released into the waters surrounding Staten Island, which would ultimately wind up in Raritan and Sandy Hook Bay.

New Jersey State Library

Through the exposure by the N.R.P.A. of lifting of the moratorium at the Woodbridge Hearing, enough pressure was exerted by the news media, by the Interstate Sanitation Commission, and the New Jersey legislators, primarily Senator Frank Pallone, U. S. Congressman James Howard and U. S. Congressman Guy Molinari of Staten Island.

The N. Y. Dept. of Conservation has been forced into reimposing the moratorium banning the discharge of raw sewage into the waters of Staten Island (THANK GOD!).

The N.R.P.A. has retained legal council to research why the moratorium was lifted in 1984 without notifying the public. If any permits were granted since 1984 to date, allowing new developments to discharge raw sewage and there is a great possibility the New York State Dept. of Conservation was itself in violation of its own laws, the law of the Interstate Compact, and the restrictions of the Federal Clean Water Act. Should our legal council find the N. Y. D.E.C. in violation the N.R.P.A. will proceed to take whatever action is needed to make sure this does not happen again, including a class action suit.

As soon as we can get a copy of the new wording of the moratorium, which was to be imposed January 3, 1987, we will forward a copy to this Committee. Senator Frank Pallone, the people of Staten Island and the sportsmen who use the waters for fishing and boating and recreation wish we had you to represent us in Staten Island. Thanks for your help and your concern for our waters. It is tremendously appreciated.

### 3) Borrow Pit.

The following subject should bring forth the same response which was generated at the September 24, 1986 Woodbridge Hearing when the Committee was notified about the dumping of raw sewage into our coastal waters by Staten Island.

On or around December 10, 1986, I received a letter and an environmental impact study from the U. S. Army Corps. of Engineers to be reviewed by the N.R.P.A. As this study is in a draft form, to go into the many details of its contents would be impractical at this time. I will, therefore, convey to you the important parts of this document which is the intent of the project and the effect it will have on the waters of Raritan and Sandy Hook Bays.

At this time, it must be noted by all present that this same proposal was submitted for public hearings in 1980 and through the support of many organizations and a suit which was brought against the U. S. Army Corps.' proposal and the N. Y. Dept. of Conservation for issuance of permits for this project, by the Natural Resources Protective Association of S. I., the courts ordered the halt of the project and the N. Y. D.E.C. revoked the permits. Raritan Bay and Sandy Hook Bay were saved from a disaster. Five years later, the U. S. Army Corps. of Engineers, the N. Y. Dept. of Conservation and many of the original planners of this project, are spending millions of dollars of taxpayer money to promote the same project in the same location without finding a solution to the problem of disposing of highly contaminated dredge spoils.

By now, you should be wondering what could be worse than tons of plastic and debris being dumped in our waterways. What could be worse than millions of gallons of raw sewage being discharged into our coastal waters? What could be worse than millions of gallons of leachate coming from the Freshkills Landfill, which wind up in our coastal waters? What could be worse than the tons of air-borne pollutants from the chemical and manufacturing plants which line our shore which eventually settle in our surrounding water? Is it possible that we are going to add an additional source of pollution to the already highly stressed Raritan and Sandy Hook Bay area?

I would like to ask of all of you here today to indulge me in the following request. Please close your eyes and construct the following image in your minds. Upon completion of this image, I am sure your decision will be the same which was made to stop this project in 1980.

Close your eyes please. On a bright sunlit day with a deep blue sky, a gentle wind blowing, blowing across Raritan and Sandy Hook Bays. You could be sailing, you could be fishing, you could be bathing on the many beaches and parks surrounding the area, such as Gateway Park at Sandy Hook, Coney Island, Staten Island beaches, North Jersey beaches, you could be a commercial lobster fisher collecting crabs and lobsters. You could be aboard a charter boat with your family, enjoying fishing with many other people. A day of fishing and a source of fish for meals, while the boat captains are earning a living from the Sheepshead Bay, Staten Island, and the many charter boats, from Northern New Jersey basins, Raritan Bay and Sandy Hook Bay, and its surrounding water, are the most highly productive fin fish and shell fish areas on the Eastern Seaboard. This area you are building an image of as you drift, sail, fish, or bath in, is one of the most highly used recreational areas in the East. Raritan and Sandy Hook Bays are nurseries for many species of marine fin fish and marine life. It is a source of work, living, and play for millions of people from all over the world.

It's a beautiful image. Does it not make you feel good? I know it makes me feel good. It is now time to construct the final part of this vision. Keep your eyes closed. At a location, equidistant from Long Island, Staten Island and Sandy Hook, N. J., exactly in the center of all this activity, a cloud lifts which was not noticed by you because we were busy being contented and happy with this relaxation this area was giving to us, appears a huge ominous black, filthy looking floating barge anchored over an area called a Borrow Pit. Upon its sides are painted a skull and crossbones and a printed sign "DANGER - Contents Being Discharged Into This Borrow Pit Are Highly Contaminated And Cannot Be Legally Dumped Into The Ocean Is Dangerous To Marine Life But We Have Permission To Dump It Here."

Visualize the next part of this vision as the barge discharges its lethal contents into the tides and current. Disperses to ten percent of this material before it gets into the pit. If the tide is coming in this mass of polluted highly contaminated, sometimes highly toxic, water:

winds up on Staten Island, Coney Island, and Long Island. If the tide is going out, this destructive mass winds up on Gateway Park, Sandy Hook, all the beaches along Northern N. J., from Sandy Hook to Perth Amboy and from Sandy Hook South to Long Branch.

Visualize this tranquil scene transferred into chaos, as thousands of people running from the beaches, boats of all kinds, fishing, sailing and other forms of water-related activities, running, swimming, sailing and opening throttles wide on power boats to avoid coming in contact with this deadly mass. In the interim, the solid mass discharged from the barge that eventually gets into the Borrow Pit, kills every form of marine life that was present in the highly productive fish and shell fish nursery habitat.

This vision will have to be repeated continuously for the next ten years as proposed by the U. S. Army Corps. of Engineers and all the other individuals and agencies supporting this project.

OPEN YOUR EYES PLEASE - not only for now but for the intent of this project and what it will do to the ecological and economical structure of Raritan and Sandy Hook Bays for many years to come.

The decision made by the N.R.P.A., made in 1980 by its court action preserved the area for five years. I sincerely beg of all present here today, not only the officials on this Committee, but all including the news media, to notify everyone you meet to oppose this proposed plan to destroy this highly productive recreationally area to be the depository for any form of dredge spoils by all the Federal, City, State, and public agencies promoting this project.

In conclusion, I again would like to thank the N. J. State legislative services for requesting me to testify at these hearings. As I have stated many times before, the secret to the solving of many of these problems requires cooperation between New York and New Jersey, and the Federal Government.

Millions of dollars of taxpayers' money could have been saved on the Borrow Pit Project alone, and the problem would have been solved if a new pit were dug in a designated area without opposition. But the agencies involved refused to accept the decision even after it was stopped by the courts. If President Reagan wants to know where money is being wasted, the Borrow Pit Project may supply him with this answer.

Anyone who wishes information on the preceding presentation, may contact me at the N.R.P.A., P. O. Box 306, Staten Island, N. Y. 10308. Telephone 718-967-0410.

Thank you.

Sincerely,

LOUIS FIGURELLI,  
President

Sincerely,

JAYNE GASTALDO,  
Secretary



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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TOWNSHIP OF WOODBRIDGE,	X	CIVIL ACTION NO. 79-1060
W. CARY EDWARDS, ATTORNEY	X	
GENERAL OF NEW JERSEY, and	X	
THE NEW JERSEY DEPARTMENT	X	
OF ENVIORNMENTAL PROTECTION,	X	HONORABLE MARYANNE TRUMP BAF
and INTERSTATE SANITATION	X	
COMMISSION	X	
Plaintiffs,	X	
AND	X	
GROUPS AGAINST GARBAGE	X	MOTION DATE:
Plaintiff-Intervenors	X	SEPTEMBER 28, 1987
v.	X	
CITY OF NEW YORK,	X	
Defendant.	X	

---

BRIEF IN SUPPORT OF MOTION TO INTERVENE OF GROUPS AGAINST  
GARBAGE, INC.

HENRY A. MARTUSCELLO  
ATTORNEY FOR APPLICANT  
FOR INTERVENTION  
99 CHAPEL STREET  
NEWARK, NEW JERSEY 07102  
(201) 589-4400



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## STATEMENT OF THE CASE

Groups Against Garbage "(GAG)," a coalition of civic associations on Staten Island, seeks leave to intervene as plaintiff in this case. This action was filed by the Township of Woodbridge against the City of New York seeking to abate the pollution of the township's beaches resulting from New York City's Fresh Kills Landfill on Staten Island.

Woodbridge filed its complaint in 1979, invoking the courts jurisdiction under diversity and the citizen's suit provision of the Clean Water Act, 33 U.S.C. Section 1365, and alleging that the operation of the Fresh Kills Landfill constitutes a nuisance. Since 1979 various orders and consent orders have been entered, and consequently New York City has undertaken certain measures to prevent the pollution of the vicinity. However, the intended full enclosure system for the barge unloading area has not been constructed pursuant to a court order. The pollution of the vicinity continues at present while Woodbridge conducts discovery proceedings to determine why New York City has failed to construct the enclosure system.

On October 17, the Attorney General of New Jersey and the New Jersey Department of Environmental Protection filed a motion to intervene as plaintiffs in this action, asserting claims that New York City is maintaining a nuisance. They invoked jurisdiction under diversity and under the citizen's suit provisions of both the Clean Water Act, 33 U.S.C. Section 1365

and of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6972. Their motion was granted on November 24, 1986.

Now, GAG seeks leave to intervene as a plaintiff in this matter. The proposed complaint in intervention invokes the court's jurisdiction under the citizen's suit provision of the Clean Water Act, 33 U.S.C. Section 1365, and also invokes the court's jurisdiction under the citizen's suit provision of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6972.

## ARGUMENT

### POINT I

APPLICANT FOR INTERVENTION IS ENTITLED TO INTERVENE AS OF RIGHT UNDER RULE 24 (a) (2) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

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The governing standards for intervention as of right are set forth in Rule (a) (2) of the Federal Rules of Civil Procedure. This rule provides that:

Upon timely motion anyone shall be permitted to intervene in an action....(2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

The United States Court of Appeals for the Third Circuit has enunciated a three part test for determining whether the requirements of Rule 24 (a) (2) have been met. For the District Court to grant intervention under this rule, applicants must show "first, that they had a sufficient interest in the matter, and that their interest was not adequately represented by the existing parties; and third, that their application was timely." Commonwealth of Pennsylvania v. Rizzo, 530 F. 2d 501,504 (3d Cir. 1976), cert. den. sub. nom. Fire Officers Union v. Pennsylvania, 426 U.S. 921 (1976). As set forth below, applicants in this case

clearly satisfy these standards and should be permitted to intervene as of right in this action.

- A. Applicants for intervention have a sufficient interest in the matter involved in this action, and their interest will be affected by disposition of this action

GAG has an interest in this action sufficient to permit intervention as of right pursuant to Rule 24 (a) (2). The interest test is not intended to narrowly limit intervention. Instead it should be applied as a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process". Nuesse v. Camp 385 F. 2d 694,700 (D.C. CIR 1967). The test is intended to encourage intervention where sufficient interest exists and prejudice or delay would not result.

The interest of GAG arises from the interest this group represents the very public that resides in the vicinity of the Fresh Kills Landfill on Staten Island. The people that live literally next door to the Landfill have a very strong interest in this action, and will be keenly affected, perhaps adversely, by the outcome of the action.

The fate of the Landfill will acutely affect the quality of living, the health, and the property values of those individuals on Staten Island who live in close proximity to the Landfill. E

even those people who live more distant from the Landfill will be affected, since (1) the leachate, poisonous liquids that drain from and run-off such waste disposal sites, permeates the land and groundwater for miles, (2) the odors that emanate from the Landfill can carry for miles, (3) the Landfill is polluting the waterways around Staten Island, (4) the proposed 500 foot tall "mountain" will be visible for miles. This mountain will not be covered completely until well into the next century, at an unspecified date. Until then, it is not merely a landfill, but rather an enormous mountain of waste that creates a health hazard to the public, pollutes the land and nearby waterways and offends the senses and sensibilities of many residents of Staten Island as well as the neighboring state of New Jersey.

Indeed, Staten Island residents have an interest even greater than that of the Township of Woodbridge and the State of New Jersey, since the Landfill is on Staten Island.

Moreover, the provisions of the Clean Water Act governing citizens suits and intervention in such suits make clear that Congress has recognized that "any person" has an interest in participating in such a citizen suit. 33 U.S.C. Section 1365 (a) and (g). Indeed, since this is an environmental case, the interest requirement "should be viewed as an inclusionary rather than an exclusionary device." United States v. Reserve Mining Company, 56 F.R.D. 408, 413, (Dist. Minn 1972). Environmental cases often involve many interests and factors. In such cases,



the purpose of the interest test of Rule 24(a) (2) is best served with "other than literal application." Nuesse v. Camp, supra 561 F. 2d at 700; Natural Resources Defense Council v. Costle, 561 F. 2d 904, 910 (D.C. Cir. 1977); County of Fresno v. Andrus, 622 F. 436, 438 (9th Cir. 1980); United States v. Reserve Mining Company, supra, 56 F.R.D. at 413. The court can best effectuate the purpose of Rule 24 (a) (2) by permitting intervention by GAG in this action.

It is abundantly clear that the interests of applicants for intervention could be affected by this litigation. The future of the Fresh Kills Landfill and the extent to which New York City will be compelled to implement measures to control the pollution and other nuisances created by the Landfill will be at the center of this action. The outcome of the litigation will thus directly affect those people who neighbor closely and even distantly the Landfill, i.e. the residents of Staten Island as well as those in New Jersey. As a representative of concerned residents of Staten Island, GAG clearly has an interest in this action that will be affected and perhaps even impaired if it is not allowed to intervene as a plaintiff.

B.

The interests of applicant for intervention in the matter involved in this action will not be adequately represented by the existing parties.

In the Third Circuit, applicants must also show that their interest is not adequately represented by the existing parties in order to intervene as of right under Rule 24 (a)(2). Commonwealth of Pennsylvania v. Rizzo, supra, 530 F.2d at 504. The overall burden of the establishing inadequate representation "should be treated as minimal." Trobovich v. United Mine Workers, 404 U.S. 528, 538 n.10 (1972), cited in Commonwealth of Pennsylvania v. Rizzo, supra, 530 F. 2d at 505. An applicant need only show that its interests, "though similar to those of an existing party, are nevertheless sufficiently different that the representative cannot give the applicants' interest proper attention." Hoots v. Commonwealth of Pennsylvania, 672 F. 2d 1133, 1135 (3d Cir. 1982); Schultz v. United Sheet Workers of America, 312 F.Supp. 538, 539 (W.D.P.A. 1970). Accordingly, even where there exists a "tactical similarity...of legal contentions" between the would be intervenor and an existing party, this "does not assure adequacy of representation" or preclude an intervenor from the opportunity to appear on its own behalf. Nuesse v. Camp, supra, 385 F. 2d at 703.

In the present case, clearly the interests of GAG as representative of Staten Island, are different from and broader than those of the Township of Woodbridge in the State of New Jersey, and applicant's interests will not be adequately

represented by the existing plaintiffs. While the existing plaintiffs are concerned about the pollution that spills from the Landfill and drifts in the water to pollute New Jersey waterways and beaches and are seeking to implement measures to abate the waterborne pollution, GAG is concerned about the Landfill site itself, as an area on Staten Island, and the long term effect of the Landfill on neighboring areas and distant areas of Staten Island and on its beaches and waterways. Those measures which may achieve the existing plaintiffs objectives may be adverse to applicant. It is likely that in their zeal to protect New Jersey's waterways, existing plaintiffs may compromise GAG's land based interests. There is currently no party in the case who can fairly and objectively protect GAG's rights.

The existing plaintiff's wish to prevent the spillage of waste and garbage and the resultant pollution of New Jersey and its waterways. GAG also desires an abatement of this spillage, but the applicants desire more. GAG wishes to modify the management of the Landfill and to modify the Landfill itself, in order to safeguard the environment of Staten Island and its waterways and to safeguard the quality of human life on Staten Island.

In short, the interests of the existing plaintiffs are those of Woodbridge and New Jersey. Accordingly, existing parties do not adequately represent the interests of applicants for intervention.

C. The application for intervention is timely.

In determining whether a motion to intervene as of right pursuant to Rule 24(a)(2) is timely, the Third Circuit considers how far the proceedings have progressed when intervention is sought and the prejudice which any resultant delay might cause to the other parties. Commonwealth of Pennsylvania v. Rizzo, supra, 530 F.2d at 506; Bolden v. Pennsylvania State Police, 578 F.2d 912, 926 (3rd Cir. 1978); Moltan v. Temple University, 93 F.R.D. 585, 587 (Ed. Pa. 1982). Moreover, courts have generally applied a more lenient standard of timeliness if the applicant for intervention qualifies to intervene as of right, rather than under the permissive rule. Stalworth v. Monsanto Company, 558 F.2d 257 (5th Cir. 1977); see also McDonald v. E.J. Lavino, 430 F.2d 1065, 1073 (5th Cir. 1970); Diaz v. Southern Drilling Corp., 427 F.2d 1118, 1126 (5th Cir. 1970), cert. den. sub nom., Trefina A.G. v. United States, 400 U.S. 878 (1970). Timeliness is determined from all the circumstances." United States v. United States Steel Corporation 548 F.2d 1232 (5th Cir. 1977), quoting, NAACP v. New York, supra, 413 U.S. 345, 366 (1973).

Under the standard set forth above, the present application for intervention is timely. Although the action was filed some time ago, and various orders and consent orders have been entered, the matter is far from resolved. It is undisputed that New York City has failed to comply with a key provision of this

court's orders, i.e. construction of a wholly enclosed barge unloading system by December 31, 1985. The court has declined grant New York City's application to modify this order, and has indicated that Woodbridge may conduct discovery concerning the failure of New York City to comply with this order. Thus, the litigation is currently in the discovery stage. Additionally, State Attorney General and New Jersey DEP successfully moved to intervene as Plaintiffs. Accordingly, granting the motion to intervene will not substantially delay this action or prejudice the rights of any existing party.

GAG has acted promptly to intervene after learning of the abandonment of the enclosed barge loading system and of the court's granting the State Attorney General of New Jersey and DEP's intervenor motion. In short, if this application is "determined from all the circumstances, "United States v. United States Steel Corp., supra, it is clear that the application is timely.

In summary, applications for intervention have fulfilled requirements of Fed. R. Civ. P. 24(a) (2). Applicants have demonstrated that they have an interest in the matter which is the subject of this litigation, that this interest may be impaired by the outcome of this litigation, that this interest will not be adequately represented by existing parties to this action, and that this application is timely. Therefore, this court should grant intervention as of right pursuant to Fed. R. Civ. P. 24(a)(2).

POINT II

THE APPLICANTS FOR INTERVENTION SHOULD BE GRANTED PERMISSIVE INTERVENTION UNDER RULE 24(b) (2) OF THE FEDERAL RULES OF CIVIL PROCEDURE, BECAUSE THEIR CLAIMS PRESENT THE REQUISITE COMMON QUESTIONS OF LAW OR FACT AND INTERVENTION WILL NOT UNDULY DELAY OR PREJUDICE THE RIGHTS OF THE PARTIES IN THE ACTION.

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The consideration given in support of intervention as of right also militate in favor of permissive intervention under Rule 24 (a)(2). This rule reads, in relevant part:

Upon timely application anyone may be permitted to intervene in an action....(2) when an applicant's claim or defense and the main action have a question of law or fact in common....In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

The claims set forth in applicant's proposed complaint, which is annexed to the moving papers, relate to pollution of the land and water resources of the Borough of Staten Island resulting from New York City's Fresh Kill Landfill in Staten Island. Applicant for intervention alleges that the landfill is operated



in a manner which constitutes a nuisance. Applicant also alleges that the landfill is operated in a manner which results in the discharge of pollutants into the waters between Staten Island New Jersey without a permit in violation of the Clean Water Act 33 U.S.C. Section 1251 et seq., and remediable pursuant to the citizens' suit provision of that Act, 33 U.S.C. 1365. In addition, applicants allege that New York City maintains its landfill in a manner which contributes to an imminent and substantial endangerment to the health and environment of Staten Island, in contravention of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., and remediable pursuant to the citizens suit provision of that statute, 42 U.S.C. Section 6972. These claims clearly involve questions of law and fact in common with those already presented in this case. In addition, permissive intervention would not delay the action for the reasons set forth in conjunction with the argument in Point I concerning intervention as of right.

Therefore, this is an appropriate case for the exercise of the court's discretion to permit permissive intervention, because the two criteria established by Fed. R. Civ. P. 24(b)(2)-a common question of law of fact and lack of prejudice to the parties are both abundantly satisfied here.

Finally, the very strength of the applicant's argument in support of their motion for intervention as of right which is

discussed above, also favors permissive intervention. Since GAG represents persons whose interests will be affected equally or to a greater degree than those of existing plaintiffs by the outcome of the litigation, and since no other groups or officials have stepped forth to champion the rights and interests of the residents of Staten Island, it is appropriate for the court to grant permissive intervention in this action.

CONCLUSION

For the above reasons, therefore, this court should grant the applicant's motion to intervene as plaintiff in this action; either as of right, pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure or permissively, pursuant to Rule 24(b)(2) of the Federal Rules of Civil Procedure.

