

P U B L I C H E A R I N G

before

ASSEMBLY WASTE MANAGEMENT,
PLANNING AND RECYCLING COMMITTEE

"Interdistrict Agreements to use Resource Recovery
Facilities on a Regional Basis and the Prospects for
Achieving a Countywide 60% Recycling Rate"

November 1, 1990
Room 341
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Harry A. McEnroe, Chairman
Assemblyman Thomas J. Duch
Assemblyman Robert C. Shinn, Jr.

ALSO PRESENT:

Algis P. Matioska
Leonard J. Colner
Office of Legislative Services
Aides, Assembly Waste Management,
Planning and Recycling Committee

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Hearing Recorded and Transcribed by
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ROBERT C. SHINN, JR.

New Jersey State Legislature
ASSEMBLY WASTE MANAGEMENT,
PLANNING AND RECYCLING COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625-0068
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NOTICE OF A PUBLIC HEARING

The Assembly Waste Management, Planning and Recycling Committee will hold a public hearing on:

*Interdistrict Agreements to use Resource Recovery Facilities
on a Regional Basis and the Prospects for Achieving a
Countywide 60% Recycling Rate.*

The hearing will be held on *Thursday, November 1, 1990 at 9:30 a.m. in Room 341, State House Annex, Trenton, New Jersey.*

The public may address comments and questions to Algis P. Matioska or Leonard J. Colner, Committee Aides, and persons wishing to testify should contact Deborah Del Vecchio, secretary at (609) 292-7676.

Assembly Bill No. 10, sponsored by Assemblymen McEnroe and Duch, would establish procedures for State approval of agreements for use of resource recovery facilities on a regional basis. At the public hearing the Committee will take testimony on the issues addressed by this legislation: What administrative or legislative measures are needed to facilitate the negotiation of regional agreements between counties for sharing resource recovery facilities? In addition, the public hearing will include consideration of the problems and prospects of counties achieving a 60% countywide recycling rate.

The Committee is interested in receiving testimony from interested county solid waste planning officials, as well as representatives of the solid waste industry and the environmental community, on these very important issues.

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ASSEMBLYMAN HARRY A. McENROE (Chairman): Good morning everyone. I'd like to welcome all of you. This is a public hearing of the Assembly Waste Management, Planning and Recycling Committee. Our subject this morning is regionalization of interdistrict agreements and the encouragement -- I think that's a fair word to state -- of resource recovery facilities by the various counties around our State.

As all of you know, the bill before us is A-10. It has a low number. Our intent in providing that low number for the bill was to emphasize the importance of the subject we're reviewing this morning. Its intent is to establish procedures to facilitate the negotiation, adoption, and State agency approval of interdistrict agreements for the utilization of resource recovery facilities on a regional basis.

There is nothing original about this bill. It's mostly procedural guidance in reaching agreements in a timely manner with the State agencies poised to cooperate and prioritize considerations aimed at expediting the contract approval process. Governor Florio has appointed an Emergency Solid Waste Task Force, and they have emphasized the role of recycling in our statewide strategy. The Task Force has also reconfirmed that the role of the counties as having a primary responsibility for disposal of solid waste, should remain unchanged.

As a part of that final report -- I'll quote -- as a part of it they say, "There is no question that working together, the counties can achieve more than they can on their own." That certainly is encouragement for regionalization. The Governor, of course, to this date, has not accepted the recommendations of the report, but certainly the people of our State and certainly the Legislature, are all anxiously awaiting the decision of Governor Florio.

Our Committee this morning is limiting our inquiry to the specific question of regional agreements to provide full utilization of resource recovery facilities in our State. We're also interested, certainly, in the public reaction, and the reaction from those persons in the public sector charged with the responsibility in this area as to whether or not the recommended recycling rate of 60% is attainable in New Jersey.

This public forum, frankly-- It's not a pep rally on behalf of incineration, but a realistic assessment of New Jersey. Again, our most densely populated State, which generates 14 million tons per year of waste, requires that we pursue the most obvious option for regional disposal cooperation, which is certainly resource recovery. But we're not precluding any other mutual opportunities that will arise for the counties.

The Star-Ledger, the largest circulated newspaper in our State, editorialized during this past week, and I quote, "Where are the rest of the badly needed incinerators? Essex County's resource recovery facility is a useful addition in the fight against the major problem of garbage disposal." That's the end of the quote from the editorial.

As all of you know, we presently dispose of 60% of our solid wastes out of the State of New Jersey. That's at great additional and, frankly, unnecessary expense to our citizenry. All this is a temporary arrangement, as we all know, of fragile out-of-state disposal permits. They can be a victim of provincial political decisions made by agencies far beyond the reach of us here in our own State.

So, a concluding comment: The failure to find agreement within the near future could create an unmanageable mess of conflicting public policies that will portend the potential for an environmental and economic disaster for our State of New Jersey.

I believe we, in some way, have set the stage for our discussion this morning. We are a Committee that has grappled very conscientiously with this subject over the past months. We want to be helpful to the counties; we want to be responsive to the needs of our State; and we want to be conscious always of the needs of our taxpayers and our citizenry around the State.

We have a long list of people who wish to testify. I'm going to call on those individuals very shortly. We hope to move the agenda as quickly as we can. We do want insightful comment from counties and from players in this environmental question, and I'll be calling them very shortly.

Are there any comments from members of the Committee?

ASSEMBLYMAN SHINN: Yes.

ASSEMBLYMAN McENROE: Before you do, let me just introduce the members that are here. Our Vice Chairman, Dan Jacobson is not in attendance, but I understand that he is on the premises and he will be joining us shortly. We also have Mr. Tom Duch, Assemblyman representing both Passaic and Bergen Counties, and also Bob Shinn, Assemblyman from Burlington County.

Mr. Shinn, the floor is yours.

ASSEMBLYMAN SHINN: Thank you, Harry. I'm happy that you had a hearing because I think that we are precariously close to a solid waste crisis in this State. I'm concerned about capacity, and I have been concerned. As you know, Burlington County is not a county that has selected resource recovery as its technology for complying with the Solid Waste Management Act, and I find myself being a resource recovery advocate in this atmosphere because, if you look at what we're generating on a daily basis in solid waste, we're generating 50,000 tons a day of solid waste. If you look at the four incinerators that are coming on-line, Gloucester at 575 tons, Essex at 2250, Warren at 400, and Camden at 1050, out of that

50,000 tons per day that we are generating, that's 4275 tons of capacity. Usually an incinerator burns at 80%, so you're really only talking about 3400 tons a day of capacity, so that leaves you with 46,903 tons per day to dispose of.

As you mentioned earlier, we're relying on out-of-state capacity for 60% of our volume. With the moratorium, it is my understanding that once these four plants are completed, there's not one landfill, or one resource recovery facility proceeding through the Engineering Section of DEP for construction at this point. So, we're beyond the four-month moratorium, and we're still on hold in the Department, which is of great concern to me.

I think when you look at those daily volumes, and you factor into that that the Department of Environmental Resources in Pennsylvania has adopted a rule that any new cell construction can only receive 30% of out-of-state waste, that is affecting our 201s in this State, because sludge disposal is becoming more and more of a problem. We're trying to get out of the ocean. Pennsylvania is pushing us out under this 30% rule. Things are pressurizing fast in solid waste and sludge, and I just think we ought to look at those numbers.

I'm glad you're holding a hearing because I think if we can focus on this and focus on the volume that we haven't got a home for, we can come about the solutions a lot more readily. But I think we've got to look at the numbers, because the numbers do not look good. Thank you.

ASSEMBLYMAN McENROE: Thank you. I think your statement is very much on target. You mention focus. I think we are on focus. I read where one of the players on the New York Mets had stated that the reason they didn't succeed was they weren't focused properly. They can't say that about our Committee. We're focused very much on a central issue, really, that affects all of us in New Jersey.

We have a long list of people who wish to participate and comment and offer testimony. The first person we had signed in to comment was the Mayor of the City of Newark, the Honorable Sharpe James. He is not present, but he does have his recycling coordinator from the City from the Public Works Department and we'd like to call on Mr. Sudol. Frank Sudol, would you join us at the table?

I think you know our members. We have Assemblyman Duch and Assemblyman Shinn present. Mr. Franks is also a member of the Committee. We would hope that he would join us later.

F R A N K J. S U D O L: Thank you, Harry.

ASSEMBLYMAN McENROE: Mr. Sudol, good morning.

MR. SUDOL: Good morning, and thank you for inviting Mayor Sharpe James to testify today. Due to a long-standing prior commitment, he was unable to attend today's session.

My name is Frank Sudol. I'm Manager of Newark's Division of Engineering and Contracts Administration. I'm here today to testify on behalf of the Mayor with respect to Assembly Bill A-10.

While we concur with and support the concept of A-10, we do have eight specific concerns with the bill which we believe need to be addressed either today or in the near future.

The first concern is that it is important that the host municipality and the host county for any resource recovery facility be invited to participate in all negotiating sessions. We think that's critical so that everyone knows what's going on so all the actors are involved, and that there are not any miscommunications or misguidance that might erupt from lack of communications. We think that's a very important point.

Item No. 2: Any agreement between an owner or operator of a resource recovery facility should be expressly prohibited from setting aside any agreement already in place.

What I'm referring to is a host municipality agreement, in the event that a host municipality agreement already exists; just some sort of insurance -- or an assurance -- that there won't be any revocation of any existing host municipality agreements.

Additionally, with respect to that same item, any such interdistrict agreements should also require the owner/operator to enter into a host municipality agreement where one doesn't exist for the receipt of out-of-district waste.

Our third point is that it should be specified that out-of-district tipping fees should not be less than that of the tipping fee of the host county's municipal solid waste. We don't want to see a situation where, say, out-of-state waste comes in at a rate that the in-district residents would have to subsidize.

Item No. 4: The out-of-district waste should have as high a recycling rate as the receiving county's recycling rate, at the minimum, and must require-- The agreement should also require recycling provisions to meet the goals of both the Federal and State governments. EPA has a 25% goal. New Jersey by law has a 25% goal, although the Governor has called for a 60% goal, and if that amount of recycling is not currently in place, then a plan should be tied into this interdistrict agreement, or agreement with the owner/operator of the resource recovery facility.

Item No. 5: The bill should also provide direction for regionalization of recycling, and not just the regionalization of resource recovery facilities. If that is going to be a separate bill or part of this bill, I think it is an issue that is very important to be addressed. Regionalization is certainly the proper direction to go. We shouldn't rely on arbitrary boundaries, county boundaries, that sort of thing. What we have to do, I think, is look at the issue of logically drawing lines in these interdistrict

agreements. That makes a lot of sense, and it should apply not only to resource recovery facilities, but also to recycling facilities.

Item No. 6: Interdistrict contracts should not provide specific-- I'm sorry, interdistrict agreements should provide specific requirements suitable to the DEP -- the Department of Environmental Protection -- for the removal of batteries, for both household batteries and lead-acid batteries, as well as for household hazardous waste. Right now there is no provision in the district plans to allow or require that these items be removed prior to incineration, and we think that's a very, very important thing to happen.

Most of the incinerators that have been constructed including the recently opened American Ref-Fuel facility in Hempstead, which is in Nassau County-- Nassau County has a permanent household hazardous waste facility, which is open for residents year-round to bring household hazardous waste and batteries, and of course, Gloucester and Warren County also have provisions for household and battery recycling.

Also, as part of this point, every district plan should be required by law to be modified to require a plan for the removal and recycling of batteries and household hazardous waste. We don't want to see a situation where recyclables, where batteries, where household hazardous waste are being incinerated. Those are things that are important to remove prior to incineration.

Item No. 7: The language on page 10 of the bill, item 12 b., is vague as to when the Solid Waste Management Plan will require amendment for inclusion of source reduction, recycling, and reuse techniques. We think it should be specified specifically as to when that amendment should take place.

Lastly, the language on page 12, item 4, should require that route designation be developed in conjunction with the host municipality. We think wherever a resource recovery

facility is located, the town engineers and the town council, pretty much have a good handle on the local traffic situation, and that it's important for the local jurisdiction to be involved in that planning and designation process.

That's the end of my comments, unless there are any questions.

ASSEMBLYMAN McENROE: Thank you. Any questions from the members of the Committee?

ASSEMBLYMAN SHINN: Yes.

ASSEMBLYMAN McENROE: Mr. Shinn.

ASSEMBLYMAN SHINN: One comment you made relates to makeup waste, and I think it goes directly to put-or-pay contracts that people have with vendors. You know, when it gets to put-or-pay and you're short of waste, it's common to pull in some waste wherever you can get it so you're not raising your overall tipping fee to make up for the shortfall in waste. I think one of the comments you made was, you don't want any discount of makeup waste that might subsidize, for a small amount of money in the short-term, but in the bigger picture, you're really saving money, because if you don't have the makeup waste, basically you have to raise your overall rate to make up for the shortfall.

I'm just wondering if you really want to tie the hands of the county in not being able to deal with the make up waste issue?

MR. SUDOL: Yes, we do. We've had very specific, in-depth discussions with respect to that issue, and the reason why we think that's a very important issue is because of the fact that there is so much garbage to go around. The resource recovery rates as stated in the newspapers and all are slated to be in the area of \$65 or \$70 a ton, which is a lot less than that of the waste for transfer stations, and be that the case, we don't think that a \$65 or \$70 fee should be undercut further. There is, as you indicated, something like 48,000

tons a day of municipal solid waste in New Jersey, and we don't think there is going to be any shortage of garbage or any economic dislocation due to that kind of specific provision. We don't want to see local taxpayers subsidizing out-of-county waste coming in.

ASSEMBLYMAN SHINN: Yeah, but, just the point I had-- There is a short-term/long-term relationship to that that I think everyone ought to look at carefully, because if you don't have the waste and you have to pay for it anyway, and you don't have that revenue coming in from the waste, then you have to basically increase your tipping fee to make up for the shortfall.

MR. SUDOL: We think that would be a real major concern if there was a shortage of garbage in New Jersey, but because of the fact that there is no shortage of garbage and there is enough to go around, we don't think that really is critical.

ASSEMBLYMAN SHINN: The issue is really waste flow control. We've got plenty of garbage. It's just a matter of directing it where it's supposed to go properly.

MR. SUDOL: Agreed.

ASSEMBLYMAN SHINN: We've got to focus on that, obviously. Okay. Thank you.

ASSEMBLYMAN McENROE: Thank you, Mr. Sudol. We appreciate your comments. I'm going to just comment, if I may.

Most of your recommendations are matters that you have communicated and the Mayor's Office has communicated with our Committee. Most of them, such as the joint market approach for recycling, and also, of course, the Task Force report, do encourage agreements between districts, certainly beyond resource recovery, and encourage recycling management at the regional level also.

The major concern, and one of the primary reasons or circumstances which created our interest in the subject of

regionalization is this potential based on lack of waste flow to a facility that certainly serves as the model. The potential regional facility in Newark is a circumstance where 60% of our waste generated in New Jersey is being disposed of out-of-state. We could, frankly, as we all recognize I would think, have a circumstance where in the City of Newark, in Essex County, have a regional facility that is accepting waste not only from out-of-district, but potentially out-of-state.

Out-of-state waste could be accepted at the Essex facility, while at the same time waste generated within almost the shadow of that facility would be disposed of in jurisdictions 300 miles to the west. That is a major focus of this Committee, and frankly, inherent in our comments today and in our hearing is the encouragement of these agreements, so that the Essex facility serves the needs of the region and is not available to out-of-state contractual agreements.

MR. SUDOL: Yes. One reason why that is particularly of importance is because of the fact that not only is the entire State of New Jersey generating about 48,000 tons a day of municipal solid waste, but New York City, which is only eight miles away from Newark where our Essex County resource recovery facility is located, is also generating about 48,000 tons a day. It's in very close proximity to the incinerator, and obviously our concern is that New Jersey be taken care of first.

ASSEMBLYMAN McENROE: That's a good way to wind up your testimony: New Jersey first. Thank you very much. We appreciate that.

Next we have on our list the representative from Essex County -- the County Executive, who we'd like to come forward and join us. Nicholas R. Amato, the County Executive of Essex County.

Before you begin your testimony, Mr. Executive, I'd just like to welcome you in a very special way. You have

certainly been a leader in the development of resource recovery. You have shown the leadership and the initiative, and I think Essex County will forever be grateful for your conduct during the past four years, and this remains -- this waste-to-energy facility in the City of Newark-- Not only will it be a monument to the cooperative attitude of the City and the County and the agreement that has been reached, but I think in a very special way, you have been the gentleman very much in the center of that agreement.

Mr. Amato, these are Assemblyman Duch and Assemblyman Shinn. We're happy to hear from you.

C O U N T Y E X E C. N I C H O L A S R. A M A T O:
Good morning. I don't know how to respond to those comments. I suspect that flattery is like chewing gum. It's okay to enjoy it, but don't swallow it.

I appreciate your thoughts on that, Harry. It's really-- I say that as a joke, and not in anything aside.

There's probably no more issue politically charged than the question of garbage. I think that whether it's solving the problem on an interim solution or long term, it's an issue loaded with political dynamite.

Essex County has eight years in the planning and 32 months in the building of a resource recovery facility, or waste-to-energy incinerator. Just last week, we had our dedication ceremonies and opened up this facility. First of all, let me just say as an aside, I do support this bill. I'll get to that in a moment.

The catch word of the '90s is self-sufficiency. There is no quick fix solution to the solid waste crisis. The way to do it is by developing an integrated solid waste management plan. By integrated, I mean that you must start with source reduction, recycling, waste-to-energy facilities, and landfilling. I think by coming up with an integrated,

environmentally sound, cost-effective, efficient plan, you will solve the solid waste crisis, and I'm proud to say we have done that in Essex County.

Our waste-to-energy facility is probably the finest technology you are going to find anywhere. It's cost-effective, and it's efficient.

I think that the way, if you take the four parts of this plan as I have outlined-- Source reduction: County government doesn't have much control over source reduction. The average American generates 3.5 pounds of garbage a day, or 1300 pounds a year. A lot of it depends upon the packaging, over which county government has no control. Recycling is a very, very effective way, but in order for recycling to be effective it must be economic. Good intentions will not make recycling work; the market will. In Essex County we're at 32%, and we will reach the 60% goal within the five years.

Landfills are closing daily. If you were to check some of the records you will find that from 1982 to 1987, 3000 landfills have been filled and shut down nationwide. Fifty percent of the landfills now in use today, will not be in five years. So, landfills are not, in my opinion, the way to go.

Composting is also not the way to go, because if you figure that Essex County can fill Giant Stadium every four to six months with its garbage-- If you want to get a pungent odor, I would suspect all you have to do is to go by the Fulton Fish Market, or Little Italy, or Chinatown on the night before the garbage is picked up and smell the aroma. That will give you an idea of what composting is like, although it is effective for lawn clippings, grass, leaves, and things like that.

In order for Essex County, or any other county, to be self-sufficient, we have to stop, and no longer rely on out-of-state landfills. There are politicians, and maybe rightfully so, campaigning in Pennsylvania, on closing out

their landfills to New Jersey garbage. We have it in Pennsylvania, Kentucky, Ohio, and now Indiana. We must become self-sustaining. And whether we become self-sustaining and self-sufficient on landfills for garbage or landfills for ash, that must be the way of the future.

Essex County does have excess capacity, and there are reasons for this. When someone designs and builds a waste-to-energy facility that costs nearly \$320 million, you don't build it too small. You might buy expensive shoes that might be a little big for you, but you don't buy them that are too small for you.

The second thing is that there has been a drop of population in Essex County, and the third is the factoring of recycling. I might also suggest that when garbage was dumped in the HMDC it was not weighed; it was measured by truckloads. Maybe that was not as accurate as weighing garbage. The fact remains that there is excess capacity, and I think the idea of building 22 separate waste-to-energy facilities makes absolutely no sense whatsoever.

To build a resource recovery facility in Essex, Hudson, Bergen, and Passaic, makes absolutely no sense, but what does make sense, is regionalization. Essex does have excess capacity, and as the papers have reported, Essex has been talking to Morris County, and for the record, we've also talked to Middlesex County and Hunterdon County for the purposes of coming together to solve a mutual problem; and that problem is to get control of the solid waste problem and make it cost-effective.

Our present transfer rates are \$102.15. As of the other day when we started redirecting various municipalities starting with the City of Newark to our resource recovery facility, our rate dropped to \$97.30. When this plant reaches capacity, our rate will drop to between \$65 to \$67 per ton. If you take that \$37 reduction and multiply it by Essex County's

present solid waste flow, you will find that that's a reduction to the taxpayers of our County of about \$20 million.

That is in addition to the host benefit payments to the City of Newark, and those additional benefits will be paid to the City of Newark, with additional host benefits for out-of-county garbage.

I think that if you approach this problem with an integrated solution using various alternatives, we will get a handle on solving the garbage problem. But I do believe, quite sincerely, that not only must we no longer depend upon out-of-state for the disposal of our garbage, but we can no longer depend upon out-of-state for the disposal of our ash. Essex County enjoys, at the present time, a long-term contract for disposal of ash in upstate New York, but that, too, like everything else, could be subject to termination in years to come.

I think one of the reasons why we negotiate with other counties, is for them to bring something to the table, namely an ash landfill, so that Essex County together with other counties can become self-sufficient.

With respect to the present bill, Mr. McEnroe, I would support that bill. I think it gives the discussions between counties some structure. It doesn't make much sense to sit down and talk for hours and days about coming up with an interdistrict agreement to then find out you haven't covered certain topics. I do believe, also, that it sends a signal that this is the way to go; that this is the way of the future. I reviewed some of the provisions of this bill with counsel, and I'm advised that there are certain questions that we offer.

At the present time when you have a contract and the contract rate structure is approved by the BPU and the DEP, for all intents and purposes, that rate structure remains in full force and effect. The bill is not clear that if you have a

rate structure that is signed by and between two counties, whether or not that will remain in full force and effect. Second of all, if you are going to have a contract between two counties, would that in any way open up the rate structure of the original contract between the county and the vendor? I think these questions should be looked into and addressed.

I hope I've been somewhat enlightening on the subject, and if you have any questions, I'd be happy to respond to them.

ASSEMBLYMAN SHINN: My only comment, if I may respond, Mr. Chairman--

ASSEMBLYMAN McENROE: Yes, Mr. Shinn?

ASSEMBLYMAN SHINN: --is that I thought you were a little negative on landfills and composting. The in-vessel compost system, which is other than static pile, with air handling either in a biofilter or chemical filter, really addresses the odor issue, and I think composting is something we're going to see more of with sewage sludges without heavy metals problems or food wastes. There are some real materials in the waste stream, not to mention our heavy leaf and grass clipping composite of our waste stream, which is loading up our landfills. It certainly is something that needs to be looked at from a composting--

We're way behind on the technology. If you're ever out in the area of Pennsylvania's Seven Springs Resort, there's a little pilot plant out there, called an Abarro System, which is a computerized mixing head, in-vessel compost system, and they're doing it with food waste in a restaurant. A very small pilot program uses a biofilter for the ammonia gases. It's really worth looking at because it's a totally different concept in static pile, and I think it's sort of the wave of the future that we're going to be looking at in composting.

But I agree with you. We have to have it contained in the building. We have to treat the air, and the traditional static pile that we're used to, is not the cure-all for composting.

Landfilling is the other issue. As much as I'm a proponent for addressing capacity with resource recovery, I'm a proponent for-- We need state-of-the-art landfills to deal not only with our residuals but certainly with our ash. We can't rely on out-of-state facilities for landfills. They've got to be state of the art. They have to have leachate treatment, but we have to have them. They're a part of the mosaic that solves the problem. So, as much as I feel that resource recovery is a part of the solution, so is landfilling.

I think the one area that you are going to find surprising is when your rate drops to \$65 a ton, you're going to miraculously see a higher volume of waste. In our facility, with 400,000 population, we see 1400 tons per day at a rate of around \$45 a ton. I swear we're getting every piece of trash that's generated within our County, and maybe a half a piece that isn't.

With 841,000 people in Essex County, you certainly ought to be generating in the area of 2800 tons per day, and unless I'm missing something, I don't see why we're not getting at least 2200 tons that the incinerator needs, unless it's just a waste flow enforcement issue.

COUNTY EXECUTIVE AMATO: Mr. Shinn, first of all, I'm not saying that landfilling at all is out. I'm saying that we can no longer depend upon it.

There's an interesting article, if I may refer it to you, in "The Atlantic Monthly," written in December of '89 by Dr. Roget (phonetic spelling) and in there he makes certain findings. He talks about landfills and he quotes Katie Kelly in a book called "Garbage, 1973," and he tells us that the amount of municipal solid waste produced in the United States annually would fill five million trucks. Placed end to end, they would stretch around the world twice. In Newsday in 1987, they estimated that a year's worth of America's solid waste would fill the Twin Towers of 187 World Trade Centers. In

1985, The Baltimore Sun claimed that Baltimore generates enough garbage everyday to fill Memorial Stadium to a depth of nine feet.

You might also want to find that when man became a sedentary animal and stopped moving around and was just throwing his garbage out, and would put layers and layers on top of it, that each century there has been an uplift of 4.7 feet. The idea, if you think garbage is rising, is that the street level on the Island of Manhattan is six feet higher today than it was in the 17th century.

So, what I'm suggesting is that you're going to have to use landfilling for your bypass and non processibles. What I'm suggesting is, this is not a major way that you are going to attack this problem. I'm saying that landfilling is not a major way, nor is composting. I'm not saying you can't try it, but I'm saying that what we know today, as we sit here talking, is waste-to-energy facilities.

ASSEMBLYMAN SHINN: I guess when we're reliant on -- outside of what we recycle in this State in the municipal waste stream -- 40,000 tons per day landfilling, either in-State or out-of-state, it's going to landfills. I mean virtually -- the majority of our waste is going to landfills. So my position is, if you've got a solid waste program without a landfill, you haven't got a solid waste program, because you have residuals, you have non processibles, you have--

COUNTY EXECUTIVE AMATO: I wasn't suggesting that. I wasn't suggesting that you didn't need a landfill for non processibles. That's not my point. If I did, I take that back.

What I'm suggesting to you is, as a major component that we have in solving the problem, waste-to-energy incineration, and landfills are limited to non processibles and other products that cannot be burned.

I'm saying that it's a four-point plan. I said it's an integrated plan with source reduction, recycling,

waste-to-energy facilities, and landfilling, but the point I was trying to make was that we can no longer rely on landfilling as a viable alternative. We have to have the bulk of our garbage taken care of by waste-to-energy facilities.

ASSEMBLYMAN SHINN: The volume issue in Essex?

COUNTY EXECUTIVE AMATO: Our two transfer stations do about 1425 tons per day.

ASSEMBLYMAN SHINN: They do 1425. You're generating what Burlington is generating, with half the population, and not-- I mean, we're getting 1400 tons a day with 400,000 people--

COUNTY EXECUTIVE AMATO: Maybe there's more garbage in Burlington.

ASSEMBLYMAN SHINN: --and the only thing that I can deduce from that is the garbage is magnetic, and it's finding the home of least cost somewhere.

COUNTY EXECUTIVE AMATO: I suspect that when the price drops substantially, we'll pick up some of the garbage that we're not receiving now, but I don't anticipate that we're going to receive a lot of Type 10 waste that we're not receiving at the present time.

I think there is some waste which, I am sure that because of price, is not going to our transfer stations, but our projections from speaking to the people in the Division of Solid Waste Management do not indicate that we're going to get an appreciable amount more than we are already receiving.