Respectfully submitted,

  
HENRY A. MARTUSCELLO  
Attorney for Applicant  
for Intervention.

STATEMENT BY  
FRANK A. PECCI, CHAIRMAN  
INTERSTATE SANITATION COMMISSION\*

I am Frank A. Pecci, Chairman of the Interstate Sanitation Commission. Last year, in my role as New Jersey Vice Chairman of the Commission, I pointed out that there are five Commissioners from my home state of New Jersey, two of whom are ex-officio members and three of whom are citizen appointees of the Governor and confirmed by the State Senate. (Incidentally, New York and Connecticut have a similar setup.) The Commissioners of the Departments of Environmental Protection and Health are the ex-officio members who have designated statutory representatives to attend meetings and to vote in their absence.

While the Commissioners from New York, New Jersey and Connecticut know that they are representatives of their States to the Commission, the Commission, itself, is mandated to and must operate from a regional perspective and take a view of what is environmentally best for the entire area.

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\* Presented before the New York State Assembly Standing Committee on Corporations, Authorities and Commissions; New York State Assembly Subcommittee on Interstate Cooperation; New York State Assembly Standing Committee on Environmental Conservation; New Jersey State Senate Special Committee to Study Coastal and Ocean Pollution; Middletown, New Jersey; September 29, 1987.

In this vein, as we would expect, my Commission received an invitation at the beginning of this month, to testify at today's hearing on issues related to "water pollution" and "interstate efforts to protect the ocean environment and the States' coastal resources through increased surveillance and enforcement."

Then, a little more than a week ago, my Commission received a second invitation from New York, requesting information on my Commission's working relationships with environmental agencies as well as with county and municipal agencies. We were also asked to discuss our current budget allocations.

Frankly, I am puzzled.

We all know that both our States have severe environmental problems to address -- and to remedy. Let's focus on these problems that are clearly affecting communities on both sides of the Hudson River. I would not care to witness the disintegration of this year's hearing into a repetition of last year's hearing when the ISC, itself, became the subject of discussion.

In that context, let's proceed with the real -- and vital -- business at hand.

For example, I am quite pleased with the progress my Commission will be reporting to you through our Director and Chief Engineer, Dr. Alan Mytelka. This, with only the small

incremental funding awarded us.

I do want to note that the ISC stands ready to shoulder any additional responsibilities the legislature enacts. But, as both a businessman and a citizen appointee, I must sing that same old song by suggesting that an additional work load, without proper funding, will accomplish nothing.

In this respect, I would expect the full support of all Commissioners -- including the backing of ex-officio Commissioners.

Because environmental improvements -- such as the upgrading of our waterways in our District -- are within reach -- now more than ever, today's times call for our concerted efforts in testing, monitoring, stringent regulation and enforcement. Let's agree that we all agree on these vital points.

I also wanted to mention that I've asked ISC Director, Dr. Mytelka, to remain here all day to respond to any questions about the full activities of the Interstate Sanitation Commission after you've heard the full day's testimony.

Thank you.

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STATEMENT BY  
DR. ALAN I. MYTELKA, Ph.D.,  
DIRECTOR & CHIEF ENGINEER,  
INTERSTATE SANITATION COMMISSION\*

I am Dr. Alan I. Mytelka, Director and Chief Engineer of the Interstate Sanitation Commission.

Our District extends roughly from Sandy Hook on the New Jersey coast to include all of New York Harbor, north on the Hudson to approximately Bear Mountain ... easterly on Long Island Sound to New Haven on the Connecticut side and to Port Jefferson on the North Shore of Long Island. On the South shore, our District extends easterly to the Fire Island Inlet. I should also point out that although Monmouth County, except for the Shoreline along Raritan Bay, is not part of our District, we do have a vital interest in all of the shore waters, as well as all the waterways that affect our District.

We have been looking forward to continuing the dialogue initiated last year, though, of course, in the interim, I've testified before and have spoken to many of you who are serving

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\* Presented before the New York State Assembly Standing Committee on Corporations, Authorities and Commissions; New York State Assembly Subcommittee on Interstate Cooperation; New York State Assembly Standing Committee on Environmental Conservation; New Jersey State Senate Special Committee to Study Coastal and Ocean Pollution; Middletown, New Jersey; September 29, 1987.

on various legislative bodies.

In the interest of time, I will address my answers directly to the questions posed in the invitations from both your States.

In reference to the uniform manifesting of hospital wastes, in my testimony last month before the New Jersey Senate Committee to Study Coastal and Ocean Pollution, I discussed -- and advocated -- the proposal that a manifest system -- similar to the one for hazardous wastes -- be introduced for hospital wastes. We've suggested that jurisdiction should be no problem. Each state can authorize the agency of its choice to handle the manifest. Such a system can only serve to protect legitimate waste haulers and pinpoint the cheaters. It can all be as simple as Parcel Post Delivery ... and, I might add, as important as the environment, itself. New York State has already passed legislation.

Since we last discussed the Fresh Kills Landfill, some improvements have been instituted but the problem remains. The ISC finds the situation at the Fresh Kills Landfill -- still intolerable. Our on-the-spot inspections reveal clear-cut evidence that garbage continues to spill into the waterways.

As you may be aware, the Commission, along with the municipality of Woodbridge and the New Jersey Attorney General's

office, has filed suit against the City of New York and the City, in turn, has petitioned the federal District Court for relief from building a covered unloading facility. The Court has postponed oral hearings on the matter until October 26th.

To review, in addition to demanding that the covered unloading facility be erected, we are asking the following:

- \* that the City pay full costs for hiring an independent consulting engineer to supervise construction of the facility;
- \* that the City be required to submit a schedule of compliance;
- \* that the City institute interim pollution abatement measures;
- \* that the City be fined \$10,000 for each day it violates the milestone dates in the compliance schedule;
- \* and that the City Commissioner of the Department of Sanitation be personally held in Contempt of Court for noncompliance.

The Commission believes that strong and decisive action is



needed. Keep in mind that the case has been in the courts since 1979. The ISC joined in the suit last October after the failure of New York City to fully comply with previous Court Orders.

The Commission is also participating in the Brooklyn Navy Yard Resource Recovery Hearings in which the City has agreed to build a covered unloading facility. We feel the citizens of Staten Island and New Jersey are entitled to the same protection. And, as an additional benefit, the covered shed would eliminate the escape of toxic ash. This would prevent any air pollution from barges unloading ash at the Fresh Kills facility.

As for the surveillance of vessel traffic in coastal waters, as you know, our District is estuarial. Technically, coastal waters extend only to the three mile limit. However, with the addition of a workboat, due for delivery in October, we'll have the capacity of in-house, water-borne transportation that will enable us to keep better track of the waterways and indicate who may be dumping. And, I assure you, we will have a loaded camera aboard. Thus, we'll be able to contribute another pair of eyes to the protection of our waterways.

I've been asked to discuss the ISC's mandate with respect to water pollution and offshore coastal pollution. As in the past, the Commission can only call hearings and institute lawsuits for violations within our District. However, it should be noted that

for areas within our jurisdiction, we've recently adopted specific procedures for enforcement hearings to aid the Commission's enforcement actions. The Commission can call for hearings whenever negotiations with individual violators fail to bring about corrections that meet with our environmental standards. And, as you know, our staff maintains its own sampling and laboratory facilities ... so we always feel confident of our data.

This brings us to the question of our working relationships with other agencies. Although, frankly, we have some problems, on the whole, I would say our relationships are satisfactory. Equally important, we know we are rendering a genuine service ...

-- For the New York DEC and others, our inspectors are conducting samplings at treatment plants.

-- In cooperation with the New Jersey DEP and the New York State DEC shellfishing specialists, we're sampling the Raritan Bay and the Atlantic Ocean off the Rockaways to support the goal of making both the New Jersey and New York waters safe for year-round shellfishing.

-- At the request of the New Jersey DEP, Commission personnel are sampling the Kills to measure and identify toxics in the waterways. This is information the DEP needs by

February.

- In addition, data the ISC generates is being utilized by the NYS DEC in their enforcement program.
  
- The New York State Department of State regularly notifies us of waterfront development plans that fall within their purview. We are cooperating by examining such plans to prevent overbuilding and to determine compliance with Commission Regulations.
  
- With regard to the U.S. EPA, we are active participants in the Long Island Sound Study which they have funded. We also expect to play an equally active role in the upcoming NY-NJ Harbor Estuary Conference. In addition, we are parties with the U.S. EPA in the pollution litigation against seven North Jersey municipalities. Our technical assistance, as well as our legal expertise in this area, has proven especially valuable.

As for our working relationships with county and municipal agencies, this is ... awkward. After all, we are a regulatory agency. However, the way in which we approach our role is, I believe, in an open-minded, nonvindictive manner.

For example, in our litigation against the Hudson County communities, while we are adamant in securing the needed improvements in as short a time as possible, we understand the

counties' problems and the difficulties in obtaining funds. We structure our position in such a way, so that residents and businesses are not unduly penalized.

To cite another instance of our working relationships on a local level, last week I testified before the New York City Council Committee on Environmental Protection. Their treatment plants are severely undermanned and underfunded. In a case such as this, besides enforcement, we believe the Commission's role is to help City officials focus on the need for funding. In this instance, the key to better water quality is the education of the governing body so it can better understand that the proper operation and maintenance of sewage treatment plants is a vital necessity to better water quality.

And finally, to conclude my comments on the ISC's working relationships, it's worth noting that the Commission is coordinating a meeting of state and municipal agencies within the tri-state area, the U.S. EPA and environmental health officials to upgrade the early warning system on air pollution, specifically as it relates to ozone. I'd hope that a meeting such as this can serve as an example of how agencies and municipalities can work in harmony for the betterment of our environment.

And what does all this cost?

The total budget of the ISC is approximately 1.4 million

dollars.

I am pleased to tell you that this year New York and New Jersey have provided us with equal funding. However, I am forced to note that our present funding is less than requested and less than needed.

At present, 20 to 25 percent of the ISC's entire budget goes toward direct water pollution enforcement activities. This covers direct litigation as well as implementing our administrative hearing process. Not included is our continuing schedule of sampling of waters along our shores and in treatment plants which may lead to litigation.

Before I conclude my comments on the budget, I'd like to jump ahead for a moment to the final question posed to us: Should the powers of the ISC on water quality enforcement be increased? Perhaps more to the point might be ... Should the activities of the ISC be increased with regard to water quality improvement? My answer is "YES".

We should be doing more monitoring.

We should be doing more sampling.

We should be able to be more active in enforcement.

But, to accomplish this -- we need additional funding.

So, to conclude my response to the question of budget, my answer is that much needed additional funding could be put to

effective and specific use. This would come at a time when the residents of our three States are demanding improvement of our waterways.

Should the ISC's powers on water quality enforcement be increased? We've pondered this long and hard. The one power we don't have is the power to assess fines. Although the issuing of fines is a severe and delicate matter, it is certainly a persuasive incentive. And, clearly, the lack of such power is detrimental to our efforts. Certainly it would be a useful adjunct to our current efforts.

How would this be implemented? That, of course, would be up to the legislatures to decide. And if such a concept were acceptable, we would look forward to meeting with you to discuss how such a power could be effectively implemented.

Your interest in the Interstate Sanitation Commission is appreciated. I'll conclude by expressing the thought we use as a guideline in all our enforcement activities: we try to do what's fair.

I thank you.

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New Jersey State Library

STATEMENT BY  
JOHN P. CLARK, VICE CHAIRMAN  
FROM CONNECTICUT  
OF THE  
INTERSTATE SANITATION COMMISSION\*

I am John P. Clark, Vice Chairman from Connecticut on the Interstate Sanitation Commission. I have been a member of the Commission on behalf of my State for 12 years.

Although this is a bi-state hearing focusing on coastal environmental problems in the New York-New Jersey Region, I did have certain thoughts that I wanted to reaffirm. These are feelings that I expressed last year at the joint hearing when I was serving as Chairman of the ISC.

As you are aware, back in the 1930s, for all intents and purposes there was no federal law controlling discharges into the environment. And there was no effective mechanism to fashion a meaningful remedy to control unbridled pollution.

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\* Presented before the New York State Assembly Standing Committee on Corporations, Authorities and Commissions; New York State Assembly Subcommittee on Interstate Cooperation; New York State Assembly Standing Committee on Environmental Conservation; New Jersey State Senate Special Committee to Study Coastal and Ocean Pollution; Middletown, New Jersey; September 29, 1987.

It became clear to the legislators of New York, New Jersey and Connecticut that any lasting solution to the problem would have to come from interstate efforts in the Region.

With this in mind, the Commission was designed to represent the views of all three States in acting, independent of narrow local interests -- and pressures -- to improve the environment of the Region. An environment, I might add, that was rapidly deteriorating. The Commission has fulfilled that mandate for more than 50 years.

I also wanted it made clear that Connecticut wholeheartedly supports your efforts to find solutions to the pollution problems affecting the coastline between your States... just as New York and New Jersey support Connecticut's efforts to clean up the Long Island Sound.

After all, as recent events have dramatized, pollution knows no boundaries. Very simply, we're on the same side; we're all in this battle together.

A spirit of cooperation, with prejudice toward none, has been the guideline for operation of the Interstate Sanitation Commission in the past, today and in the vital



years to come -- years that can play a key role in helping us turn the corner to a better environment.

Thank you.

STATEMENT BY  
ANTHONY T. VACCARELLO, VICE CHAIRMAN  
FROM NEW YORK  
INTERSTATE SANITATION COMMISSION

I am Anthony T. Vaccarello, Vice Chairman of the Interstate Sanitation Commission. I've represented New York on the Commission for six years.

I must say that I've looked forward to this hearing for some time for I'm especially proud of the Commission's recent accomplishments as well as our full menu of ongoing activities. To take one example, it is a source of great satisfaction to us that we've achieved our goal of year-round disinfection, opening up the potential of Raritan Bay and the areas off the Rockaways for shellfishing.

Right now we're engaged in extensive litigation: against seven communities in North Jersey, as well as a contempt action in Federal Court, against the City of New York in the Staten Island-Fresh Kills landfill case. In addition, we are taking an

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active role in the Brooklyn Navy yard Resource Recovery hearings. Our Director, Dr. Mytelka, will fill you in on the details and specifically how they apply to our mandate and what I believe should be the key matter for our consideration today -- the protection of our coastal waters.

In the time I've been on the Commission, my colleagues and I have helped implement vast changes in its operations. We are taking a dynamic stance -- not only in terms of active enforcement -- but in our regional support services to aid the environment such as monitoring and sampling. I think of us as an environmental body that is lean and hard -- but fair.

I believe our accomplishments are all the more remarkable when one considers the fact that we've often been opposed by the Federal government and factions within individual states.

The ISC is determined to fulfill its mandate in every area -- sampling, monitoring, regulation and enforcement. And I underline what our Chairman, Frank Pecci, has suggested: we stand ready to assume any additional responsibilities in water pollution the legislature may assign us. But because we are an agency of just 25 people, I am forced to add that adequate funding would be a "must."

I know that with your support, we can all make great strides forward -- and together -- in the cleaning up of our beaches -- as well as in the purification of our waterways.

I'd hope that any negative attitudes towards funding our efforts would be a thing of the past.

Thank you.

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Since passage of the Clean Water Act in 1972, the City has spent approximately \$2 billion on construction of the new North River and Red Hook Water Pollution Control Plants and upgrading the 11 existing treatment plants. We expect to spend roughly \$2 billion over the next ten years on projects such as completion of the upgrading of the Owl's Head and Coney Island Treatment Plants, and the Oakwood Beach Interceptor Project in Tottenville, Staten Island. Our projected \$2 billion costs over the next ten years include projects to abate Combined Sewer Overflows. By the mid 1990's all 14 of the City's treatment plants will have been upgraded to full secondary treatment.

The second element in our cleaner waters program is a commitment to ending combined sewer overflows. Our CSO-abatement effort is two-pronged: first, we are already addressing trouble spots such as the canals, streams and other tributaries that have become stagnant and shallow; second, we are moving to improve the open waters. At trouble spots such as the Gowanus Canal and Flushing Bay and Creek, we have already begun improvements. Facilities planning is underway at another trouble spot, the Paedergat Basin. We are studying the open-water problem through a Citywide-CSO study, Phase I of which was recently completed. Our CSO-abatement program is a \$500 million commitment that will extend far into the future.

The third and final part of our cleaner waters program is transferring our sludge-disposal operations to the 106-mile site. Together with EPA we established a November 1987 goal for disposing of all of our sewage sludge at the 106-mile site. In spite of contract litigation, Congressional hearings, problems dealing with a barge-construction firm in Singapore, and a \$100 million cost to the City, we will meet this goal.

We are convinced that all of the City's efforts have been paying off: The annual New York Harbor Survey shows higher dissolved oxygen levels, and lower coliform levels. Those improvements are a direct result of North River coming on line.

The Red Hook Plant's opening will also have a positive effect. We have every reason to believe that in the not-too-distant future we will, once again, be able to make wider recreational use of the waters around New York City.

What follows is a more detailed discussion of the great strides that New York City has made in improving the quality of our shared waters.

**Briefing on the Circulation of the New York Bight  
for the  
State of New York and State of New Jersey**

My name is Catherine Warsh. I am an oceanographer with the National Oceanic and Atmospheric Administration (NOAA), Office of Oceanography and Marine Assessment, Strategic Assessment Branch. I have worked as a field oceanographer and Project Manager for Water Quality studies in the Middle Atlantic Bight from 1980 through 1986. The data we collected were used to study nutrient enrichment (eutrophication) and levels of dissolved oxygen in bottom waters of the continental shelf and the nearshore region, particularly the New York Bight Apex and New Jersey Coastal area. Figure 1 shows the area of data collection. These data were used to monitor water quality conditions and to be used for modelling efforts in understanding near-shore circulation and dispersion of particles emanating from the Hudson/Raritan Estuary or from ocean dumping.

I am here today to address the physical oceanography, particularly the circulation patterns in the New York Bight Apex. First let me say that there is no easy answer. Factors that influence the circulation of the New York Bight Apex include the large scale oceanic differences in sea level pressure, density gradients (derived from differences in temperature and salinity), fresh water outflow from the Hudson/Raritan Estuary, bottom friction, bathymetry (complicated due to the orientation of the coastline and Hudson Canyon), and the winds (their direction, persistence, and speed).

Winds over the Middle Atlantic Bight during winter are dominated by the Icelandic low (cyclonic) yielding a predominantly northwesterly wind field. During the summer the wind field is dominated by the Bermuda Subtropical High (anticyclonic) yielding southwesterly winds. Superimposed on the dominant wind fields are local conditions where

winds may shift due to weak frontal zones, sea breezes, or storm systems moving through the area.

Floatable materials tend to move with surface water whose transport is strongly influenced by winds. Water at different depths will move in different directions in response to a given surface wind. A wind that transports surface water offshore will have an onshore component at depth; a wind that moves water onshore at the surface may move water offshore at depth. Hence, particles at different depths will move with that layer. In June 1976 large quantities of floatable materials were washed ashore on Long Island beaches. In response to this, a study conducted by the NOAA MESA Project concluded that "persistent southerly wind driven transport was responsible for the stranding of the floatables." Three questions they considered in analyzing the problem and are applicable here are:

1. What is the normal wind pattern over the Bight preceding and during the episode?
2. What was the departure from normal, and how significant was this departure?
3. Can we expect to see it repeated? If so, how well can we predict the probability of recurrences?

The Hudson River plays a major role in the biology and physics of the New York Bight Apex. It has an annual freshwater discharge of  $750 \text{ m}^3/\text{s}$  ( $26,483 \text{ ft}^3/\text{s}$ ) of which the New York urban area accounts for 30%. The plume is a surface feature which locally strengthens stratification. During spring the New York Bight waters may be dominated by the Hudson River plume due to the amount of freshwater discharge. During high discharge periods, the Hudson River plume is generally parallel to the New Jersey coast due to a southwest deflection caused by the rotation of the earth (Coriolis effect) and shelf currents. Wind mixing due to storms can rapidly and completely mix the entire water column; re-establishment of the plume takes approximately 2 days. During periods of low discharge (summer), location of the plume becomes highly variable and strongly wind-influenced. The amount of freshwater that is retained in the Apex varies considerably as a function of circulation.



For example, southwest winds will cause a diffuse eastward-moving plume with high freshwater retention in the Apex. On the other hand, northeast winds will cause a well defined plume against the New Jersey shore and a rapid exit from the apex. In the absence of winds, floatable materials discharged with the plume will move with the plume. Depending on the winds floatable materials may or may not move with the plume.

An effort to develop a quantitative predictive and diagnostic model relating nearshore dynamics to the dispersion and fate of discharged wastes has produced some useful results. Dr. Tom Hopkins, while at the Brookhaven National Laboratory, developed a circulation model and a particle dispersion model to be applied specifically to the New York Bight Apex to simulate the distributions of various-sized particles dumped into the New York Bight or introduced from the Hudson/Raritan Estuary. The models tracked approximately 43,000 particles of assigned sinking velocities (including floatables) and initial distribution over 8-day time periods under different assumed wind conditions. The simulations were intended to answer waste management questions concerning best and worst environmental conditions for dumping, dispersal patterns for river-borne effluent, depositional sorting of particles, and retention and dispersal in the density layer (pycnocline). Figures 2 and 3 show the flow field at the surface, 10 meters (33 feet), and 20 meters (66 feet) for southwest winds and northeast winds respectively. Figures 4 and 5 show the distribution of particles emanating from the estuary with the southwest wind case for neutrally buoyant particles (essentially floatables) and sinking particles respectively; figure 6 shows the movement of neutrally buoyant particles for the northeast wind case. In the southwest wind case the neutrally buoyant particles tend to disperse eastward with the plume and grow two dimensionally, while in the sinking case, the particles spread in three dimensions eastward and then south into the Hudson Canyon and eventually intersect the bottom. In the northeast wind case, the plume flows southward along the New Jersey coast. Particles moving with the plume eventually move into subsurface layers and

displaced downstream. In the bottom layers material will also be displaced slightly offshore by the downwelled circulation. These are only two cases. Others are discussed in a paper by Dr. Hopkins entitled "Particle Dispersion in the New York Bight Apex."