ASSEMBLYMAN SHINN: I would hope that when that facility opens, Harry, that you can get some cooperation from the BPU, and the new effort--

UNIDENTIFIED SPEAKER FROM AUDIENCE: We can't hear you. We'd like to hear you, please.

ASSEMBLYMAN SHINN: I'm sorry.

UNIDENTIFIED SPEAKER FROM AUDIENCE: If you move the mike?

ASSEMBLYMAN SHINN: This doesn't amplify; that's just for recording. I'll speak up. I'm sorry.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Thank you very much.

ASSEMBLYMAN SHINN: I'm just suggesting that, hopefully, when Essex opens officially for full volume that we can get a little extra effort on waste flow enforcement through the Department of BPU and the people who have the personnel to avail themselves of that effort, because I really think that the waste is there. I think that it's a matter of getting it to the right place.

COUNTY EXECUTIVE AMATO: Well, you might be right. Maybe we're a little neater in Essex than they are in Burlington.

ASSEMBLYMAN McENROE: No, enforcement of waste flow is a critical issue, and we're all working on that. Mr. Amato, we appreciate very much your testimony. The questions you have raised regarding when revisions are made to a contract, whether they are required to be under review-- Under the bill which we framed out, and of course, this is a preliminary bill, we'll be amending the bill. We do require that when substantial revisions are made in contracts, that it be reviewed by the Department of Environmental Protection and also by the Board of Public Utilities, so there is the opportunity for review. But if we can put specific language in there to protect counties that want their present agreement to be maintained, we can do that.

COUNTY EXECUTIVE AMATO: That's important so that when you're not dealing with another county, you can also automatically start opening up the initial contract which starts the process all over again.

ASSEMBLYMAN McENROE: We will certainly do that. I have a question on the Morris County negotiations: I know it is a sensitive area, but are you confident that an agreement

can be reached between Essex and Morris, and will they be offering a residual ash disposal site for the use of the facility?

COUNTY EXECUTIVE AMATO: Well, I think it would be inappropriate for me to forecast what's going to take place, but I will tell you and the Committee this: There have been daily negotiations between Essex County and Morris County resolving mutual concerns and putting them to rest one by one. This is a very careful process which must be gone through, because you have two public entities trying to protect their respective citizens.

I agree with Mr. Sudol, that one of the important things is that we do not want Essex County subsidizing out-of-county garbage. That cannot be. But we also want to make sure that we make it attractive to other counties to want to come to Essex County to dispose of their garbage.

I am confident that we will reach an agreement either with Morris, or other counties, as I've said before, which have expressed an interest. I think that Essex County is leading the way, and I say that with personal pride on behalf of the administration and the Board of Freeholders. I would also say that when we start actually burning our garbage next week, I think that once this plan is up and operating and more people know about it, I think we're going to get more in offers. But to answer your question directly, I would say to you that we will sign an agreement with another county or counties to fill up that incinerator.

ASSEMBLYMAN McENROE: Within a reasonable amount of time?

COUNTY EXECUTIVE AMATO: Within a reasonable time, and that I still stand to the original projections that the cost of garbage for Essex County will drop to \$65 a ton.

ASSEMBLYMAN McENROE: Thank you very much.

COUNTY EXECUTIVE AMATO: I think that, notwithstanding provisions in the contract, the Port Authority has been most helpful in this matter. We are prepared to waive certain conditions in the contract if certain capacities are filled, which is going to be a big help, and we hope to get to that point by January of 1991.

ASSEMBLYMAN McENROE: We appreciate your optimism, and we appreciate your leadership on that issue. Any other questions for Mr. Amato? (no response)

COUNTY EXECUTIVE AMATO: Thank you.

ASSEMBLYMAN McENROE: Thank you very much. We appreciate your comments.

We have the Executive Director of the Hudson County Improvement Authority, Mr. Fiore. Is Mr. Fiore present?

A L B E R T A. F I O R E: Yes, sir.

ASSEMBLYMAN McENROE: Would you join us here please, sir? Good morning. I'm Assemblyman McEnroe. Assemblyman Duch is on my left and Mr. Shinn is also an Assemblyman.

MR. FIORE: I'm Al Fiore. I'm the Solid Waste Administrator of Hudson County, and I'm also representing County Executive Janiszewski, as well as the Hudson County Improvement Authority which has been designated by the Freeholders to handle the solid waste problem.

We've been working for many years on it, and I find your tact refreshing, but if you'll permit me, I have a concern about it: We now know there are many bundles of elements that make up the solid waste system, and they all have to be addressed. I encourage you to use this vehicle to address them all.

Heretofore, you know -- and I don't think I have to repeat the torture of the process to get anywhere-- Hudson County is almost ashamed to tell you we have spent \$40 million in earnest efforts to get permits for a resource recovery plant, to go through the McEnroe process if you will, and to meet a host of other issues that constantly pertain.

I always think of my next job interview: There will be two questions. One will be, "How long have you been in this job, Fiore?" And I think I answer very well and qualify when I say, "Nine, nine-and-a-half years." "Gee, that shows stick-to-itiveness." And the second question is, "What did you accomplish?" "Frankly, not a thing." I don't want to head further in this direction.

There are so many issues that tend to need solution through regionalization, I don't think you can focus solely on resource recovery. To do an efficient system, to meet all the demands, you have resource recovery: after recycling, after source reduction, as well as the conscious notion that there are parts of the stream that can be composted, and certainly much of the stream that can be deflected but not burned, and not composted, and not recycled. We did meet the previously exacted dogma of being self-sufficient, and that in a county where we have 46-and-a-half square miles, half of which is dominated zoning-wise and solid waste management-wise by an overlapping district. With all of those constraints we met the test, and we're still nowhere.

Now I face this new legislation which has, I think, obvious procedural inadequacies. The introduction of the notion that a vendor operator/owner can unilaterally decide to regionalize is not workable. For example, we are currently talking about regionalizing with other counties; one very serious county on the matter of resource recovery, and several counties on the matter of recycling. By the current rules and in the absence of regulations in recycling, and in the absence of clear definitions, the system is designed so that the industry can keep dancing around while prices rise, while decisions are boycotted, forcing the public, and therefore the taxpayer, to try to put a patchwork together to assemble a bucket to hold water. But this closed system has so many holes in it, we can't monitor it.

We have a need for you to understand that this new breath of fresh air with the "Pause Committee" Report, the Governor's notions that we should reduce the need for incineration and push forward on recycling and all the other elements, I find welcome, with the conscious notion, yes, we're going to have to burn. We are going to burn less than we ever thought we would before. We had always styled our facility, net of recycling. I think we were the first county to do that, so we have an acknowledgement of what we think our figures are; we take 25% off.

I have problems with data. If the Department of Recycling (sic) doesn't exact reports more than once a year -- and that's six months after the year -- what currentness is this? I'm badgering my municipal coordinators to try to find our last week's figures and last month's figures, while the State doesn't require them more than once a year. Therefore the trade says, "Well, gee, if you want more frequent reports, two things: A) you'll have to trust us on the veracity of these figures, and B) we're going to charge you."

Why is it that the public sector is being pushed to make and manage the system to work at the same time nobody else is embraced in the system? I think what you're aiming for here should be redescribed to entertain all the elements, and I also think that the counties which have made an earnest effort to date, pre-Pause, and now in suspension should not be punished.

We have certified plans. Why can't I match up with another county on behalf of my county a certified plan, and do what's logical for the good of the people in both of our counties, in a cost-effective manner? And how can you entertain a third party which doesn't have our concerns, which is a profit-making organization -- and we welcome that? If the vendor we have earnestly seeks a profit, I have to assume efficiencies in the system, and as long as we can contain them, we're getting the best possible price. But if he can

unilaterally go out and regionalize in other areas -- and by the way, you didn't contain this to New Jersey -- how can we stop him, how can we integrate, and how do we avoid confrontation and suits?

More importantly, going back through the system that we have just come out of, on the verge of permits, for example, for a resource recovery plant, going for our first public utility tariff and rate at the BPU, trying to get the McEnroe approval after all these years-- Why do we vacate all of that and go back through the system for rereview, and even the indication that you proffer here, that there shall be new public hearings?

As you know, no solution-- People are bound-- There are multitudes of them. Thou shalt not do this, thou shalt not do that. It's gotten so bad that the public testimony at our last plan amendment-- The woman who got the most applause said, "Do you know that there is a Gallup Poll nationally that embraced the President, the Governor, and every citizen? They are willing to pay any dollar to clean up the environment."

Well, I have a problem with that. If I am authoring a system on behalf of my county that is acceptable by my county and the State to do this efficiently, I also have to have cost consideration involved, because if I wind up with a program that costs us \$7000 a household, how many homeless will I put on the street next week and how many new problems do I cause?

The other inclination that I have to tell you about is that by delay, we are forcing a new cigarette, whiskey, and beer tax into the taxing array. We are now being faced with new fees in recycling in the Department of Environmental Protection for facilities in solid waste, that I frankly find mind-blowing.

We find the Cabinets in this State -- and it's not just DEP -- are now reviewing their roles as profit centers. Now, this is very costly. Why does it have to be costly when

for years we have had an efficient program ready to launch? We are now ready to deal and are actively dealing with other counties about regionalization. This will stop it, arrest it, put us back through a review process that we've already suffered for many, many years.

I don't see the escape valve that lets those who are currently functioning to go forward on a fast-paced track, and I fear this will put us back into the new bureaucratic maze of you will, you won't, you may, or why should you? There is one refreshing notion: The 100-mile wall separating the 22 districts has been torn down now that we're talking about regionalization and the whole Pause concept of recycling as much as you can. Now we are talking actively. You've just made it more difficult.

I don't know how, consciously, to meet a market demand. I don't know if you are even conscious of this. We do live next to New York, and it reaches into New Jersey. We'll always be cheaper in everything we do in solid waste, including recycling. We're now having our markets gobbled up by New York, which is paying to get rid of commingled recyclables, where heretofore our towns and counties were getting money. Suddenly the trucks are being held up. You can't deliver. Come back tomorrow. It's disrupting the system. Everything that was a profit is certainly going to the negative and will continue to go to the negative by the present schema.

I would encourage you to step back three feet, look at it from the broad view, and let's make another try. I don't think it's that overwhelming. There are plenty of us out there who are trying to live daily in the trench of forming a closed system: observable, containable, bucket. Otherwise, this is all a sham. We go and float hundreds of millions of dollars worth of bonds and commit close to a billion dollars in each county to handle this system, and one of the questions we have to honestly answer is: Do we see the revenue to pay off these

bonds, other than by just taxing future generations? We perceive in a closed system you can. But if you keep putting holes in the bucket, as I perceive this is intending -- not intending to do, but will do -- then I fear that we are going to have a completely uncontrollable system.

And if you'll permit me one last item: All of the things that you rely on for the State to do, you have no mechanism to enforce them to do. We are going to, in our case, reinvent the enforcement wheel. I don't even know if we have sufficient legal power to do what has to be done, but you may not think it too remarkable that the landfill we use has abnormally high intake for one reason -- the lowest price around.

That's a point you started on before, but I fear a second one. We argue, constantly, to tighten up the recycling system, and the definition of who's doing what and how, so that everybody doesn't escape the loop, because we're responsible for every last pound in the system. But by the rules, they are fluttering away. Well, the reason we are so concerned is we have a dual problem now. We think we were forced to go out-of-state on our landfill. Of all our peer-sending counties, we're the cheapest one. We're filling up our local landfill. We need more help than just goodwill. Now, if we are going to talk just about regionalizing resource recovery facilities, you have left about 11 other letters of the alphabet out and I think they should be included.

I appreciate your time. I'd like to respond to any questions you have.

ASSEMBLYMAN McENROE: Mr. Fiore, I appreciate your coming forth and your intriguing comments on the bill. This bill, may I comment, is offered, really, as a framework bill; a way of streamlining, if you will, the process of regionalization. It's implicit that it is an encouragement to counties to do the job better, to speak with each other, to

coordinate their activities, and develop ways of reaching regional agreements. To our knowledge here at this level, it certainly -- and I've been involved in this for awhile-- In Hudson, based on the circumstances of a low tipping fee and the availability of landfill space in your county, it has had a very agreeable circumstance during the past 20 years.

I know of your effort toward establishing resource recovery. I am certainly not-- This is the first time that I've heard that you've spent the magnitude of money that you have on that process. You have commented on your concern with the private vendors, and I'm not here to defend private vendors. Most agency managers or executive directors comment on the circumstances of not being able to cut through the maze of paperwork involving the Department of Environmental Protection. Is it your experience that the Department has been supportive and has not been intrusive on the Hudson County proposal?

MR. FIORE: Well, I'm being held hostage for my answer, but I might as well be candid. I think that it should have taken-- I think issues should have come to fruition faster than three years and 10 months. We submitted our permits in February of '87. We are up to, I think, the sixth round of technical questions and responses, and that's just DEP. The BPU is now repeating the same schema.

We go through McEnroe, as I perceive it, one-stop shopping. Get all the elements in your rate agreed upon, and that forestalls the need to come in annually or semiannually for rate reviews. Sir, it's not going to happen that way. We will be held hostage for annual rate reviews, or we'll never get McEnroe.

ASSEMBLYMAN McENROE: Well, you see--

MR. FIORE: Now, I can't control policy, but I know what your intention was with the Act, and I know what's reality. And I fear, again, the same good intention without

absolutely spelling out and delineating, on time restricted steps. This will wander into a repeat of what we just left, and your encouragement for recycling will bring into the bureaucratic arena a whole new bundle of issues for which rules will have to be written and established, and deliberations on these things take months and years, as you know.

ASSEMBLYMAN McENROE: Yeah, well, as you know-- This bill is very much an outline of what had been attempted in Chapter 38 of the Laws of '85.

MR. FIORE: I understand, sir, and I'm here to report that didn't work efficiently.

ASSEMBLYMAN McENROE: Again, the major focus of today is to encourage regional agreements, and to find a concern of the magnitude that you present, from a county that is as important to us as Hudson County, is distressing.

So, we would like further comment from you if you have some specific--

MR. FIORE: Absolutely.

ASSEMBLYMAN McENROE: Do you think a time frame should be included in here? We can do that.

MR. FIORE: We'd be glad to do it, fine.

ASSEMBLYMAN McENROE: Because we see Hudson County as a major player, a major generator of waste, located as you are in such a pivotal area of the State. I would think there would be a good opportunity for Hudson and another county or other counties to provide a good example of what regionalization can bring to the citizenry in the way of environmental activity and also economic benefit.

MR. FIORE: I will do that, be glad to do it, but if you will permit me one more comment-- I know of a ready regionalization issue that is easily accommodated by the active players who are ready to build or who have built. It's on the simple issue of backup. Proscribed downtime is required on these plants, and on that day, you can't accept waste and burn it, for example, for a week.

Now, to landfill it would be a scurrilous waste of valuable space. It would not ensure recycling, etc. I would have no trouble, because I've discussed it with several of my peers, in making an arrangement whereby, when we're on-line, we are backup for plants A, B, C, D, and E, when they're down. It won't all happen at the same time, and it may amount to something from 120 to 150 to 170 tons a day. If we all play that game and earn credits or exact debits with each other, as long as the waste is clean, why can't we just make that arrangement?

Now this cuts across vendors, private and public issues--

ASSEMBLYMAN McENROE: I think that would be implicit in this-- If it's not here, we can certainly put that in.

MR. FIORE: I believe on this system, it would take us three years to cut that deal, and probably public hearings by everybody -- every county body -- about three times. It would take years.

ASSEMBLYMAN McENROE: Do you think, in the past 10 years, that the Department of Environmental Protection and the Board of Public Utilities have overmanaged in the area of their responsibility as it relates to the development of waste management in our State?

MR. FIORE: No. I'll tell you what I think the problem basically was. I can't fault either one of them, given--

ASSEMBLYMAN McENROE: You're going to say it's the Legislature?

MR. FIORE: No, no. I think what happened was, the rules were made-- The acts were made with good intentions. Operational rules were not proscribed fast enough. Then, it got tortured legally. The industry has to resist what looks like a terminal threat to them. Key decisions have just not been made on simple issues. There are several different

versions of what a man can or cannot do with or without a recycling permit, or whether he's a solid waste hauler. Everybody's in the gray area. How do you have a closed system? This was not foreseen in the legislation. We're waiting for regulations. The Act has been aboard for recycling for three-and-a-half years. We're finally getting proposed regulations, which I find not keyed to operational design, but this is what I think tortured the whole system. An enormous problem existed. You tried to treat it, and now the problem has been aggravated by the normal delay of the bureaucratic process. I don't know how you can avoid it.

I do know one thing: When you all got together on this thing, many years ago, you had landfill space for two generations. Most of those landfills are closed, used up, and we'll be shipping for another generation unless we do something effective.

ASSEMBLYMAN McENROE: We can reasonably concur that you endorse regionalization as a concept, but you think this kind of legislation will slow the process, instead of encouraging it?

MR. FIORE: I think it's limited. I think you should be talking about all of the elements in the system.

ASSEMBLYMAN McENROE: Do you think this hearing will create an atmosphere where the counties will be more appreciative of the need to regionalize, or do you think this has been a--

MR. FIORE: Oh, no question. We've had free interchange in the last two weeks about comments on this thing. I think a lot of people have had an equal open forum, and feel comfortable in doing it. We're no longer competing for the last magic permits or whatever the competition is.

ASSEMBLYMAN McENROE: But do you think having, in a sense, an amended State law that would encourage them to discuss items -- the certain specific responsibilities that each would have in a law such as this, would be helpful to them?

MR. FIORE: Absolutely. Then we would all know the playing field we were on. Right now we don't.

ASSEMBLYMAN McENROE: Okay. And you do think we should be a little more specific in certain areas and establish some time frames for it--

MR. FIORE: Yes, sir.

ASSEMBLYMAN McENROE: --regarding certain agreements?

MR. FIORE: Absolutely necessary, because the clock doesn't start until, for example, somebody says the review is finished. That can take five years.

ASSEMBLYMAN McENROE: Thank you. Assemblyman?

ASSEMBLYMAN SHINN: A quick question on your recycling: From where you are now, the part of recycling that has troubled me-- What we see in the marketplace is, we see sort of a brick wall. You've got cost restraints under the caps -- counties and municipalities -- for recycling costs. We've glutted the market. The market's backing up on us. Newsprint is a tremendous problem, market-wise. We're seeing new fees coming out of the Department for recycling, which is upsetting to me. It's a major subsidy when you get to that next 20% of the market; somebody is subsidizing the market, because the market isn't subsidizing the process. How do you see Hudson getting through the next wave of recycling, the next percentage?

MR. FIORE: We think that two things have to happen. We're doing it unilaterally with other counties. I do not believe the domestic market in New York or New Jersey or Philadelphia is going to change under the present rules, because they know we're all mandated to "collect and to do." So, prices tend to the negative. However, the same people handling goods in the private sector are wisely dealing with foreign brokers and getting into consortiums to aggregate the goods produced to get better prices. I intend to do that. I'm going to have a great amount of difficulty under the present

rules, but this is the only way we can protect ourselves. Otherwise, you'll have a neighbor like New York City outbidding in the negative area what we're already paying.

We have a very big dealer in Hudson County. He's in our plan, he's playing by the rules. But he's also a businessman. Most of our towns for "contaminated newsprint" -- they can't separate out the supplements and everything -- figure it's a labor-saving device and a cost-effective device just to deliver, to pay \$35 a ton, to get rid of it.

New York is buying that space from that man at \$45 a ton, but he's not a foolish man. He's already come to me with a business proposition that I have shared with other counties. There is the cost of processing commingled material. Let's take a number out of the air, \$30 a ton. We're perfectly willing to go to the private sector and give him our material and run a due bill for the \$30 a ton for the 60 days it takes him through a broker to merchandise that, if need be out of the country, and return a profit. You have given us that flexibility under the law. We can do that, but we must aggregate enough market material to be a player in the game.

Southern California did it two years ago in newspaper. The State of New Jersey has done nothing about assuming this role. We'll have to do it for ourselves. Just give us the flexibility to do it.

ASSEMBLYMAN McENROE: Thank you, Mr. Fiore. We appreciate your comments very much. You've been very helpful.

MR. FIORE: Thank you for your time.

ASSEMBLYMAN McENROE: We have Freeholder Paul Kramer of Mercer County, on behalf of the Association of County Officials.

Could you join us, Freeholder? We would appreciate your testimony.

F R E E H O L D E R P A U L K. K R A M E R: Thank you. First of all, I'm not representing NJAC. Someone else is here for that.

ASSEMBLYMAN McENROE: Pardon me.

FREEHOLDER KRAMER: I have with me Lauren Moore, who is the Planning Director for the Mercer County Improvement Authority, which is the implementing agency for Mercer County and our solid waste.

First of all, I'd like to thank the Chairman and the members of the Committee for the opportunity to appear before you. I'd just like to preface my remarks with a comment. Without plants, gentlemen, there's no way to regionalize. With that in mind, as I've indicated, I'm Paul Kramer, Mercer County Freeholder. Prior to becoming a Freeholder, I was Chairman of the Mercer County Improvement Authority, so I've been involved with the solid waste question almost as long as Bob Shinn.

I am a proponent of regionalization, and I have been for some time. As a matter of fact, we've encouraged the implementing agency -- the Improvement Authority -- to pursue regional agreements to utilize some of the excess capacity we have in our plant right now.

That facility, hopefully, will be under construction next year. As a matter of fact, we have an ordinance in place that allows for the use of excess capacity by other solid waste districts, and specifically provides for the interdistrict waste flow agreement, under the existing regulatory process.

I submit, if you are serious about regionalization, that the one thing you must do is somehow streamline the permitting process.

Now let me try to explain that a little bit in my mind. Presently, we're in the process of permitting a 975 ton facility in an area in Mercer County called Duck Island. We've oversized the plant, which will allow-- We presently have three trains of 325 tons a day. We've oversized the plant which will allow another 325 ton day train to be added to that facility. If, in fact, we complete the permitting process and we have another district that would like to bring more solid

waste to us, it won't take long to facilitate another train as far as the construction part of it. I don't know what the process now is to allow us to add that additional train, if in fact, we've met all of the regulatory requirements of DEP to do 975 tons a day. That's a concern, I think, that has to be addressed. If a district has a problem and needs to send additional waste to us, how can they do that? How can they facilitate it if, in fact, we've planned in our process to allow for additional waste through an additional train?

While I understand the intent of A-10 and applaud its goal of encouraging regionalized waste disposal, I personally feel that the legislation, as proposed, would subject regional agreements to similar and parallel reviews as provided under the existing process for service agreements. Now, that's my interpretation.

Now, the difference between a service agreement and other counties dealing with each other-- I mean, the negotiating process is going to be a heavy process, and I think if we can work out something satisfactory economically, etc., between another county, I don't think we need to go through the same regulatory process as you do with a service agreement, which I guess has four or five levels of bureaucracy to go through.

ASSEMBLYMAN McENROE: The major part of that review process is protection for our citizenry in the area of environmental controls and considerations.

FREEHOLDER KRAMER: Well, why wouldn't--

ASSEMBLYMAN McENROE: So, do you want to disregard that entirely, also?

FREEHOLDER KRAMER: I don't think that would be disregarded. If, in fact, two counties negotiate, why wouldn't the elected officials and those negotiating for the service agreement not recognize those problems?

I'm not saying eliminate all of the bureaucracy. I'm saying that at least take some of the bureaucracies out of it.

ASSEMBLYMAN McENROE: But, we do in the legislation give substantial authority to the Department, where I think it belongs, and it's their judgment whether or not they-- What I think in the way the State conducts its affairs is, we would have a commission level review of contracts. I think it would be in the public's interest to require that. Now, whether that's a routine four-day review or whether it's an exhaustive six-month review, I guess, is the question.

FREEHOLDER KRAMER: Well, I guess what bothers me-- Does that assume that the elected officials and those involved with the process, the negotiating process, don't have the same public concerns?

ASSEMBLYMAN McENROE: On most of the interdistrict agreements, really, it could be very routine, at least in our assessment. That's why we're taking testimony today, and the comments you make certainly impress all of us.

FREEHOLDER KRAMER: Okay, okay. Well, respectfully I disagree again with the portion of the regulatory process that the bill outlines. As I said, I think the regulatory process now is adequate. That's an opinion. We didn't have a lot of time to study this bill, and we anticipate, in the near future, having more specific items to present to this Committee.

One of the other things that bothers us about the bill is something that allows the Department of Environmental Protection to order counties to enter into regional agreements with other counties. I don't think that's a process that I'm comfortable with at this point in time. Forced regional disposal agreements cannot work, because counties must mutually agree on many details of the agreement.

One other thing that I don't see in the bill is some economic incentives to regionalization, and although I don't have anything specific today except maybe an expansion of, or additional money to those counties that regionalize coming from Community-- What's it called? Clean Communities moneys, or the

service tax? But there are other areas we'll address more specifically when we have the time.

You've also asked for some comments on the 60% recycling rate. I think it's easy to dictate that we separate recyclables from our garbage. But it's not reasonable or responsible for the State to mandate these goals and guidelines without providing for adequate and proper markets for those separated materials. The State's mission is to make it possible for us to achieve the goals, but it has not demonstrated to me yet a willingness to get involved with helping develop markets. I don't think counties can individually go out and work at cross purposes to try to develop the markets themselves. I think you need not only the State level, but I think you need the Federal level to look at ways to develop markets. I think that's the only way it can be efficient and effective; if, in fact, a higher order comes up with a way to develop markets.

I'm shortening this a little bit because I'm sure a lot of other people have things to say. One of the things that I think I want to address, though, is the way we have categorized different areas of recycling and types of recycling: For example, 10% of this, 90% of that. That kind of recycling, in my mind, creates barriers to achieving the kind of goals you are looking for in recycling.

We can, I think, do 60% recycling, but not necessarily by achieving the projected recycling quotas of each category suggested by the Task Force Preliminary Report. The makeup of the 60% will, doubtless, vary from county to county, because each waste stream is inherently different.

Essex County may face an impossible task in meeting some of the mandates that a county like Sussex has no trouble achieving. All of this must be taken into consideration, as well. Will we be penalized, for example, if we recycle 80% of our plastic bottles and only 70% of our glass and still achieve

the 60% overall recycling rate? My fear is that putting together these target numbers, the Task Force is assuming 100% public participation and that markets are already in place. Our hope is that you realize this is not realistic.

In the Executive Summary of the Task Force Report, it is stated that the State can take an active role in helping us achieve these goals. We submit the State must play the critical role of these targets, or these targets will prove nothing more than a dream.

ASSEMBLYMAN McENROE: Freeholder, we appreciate your comments, and really, we're not really critiquing the Emergency Solid Waste Task Force Report, and the question of how Mercer responds to the 60% recommendation is certainly appreciated.

FREEHOLDER KRAMER: Except in your letter, it indicated that.

ASSEMBLYMAN McENROE: It did. It asked for comments on that, I agree, but we have such a large amount of testimony, we want to--

FREEHOLDER KRAMER: All right, fine. I'll be glad to skip the rest of--

ASSEMBLYMAN McENROE: I want to ask one question, if I may?

FREEHOLDER KRAMER: Sure.

ASSEMBLYMAN McENROE: Mercer County, your comments relative to the siting and the construction and the design stage-- Not the construction, but the design and siting is behind you. What is the date for Mercer County's resource recovery facility being operational? Is there a--

FREEHOLDER KRAMER: Last year.

L A U R E N H. M O O R E: Late '93, early '94.

ASSEMBLYMAN McENROE: Pardon?

MR. MOORE: Late '93, early '94.

ASSEMBLYMAN McENROE: And at that point you feel you would be amenable to agreements with other jurisdictions to enable that to function as a regional facility?