Another factor influencing the dispersion of particles in the coastal region is a phenomenon called the "cold pool." This is residual winter water from the Gulf of Maine that eventually flows along the midshelf region of the Middle Atlantic Bight. It is a distinct subsurface feature that is nearly isothermal. Its boundary is defined by the 9° C isotherm. Figure 57 shows a horizontal and vertical diagram of this feature. This feature can move inshore or offshore. Wind events can cause upwelling nearshore, moving the shoreward leading edge of the cold pool toward the beach and sometimes even into the surf zone. It is usually characterized by a strong thermal gradient called a front. This front can act as a mechanism to confine coastal water nearshore, hence, also retain coastal pollutants nearshore. When the front is weak, then coastal waters can disperse seaward given proper wind conditions. The strength of the front can be weakened or strengthened by the upwelling process depending on the speed and persistence of the winds.

I hope that this has provided you with some insight to the complexity of the New York Bight dynamics. Other information is available and in greater detail. To understand the dispersion of floatable materials in surface waters and the water column, I suggest that someone look at the large scale climatological circulation and the daily winds for this summer to determine if there is a correlation between the winds and floatables washing ashore.

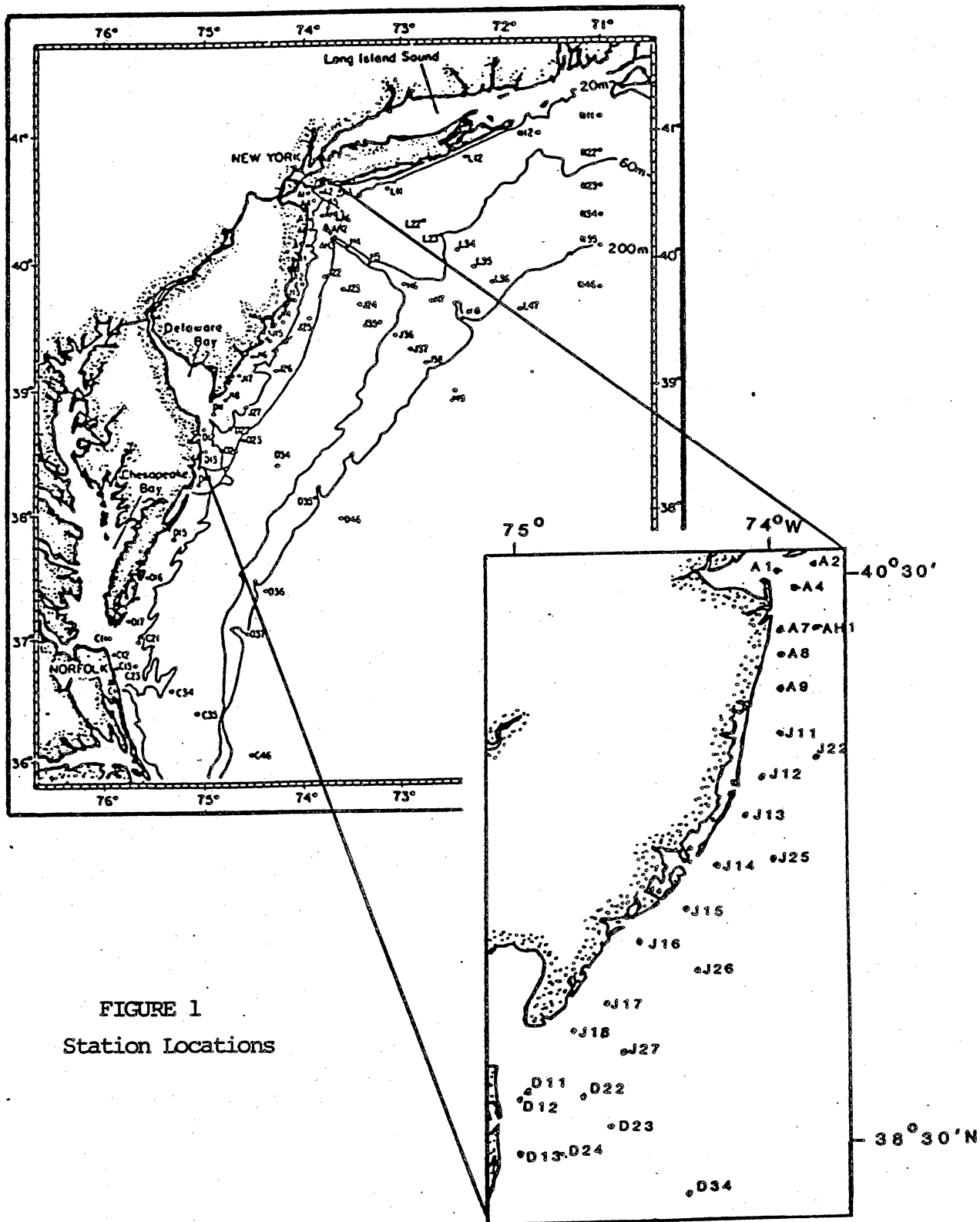


FIGURE 1  
Station Locations

FIGURE 2

Flow field for surface, 10 meters, and 20 meters for southwesterly winds.

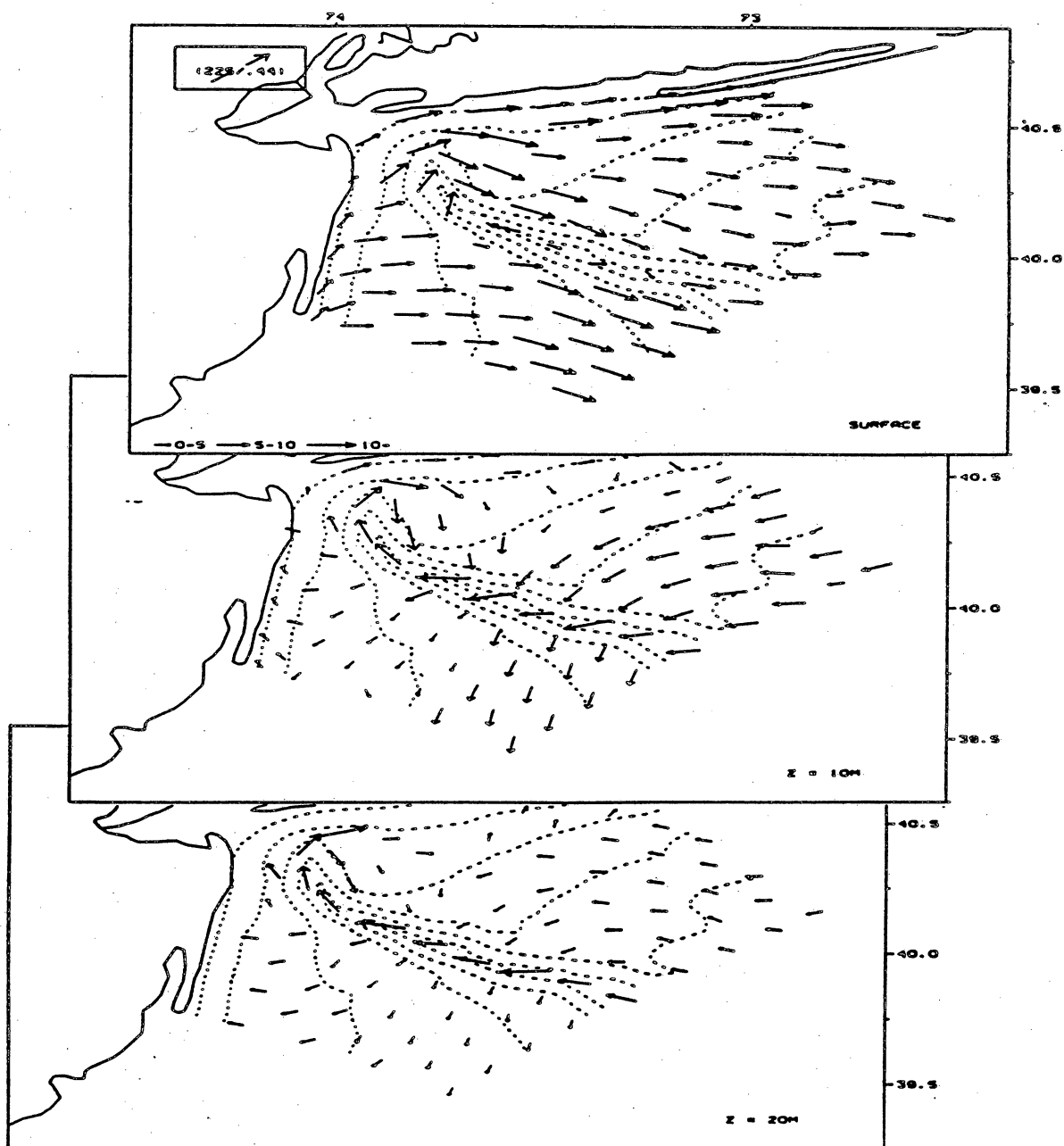


FIGURE 3

Flow field for surface, 10 meters, and 20 meters for northeasterly winds.

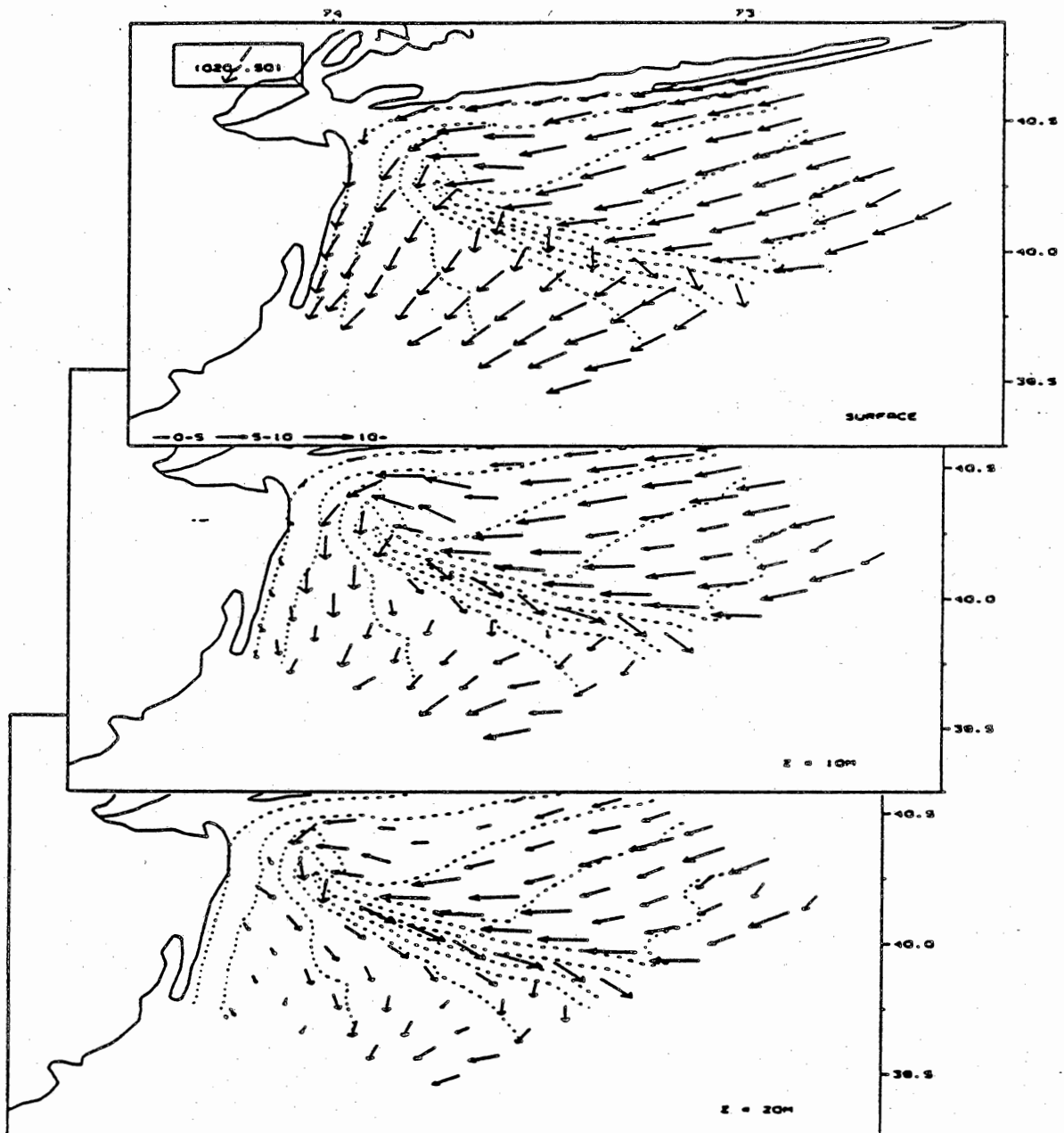
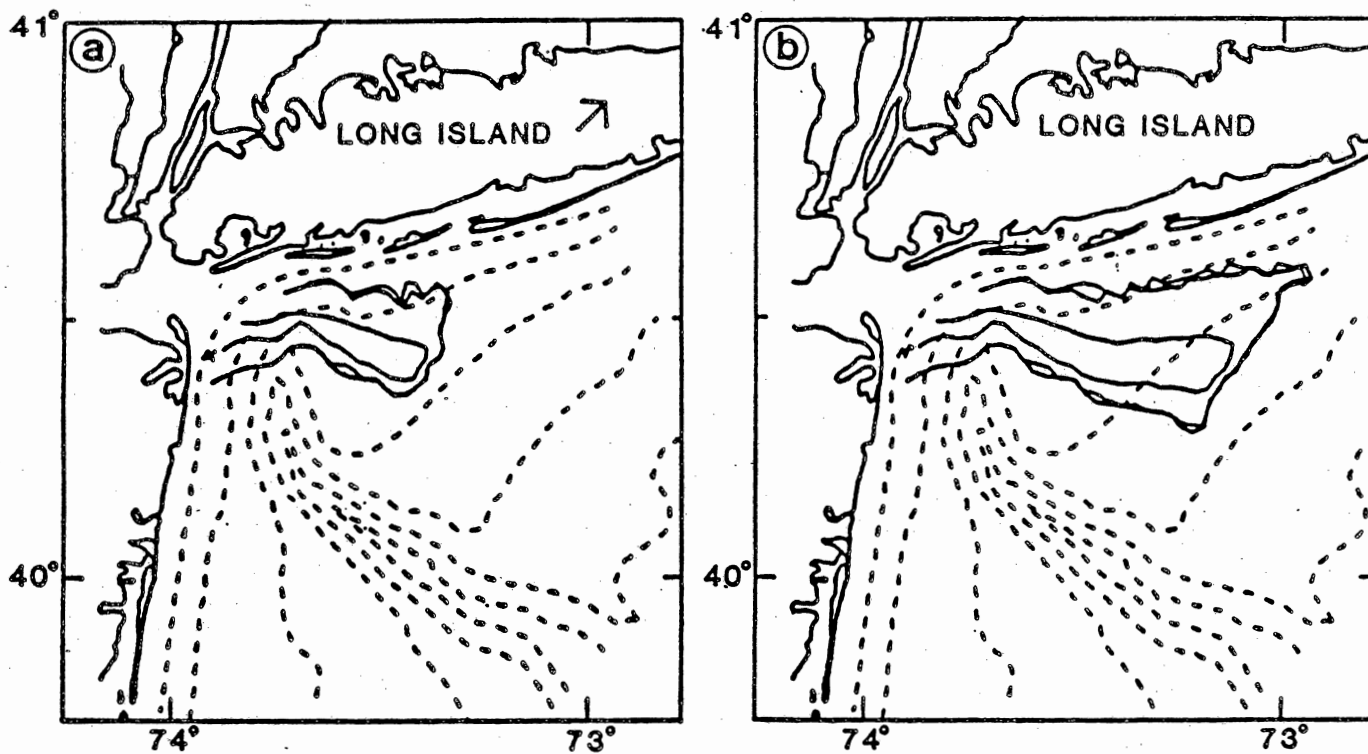
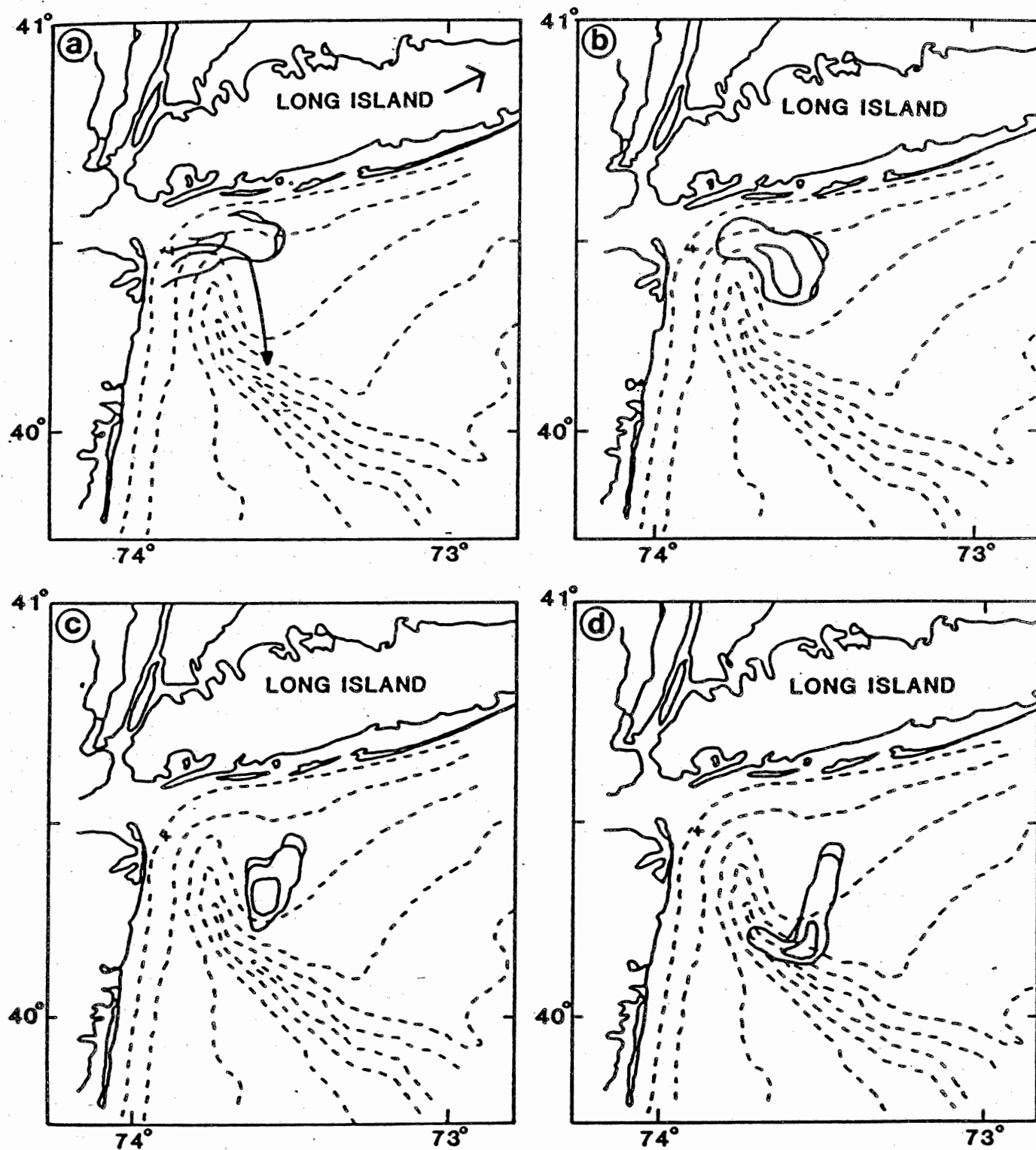


FIGURE 4



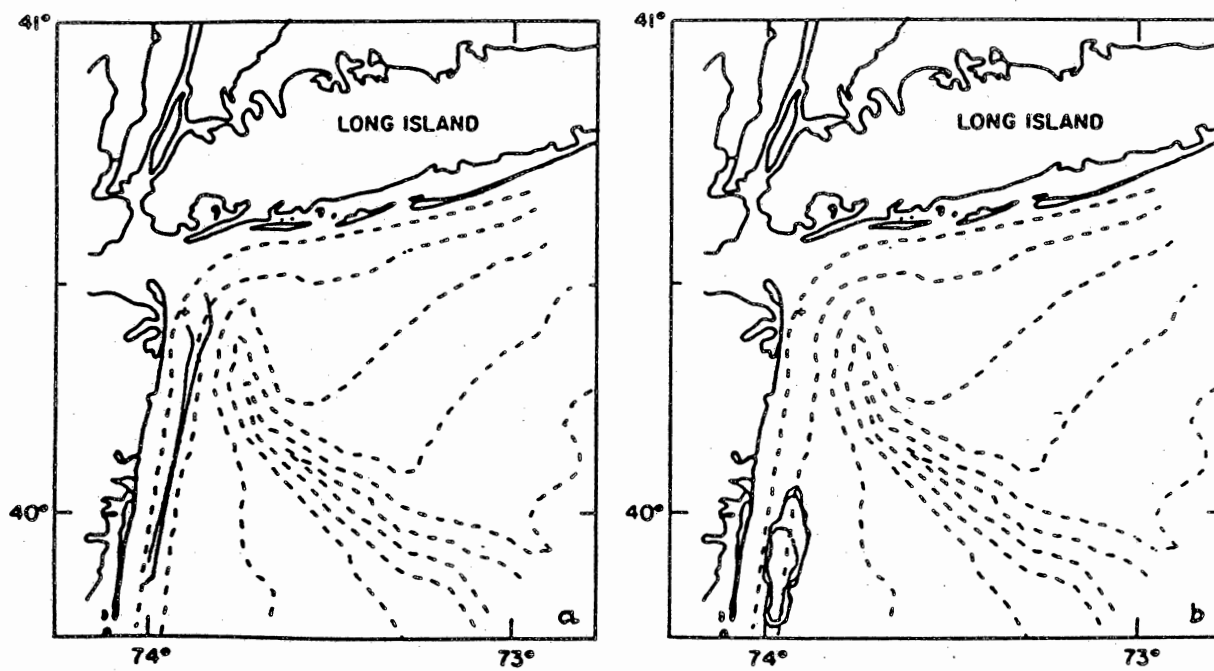
The particle distribution as neutrally buoyant effluent from the Hudson-Raritan estuary for the southwesterly wind case, a) the 0 to 5-m layer after 4 days b) the 0 to 5-m layer after 8 days.