FREEHOLDER KRAMER: We presently have about 155 excess capacity with the 975 ton per day plan. It's in the process, and again, as I said, we've planned for an additional train, another 325 tons a day.

ASSEMBLYMAN McENROE: Okay, thank you. Did you have questions?

ASSEMBLYMAN SHINN: Just relative to the permitting process-- We've heard too many times-- Currently, in the permitting process, are you progressing now, or are you held up now?

FREEHOLDER KRAMER: I have no idea.

MR. MOORE: We're progressing at the moment. Our current schedule with the Department indicates that we will probably go to public hearing sometime in the spring and receive our permit in August of next year.

ASSEMBLYMAN SHINN: Can you tell the difference now in your permitting process from within the moratorium period now that we're outside the moratorium period?

MR. MOORE: Well, actually, during the moratorium the Bureau of Resource Recovery continued to review our engineering documents and our EIS. We really didn't have a problem then. They continued to review, because we were able to convince them that the interpretation was that you could review; you just couldn't issue; and they continued to review our permit

ASSEMBLYMAN SHINN: So you feel like you're making progress even though they can't issue you anything?

MR. MOORE: Well, we're making progress, but we'd like to make a lot more progress a lot quicker than we have.

FREEHOLDER KRAMER: I think the administration here in Trenton has to take a position on that Task Force Report and decide which way they want to go to allow the DEP to-- I mean, they have a natural tendency to slow the process anyway without some kind of definitive guidelines from the administration and from the Legislature, I don't think it's going to speed it up.

MR. MOORE: As Freeholder Kramer has alluded to, we have the ability to go to 1300 tons per day, but to change our permits at this point to do that, because of the slowness of the permitting process, just wouldn't make sense, so we're continuing with the 975 and if things turn around regionally, then make the decision to adjust our permits.

ASSEMBLYMAN McENROE: You have not made that decision, but the sense of the Board of Freeholders and the administration in Mercer is that you would accept the responsibility of a regional facility?

FREEHOLDER KRAMER: I believe so, yes.

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

FREEHOLDER KRAMER: Thank you.

ASSEMBLYMAN McENROE: Next we have on our list, Director of the Union County Municipal and Utilities Authority, Joseph Kazar. Mr. Kazar?

J O S E P H E. K A Z A R: Yes.

ASSEMBLYMAN McENROE: Would you join us please?

MR. KAZAR: Good morning.

ASSEMBLYMAN McENROE: Good morning, sir.

MR. KAZAR: My name is Joseph Kazar. I am the Executive Director of the Union County Utilities Authority. The Authority is the implementing agency for the Union County Solid Waste Management Plan. On behalf of the Authority, I am pleased to provide this Committee with our comments on Assembly Bill No. A-10.

We note from the statement which accompanies the bill that summarizes its intent that it is intended to facilitate the negotiation and approval of interdistrict agreements for utilizing resource recovery facilities on a regional basis. The Utilities Authority is fully supportive of efforts that facilitate this purpose. We also agree that recycling and source reduction should provide the foundation for all solid

waste planning. However, like several other counties which have related their concerns earlier, we, too, have certain concerns as to whether this bill will, in fact, accelerate the process for approving needed facilities or place additional obstacles in their path.

Union County has been engaged in mandatory recycling for three full years. Our regional curbside program began in 1987. Today curbside recycling is found countywide, leaves and brush are reused rather than landfilled, and businesses and industry throughout the county have altered their disposal practices to incorporate aggressive recycling. Even construction and demolition waste is primarily separated at the source for recycling rather than landfilled, a dramatic change in disposal practice in only a few short years. In spite of the explosive growth in recycling we are not complacent with our success. The district recycling plan is being evaluated in anticipation of the State formally adopting a more aggressive recycling goal.

This dramatic change in disposal patterns, namely increasing quantities recycled and decreasing amounts remaining for disposal, further encourages regional cooperation for resource recovery and landfill capacity. The Union County resource recovery project has received all of its major environmental permits, and we have capacity large enough to permit its use as a regional facility. The County and Authority have joined together in talks with sister counties and believe that an interdistrict agreement for the regional use of our resource recovery project will occur. We ask that the State encourage, simplify, and expedite the process of interdistrict agreement negotiations and approval so that necessary regional projects, such as the Union County Resource Recovery Facility, can proceed as quickly as possible. We are concerned that additional further delays in developing critical disposal capacity for the region will increase the likelihood of a disposal crisis and add unnecessarily to the ultimate cost.

Our specific concerns with the bill are as follows:

Interdistrict agreements are currently negotiated between districts, are then incorporated into solid waste plans, and then certified by DEP. There is concern that if other parties are permitted to negotiate and enter into such agreements, there could be confusion and perhaps confrontation over who has the right to negotiate these agreements. In any event, the agreement would have to conform to the county plan, bringing the process back to where it stands today; that is, interdistrict agreements requiring only plan inclusion.

The additional review procedures, requiring a discrete and separate review and approval procedure by BPU, Local Government Services, and DEP, with advice from Rate Counsel is, in our opinion, an unnecessary additional hurdle that will only lengthen the approval process. We anticipate that such agreements will eventually be reviewed by these agencies during the process of plan amendment review, vendor contract approvals, and facility financing approvals whether these agencies have review and approval authority, or are called upon by sister agencies to comment. We, therefore, register our concern that it could become more costly and time-consuming, but with no apparent public benefit to require these apparently duplicative review processes for interdistrict agreements.

Secondly, the bill lists numerous contractual terms which must be included in interdistrict agreements. We only wish to note that not all of these terms will be appropriate in every interdistrict agreement. Districts should be free to tailor their agreements to their individual circumstances.

Concerning the changes to the State and district solid waste plans, the principal concern is the extensive time required to effect a plan certification. Five months for State review and approval is excessive and only serves to delay the implementation of desperately needed solutions.

The redefinition of a franchise to broadly exempt recyclable material should be done, we think, in a way that does not compromise waste flow enforcement efforts which are only now maturing. If waste flow enforcement becomes less effective, it will only serve to make more difficult the job of bringing to the point of financing required solid waste facilities. It is suggested that only recyclable material approved by the district and DEP under procedures set forth in the Recycling Act be exempted from flow control and the franchise.

Lastly, given the complexity and importance of the issues raised in the bill, we suggest that further opportunity for comment be afforded the districts. A streamlining of the regulatory process with attendant compression of approval time frames is needed, and we ask that the bill be modified to assure that this goal is, in fact, met.

Thank you for considering our comments on A-10.

ASSEMBLYMAN McENROE: Thank you, Mr. Kazar. You know, it's not our intention to promote this bill without any amendments, and the reason for the hearing is to avail ourselves of the opportunity of hearing from people who work in this process on a daily basis. Myself and my cosponsor, Assemblyman Duch, see this bill as an opportunity to provide a forum, to provide issues that can be discussed and enumerated in the permitting process. It's my belief that all of the requirements that are articulated in the bill are matters that need review by the departments involved on behalf of the public of our State. Whether it's only a perfunctory review and perfunctory approval, or whether it's an in-depth review, I think, is a matter for their judgment. But I think it's irresponsible for the State not to have a role in the review of these interdistrict regional agreements.

I know the process can be laborious as far as approval and establishment of a resource recovery facility, but I have

to submit that we don't mean it to be overburdensome, and its intention is to streamline the process. But where there are problems with the bill, we are certainly going to correct them, because our whole intention, the centerpiece of this hearing, is to find ways to encourage agreements between the various districts to regionalize their approaches.

So your comments and your counsel are certainly appreciated, and we'd like to have a copy of your testimony so that we have it for our review, in addition to the regular transcript, so we will have further opportunity for comment and review regarding the bill.

MR. KAZAR: We would appreciate that, of course, and like the speaker from Hudson, I think that we certainly believe that the intention for streamlining is here in the bill, and that's what we need. Our concern is that experience in our case for the last three or four years, going through the permitting process and now the vendor approval process, is that the intent for a thorough but efficient review is really not carried out; that the process takes far too long, and in the end, the public, I think, is not well served by these lengthy reviews. The projects go up in price by enormous amounts of money and I think we end up much as we would have ended up under a much more efficient and quick review. Our analysis of the situation is that these same agencies would have a crack at these agreements through other procedures already in place and our concern is that this would, unfortunately, result in just another separate process that would stretch this thing out for months, if not years.

ASSEMBLYMAN McENROE: I share your concern, and again, the intention of the bill is to provide a way, a direction, for regions to come to the table with their concerns and reach those agreements in as expeditious a way as possible. We hope that we succeed.

Thank you. Any further questions for Mr. Kazar, Mr. Shinn or Mr. Duch? (no response)

Thank you.

We'll move along. Next we have John Horensky, Director of the Solid Waste Management Office for the County of Somerset. Mr. Horensky?

J O H N A. H O R E N S K Y: Good morning.

ASSEMBLYMAN McENROE: Good morning, sir.

MR. HORENSKY: My name is John Horensky. I'm the Director of the Solid Waste Department for the County of Somerset. I'm pleased to be here this morning to provide input into Assembly Bill No. A-10. At the onset I would just like to make mention that the County of Somerset is firmly behind the concept being promoted by this bill; that being regionalization for solid waste disposal facilities.

The County of Somerset has long held that premise, that regionalization is the most direct way to get solid waste disposed of in the State from both an economic and environmental point of view. I am very pleased to have participated in what has been characterized by others as the first truly interdistrict agreement in the State of New Jersey, comprehensively, for solid waste matters, and that is the agreement that we have signed with the County of Warren.

I understand Warren County will be testifying later on today and I've had the opportunity to review their comments, so I won't really belabor a lot of issues that they will be bringing up. Suffice it to say that the county is in general agreement with the position that is being offered by Warren County. Having gone through this process with them, we feel there are certain advantages that the current system offers that will allow the process to move forward.

When the County of Somerset and the County of Warren got together to talk, I believe all the issues that are being presented in this piece of legislation were known to both

counties at the onset. Each county was protective of its own rights, and each county was desirous of establishing a win/win situation. That is the way we proceeded with our negotiations.

Were it not for summer vacations and other holidays, the year-long negotiations that we consummated could have taken considerably less time. But nonetheless, we were able to hammer out -- given our own understanding of what the requirements were for instituting solid waste disposal contracts in the State-- We were able to hammer out a suitable contract for both counties and go through the plan amendment process and submit to the State plan amendments within a year's period of time, which I consider to be a very aggressive move on our part -- on both of our parts.

I feel that with the number of counties that had expressed an early interest in developing resource recovery and that had proceeded along through the resource recovery site selection process and vending negotiation process, that collectively there's a tremendous amount of knowledge out there on the parts of the counties that will, in essence, provide them with the same degree of flexibility that both Warren and Somerset had in developing our contracts; that it is not necessarily a requirement of the piece of legislation to mandate that certain items be discussed because of the prior history of those counties. Those items are already known to them. They know what the pitfalls are in the negotiations with vendors. They know what is necessary in contracts to ensure that the residents of their communities are protected against waste flow violations or adequate supplies of waste or price gouging, and I represent that I think that collectively, there is the knowledge out there that these items will take care of themselves without having developed a system in which the projects must go forward in a mandated fashion under the piece of legislation and go through a second review.

I share the concerns that Joe Kazar had mentioned, from Union County, in that it is viewed as a duplicative way of reviewing a project. Many of the issues that are on the agenda for this bill are reviewed in matters that occur for a normal contract where a county is developing a project unto itself and I think the knowledge that each county has in that regard will present a single document at a later stage in the process that will sort of expedite the review process.

ASSEMBLYMAN McENROE: Mr. Horensky, just a question: On the matter of the Department of Environmental Protection's review of the Somerset-Warren agreement, do you feel that their effort helped you reach a more reasonable agreement between the two counties? Did it expedite the process?

MR. HORENSKY: Okay, I'd like to mention that as of this point, the State has not consummated--

ASSEMBLYMAN McENROE: They have not given final approval?

MR. HORENSKY: They have not made a final approval of that agreement. We submitted our agreement to them after both counties had discussed the contents of it. We did have, however, a meeting with the State DEP prior to us moving into the plan amendment arena. We wanted to be sure that the concepts that we were putting forward were going to be acceptable from a DEP review perspective, and they had indicated that, yes, we were on the right track so to speak, so both counties proceeded with their plan amendments. They were submitted to the State and they are going through the typical 180-, 150-day plan amendment review process. We have not heard anything from the State. I'm speaking on behalf of Somerset now. I don't know if Warren has had any discussions with the State subsequent to the submission of our respective plans, but I have not heard anything from the State, either positive or negative with regard to the review.

I could say that the State was helpful in the beginning. They were of a mind to move the regionalization concept forward, and this was, I would say, in the fall of last year.

ASSEMBLYMAN McENROE: Do you also share the concern with meeting all the requirements inherent in a bill like this?

MR. HORENSKY: That is correct.

ASSEMBLYMAN McENROE: You think it may inhibit the actual agreement in a timely way of various counties to regionalize?

MR. HORENSKY: I believe so, yes. I think we've heard earlier that the economics of solid waste tend to be a controlling factor. I think when we look at the economics of moving projects forward, if you allow that process to be the stimulus for regionalization as opposed to the language in here which would require the DEP to force a regionalization approach, I think that forcing of it is going to meet with resistance.

ASSEMBLYMAN McENROE: Do you think building facilities should come first and then enforcing -- or the agreements will follow because the price will be right?

MR. HORENSKY: No. I think there is enough in the way of resource recovery capacity already planned in the State, already in the pipeline, so to speak, and that the economics of moving to other alternatives will force the regionalization by itself.

You know, counties, in my experience, when in a very cooperative mode, sit down and talk, and can get a lot accomplished. When put in an adversarial position -- and Somerset has been in both of those positions -- we have found that the adversarial position tends to drag things out. When both counties come to the table with the strong desire to move a project forward to the benefit of both counties, with the understanding that both counties have to win in the process in order to make it work, the process can move rather quickly.

To that end I just refer to what we were able to accomplish with the County of Warren.

ASSEMBLYMAN McENROE: Do you think legislative action will encourage the counties to promote the idea of regionalization agreements?

MR. HORENSKY: Not in its present form. I believe in its present form the-- You get the feeling, whether it was intended or not, that it will be forced on the counties: "Whether you like it or not, you're going to regionalize, and regionalize with whomever the State will ultimately decide is an acceptable partner for you." That type of an approach, I don't think, is something that would be accepted by county governments or those responsible for implementing the solid waste plans.

ASSEMBLYMAN McENROE: Thank you very much. Any questions from members of the Committee? (no response)

Mr. Horensky, we appreciate your comments on behalf of the Authority and also on behalf of your county, the County of Somerset

MR. HORENSKY: Thank you.

ASSEMBLYMAN McENROE: We also have here Anthony Ross, the Executive Director of the Passaic County Utilities Authority. Mr. Ross? (Mr. Ross and Mr. DeCotiis seat themselves at the witness table together)

M. R O B E R T D e C O T I I S, E S Q.: Good morning.

ASSEMBLYMAN McENROE: Good morning. Nice to see you. Gentlemen, welcome.

MR. DeCOTIIS: I'm Bob DeCotiis, General Counsel for the Passaic County Utilities Authority. This is Anthony Ross, the Executive Director. We will be brief.

Mr. McEnroe, perhaps two years ago I was before your Committee on the rate averaging bill and gave a short status report on the status of Passaic County's project, indicating at that point in time that we were waiting for one modification to

our permits and had spent \$12 million. Last year I was back again before you on another bill, told you we were still waiting for a second modification and had spent \$18 million, and today I want to report that while we did receive our solid waste facility permit back in April of '89, it was remanded 30 days later for a modification on the air permits, and we've spent \$25 million.

I think that the purposes enunciated by your Committee to force the regionalization are good. I don't think the problem lies in your legislation. Quite frankly, I think that there is no direction when any of these counties get together to discuss regional approaches.

Passaic County: We're down the line four years in permitting, \$25 million. We lack the modification of an air quality permit. Who realistically is going to talk to us until we have that permit? We get inquiries, "We would like to build a resource recovery facility." We ask them, "Where were you?" "Well, we're behind you." I know our process took us four years. I'm not realistically talking to them.

So if the Legislature can do something, it's to force a break of this impasse. While there was a reported pause, it didn't stop the counties or vendors from spending money. Well, I can tell you that Passaic County probably has spoken to 15 districts or designated agencies or private vendors. I can't honestly say any have been really serious, because no one knew for certain, would you be on-line, would it be permitted, would they accept interdistrict-- There's just too much uncertainty.

I would agree with Mr. Kazar's comments that in terms of the franchise portion where you've changed your definition to permit an exemption from the franchise section of mandated recyclables as well as other recyclables, I can tell you from experience that Passaic has a rather fine enforcement program. If you permit that willy-nilly taking all types of waste out under the guise of it perhaps being recyclable, counties cannot

be responsible. We can't honor put-or-pays. I would suggest that you may prevent the burning of a recyclable material, and I think that's good, but give the counties the power to control recyclables in their franchise. Not only is it better reporting, but I think we can do it better than these privates who say they are doing it, and in fact, aren't doing it.

ASSEMBLYMAN McENROE: Yes. The effort here is to encourage recycling, as you can appreciate.

MR. DeCOTIIS: I understand that, and I think it's very difficult to say that you can't take a--

ASSEMBLYMAN McENROE: I think the first charge we have--

MR. DeCOTIIS: I'm sorry.

ASSEMBLYMAN McENROE: It's the first charge we have, and we want to be supportive and recognize the importance of recycling as a major component of the strategy in our State.

MR. DeCOTIIS: We are, as well. But our experience is that many take it out, call it recyclable -- maybe it is, maybe it isn't -- but they don't recycle it. They bury it or burn it, whatever is less expensive. We're only now faced with a number of mandated recyclable materials. If you open that gate to others-- I don't know, I mean, you could recycle anything, I assume, or at least attempt to do it.

That's really the status of Passaic's position.

ASSEMBLYMAN McENROE: Then regionalization-- Is it alive and well in Passaic County? I know you have plans for facilities.

MR. DeCOTIIS: We have taken the position that we will set a goal of recycling 60% of our solid waste. We are formulating a master plan for that, and we will spend those dollars required to do that. If we do that and that is our goal, we will still have 300,000 tons a year of waste that is above and beyond recycling.

Our facility can process 400,000 tons. We have publicly said that we will take any district or any designated agency who wants to fill our plant up for the extra 100,000 tons.

We are in favor of regionalization. We are in favor of recycling, and we will do whatever has been asked.

You know, we've studied the game plans now for five years. We're ready to play the game, but we're not able to. We'll do whatever has been asked, but just keep the rules.

ASSEMBLYMAN McENROE: I want to ask you a question relating to the siting location of your facility. There has been some public concern regarding the siting of the facility in Passaic County, and my colleague, Assemblyman Duch, has corresponded with me, and, of course, has advised the Board of Freeholders of his concern with it. Is there a possibility that that facility would not be built and that Passaic would be more interested in a regionalization agreement with another jurisdiction?

MR. DeCOTIIS: At this point in time, our position is to construct that plant. Let me just go back a point in time. That plant has been sited since 1986 or 1987. We have been to the County Court, the Appellate Division, and the Supreme Court on a number of occasions where it has been upheld. The DEP has taken our position on that. This is an old issue. It's an issue that keeps coming up, but these facilities are safe. They're not only safe in Essex County on Route 1 and 9, or the Turnpike; they're safe in Passaic.

I mean, they are safe or they're not safe, but the issue of siting has been decided by our Supreme Court, and by the DEP. Everyone who has been in this process has signed off on it. It has not been a simple process. I would venture to say that the County of Passaic has spent in excess of \$1 million defending that site, and on each occasion the DEP has been on our side and has sat beside us submitting the same

briefs, the same technical arguments. I mean, it's been reviewed by 14 agencies and subagencies. I don't know what else to say but that it's been -- the siting question has been resolved. You may want to revisit it now for other reasons under the guise of regionalization, but in terms of the siting and the environmental quality of that facility, we've been through it.

ASSEMBLYMAN McENROE: Thank you very much. Any other questions or comments?

MR. DeCOTIIS: Sorry, Mr. Duch.

ASSEMBLYMAN McENROE: Mr. Shinn?

ASSEMBLYMAN SHINN: In the permitting process, are you progressing? Do you feel you are progressing in the permitting process, currently?

MR. DeCOTIIS: We have been told by the staff of the DEP that they are ready to issue our final modification after one year, but are not doing anything until the administration gives them a direction. We could have constructed last year, saving untold millions of dollars. In fact, the \$25 million does not even include the escalation of the vendors' contracts. Those are just soft costs, not escalation.

We were told, quite frankly, we were going to get it on October 20. We didn't get it. We're told now it will not come until the administration gives some direction to the DEP. We're waiting. There's nothing else for us to do in that respect.

ASSEMBLYMAN SHINN: Thank you.

ASSEMBLYMAN McENROE: Thank you very much. We appreciate your appearance this morning.

ASSEMBLYMAN SHINN: Mr. Chairman, is the Department here today?

ASSEMBLYMAN McENROE: They're not on our list of people commenting.

ASSEMBLYMAN SHINN: They're not here, not even to listen? Are they here to listen?

ASSEMBLYMAN McENROE: Yes. Are you encouraged by that? (no response)

Next we have, representing the Morris County Municipal Utilities Authority and the County of Morris, Glenn Schweizer. Mr. Schweizer?

Good morning, gentlemen. We're moving right along. We're glad to welcome you here to our Committee. We appreciate your comments and testimony. You may proceed.

G L E N N S C H W E I Z E R: Good morning, Mr. Chairman and members of the Committee. My name is Glenn Schweizer and I'm the Solid Waste Coordinator for Morris County. Sitting next to me is Mr. Maraziti, from the firm of Maraziti, Falcon and Gregory, who is Solid Waste Counsel to the county.

As many of you know, Morris County has been engaged in discussions to explore the possibility of achieving an interdistrict agreement to provide for the processing of Morris County solid waste in the Essex County resource recovery facility. This facility is owned by American Ref-Fuel and is sponsored and financed by the Port Authority of New York and New Jersey.

This process has revealed a number of unanticipated and complex issues which render the regionalization ideal a difficult one to put into practice.

One of the threshold issues is whether the county seeking to send its solid waste to a regional facility has clean legal authority to execute such a contract? Our attorneys advise us that at first blush the answer would appear to be a clear and simple yes, but closer analysis discloses considerable uncertainty. If the contract is between two public entities, such as counties or utility authorities, no legal impediment exists. But to the extent that it is necessary to enter into a contract with a private corporation, which in some cases owns, and in all cases operates the resource recovery facility, a procurement issue arises.

The Local Public Contracts Law mandates a competitive, sealed bidding process when public entities acquire goods or services or undertake construction projects with private parties. The McEnroe amendments, which were adopted in 1985, establish the circumstances under which contracts may be negotiated for the design, permitting, construction, and operation of resource recovery facilities. However, the statute does not explicitly authorize a sending county to enter into a contract with the private vendor which has been procured through this exhaustive process by the receiving county. This issue squarely arises in the context of the Morris-Essex situation because the vendor, American Ref-Fuel, is the owner of the facility and controls its excess capacity. Thus, a direct contractual relationship between Morris and American Ref-Fuel would be required.

Although this issue has been identified in the context of the Morris-Essex situation, it is likely that once given close analysis, the same concerns will arise in other regional configurations. This is not only probable when the facility is privately owned, but is also possible even in situations where the facility is publicly owned.

For this reason, Morris County urges that the Legislature promptly remove any doubt on the subject and amend the law to expressly authorize a sending county to negotiate and execute contracts with a private vendor--

ASSEMBLYMAN McENROE: Mr. Schweizer, I just want to interject: Your testimony and Mr. Maraziti's comments are directed to why we introduced the legislation and to why we're holding a public hearing. We do want to hear of the experience of Morris County, Essex County, and certainly Somerset or Warren or Hunterdon, whatever it would be, so your testimony is very important to us, and we appreciate your coming here. These are comments that will be highly beneficial to us in creating a solution, hopefully, to some of the problems you have experienced.

MR. SCHWEIZER: These are the exact reasons why we appreciate the opportunity to be here because we have experienced some of these concerns.

To continue: It is our view that if a private vendor has emerged from the intricate McEnroe procurement process, or has been selected by the receiving county through other legally recognized means, that the public policy which favors the selection of private vendors through a competitive process has been accomplished, not only for the receiving county, but for the sending one as well.

We are pleased to note that Assembly Bill No. A-10 recognizes this problem and seeks to provide a remedy. However, the bill, as presently drafted, does not provide a correct and full solution.

Section 2 of the bill provides the authority for contracting between the private owner or operator of the resource recovery facility and the designated public agency. However, the current wording of this section gives the legal authority to the wrong party. Owners or operators are not presently lacking the legal authority to enter such contracts; this is true no matter whether they are public or private entities. Owners or operators simply don't need this legislation. Instead, it is the sending county or its designated agency which needs this enabling legislation. This authorization should, instead, be expressed in the opposite order; that is, the sending county should be authorized to enter the contract with the private owner or operator. This is consistent with the Solid Waste Management Act which authorizes counties, not vendors, to control solid waste planning.

In addition, the authorization does not go far enough. It only authorizes such contracts for the purposes of obtaining resource recovery services, rather than authorizing the contract to encompass the procurement of resource recovery services and/or facilities. Thus, the current draft would not

permit an agreement between a county and an owner or operator in which the sending county becomes a part owner of the facility and does not simply utilize the facility. Broader terminology would envision regionalization arrangements which would provide for the sending county to acquire a partnership or co-ownership interest in the resource recovery facility. Such authorization should be included to enable the regionalizing counties maximum flexibility to develop creative solutions. We will be submitting suggested draft language to the staff in the near future on that point.

The county would also like to express its serious reservations about the advisability of that portion of A-10 which authorizes a full State agency review of previously approved contracts between the receiving county and its vendor when an interdistrict agreement is negotiated with a sending county. This provision will create several adverse effects. It will add delay, expense, and uncertainty to the achievement of a regional agreement. Experience has shown that the approval process extends for up to several years. We do not believe that either the sending or receiving county can afford to wait this long for certainty regarding its solid waste program. We also fear that such a reopener will have a chilling effect on the level of enthusiasm which counties would have for regionalization. Such counties and their vendors will not likely welcome the process of reopening the contractual arrangements for which they have labored so long and hard. We suggest that this aspect of the bill be given more study and consideration.

Likewise, we note that A-10 also seeks to make fundamental changes in the control of recycling functions. We have not had sufficient time since receiving this bill a few days ago to analyze the impact of these changes on the desire to maximize recycling rates and, therefore, respectfully suggest that this subject be deferred for additional analysis, further comment, and perhaps even a separate hearing.

For several years, Morris County has been in the process of developing and improving its recycling program. We have been proud to have achieved impressive success thus far, and we have many thoughts and some concerns about the future of recycling in the State which we would like to present at another time.

Today we have chosen to focus our comments on the procurement aspects of A-10 which we think is an issue of some urgency. Morris County Counsel is available to answer any questions you have or to clarify the issues we have outlined here today. Thank you for your attention.

ASSEMBLYMAN McENROE: Thank you, Mr. Schweizer. Any questions for Mr. Schweizer from members of the Committee? (no response)

Mr. Maraziti, I'll ask you the general question: How are things going with Essex County? It's a matter of concern with the Committee.

J O S E P H J. M A R A Z I T I, E S Q.: Well, as has been mentioned by County Executive Amato, there are intensive discussions going on. In fact, in the spirit of that theme, many of the parties who were involved in the Essex transaction are here today to present testimony or observe. We're going to use the time after these proceedings end to continue the discussions across the street.

So, there is an active process going forward. It is a very difficult process, and it should not be thought that a quick or easy solution will be found. There are difficult problems that we have not yet resolved, and yet, we are continuing to work on them. The issue that Mr. Schweizer presents to you this morning is one of the basic legal issues that we would have to deal with right away. So we would urge that legislation go forward to clarify that issue as quickly as possible and perhaps move ahead of other portions of this bill so that it doesn't hang behind and delay regionalization projects that could go forward more quickly.

ASSEMBLYMAN McENROE: I think that's good advice. I appreciate that.

Any further questions for either of the gentlemen from Morris County? (no response) There not being any, we appreciate very much your testimony and your comments, and any information you have or material that you can provide to the Committee would be appreciated.

We will, I believe, consider very carefully all of your various recommendations based on the experience you're currently having.

MR. SCHWEIZER: Thank you very much.

MR. MARAZITI: Thank you.

ASSEMBLYMAN McENROE: Thank you.

We now have a representative from Burlington County, Mary Pat Robbie. Ms. Robbie?

M A R Y P A T R O B B I E: Good morning.

ASSEMBLYMAN McENROE: Good morning.

MS. ROBBIE: My name is Mary Pat Robbie. I'm here representing the Burlington County Board of Chosen Freeholders. I think that the other districts that have spoken before me have expressed Burlington County's concern regarding the proposed amendment.

First, we recognize your intent to facilitate interdistrict agreements, but we do believe that the existing structure in the Solid Waste Management Act provides for such agreements. Interdistrict agreements must be approved by each respective Board of Chosen Freeholders and incorporated into their Solid Waste Management Plans. That plans, in turn, must be certified by the Department of Environmental Protection. The Board of Public Utilities and the DEP jointly promulgate waste flow rules to set forth the waste flows. I think if it is the intent of the Committee to facilitate interdistrict agreements, these two processes should be incorporated somehow. The 150-day review process that the Department has to

review plan amendments is also cumbersome, and it's been our experience that DEP does, in fact, take the whole time allotted to them.

We do have concerns regarding the definition of resource recovery facilities included in Assembly Bill No. A-10. The definition is restricted to incineration facilities. The original legislation, P.L. 1985 Chapter 38, had a much broader definition and included mechanized composting facilities and other resource recovery facilities. We believe that the definition in the proposed legislation should be broadened to include these other types of facilities so in the event that, for example, a mechanized composting facility finds itself with additional capacity, they, too, can enter into interdistrict agreements to make available that capacity to out-of-district users.

ASSEMBLYMAN McENROE: We're going to expand on that, or correct that definition. Mr. Shinn has made that point earlier in our discussions.

MS. ROBBIE: Okay. It also applies to different types of recycling facilities. I think it would benefit the districts to join in the use.

Also, as mentioned previously, the bill includes proposed revisions to sections 6 and 21 of the Solid Waste Management Act. Those sections deal with statewide and district Solid Waste Management Plans, and direct the district and the State to provide for the maximum practical use of resource recovery. The proposed revisions would change that so that we are providing for the maximum practical use of source reduction, recycling, and reuse. Burlington County is very supportive of source reduction measures, but does not feel that the appropriate level of action is with the districts. We have little, if any, power to require decreased packaging labeling requirements or a reduction in toxicity levels of certain

products. Those measures have to be instituted at the statewide level, and we would certainly support any efforts to do that.

Also, with respect to the provision regarding transportation, routing, and resource recovery facilities: We think that also should be expanded to include other types of facilities, so that we're looking at the impact in routes to sanitary landfills and other types of facilities.

ASSEMBLYMAN McENROE: Thank you very much.

MS. ROBBIE: Thank you.

ASSEMBLYMAN McENROE: Any comments or questions from Mr. Shinn?

ASSEMBLYMAN SHINN: I just think the source reduction issue is something we've been talking about for a few years and really haven't come to grips with as a Legislature. I think the comment relative to that, "Counties can do very little about source reduction," is a bear we have to wrestle with, and I think we have to start in that area somehow, because we're generating more-- From all the new figures I see, we're generating more per capita than we did previously. We do a lot of talking about source reduction, but that's about it. I don't have any answers, I can tell you that. But I think it is inappropriate to lateral that down to the counties, and I don't really see what, effectively, they can do to implement source reduction at the county level.

ASSEMBLYMAN McENROE: I agree.

ASSEMBLYMAN SHINN: I think it's a statewide, Federal initiative that needs to be taken in some regard.

ASSEMBLYMAN McENROE: There has been certain Federal guidance and certain movement on the State level. We have been involved but have not really defined what we should do to reduce the waste flow.

Thank you very much. We appreciate your comments.

We next have from, I believe, Warren County, Mr. James Broscius, representing the Pollution Control Financing Authority of Warren County.

J A M E S W. B R O S C I O U S, E S Q.: Good morning.

ASSEMBLYMAN McENROE: Excuse me. We have a few more individuals representing counties which we consider the primary focus of today's hearing. Then we have many other people who have signed up to testify. Some are, in fact, operators and owners of facilities such as American Ref-Fuel, and we have certain individuals representing environmental groups around New Jersey. So what I think we'll do, following the conclusion of comments by officials representing counties or districts, is move and have representation of the private vendors, if you will. Then we'll move to environmentalists, and then we'll go back and forth. So, we should have a lively discussion after we conclude the consideration of county officials.

Mr. Broscius, welcome.

MR. BROSCIOUS: Mr. Chairman, I am the General Counsel to the Pollution Control Financing Authority of Warren County, which is the implementing agency for Warren County. I'd like to, if I may, give you some of the history of the Warren County project, since we have the most extensive history of any project in the State, and there are certain things we have learned as that history has evolved which I think will have some bearing on comments which I'm going to make -- specific comments to provisions of your A-10.

Warren County was the first county to finance and to cause to be constructed a resource recovery facility in New Jersey. As the first county to so proceed, we faced many obstacles which other counties have not had to face: For example, there were no regulations at the time governing the issuance of permits; they were literally written as we progressed. The effective date of the regulations was the effective date of our service agreement with the vendor.

There was no established way to regulate the rate to be charged for the disposal of waste such as garbage, unprocessed MSW, ash, and to relate a landfill to the resource recovery facility, at the same time keeping separate waste streams. We had to pioneer in that particular area, as well.

There were uncertainties in the financial community over whether or not New Jersey truly had the resolve to implement resource recovery, notwithstanding the remarkable and clear statement of intent in the so-called McEnroe legislation. That's another area where we had to carve through uncharted territory.

There were many, many others, which are-- I could bore you with a day-long discussion of the problems that we have encountered and faced, but I will spare you that recitation. If you're interested at some other time, I'll be happy to give you our tale of woe.

We also had many benefits which others who have come after us did not have, in that the regulatory agencies had a desire to show that the McEnroe legislation worked. Our permitting process was remarkably short. It was 10 months. The Board of Public Utilities cooperated above and beyond what could normally be expected in implementing the initial and interim rates and granting us a franchise in what I could only characterize as record time, and in nurturing this project so that it came to life and it worked.

The first fire up of the facility took place on July 3, 1988. Shakedown and start-up was completed, and commercial operations began on December 1, 1988. The Warren County District Landfill, which was plagued with any number of woes, finally began accepting ash for storage on September 15, 1990. A separate cell for non-processed waste will be completed on or about December 15, 1990, at which time Warren County will be self-sufficient in solid waste disposal for at least the next 18 years, and perhaps for as long as 40 years, depending upon the residual value of the plant and the life of the landfill.

As part of its burden of pioneering, Warren County was the first county to experience the problems created by the Solid Waste Management Act as a result of the control which it vests in the 22 solid waste management districts and the cheap -- in the short-term -- out-of-state disposal options available to our sister counties.

The Warren County facility was rated at 400 tons per day, and that was based on a referenced fuel of 5300 BTUs per pound. At 85% boiler availability, this corresponded to 124,100 tons. Now, that's a critical issue. I don't mean to bore you with technical issues, but at any given point in time today, that facility is burning at 100%, and we must have 100% of that waste there today or we're not going to meet our commitments to the facility.

When the facility is down-- The reason why we use 85% instead of 100% is there are two scheduled maintenance periods during the year during which we can't simply say, "Don't generate waste for the next seven weeks." The waste is still there and it's got to be disposed of. So the 124,100 tons per year of throughput was based upon Warren County's projections for 90,000 tons per year and an agreement which Warren County concluded with Hunterdon County for an additional 30,000 tons per year, as a result of which Warren County -- the county itself -- guaranteed the vendor that it would put or pay for 116,800 tons per year at the facility.

The agreement also provided the typical -- at that time -- third-party waste provisions where the vendor could go elsewhere and obtain waste to fill its capacity.

When operations began at the facility, it became obvious that Warren County had only 60,000 tons per year which, coupled with the 30,000 tons per year of Hunterdon County left us far short of the 116,800 tons of our guarantee, and the 124,100 tons upon which the economics of the project were based.

Our first response to this problem was to determine where the waste was? Was it an enforcement problem, or was it a projection problem? We entered into a period of intensive surveillance of garbage trucks, and surveillance of the bridges crossing the Delaware River into Pennsylvania, and we quickly determined that short of some very minor infractions, we were getting virtually 100% compliance by the haulers with the waste. So the shortfall was an actual, as opposed to a paper, problem.

Our second response was to attempt to obtain waste from other counties. I can tell you I personally spoke to virtually every county north of Middlesex, our Executive Director took the area in the center of the State, and others spoke to other counties. The problem that we ran into was that our tip fee of \$98.00 per ton, which included the tip fee of \$52.50, the resource recovery component, and the \$45.50 as the landfill component, was too expensive compared to the \$58.00 to \$68.00 per ton at landfills in Pennsylvania and elsewhere.

We then took the next step and accelerated our existing interdistrict agreement with Hunterdon County; that is to say, that agreement provided for 577 tons per week, or 30,000 tons per year, and we doubled that so that the 30,000 tons would be metered in between December of '88 and June of '89. And we still had a shortfall.

During that time we also accelerated our efforts to obtain the additional necessary waste elsewhere. At the same time that this was taking place, we found out that for technical reasons which are fascinating and probably which you ought to look into -- because it is germane to what you're doing, but today is not the day -- that the facility was capable of handling 500 tons per day, and in fact, could probably handle 550 tons per day but for the permits. So at the same time we found out we were short on waste, we found out that we were long on capacity, because very quickly, the reason

was the BTU content of the fuel was a lot lower and therefore the facility required a lot more waste to generate the amount of steam which was the result of the BTUs in the permit limit. In other words, the permit limits were the governing factor.

So, at that time we found that we could put through this facility safely and well within all the environmental permits, 500 tons per day.

We started negotiating with Somerset County and our negotiations with them were remarkably short, cordial, and productive. Not only do we share interests with Somerset County in that we share a vicinage, but there are a number of areas in which we have a community of interests. We don't border, but we come very close to bordering.

We were able to convince them after six months of negotiations that there were broad areas in which our interests coincided.

The first was that we could presently -- until the Hunterdon agreement expires in the year 2001 -- incinerate one-third of their processible waste; thereafter, one-half of their processible waste stream. We were satisfied that we had a community of interest in recycling. Warren County has had a problem with sludge disposal and land applications, and that particular problem Somerset County is able to address with a facility that it has in its county, and with backup landfill in the landfill space in the Warren County District Landfill for a three-year period in the event that they are precluded from taking their waste out-of-state. That's offset by a corresponding amount of volume that they're required to take from us once their landfill is on-line, in the event that they are precluded from Pennsylvania.

The agreement eliminated the need for Somerset to build an incinerator and landfill, with the resultant savings that come with it. The agreement provided that Somerset would commit to Warren and would take control over 1400 tons per week

of waste. Thus, 72,800 tons were added to the waste stream, bringing the total to 162,800 tons versus the 90,000 tons from Warren and Hunterdon. Please bear in mind that the original agreement was 124,100 tons. Simultaneous with these negotiations, we negotiated with the vendor -- because of this third-party waste provision in the contract -- changes in the service agreement between us and the vendor.

That agreement -- our new agreement -- effectively removes the vendor's ability to secure waste from third parties by us -- that is, the Authority -- guaranteeing to the vendor 148,920 tons per year, backed by Somerset's and Hunterdon's put-or-pay agreements to the Authority. Now, that guarantee of 148,920 is substantially larger than the 162,800, and the reason for that goes to the issue of throughput versus scale tons, and also again, in more technical issues, goes to the issue that at any given point in time, regardless of the BTU content of the fuel, we need enough waste on hand in order to have this facility running properly.

ASSEMBLYMAN McENROE: Mr. Broscius, I have to interject a few questions just so we can move our agenda a bit. Do you see this Warren County Pollution Control Authority facility as the answer for Somerset's, Warren's, and Hunterdon's waste?

MR. BROSCIOUS: I believe that it can be.

ASSEMBLYMAN McENROE: Can you make a prediction on its success over the next 10 years?

MR. BROSCIOUS: I believe that it can be the answer for Warren and Somerset, and I believe that it will handle our problems over the long term. We have been unable to conclude a meaningful long-term agreement with Hunterdon, although we have tried mightily, because they are not interested in siting any facilities whatsoever in their county. Their position is that as long as they don't have to build any facilities, they will conclude an agreement, but with respect to Somerset and Warren, the answer is yes.

ASSEMBLYMAN McENROE: I know that Hunterdon County is not on our list of people wishing to testify.

MR. BROSCIOUS: One further point that relates to this, and that is the 60% recycling goal. Part of our agreement with Somerset County is that they will adhere to any fuel quality assurance program which Warren County puts into place. The fuel quality assurance program that Warren County is working on calls for recycling of 40% of the processible waste stream. That number becomes considerably larger than the 60% of the total waste stream.

We're focusing -- and just in our case-- Our total waste stream is somewhere near 110,000 to 115,000 tons per year. At 40% recycling we would have of processible waste, we would be left with 36,000 tons per year. The room that is left in that facility if Somerset does likewise, will satisfy their needs, and we may be talking to someone else to fill out the capacity in the project.

ASSEMBLYMAN McENROE: Do you predict any political difficulties down the road so far as Warren County serving as a regional location for a disposal facility?

MR. BROSCIOUS: We have had some political difficulties as a result of the Somerset agreement. When the resource recovery permit-- We held the public hearing, and there were three people there. At the landfill permit, there were two people there. For the Somerset agreement we ended up with 20 people, and a number of those were very loud. At the public hearing to amend the Solid Waste Management Plan, there were approximately 100 people and they were primarily anti-incineration people with gas masks and placards. But I don't anticipate any real long-lasting political problems.

The point I want to make, sir, and I wanted to get into this history because the history is the essential element here: As these facilities are being built, it is obvious that they are being overbuilt. I don't think our case is just a

happenstance. I believe that across-the-board, there was excess capacity planned for. There, therefore, exists a market, just as a matter of commerce, a need to fill that capacity.

There are areas in which the counties' interests coincide to the point that it is a natural filling without the need to legislate, without the need for A-10, without the need to put in extra public hearings which turn into anti-incineration tirades and gas masks, and the lack of a knowing discussion of the issue. It is that component that we oppose the most. We think that the wagon is not broken, so don't fix it.

There are two areas in which we think you can give us help. One, I am sure, is an unintended result of some legislation, a part of the McEnroe legislation. First, is the so-called McEnroe taxes.

ASSEMBLYMAN McENROE: I wish you wouldn't repeat that. (laughter)

MR. BROSCIOUS: So-called -- I said, so-called. The Matisoska taxes.

ASSEMBLYMAN McENROE: How did you know?

MR. BROSCIOUS: When we realized that we needed an excess of waste over capacity in order to run this facility properly, and we realized that we were going to have to import this waste to the point where we're importing over half of our needs, we also focused on the fact that there were some taxes that would go with it. The purpose of the taxes is to foster resource recovery. I'm talking about the importation tax, the services tax, and-- The third one escapes me at the moment, but the three taxes.

ASSEMBLYMAN McENROE: The investment tax.

MR. BROSCIOUS: The investment tax, that's correct. We asked the New Jersey DEP whether or not our landfill, in the event a would-be-- In the event the facility were unable to

accept a portion of the waste that was put there, whether the taxes, which will at some point in the relatively near term total \$21 per ton, would be imposed on that waste? The answer that we received was, "Yes," and it would be imposed in order to encourage us to build the facility. When we told them that we had a facility and that they could come and see it if they wanted to, their answer was that you will impose the taxes, irrespective.

We filed suit, and that matter is presently pending before the Supreme Court. In addition to the fact that we've asked Somerset County to pay \$98 instead of \$58-- Tacking on an additional \$21 per ton is not productive to interdistrict agreements.

The second area that is compelling is the fact--

ASSEMBLYMAN McENROE: The point you're making, the issue that's in the Court, is your opposition to the imposition of tax on--

MR. BROSCIOUS: Imported waste where we are the willing--

ASSEMBLYMAN McENROE: --imported waste at the resource recovery facility?

MR. BROSCIOUS: Well, here's the way it works, okay?

ASSEMBLYMAN McENROE: Okay.

MR. BROSCIOUS: When the waste comes to the facility, it either accepts it or it doesn't, okay? If it doesn't accept it, it goes to the landfill as unprocessed waste where it would receive the tax. If the facility accepts it and is unable to process it within a given period of time, it has to come out of the pit and go down to the landfill where it will be taxed. I don't know how we'll recover it, but it would be taxed again. Our point is -- and this goes to your definition of resource recovery services -- that the landfill ought to be included in your definition of resource recovery services and that we ought to recognize that for these systems to run properly we need a

net excess of waste over capacity and the cost of disposing of that waste ought not to be taxed, okay? It's just a part of the operation of the system.

When we were short of waste, there was not going to be any recycling in Warren County if it was costing us \$98 a ton to burn it whether we burned it or not, and \$98 a ton to collect it and try to sell it. So you need a net excess of waste over capacity for a resource recovery system to work.

The second issue that is equally important to us, and to everyone in this room, is the fact that the State of New Jersey has not yet adopted a policy with respect to incinerator ash. We were told back in 1986 when we broke escrow, that there would be a policy, and that if Warren County would -- even though there were no regulations in place at the time -- build a double composite lime landfill that there would be regulations put into place so that our ash could go into that landfill. It is now four years later. There is no policy regarding ash, and we are operating under a permit-by-permit situation that is dangerous. It sends the wrong message to the financial community, and it sends the wrong message to our community.

We have proposed a thing called a fuel quality assurance program in which we proposed a standard which was stricter than any standard in this country; stricter than the New Hampshire standard. It certainly goes far beyond the New York, Michigan, Illinois, and California special waste standards.

ASSEMBLYMAN McENROE: Mr. Broschius, the Committee did hold a hearing on residual ash disposal. The Department presently is reviewing policy on behalf of the administration relating to the exact subject. I appreciate very much your comments. I know that it is a matter of urgency insofar as public policy declaration, and I would think it would be coming very shortly.

MR. BROSCIOUS: It's urgent. Just for your information, sir, the cost to Warren County has been \$10 to \$15 per ton of garbage. The absence of a policy-- We have been forced to store ash until testing is completed on our site at the cost of close to \$10 a ton, tested every week at the cost of \$1 per ton, and then (indiscernible) around with it, you know, without any rules or regulations. The rules change from day to day. So, it is not a small item; it's a \$10 to \$15 per ton item.

ASSEMBLYMAN SHINN: I assume you're talking about bottom ash, right?

MR. BROSCIOUS: Pardon?

ASSEMBLYMAN SHINN: You're talking about bottom ash?

MR. BROSCIOUS: We are talking about the combined ash--

ASSEMBLYMAN SHINN: Combined?

MR. BROSCIOUS: --yes, sir, which passes the EP Tox Test and TCLP.

ASSEMBLYMAN SHINN: TCLP? Are you using TCLP testing?

MR. BROSCIOUS: Well, we have been doing both, because one thing we've learned is that we can never do enough to be on the safe side.

ASSEMBLYMAN McENROE: Yeah, we have introduced legislation. I sponsored legislation with, I believe, Mr. Franks, to address the matter of residual ash and to require the DEP to make a determination as to its toxicity and to the management of it.

MR. BROSCIOUS: Unfortunately, it comes too late for Warren County. But I would suggest there are other counties talking about disposing of ash out-of-state and indicating that that is not a problem. It is going to be a problem for them, and how this stuff is manifested. DEP's latest, of changing manifest at the border, is simply not the answer to this problem.

ASSEMBLYMAN McENROE: It is a critical concern in the county which I represent, Essex County. We're going to address it very shortly.

MR. BROSCIOUS: I think we've carved the way for your county, sir.

ASSEMBLYMAN McENROE: I think you have, too. We appreciate that. I'm not optimistic. We really have to move along.

MR. BROSCIOUS: I will be very brief. I join in the comments about the need for extra bureaucracy and extra hearings, and levels of hearings. I simply would like to indicate that shotgun marriages do not work. They will never work. Giving the DEP the opportunity to wield the shotgun to site facilities will lead only to resistance, and is destined to defeat. There are two real quick technical issues I want to point out to you.

ASSEMBLYMAN McENROE: I really have to interject one other comment on the idea of public hearings: I can appreciate fully the anxiety in Warren County relating to additional series of hearings relative to agreements, but it's the legislative process; it's the democratic way that we provide an opportunity for public comment when substantial changes are made in public policy. It's very difficult not to include that in legislation.

MR. BROSCIOUS: There's a public comment period when you go to amend your Solid Waste Management Plan. You can't implement one of these unless you do that, and at that point in time is where you have your public input. The regulatory issues are handled extremely well by the Board of Public Utilities. They know what this is all about. They handle it extremely well and expeditiously. The only other thing I want to say to you is there are two areas--

ASSEMBLYMAN McENROE: All right, but the key words there are "substantial revision," and unless it is a

substantial revision, then the regulations currently in place would provide that opportunity.

MR. BROSCIOUS: There are two areas in the Act -- and I will submit my written comments to you so that you can find them -- where it appears to the investment community -- and we have been talking to the investment community recently -- that the Legislature is backing away from the broad and sound statement contained in 13:1E-136. There are two areas in which you have deleted "resource recovery" as one of the four in the hierarchy. I will submit this to you. I would simply suggest that you're sending out confusing messages with those two deletions.

With that, I've concluded my remarks. I thank you for the opportunity to address you and wish you luck the rest of the day.

ASSEMBLYMAN McENROE: Thank you. I appreciate that very much. The experience, again, of Warren County is invaluable to this Committee, and I think to the administration and the Department of Environmental Protection relative to the success you've had in Warren County. Thank you.

We now have two more individuals representing counties. We have from Cumberland County, Barry Clark. (informed by aide that Mr. Clark is not there) Okay, is Cumberland County represented? (no response) Okay, then we'll move to Cape May County. We have Mr. Thomas Higgins representing the Utilities Authority of Cape May County. Mr. Higgins, good afternoon.

T H O M A S S. H I G G I N S, ESQ.: Thank you Assemblyman. Good afternoon. We finally made it. A very brief comment regarding Cape May County, and we'll supplement the record by written report. We've just returned from a European trip when we inspected solid waste composting facilities. I will be submitting a complete report of that to

the Task Force, to the DEP Solid Waste Division, and to this Committee.

The questions before this Committee for today's purposes, however, respond to the inquiry of your letter of October 19 regarding any comments that we may have regarding the 60% recycling rate. Our question is this: We have abandoned the anticipated incinerator that we were going to build and, instead, are investigating and have selected a vendor for solid waste composting. We have completed our inspection tour, and we're satisfied that it will work. We are now in design and negotiations. Our questions to this Committee, and to the Task Force, and to the DEP, is simply: Will the composted material be included in the 60% goal for recycling? We believe that question must be addressed; without it we cannot achieve the 60% goal. And I assume-- And of course, this assumes that the compost material would be used as soil supplements and so on and so forth.

Our second questions would be: What criteria will be established by the DEP for the permitting processing for solid waste compost? I realize that's a question more directed toward the DEP than this Committee. I ask this--

ASSEMBLYMAN McENROE: It's a specific question on their management of that issue.

MR. HIGGINS: Correct. We ask this Committee to be mindful of that issue as it encourages other innovative technologies in addressing the solid waste management problems. Thank you for allowing our comment. We will supplement the record.

ASSEMBLYMAN McENROE: Thank you. I am aware of composting facilities as a solution, and I do wish Cape May well.

MR. HIGGINS: We have committed the resources, the funds, the energy, and we're going to adopt a resolution to go forward with that as our recommendation to the freeholders for

the amendment of the Solid Waste Management Plan. Obviously, it's innovative and creative, and we see cooperation from the DEP, this Commission, and the Task Force. Knowing that there are no established criteria -- and I heard the counsel from Warren County recite his woe regarding the incinerator -- obviously, we'd like to avoid some of those mine fields in the composting of solid waste. Thank you.

ASSEMBLYMAN McENROE: Thank you very much.

ASSEMBLYMAN DUCH: Mr. Chairman, just a question.

ASSEMBLYMAN McENROE: Yes?

ASSEMBLYMAN DUCH: Where would you put a composting facility in Cape May County, sir?

MR. HIGGINS: We would put it where we were going to put the incinerator. We have a total solid waste component facility. We have an IPF, we have a hibernaculum, we have a tire reef program. We have a total facility in Woodbine and that is within the Pinelands area, but it's a committed use within the Pinelands area, strange as that may sound.

ASSEMBLYMAN DUCH: Thank you, sir.

ASSEMBLYMAN McENROE: Thank you very much. We now have Linda Spalinski, Executive Director of the New Jersey Association of Counties. Ms. Spalinski, will you join us, please?

L I N D A S P A L I N S K I: Thank you, Mr. Chairman, members of the Committee. My comments will be very brief. I know that several of the counties were represented here this morning and they are certainly in a better position than I to provide this Committee with specific information and detailed knowledge in terms of the impact of A-10 on their counties.

I will tell you that the Association of Counties had an initial meeting this past Monday; a group of county officials, very concerned about solid waste issues, and we discussed A-10. They have asked me to attend, and tell the Committee that we consider it a very complex piece of legislation; one that will affect the various counties in

different ways, because there are differences among the counties in terms of their contractual relationships, and their financing structures, and other elements of their solid waste plans. They've also asked me to tell the Committee that we share in the desire to promote regional compacts as a way of addressing the State's solid waste problem.

We would like to have some additional time to review what is a very complex bill, at first blush. Our reaction is that the creation of some procedures and some additional bureaucracies in terms of reviewing regional agreements, is not something that, on the surface, appears to be in the best interest of promoting regionalization, but, in fact, may be a disincentive towards regionalization from the standpoint of county government -- the counties that have been dealing with this problem for 15 years now.

What we feel is really needed to push us in the direction of regionalization is for the State of New Jersey to begin to permit at least some of the waste-to-energy facilities that have now progressed far along in the process, where counties have committed a considerable level of resources to get those facilities constructed. This will pave the way towards regionalization: As we look at the experience with the Warren plant that was permitted and constructed and then the regional compact that was reached with Somerset County; just as we see Essex County now on the brink of reaching a regional agreement. The really critical thing that is needed is to expedite the permit process and to get a few more facilities constructed. We are, however, ready and willing to cooperate with this Committee in a detailed review of what is necessary in terms of a procedure for the State of New Jersey to review regional agreements.

ASSEMBLYMAN McENROE: Thank you very much. Is the Association, in a sense, reasonably convinced that there will

not be a need for 21 separate physical plants located in 21 separate counties and/or the Hackensack Meadowlands?

MS. SPALINSKI: I think we're more than reasonably convinced. We are definitely convinced there is not a need for 21 plants.