FIGURE 5



The particle distribution as effluent sinking at 3 m/d from the estuary after 8 days for the southwesterly wind case, a) the 0 to 5-m layer, b) the 5 to 10-m layer, c) the 10 to 15-m layer, and d) the 20 to 25-m layer.

FIGURE 6



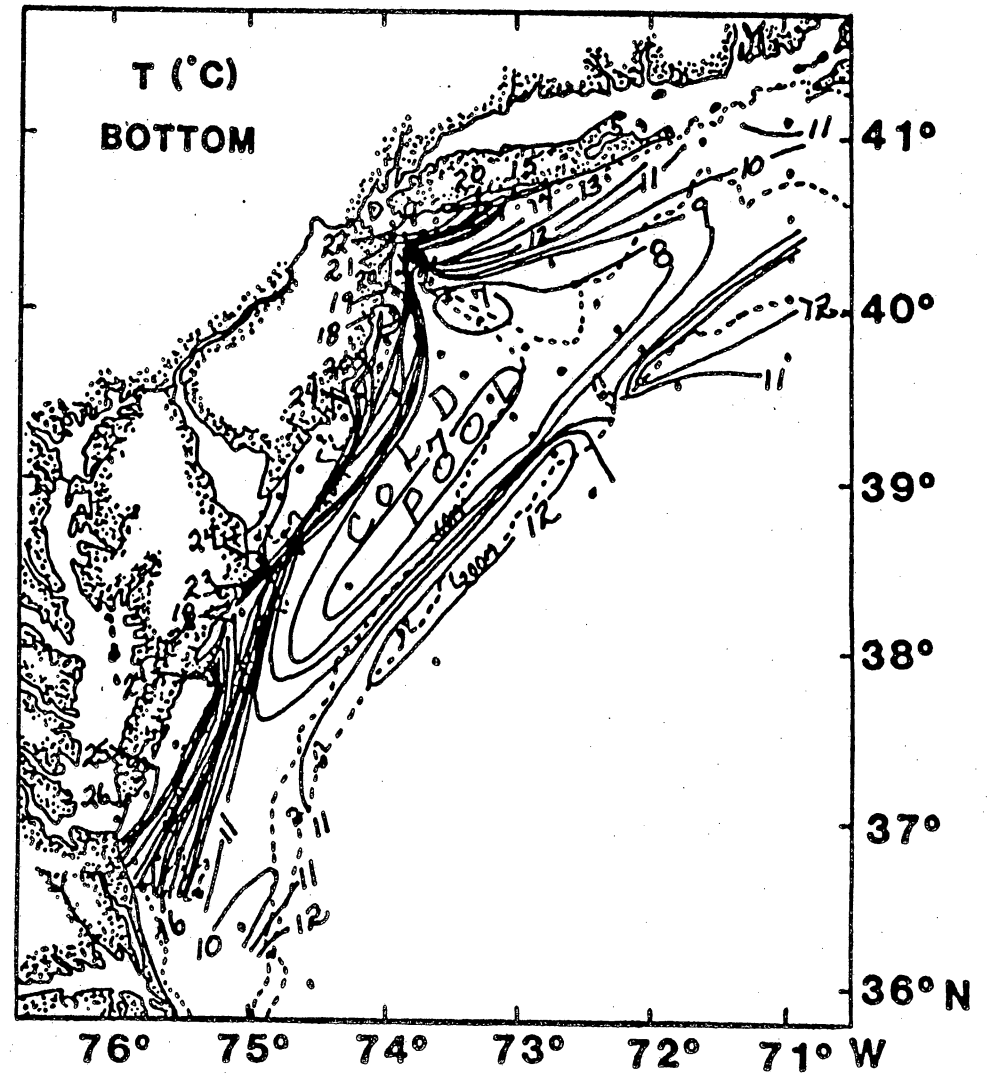
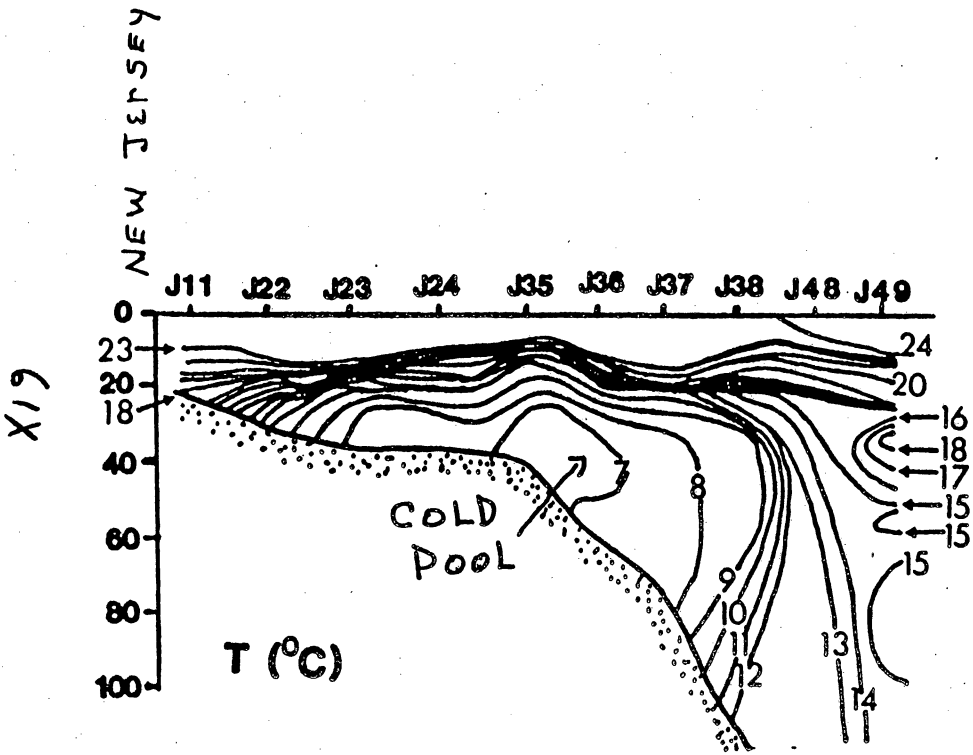
The particle distribution as neutrally buoyant effluent from the estuary after 8 days for the April, NE-wind case: a) 0- to 5-m layer, and b) 15- to 20-m layer.\*



AUGUST 1984

FIGURE 7

Location of Cold Pool



TESTIMONY OF THE  
DEPARTMENT OF THE PUBLIC ADVOCATE  
BEFORE THE SENATE SPECIAL  
COMMITTEE TO STUDY COASTAL  
AND OCEAN POLLUTION  
ON  
OCEAN POLLUTION

Submitted by:  
ALFRED A. SLOCUM  
PUBLIC ADVOCATE FOR THE  
STATE OF NEW JERSEY

BY: SUSAN REMIS SILVER  
Assistant Deputy Public  
Advocate  
CN-850  
TRENTON, NEW JERSEY 08625  
(609) 292-1692

September 29, 1987

Good morning. My name is Susan Remis Silver, and I am appearing on behalf of Alfred Slocum, the Public Advocate of New Jersey. The pollution of our coastal waters is now a critical problem. In fact, the principal finding of a recent Congressional Office of Technology Assessment report is that our "estuaries and coastal waters are in deep trouble around the Nation." ( Fn. 1). Our New Jersey shore has been particularly hard hit this summer. We have experienced the closing of our beaches due to high fecal bacteria counts, and we have witnessed ugly brown tides as well as the washing ashore of hypodermic needles and other hospital wastes, garbage, logs from offshore woodburning barges, and the mysterious deaths of scores of dolphins. Our use of the ocean as a dump has, to put it mildly, stressed the marine ecosystem, and we must now determine what steps are necessary to undo the damage we have caused.

### Medical Wastes

The disposal of medical wastes is one of the least closely monitored areas of the garbage hauling business. Unlike hazardous waste requirements, the regulations for medical wastes simply do not require any formal paper trail from origin to final disposal. The Public Advocate recommends a cradle to grave tracking system for all health-care industry wastes. This manifest system should apply not only to hospitals, but also to nursing homes, clinics, veterinary and other facilities that must dispose of body parts, blood, or pathological and infectious wastes. Without such a tracking system, unscrupulous haulers have a tremendous financial incentive to charge hospitals for the cost of proper disposal, and then improperly dump their medical wastes in a landfill or directly into our ocean. However, we can insert

accountability into the medical disposal business by requiring health-care facilities and medical waste haulers to maintain a manifest of all waste generated and disposed.

Moreover, the Public Advocate recommends that the health-care facilities be held strictly liable for the illegal dumping of their wastes. Penalties should include substantial fines. If such a manifest system and strict liability program were in place this summer, the 200-300 tons of hospital wastes that washed onto New Jersey's beaches this August might have been prevented.

#### Wood-Burning Operations

Throughout this summer, beach communities have also reported the washing ashore of large, partially-burnt logs. These logs have injured swimmers and fisherman and damaged boats. In fact, on September 8th, a 20 foot log carried on a wave critically injured two preschoolers who were playing in the surf. It is believed that the log washed ashore from a wood-burning barge out at sea.

EPA currently permits the burning of 675,000 tons per year of creosote-soaked wood 18 miles offshore of Manasquan. The wood is stacked 40 feet high before it is doused with kerosene and ignited. Logs can fall off during the transportation of the burn barges out to sea and during the burn operation. DEP has agreed to follow the barges to ensure that the barge operator picks up all logs that fall into the ocean. However, DEP does not accompany the barges every time they go out. In addition, the barge operator sends one of its own vessels to pick up fallen logs and take them back to shore.

The Public Advocate recommends that DEP accompany each burn barge during the loading, transportation, and burn operations to ensure that all permit conditions are met and no logs fall into the ocean. Since the burn barges only go out approximately once a month, this should not require substantial DEP resources to escort each vessel. Moreover, each barge operator should hire an independent vessel to pick up the fallen logs and transport them to shore. We also recommend that all the wood pilings be tagged with identifying labels to allow authorities to identify who illegally dumped logs into the ocean in the event that logs continue to wash ashore.

The Public Advocate further recommends that EPA prepare an environmental impact statement (EIS) on the burn barge operation. This is required by the National Environmental Policy Act, 42 U.S.C.A. 4321 et. seq., and is necessary to assess the environmental consequences of the wood burning operations as well as to explore feasible disposal alternatives. Each barge load takes approximately 60 hours to burn and dumps ash and soot into the water and air. Moreover, much of the wood being burned is filled with pesticides and preservatives that prevented insects from destroying the wood when it was part of a waterfront structure. Since the EPA never fulfilled its obligation to prepare an EIS, we simply do not know how or why the marine environment is adversely affected by woodburning. We recommend that EPA cease the woodburning operations until it can complete an EIS on this activity.

#### Sewage Sludge Dumping

A major source of ocean pollution results from dumping sewage sludge which is heavily contaminated with toxic metals, toxic organics, chlorinated hydrocarbons such as PCBs, pesticides, and assorted viral and bacterial

pathogens. (Fn. 2). Approximately 50% of all sludge generated in New Jersey is ocean dumped. (Fn. 3). In fact, six New Jersey sewage authorities are ocean dumping about 1 million pounds of sewage sludge along our coastal shores each day. By weight, this amounts to nearly 53 per cent of all New Jersey's sludge. (Fn. 4). All New Jersey generated sludge is dumped at either the 12 mile site about 10 nautical miles south of Long Island or the 106 mile site (also known as the Deepwater Municipal Sludge Dump Site) located 115 nautical miles from Atlantic City.

This sewage sludge is loaded with disease-causing bacteria which can infect the ear, eye, and stomach. In addition, sewage sludge contains high level of nutrients which encourage an excess growth of algae and micro-organisms which can cause brown tides that deplete oxygen from the ocean. Oxygen-poor water, of course, can result in massive fish kills.

The Public Advocate was among those who strenuously urged the EPA to end dumping at the 12 mile site. EPA has now acknowledged that the municipal sludge dumped at the 12 mile site contributed to the heavy degradation of the New York Bight area and announced in July 1985 that dumping at the 12 mile site will end by December 31, 1987. According to the EPA plan, the nine municipalities currently using the site -- all from New Jersey and New York, including NYC -- will move their dumping to the 106 mile site.

As a result, the amount of sludge dumped at the 106 mile site will increase substantially starting next year. Although marine life at the 106 mile site is less abundant than in areas closer to shore, some important species do use the 106 mile site as a migratory pathway including commercial

fish such as swordfish and tuna, as well as endangered whale and threatened sea turtles. (Fn. 5). We simply lack information on whether this increase will result in a significant long-term impact on marine resources.

Since EPA's site designation of the 106 mile sludge site expires in March 1991, the Public Advocate recommends that we use the next four years to reduce the toxic contamination of the sludge and acquire the data necessary to assess whether we can phase out completely sludge dumping at this site. To date, neither the dischargers, the State, nor the EPA have any specific plans or timetables to phase out sludge dumping in an orderly way. Without such a specific program, EPA will have a strong incentive to merely extend the deadline beyond the 1991 deadline to allow the dumpers to find a disposal alternative.

Therefore, the Public Advocate recommends that sludge dumping, in its present form, be prohibited after March 1991 and that DEP be required to develop a schedule for the orderly phase out of the 106 mile site. In addition, the Public Advocate recommends that a research and development program be designed to explore the possibility of chemically neutralizing the toxic substances present in sludge.

At the present time, however, most of the sludge dumped in the ocean is not eligible for disposal on land since it is so heavily contaminated with toxic pollutants. The challenge we face is to generate a less toxic sludge. This can be achieved by three methods: waste reduction, recycling, and pretreatment.

The most promising method is waste reduction where the focus is on keeping toxic substances out of the waste water in the first place. Companies could use any of five approaches to systematically reduce their generation of toxic waste. First, companies could be required to improve their plant operations through better equipment maintenance, better handling of hazardous material, and better monitoring of process equipment. For example, if a company's pumps and valves leaked a gallon of toxic liquid a day that eventually wound up in the sewage sludge, this could contaminate a million gallons of seawater at the one part per million level. By insuring that pumps and valves did not leak, this source of toxic pollution would be avoided.

Second, companies could be directed to change the raw materials they use, substituting safe materials for hazardous materials. For example, a printing firm could convert from organic solvent-based inks to water-based inks, and in this way, it would eliminate the use of toxic inks and the need to use organic solvents to clean paper presses and other equipment. Again, this step would prevent toxic substances from polluting sewage effluent and sludge.

Third, companies could be required to change the design, composition, or specifications of their products in order to change their industrial process and eliminate its use of toxics. For example, the 3M Corporation reformulated a product to eliminate the use of a metal alloy in its manufacture and thus eliminated a cadmium-containing hazardous waste.

Fourth, firms could be directed to modernize or modify their equipment so that less toxic waste is generated. For example, Merck and Company installed an internal solvent recovery system in their Rahway plant that eliminated the need to dispose of two and a half million pounds of a toxic solvent annually.



Finally, companies could be mandated, where possible, to return potential wastes to plant operations to reduce the use of toxic materials. For example, GTE Sylvania recovered copper wastes from its rinsewater, sold the recovered metal as copper scrap, and reduced the quantity of copper sludge requiring disposal.

The question, of course, is how do you encourage industries to take these waste reduction steps. A number of approaches is available. The most direct step would be to legislate a toxics prevention act that require toxics users throughout the State to perform toxic waste audits which include detailed programs to reduce the amount of toxics substances used and toxic waste generated. The legislation could require DEP to approve the toxic waste audits and could specify the timetables during which industry would have to install their waste reduction program.

A second approach is to require the DEP to incorporate a waste reduction requirement for all holders of NJPDES (New Jersey Pollutant Discharge Elimination System) permits. DEP's Division of Water has recently done this for the new NJPDES permits they granted, but legislation can expand the requirement to include all those currently holding NJPDES permits.

A third method to accomplish a cleaner sludge through waste reduction is to apportion substantial fees based on the amount and toxicity of pollutants discharged into the sewer system. DEP's Division of Water Resources presently does apportion NJPDES permit fees based on amount and toxicity, but these fees, by statute, can only recover the costs of administering the NJPDES program. The Legislature could, however, establish a direct pollution tax on the amount and toxicity of an industry's discharge to encourage industry to generate a less toxic waste.

The fourth method is for the DEP to establish minimum sludge quality standards for all sludge produced in this State at a sewage treatment plant. The sewage treatment plant would then have to ensure that the generators produce a clean enough waste product that the sludge standards could be met. The advantage of sludge standards is that they give sewage treatment plants and industry clear criteria that they must meet and provide DEP with specific limitations that it can enforce.

Regardless of which approach the State adopts, it is imperative that we act now to remove or neutralize toxic contamination from our sewer sludge so that ocean dumping of sludge could be phased out. Even if ocean dumping of sludge continues, we could minimize damage to our ocean environment if we reduce the presence of toxic metals, organic chemicals, and pathogens present in the sludge.

#### Industrial Wastes

In addition to sewage sludge, EPA also permits the dumping of industrial wastes. The 106 mile industrial site, located off the New Jersey shore, is the only site in the U.S. where industry is allowed to dump their wastes directly into the ocean (fn. 6), and DuPont is the only company that still dumps at this site. Approximately 100 industrial companies have used this dump site in the past, and all but DuPont have found disposal alternatives. Now is the time to require DuPont to discontinue its use of the industrial site since the acid wastes that DuPont dumps at this site is recyclable. (Fn. 7).

The Public Advocate, therefore, recommends that EPA revoke DuPont's permits to dump its acid wastes at the 106 mile industrial site, and we urge EPA to close this dump site completely. Such action is consistent with the letter and spirit of the Ocean Dumping Act which directs EPA to "end the dumping of ... industrial waste into ocean waters ... as soon as possible." 33 U.S.C.A. 1412a(a).

### Point Sources

In addition to ocean dumping, wastes and other pollutants often enter watercourses through "point sources," activities that discharge pollutants to surface waterbodies through a pipe, ditch, or canal. Land-based sources discharge a tremendous amount of pollutants into the ocean in this way.

Publicly Owned Treatment Works (POTWs) are one of the most important point sources of pollution since they discharge sewage effluent either directly or indirectly into coastal waters. Discharged effluents can contain pathogens, household chemicals, trace metals, and other toxic substances from industrial sources. In addition, heavy rainfall can increase the volume of stormwater and wastes reaching the treatment plant to levels beyond capacity, and the resulting discharge goes completely untreated. According to a recent Office of Technology Assessment report, several billion gallons of raw sewage entered the New York Bight in 1985 alone. (Fn. 8).

Industrial facilities are also important point sources of coastal pollution. Along the east coast, 32 rivers and streams carry industrial wastes into the Atlantic Ocean. (Fn. 9).

The Public Advocate recommends several measures to enhance control of hazardous wastes discharged from point sources. First, the ideal strategy to protect coastal waters from point sources is to reduce waste generation or reuse wastes, and thereby avoid the need for disposal. The waste reduction approaches outlined in the discussion on sewage sludge remain applicable here.

Of course, even with extensive waste reduction efforts, large amounts of wastes from point sources still will require disposal. Therefore, the Public Advocate recommends that the State and citizens enforce aggressively the limitations contained in National Pollutant Discharge Elimination System (NPDES) permits. A General Accounting Office survey revealed that 82% of all industrial and municipal dischargers with NPDES permits exceeded their monthly average permit limits at least once during the 18 month long investigation. In fact, 21% exceeded permit limits by 50% or more in at least four consecutive months. (Fn. 10).

Third, the coverage of the pretreatment and NPDES (National Pollutant Discharge Elimination System) programs should be expanded to eliminate the current regulatory gaps. For instance, toxic organic substances such as dibenzofurans and trichlorophenols and pathogens such as viruses are not addressed in the Clean Water Act at all even though they can be important pollution sources to control. In addition, current pollution control programs do not regulate some important industrial sources of pollutants such as textile mills and commercial laundries.

Fourth, both EPA and DEP should impose overall toxicity limits on all sewage effluent to regulate carefully the toxicity of a POTW's discharge. In addition, these toxicity limits should be placed on industry's discharge into the sewerage system since this contribution directly affects the toxicity of

the effluent. Moreover, EPA and the DEP should impose strict limits on the heavy metal concentrations present in both the incoming sewage and the outgoing effluent since heavy metals are persistent in the environment and bioaccumulate in marine organisms, but are not readily detected in a 96 hour toxicity test.