ASSEMBLYMAN McENROE: But you do think that all the jurisdictions should be planning either regionally or on their own to comply as expeditiously as possible?

MS. SPALINSKI: We think the districts should be planning. We think there's a sincere desire among the districts. Not all 21 counties will see it as in their best interest to regionalize. In my discussion with the counties, I think the majority of the counties see this as in their best interests -- to have regional agreements. It is very, very difficult for them to speak with any real degree of confidence without some additional plant sites.

ASSEMBLYMAN McENROE: Thank you very much. I appreciate your comments. I did overlook one individual from the County of Salem: William Godfrey, Executive Director of the Salem County Utility Authority. Pardon me, sir. I had meant to ask you to join us.

W I L L I A M E. G O D F R E Y: Thank you, sir. Chairman McEnroe and members of the Assembly Waste Management, Planning and Recycling Committee, please permit me to express my personal appreciation and that of the Salem County Utilities Authority for your invitation and opportunity to appear before you to provide comments on proposed Assembly Bill No. 10 and the new 60% recycling goal.

My name is William E. Godfrey, and I am the Executive Director of the Salem County Utilities Authority, which is the Solid Waste Management Plan implementation agency in the Salem County Solid Waste District.

It was previously my pleasure to be able to express the opinions of the Salem County Utilities Authority during the

course of the hearings conducted by the Governor's Emergency Task Force on Solid Waste Assessment.

The Salem County Utilities Authority was opposed to the direction that the Governor's Task Force appeared to be taking as it approached the formulation of its final position. Specifically, the Salem County Utilities Authority is opposed to the general conclusions and recommendations of the Task Force Report. For essentially the same reasons, the Salem County Utilities Authority is generally opposed to the direction of Assembly Bill No. A-10.

First, one of my Authority's immediate concerns is the speed with which Assembly Bill No. A-10 has appeared on the scene, and the speed at which you are proceeding to conduct hearings.

The public is largely dependent on the broadcast and print media to inform it of the nature and scope of the activities of government. The Emergency Task Force Report was delivered to the press only this past August, and the focus of the Task Force was on the laudatory 60% recycling goal established in the Task Force Report, now embraced by Governor Florio.

However, beneath that attractive goal and submerged within the report, is a much more substantive set of procedures which totally alter the manner in which the solid waste districts will do future business in the State of New Jersey if such concepts are implemented by this legislation.

As you know, the second paragraph under section 1 on page 50 of the August 6 Emergency Task Force Report states as follows, and I quote: "At the same time it should be recognized that some counties have developed their own disposal solutions and these counties should not be penalized for solving their own solid waste needs."

The Salem County Utilities Authority believes that Salem County has solved its own solid waste needs. It should

not now be penalized by becoming a waste disposal solution for some other part of the State of New Jersey.

The Salem County Utilities Authority, and Salem County for that matter, believe that the concepts within A-10 would constitute a substantial penalty to Salem County.

Under the current Solid Waste Management Act, there are 22 solid waste districts, each of which is a comparatively autonomous entity permitted to establish under the authority of the legislation its own Solid Waste Management Plan. The role of the DEP and BPU under current legislation is that of a benign reviewing agency whose job essentially is to assure that each district's Solid Waste Management Plan and its amendments, from time to time, remain within the scope, authority, and framework of the State's Solid Waste Management Act.

The recommendations of the Governor's Emergency Task Force and the clear signal of A-10 is that the role of the DEP will be one that is no longer a benign reviewing process, but a vastly expanded role in which it becomes an aggressive, adversarial, and dictatorial superpower whose authority preempts that of the sovereign counties.

Not only is this proposal an emasculation of local governmental control, but it places in the hands of nonelected officials in Trenton the consummate authority to redirect solid waste within the State of New Jersey. The result is unfavorable to those areas or counties where DEP deems that a substantial or excess capacity to deal with solid waste exists.

In short, this bill would give to the DEP the power to make dumps out of South Jersey counties for those counties who have been either negligent or which have been unable or unwilling to cope with or resolve their own solid waste problems.

To say the least, this is totally unacceptable to the citizens of Salem County.

The landfill in Salem County, which is only 40 acres at the present time, is capable of dealing with Salem County solid waste for a period of at least 20 years, perhaps longer if the ambitious recycling goals are to be achieved in coming years. The idea that others may now decide that Salem County should be a receptacle for waste generated in other counties penalizes Salem County by consuming its valuable landfill space and by shortening the life of its landfill and Salem County's own self-sufficiency.

A-10 speaks in terms of "resource recovery" as if that term had the limited meaning of being a mass-burn incineration. The fact of the matter is that neither the DEP nor any one of the 22 solid waste districts uses the term "resource recovery" in such a limited context. Resource recovery has the contemporaneous meaning which includes recycling, reuse, or any other activity which constitutes non-disposal.

From the perspective of Salem County, A-10 heads in the wrong direction. The concept of regionalization is not automatically suspect. Salem County certainly would not oppose any opportunity to deal with a problem on a regional basis as long as the county's participation was voluntary and involved the county's mutual consent. Intergovernmental agreements are a great device for governments to share resources and divide costs and other burdens. The key word, however, is that these are agreements, meaning that there is complete consent by all the participants.

A-10 leaves out this critical element in addressing the concept of regionalization. Moreover, A-10 presumes the infinite wisdom of government bureaucrats in Trenton and the capacity of a central government not only to comprehend the scope of the problem, but to have the sole capacity for perfect insight into a solution. That totally emasculates the concept of home rule at the county level and essentially replaces the

will of the citizens of a sovereign county. A-10 gives to the DEP and BPU broad sovereign powers to override the interests of local communities and county governments. The Salem County Utilities Authority opposes such a transfer. It's unnecessary and improper.

The idea that the DEP or BPU could now dictate, for example, that Salem County is part of either Essex or Morris, or any other county for that matter, and part of their solid waste solution, would be incredibly offensive to the citizens of Salem County. Furthermore, the apparent powers being given to the DEP and BPU under A-10 to take property by condemnation to establish facilities without the involvement of the counties themselves, is unacceptable. Such a power in a State agency under the guise of serving a "greater interest" is nothing more than an undisguised power of a State agency to make determinations as to which property in the State can be developed to its highest and best use, and which property will be allowed to do its least best use.

One of the reasons why we strongly oppose the speed with which you are proceeding with this kind of legislation is that the effects of public information about recycling and solid waste disposal are now manifesting themselves with a high level of public awareness. As the costs of solid waste disposal have vastly increased over the past five years, the signal has gone out to the inventive and ingenious minds of private citizens, corporations, scientists, and governments to devise new ways with which to deal with solid waste disposal in an environmentally sound fashion.

To briefly summarize then:

- 1) While this legislation proposes to implement interdistrict, intradistrict, or interstate flow of solid waste as it pertains to "resource recovery," the fact remains that it has not explained the role of those counties such as Salem,

which have eliminated mass-burn "resource recovery" as a disposal option.

2) The DEP/BPU's ability to acquire land by purchase, grant, contract, or condemnation without consideration of either county or municipal government is excessive, unnecessary, and alarming.

3) The suggested continual development of new Solid Waste Management Plans is unrealistic. Amending existing plans as the need arises under the current system appears to be a more prudent avenue to follow.

4) The authorization given to the State by A-10 to require any solid waste district to provide either capacity or sites to other solid waste districts is simply unacceptable and penalizes those counties which have adequately planned for their solid waste disposal needs.

5) From our perspective, the counties which have eliminated mass-burn resource recovery as a disposal alternative should be exempt from this legislation as it stands now.

We're not against regionalization per se, with regards to matters of recycling or things like that, but as far as resource recovery goes, or interdistrict waste flow -- we are.

6) Finally, a county like Salem should not be forced to enter any agreement which is not mutually beneficial. The fact that A-10 provides for DEP/BPU intervention in spite of the county's expressed desire to be uninvolved reeks of centralization of power and removes the right of the people to freely follow their selected course.

On behalf of the Salem County Utilities Authority, and myself, I'd like to express my sincere appreciation for the opportunity to come before you. We may not agree on waste disposal needs; however, I appreciate the opportunity.

ASSEMBLYMAN McENROE: It's nice of you to take time from your busy schedule to come here. I want to just comment

that I think you're reading considerably more into the legislation than is intended. I know there have been some political discussions in your county that I'm just recognizing now relative to this legislation, and I understand it has become a small part of the political campaign. But I want to reassure the good people in Salem County that it is not the intention of this sponsor or this Committee or this Legislature to not consider the impact of legislation on all of our citizenry.

Any of the thoughts that you had relative to the new direction of waste flow and power that the Department could have in this legislation, they already have. They have extraordinary power in this State given them by laws enacted over the past 20 years -- 30 years, for that matter. So they have the right, under existing law, and it's certainly not our intention to embellish that, or usurp that authority, or to encourage it.

I certainly appreciate your comments. I understand completely. You've done a fine job in Salem County. There is no need for you, as an entity, to involve yourself in resource recovery regionalization; that's not an issue for Salem County. But to come here and provide us with your good advice is certainly appreciated. Thank you very much.

May we hear from the New Jersey Environmental Federation, Dolores Phillips and Jane Nogaki? Good afternoon.

J A N E N O G A K I: Good afternoon. My name is Jane Nogaki. I thank you for having the opportunity to testify today. If I'm a little quaky, it's because of the lack of food, which we all share at this point. I represent the New Jersey Environmental Federation as its Chairman, which is a coalition of 45 groups and 60,000 individual members. I serve as its voluntary Chairperson. Our position on A-10 is that we have some specific comments to make about specific changes to make.

By way of introduction, I'd like to point out that the Federation is opposed to incineration as a method of waste disposal. We feel that it is an unsafe technology and that it is intrinsically opposed to recycling. Therefore, with the outcome of the Solid Waste Task Force Report -- the Emergency Report -- focusing toward recycling a goal of 65%, we don't even feel this Committee should be talking about incineration at this point. We think that the legislation coming out of this Committee should directly address how to facilitate the 65% recycling goal.

We want to see legislation coming out of this Committee that will do source reduction of packaging. As Burlington County mentioned, this packaging is a very large source of the waste stream, and counties can't go at this alone. It's going to need State, and actually national direction, as well. So we would look to this Committee to be doing this legislation first, rather than the regionalization of incinerators.

Just by the nature of the name of this legislation and the pinpointing of resource recovery facilities, it seems as if this Committee is giving the green light to regionalize incinerators. In fact, we don't see that any more are going to be built, and the ones that are being built are being built beyond capacity. This seems like kind of a bailout bill or maybe even an encouragement for other counties to build large incinerators with the hopes of attracting out-of-state garbage as revenue. We don't see this as fiscally responsible. We don't think that financially it benefits the citizens of New Jersey. We think it only benefits incinerator companies.

Frankly, we see it as a bailout proposition, although we know you intended this as a way to resolve an issue of regionalization. But from a citizens' perspective, we feel that it is not going to accomplish the goal of 65% recycling. We have some specific additions to make that would improve it.

I want to corroborate the testimony of the persons from Salem County and Burlington, in that counties that have become self-sufficient in their waste disposal are scared out of their minds that other counties that haven't sited facilities are going to try to move their garbage to those counties that are self-sufficient: Cape May going with the composting facilities, Salem with the landfill, Burlington with the landfill.

You know, we're looking for regional voluntary solutions but we need big composting facilities, tire recycling facilities, plastic recycling facilities. These are the kind of regional facilities we should be talking about siting and facilitating, not incinerators. I'm going to turn this part of the testimony over to Dolores Phillips, who will give some technical comments on the bill.

ASSEMBLYMAN McENROE: Just a comment: Do you think New Jersey should proceed without resource recovery or waste-to-energy plants as an option, completely?

MS. NOGAKI: Yes. I believe that we're at the point-- I think the Task Force Report spelled out how New Jersey could proceed without the construction of any additional facilities. In fact, I think that the four that are either on-line or just about to be on-line can be phased out.

ASSEMBLYMAN McENROE: Yeah, I read the report as you did, and the conclusion I reached is different than yours, but we're not here really to debate the Task Force Report. I appreciate your comments, and just as an aside, this Committee is the Waste Management, Planning and Recycling Committee, so we knew before the Task Force was appointed that recycling was important. So, when I had the opportunity of being a part of this Committee, the suggestion came from our members that we would call our Committee not only "Waste Management," but also "Recycling."

MS. NOGAKI: I'm happy to see that name on the Committee.

ASSEMBLYMAN McENROE: We've emphasized that from the moment of our inception.

D O L O R E S A. P H I L L I P S: Thank you. To expand upon that, Chairman, and to answer your question: The incineration in and of itself contradicts the advocacy of recycling and other alternatives. And recycling not only consists-- We're talking about recycling in and of itself. Then we're talking about source reduction, reuse, salvage and repair, composting, and mechanical processing. There are options out there, and we feel that the testimony today has underscored our position and the position that we feel that the State should be taking in addressing solid waste policy; namely, you have a report that was prepared for Camden County on how to reduce 89% of their solid waste. You have another report that was just issued: "Beyond 40%, by the Institute for Local Self-Reliance," that actually investigated 17 municipalities throughout the country which have gone beyond 40% materials recovery. Seven of those are from New Jersey. We can do it. The information is here. In fact, for Camden County, it's completely spelled out. That's what this report is. Passaic County, in and of itself, has mentioned that -- okay -- if it does 60% recycling, it's going to have a certain amount of tonnage left over. We realize that. So does the Task Force Report. The Task Force Report addresses 64% recycling, and that you look at material by material with a particular goal for each material.

Then on top of that, look at statewide aggressive source reduction measures, and there's a number that we can certainly suggest which we hope certain legislators will be sponsoring soon. Utilizing that with measures, perhaps to-- For composting in and of itself and, again, reuse and mechanical processing, you can end up with the solution. We basically will have no garbage for incinerators. If we build incinerators-- And whether they are regional or whether they

are by county, we are not going to have the garbage for them unless we undermine recycling and other alternatives. We feel that we've got the documentation to prove this and hopefully that the Governor will be coming forth soon with strong recommendations for source reduction, not only in addition to the recycling, but source reduction reuse. There are some really innovative technologies out there that are going to result in less garbage, and incinerator companies certainly don't want to hear that. There are people who--

ASSEMBLYMAN McENROE: Just a comment: In the past, 15 years ago, we were concerned with the spoiling of our beautiful landscapes by dumping waste on them, and 10 years before that they decided they'd have that new effort which would involve making them sanitary landfills instead of dumps. So, we progressed to that point. Then there was this innovative technology that came along that provided a new way of recovering energy from waste, and that's what resource recovery is. It's still pretty much in its infancy, but yet I really have to submit that there are apparently, in this country alone, over 100 plants that are on-line, functioning appropriately, and not poisoning the atmosphere and not creating environmental disasters.

If we debate in New Jersey the good sense of having what is accepted as a policy in other countries and across our nation as an environmentally sound solution, aren't we going back to the circumstance where we're going to have people say, "Let's begin to bury our garbage again and let's put it back where it came from"? Are we going back to completing a circle of having no solution? We don't have the luxury of siting landfills 180 miles from the central areas where people are. We have to deal with a compact state, densely populated, that generates, by its own affluence, own involvement, and quality of life matters, a lot of garbage in our State.

MS. NOGAKI: Well, we'd actually have to-- The question, your proposal that--

ASSEMBLYMAN McENROE: No, my proposal is, to come here and submit that resource recovery is not a co-partner in a solution of our waste problems in New Jersey, is irresponsible. And for someone to come as chairperson of a 60,000 member organization and maintain that every one of those individuals agrees with your position, to me, is quite preposterous.

MS. PHILLIPS: Resource recovery should only be utilized as an option as the very last resort and that is certainly what is documented in the Task Force Report. This Task Force--

ASSEMBLYMAN McENROE: Well, the Task Force does say that, and it is a recommendation to the Governor's Office, but there certainly has not been direction from the administration that resource recovery facilities should be abandoned and that we should go in a totally new direction because the clock is running and New Jersey has a crisis. If it's a problem in other states, it's an absolute crisis and could be a disaster waiting to occur in a State like ours.

MS. PHILLIPS: We agree, the issue being that you can implement, next week, source reduction measures that can substantially reduce our garbage flow. I mean, the whole issue here is, as Assemblyman Shinn was saying, that we keep generating garbage. You know, we're just generating more and more and more. We can address that. We can have our overall garbage volume be reduced and that should be our number one policy for New Jersey.

ASSEMBLYMAN McENROE: Well, when you say "we," we certainly are doing the same thing. This Committee has passed legislation out of Committee that impacts on reduced packaging and the emphasis in our Committee's hearings has been on recycling in this past year.

MS. PHILLIPS: Well, I certainly think that there has been movement towards that, but there's certainly a lot more that this Committee and the State could be doing towards that. There's all kinds of documentation out there and ordinances floating around all throughout the United States. It certainly could be implemented in New Jersey, easily. We have here a piece of legislation that instead of regionalization of incineration, should be looked at as-- Interdistrict agreements are fine and certainly one can actually extract paragraphs from within the Solid Waste Task Force Report that show why regionalization is necessary, especially if one is going to look at particular facilities that are going to make it easier and more economical to handle recycling and other material recovery options.

So the question really remains, why isn't this-- Our recommendation would be that this piece of legislation be drafted in that form as regionalization, yes, but regionalization not only of incineration, but certainly it should be of the means that are going to address economically and environmentally the best method to handle solid waste. And as Frank Sudol was saying earlier, you know, why aren't we also looking at companion legislation in this regionalization of recycling? So, on the one hand you're saying we certainly are recycling, but we don't see this. That's not what we see in this particular legislation.

ASSEMBLYMAN McENROE: I appreciate your point. We appreciate the recommendations made in the Emergency Task Force Report relative to regionalization being a concept that certainly goes beyond resource recovery. It is. But my opening comments here-- Specifically, this legislation deals with regionalization of facilities that are in place and are functional, which we want to encourage. From that kind of agreement, certainly, can flow all kinds of agreements, and implicit in the strategy of this State, is the increased effort

towards recycling and the goal of 60%. That's a part of their recommendations.

Again, I would think the Governor would accept, certainly, that part of the Emergency Task Force Report's recommendations. And in no way does that constrain this Committee from encouraging regionalization of the total effort. And we plan to do that. So we certainly don't have any conflict there.

MS. PHILLIPS: Okay. Well, we certainly hope that those particular measures will be as aggressively pursued as this piece of legislation is.

ASSEMBLYMAN McENROE: But, excuse me. I come from a community where the cost of waste disposal is over \$100 a ton. With this waste-to-energy facility in place it will be reduced. And I submit to you that what can happen insofar as economic benefit for the citizenry of Essex can easily become a benefit for citizens of other jurisdictions. They would welcome, I would think, a reduction of the cost of waste disposal in an environmentally correct fashion, which we support and believe resource recovery will provide, in the very near future.

MS. NOGAKI: We have somebody that will be testifying about that in a minute, Peter Montague. In your county you may find it's reducing costs. In other counties it has been escalating costs. For instance, in Camden County-- The Legislature appropriated bond money to subsidize the cost of incineration in Camden County to keep the cost at \$76 a ton. That's a \$20 a ton subsidy by the taxpayers of New Jersey for Camden County's facility--

ASSEMBLYMAN McENROE: It's certainly not a subsidy, at all.

MS. NOGAKI: --and that does not include the placement on that incinerator of the most recent technology for air pollution control. That's going to be an additional cost if

the county decides to implement it. That's going to escalate it even more. So, from a cost-effective standpoint, it doesn't always work out that way.

ASSEMBLYMAN McENROE: Thank you. Assemblyman Duch?

ASSEMBLYMAN DUCH: Yes, Mr. Chairman, I would like to just make a couple of comments. One of them is this: My goal in looking at this legislation is that-- For example, the Essex County facility exists; it's there. Essex County doesn't produce enough waste of its own. The facility is large; maybe it's oversized. I would like to see another county go in there, you know, rather than have some out-of-state trash coming in -- and other states are starting to complain about us shipping our trash out. We should be able to encourage that kind of regionalization. I agree with you that the number one priority should be to recycle; recycle as much as possible; attain that 60% goal outlined in the Task Force as soon as possible. Mr. Chairman, I'd like to hear what those suggestions might be, to attain that goal?

ASSEMBLYMAN McENROE: Okay. Would you address that question then?

MS. PHILLIPS: In addition to the 64% recycling that is in the Task Force Report? I mean, certainly, there are a couple of initiatives that the Legislature can take on very quickly to reduce waste. One would be to mandate a public procurement of items that are recycled; gradually phase out packaging that we cannot recycle. Those are two very well-known source-- Well, one's source reduction, and one is certainly a market development item.

I think that the Legislature should be taking a strong stand on variable can municipal collection, where it's an economic incentive, as currently is being done in High Bridge and some other municipalities. It has been proven not only in smaller municipalities, but also in cities like Seattle, that you can dramatically--

ASSEMBLYMAN McENROE: These things are part of our laws in our State. That's permissive legislation that High Bridge has embraced and succeeded at. It's under consideration by various municipalities all around the State.

MS. PHILLIPS: But there certainly could be legislation that would encourage or even mandate the municipalities to be doing this. I mean we have a situation--

ASSEMBLYMAN McENROE: But that's a method of how waste is collected and how appropriate charges are arrived at. We're talking about a strategy for disposing of 14 million tons of waste in our State. As I opened the hearing, I commented that it's not good management when the waste generated in this State of New Jersey, a densely populated State, is disposed of hundreds of miles away at an inordinately expensive cost to those citizens.

MS. PHILLIPS: Well, we agree with that. It's a source reduction.

ASSEMBLYMAN McENROE: So we want to reduce that by recycling.

MS. PHILLIPS: Right.

ASSEMBLYMAN McENROE: We want to change the composition by using waste-to-energy procedures, reclaim as much of the energy as we can, and dispose of that residual waste in an environmentally sound manner. This, to me, is not an unusual, new direction. New Jersey has very much monitored what's happening across the world and across other jurisdictions, and most of our laws are not unique. Some of our procedures are a little innovative because we have certain circumstances in New Jersey that need a certain kind of direction, but basically we're innovative, in a sense. We have the highest potential recycling rate planned in the country. There's nowhere in the United States where a recycling rate has even been recommended that exceeds 50%, and we're going with 60%.

I think the Governor, again, will endorse that, and I endorse it also. We're a State with real genuine capacity problems that generates a substantial amount of waste above the average, per citizen, and we want to deal with it as environmentally as we can. I submit to you that regionally well monitored facilities, waste-to-energy facilities, are a strong and large part of the solution. That is not backing away from the commitment for increased recycling or reduced packaging, eliminating toxics from packaging, concerning ourselves with disposal of dry cell batteries, and so forth.

MS. PHILLIPS: It doesn't back away; it contradicts it. Because if New Jersey continues to build incinerators, we will not have the garbage to feed them, and therefore it will undermine any aggressive source reduction and recycling measures we're going to undergo. We can provide you with the figures for that. We're also very concerned that if incinerators continue to be built, the citizens are going to be shouldering the cost of that. The individual companies will make their money from it, but history has shown they have not lowered the cost to citizens. We would be more than happy to submit economic figures to you on incineration.

ASSEMBLYMAN McENROE: We'd be very happy to have them, really. Assemblyman Duch?

ASSEMBLYMAN DUCH: Yes, Mr. Chairman, if I might ask a question? What would be your suggestions then, on this legislation? We're here talking about this bill, this legislation. What are your suggestions on this legislation?

MS. PHILLIPS: Our recommendations would be that the bill specifically address-- Allow counties to also regionalize other facilities as has been mentioned several times during this, and we have recommended wording that the DEP also consider a new environmental impact statement for larger regional facilities. In fact, we felt that that should be inserted on page 2, line 43, where it discusses the DEP's

involvement for approval, and we wanted to recommend that a new EIS, evaluating impact of the regional facility--

ASSEMBLYMAN McENROE: Conduct new environmental impact statements for all existing facilities?

MS. PHILLIPS: For those that are going to be regionalized. If we're talking about the same incinerator, no. I mean if we're talking about expanding that, then that would certainly be the case.

ASSEMBLYMAN McENROE: Again, that's a part of the legislation. And the DEP does have broad power in that area to require hearings.

MS. PHILLIPS: All right, but it's not mandated. It really gives them the option at this point, doesn't it?

ASSEMBLYMAN McENROE: Well, in here it says: "any substantial revision," but we will review your recommendations.

MS. PHILLIPS: Chairman, that was one of our other concerns--

ASSEMBLYMAN McENROE: Well, if there's an expansion of a facility, adding another unit to the facility, that does require an automatic public hearing.

MS. PHILLIPS: Okay. We felt that the term "substantial" should actually be defined. Evidently that's been like a major source of discussion here today. I mean, I think that really leaves that up to interpretation.

ASSEMBLYMAN McENROE: Could you help us with better language then, if you would?

MS. PHILLIPS: Yeah, we can do that. Also, on page 3, lines 45, 46, the term "in the public interest," we felt that also needed some definition because we felt that was too vague. We can also submit language if--

ASSEMBLYMAN McENROE: That's boilerplate, pretty much.

MS. PHILLIPS: Well, I think that really leaves it up to interpretation, and we would disagree.

ASSEMBLYMAN McENROE: I would hope everyone does things on behalf of the public within their interest.

MS. PHILLIPS: Well, for instance, we're having a major discussion here. I mean, you feel "in the public interest" and we feel "in the public interest" but it is something totally different, so we would like to submit specific language to be considered. And also on page 4, lines 22 to 49, we wanted to suggest including environmental risks such as "additional help and environmental impact of a large facility--"

ASSEMBLYMAN McENROE: Now that is a long litany of what we see as public concerns with facilities, and each of those are reminders that the public's interest should be carefully supported and scrutinized on these public questions. We will consider inclusion of your--

MS. PHILLIPS: Well we felt there should be stronger consideration for the environmental impact of the facility. One comment that we did want to make is on page 6, line 16--

ASSEMBLYMAN McENROE: Do you support that?

MS. PHILLIPS: Yeah. (laughter) That's what I was going to get to. No, it wasn't that we certainly support that. Actually we're very pleased to find that in there. We want to make a recommendation that--

ASSEMBLYMAN McENROE: Thank you. That's the Phillips amendment. (laughter)

MS. PHILLIPS: We wanted to make a recommendation that you also add composting. I think composting is a real key in materials recovery and that should be added to that.

Those were the major comments. Also on page 5, line 37, the recycling which was added, which we certainly support-- We also wanted to recommend that that also include source reduction, composting, and reuse in that particular line.

ASSEMBLYMAN McENROE: That's very helpful. Thank you.

MS. PHILLIPS: We will provide specific language on the other matters and we will also get to you the economic figures on what we were discussing earlier.

ASSEMBLYMAN McENROE: Thank you. Ms. Nogaki and Ms. Phillips, we appreciate your comments very much. May we now hear from Mr. William Glover, Vice President of American Ref-Fuel?

W I L L I A M G L O V E R: I would say good morning, but I'm going to have to revise my speech. Good afternoon. My name is Bill Glover. I represent American Ref-Fuel Company, the project developer of the Essex County Resource Recovery Facility and the Bergen Resource Recovery Facility. American Ref-Fuel, as the owner and operator of the largest resource recovery facility in New Jersey, and the developer of the largest planned facility in this State, has a vital interest in the future of resource recovery services in New Jersey. We therefore appreciate this opportunity to present comments before the Assembly Waste Management Committee concerning Assembly Bill No. A-10.