A related way to regulate the discharge of toxic substances is to require that EPA or DEP establish water-quality based permit limits for POTWs and industries that discharge directly into the ocean. Under a water-quality approach, the regulatory agency, either EPA or DEP, would designate segments of the ocean for a particular use, for example, swimmable water, and then assess the concentration of pollutants that could be present in the water consistent with this use. A discharger's permit would contain numerical limits to assure attainment of the designated use. The Office of Technology Assessment recommends this approach to complement technology-based controls and provide a framework to address the site-specific needs of individual waterbodies. (Fn. 11).

The Public Advocate submits that the above recommendations, if implemented, would substantially reduce the amount of toxic substances from point sources that are emptied into our ocean.

#### Non-Point Sources

Nonpoint sources of pollution originate from a wide range of activities and are more difficult to control than point sources. However, the National Water Quality Inventory concluded that non-point sources are a "principal cause of pollution problems" in nearly half of the coastal estuarine waters

that no longer support the same range of uses as healthy estuaries. (Fn. 12). Of these impaired-use estuaries, agricultural runoff contributes about two-thirds of the non-point source runoff.

Urban runoff from highways and construction sites and atmospheric deposition of toxic substances are also major non-point sources of ocean pollution.

Since agricultural runoff is the worst non-point source, the Public Advocate recommends that DEP establish a rigorous waste reduction program aimed at reducing the amount and toxicity of pesticides and chemical fertilizers that agriculture uses.

Moreover, the DEP should adopt an extensive toxic air pollution program to reduce the amount of hazardous air pollutants which return to the ocean through rain or snow. For example, sewage treatment plants spew vast quantities of volatile organic substances into the air as the sewage wastewater is aerated during its treatment. DEP should require all sewage treatment plants to enclose their operations to eliminate this source of toxic air pollution which endangers workers and then returns to the ocean through atmospheric deposition.

In sum, we are all aware that our coastal waters are under siege from pollution. In order to protect our marine ecosystem from further damage, New Jersey needs to undertake a program that reduces the toxic contamination from our wastes that enter the ocean. Wherever possible, we must work to phase out the use of our ocean as a dump. The Public Advocate is hopeful that the recommendations outlined in this testimony will assist the Legislature as it takes steps to reach this goal. Thank you.

### Footnotes

1. Wastes in Marine Environments: Summary, United States Congress, Office of Technology Assessment at 1.
2. Donald F. Squires, The Ocean Dumping Quandary: Waste Disposal in the New York Bight, State University of New York Press at 102 (1983).
3. Telephone conversation between Cindy Zipf, Clean Ocean Action and Susan Remis Silver, 9-10-87.
4. Asbury Park Press at F3 9-6-87.
5. Wastes in Marine Environments: Summary, supra, at 30.
6. Beth Millemann, And Two If By Sea: Fighting the Attack in America's Coast, Coast Alliance at 66.
7. Telephone conversation of 9-10-87 between Sally Lentz, Oceanic Society and Susan Remis Silver.
8. Wastes in Marine Environments: Summary, supra, at 29.
9. And Two If By Sea, supra, at 28.
10. Id. at 29.
11. Wastes in Marine Environments: Summary, supra, at 38.

12. Near Coastal Waters: Strategic Options Paper, United States Environmental Protection Agency, Office of Marine and Estuarine Protection, August 12, 1986 at I-8.





319 Main Street • Allenhurst, New Jersey 07711 • (201) 531-6563

FOR IMMEDIATE RELEASE

CONTACT: Brian Gaudet

9/29/87

PHONE: (201) 531-6563

POPKIN TESTIFIES "NO MORE HEARINGS"

Gerri C. Popkin, GOP candidate for the 11th Legislative District Senate seat, today testified at a hearing regarding ocean dumping sponsored by the New Jersey Senate Special Committee to Study Coastal and Ocean Pollution.

Popkin stated, "Senator Pallone, you've had four years to become aware of the problem of ocean dumping and its disastrous effects upon our ocean and shores. I'm delighted to see that you've finally seen the light a mere five weeks before the election in November.

"The biggest problem we face in saving our ocean is the mentality that mere meetings and hearings will save our ocean. They won't. We need action taken immediately to preserve our ocean and shores and we need legislators that have the guts to pass that legislation. New York, Connecticut and Northern New Jersey have used our shores and the ocean off from them as a dump long enough! I'm here today to say no more! No more endless talking about the problem, no more self-gratifying public hearings, and no more dumping!"

Popkin continued, "If we don't have answers to ocean dumping from the numerous other hearings we've held, then there are no answers to the problem. Solutions have been talked about. We just need them to be implemented by people who have the courage to do the right thing and pass them in our Legislature.

"Our Governor, Tom Kean, has proposed a superagency known as the 'Coastal Commission' to save our shores and ocean. Senator Pallone, why can't you convince your own Senate President, John Russo, that we need this commission? He says he doesn't know if it's necessary. Why play politics with an issue as important as our ocean, Senator Pallone? Convince your Senate President Russo that the people of the New Jersey Coast want and need that legislation. Gentlemen, please, no more talk -- just do it!"

Popkin concluded, "The Jersey shore is my home and I'm tired of worrying whether or not it's safe for my children to swim in the ocean! If all the people in New Jersey had flushed their waste straight into Central Park for the past several years, you can bet New York would have made us stop by now! The time has come for us to say 'Stop.' Stop killing our ocean and stop abusing our economy. But most of all, stop hurting our home."

#####

# Coalition for the Bight

101 East 15th Street  
New York, N.Y. 10003  
212-460-9250

Testimony at a BiState public hearing regarding Coastal environmental problems in the Metro NY/NJ region conducted by the NYS Assembly Standing Committee on Corporations, Authorities and Commissions, NYS Assembly SubCommittee on Interstate Cooperation, NYS Assembly Standing Committee on Environmental Cons, and NJS Senate Spec Comm to Study Coastal and Ocean Pollution on Tues, September 29, 1987 at the Middletown Municipal Bldg

My name is Eugenia M. Flatow. I am the Coordinator of the Coalition for the Bight, a public/private partnership of stakeholders seeking to stimulate regional consensus on a management plan for the use and restoration of the Bight.

This partnership builds upon the tradition of pioneering institutions binding the two states together for a common purpose: the Port Authority of NY & NJ, the Palisades Interstate Park Commission, the Interstate Sanitation Commission, and the Delaware River Basin Commission.

Today's major challenge to bi-state cooperation is the Hudson/Raritan Estuary and the BiState Bight - the 11,310-sq nautical mile, near-square arm of the Atlantic Ocean bounded by Long Island, the Jersey shore and the Continental Shelf.

Let me give you my credentials, only for identification and not for attribution to the organizations cited. I am by profession an industrial engineer trained at Columbia University. I have spent 35 years as a citizen activist organizing or directing a number of organizations devoted to improving the quality and enhancing the use of our rich coastal resources. I have served on many official advisory committees: to the NYC Dept of Envir Protection on the 208 Plan for Clean Water; to the NY Secy of State on Coastal Mgt; to the NYS Sea Grant Institute. I am the Legislative Chair for the Port Promotion Assoc, the Vice Chair of the Environmental Policy Forum for Coastal Mgt, the Chair of the Committee for the City's Waterfront & Waterways, Chair of the Civic Section of the Public Involvement Coordination Group working with the Corps of Engineers on a Management Plan for Dredge Material, the past president and present board member of the Parks Council, and a board member of numerous organizations studying or promoting recreational or maritime use of our water environment.

A public/private partnership  
to stimulate a regional constituency  
to develop consensus on a management plan  
for the use and restoration of the Bight

I am sure that I hardly need to rehearse for this Committee the staggering pressures on the Bight today. Your foresight in calling this hearing attests to your appreciation of the problems you will hear about today. But I bring with me for the record a series of papers and information culled by the Coalition from a series of seminars, on the legitimate competing needs of major users of the Bight: the port interests plying our natural deep-water harbor; the recreation and tourism enterprises enriching not only the quality of life but also the commerce of the region; the harvesters of fish and mineral resources; and, of course, the municipal operators of our region's waste systems that revere the ocean's vaunted assimilative capacity.

The goals of the Coalition are to build an informed constituency for a bi-state management strategy for the Bight and the Hudson/Raritan Estuary; and to forge the necessary alliances to negotiate consensus on mutual priorities.

We are fortunate that our federal legislators have presented us with a National Estuary Program that provides us with a special opportunity to meet the challenge of restoring one of the most stressed large estuarine systems in the Nation. There are eleven estuary systems competing for designation of "national significance" for "priority consideration", but this region has already been hard at work laying some important groundwork to merit early designation. Many agencies and environmental leaders appearing before you today have been sponsors of this bi-state effort to create an institutional arrangement for a productive bi-state management strategy. We are sponsored by the coastal programs of both states and the USEPA, by the Citizens Union Foundation and the Environmental Policy Forum. Co-sponsors include the American Littoral Society, Clean Ocean Action, the Environmental Defense Fund, the Interstate Sanitation Commission, NOAA, NJ Alliance for Action, NJ Marine Sciences Consortium, NYC DEP, NYS DEC, the Port Authority of NY & NJ, the NY Academy of Sciences Science & Decision-Making Program, Tristate League of Women Voters and the US Corps of Engineers.

Many of these colleagues have launched major efforts to cope with our problems: NYC DEP and the ISC are each conducting an intensive investigation of Combined Sewer Overflow; the USEPA Regional Administrator, Chris Daggett, has called for an inter-agency effort to identify the cumulative impacts of development on both sides of the Hudson; NJ DEP is embarking on a comprehensive strategy to reduce "floatables" in our bathing waters; NY DEC and NJ DEC are jointly examining the periodic blooms of phytoplankton in the Bight- the so-called "green" and "brown" tides; ISC has mandated year-round disinfection and experts are raising questions regarding waste load allocations, pre-treatment standards and plant capacity. And, of course, USEPA has initiated both the Near Coastal Waters and the National Estuary programs.

What is at stake here, however, is not only the growth and survival of

1. the top port in the nation
2. the tourism industry of both New York and New Jersey
3. the cultivation of healthy local marine food resources in a region number one in marine consumption

but also the growth and survival of the region itself.

We need to dredge, and dispose of that material. We need to develop new business and housing resources which, unfortunately, will generate additional waste. We need to develop a comprehensive waste management plan that will evaluate all mediums - land disposal that will not destroy our water supplies; incineration that will not poison our air further; water disposal that will not impact on our precious marine biota, and will conserve our natural resources. If this most densely populated region is to grow, we must cope with all of the above.

You have shown foresight and imagination in focussing on the plethora of public agencies concerned with these problems and the morass of regulations already in place. Is it time to reestablish a Bi-State Commission to examine the ways we are or are not working together? Is there any other way to closely examine the welter of legislative bills at all three levels of government allegedly all directed toward the same goals? We have just spent over a year sponsoring 7 seminars and a technical symposium attempting to distill and synthesize some basic questions in order to guide decision-makers towards a unified course for the future, questions such as:

- is our information adequate?
- are our policies coordinated?
- do we plan strategically for innovation and surprise?
- what, from here on, should our goals be?
- what should the next steps be for research, planning and action?

The degree of consensus was surprisingly high, but the points of view of legitimate but conflicting stakeholders also ring loud and clear and must buffet legislators unmercifully. Where shall we turn to resolve the inherent conflicts in the competing needs of reasonable constituents? What is the appropriate forum for discussing and resolving highly charged questions focussed on whose ocean is it, anyway? What are the most important contributions to the quality of life? Is economic growth a categorical imperative for providing jobs and income to our regional citizens, and must the population not only grow accordingly but all move into the coastal area?

Some of these issues are highly technical, and few questions will be easy to answer, but we must begin to focus on the political choices. We must stop indulging in the search for villains and come together in cooperative ventures to share problems, search for mutual solutions and advise our elected officials of our priorities and our willingness to shoulder the burden.

We have been following up our efforts to increase public attention on the problems of our Estuary and Bight by focusing on the need to forge alliances. I would like to place in the record a copy of a recent letter signed by all four of our US Senators seeking specific targetted funds for this unique bistate resource. No other Estuary has the major commercial interests (Port, Tourism, Fishing); few have the density of development and residences making heavy demands on infrastructure and generating enormous waste loads. The complexity of the issues, the geographic extent of the region, and the uncoordinated actions of the multitude of local, state and federal agencies, has further exacerbated the difficulties facing concerned public and private interests seeking to network. But it is beginning to shape up, and your effort to stimulate a legislative cooperative effort will certainly be most productive.

In terms of specific suggestions to this body for next steps I would like to recommend several things:

1. Be comprehensive. I attended a hearing last week sponsored by the NYS Senate focussed on development. These are not only multi-issue problems but there is an important corollary concern on how the costs of restorative efforts will be allocated throughout the region. Hardly anyone seems to be counting in the cost of upgrading our infrastructure to support the extensive regional development plans.

2. Be thorough. Fiddling around with existing responsibilities may not improve matters. Start new. Start with an analysis of the problems and consider, if necessary, a whole new solution. That was the genesis of the Port Authority and the ISC in the first place - a Bi-State Commission recommendation.

3. Consider expanded State support for the Coastal Management effort - and this is particularly directed to the New York legislators. Federal funding has, by design, been cut back and the State match has increased. Frequently a locality has no resources with which to do a basic engineering feasibility or economic analysis of proposed development, let alone explore reasonable alternatives. A small amount of State funding limited to supportive studies would accelerate the implementation of coastal initiatives and probably attract private resources as well. It is coastal management that is trying to cope with protecting water dependent uses and public access. Too often, Clean Water and Coastal Management staff follow separate priorities, as may happen with the National Estuaries program. And when there are honest differences of opinion regarding whether both New York and New Jersey can support a fishport or an autoport, there is no means for evaluating the questions.

Let me, in closing, applaud your initiative. And permit me to add a couple of questions:

Do we need a regional waste plan? If so, who would do it?

Do we need a major educational effort directed toward acquainting the public what their role is with respect to water pollution, and specifically off-shore coastal pollution?

What recourse does the private citizen have when agencies don't seem to be listening?

Thank you for this opportunity to add our remarks. We shall continue to work on a major effort to reach the full range of public and private organizations, elected officials, scientists, engineers and managers. Please let us know how we can be helpful to you in framing legislative initiatives to develop a unified approach toward the mutual resolution of these common problems.

QUENTIN N. BURDICK, NORTH DAKOTA, CHAIRMAN

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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6176

PETER G. PROWITT, STAFF DIRECTOR  
BAILEY GUARD, MINORITY STAFF DIRECTOR

September 18, 1987

Honorable William Proxmire  
Chairman  
Subcommittee on HUD--Independent Agencies  
Committee on Appropriations  
United State Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

We are writing to request that you include \$2 million for a New York Bight restoration initiative in the Fiscal Year 1988 appropriations bill for the Environmental Protection Agency (EPA). These funds are essential to the advancement of a comprehensive action plan aimed at restoring the severely degraded coastal waters off New York and New Jersey.

Today, there is unprecedented agreement between the States on the need to move forward with a comprehensive cleanup strategy. Both States have recently expressed their intent to nominate the region for funding and assistance under the new National Estuary Program pursuant to Section 320 of the Clean Water Act Amendments of 1987.

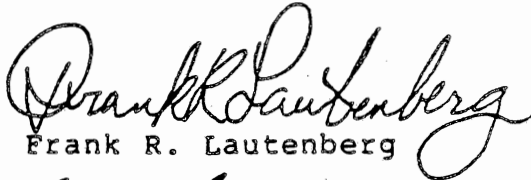
However, it is essential that a comprehensive environmental action plan address the entire near-shore coastal area and not focus exclusively on the estuarine portion of the region immediately adjacent to New York-New Jersey Harbor.

We ask that you provide \$2 million specifically for a New York Bight restoration initiative in Fiscal Year 1988. We intend that the funds be applied in a manner virtually identical and complimentary to the National Estuary Program. Specifically, EPA should lead a public and bi-state management committee, work to identify and target priority resource problems, involve other federal and state agencies and, ultimately, develop a comprehensive "blueprint" for the protection, restoration and management of this vitally-important coastal area.

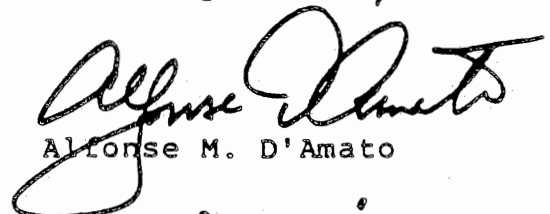
For organizational purposes, the funds could be applied to EPA's recently-established "Near Coastal Waters Initiative." In this way, the focus of the National Estuary Program will not be changed while, at the same time, our Nation's emerging efforts toward better management of highly-degraded coastal waters will be greatly enhanced.

Mr. Chairman, our region's economy and quality of life require a healthy New York Bight. Never before have we seen such mutual commitments on the need to move forward with an effective cleanup program. We hope you will work to help us secure this modest funding.

Sincerely,

  
Frank R. Lautenberg

  
Bill Bradley

  
Alfonse M. D'Amato

  
Daniel Patrick Moynihan



TESTIMONY OF KEVIN BRICKE  
DEPUTY DIRECTOR, WATER MANAGEMENT DIVISION  
TO NY/NJ LEGISLATIVE COMMITTEE ON OCEAN POLLUTION  
MIDDLETOWN, NEW JERSEY  
SEPTEMBER 29, 1987

GOOD AFTERNOON, MR CHAIRMAN AND MEMBERS OF THE COMMITTEE. I AM KEVIN BRICKE, DEPUTY DIRECTOR OF THE WATER MANAGEMENT DIVISION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 2. REGION 2 INCLUDES THE STATES OF NEW YORK AND NEW JERSEY, THE COMMONWEALTH OF PUERTO RICO, AND THE U.S. VIRGIN ISLANDS. I AM HERE TO PRESENT INFORMATION TO YOU TODAY ON BEHALF OF CHRISTOPHER J. DAGGETT, OUR REGIONAL ADMINSTRATOR, ON THE SUBJECT OF COASTAL POLLUTION IN THE MID-ATLANTIC AND NEW YORK BIGHT AREAS.

IT IS CLEAR FROM THE EVENTS OF THIS SUMMER, AND FROM THE EFFORTS BEING MADE ON A FEDERAL, STATE, AND LOCAL LEVEL TO ADDRESS OUR COASTAL PROBLEMS, THAT CONCERN FOR OUR COASTAL WATERS IS AT AN ALL-TIME HIGH. EPA SHARES THAT CONCERN, AND OVER THE LAST MONTH HAS INCREASED ALL EFFORTS TOWARD ASSESSING COASTAL POLLUTION PROBLEMS, IDENTIFYING SOURCES, AND DEVELOPING SOLUTIONS TO PROBLEMS EXPERIENCED AT THE SHORE. IN ADDITION, WE ARE COORDINATING EFFORTS

WITH OTHER FEDERAL, STATE AND LOCAL AGENCIES IN BOTH NEW YORK AND NEW JERSEY SO AS TO MAXIMIZE OUR EFFECTIVENESS, EXCHANGE DATA, AND COMBINE OUR KNOWLEDGE OF THE PROBLEM. EPA'S AUTHORITY TO REGULATE THE DISPOSAL OF WASTES INTO THE OCEAN FALLS UNDER TWO MAJOR ACTS: THE CLEAN WATER ACT, AND THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT OF 1972 (MPRSA). THE CLEAN WATER ACT APPLIES TO INLAND WATERS, WITHIN THE THREE-MILE LIMIT, OR "WATERS OF THE UNITED STATES." THE MPRSA COVERS OCEAN DUMPING OF ALL TYPES OF WASTES, SEAWARD OF THE THREE MILE OFFSHORE BASELINE.

#### THE CLEAN WATER ACT

THE CLEAN WATER ACT IS A COMPREHENSIVE STATUTE. IT COVERS THE ESTABLISHMENT OF AMBIENT WATER QUALITY STANDARDS (WITH RECENT EMPHASIS ON TOXICS), THE DEVELOPMENT AND IMPLEMENTATION OF PLANS AND PROGRAMS TO RESTORE AND PROTECT WATER QUALITY, AND A NATIONAL PROGRAM FOR REGULATING DISCHARGES FROM INDUSTRIES AND MUNICIPAL SEWAGE TREATMENT PLANTS. WATER QUALITY STANDARDS DEFINE THE USE OF THE WATER BODY, AND THE CRITERIA NECESSARY TO PROTECT THAT

USE. EFFLUENT LIMITS FOR POINT SOURCES, SUCH AS INDUSTRIES AND SEWAGE TREATMENT PLANTS, REFLECT MINIMUM TREATMENT LEVELS BASED ON NATIONAL TECHNOLOGY STANDARDS. IF WATER QUALITY STANDARDS FOR A PARTICULAR WATER BODY CANNOT BE ATTAINED THROUGH TECHNOLOGY STANDARDS, THEN MORE STRINGENT EFFLUENT LEVELS WILL BE SET TO ASSURE ATTAINMENT OF QUALITY. UNDER THIS PROGRAM, BOTH NEW YORK AND NEW JERSEY ISSUE AND ENFORCE PERMITS TO INDUSTRIES AND MUNICIPALITIES WHO DISCHARGE INTO SURFACE WATERS, INCLUDING THE OCEANS.

#### MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT

EPA'S RESPONSIBILITY UNDER MPRSA ARE TWOFOLD: (1) DESIGNATION OF OCEAN DUMP SITES, AND (2) ESTABLISHING AND APPLYING CRITERIA FOR THE REVIEW AND EVALUATION OF OCEAN DUMPING PERMIT APPLICATIONS.

#### OCEAN DUMP SITING

EPA IS RESPONSIBLE UNDER MPRSA TO EVALUATE OCEAN DUMP SITES FOR ENVIRONMENTAL IMPACTS BOTH IN THE IMMEDIATE AND SURROUNDING AREAS, AND TO ESTABLISH GUIDELINES FOR ACCEPTABLE AMOUNTS AND MATERIALS

THAT CAN BE OCEAN DUMPED IN A GIVEN SITE. FOR EXAMPLE, UNDER THE REGULATIONS, NEAR-AMBIENT WATER QUALITY MUST BE MET WITHIN THE DUMP SITE, FOUR HOURS AFTER THE DUMP HAS BEEN COMPLETED. THIS MEANS THAT FOUR HOURS AFTER THE DUMP, THE WATER WITHIN THE AREA OF THE DUMP SITE MUST BE OF A QUALITY COMPARABLE TO THAT OUTSIDE THE SITE. IT IS THE DUMP SITE ITSELF THAT IS MONITORED FOR ENVIRONMENTAL IMPACTS: NO DUMP CAN HAVE A SIGNIFICANT WATER-QUALITY OR BIOLOGICAL IMPACT IN AN AREA OUTSIDE THE SITE AT ANY TIME DURING OR AFTER THE DUMP.

THE PRESENTLY DESIGNATED REGION 2 DUMP SITES ARE AS FOLLOWS.

- 1) THE ACID WASTE DUMP SITE
- 2) THE CELLAR DIRT SITE
- 3) THE DEEPWATER INDUSTRIAL WASTE DUMP SITE
- 4) THE DEEPWATER MUNICIPAL SLUDGE DUMP SITE, AND THE 106-MILE MUNICIPAL SLUDGE DUMP SITE. (THE 12-MILE SITE IS DUE TO BE PHASED OUT BY DECEMBER 31, 1987.)
- 6) THE MUD-DUMP SITE

THE WOODBURNING SITE IS CURRENTLY UNDER INTERIM DESIGNATION, PENDING COMPLETION OF THE ENVIRONMENTAL IMPACT STATEMENT AND DESIGNATION PROCESS.

THE 12-MILE SITE PHASE OUT

THE MOST SIGNIFICANT SITING ACTIVITY THAT HAS TAKEN PLACE RECENTLY INVOLVES THE PHASE OUT OF THE 12-MILE MUNICIPAL SLUDGE DUMP SITE, IN FAVOR OF THE THE DEEPWATER MUNICIPAL SLUDGE DUMP SITE, WHICH IS LOCATED 120 NAUTICAL MILES SOUTHEAST OF NEW YORK HARBOR.

THE 12-MILE SITE HAD BEEN USED FOR OCEAN DUMPING SINCE THE YEAR 1914. IN MORE RECENT YEARS, WITH THE INCREASED ADVENT OF SEWAGE TREATMENT PLANTS, AMOUNTS DUMPED AT THE 12-MILE SITE INCREASED DRAMATICALLY, UNTIL THEY WERE AVERAGING APPROXIMATELY 8 MILLION WET TONS PER YEAR. ON APRIL 1, 1985, EPA DENIED THE SLUDGE DUMPERS' REQUESTS FOR CONTINUED USE OF THE 12-MILE SITE, AND NEGOTIATED A PHASE OUT SCHEDULE. ALL NINE NEW YORK AND NEW JERSEY DUMPERS ARE ADHERING TO THAT SCHEDULE: WESTCHESTER AND NASSAU COUNTIES

ARE BOTH NOW DUMPING 100 PER CENT OF THEIR SLUDGE AT THE DEEPWATER SITE; NEW YORK CITY IS AT 75 PER CENT, AND THE SIX NEW JERSEY PERMITTEES ARE AT 60 PER CENT. BY DECEMBER 31, 1987, ALL MUNICIPAL SLUDGE DUMPING AT THE SITE WILL BE TRANSFERRED TO THE DEEPWATER MUNICIPAL SLUDGE DUMP SITE.

### PERMITS

EPA SETS MONITORING STANDARDS TO WHICH THE PERMITTEE MUST ADHERE. THE PERMITTEE IS REQUIRED TO IMPLEMENT AN EPA-APPROVED WATER QUALITY AND BIOLOGICAL SITE MONITORING PROGRAM, FOR THE DURATION OF THE PERMIT. INFORMATION GENERATED BY THE MONITORING PROGRAM IS USED IN MAKING DECISIONS ABOUT CONTINUED DESIGNATION OF THE SITE, THE STATUS OF THE OCEAN DUMPING PERMIT, AND THE CONTINUATION, OR ALTERATION, OF THE MONITORING PROGRAM ITSELF.

THE UNITED STATES COAST GUARD, WITH EPA GUIDANCE, CARRIES OUT THE ACTUAL SURVEILLANCE OF OCEAN DUMPING OPERATIONS. THE COAST GUARD PROVIDES A REFERENCE NUMBER: THIS PROCESS INCLUDES SCREENING THE

INFORMATION GIVEN, AND DENYING NUMBERS TO IMPROPER DUMPERS AND VESSELS. IF ANY REFERENCE NUMBERS ARE DENIED, EPA IS NOTIFIED BY TELEPHONE. THE COAST GUARD REGULARLY PROVIDES EPA WITH COPIES OF THE LOG AND THE TRACK OVERLAYS, STATEMENTS, AND RADIO NOTIFICATIONS CONCERNING ALL DUMP OR BURN VESSELS. THE COAST GUARD WILL ALSO PROVIDE INFORMATION AND/OR OPERATING PLATFORMS TO ASSIST EPA IN COLLECTING EVIDENCE PARTICULAR TO A SPECIFIC SITUATION. UPON EPA REQUEST, THE COAST GUARD WILL INVESTIGATE A PARTICULAR SITUATION, OR CONDUCT PREVENTIVE PRE-DEPARTURE BOARDINGS, IF NECESSARY. IF A VIOLATION IS REPORTED BY THE COAST GUARD AND CONFIRMED BY EPA, IT IS THEN EPA'S RESPONSIBILITY TO CARRY OUT ANY APPROPRIATE ENFORCEMENT ACTIONS.

#### OCEAN MONITORING PROGRAM

EPA'S OCEAN MONITORING PROGRAM IS NOW ENTERING ITS FIFTEENTH SEASON. THE MONITORING IS PRIMARILY CARRIED OUT BY A VESSEL, THE ANDERSON, AND A HELICOPTER. THE ANDERSON IS USED FOR VIRUS SURVEYS, SEDIMENT SAMPLING FOR ORGANICS, HEAVY METALS ANALYSIS,



AND ANALYSIS OF BENTHIC ORGANISMS FOR SPECIES DIVERSITY AND NUMBERS. THE HELICOPTER IS USED FOR MONITORING FOR DISSOLVED OXYGEN, SALINITY, NUTRIENTS, TEMPERATURE, FECAL COLIFORMS, ENTEROCCI BACTERIA, AND PHYTOPLANKTON. THROUGHOUT THE SUMMER THE HELICOPTER TAKES SAMPLES FROM APPROXIMATELY 140 STATIONS, SIX DAYS A WEEK, AS WELL AS MAKING VISUAL OBSERVATIONS FOR FLOATING DEBRIS AND PHYTOPLANKTON BLOOMS. OCEAN WATERS OFF NEW JERSEY ARE SAMPLED FROM SANDY HOOK TO CAPE MAY, AND OFF NEW YORK FROM BREEZY POINT TO SHINNECOCK, ALONG LONG ISLAND. MONITORING DATA ARE SHARED WITH OTHER FEDERAL, STATE AND LOCAL OFFICIALS TO ASSIST IN MAKING DECISIONS REGARDING PUBLIC HEALTH AND WELFARE.

#### FLOATABLES

UNDER THE TERMS OF THE OCEAN DUMPING PERMITS, "PERSISTENT, SYNTHETIC OR NATURAL MATERIALS WHICH MAY FLOAT OR REMAIN IN SUSPENSION" IN THE OCEAN ARE PROHIBITED FROM BEING DISPOSED OF IN THE OCEAN. AS A RESULT OF RECENT CONCERNS EXPRESSED ABOUT SLUDGE DUMPING, EPA

INSTRUCTED ALL OF THE NINE NEW YORK AND NEW JERSEY SLUDGE DUMPERS TO REVIEW THEIR OPERATING PROCEDURES FOR THE HANDLING OF FLOATABLES, AND TO INVESTIGATE ALTERNATIVE DISPOSAL METHODS FOR THE SKIMMINGS AND SCUM RESULTING FROM THE SEWAGE TREATMENT PROCESS.

IN RESPONSE TO OUR REQUEST, ALL OF THE NINE SLUDGE DUMPERS INDICATED TO US THAT MOST, IF NOT ALL, OF THE FLOATABLE MATERIALS ARE TRAPPED IN THE SEWAGE TREATMENT PLANTS, AND ARE SENT TO LAND BASED ALTERNATIVES, EITHER LANDFILLS OR INCINERATORS, FOR DISPOSAL. HOWEVER, THE PERMITTEES ALSO INDICATED THAT THERE ARE NO STANDARD OPERATING PROCEDURES FOR THE REMOVAL OF FLOATABLES. SEVERAL OF THEM ARE ACTIVELY INVESTIGATING THE INSTALLATION AND USE OF SPECIALIZED EQUIPMENT, SUCH AS STRAINERS, TO FURTHER ADDRESS THE ISSUE.

ADDITIONALLY, TO ENSURE COMPLIANCE WITH THIS REQUIREMENT, EPA HAS DESIGNED AND INITIATED A SAMPLING STRATEGY IN ORDER TO OBTAIN ADDITIONAL INFORMATION ON THE POSSIBLE PRESENCE OF FLOATABLE MATERIAL IN THE MUNICIPAL SLUDGE WHICH IS OCEAN DISPOSED. THIS STRATEGY

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INCLUDES SAMPLING THE SLUDGE DIRECTLY FROM THE SLUDGE VESSELS AFTER LOADING AT DOCK-SIDE, AND PRIOR TO THEIR DEPARTURE FOR THE OCEAN DUMPING SITES. SAMPLING IS DONE WITH A SCALLOP DREDGE WHICH COLLECTS SLUDGE THAT IS THEN VISUALLY INSPECTED FOR FLOATABLES.

FURTHERMORE, EPA HAS TRACKED SEVERAL SLUDGE VESSELS AT THE 12-MILE SITE, VISUALLY INSPECTED THE SITE AFTER DISPOSAL OPERATIONS WERE COMPLETED, AND ATTEMPTED TO RECOVER ANY FLOATABLE MATERIAL EMANATING FROM THE SLUDGE BARGE, BY SAMPLING THE DISPOSAL PLUME. BASED ON OUR INITIAL OBSERVATIONS AND SAMPLING EFFORTS TO DATE, WE HAVE YET TO UNCOVER ANY EVIDENCE TO SUGGEST THAT MUNICIPAL SLUDGE DUMPING IS CONTRIBUTING TO THE FLOATABLES PROBLEM. WE WILL CONTINUE THIS INVESTIGATION UNTIL WE ARE TOTALLY SATISFIED WITH THE FINDINGS.

ONE WAY FEDERAL AUTHORITIES WILL GAIN MORE CONTROL OVER OCEAN DUMPING OF SLUDGE IS THROUGH MONITORING BY "BLACK BOXES." BLACK BOXES ARE TO BE INSTALLED ABOARD ALL SLUDGE BARGES OPERATING

IN THIS AREA UNDER A FEDERAL PERMIT. CURRENTLY UNDER DEVELOPMENT BY THE COAST GUARD, THIS ELECTRONIC SURVEILLANCE SYSTEM WILL ALLOW THE COAST GUARD TO IDENTIFY THE LOCATION OF A DUMP WHEN IT IS ACTUALLY OCCURRING. THREE SLUDGE VESSELS ARE CURRENTLY FITTED WITH PROTOTYPE SYSTEMS. IF THE PRESENT TIME FRAME IS MAINTAINED, COMMERCIALY PRODUCED SYSTEMS WOULD BE AVAILABLE IN THE SPRING OF 1988. EACH VESSEL WOULD BE FITTED WITH TWO BOXES, ONE TO DETERMINE THE LOCATION OF THE VESSEL, AND ANOTHER TO DETERMINE IF DUMPING IS ACTUALLY TAKING PLACE. THE PERMITTEES ARE REQUIRED TO INSTALL BLACK BOX TECHNOLOGY FOR THE FIRST CATEGORY, WITHIN 6 MONTHS OF THE TIME THE TECHNOLOGY BECOMES AVAILABLE. BOXES OF THE SECOND CATEGORY ARE NOT REQUIRED UNTIL THE VESSEL IS IN FOR MAINTENANCE.

THE AGENCY ALSO ISSUES WOODBURNING PERMITS TO QUALIFIED APPLICANTS. THE SITE IS LOCATED 17 NAUTICAL MILES OFF POINT PLEASANT, NEW JERSEY. IN THE LAST ROUND OF PERMITS, MORE STRINGENT REQUIREMENTS WERE ADDED, TO ADDRESS CONCERNS RELATED TO THIS OPERATION. SPECIFICALLY, IN ORDER TO MINIMIZE THE OCCURRENCE OF WOOD FALLING OFF LOADED

BARGES DURING TRANSIT TO THE WOODBURNING SITE, ALL NEWLY ISSUED AND PROPOSED PERMITS REQUIRE STANCHIONS ON THE BARGES TO BE A MINIMUM OF 6 FEET TALL, WITH A MAXIMUM SPACING OF 15 FEET, CENTER TO CENTER ON BOTH SIDES OF THE BARGE. ALSO, FLOATING BOOMS MUST NOW BE INSTALLED IN ORDER TO CONTAIN ANY MATERIALS WHICH MAY FALL INTO THE WATERWAYS DURING LOADING OPERATIONS. EPA HAS PLACED A VOLUME RESTRICTION OF 3500 TONS PER BURN; IN ADDITION, WE ARE REQUIRING A TRAILING VESSEL TO PERFORM 24 HOUR PER DAY SURVEILLANCE, AND TO BE RESPONSIBLE FOR RETRIEVING ANY WOOD WHICH MAY FALL INTO THE WATERWAY OR OCEAN.

FINALLY, WE HAVE ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP), WHERE WE HAVE DEPUTIZED DEP TO MONITOR THE WOOD BURN OPERATION. SEVEN BURNS HAVE TAKEN PLACE SINCE FEBRUARY, 1987, THE LAST ONE ON SEPTEMBER 26. SURVEILLANCE TAKES PLACE DURING ALL COE BURNS. THE U.S. ARMY CORPS OF ENGINEERS IS THE PRINCIPAL SURVEILLANCE PERMITTEE, CONDUCTING PRIMARILY, HARBOR CLEAN UP AND REVITALIZATION EFFORTS.

BEACH CLOSURES

THE GARBAGE WASH UPS OF THIS SUMMER GENERATED PERHAPS MORE PUBLIC ATTENTION THAN ANY OTHER COASTAL PROBLEM EXPERIENCED THIS YEAR. IN RESPONSE, EPA, THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (NJDEP), THE NEW JERSEY ATTORNEY GENERAL'S OFFICE, THE U.S. ATTORNEY'S OFFICE IN NEW JERSEY, AND THE U.S. COAST GUARD LAUNCHED AN INVESTIGATION TO DETERMINE THE SOURCE OR SOURCES RESPONSIBLE FOR THE WASTE. AS YOU KNOW, ALTHOUGH WE HAVE NOT YET IDENTIFIED EITHER THE METHOD BY WHICH THE MATERIALS ENTERED THE OCEAN WATERS, OR THE PARTIES RESPONSIBLE, THE VAST QUANTITY OF MATERIAL AND THE PRESENCE OF MEDICAL WASTES OBVIOUSLY POINTS TO AN ILLEGAL ACTIVITY. AT THIS POINT, WE ARE CONFIDENT THE PERMITTED DUMPING ACTIVITIES DESCRIBED ABOVE DID NOT CONTRIBUTE IN ANY SIGNIFICANT DEGREE TO THESE INCIDENTS.

I ALSO TEND TO BELIEVE THAT SEVERAL NATURAL PHENOMENA CONTRIBUTED TO THESE ALARMING EVENTS. THE COMBINATION OF RECENT STORMS AND UNUSUALLY HIGH TIDES PROBABLY CONTRIBUTED TO THE WASH OUT OF MATERIAL SUCH AS DEBRIS AND WOOD FROM LAND-BASED SOURCES, WHICH MINGLED WITH THE ILLEGALLY DUMPED GARBAGE AND MEDICAL WASTES. WE KNOW FROM EXPERIENCE THAT WHEN HEAVY RAINS COME, MUNICIPAL SEWAGE SYSTEMS ARE PARTIALLY BYPASSED, AS VAST QUANTITIES OF STORMWATER ENTER THE SYSTEMS AND FLUSH OUT TRASH THAT MAY HAVE COLLECTED IN THE SEWERS. THIS IS CALLED COMBINED SEWER OVERFLOW, AND WE BELIEVE IT IS PARTIALLY RESPONSIBLE FOR THE CHRONIC PROBLEM OF FLOATABLES IN THIS REGION'S COASTAL WATERS.

BUT UNTIL THE HARD FACTS ARE IN, WE CAN ONLY SPECULATE ON SOME PLAUSIBLE EXPLANATIONS. WE ARE TRACING ALL POSSIBLE LEADS, AND IT IS OUR INTENT TO PURSUE THE MAXIMUM CIVIL AND CRIMINAL PENALTIES AVAILABLE UNDER THE LAW.

THE PROBABLE ILLICIT DUMPING OF GARBAGE IN THE OCEAN, PARTICULARLY OF MEDICAL WASTES, POINTS TO THE NEED FOR A STRONG STATE OR LOCAL MANIFEST SYSTEM THAT TRACKS THE MOVEMENT OF HOSPITAL WASTES, AND HOLDS GENERATORS OF WASTE ACCOUNTABLE, WHETHER THEY ARE CLINICS, HOSPITALS, OR OTHER MEDICAL INSTITUTIONS.

THE IDEA OF USING SATELLITES FOR GENERAL OCEAN WATER RESEARCH, INCLUDING FISHERIES STUDIES, WATER POLLUTION RESEARCH AND OCEANOGRAPHIC WORK HAS LONG BEEN CONSIDERED AS VIABLE IN THE NOT-TOO-DISTANT FUTURE. ROTATIONAL SATELLITES ARE ALREADY IN USE FOR TRACKING WEATHER PATTERNS; IT IS CONCEIVABLE THAT A STATIONARY SATELLITE COULD HELP US BETTER MONITOR ALL DUMPING ACTIVITIES, BOTH LEGAL AND ILLEGAL.

ANOTHER IDEA, WHICH HAS BEEN IMPLEMENTED IN COOPERATION WITH THE NEW JERSEY DEP AND THE COAST GUARD, IS FASHIONED AFTER THE NEIGHBORHOOD CRIME WATCH PROGRAM THAT HAS WORKED SO WELL OVER THE YEARS. NEW



JERSEY HAS TERMED IT THE COASTAL WATCH PROGRAM, AND HAS INSTITUTED A STATE MARINE POLICE-SUPPORTED NETWORK TO REPORT ILLEGAL OVERBOARD DISPOSAL OF MATERIALS IN INLAND AND NEAR-SHORE COASTAL WATERS.

### BROWN AND GREEN TIDE

DURING THE SUMMERS OF 1984 AND 1985, AN ALGAE BLOOM KNOWN AS THE BROWN TIDE FIRST APPEARED IN THE BAYS OF EASTERN LONG ISLAND. THE BROWN TIDE HAS DESTROYED A LARGE PORTION OF LONG ISLAND BAY'S SCALLOP FISHERY AND HAS RESULTED IN THE DESTRUCTION OF EELGRASS BEDS. ALTHOUGH SCIENTISTS FROM S.U.N.Y. STONY BROOK HAVE IDENTIFIED THE ALGAE RESPONSIBLE FOR THE BLOOM, THEY DO NOT KNOW WHAT THE CAUSATIVE FACTORS MAY BE. POSSIBLY THE CAUSES OF THE BLOOM INCLUDE CHANGES IN SEA LEVEL, WEATHER PATTERNS, SALINITY AND NUTRIENTS. THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ASSUMED LEADERSHIP RESPONSIBILITY IN COORDINATING THE BROWN TIDE STRATEGY AND MONITORING. A TASK FORCE WAS SET UP ON AUGUST 18, 1987, TO ADDRESS THE PROBLEM. THE TASK FORCE WILL EXAMINE THE LONG ISLAND BAY SYSTEM IN GREATER

DETAIL, REQUEST ASSISTANCE FROM STATE AND FEDERAL AGENCIES, AND IDENTIFY STATE AND COUNTY ROLES. MEMBERS INCLUDE THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC), THE SUFFOLK COUNTY HEALTH DEPARTMENT, THE STATE DEPARTMENT OF NEW YORK, NEW YORK STATE SEA GRANT, THE SUFFOLK COUNTY PLANNING BOARD, AND EPA. THE SUFFOLK COUNTY LEGISLATURE HAS APPROPRIATED \$250,000 TO ADDRESS THE BROWN TIDE PROBLEM.

ON SEPTEMBER 24, AT A MEETING OF THE TASK FORCE, THE SUFFOLK COUNTY BOARD OF HEALTH AND THE LONG ISLAND REGIONAL PLANNING BOARD SUBMITTED A TWO-YEAR WORK PLAN TO STUDY BROWN TIDE AND ASSESS GENERAL WATER HEALTH, FOCUSING ON FLANDERS BAY. THE WORK PLAN IS CURRENTLY UNDER REVIEW.

THE SUMMERS OF 1984 AND 1985 ALSO SAW PHYTOPLANKTON BLOOMS IN NEARSHORE NEW JERSEY COASTAL WATERS, WHICH TURNED THE WATER BRIGHT GREEN; SYMPTOMS OF RESPIRATORY DISTRESS WERE POSSIBLY ASSOCIATED WITH THIS OCCURRENCE, AND MANY BEACHES WERE CLOSED. IN THE SPRING OF 1986, EPA, NYSDEC, NJDEP, AND THE NATIONAL OCEANIC AND ATMOSPHERIC

ADMINISTRATION (NOAA) CONVENED AN INTERAGENCY COMMITTEE TO INVESTIGATE THE CAUSAL FACTORS RELATED TO THE BLOOM OF GREEN TIDE. THE ALGAL BLOOMS THAT OCCURRED IN 1984 AND 1985 DID NOT OCCUR IN 1986. HOWEVER EPA PREPARED AN ENVIRONMENTAL INVENTORY OF RELEVANT PHYSICAL, CHEMICAL AND BIOLOGICAL DATA FOR THE NEW YORK BIGHT APEX AND NEARSHORE NEW JERSEY COASTAL WATERS. IN ADDITION, NJDEP MOUNTED AN EXTENSIVE WEEKLY SAMPLING EFFORT OVER THE AREA WHERE GREEN TIDES HAD BEEN SIGNIFICANT.

THE INTERAGENCY COMMITTEE CONDUCTED A GREEN TIDE CONFERENCE ON JUNE 25, 1987, AT STOCKTON COLLEGE, TO PROVIDE INFORMATION ABOUT THE COASTAL WATER QUALITY IN SOUTH NEW JERSEY, AS IT RELATES TO THE DEVELOPMENT OF GREEN TIDES.

SIGNIFICANT PROGRESS HAS BEEN MADE IN UNDERSTANDING THE CONDITIONS THAT LEAD TO NEARSHORE ALGAL BLOOMS. REDUCED MOVEMENT OF WATER DURING WARMER MONTHS CONTRIBUTES SIGNIFICANTLY TO BOTH ALGAL PRODUCTION AND REDUCED OXYGEN LEVELS.

A GREEN TIDE ALGAL BLOOM OCCURRED AND WAS DETECTED ON AUGUST 19, 1987, AT PECK BEACH, NEAR OCEAN CITY.

FORTUNATELY, AND THE GREEN TIDE BLOOM OF THIS YEAR WAS NOT ONE OF GREAT SIGNIFICANCE. MOREOVER, DESPITE THE PROBLEMS OF GARBAGE WASH UPS, OCEAN WATER QUALITY THIS YEAR HAS BEEN VERY GOOD --- BETTER, IN FACT, THAN IN PREVIOUS YEARS. OXYGEN LEVELS, ONE INDICATOR OF THE HEALTH OF THE WATER, HAVE BEEN HIGH. WITH THE EXCEPTION OF CERTAIN LOCALIZED AREAS ATTRIBUTABLE TO A SPECIFIC LOCALIZED CAUSE, BACTERIA LEVELS HAVE BEEN LOW. FOR EXAMPLE, THIS YEAR'S BEACH CLOSINGS AT ATLANTIC CITY AND DEAL WERE DUE TO LOCAL DISCHARGES OF RAW SEWAGE. WE ARE FACED, AS WE SO OFTEN ARE, WITH A SCENARIO IN WHICH WE ARE BOTH PLEASED WITH THE PROGRESS THAT HAS BEEN MADE, AND DISTRESSED BY CONTINUING PROBLEMS.

MANY OF THE IMPROVEMENTS WE HAVE SEEN IN WATER QUALITY HAVE COME ABOUT THANKS TO A CROSS-AGENCY APPROACH; I HAVE MENTIONED SEVERAL EXAMPLES OF THIS KIND OF APPROACH TODAY.

I BELIEVE WE SHOULD CONTINUE TO EXPLORE OTHER MECHANISMS TO ADDRESS THESE IMPORTANT ISSUES THROUGH COMBINED STATE, LOCAL, AND FEDERAL EFFORTS; WHEREBY THE IDEA, DEVELOPMENT AND EXECUTION OF SOLUTIONS CAN BE CARRIED OUT IN THE MOST EFFECTIVE MANNER POSSIBLE. WITH THIS IN MIND, WE INTEND TO ACTIVELY PURSUE OPPORTUNITIES OF WORKING WITH OTHER AGENCIES, TO COORDINATE FURTHER COOPERATIVE STRATEGIES. EPA BELIEVE THAT THESE, IN THE END, WILL PROVE THE MOST EFFECTIVE STRATEGIES FOR THE PROTECTION OF OUR COASTAL WATERS.

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DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
26 FEDERAL PLAZA  
NEW YORK, N. Y. 10278-0090

REPLY TO  
ATTENTION OF:

TESTIMONY BEFORE  
THE NEW JERSEY STATE LEGISLATURE  
SENATE SPECIAL COMMITTEE TO STUDY  
COASTAL AND OCEAN POLLUTION

PUBLIC HEARING  
SEPTEMBER 29, 1987  
MIDDLETOWN, NEW JERSEY

Attached is testimony that was given by Mr. John S. Doyle, Jr., Acting Assistant Secretary of the Army (Civil Works) before the Subcommittee on Oceanography, Committee on Merchant Marine and Fisheries, US House of Representatives, at a Congressional Hearing recently held in Ocean City, New Jersey, concerning marine pollution in the Mid-Atlantic region. The testimony addresses issues related to ocean pollution, focusing on the New York Bight, and comments concerning recently proposed legislation that could affect the New York Bight. Since the subject matter addressed in the testimony is similar to the subject of this public hearing, I am submitting it before this Committee as the testimony of the US Army Corps of Engineers, New York District.

JOHN F. TAVOLARO  
Chief, Water Quality  
Compliance Branch  
New York District

106X

STATEMENT

OF

JOHN S. DOYLE, JR.  
ACTING ASSISTANT  
SECRETARY OF THE ARMY (CIVIL WORKS)

BEFORE THE SUBCOMMITTEE ON OCEANOGRAPHY  
COMMITTEE ON MERCHANT MARINE AND FISHERIES  
HOUSE OF REPRESENTATIVES  
ON MARINE POLLUTION IN THE MID-ATLANTIC AREA

SEPTEMBER 8, 1987

FOR RELEASE  
WILL BE RELEASED BY THE  
COMMITTEE ON MERCHANT MARINE AND FISHERIES

Statement of John S. Doyle, Jr.

Acting Assistant Secretary of the Army (Civil Works)

Before the Subcommittee on Oceanography  
Committee on Merchant Marine and Fisheries  
U.S. House of Representatives

Mr. Chairman and Members of the Subcommittee, I am John S. Doyle, Jr.,  
Acting Assistant Secretary of the Army for Civil Works. I am accompanied by  
John Tavoraro, who is Chief of the Water Quality Compliance Branch of the  
New York District of the Army Corps of Engineers.

...issues regarding ocean  
ution in general, and specifically Army Corps of Engineers activities  
living disposal of dredged material in the ocean.

Your letter of invitation asked that I address four specific areas of  
ern.

1. The causes of recent beach closures in the mid-Atlantic area;
2. Planning and legislation for New York Bight Restoration;
3. Human health effects of marine pollution in the New York Bight and  
mid-Atlantic area; and
4. The recent unexplained mortalities of bottlenose dolphins

In addition, I received a letter from Congressman William Hughes asking  
omments on HR 562, proposed amendments to the Ocean Dumping Act, and HR  
a proposal to establish the New York Bight Restoration Plan.

In order to put my comments into context, I would like to give a little  
round of Army Corps of Engineers involvement with disposal of dredged  
ial nationally and in the mid-Atlantic region.

The Corps is responsible under the Clean Water Act for regulating  
arges of dredged or fill material in all waters of the United States and  
the Ocean Dumping Act for transportation of dredged material for the  
se of dumping into ocean waters. Decisions on whether and where to dump  
ased on criteria established by the Environmental Protection Agency under  
statute and compliance with a host of other Federal, and in many



situations, State laws. For example, Federal laws include, among others, the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, and the Marine Mammal Protection Act. In addition the Clean Water Act requires compliance with State water quality standards and with any other State regulations or permits regarding water quality. It is against this backdrop from which the Corps has evolved over the years into the premier organization in the world regarding environmental effects of disposal of dredged material in the water as well as on land.

For non-Corps disposal of dredged or fill material, the Corps must decide whether to issue a permit in accordance with specific standards, procedures, and documentation requirements published at Title 33 Code of Federal Regulations, Section 320-330. For Corps disposal, the Corps uses the same standards and provides similar documentary evidence in the public record as to anticipated impacts, but does not issue itself a permit, per se.

Nationwide, the Corps disposes of 60 million cubic yards of dredged material annually. About 90% of that is clean sand. The remainder is silt and mud with varying amounts of potential for pollution. The Corps also permits about 6 million cubic yards annually of non-Corps dredged material. In the New York - New Jersey area, annual Corps disposal is about 4.5 million cubic yards and permitted non-Corps disposal is about 1.5 million cubic yards.

Since the mid-1970s the Corps has spent over \$120 million evaluating the effects of disposal of dredged material and has a wealth of published, well-respected scientific reports which show that if material meets the disposal standards established in the program, environmental effects will be insignificant.

...we do not believe that Corps activities involving disposal of dredged material have contributed to recent beach closures in the Atlantic area nor have they posed any threat to human health in this area anywhere else.

Notwithstanding our strong view that there is no connection between poor environmental quality and Corps disposal activities, we recognize the public concerns raised and pledge to continue to work with EPA, the other Federal and State Agencies, and the concerned public to look at Corps activities in an objective, scientific fashion and provide whatever information we have to the public for review and comment. Particularly with respect to unexplained mortality of bottlenose dolphins, we will be guided on our own monitoring of effects of Corps activities by any data derived from the various investigations being conducted by others.

We will now turn to the two bills, HR 562 and HR 2791. HR 2791 would establish a New York Bight Restoration Plan. The provisions of the bill are to be primarily responsibilities of EPA and we would defer to EPA to state the Administration's position. I would note in passing, however, that the extensive Army Corps of Engineers expertise in environmental effects of disposal of dredged material would be available to any interagency effort to carry out the provisions of HR 2791.

HR 562 would amend the Ocean Dumping Act in several ways. While we do not have a formal position finalized, there are several major areas of concern in the bill. We will be finalizing our position in cooperation with other Federal agencies in the near future and then will transmit our official views.

In summary, Mr. Chairman, there obviously are no simple solutions to the disposal of dredged material, particularly in such highly industrialized and urbanized areas as coastal New York and New Jersey. As such, the Corps is continuing to place a high research priority on the identification and evaluation of appropriate, innovative disposal alternatives for dredged material. Certainly in doing so, our intent is to provide the decision makers with the best possible data and information on which to base their selection of the least costly, environmentally acceptable disposal alternative for a proposed disposal action.

This concludes my formal statement, Mr. Chairman. We would be pleased to answer any questions that you might have.

150 State Street, 5th Floor  
Albany, New York 12207

Assemblyman Maurice D. Hinchey  
CHAIRMAN



Gordon M. Boyd  
EXECUTIVE DIRECTOR

Testimony

of  
Bernard C. Melewski  
Before a Joint Legislative Hearing  
On the Subject of  
Coastal Environmental Problems in the Metropolitan  
New York/New Jersey Region

Middletown, New Jersey  
September 29, 1987

Thank you for the opportunity to testify here today. My name is Bernard Melewski. I am the Counsel to the Legislative Commission on Solid Waste Management, a bi-partisan commission established in 1984 by the New York State Legislature to conduct research on solid waste generation and disposal and to advise the members of the state legislature of regulatory and legislative strategies that will improve solid waste management in New York.

I wish to acknowledge the presence today of two members of our ten member commission, Members of the Assembly, Eric Vitaliano and Maurice Hinchey. Mr. Hinchey chairs not only the Environmental Conservation Committee in the State Assembly, but is also the Chairman of the Commission on Solid Waste Management.

In this legislative session, the New York State Legislature passed a number of new bills affecting solid waste management, most at the initiative of our Commission.

I want to spend a few minutes discussing two bills in particular that were signed into law this summer by Governor Cuomo.

Taken as a package, the two bills will direct the management of hospital wastes in New York State for the foreseeable future.

In the spring and summer of 1985, sanitation workers working at the Fresh Kills landfill on Staten Island were repeatedly finding potentially infectious syringes and other hospital wastes at the working face of the landfill.

At the request of Assemblyman Vitaliano, who represents a portion of Staten Island, our Chairman directed staff to review the management of hospital wastes, particularly infectious wastes, within New York State.

What was originally intended to be a staff review of existing laws and regulations became a two year effort to revise hospital

waste management in New York. Our staff report to the Chairman, entitled "Hemorrhage from the Hospitals: Mismanagement of Infectious Waste in New York State", was released in March of 1986.

The staff report made several recommendations for statutory revisions, which were incorporated this year into Chapter 431 (Halpin/Johnson) and Chapter 446 (Vitaliano/Marchi) of the Laws of 1987.

The first major revision in state regulations is to take effect in April of 1988. There are several key provisions which are most relevant to this hearing.

First, color coding at the generating facility of infectious wastes is mandated. Color-coding is not currently required. The tracking of waste cargoes will be easier for law enforcement officials as a result.

Second, the enforcement authority of the New York Department of Health, as well as new, detailed regulations for waste management are extended to include not only hospitals and nursing homes, but also clinics, labs and diagnostic centers.

Third, health care facilities that produce over 200 lbs per month of infectious waste will be required for the first time to use only haulers licensed by the New York Department of Environmental Conservation. This is a significant change from existing New York law, which exempts generators of up to three tons per year from regulation once the material leaves the facility gate.

Fourth, penalties for health care facilities who fail to comply are doubled from existing law and will increase where continued violations are found.



Fifth, haulers of infectious waste are, for the first time, singled out for specific control under the environmental conservations law, and will be required to conduct more record keeping, and to report more extensively to state authorities with regard to source, quantity and destination.

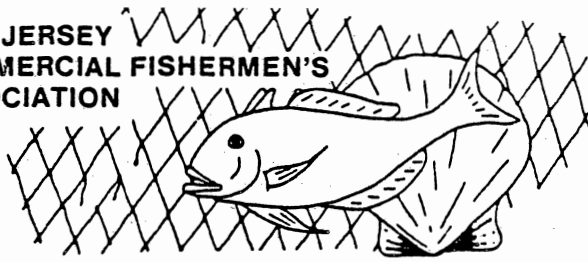
One other provision of the hospital waste law that is already in effect requires the Commissioner of Health to develop a statewide plan for the development of new disposal facilities to meet any current shortfall of in-state capacity. The plan is to be completed by June of 1988. We anticipate that the statewide plan will be the foundation for fundamental shifts in hospital waste disposal practices in New York. Over the next five years, we anticipate that health care facilities will act jointly to develop new "state of the art" regional disposal facilities that will serve a number of facility clients. The export of hospital wastes from the state should drop sharply, and just as importantly hundreds of obsolete and polluting incineration facilities will

either be reconditioned and equipped with the best available control technology or will be closed.

It is true that the new laws in New York will require capital investment in better management from private and public institutions, and will not succeed without more resources for enforcement by our state agencies. For the first time, however, the framework for better management, is in place.

Thank you.

NEW JERSEY  
COMMERCIAL FISHERMEN'S  
ASSOCIATION



ONE CENTENNIAL SQUARE, SUITE 104  
HADDONFIELD, NEW JERSEY 08033  
(609) 429-5351

September 29, 1987

NEW JERSEY COMMERCIAL FISHERMEN AND OCEAN POLLUTION

Nils E. Stolpe, Executive Director

Gentlemen, thank you for the opportunity to address you concerning the problem of ocean pollution in the New York Bight. I am the Executive Director of the New Jersey Commercial Fishermen's Association, an organization which represents commercial fishermen, dock operators, fish processors, seafood wholesalers and retailers throughout New Jersey.

New Jersey's commercial fishermen have known about, been concerned about, suffered from and tried to initiate action to curtail marine pollution for many years. 1987, which to many of you represents the beginning of awareness of the seriousness of the problem, is just another year of pollution as usual to the commercial fishermen, with one significant difference: the fact that ocean pollution has been "discovered" by so many concerned individuals who have raised such a hue and cry in the various media has undone many years of hard work building up markets for New Jersey fish and seafood products.

Our industry has been hurt, seriously and needlessly, because very few of those in the public eye have seen fit to remind consumers that dead and dying dolphins, hypodermic syringes and other hospital wastes, leaking sewage pipes and tar

balls, in short all of the recent assaults on our marine environment, have had no effect on the quality of the fish and shellfish coming to market.

The members of the commercial fishing industry are, and have been, appalled at the callous disregard with which the ocean waters have been used as a depository for all of the unwanted, noxious, dangerous or difficult to dispose of wastes that our society creates. We have lost commercially important species of fish to contamination. We have lost important fishing grounds to pollution. We have seen the populations of economically valuable species plummet to levels where fishing for them is not worth the effort. We have had our gear fouled, our boats damaged, our expenses increased, our pay checks diminished, and the pleasure we get from being on the ocean lessened by pollution.

We have supported and will continue to support any legislative actions, at the state, bi-state, or federal level, to reduce and then eliminate the use of our marine and estuarine environments as disposal sites for any materials, whether they are dredge spoils, old pilings, hazardous chemicals, sewage sludge, municipal wastes, or any of the other materials which find their way into the waters of the New York Bight.

In spite of what it has done to our markets, and in spite of the work we are going to have to do to regain our market position, we are glad to see that the public has finally become aware

of a problem that we have lived with for so long. We deplore the damage that has been done to the economies of the various shore communities over this summer but hope that it will serve a useful function in finally forcing effective action.

The fact of this hearing today, with the legislatures of both New York and New Jersey represented, could be a positive initial step in an effective program to clean up our oceans and estuaries. To be effective, however, the program is going to have to be both imaginative and innovative. It is obvious that what we have now isn't working. Both federal and coordinated state legislative actions are needed and are needed immediately. More importantly, we need the capability to stringently enforce the laws and regulations that exist now or that will result from all of the current attention. Regulation or prohibition without enforcement is, at best, an empty gesture.

Also needed is an authoritative and unimpeachable analysis of the impacts of such decisions as the designation of the 106 mile dump site, offshore incineration, fisheries closures, etc. We can no longer allow our decision makers to operate under the premise "out of sight is out of mind" or to follow the conservative path when many jobs are at stake. The easy solution might not be the desirable one.

Finally, New Jersey needs a mechanism, such as Governor Kean's proposed Coastal Commission, with the ability to look at

coastal development in New Jersey from a comprehensive perspective, with the authority to control development on the coast for the good of all of New Jersey's citizens, and with the economic resources to do more than recommend, advise, or obstruct. Neither the commercial fishermen nor the other citizens of New Jersey should have to live through another summer like the one just past. It's becoming increasingly obvious that we can no longer afford the environmental degradation such as that which is forcing the closing of clamming grounds off Swan Point because of "non-point source" pollution from uncontrolled development. We can no longer afford the loss of tourism revenues because of dead dolphins, used hypodermic syringes, blood bags and unspeakably foul materials washing up on our beaches, and we can no longer afford the "bargain" of using our oceans to dispose of our wastes.

I and the members of the New Jersey Commercial Fishermen's Association are willing to help you in any way we can in your efforts to deal with the problems of ocean pollution, no matter what the source. Our future as an industry in New Jersey, and the hundreds of millions of dollars we contribute to the state's economy, depend on something being done.

Thank you very much.

Statement on behalf of Clean Ocean Action  
before the Senate Sub-Committee on Coastal  
Pollution with New York Representatives to  
focus on Bi-state initiatives. Tuesday, Sept.  
29, 1987, Middletown, NJ.

I am Cindy Zipf, I speak on behalf of Clean Ocean Action a coalition of over 75 organizations including several in New York dedicated to clean up and protect the waters of the New York Bight. I welcome the opportunity to speak today, and commend the committee for recognizing the needs for these two states to work together. I want to emphasize the importance of working together and to put our fingers down. Finger pointing does nothing to improve the situation...it only exasperates an already complex, difficult problem. Working together with an action plan can win a united victory over the desperate condition of our waters.

The SUMMER OF 87 is one that we would like to forget, but one that will haunt us all unless swift and deliberate action is taken before the summer of 1988. Our platform, currently being developed, will result in our bottom line to end ocean dumping.

#### 1) PUT PRESSURE ON GOVERNORS

The time has come for our Governors to state their positions on ocean dumping. Both states are dumping in 7 legal dumpsites off New Jersey's and Long Island's coasts. With a commitment from the states of NJ and NY ocean dumping will stop. NY and NJ are the only two states in the country that ocean dump sewage sludge, burn wood, and allow industries to pump and dump in its waters. In a joint event Governors Kean and Cumo must be on record as opposing these dumping activities and force an end by 1991.