In response to some of the prior testimony, I'd like to make a couple of unplanned comments: I heard a couple of comments regarding third-party participation in interdistrict agreement negotiation. We believe that vendors are partners in these projects. Certainly where proper delegation exists in the contracts, or the county has chosen to authorize a company to conduct negotiations in the interest of the county, that is a proper way to do so. We think that probably the Port Authority, Essex County, City of Newark, and possibly even some of the counties they negotiate with, would endorse that concept. We believe that our interests are very closely aligned with a successful project in every respect, and we consider our role as a very necessary part of that interdistrict discussion.

I think that the real issue here is the provision or procurement path to allow the interdistrict agreements to occur. I don't think it matters whether it's a private vendor that the contract is with, or a municipal owner-operator. The important thing is that a procurement path needs to be provided to allow the agreements to occur, and you've heard some specific Morris County testimony on that. I think, in terms of the review of interdistrict agreements that are provided in the draft of the bill, with some minor changes that I'll get to in a moment, that the same type of generic -- I call it a McEnroe review -- that was provided in the enabling legislation, is an appropriate method for reviewing these types of contracts.

Mr. Chairman, American Ref-Fuel strongly supports the proposed bill's primary purpose, providing for the regional utilization of existing and planned resource recovery facilities to help solve New Jersey's solid waste disposal crisis. That goal is consistent with the Governor's Emergency Solid Waste Assessment Task Force findings on solid waste management. It is consistent with the original McEnroe legislation on resource recovery that established as a matter of public policy that the utilization of resource recovery facilities will be an integral component of New Jersey's solution of the solid waste disposal problem.

The proposed bill, however, contains inconsistencies as presently drafted. While it provides a path towards regionalization of resource recovery services, it also erroneously removes the resource recovery facility component or option from both the State and county Solid Waste Management Plans. To cite a loose analogy, the bill in its present form, encourages counties to carpool but provides that counties will have no cars in their plan. Rather than remove resource recovery as a viable option from both State and county level plans -- as the language currently suggests -- the proposed revision to those planned priorities should deal with resource

recovery as a needed component, but encourage regional use to consolidate capacity.

American Ref-Fuel supports the initiative to encourage source reduction recycling to reduce New Jersey's solid waste stream, but any reasonable plan for the solution to the State's solid waste disposal problem must include resource recovery facilities as an element. The Task Force Report demonstrates that even with 60% recycling, at least four million tons per year of resource recovery capacity is still necessary.

This brings me to American Ref-Fuel's second point; that it is in the public interest to respect the existing contractual relationship that exists with the vendors of the New Jersey resource recovery facilities, as explicitly recognized by the prior legislation, and I quote: "The New Jersey Legislature further finds that the planning, construction, or operation of resource recovery facilities is characterized by high initial capital expenditures, and to attract private investment capital for these waste-to-energy projects it is necessary to establish a favorable regulatory climate." We'll provide the citation.

Any change in regulations, any regionalization or resource recovery facility should provide for an evaluation of the status of the affected resource recovery facilities. It will not serve the public interest to indiscriminately cancel viable projects that have progressed substantially along the path of development, at a great expense to both the vendor and the host county, without some recognition of the value of these endeavors as assets or elements of a total statewide solid waste disposal solution. In some cases this analysis may result in the absorption of the cost of the canceled development in the revised solid waste plan.

In this vein, American Ref-Fuel supports the bill, consistent with its understanding that only projects that are completed -- a McEnroe procurement procedure and McEnroe

contract review process -- would be eligible to expand their facility's disposal capacity without resorting to a new McEnroe procurement to reflect the increased scope of the project. The public interest would be best served if projects in the early stages of development would return to the McEnroe procurement process if they propose to add substantial new capacity to planned resource recovery facilities. For taxpayers, a new procurement would ensure that taxpayers receive a most competitive price for the up-sized facility.

Also, any up-sized project would have to seek new environmental permits to reflect the increased scope of the resource recovery facilities. Further -- and I believe this is a very important functional point -- American Ref-Fuel recommends that the bill provide that Type 10 municipal solid waste be given priority consideration when establishing regional shared use of a resource recovery facility. This will allow more flexibility for the counties in establishing an economic solution. We'd be glad to provide additional details on that point.

American Ref-Fuel, therefore, supports the stated goal of A-10 of full utilization of resource recovery facilities on a regional basis, but recommends changes in the proposed execution of that goal. The bill must be corrected to recognize resource recovery facilities as an integral part of New Jersey's solid waste disposal solution. Also, it should be clarified that substantial capacity expansions for resource recovery projects in the early stages of development approval would be best accomplished through a reprocurement of the project. And finally, it should prioritize Type 10 municipal solid waste.

Mr. Chairman, American Ref-Fuel asks that the Committee consider the areas of improvement we have suggested in this testimony. We are also providing the Committee with detailed written comments on specific deficiencies in the

proposed language of the bill. We thank you for your time and consideration.

ASSEMBLYMAN McENROE: Mr. Glover, before you leave I just want you to outline your concern again over the municipal waste. I know you want to prioritize the municipal waste -- the Type 10 waste. Why is there a need for that?

MR. GLOVER: Number one, waste is generated in an unequal cycle over the year. The best use of the resource recovery plant is that it's basically a plant that's available everyday with allowances for outages, and those allowances for outages are usually accomplished-- Short-term outages are absorbed by the ability to receive waste into the pit and then catch up. The long-term maintenance outages are handled by having multiple plants, so you only take part of your capacity off-line at any one time, and you generally do that in a seasonable time when the demand is lower. So those concepts have already been built into the procurements and into the planning for the existing facilities. However, if you're going to put two counties in one plant, both have very high summer volumes and low winter volumes. In order to fit them into the plant there has to be some peak shaving done -- or some selection as to what type of waste goes into the plants -- in order to fit them both in, all year long. And my suggestion is that Type 10 municipal solid waste be always given priority when that type of prioritization has to be dealt with. We're seeing that in the Essex County, Morris County discussions.

ASSEMBLYMAN McENROE: And you recommend that be a part of the regional agreement?

MR. GLOVER: We recommend that that be a functional part because right now, the counties don't have the right to discriminate -- and I don't like to use that word. I think this is just proper planning; that you can't serve all things all at once. You need to decide which waste has priority in the plant when there is a peak demand for the facility. I

think the counties and the vendors can accomplish the cuts that fits and provide economic certainty for both host and guest, but we do need to give the counties the flexibility for planning some allocation of waste into the facilities within the county; otherwise, it would be a difficult problem that can't be solved.

ASSEMBLYMAN McENROE: I appreciate that. Thank you. Your comments regarding the procurement path are important and, as you know, I'm glad you were here to hear the comments from some of the public entities that they're concerned with that subject also. So, we'll review the whole matter. I appreciate your testimony. Any questions from members of the Committee? (negative response) Thank you very much.

MR. GLOVER: Thank you.

ASSEMBLYMAN McENROE: We have Peter Montague representing the Environmental Research Foundation. (from the audience Dr. Finstein states that he believes he's scheduled to speak before Dr. Montague)

ASSEMBLYMAN McENROE: I'm sorry, Dr. Finstein. Frankly, you are on the list, Doctor. If Mr. Montague will defer, come right ahead then. We'll hear Dr. Melvin Finstein, Professor of Environmental Science, Cook College of Rutgers University. Dr. Finstein, welcome.

M E L V I N S. F I N S T E I N, Ph.D: Thank you, sir. At the last moment I've decided to change my testimony, just a bit. May I hand out a few items?

ASSEMBLYMAN McENROE: Certainly you may.

DR. FINSTEIN: In discussing the question of whether--

ASSEMBLYMAN McENROE: Excuse me, that is not a microphone. It only connects us to the transcript recorder, so we must speak up in this room.

DR. FINSTEIN: I'm sorry, sir. In discussing the question of whether or not there is, indeed, a conflict between incineration and recycling in the form of composting --

composting is generally considered to be a form of recycling -- it is necessary to carefully define the nature of municipal solid waste and the components. After having done so it is then possible to address that issue, and in so doing, I would use the definitions and terminologies of the United States Congress Office of Technology Assessment Report, OTA-0424 of October 1989, entitled "Facing America's Trash: What Next From Municipal Solid Waste?" I believe that they have done a very internally consistent job, and at least a partially successful job in bringing some order out of a very disorderly subject. I would rely on their definitions.

USOTA defines the municipal solid waste stream as being that solid waste generated at residences and commercial establishments, e.g. offices, retail shops, restaurants, and institutions such as hospitals and schools. The nominal composition of municipal solid waste is given as follows by the Office of Technology Assessment in terms of percentages by weight as received: paper and paperboard 36%, yard waste 20%, food waste 9%, textile, wood 6%, rubber, leather 3%, plastics 7%, metal 9%, glass 8%, miscellaneous organics. Of course, it's understood that these can vary quite a bit depending on the season, community, etc. Nonetheless, this is a useful nominal definition.

Defined and characterized thusly, it is seen that approximately 40% of the material could be recycled in the sense of conversion to secondary raw materials, such as metals, glass, plastics, and suitable paper for secondary raw paper production. Another 40% could be transformed through composting to a smaller volume and weight of sanitized, stabilized, processed residue usable as a compost. This refers to materials such as leaves, brush, grass, other yard waste, food waste, food tainted paper -- paper that intrinsically is not usable as secondary raw material, but lacks markets -- whole disposal diapers with contents --

plastic sheets separate during processing -- pet litter, and other items. This would leave approximately 20% of the waste stream to be landfilled or possibly incinerated prior to landfill.

Note that the second 40% consists of materials that are both combustible and biologically degradable. That is, these materials could be either incinerated or composted. To return to the U.S. Office of Technology Assessment again for a moment, OTA favors the composting alternative because it leads to the reuse of material. Given source reduction, OTA's philosophical cornerstone is materials reuse, and they consider composting to be a subset of recycling because of materials reuse. This leads to the main points of my testimony:

1) There is no justification for the construction of additional incinerators for MSW or expansion of existing ones if one examines the figures, what can be done, and the direction we are, indeed, going.

2) Interdistrict agreements involving incineration should exclude materials that are compostable.

3) The development of waste management infrastructure comprised of effective separation systems which complete the job started in the household, and well-designed composting systems should be encouraged.

Then the statement says: "See the accompanying handout." I would like to turn to that very briefly. The accompanying handout addresses the issue of what is meant by well designed -- a waste management infrastructure comprised of effective separation systems and well designed composting systems -- because that's what the issue comes down to. So, we turn now to the second document entitled: "Comparative" -- it sort of has a surprising title in a way -- "Comparative Evaluation of Composting Systems Offered in the Waste and Mushroom Industries." Sounds kind of funny.

Summary: The highly politicized nature of the solid waste field has, not surprisingly, encouraged amateurism in the design of composting systems. Composting is a field which permits amateurs and has been encouraged. Of the many deficiencies in the systems offered in this field, the most basic is inadequate or mediocre biological process control. This is a biological process which tends to self-limit and it is the relief of that self-limitation that means the difference between success, failure, and mediocre performance. There is a danger that immature and inferior, yet costly systems, will be sited in New Jersey. The current permitting review process of the New Jersey Department of Environmental Protection does not protect against this outcome. And there is a sad record to demonstrate that fact, in connection with sludge composting. The way the principles are the same--

In contrast, certain "tunnel" systems -- certain generic tunnel systems -- offered in the mushroom growing industry, which rely on composting, are technologically mature, conform to settled scientific understanding of composting, and are well proven in the routine processing of a variety of demanding agricultural residues. This situation reflects the highly competitive nature of the mushroom business which, contrary to the waste business, encourages excellence in composting system design. For waste management purposes, such systems are distinctly superior to those originating in the waste field.

Finally, facilities based on available, excellent composting technology, in conjunction with up-front separation and size reduction/homogenization, would provide a sound basis for cost-effective, implementable solid waste management. This is what I would mean by an infrastructure based on the best available technology, regardless of the origin of certain components of that technology.

I would hope, Mr. Chairman-- I would urge that Assembly Bill No. A-10 be structured to bring about these goals, including that of the establishment of a sound, effective, implementable solid waste management infrastructure. Thank you for the opportunity to testify on this important matter.

ASSEMBLYMAN McENROE: Thank you, Docctor. If we began today with an effort to implement your recommendations in various regional facilities across the State, could you give a time frame in which you could predict when, let's say, one of those facilities could be operating? Is this a five-year plan, a 10-year plan?

DR. FINSTEIN: No, it's not a five-year plan, certainly. May we assume an expedited track and the clock starts today?

ASSEMBLYMAN McENROE: Hopefully. This is New Jersey.
(laughter)

DR. FINSTEIN: I refer to a waste management facility-- I don't like to call them composting facilities because that obscures the fact that composting in isolation from serious up-front separation and recycling is not going to get you very far. So, if the question is how long would it take to put into place a large-sized waste management facility consisting of up-front separation to finish the job started in the household, size reduction and homogenization to prepare the composting for action, roughly 40% of the waste stream, and the composting system itself, I would say a year-and-a-half is a reasonable statement for starting the process and opening up for business.

ASSEMBLYMAN McENROE: As long as the facility had been constructed prior to that time then?

DR. FINSTEIN: Excuse me?

ASSEMBLYMAN McENROE: Is there a facility that would be-- The tunnel would have to be constructed.

DR. FINSTEIN: Oh, yes. Yes, the tunnels are constructed-- For example, there is a facility being constructed today for mushroom production, I grant you, in Quincy, Florida, consisting of 21 tunnels, each of which hold 150 tons. The tunnel construction would be part of the overall facility, but I included that in the estimate of a year-and-a-half.

ASSEMBLYMAN McENROE: It's impressive. Thank you. Any questions? (negative response) Doctor, thank you very much.

DR. FINSTEIN: You're welcome.

ASSEMBLYMAN McENROE: All right, now I'd like to ask, representing the Institute of Resource Recovery, Margaret Ann Charles to join with us, please. Ms. Charles, you represent the Institute of Resource Recovery, so can we deduce that that's a lobbying group, is that a correct analysis?

M A R G A R E T A N N C H A R L E S: The Institute of Resource Recovery is one of the member institutes of the National Solid Waste Management Association. MSWA represents the private sector solid waste firms, and IRR is the waste-to-energy sector of it.

I am here today to represent IRR. My name is Margaret Ann Charles. I'm the State Affairs Representative for IRR. Today we're talking about the views of IRR members, the vendors who are planning, building, and operating the 12 planned waste-to-energy facilities that will handle the solid waste disposal needs of New Jersey. We appreciate the opportunity to present comments before your Committee today concerning the regionalization bill, and we appreciate you having this hearing and offering the bill as a framework to discuss the issue.

Mr. Chairman, the IRR supports regionalization of resource recovery facilities in the State of New Jersey. We believe regionalization is an important part of the solution to the State's solid waste disposal crisis, and we look to the

Legislature to install the appropriate mechanisms that will encourage regionalization. The following mechanisms should be included in any legislative proposals that would codify what has evidently become new State policy from the Governor's Task Force Final Report. Without that codification, counties are paralyzed. They anticipate review of their solid waste plans under this new State policy, but they must act to develop their plans under existing law of the Solid Waste Management Act.

To encourage regionalization, counties must be given incentives for hosting or participating in a regional project. Specific economic incentives which we believe would achieve this goal include tax breaks, waived or reduced permit fees, reimbursement of some planning and development costs, and disbursement of the allocated State bond funds. Furthermore, the permit review and approval process must be amended to expedite the processes and to eliminate ongoing modifications and what is required for approval. Both regulatory agencies should devise a checklist of permit criteria which, if satisfied, would lead to expedited approval.

The members of IRR want to help New Jersey to reach solid waste solutions, but we must know in advance what is required for permit approval in order to bring on-line the needed facilities, and then expedite them in a least-cost fashion. Finally, counties should be allowed to identify their solid waste disposal solutions in the ways they see as appropriate. Market forces should determine the balance between the size and location of resource recovery facilities in the State. The counties should be given the latitude to negotiate agreements for their solid waste disposal needs and not be overruled by a State agency, otherwise. By allowing market forces to predominate, the difficulties of the siting process will be reduced.

The IRR understands that the sponsor seeks in this bill to establish mechanisms to encourage regionalization.

However, there are several areas where the bill, we believe, presents roadblocks to regionalization. Indeed, instead of receiving economic incentives through A-10, counties would be forced to admit that previously spent funds would have been spent in vain. Regionalization implies that potentially, some projects will be abandoned. Yet there is no plan identified for reimbursing counties for the investments they have made in siting projects to comply with the Solid Waste Management Act. Furthermore, additional money would need to be expended to comply with the new policy.

Similarly, A-10 represents the opposite of a simplified permit and approval process. New Jersey, arguably, has the country's most complicated, inefficient, and longest permit process. We feel that the proposals contained in A-10 would add additional layers and therefore add to the current problems in the system.

The bill contains some areas of inconsistency. The McEnroe process states that resource recovery should play a principal part in the Solid Waste Management Planning. Yet A-10 removes it as a technique in the State and district solid waste plan strategies. Although A-10 is a regionalization bill, it contains provisions reflecting policy from the Solid Waste Management Act. We do not feel that A-10 can be effective as a regionalization bill if it does not identify resource recovery as a viable disposal option. Resource recovery is still a necessary part of the State's solid waste plan and must be addressed on a priority list of options.

Lastly, the counties are left with conflicting messages, and neither authority nor leadership from the State. The guidelines, approvals, and other aspects of the system need to be made explicit so each group can establish the best solution for its needs.

In conclusion, the IRR supports regionalization of resource recovery facilities in New Jersey. However, we

believe there are certain provisions that are not in A-10, but must be contained in a bill that would encourage regionalization. Counties must be given incentives to host or participate in regional projects. The permitting process must be expedited and specific criteria for permit approval must be identified. Counties' efforts in regionalization must not be impeded by not allowing market forces to prevail. The current language of Assembly Bill No. 10 contains provisions which are essentially roadblocks to effective implementation of regionalization.

Mr. Chairman, the IRR asks that the Committee consider the areas of improvement we have suggested in this testimony, and we would like to provide any assistance we can to help your Committee in developing a regionalization bill. We'll be submitting detailed written comments which will provide more specific backup to some of the general statements made in our testimony, as well as specific language changes that we would recommend to implement some of the changes. Thank you.

ASSEMBLYMAN McENROE: Thank you. It appears that you like some of our ideas, but you're certainly in a quandary over how we arrived at some of these conclusions we have in our bill. So, we will do some work on it, which has been our intention. We appreciate your testimony and we can appreciate your concern with the permitting process and the time constraints and legislative roadblocks that you have encountered. We do these, of course, on behalf of the interest of the public, and we hope we can establish an area where we can appreciate your views and you can understand the requirements that we have as a Legislature. Any questions here? (negative response) We certainly appreciate your coming before us. Thank you very much.

MS. CHARLES: Thank you for your time.

ASSEMBLYMAN McENROE: We have Dr. Peter Montague from the Environmental Research Foundation. We're going to ask that

your testimony be somewhat brief, Dr. Montague. We have some constraints regarding the management of our time and we do have about four people, I believe, to hear.

P E T E R M O N T A G U E, Ph.D: All right. I will summarize.

ASSEMBLYMAN McENROE: Thank you very much.

DR. MONTAGUE: My first point is that I would urge you to trust the public. The public has been leading the way on new ideas for solid waste management over the last few years and, to the extent possible, if you make opportunities for public hearings and public comment on every part of solid waste management, I believe everyone will be well served.

My second point is that if you would-- On page 4 in the list that begins on line 22 -- this is the printed version of the bill-- If you would add specific language requiring those people who make incinerator ash to retain the ownership of that ash, and implicitly with that, the liability that goes with the ownership of that ash, society would again be well served, because society has well developed mechanisms for dealing with liability resulting from mismanagement or careless management of hazardous materials -- dangerous materials. I apologize for using that legal term, hazardous materials, dangerous materials.

ASSEMBLYMAN McENROE: Excuse me. This Committee had a hearing where we invited individuals from the scientific community and, of course, other members of the public that provided testimony as to residual ash and potential toxicity of it. That hearing transcript is available. I'd like to make it available to you.

DR. MONTAGUE: I would love to see it.

ASSEMBLYMAN McENROE: It is a matter of public record. Representatives of Rutgers University, for that matter, and of other technical universities-- I think it was the New Jersey Institute of Technology that came and offered

testimony that did not define residual ash in the terms that you do.

DR. MONTAGUE: Yes. I would define residual ash as an ash that contains between 3000 parts per million and 20,000 parts per million of lead. And I would submit that-- And I will submit to you, information about the ill effects upon releasing lead into the environment in a finely divided form. I'm very familiar with the arguments that were presented to you, although I haven't seen the specific testimony, except in the case of the Rutgers gentlemen, but they've been in the newspapers -- these articles.

ASSEMBLYMAN McENROE: Okay. We have your address, and we'll make sure one is available from the Committee for you.

DR. MONTAGUE: Good. Thank you very much. Lead is a definitely dangerous material and millions of pounds of lead put into the ground somewhere near New Jersey, or in New Jersey, will definitely carry long-term liability problems with it.

ASSEMBLYMAN McENROE: My only comment, really, is that your testimony would have been of great value to our Committee at that other hearing.

DR. MONTAGUE: Had I known that you were holding the hearing I would have been pleased to take the time to present the testimony. I'm not very much in touch with what goes on in Trenton and missed the opportunity inadvertently.

My third comment: Composting should be included specifically as a method of recycling. There seems to be almost no reference to composting, if any, in the present language of the bill.

My fourth comment: I would emphasize the need to strengthen and revitalize and put funds into A-901. We have convicted felons in the waste business in New Jersey today doing business with the approval of State agencies, or at least the tacit approval of State agencies, and I believe that from

any point of view, that is a bad way to go. A-901 has within it the opportunity to stop that from occurring.

I have presented to you lengthy testimony from a lawsuit that is currently going on in Philadelphia indicating that the high cost of waste disposal in the United States today -- across the United States today -- can be partly attributed to collusion, bid rigging, and price fixing by the top largest companies in the business. These are companies that are doing business in New Jersey today. A-901 is already on the books. These people could be excluded from the process, and any bid rigging and price fixing that they have been participating in could thus be undone.

ASSEMBLYMAN McENROE: Doctor, we have legislation that had been supported unanimously at this Committee that is now before the Appropriations Committee that will allow borrowing of moneys from one fund to fund necessary enforcement power to correct the inequities that you see in the players in solid waste collection. I share your concern, and I strongly support recommendations. We hope it will be at the Governor's desk within, I would hope, 60 days.

DR. MONTAGUE: Excellent. My fifth comment: We often hear from proponents of incinerators that there really is no conflict between incineration, recycling, and composting. We've heard from Dr. Finstein, with some real numbers, that there is, in fact, direct conflict. Let us take the industry at its word. If they're not concerned about a conflict, then they should have no problem with you inserting specific language into your bill which says that the producers of solid waste and the people who are delivering solid waste to a solid waste facility of any kind, can never in future be penalized if they reduce the amount of solid waste that they are delivering to said facility, if they reduce it for any of the following reasons: to recycle it or compost it, or if because the population has reduced in size in the district, or if the per

capita production of waste has reduced in size in the district. If there really is no conflict between incineration, and recycling, and composting, then the industry should have no trouble putting language in there that allows the producers of waste to reduce their waste as they need, without any penalty whatsoever. That is not standard practice in the business today, as I'm sure you know.

ASSEMBLYMAN McENROE: No, I don't believe it is.

DR. MONTAGUE: It definitely would be a good idea because many counties, such as my county, Mercer County, would like to recycle more than we are recycling now and yet we are in a contract with Westinghouse which restricts our recycling future; it curtails our recycling future. We would like to have a modern, aggressive recycling program and we cannot have that because we have locked ourselves -- foolishly, I might say -- into a contract that requires us to deliver a certain amount of garbage to the door of this to-be-built facility. That was a mistake that we made, but in the future, we can certainly avoid it around the State with specific language in your bill.

ASSEMBLYMAN McENROE: Do you think there's substantial objection in Mercer County to that county hosting a regional facility for parts of Middlesex or parts of Hunterdon or Somerset?

DR. MONTAGUE: I really can't speak for people in the county. I know that there are some people, including some of our political leadership, who feel different ways on that question. There's a debate and an argument going on. I don't know how the general public feels about that. There's certainly a segment of the general public that is vociferously against it, and I have not heard a segment of the public being vociferously for it. I have heard political leaders being vociferously for regionalization. I guess it remains to be seen where the public comes out on that question.

Comment seven: I would urge you to substitute the phrase "solid waste management facility" wherever you currently have "resource recovery facility." I believe that the procedures and constraints and allowances that you want to put into this bill for resource recovery facilities would do very well for any kind of solid waste management facility.

Comment eight: Dr. Finstein won't say this, but I believe the language, at the top of page 8 in the printed version, specifically ought to allow universities -- public universities within New Jersey, specifically Rutgers -- to conduct the experiments that are listed at the top of page 8 so that the DEP could contract out to such universities that might want to bid on such a contract.

Lastly, comment 10: I would urge you to define the concept of cost in your printed version, page 12, line 23, where you use the phrase "full cost." There's an excellent new book which I just read about 10 days ago by the Environmental Defense Fund, which is a lot of smart lawyers and scientists. The book is called: "Recycling and Incineration." They have an excellent chapter on how to analyze the cost of incineration versus a recycling program. It's the best thing I've ever seen. It's clear, straightforward, and comprehensive. The phrase, "full cost," in the legislation now, is subject to various interpretations, and I would urge you to carefully delineate what kind of full cost analysis you're referring to. I think a lot of the problems in solid waste revolve around our inability to reach agreement on what the costs of one technology versus another technology are. If we could reach agreement on what the true costs are, I think we'd have a lot easier time deciding what was in the public interest.

Thank you very much. I appreciate the opportunity to testify.

ASSEMBLYMAN McENROE: That last recommendation has already been given. I appreciate that. I just want to comment

that the focus of this hearing has been on regionalization of resource recovery facilities. We began with consideration of that part of this statewide strategy because resource recovery is a reality; they're in place, they're constructed, and they're functioning in our State. So it in no way limits our consideration of regionalization or our encouragement of regionalized recycling efforts by counties and other districts.

DR. MONTAGUE: As things stand now, if one wanted to regionalize a composting facility or a recycling facility, they would have to modify their local plans piecemeal. If your bill gave the same encouragement to regionalization of composting and recycling facilities that it gives to regionalization of incineration -- which you could do with some simple language change -- you would expedite the regionalization and reduce the time involved in regionalization of all solid waste facilities.

ASSEMBLYMAN McENROE: Composting, as a technique, has strong support in the southern part of New Jersey and we've already agreed we're going to expand that, allow that, and encourage that particular circumstance in this bill, if it gets beyond the hearing stage -- and we've had strong comments this afternoon on the bill. But it's very much a matter that's still before the Committee. We very much appreciate your testimony. Thank you, Doctor.

May we hear now from Matthew Root of Ogden Martin Systems? Mr. Root. Good afternoon gentlemen.

M A T T H E W L. R O O T: Good afternoon. My name is Matt Root and this is Frank Capece. I'm with Ogden Martin Systems. We are headquartered in Fairfield, New Jersey. In the interest of time I will significantly abbreviate my comments and submit written versions for the record.

We are pleased to have the opportunity to discuss briefly with you regionalization of facilities in New Jersey. We all concur that regionalization is in the best interests of

the State and citizens, and we should all work to encourage that end. We also agree that waste-to-energy does have a role to play in the waste that remains after the 60% recycling rate if that rate gets achieved in the time frame. Forty percent of the waste is significant. That's on the order of 20,000 tons a day.