#### 2) Introduce comparable legislation to :

a) END SLUDGE TOXIC SLUDGE DUMPING make all sludge clean enough for land based alternatives by 1991. Include source reduction, recycling to reduce toxics in sludge from industry. Provide tax incentives and fees to insure reduced toxicity from industries discharging into plants. Toxicity of sludge should be reduced by 25 % over the next 4 years. States should help to identify land based alternatives. A step towards this has begun in NJ with S3308. and A4345.

b) BI-STATE TASK FORCE Obviously from the event this summer, no one is watching the coast. We must set up a Bi-state monitoring and surveillance Task Force which includes primary enforcement agencies, and citizens to ensure close minding of our waters by December 31, 1988. The bill introduced by Senator Van Wagner which has also interest from several NY Officials is a step in the right direction. The Task Force would search randomly throughout the harbor entrance and NY Bight. They must also be

trained specialists in the marine environment and in marine protection. This team must be funded by a \$5 million dollar tax placed on each permitted dumper..not the general public. This fee will also begin to bring ocean dumping costs closer to costs for land based alternatives. It was made clear that ocean dumping is a least 50% cheaper than other alternatives. Any illegal dumpers or violators should spend a minimum of 3 years in jail and a \$1 million fine.

c) END OCEAN DUMPING/BURNING

Support an instant moritorium on the wood burning operation until an Environmental Impact Statement is completed and special wood burning regulations adopted. Similarly, support the effort to stop Allied Chemical Company and DuPont from ocean dumping since alternatives are currently available.

d) REDUCE CSO's Develop a Bi-State compact to reduce flow and control floatables from Combined Sewer Overflows by 10% in 1988. additional 25 % by 1989. 30% for each year with a control on all CSOs by 1991. All wastewater treatment plants currently being upgraded must be included and must stay on schedule.

e) PLASTIC POLLUTION Ban plastics for which there are perfectly adequate biodegradable alternatives. Develop special regulations for all trash generated in NY and NJ which would include a manifest system. Whether its hospital waste or household garbage it does not belong in the ocean. Monitoring of all transfer facilities in NJ and NY would be the responsibility of the Bi-State Task Force. This would also include forcing the Port Authority of NY and NJ to collect al trash from vessels and properly dispose of the trash. Vessels may not enter the port without accounting for trash, and may not leave without it being collected.

It is not a question of whether or not we can accomplish these goals, or what we can get away with, or what the penalties should be. It is a question of whether or not we are willing to make the effort. We are the largest, most technologically capable region in the world...yet we treat our most precious resource like a sewer drain.

To end ocean pollution. to make the Raritan Bay harvestable for shellfish. and the Hudson's fish edible. your leadership will be put to the test. You must accept the challenge. Your public is watching.



## PARTICIPATING ORGANIZATIONS

AAUW, Inner Branch Council  
 American Littoral Society  
 Asbury Park Fishing Club  
 AT&T Bell Laboratories Skin Diving Club  
 Bayberry Garden Club  
 Bayshore Dive Club  
 Belford Seafood Coop  
 Belmar Chamber of Commerce  
 Belmar Tourism Association  
 Central Jersey Anglers  
 Citizens Conservation Council,  
     Ocean Co.  
 Clean Water Action  
 Coastal Zone Environmental Coalition  
 Concerned Citizens of  
     Clean Ocean Action  
 Common Shores  
 Crestline Village Fishing Club  
 C.W.A. Local 1034  
 Dosil's Sports Center  
 Eastern Dive Boat Association  
 Environmental Defense Fund  
 Fishermen's Wives Organization  
     of Belford  
 Garden State Seafood, Inc.  
 Greenpeace, USA  
 Greater Long Branch Chamber  
     of Commerce  
 Groups Against Garbage  
 Hudson River Sloop Clearwater, Inc.  
 I.U.E. Local 417  
 Jersey Coast Anglers  
 Jersey Coast Shark Anglers  
 Jersey Shore Audubon Society  
 Junior League of Monmouth County, Inc.  
 Keansburg Women's Club  
 Kiwanis Club of Shrewsbury  
 League of Conservation Voters  
 League of Women Voters of  
     Monmouth County  
 Main One Marina  
 Marine Environmental Council of  
     Long Island

Marine Mammal Stranding Center  
 Marine Underwriters, Inc.  
 Middlesex County Board of Realtors  
 Middletown Area Chamber of Commerce  
 Monmouth County Board of Realtors  
 Monmouth Council of Girl Scouts  
 Monmouth County Friends of Clearwater  
 Monmouth County Superintendent's Office  
 Monmouth Society of Professional  
     Engineers  
 National Coalition for Marine Conservation  
 National Council of Jewish Women of  
     Red Bank  
 Natural Resources Protective Association  
 New Jersey Council of Diving Clubs  
 New Jersey Eastern Surfing Association,  
     Northern District  
 New Jersey Sierra Club  
 New York City Sea Gypsies  
 Ocean City Environmental Association  
 Ocean County Board of Realtors  
 Ocean County Citizens for Clear Water  
 Ocean County Izaak Walton League  
 Pioneer Environmental Committee  
 Point Pleasant Fishing Coop  
 Red Bank Women's Club  
 Riverside Drive Association  
 Rumson Garden Club  
 Saltwater Sportsmen's Club  
 Save Our Ocean Committee  
 Sea Romers Dive Club  
 Shark River Surf Anglers  
 Shore Surf Club, Inc.  
 South Monmouth Board of Realtors  
 Staten Island Sport Divers  
 Summit-New Providence-Berkley Heights  
     Board of Realtors  
 Tampon Applicator Creative Klubs  
     International  
 Thousand Fathom Club  
 United Boatmen of New Jersey &  
     New York  
 Village Women's Club

TESTIMONY OF THE  
HONORABLE RALPH J. LAMBERTI  
BOROUGH PRESIDENT OF STATEN ISLAND

BEFORE THE  
STATE OF NEW YORK  
AND STATE OF NEW JERSEY  
LEGISLATION BI-STATE PUBLIC HEARING CONCERNING COASTAL  
ENVIRONMENTAL PROBLEMS IN THE METROPOLITAN  
NEW YORK/NEW JERSEY REGION.

MIDDLETOWN, NEW JERSEY  
MUNICIPAL CLVD.  
SEPTEMBER 29, 1987

VIRTUALLY EVERY VILLAGE, TOWN, AND CITY IN AMERICA HAS MOUNTING GARBAGE DISPOSAL PROBLEMS. BUT NONE COME CLOSE TO MATCHING THE CRISES FACED BY NEW YORK CITY... AND QUITE SPECIFICALLY FRESH KILLS LANDFILL ON STATEN ISLAND, THE LARGEST LANDFILL IN THE WORLD.

THE OPERATION OF FRESH KILLS IS A HERCULEAN TASK, WHICH RECEIVES 26,000 TONS OF GARBAGE DAILY, MUCH OF WHICH IS BARGED FROM MARINE TRANSFER STATIONS IN BROCKLYN THROUGH THE ARTHUR KILL AND ADJACENT WATERWAYS INEVITABLY SOLID WASTES ESCAPE THE FRESH KILLS OPERATION AND WASH UP ALONG THE BEACHES. THE RESULTS: COASTAL ENVIRONMENTAL POLLUTION.

THIS PROBLEM HAS NO SIMPLE SOLUTION, AND MUST BE FACED HEAD ON WITH PROPER MANAGEMENT. INTERSTATE COOPERATION AND OF ENFORCEMENT OF THE LAWS.

THE ISSUE OF CONTAINMENT MUST BE PARAMOUNT AT THE OPERATION IN FRESH KILLS. CONTAINMENT OF THE DEBRIS WINDBLOWN FROM THE LANDFILL ITSELF. THE BARGES IN TRANSIT. AND FROM THE BARGE LOADING AND UNLOADING FACILITIES. IT SHOULD NOT TAKE AN INTERSTATE LAWSUIT TO COMPEL THE PROGRAM MANAGEMENT OF MUNICIPAL WASTE.

MY OFFICE HAS WORKED DILIGENTLY WITH OFFICIALS OF THE D.O.S. TO ABATE MANY OF THE PROBLEMS FACED BY STATEN ISLANDERS. ONE MAJOR NUISANCE ASSOCIATED WITH THE LANDFILL IS THE ODOR. TO THAT END, A MORE VIGOROUS COVER OPERATION HAS BEEN IMPLEMENTED, INCLUDING AS THE USE OF DISINFECTING CHEMICALS. IN ADDITION, THE COVER OPERATION HAS ALEVIATED SOME OF THE POTENTIAL OF AIR-BORNE DEERIS.

PAGE 3.

FURTHER. MY OFFICE IS INVESTIGATING. ALONG WITH SANITATION. THE FEASIBILITY OF NETTING THE BARGES DURING TRANSPORT. WE EXPECT THAT SUCH A TECHNIQUE. CURRENTLY EMPLOYED BY OPEN TRUCKS. TO REDUCE THE AMOUNT OF WASTE BLOWING OFF DURING THE BARGE TRANSPORT.

COMPOUNDING THE PROBLEM OF COASTAL POLLUTION HAS BEEN THIS SUMMERS SCARE FROM FLOUTING INFECTIOUS MEDICAL WASTE ALONG THE BEACHES OF NEW JERSEY AND NEW YORK.

AGAIN. SOME FINGERS HAVE BEEN POINTED TO N.Y.C.'S BARGE LOADING FACILITIES IN BROOKLYN. AND AS RECENTLY AS A FEW WEEKS AGO MEDICAL WASTE WAS FOUND ON BARGES ENTERING THE FRESH KILLS LANDFILL.

PAGE 4.

THERE SEEM TO BE ENOUGH LAWS TO DEAL WITH THE DISPOSAL AND HANDLING OF INFECTIOUS MEDICAL WASTE... WHAT HAS BEEN LACKING IS THE VIGOROUS ENFORCEMENT OF THESE LAWS. WE NEED TO CLOSE THE LOOPHOLES. STRICTLY REGULATE THE MEDICAL WASTE GENERATORS. MERE FINANCIAL PENALTIES MAY NOT BE ENOUGH, NO MATTER HOW SEVERE.

WITH THE PASSAGE OF VITALIANO-MALPINI LAW IN NEW YORK RECENTLY, WE HAVE ADOPTED PERHAPS THE BEST INCENTIVE TO COMPLY WITH THE LAW... THE REVOCATION OF OPERATING PERMITS AND CERTIFICATES OF VIOLATORS.

PAGE 5.

LETS NOT FORGET THAT ENJOYMENT OF THE WATERS AND BEACHES  
OF NEW YORK AND NEW JERSEY ARE FOR EVERYONE'S BENEFIT. WE ARE  
NEIGHBORS. WE SHOULD WORK TOGETHER TO PROTECT THE ENVIRONMENT.

THANK YOU.



## JUNIOR LEAGUE OF MONMOUTH COUNTY, INC.

P.O. BOX 109

RUMSON, NEW JERSEY 07760

(201) 842-2039

September 29, 1987

### HEARING - NY/NJ COOPERATION ON OCEAN ISSUES

I represent the Junior League of Monmouth County. We are one of near 300 Leagues in the United States, Mexico, Canada and Great Britain. We have a history of advocating in areas concerning women, children and the elderly. For the past five years we have been studying issues relating to the environment.

Our ocean is not some magic liquid that is able to absorb all the sewage, organic chemicals, metals, bacteria and garbage that is continually being dumped. These pollutants remain in the water, enter our food chain, destroy marine life and eventually will cause our ocean to become the equivalent of a toxic waste dump.

It is imperative that our governmental agencies enforce the environmental regulations we now have offering absolutely no leniency to anyone who chooses to disregard these restrictions. If research proves and common sense tells us that we need these regulations, then why is it we cannot and do not effectively enforce them? When we do not use solutions found as a result of paid research, is this not a flagrant waste of taxpayers money? It has taken a summer of garbage on the beach to make the public partially aware of the degradation of one of our most important natural resources. These garbage spills are only a small indication of the widespread pollutants that inhabit our ocean.

Individual industries must be held responsible for their discharge into any waterway. Heavy fines or closure of the company should be the alternatives for no pretreatment and discharge of toxic substances. Technology exists and the development of source reduction must be implemented to protect our environment.

The movement of the sludge dump site to 106 miles is of some significance but the phase out of all sludge dumping by 1991 must be enforced. As long as there is a cheap way of getting rid of sewage sludge, municipalities will not improve the "quality" of their sludge through pretreatment procedures. The increased volumes of sludge due to population increases shows that we must start now to develop land based alternatives.





## JUNIOR LEAGUE OF MONMOUTH COUNTY, INC.

P.O. BOX 109

RUMSON, NEW JERSEY 07760

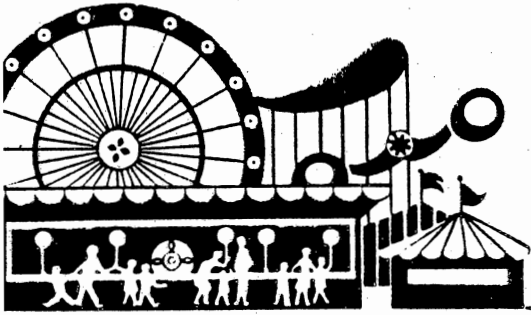
(201) 842-2039

There is no excuse for the dumping of garbage by New York whether it be in Fresh Kills Landfill, Brooklyn Marine Transfer or any other disposal operation. No way should these places be so mis-managed that the arrival of garbage should ever be found on our beaches. This disregard for the safety and health of the general public should be dealt with in terms of criminal prosecution and stiff fines.

Although we are finally making legislative progress regarding the dumping of plastic much more must be done, ~~to enforce these exist-~~  
~~ing laws~~. Incentives should be given to industry to develop alternatives to these non-biodegradable pollutants. No product is so necessary to our everyday lives that we cannot find a substitute or do without!

In summation, we know that technology exists for alternatives to this abuse. No other state dumps the way New York and New Jersey do. The apparent disregard for the future security of our ocean and our lives is appalling. This does not mean just New York and New Jersey residents. The ocean belongs to everyone in America and as soon as the entire country is made aware of the physical and economic ramifications of our "local" problem, you can be assured that every citizen would stand behind development of alternative methods of disposal.

The Junior League of Monmouth County thanks you for hearing this statement.



TOURISM  
FEDERATION  
OF NEW JERSEY

## *New Jersey Amusement Association*

729 FISCHER BOULEVARD, TOMS RIVER, NEW JERSEY 08753 (201) 929-1990

### Ocean Water Quality

Testimony of  
Michael L. Redpath  
Executive Director

Senate Special Committee to Study  
Coastal and Ocean Pollution

September 29, 1987

I recently purchased a fine art poster that I feel speaks directly to the happenings of this past summer. It shows two dolphins kissing in a surrealistic ocean setting. Below the picture is the legend, "To live on the land we must learn from the sea."

We must learn from the sea. The lessons are of vital importance to our existence. Most of us have not been paying attention. This summer, the ocean screamed and we finally heard. We heard because the message was received in our checkbooks.

I have lived at the Jersey Shore for nearly 19 years, and I cannot remember a year without trash on the beach. Now, this trash amounts to what could perhaps be called an ambient level of trash, much as we have ambient noise. This "ambient" trash accumulates at the high tide line. The most prevalent items in the high tide line are cigarette filters. Behind that are plastic straws and then tampon applicators. Adding to the ambiance frequently are cigar mouthpieces, plastic containers, plastic cups and plastic utensils. We have accepted all of this for years.

The isolated, though massive and very visible, events of this past summer may have served a useful purpose. We have been shaken out of our complacency.

No one would allow waste to be dumped in the neighborhood playground or in their backyards, yet we dump in the ocean which is our playground, our backyard, and even our supermarket. Ironically, we leave the dirt and clutter of our cities and suburbs and head to the shore to get away, and there we meet our trash.

This summer, the ocean screamed, and we had better listen. We had two major, dramatic, incidents; a massive trash washup and the widespread deaths of bottlenosed dolphins. This coupled with the AIDS panic and sensationalized media coverage created an economic crisis of enormous scale.

It is difficult to determine the extent of the economic damage. Reliable business statistics are not readily available from the thousands of independent business people along the shore. It is, however, a matter of public record, that beach badge sales were off significantly at coastal municipalities. When people don't go on the beach, they don't spend money elsewhere in town either. And the impact extends well beyond the immediate shore, reaching out to affect road tolls, public transit fares, restaurants on major thoroughfares, retail outlets well removed from the coast, and many other business interests.

It has been convenient to knock New York City for years as a source of our beach problems. Perhaps that has been particularly acceptable because such an approach helps us to overlook our own responsibilities.

North Jersey communities dump nearly as much sewerage sludge into the ocean as does New York City. A DEP study indicates most of the trash on our beaches comes from beach users and near shore water users. Tampon applicators are said to get to the beach via sewerage outfalls. As we examine the problem of ocean disposal and abuse of our ocean, one thing becomes evident. We must each individually be part of the solution, either by voluntary action or through legislative mandate.

This is a time for courage and sacrifice. We have been aroused to action, we cannot let this moment pass. Our bottle bills in New Jersey have gone nowhere. Legislation dealing with plastic tampon applicators was dismissed as sexist., while they continue to litter our beaches and kill our marine life. Endless exemptions and extensions are afforded ocean dumpers. And while we complain about the fouling of our oceans, we continue to use plastic disposables, one of the greatest sources of visible pollution.

There is need for what amounts to a bi-state compact in dealing with ocean water quality and waste disposal. New Jersey and New York share the New York Bight. We must share responsibility for its care, proper use and protection. The bottom line is that we must agree to put nothing in the ocean that we wouldn't want in our backyard.

There are a few basic goals on which we need to focus if we are to prevent further degradation of our ocean:

1. There must be a rapid phase out of all ocean dumping and disposal. It is hard to fathom a society where we ban smoking in many public places and yet give permits to dump in our ocean.

2. Disposable containers, packages, utensils and convenience devices must be recyclable, biodegradable or totally banned.

3. There must be a bottle bill in New Jersey to further encourage recycling.

4. Offshore burning must not be permitted.

5. A special enforcement section within the Marine Bureau of the State Police should be created to monitor dumping in the ocean and assist in prosecuting violators.

6. Meaningful fines for both simple littering and ocean dumping must be established and imposed.

Besides these statutory basics, we need to address two other areas; public education and the news media.

Public education can play a major role in dealing with the problem as close to the source as possible. People also need to know that our ocean is probably cleaner than it has been for years and that the isolated incidents of this past summer are just that. Those incidents do not mean our ocean waters cannot be safely enjoyed when the isolated problems are not occurring.

The news media have contributed significantly to, if they haven't in fact caused, public misconceptions concerning the incidents of this past summer. The news coverage by much of the media was not unlike yelling fire in a crowded theater. The public has a right to know and the news media a responsibility to report. But that responsibility includes being factual, accurate and balanced.

New Jersey's Division of Travel and Tourism, Department of Health, and Department of Environmental Protection must develop data to inform people that our beaches are desirable places to enjoy. They must take the responsibility to keep people informed and to counter irresponsible reporting. And, either the state or the business community must be prepared to take legal and economic action against any news media that choose to be irresponsible in their reporting.

We cannot afford another summer of 1987. Our image has been tarnished. The world is watching all of us to see what we will do to regain their confidence in our ocean waters. We must act now. Next spring or summer is too late.



## LEAGUE OF WOMEN VOTERS OF OCEAN COUNTY, N. J.

c/o P. Schwartz, Co-President  
25 Green Twig Drive  
Toms River, N.J. 08753  
(201) 244-2596  
September 29, 1987

My name is Janet N. Larson and I live in Dover Township, Ocean County, N.J. I am here as a member of the Natural Resources Committee of the League of Women Voters of Ocean County.

The League of Women Voters of Ocean County and the League of Women Voters of New Jersey support SOURCE REDUCTION as the first step in our position on a solid waste management program which encompasses pollution in our ocean. The individual consumer can change his habits to reduce the use of many materials. However, packaging regulations can only be remedied by legislative action and this would be most effective at the state and federal level. The bad habits developed for convenience have resulted in a "throw away" mentality that needs to be changed. We should stop the use of disposable lighters, disposable razors and other such products. We should encourage diaper service instead of disposable diapers. We should encourage paper packaging as being preferable to styrofoam or plastic. The fast food industry is especially guilty in this regard. Manufacturers should be encouraged to produce appliances which can be repaired instead of discarded.

As sighted above, in some instances products should be prohibited. In others tax incentives for the producer and consumer could encourage the use of recycables. We can not stress enough the importance of recyclability at the time of product design insured by legislation. What regulations there are, are directed at the handling and disposal of waste, not logically controlling their introduction which in turn would reduce not only pollution of the ocean but all pollution of the earth.

# # #

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# NJHA NEWS RELEASE

NEW JERSEY HOSPITAL ASSOCIATION

22 September 87

TO: Media in Attendance

FROM: Ron Czajkowski, NJHA Director of Communications, 609-275-4071

RE: New Jersey Hospital Association Position: Hospital Waste

New Jersey hospitals have been extremely vigilant in complying with proper waste disposal procedures for both infectious and non-infectious hospital waste. By current regulation, infectious or "red bag" waste must either be incinerated, or sterilized and then properly landfilled.

Non-infectious patient-contact waste such as dressings, swabs, cotton gauze, tubings, and IV bags can be landfilled directly. Needles and syringes must be boxed and crushed before disposal.

Developing reasonable manifest standards certainly is one way of dealing with the waste disposal problem, although it may prompt added costs for the hospital industry.

As landfill space becomes more scarce, incineration of all hospital waste becomes a more practical option. For that to happen, strict federal and state environmental standards on incineration would have to be eased. Also, the cost of constructing clean-burning incinerators will have to be passed along to those who pay for hospital care.

Finally, it should be noted that hospitals aren't the only generators of the medical waste in question. Physicians, researchers, veterinarians, morticians and nursing home professionals also generate tons of contact waste yearly and should be held accountable to the same regulations as hospitals.