With that in mind, A-10 would, as I say, encourage the regionalization process. However, we feel that A-10 would extend the process of permitting and getting facilities on-line, and would make it a less manageable process. At the same time it would send a signal that there is no urgent intention on the part of the Legislature to get control of the ever-increasing municipal costs, and subsequently taxes, for solid waste disposal which are a major portion of local citizens' tax bills.

At a time when taxes across the State and taxpayers are screaming for help, we should find ways to expedite decisions that will lead to tax relief. Furthermore, delay adds cost, as we all know. Prices for hardware continue to rise and the cost of out-of-state disposal solutions is skyrocketing. Shouldn't counties therefore be rewarded for trying to comply with regionalization on an expedited basis? Why not at least provide for expedited review in such applications and provide some planning assistance and other financial benefits for those that are trying to comply with the concept? We feel strongly that any legislative change in the system should reduce the time it takes to get a solid waste solution into place.

We urge that A-10 become a vehicle for simplifying and speeding the process. The lengthy system of administrative review by no less than four State agencies needs tightening. No further extension is necessary. Each agency has a different standard of review and none is designated as the lead agency

with the responsibility for pressing the others to make expeditious decisions. There's need for tighter coordination there.

The Task Force Report recognizes that resource recovery has a role to play within multicounty regional plans, with facilities sized to account for the achievement of 60% recycling. A-10 should affirmatively confirm that policy. Our industry is ready to invest significant capital in helping New Jersey develop long-term affordable solutions to the State's solid waste disposal crisis. But the clock continues to tick and the existing system of review adds delay, cost, and uncertainty to the process.

By providing a statutory scheme that will expedite the review of interdistrict agreements, you can go a long way toward making the Task Force's policy recommendations real and saving the taxpayers substantial sums of money.

As I said earlier, there are a lot more details and comments in the written submittal. And, that's it. Thank you very much. Any questions?

ASSEMBLYMAN McENROE: Thank you, Mr. Root. I appreciate that. Any comments, Mr. Capece?

F R A N K G. C A P E C E, ESQ.: Chairman, just very briefly. As we've sat here through this hearing, one of the questions you've been asking in various forms is: How is the system working? What is the practical approach? I commend you for that. That's when legislators look back at their previous work and see if there's any need for any change. In regard to that, I think another valuable question you've been asking today-- The statement you've been making has to do with the legislative intent -- what you think this means and what this Committee thinks this new legislation means.

I urge you to do that, and I urge you on any public hearings that you continue to do that, because I think if there was a flaw in the "McEnroe process," it's, in fact, that

certain agencies have expanded the view. Now, we had the opportunity to review all of the testimony -- public testimony -- last time, and we submit that that expansive review was not what the Committee meant and we urge you this time to do that.

Finally, one other comment which I think is related: One of the previous speakers made reference to the standards of review and, in fact, the statement had to do with whether or not the BPU standard was "in the public interest." And your staff aide very quickly jumped in, and used the term, "It is boilerplate language". That's an accurate statement, but I don't think it's responsive to this review today.

ASSEMBLYMAN McENROE: I think I said it. I don't think Algis said it.

MR. CAPECE: Well, whoever said it, I would still submit it was unresponsive, and I'll tell you why I say that, Chairman. When you look at the standard of review for the DEP, it's with some degree of specificity on the environmental issues. The mix that comes in -- which I think is different than other types of activities by the Board of Public Utilities -- is, there's already somebody else looking at the financial aspects of the bill and that is the Division of Local Government Services. And you go into extensive detail as to what their parameters are. Maybe that's the magic word, yet when we get to the Board of Public Utilities, it's the same boilerplate language that's used in the original McEnroe process. It maybe a little personal editorializing, but I think it's something of a cosmic review when you talk about being in the public interest. That may have application to the McEnroe process, but I'm not sure, in all candor, that it has any application whatsoever to the review as to regionalization.

I urge you that that definition-- If you're going to use that definition, then your statements as to intent and the other aspects become not only helpful, but essential. I think a standard of review in the parameters for these agencies, and

Mr. Root's comment about the lead agency, might get everybody where they want to get to -- a lot more easily. By that I mean, so everyone has the input but certainly somebody is -- if you'll excuse the expression -- the ramrod making sure that the system works expeditiously, as well as environmentally.

ASSEMBLYMAN McENROE: That is our intention, frankly. I appreciate that. I do understand completely your comment regarding "in the public interest," and I think everything has been established in the public interest. And to go over that and to continually use that as a purpose to review everything again and again and again can, I think, become counterproductive.

Thank you very much. Any questions for the gentlemen? (no response) Thank you.

We also have Hackensack Meadowlands Development Commission representative, Thomas Marturano. Tom is Director of Solid Waste and Engineering for the 22nd District, if I may. Welcome, Mr. Marturano.

T H O M A S R. M A R T U R A N O: Thank you, Mr. Chairman. Very briefly: As you know, the Meadowlands has always been involved in the regionalization business. Through the previous 20 years, we regionalized facilities which accommodated more than 35% of all solid waste generated in the State.

In reviewing the bill -- and as a result of that we've had the pleasure of negotiating quite a few interdistrict agreements over the time -- I would have to implore you to make one very significant change in the bill, and that would be to eliminate the inclusion of Local Government Services and Rate Counsel in the interdistrict process. I think they have a place already in the process. Rate Counsel is very much involved in the BPU hearings and certainly Local Government Services is involved in the course of their normal functions. To include them at that table, or in the process of negotiating

these interdistrict agreements, would only, I think, slow it down because of adding these new additional letters. I think the DEP and BPU would handle that process and guard your interests very well from that perspective.

The last thing I would say is that you've heard many of the counties here talk about that they would have excess capacity in their resource recovery plants -- and that might be a good catalyst towards regionalization -- but you've heard very few of the counties talk about the landfills that go with these things, and that is going to continue to be the big stumbling block. We can't overlook the fact that if we don't start addressing the need for regionalizing the landfills that are going to be satisfying whatever the alternative is -- because there will always be a portion of the waste stream which can't be burned or recycled or composted-- If we don't get down to that we're still going to be shipping our waste out -- if we're allowed to -- in the future. I think we really have to get a handle on regionalizing the landfills, and I think they'd be much more difficult to site than the resource recovery plants ever will be. Thank you.

ASSEMBLYMAN McENROE: Thank you very much. I appreciate your comments.

MR. MARTURANO: One further comment, I'm sorry. You can't ignore the haulers either. What is happening in many of these interdistrict agreements is that the haulers aren't given sufficient time to do business planning. They are conditioned to going to a certain facility. Take the Morris-Essex deal, for example. Suppose that comes to fruition? They're doing planning as if their routes only had to go to the Morris County facility. Overnight that could change. Literally overnight that could change where they might have to travel 30 or 40 miles to Essex County to the resource recovery plant. They need sufficient notification. In any interdistrict plan, the haulers need sufficient notification to react to the system.

That has always been lacking in the previous system and has caused tremendous inefficiencies in the overall garbage collection system. Thank you.

ASSEMBLYMAN McENROE: Okay, thank you Mr. Marturano. We appreciate your comments.

We have a few individuals left on our list. Madeline Hoffman, Grass Roots Environmental Organization? (no response) Donald Clark, Anarcopia Network, New Jersey. (no response) David Aronson, the American Society of Mechanical Engineers.

D A V I D A R O N S O N: Good afternoon. It just so happens I spoke to a couple of the groups you just mentioned and today, following talking with you, a woman said to my wife: "How come David is so well informed, and yet he is not on our side?" I think that's the way some of this comes out. Most of the remarks that I had written down have been pretty well covered. I just have a couple of small items:

1) In terms of planning new incinerators and doing it on a regional basis, I think attention should be given to the practice of a country like Holland, where they have no landfill opportunities and must convert the ash into a form which is not going to damage the environment. I think looking to that technology for new incinerators would make sense and that would be handled on a regional basis taking the ash rather than sending it to a landfill.

ASSEMBLYMAN McENROE: You mean, require it to be manufactured into a usable commodity?

MR. ARONSON: Either for road material or-- Japan has their own procedures for it. There are a number of different ways that countries that do not have landfills can make this at least innocuous.

I suggest, in discussing waste-to-energy, it be called biomass utilization. We hear from the same people, "Why don't you get away from using petroleum nonrenewable resources and go

to biomass?" Well, this is a biomass utilization. I think that could somehow or another be considered as you write legislation, to give it favorable impact.

The other aspect has to do with something mentioned -- the variation in load. I think there's likely to be emergencies in which one region will be unable to handle the normal waste stream. There should be permission for an emergency day-to-day or week-to-week, with probably the BPU approving this, which would enable transfer from one place to another to handle the emergency.

ASSEMBLYMAN McENROE: You mean, all across the entire State?

MR. ARONSON: What is it?

ASSEMBLYMAN McENROE: Across the entire State?

MR. ARONSON: That's right. That's about what I wanted to say.

ASSEMBLYMAN McENROE: Okay. Well, thank you, Mr. Aronson. I appreciate it very much. Any questions, Mr. Duch? (negative response) Thank you for your patience, and we appreciate you coming forward.

MR. ARONSON: It was an interesting day.

ASSEMBLYMAN McENROE: Thank you. We, I believe, have reached the conclusion of individuals that wish to be heard by the Committee. Is there anyone present in the hearing room who wishes to comment on today's legislation? (no response) Well, if there isn't anyone here who wishes to comment further, I declare the hearing adjourned. But before I do, I want to thank my colleagues, Mr. Shinn who is here, and Mr. Duch, both of whom showed great patience and great interest in the public's welfare. I thank you for your endurance.

We do plan to amend the bill. We're going to digest all the public testimony that's been offered. It's important for us in the Legislature to respond legislatively to the concerns that the public has and to the good advice that we

receive in hearings such as this. So there is no fast track for this bill, although the matter before us -- regionalization of waste management in our State -- remains, in my view at least, an important public policy issue.

And from some of the public agencies-- I know the Board of Public Utilities has been represented here. I'm not sure the Department of Environmental Protection has responded today to this hearing, but we expect to work with those agencies to make sure that we have a reasonable and good policy that will enable the waste generated in our State to be managed in a more regionalized and more appropriate manner.

Thank you all for your attendance.

(HEARING CONCLUDED)

APPENDIX

ASSEMBLY, No. 10

STATE OF NEW JERSEY

INTRODUCED OCTOBER 18, 1990

By Assemblymen McENROE and DUCH

1 AN ACT concerning the regionalization of resource recovery
2 services, amending P.L.1970, c.39, P.L.1971, c.198, P.L.1975,
3 c.326, and amending and supplementing P.L.1985, c.38.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. (New section) As used in this act:

8 "County" means any county of this State of whatever class:

9 "Department" means the Department of Environmental
10 Protection:

11 "Designated agency" means the department, unit or committee
12 of the county government designated by the board of chosen
13 freeholders to supervise the implementation of the district solid
14 waste management plan pursuant to section 12 of P.L.1975, c.326
15 (C.13:1E-21); or any instrumentality of the county which has
16 jurisdiction over solid waste disposal, including statutory power
17 to enter into interdistrict agreements:

18 "District" means a solid waste management district as
19 designated by section 10 of P.L.1975, c.326 (C.13:1E-19);

20 "Division of Local Government Services" means the Division of
21 Local Government Services in the Department of Community
22 Affairs:

23 "Division of Rate Counsel" means the Division of Rate Counsel
24 in the Department of the Public Advocate:

25 "Interdistrict agreement" means an agreement negotiated
26 between an owner or operator and one or more designated
27 agencies for the provision of resource recovery services:

28 "Out-of-district solid waste" means any solid waste accepted
29 for disposal in a district which was generated outside the
30 receiving district;

31 "Owner or operator" means the owner or operator of a
32 resource recovery facility, including any vendor which has been
33 awarded a contract pursuant to the provisions of P.L.1985, c.38
34 (C.13:1E-136 et al.); or any bistate authority, county or public
35 authority holding any equity in or debt liability of that resource
36 recovery facility and which has statutory power to enter into
37 interdistrict agreements:

38 "Public authority" means any solid waste management
39 authority created pursuant to the "solid waste management
40 authorities law." P.L.1968, c.249 (C.40:66A-32 et seq.); municipal

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1x

1 or county utilities authority created pursuant to the "municipal
2 and county utilities authorities law." P.L.1957, c.183 (C.40:14B-1
3 et seq.); incinerator authority created pursuant to the
4 "incinerator authorities law." P.L.1948, c.348 (C.40:56A-1 et
5 seq.); county improvement authority created pursuant to the
6 "county improvement authorities law." P.L.1960, c.183
7 (C.40:37A-44 et seq.), or any other public body corporate and
8 politic created for solid waste management purposes in any
9 county or municipality, pursuant to the provisions of any law;

10 "Resource recovery facility" means a solid waste facility
11 constructed and operated for the incineration of solid waste for
12 energy production and the recovery of metals and other materials
13 for reuse;

14 "Resource recovery services" means services provided by an
15 owner or operator, including the utilization of the resource
16 recovery facility for the disposal of out-of-district solid waste on
17 a long-term basis, pursuant to an interdistrict agreement;

18 2. (New section) The provisions of any other law, rule or
19 regulation to the contrary notwithstanding, and as an alternative
20 to any other procedure provided for by law or by order of the
21 Board of Public Utilities, an owner or operator may enter into an
22 interdistrict agreement with a designated agency for the
23 provision of resource recovery services pursuant to the provisions
24 of P.L. , c. (C.) (now before the Legislature as this bill).

25 3. (New section) An owner or operator shall submit any
26 proposed interdistrict agreement negotiated with a designated
27 agency for the provision of resource recovery services to the
28 Division of Rate Counsel for review, and to the department, the
29 Board of Public Utilities, and the Division of Local Government
30 Services for review and approval pursuant to the provisions of
31 section 5 of P.L. , c. (C.) (now before the Legislature as
32 this bill).

33 4. (New section) Any owner or operator intending to submit a
34 proposed interdistrict agreement to the department, the Board of
35 Public Utilities, and the Division of Local Government Services
36 for review and approval pursuant to the provisions of section 5 of
37 P.L. , c. (C.) (now before the Legislature as this bill)
38 shall notify the department, the Board of Public Utilities, the
39 Division of Local Government Services, and the Division of Rate
40 Counsel of its intention to submit its proposed interdistrict
41 agreement for review and approval at least 10 days prior to the
42 submission.

43 5. (New section) a. (1) The department shall approve the
44 proposed interdistrict agreement submitted for review by an
45 owner or operator pursuant to the provisions of section 3 of
46 P.L. , c. (C.) (now before the Legislature as this bill) if
47 it finds that the terms of the proposed interdistrict agreement
48 are consistent with the district solid waste management plan
49 adopted pursuant to the provisions of the "Solid Waste

1 Management Act." P.L.1970, c.39 (C.13:1E-1 et seq.) by each
2 district to be served under the terms of the proposed interdistrict
3 agreement.

4 (2) If the department determines that the terms of the
5 proposed interdistrict agreement require substantial revisions or
6 amendments to a contract previously approved by the department
7 pursuant to section 28 of P.L.1985, c.38 (C.13:1E-163), the
8 department shall require the owner or operator to hold a public
9 hearing on these revisions or amendments pursuant to the
10 provisions of section 26 and section 27 of P.L.1985, c.38
11 (C.13:1E-161 and 13:1E-162). The owner or operator shall be
12 considered to be a contracting unit for the purposes of the public
13 hearing. Following the close of the public hearing, the owner or
14 operator shall submit the substantially revised or amended
15 contract to the department and the Board of Public Utilities for
16 review and approval in the manner provided for in section 28 of
17 P.L.1985, c.38 (C.13:1E-163).

18 b. The Division of Local Government Services shall approve the
19 proposed interdistrict agreement submitted by an owner or
20 operator pursuant to the provisions of section 3 of P.L. , c.
21 (C.) (now before the Legislature as this bill) if it finds in
22 writing that the terms of the proposed interdistrict agreement
23 are in compliance with the provisions of section 6 of P.L. , c.
24 (C.) (now before the Legislature as this bill), that the terms
25 of the proposed interdistrict agreement will result in the
26 provision of services or facilities necessary for the health, safety,
27 welfare, convenience or betterment of the recipients or users of
28 these services or facilities, that the terms and provisions of the
29 proposed interdistrict agreement are not unreasonable, exorbitant
30 or impracticable, would not impose an undue and unnecessary
31 financial burden on the citizens served by the proposed
32 interdistrict agreement, and will not materially impair the ability
33 of the owner or operator or the designated agency to punctually
34 pay the principal and interest on its outstanding indebtedness and
35 to supply other essential public improvements and services,
36 except that the division, in its review of the proposed
37 interdistrict agreement, shall be bound by any applicable findings
38 or determinations of the Local Finance Board made pursuant to
39 the provisions of subsection d. of N.J.S. 40A:2-7 or section 7 of
40 P.L. 1983, c.313 (C.40A:5A-7).

41 c. (1) The Board of Public Utilities shall approve the proposed
42 interdistrict agreement submitted by the owner or operator
43 pursuant to the provisions of section 3 of P.L. , c. (C.)
44 (now before the Legislature as this bill) if it finds in writing that
45 the terms of the proposed interdistrict agreement are in the
46 public interest.

47 (2) If the board determines that the terms of the proposed
48 interdistrict agreement require substantial revisions or
49 amendments to a contract previously approved by the board

3x

1 pursuant to section 28 of P.L.1985, c.38 (C.13:1E-163), the board
2 shall require the owner or operator to hold a public hearing on
3 these revisions or amendments pursuant to the provisions of
4 section 26 and section 27 of P.L.1985, c.38 (C.13:1E-161 and
5 13:1E-162). The owner or operator shall be considered to be a
6 contracting unit for the purposes of the public hearing. Following
7 the close of the public hearing, the owner or operator shall
8 submit the substantially revised or amended contract to the board
9 and the Department of Environmental Protection for review and
10 approval in the manner provided for in section 28 of P.L.1985,
11 c.38 (C.13:1E-163).

12 6. (New section) Any proposed interdistrict agreement to be
13 submitted to the Division of Rate Counsel for review, and to the
14 department, the Board of Public Utilities, and the Division of
15 Local Government Services for review and approval pursuant to
16 the provisions of section 5 of P.L. , c. (C.) (now
17 before the Legislature as this bill), shall include, where
18 applicable, but need not be limited to, provisions concerning:

19 a. Allocation of the risks of refinancing and expanding the
20 disposal capacity of a resource recovery facility, which risks shall
21 include, but need not be limited to:

- 22 (1) Delays in project completion;
- 23 (2) Construction cost overruns and change orders;
- 24 (3) Changes necessitated by revisions in laws, rules or
25 regulations;
- 26 (4) Failure to achieve the required operating performance; and
- 27 (5) The need for additional equity contributions;

28 b. Allocation of the risks of providing resource recovery
29 services, which risks shall include, but need not be limited to:

- 30 (1) Excess downtime or technical failure;
- 31 (2) Excess labor or materials costs due to underestimation;
- 32 (3) Changes in operating procedure necessitated by revisions in
33 laws, rules or regulations;
- 34 (4) Changes in the amount or composition of the solid waste or
35 out-of-district solid waste delivered for disposal;
- 36 (5) Excess operation or maintenance costs due to poor
37 management;
- 38 (6) The increased costs associated with the disposal of the
39 residual ash generated at a resource recovery facility;
- 40 (7) The increased costs associated with the disposal of solid
41 waste delivered to a resource recovery facility which cannot be
42 processed at the facility; and
- 43 (8) The costs of disposal of recovered material which cannot be
44 sold;

45 c. Allocation of the risks associated with circumstances beyond
46 the control of any party to the interdistrict agreement;

47 d. Allocation of the revenues from the sale of energy or other
48 recovered metals and other materials for reuse;

49 e. Default and termination of the interdistrict agreement;

- 1 f. The intervals at which the interdistrict agreement shall be
2 renegotiated;
- 3 g. Employment of current employees of the owner or operator
4 whose positions will be affected by the terms of the interdistrict
5 agreement;
- 6 h. Competitive bidding procedures, or other methods of cost
7 control, to be utilized by the owner or operator in obtaining any
8 goods or services the cost of which will automatically be
9 included, pursuant to the terms of the interdistrict agreement, in
10 the rates to be charged at the resource recovery facility; and
- 11 i. The formulas to be used to determine the charges, rates, or
12 fees to be charged for the provision of resource recovery
13 services, and the methodology or methodologies used to develop
14 these formulas.
- 15 7. (New section) a. The department may adopt, pursuant to the
16 provisions of the "Administrative Procedure Act," P.L.1968,
17 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to
18 implement the provisions of P.L. , c. (C.) (now before
19 the Legislature as this bill).
- 20 b. The Board of Public Utilities may adopt, pursuant to the
21 provisions of the "Administrative Procedure Act," P.L.1968,
22 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to
23 implement the provisions of P.L. , c. (C.) (now before
24 the Legislature as this bill).
- 25 c. The Division of Local Government Services may adopt,
26 pursuant to the provisions of the "Administrative Procedure
27 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
28 regulations necessary to implement the provisions of P.L. , c.
29 (C.) (now before the Legislature as this bill).
- 30 8. Section 6 of P.L.1970, c.39 (C.13:1E-6) is amended to read
31 as follows:
- 32 6. a. The department shall [, in addition to such other powers as
33 it may possess by law]:
- 34 (1) Undertake a program of research and development for the
35 purpose of determining the most efficient, sanitary,
36 environmentally-sound and economical way of collecting,
37 disposing [and utilizing] or recycling solid waste.
- 38 (2) Formulate and [promulgate] adopt, amend and repeal codes,
39 rules and regulations concerning solid waste collection and solid
40 waste disposal activities. [Such] These codes, rules and
41 regulations shall establish the procedures relating to the
42 preparation and submission of environmental impact statements
43 prior to the construction, acquisition, or operation of any solid
44 waste facility, and shall establish standards for the construction
45 and operation of solid waste facilities, which standards shall
46 include, but not be limited to, provisions requiring: the
47 maintenance of ground water quality monitoring wells to check
48 water pollution; periodic monitoring of water quality by chemical
49 analysis; measures to monitor methane gas production at sanitary

1 landfills; plans for erosion control; revegetation procedures and
2 plans for the maintenance, upkeep, and reuse of any sanitary
3 landfill site; adequate cover material; safety measures; rodent,
4 insect, bird, dust, fire and odor control programs; and such other
5 measures as shall be deemed necessary to protect the public
6 health and safety and the natural environment.

7 All codes, rules and regulations heretofore adopted by the
8 Public Health Council relating to refuse disposal shall continue in
9 full force and effect and be enforceable by the department,
10 subject to its power as herein provided to amend or repeal the
11 same.

12 (3) Develop, formulate, [promulgate] adopt and review for the
13 purpose of revising or updating not less than once every 2 years, a
14 Statewide solid waste management plan which shall encourage
15 the maximum practicable use of [resource recovery procedures]
16 source reduction, recycling and reuse techniques and which shall
17 provide the objectives, criteria and standards for the evaluation
18 of district solid waste management plans prepared pursuant to
19 the provisions of [this amendatory and supplementary act]
20 P.L.1970, c.39 (C.13:1E-1 et seq.) for solid waste management
21 districts in this State; and to the extent practicable, encourage
22 and assist in the development and formulation of [such] district
23 solid waste management plans and guidelines to implement such
24 plans. [Such objectives, criteria and standards shall be
25 promulgated within 180 days of the effective date of this act;
26 provided, however, that general guidelines sufficient to initiate
27 the solid waste management planning process by solid waste
28 management districts in this State shall be promulgated within 30
29 days of the effective date of this act.] In the development and
30 formulation of the Statewide solid waste management plan the
31 department shall consult with relevant agencies and
32 instrumentalities of the Federal Government, and the aforesaid
33 objectives, criteria and standards provided by said Statewide solid
34 waste management plan shall conform, to the extent practicable,
35 or as may be required, to the provisions of any Federal law
36 concerning such objectives, criteria and standards.

37 (4) Make an annual report to the Governor and the Legislature
38 evaluating the operation of [this amendatory and supplementary
39 act] P.L.1970, c.39 (C.13:1E-1 et seq.), including any
40 recommendations deemed necessary by the department to better
41 effectuate the purposes hereof.

42 (5) Adopt, in conjunction with the Board of Public Utilities,
43 appropriate rules, regulations or administrative orders providing
44 for the interdistrict, intradistrict and interstate flow of solid
45 waste. The rules, regulations, or administrative orders shall
46 establish the manner in which the department and the board
47 jointly direct the flow of solid waste in this State pursuant to
48 P.L.1970, c.39 (C.13:1E-1 et seq.) and P.L.1970, c.40 (C.48:13A-1
49 et seq.).

6x

- 1 b. The department may, in addition:
- 2 (1) Order any district, pursuant to the Statewide solid waste
3 management plan, the objectives, criteria and standards
4 contained therein, the environmental and economic studies
5 conducted by the department therefor and in a manner designed
6 to enhance the environment within the concerned districts[.];
- 7 (a) to plan for the construction of resource recovery
8 facilities[.];
- 9 (b) to specify what processes should be utilized therein[.];
- 10 (c) to [develop a joint program] negotiate an interdistrict
11 agreement with one or more [adjacent] districts for providing
12 resource recovery [facilities, and] services pursuant to the
13 provisions of P.L. , c. (C.) (now before the Legislature as
14 this bill);
- 15 (d) to plan for the utilization of resource recovery facilities on
16 a regional basis; or
- 17 [(d)] (e) for those districts affected by the guarantee provided
18 in P.L.1968, c.404, s.9.1 (C.13:17-10), to cooperate on a
19 continuing basis with the department and with the other districts
20 so affected in the development of a combined approach to solid
21 waste management in northeastern New Jersey and make the
22 final determination in the event of any overlap or conflict
23 between the Hackensack Commission and any board of chosen
24 freeholders pursuant to their respective responsibilities under
25 [this amendatory and supplementary act] P.L.1970, c.39
26 (C.13:1E-1 et seq.) or pursuant to the Hackensack Commission's
27 responsibilities under P.L.1968, c.404 (C.13:17-1 et seq.)[.];
- 28 (2) Acquire, by purchase, grant, contract or condemnation, title
29 to real property, for the purpose of demonstrating new methods
30 and techniques for the collection, disposal [and utilization] or
31 recycling of solid waste;
- 32 (3) Purchase, operate and maintain, pursuant to the provisions
33 of this act, any facility, site, laboratory equipment or machinery
34 necessary to the performance of its duties pursuant to this act;
- 35 (4) Apply for, receive and expend funds from any public or
36 private source; or
- 37 (5) Contract with any other public agency, including county and
38 municipal boards of health, or corporation incorporated under the
39 laws of this or any other state for the performance of any
40 function under this act. Any such contract with a county or
41 municipal board of health may provide for the inspection and
42 monitoring of solid waste facilities; the enforcement of the
43 department's standards therefor; and the training of county or
44 municipal health officers engaged in such inspection, monitoring
45 or enforcement[.];
- 46 (6) Make grants to assist in experimenting with new methods of
47 solid waste collection, disposal, or utilization, pursuant to the
48 provisions of sections 21 through 25 of this amendatory and
49 supplementary act;

1 (7) Construct and operate, on an experimental basis,
2 incinerators or other facilities for the disposal or utilization of
3 solid waste. To provide the various municipalities and counties of
4 this State, the Board of Public Utility Commissioners, the
5 Hackensack Commission, and the Division of Local Government
6 Services in the Department of Community Affairs with statistical
7 data on costs and methods of solid waste collection and disposal;

8 (8) Make annual and such other reports as it may deem proper
9 to the Governor and the Legislature evaluating the
10 demonstrations and experiments conducted during each calendar
11 year].

12 (cf: P.L.1975, c.326, s.7)

13 9. Section 11 of P.L.1975, c.326 (C.13:1E-20) is amended to
14 read as follows:

15 11. a. (1) [Within 360 days after the effective date of this
16 amendatory and supplementary act, the] The respective boards of
17 chosen freeholders, in the case of counties, and the Hackensack
18 Commission, in the case of the Hackensack Meadowlands
19 District, shall develop and formulate, pursuant to the procedures
20 herein contained, a district solid waste management plan for each
21 respective solid waste management district; provided, however,
22 that the commissioner may extend such period for a maximum of
23 45 additional days upon the certification of the board of chosen
24 freeholders or the Hackensack Commission, as the case may be,
25 of the causes of the delay in developing and formulating a plan,
26 and upon the commissioner's determination that an extension will
27 permit the development and formulation of a solid waste
28 management plan as required herein. Within 90 days of the
29 effective date of this act, each district shall make the necessary
30 personnel, financial and legal arrangements to assure the
31 development and formulation of the plan within 360 days of the
32 effective date of this act]. Every district solid waste
33 management plan shall be developed and formulated to be in
34 force and effect for a period of not less than 10 years, upon the
35 expiration of which a new plan shall be developed and formulated
36 pursuant to the procedures herein contained; provided, however,
37 that every such plan shall contain provisions for automatic review
38 thereof not less than once every two years following the approval
39 thereof by the department, which review shall be undertaken by
40 the board of chosen freeholders or the Hackensack Commission,
41 as the case may be; and provided further, however, that every
42 such plan may be reviewed at any time by the department. Upon
43 such review, if the board of chosen freeholders, the Hackensack
44 Commission, or the department, as the case may be, determines
45 that any district solid waste management plan, or any part
46 thereof, is inadequate for the purposes for which it was intended,
47 such board of chosen freeholders or the Hackensack Commission,
48 as the case may be, shall develop and formulate a new district
49 solid waste management plan, or any part thereof, and such new

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1 plan, or part thereof, shall be adopted thereby pursuant to the
2 procedures contained in section 14 of P.L.1975, c.326
3 (C.13:1E-23).

4 Nothing herein contained shall be construed as to prevent any
5 board of chosen freeholders or the Hackensack Commission from
6 readopting a district solid waste management plan upon the
7 expiration of same in a [solid waste management] district:
8 provided, however, that any such readoption shall be pursuant to
9 the provisions of section 14 of P.L.1975, c.326 (C.13:1E-23).

10 (2) Any two or more districts may formulate and adopt a
11 [single] regional solid waste management plan which shall meet
12 all the requirements of [this act] P.L.1970, c.39 (C.13:1E-1 et
13 seq.) for the combined area of the cooperating [solid waste
14 management] districts.

15 b. (1) To assist each board of chosen freeholders in the
16 development and formulation of the district solid waste
17 management plans required herein, an advisory solid waste
18 council shall be constituted in every county and shall include
19 municipal mayors or their designees, persons engaged in the
20 collection or disposal of solid waste and environmentalists. The
21 respective size, composition and membership of each such council
22 shall be designated by the respective boards of chosen
23 freeholders. In the Hackensack Meadowlands District, the
24 Hackensack Meadowlands Municipal Committee, established
25 pursuant to [article 4] sections 7 and 8 of P.L.1968, c.404
26 (C.13:17-7 and 13:17-8), is hereby designated an advisory solid
27 waste council for the purposes of this [amendatory and
28 supplementary act] subsection; provided, however, that nothing
29 herein contained shall be construed as in any way altering the
30 powers, duties and responsibilities of the Hackensack
31 Meadowlands Municipal Committee except as herein specifically
32 provided. The respective boards of chosen freeholders and the
33 Hackensack Commission shall consult with the relevant advisory
34 solid waste council at such stages in the development and
35 formulation of the district solid waste management plan as each
36 such board of chosen freeholders or the Hackensack Commission,
37 as the case may be, shall determine; provided, however, that a
38 district solid waste management plan shall be adopted as
39 hereinafter provided only after consultation with the relevant
40 advisory solid waste council.

41 (2) In the development and formulation of a district solid waste
42 management plan for any [solid waste management] district, the
43 board of chosen freeholders or the Hackensack Commission, as
44 the case may be, shall:

45 (a) Consult with the county or municipal government agencies
46 concerned with, or responsible for, water pollution control, water
47 policy, water supply, or zoning or land use within the [solid waste
48 management] district;

49 (b) Review such plans for solid waste collection and disposal

1 . proposed by, or in force in, any municipality or municipalities
2 within the [solid waste management district], to determine the
3 suitability of any such plan, or any part thereof, for inclusion
4 within the district solid waste management plan of the [solid
5 waste management] district; and

6 (c) Consult with persons engaged in solid waste collection and
7 disposal in the [solid waste management] district.

8 (cf: P.L.1985, c.38, s.35)

9 10. Section 12 of P.L.1975, c.326 (C.13:1E-21) is amended to
10 read as follows:

11 12. a. Every district solid waste management plan shall be
12 based upon and shall be accompanied by a report containing:

13 (1) An inventory of the sources, composition, and quantity of
14 solid waste generated within the [solid waste management]
15 district in the year in which the report is prepared;

16 (2) Projections of the amounts and composition of solid waste
17 to be generated within the district in each of the 10 years
18 following the year in which the report is prepared[; provided,
19 however, that in the formulation of its solid waste management
20 plan every board of chosen freeholders may deduct from the
21 actual amount of solid waste generated within the solid waste
22 management district in the year in which the report is prepared,
23 and projected for each of the 10 years following said year, the
24 total solid waste tonnage treated and disposed on a daily basis in
25 the Hackensack Meadowlands District by every municipality
26 within said solid waste management district as of July 1, 1968,
27 which deduction shall be pursuant to the guarantee provided in
28 P.L.1968, c.404, section 9.1 (C.13:17-10)];

29 (3) An inventory and appraisal, including the identity, location,
30 and life expectancy, of all solid waste facilities within the [solid
31 waste management] district, including [such facilities operated by
32 any person, and] the identity of every person engaging in solid
33 waste collection or disposal within the district; and

34 (4) An analysis of existing solid waste collection systems and
35 transportation routes within the [solid waste management]
36 district.

37 b. Every district solid waste management plan shall include:

38 (1) The designation of a department, unit or committee of the
39 county government, in the case of counties, or of the Hackensack
40 Commission, in the case of the Hackensack Meadowlands
41 District, to supervise the implementation of the district solid
42 waste management plan and to report thereon at such times as
43 may be required by the board of chosen freeholders or the
44 Hackensack Commission, as the case may be;

45 (2) A statement of the solid waste disposal strategy to be
46 applied in the [solid waste management] district, which strategy
47 shall include the maximum practicable use of [resource recovery
48 procedures] source reduction, recycling and reuse techniques; and
49 a plan for using terminated landfill disposal sites, if any, in the

1 [solid waste management] district;

2 (3) A site plan, which shall include all existing solid waste
3 facilities located within the [solid waste management] district,
4 provided that they are operated and maintained in accordance
5 with all applicable health and environmental standards, and
6 sufficient additional available suitable sites to provide solid
7 waste facilities to treat and dispose of the actual and projected
8 amounts of solid waste contained in the report accompanying the
9 plan.

10 Upon a certification to the commissioner by the board of
11 chosen freeholders or the Hackensack Commission, as the case
12 may be, of the absence of sufficient existing or available suitable
13 sites for such solid waste facilities within the [solid waste
14 management] district, the site plan shall identify sufficient
15 additional existing or available suitable sites for such facilities
16 located in another [solid waste management] district; provided,
17 however, that such certification shall be accompanied by a copy
18 of the [contract or] interdistrict agreement entered into by the
19 concerned boards of chosen freeholders or the Hackensack
20 Commission, as the case may be, authorizing the use by a [solid
21 waste management] district of solid waste facilities located in
22 another [solid waste management] district, and providing for the
23 acquisition of such lands and rights and interests therein as may
24 be required within the [solid waste management] district in which
25 the solid waste facilities are to be located. Notwithstanding the
26 above, however, a board of chosen freeholders may enter into an
27 interdistrict agreement with any person engaged in solid waste
28 disposal in [an adjacent solid waste management] any district
29 with the approval of [said adjacent] that district, which shall be
30 reflected in the district solid waste management plans for [said
31 adjacent] the districts[, to treat and dispose of the amount of
32 solid waste from their district that said person treats and
33 disposes of in that adjacent district on the effective date of this
34 act]. Upon the failure for any reason of the concerned boards of
35 chosen freeholders or the Hackensack Commission, as the case
36 may be, to [make such a contract or to] reach [such] an
37 interdistrict agreement, the board of chosen freeholders or the
38 Hackensack Commission, as the case may be, seeking to [locate
39 said] utilize solid waste facilities in another [solid waste
40 management] district shall certify such failure to the
41 commissioner.

42 Upon the receipt of any such certification of failure, the
43 commissioner shall cause a study to be made by the department
44 to determine the suitable location of solid waste facilities for the
45 use of the [solid waste management] district for which such
46 certification was made. In such study, the commissioner may
47 request the submission of any specifications or other information
48 [he] the commissioner deems necessary from any [solid waste
49 management] district, and the board of chosen freeholders or the

1 Hackensack Commission, as the case may be, shall submit all
2 such material so requested. In determining the suitable location
3 of solid waste facilities, the commissioner shall weigh the
4 relative feasibility of alternative locations in terms of such
5 factors as environmental impact, transportation patterns and
6 their comparative costs, compatibility with the current land use
7 policies in the immediate area of the alternative locations, as
8 well as with the Statewide solid waste management plan and such
9 other master plans and planning policies as may exist at the
10 municipal, county, regional or State levels, and such other
11 criteria as the commissioner deems relevant.

12 Upon the completion of said study the commissioner shall:

13 (a) Require the certifying board of chosen freeholders or the
14 Hackensack Commission, as the case may be, to locate the
15 required solid waste facilities within its own [solid waste
16 management] district and as part of the district solid waste
17 management plan therefor; or

18 (b) Require any other board of chosen freeholders or the
19 Hackensack Commission, as the case may be to provide solid
20 waste facilities, or parts thereof, within its [solid waste
21 management] district and as part of the district solid waste
22 management plan therefor, for the use of the certifying [solid
23 waste management] district; provided, however, that the full cost
24 of any such solid waste facilities, or of any part thereof to the
25 extent of use thereof, shall be borne by the [solid waste
26 management] district making use of same.

27 In the adoption of any district solid waste management plan
28 pursuant to the provisions of section 14 of [this amendatory and
29 supplementary act] P.L.1975. c.326 (C.13:1E-23), no board of
30 chosen freeholders nor the Hackensack Commission, as the case
31 may be, shall alter any part required by a determination made by
32 the commissioner as herein provided concerning the location of
33 any solid waste facilities.

34 [Notwithstanding the provisions of section 11 of this
35 amendatory and supplementary act, the time taken by the
36 commissioner from the receipt of any certification of failure
37 pursuant to this section to the completion of the study required
38 herein concerning such certification of failure, shall be in
39 addition to, and shall not count towards, the 360 days permitted
40 in said section 11 for the development and formulation of a solid
41 waste management plan.]

42 (4) A [survey] designation of proposed collection [districts] and
43 transportation routes, which routes shall, in the case of resource
44 recovery facilities to the greatest extent practicable, avoid roads
45 or highways in residential or congested areas, with projected
46 transportation costs from collection [districts] routes to existing
47 or available suitable sites for solid waste facilities:

48 (5) The procedures for coordinating all activities related to the
49 collection and disposal of solid waste by every person engaging in

1 [such process] these activities within the [solid waste
2 management] district, which procedures shall include the
3 interdistrict agreements entered into as provided herein between
4 the board of chosen freeholders or the Hackensack Commission,
5 as the case may be, and every such person; and the procedures for
6 furnishing the solid waste facilities contained in the district solid
7 waste management plan; and

8 (6) The method or methods of financing solid waste
9 [management] facilities in the [solid waste management] district
10 pursuant to the district solid waste management plan.

11 c. Any existing joint meeting formed for the construction or
12 operation of solid waste facilities pursuant to the "consolidated
13 municipal services act" (P.L.1952, c.72; (C.40:48B-1 et seq.)) or
14 any existing authority composed of two or more municipalities
15 formed pursuant to the "solid waste management authorities law"
16 (P.L.1968, c.249; (C.40:66A-32 et seq.)) may request the
17 commissioner to review its solid waste management plan. The
18 commissioner may direct the concerned [solid waste
19 management] district to incorporate all or part of said plan into
20 the district solid waste management plan of that district.

21 (cf: P.L.1975, c.326, s.12)

22 11. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to
23 read as follows:

24 2. As used in this [amendatory and supplementary] act and the
25 provisions of P.L. , c. (C.) (now before the Legislature
26 as this bill):

27 [a.] "Contract file" means a file established and maintained by
28 a contracting unit, in which the contracting unit shall maintain a
29 copy of its request for qualifications issued pursuant to section 19
30 of [this amendatory and supplementary act] P.L.1985, c.38
31 (C.13:1E-154), a list of vendors responding to its request for
32 qualifications, a copy of its request for proposals issued pursuant
33 to section 20 of [this amendatory and supplementary act]
34 P.L.1985, c.38 (C.13:1E-155), a list of qualified vendors
35 submitting proposals, and a document outlining the general
36 criteria used by the contracting unit in selecting a proposal;

37 [b.] "Contracting unit" means any county; any municipality;
38 any bistate authority; or any [board, commission, committee,
39 authority or agency, which is not a State board, commission,
40 committee, authority or agency, and which has administrative
41 jurisdiction over any district other than a school district, project,
42 or facility, included or operating in whole or in part, within the
43 territorial boundaries of any county or municipality, which
44 exercises functions which are appropriate for the exercise by one
45 or more units of local government, and] public authority which
46 has statutory power to [make purchases and] enter into contracts
47 or agreements [for the performance of any work or the furnishing
48 or hiring of any materials or supplies usually required] for the
49 design, financing, construction, operation, or maintenance, or any

- 1 combination thereof. of a resource recovery facility;
2 [c.] "County" means any county of this State of whatever class;
3 [d.] "Department" means the Department of Environmental
4 Protection;
5 [e.] "Director" means the Director of the Division of Taxation
6 in the Department of Treasury;
7 [f.] "District" means a solid waste management district as
8 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except
9 that, as used in the provisions of [this amendatory and
10 supplementary act] sections 3 through 17 of P.L.1985, c.38
11 (C.13:1E-138 through 13:1E-152), "district" shall not include the
12 Hackensack Meadowlands District;
13 [g.] "District investment tax fund" means a District Resource
14 Recovery Investment Tax Fund established pursuant to subsection
15 a. of section 15 of [this amendatory and supplementary act]
16 P.L.1985, c.38 (C.13:1E-150);
17 [h.] "Division" means the Division of Taxation in the
18 Department of Treasury;
19 [i.] "Division of Local Government Services" means the
20 Division of Local Government Services in the Department of
21 Community Affairs;
22 [j.] "Division of Rate Counsel" means the Division of Rate
23 Counsel in the Department of the Public Advocate;
24 [k.] "Franchise" means the exclusive right to receive, control
25 and provide for the disposal of solid waste, except for designated
26 recyclable materials as defined in section 2 of P.L.1987, c.102
27 (C.13:1E-99.12) or any other recyclable material whenever
28 markets for those other materials are available, within a district
29 or districts as awarded by the Board of Public Utilities;
30 [l.] "Independent public accountant" means a certified public
31 accountant, a licensed public accountant or a registered
32 municipal accountant;
33 [m.] "Investment tax" means the resource recovery investment
34 tax imposed pursuant to subsection b. of section 3 of [this
35 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-138);
36 [n.] "Investment tax fund" means the Resource Recovery
37 Investment Tax Fund containing sub-accounts for each county
38 established pursuant to the provisions of section 14 of [this
39 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-149);
40 [o.] "Out-of-district solid waste" means any solid waste
41 accepted for disposal in a district which was generated outside
42 the receiving district;
43 [p.] "Person or party" means any individual, public or private
44 corporation, company, partnership, firm, association, political
45 subdivision of this State, or any State, bistate, or interstate
46 agency or public authority;
47 [q.] "Proposed contract" means a contract negotiated by a
48 contracting unit pursuant to the provisions of [this amendatory
49 and supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.), or a

1 substantial renegotiation of a contract approved pursuant to the
2 provisions of [this amendatory and supplementary act] P.L.1985,
3 c.38 (C.13:1E-135 et al.) if the renegotiation is determined to be
4 substantial by the department, the Board of Public Utilities, or
5 the Division of Local Government Services:

6 "Public authority" means any solid waste management
7 authority created pursuant to the "solid waste management
8 authorities law," P.L.1968, c.249 (C.40:66A-32 et seq.); municipal
9 or county utilities authority created pursuant to the "municipal
10 and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1
11 et seq.); incinerator authority created pursuant to the
12 "incinerator authorities law," P.L.1948, c.348 (C.40:66A-1 et
13 seq.); county improvement authority created pursuant to the
14 "county improvement authorities law," P.L.1960, c.183
15 (C.40:37A-44 et seq.), or any other public body corporate and
16 politic created for solid waste management purposes in any
17 county or municipality, pursuant to the provisions of any law;

18 [r.] "Qualified vendor" means any person or party financially
19 qualified for, and technically and administratively capable of,
20 undertaking the design, financing, construction, operation, or
21 maintenance, or any combination thereof, of a resource recovery
22 facility [or of providing resource recovery services], as provided
23 in section 19 of [this amendatory and supplementary act]
24 P.L.1985, c.38 (C.13:1E-154);

25 [s.] "Recyclable material" means those solid waste materials
26 which [would otherwise become solid waste, which] may be
27 collected, separated or processed and returned to the economic
28 mainstream in the form of raw materials or products; -

29 [t.] "Recycling" means any process by which solid waste
30 materials [which would otherwise become solid waste] are
31 collected; separated or processed and returned to the economic
32 mainstream in the form of raw materials or products;

33 [u.] "Recycling facility" means a facility at which materials
34 which would otherwise become solid waste are collected,
35 separated or processed and returned to the economic mainstream
36 in the form of raw materials or products;]

37 [v.] "Resource recovery facility" means a solid waste facility
38 constructed and operated for the incineration of solid waste for
39 energy production and the recovery of metals and other materials
40 for reuse; or a mechanized composting facility, or any other solid
41 waste facility constructed or operated for the collection,
42 separation, recycling, and recovery of metals, glass, paper, and
43 other materials for reuse or for energy production;

44 [w.] "Sanitary landfill facility" means a solid waste facility at
45 which solid waste is deposited on or in the land as fill for the
46 purpose of permanent disposal or storage for a period exceeding
47 six months, except that it shall not include any waste facility
48 approved for disposal of hazardous waste;

49 [x.] "Services tax" means the solid waste services tax imposed

1 pursuant to subsection a. of section 3 of [this amendatory and
2 supplementary act] P.L.1985, c.38 (C.13:1E-138);

3 [y.] "Services tax fund" means the Solid Waste Services Tax
4 Fund established pursuant to section 12 of [this amendatory and
5 supplementary act] P.L.1985, c.38 (C.13:1E-147);

6 [z.] "Vendor" means any person or party proposing to
7 undertake the design, financing, construction, operation, or
8 maintenance, or any combination thereof, of a resource recovery
9 facility [or of providing resource recovery services];

10 [aa.] "Waste importation tax" means the solid waste
11 importation tax imposed pursuant to subsection c. of section 3 of
12 [this amendatory and supplementary act] P.L.1985, c.38
13 (C.13:1E-138).

14 (cf: P.L.1985, c.38, s.2)

15 12. Section 18 of P.L.1985, c.38 (C.13:1E-153) is amended to
16 read as follows:

17 18. The provisions of any other law, rule or regulation to the
18 contrary notwithstanding, and as an alternative to any other
19 procedure provided for by law or by order of the Board of Public
20 Utilities, a contracting unit may enter into a contract with a
21 vendor for the design, financing, construction, operation or
22 maintenance, or any combination thereof, of a resource recovery
23 facility[, or for the provision of resource recovery services.]
24 pursuant to the provisions of [this amendatory and supplementary
25 act] P.L.1985, c.38 (C.13:1E-136 et al.). Any contracting unit
26 intending to enter into a contract with a vendor pursuant to the
27 provisions of [this amendatory and supplementary act] P.L.1985,
28 c.38 shall establish a contract file, which shall be open to
29 members of the public for inspection at the offices of the
30 contracting unit. Any contract entered into pursuant to the
31 provisions of [this amendatory and supplementary act] P.L.1985,
32 c.38 may be awarded for a period not to exceed 40 years.

33 (cf: P.L.1985, c.38, s.18)

34 13. Section 19 of P.L.1985, c.38 (C.13:1E-154) is amended to
35 read as follows:

36 19. a. A contracting unit which intends to enter into a contract
37 with a vendor pursuant to the provisions of [this amendatory and
38 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.) shall issue
39 a request for qualifications of interested vendors. The request for
40 qualifications shall include a general description of the resource
41 recovery [services] facility required by the contracting unit, the
42 minimum acceptable qualifications to be possessed by a vendor
43 proposing to enter into a contract for the [provision of these
44 services] resource recovery facility, and the date by which
45 vendors must submit their qualifications. In addition to all other
46 factors bearing on qualifications, the contracting unit shall
47 consider the reputation and experience of the vendor, and may
48 consider information which might result in debarment or
49 suspension of a vendor from State contracting, and may disqualify

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1 a vendor if the vendor has been debarred or suspended by any
2 State agency. The request for qualifications shall be published in
3 at least one appropriate professional or trade journal, and in at
4 least one newspaper of general circulation in the jurisdiction
5 which would be served under the terms of the proposed contract.

6 b. After reviewing the qualifications submitted by vendors
7 pursuant to subsection a. of this section, the contracting unit
8 shall establish a list of qualified vendors, which shall include the
9 criteria applied by the contracting unit in selecting the qualified
10 vendors, and shall publish the list in the same publications in
11 which the requests for qualifications were published pursuant to
12 subsection a. of this section. Any vendor designated by a
13 contracting unit as a qualified vendor shall be a person or party
14 financially, technically and administratively capable of
15 undertaking the design, financing, construction, operation, or
16 maintenance, or any combination thereof, of a resource recovery
17 facility[, or for providing resource recovery services].

18 (cf: P.L.1985, c.38, s.19)

19 14. Section 20 of P.L.1985, c.38 (C.13:1E-155) is amended to
20 read as follows:

21 20. Upon the selection of qualified vendors pursuant to the
22 provisions of section 19 of [this amendatory and supplementary
23 act] P.L.1985, c.38 (C.13:1E-154), the contracting unit shall issue
24 a request for proposals to the qualified vendors, which shall
25 include a detailed description of the resource recovery facility
26 [and services] required, the format and procedure to be followed
27 in submitting proposals, the specific information which qualified
28 vendors must provide in the proposal, a statement setting forth
29 the relative importance of factors, including cost, which the
30 contracting unit will consider in evaluating a proposal submitted
31 by a qualified vendor, and any other information which the
32 contracting unit deems appropriate. The request for proposals
33 shall include the date and time of day by which, and the place at
34 which, the proposals shall be submitted to the contracting unit.
35 The contracting unit may extend the deadline for submission of
36 proposals, but this extension shall apply to all qualified vendors,
37 who shall be provided with simultaneous written notification of
38 this extension.

39 (cf: P.L.1985, c.38, s.20)

40 15. Section 23 of P.L.1985, c.38 (C.13:1E-158) is amended to
41 read as follows:

42 23. [a.] A contracting unit shall submit any proposed contract
43 negotiated with a qualified vendor pursuant to the provisions of
44 [this act] P.L.1985, c.38 (C.13:1E-136 et al.) to the Division of
45 Rate Counsel for review, and to the department, the Board of
46 Public Utilities, and the Division of Local Government Services
47 for review and approval pursuant to the provisions of section [24]
48 25 through section 28 of [this amendatory and supplementary act]
49 P.L.1985, c.38 (C.13:1E-160 through 13:1E-163).

50 (cf: P.L.1985, c. 38, s.23)

1 16. Section 24 of P.L.1985. c.38 (C.13:1E-159) is amended to
2 read as follows:

3 24. Any contracting unit intending to submit a proposed
4 contract to the department, the Board of Public Utilities, and the
5 Division of Local Government Services for review and approval
6 pursuant to the provisions of [this amendatory and supplementary
7 act] section 25 through section 28 of P.L.1985. c.38 (C.13:1E-160
8 through 13:1E-163) shall notify the department, the Board of
9 Public Utilities, the Division of Local Government Services, and
10 the Division of Rate Counsel of its intention to submit its
11 proposed contract for review and approval at least 10 days prior
12 to the submission.

13 (cf: P.L.1985. c.38. s.24)

14 17. Section 28 of P.L.1985. c.38 (C.13:1E-163) is amended to
15 read as follows:

16 28. a. (1) Within 30 days of receipt of the hearing report
17 submitted by a contracting unit pursuant to the provisions of
18 subsection b. of section 27 of [this amendatory and supplementary
19 act] P.L.1985. c.38 (C.13:1E-162), the department shall approve
20 or conditionally approve the proposed contract submitted for
21 review by the contracting unit pursuant to the provisions of [this
22 amendatory and supplementary act] P.L.1985. c.38 (C.13:1E-136
23 et al.). The department shall approve the proposed contract if it
24 finds that the terms of the proposed contract are consistent with
25 the district solid waste management plan adopted pursuant to the
26 provisions of the "Solid Waste Management Act," P.L.1970. c.39
27 (C.13:1E-1 et seq.) by the [solid waste] district or districts to be
28 served under the terms of the proposed contract. If the
29 department conditionally approves the proposed contract, it shall
30 state in writing the revisions which must be made to the proposed
31 contract to receive approval, and the contracting unit may
32 prepare and submit to the department a revised proposed
33 contract. If the department determines that the revisions are
34 substantial, the contracting unit shall hold a public hearing on the
35 revisions pursuant to the provisions of section 26 and section 27
36 of [this amendatory and supplementary act] P.L.1985. c.38
37 (C.13:1E-161 and 13:1E-162). In the alternative, the district solid
38 waste management plan or plans may be amended pursuant to law
39 so as to be consistent with the terms of the proposed contract.

40 (2) Within 30 days of receipt of a substantially revised or
41 amended contract submitted by a contracting unit pursuant to the
42 provisions of subsection a. of section 5 of P.L. . c. (C.)
43 (now before the Legislature as this bill), the department sha'll
44 approve the substantially revised or amended contract if it finds
45 that the terms of the contract are consistent with the district
46 solid waste management plans of the districts to be served under
47 the terms of the contract.

48 b. Within 30 days of receipt of the hearing report submitted by
49 a contracting unit pursuant to the provisions of subsection b. of

1 section 27 of [this amendatory and supplementary act] P.L.1985,
2 c.38 (C.13:1E-162), the Division of Local Government Services
3 shall approve or conditionally approve the proposed contract
4 submitted by the contracting unit pursuant to the provisions of
5 [this amendatory and supplementary act] P.L.1985, c.38
6 (C.13:1E-136 et al.). The division shall approve the proposed
7 contract if it finds in writing that the terms of the proposed
8 contract are in compliance with the provisions of section 29 of
9 [this amendatory and supplementary act] P.L.1985, c.38
10 (C.13:1E-164), [and] that the terms of the proposed contract will
11 result in the provision of services or facilities necessary for the
12 health, safety, welfare, convenience or betterment of the
13 recipients or users of these services or facilities, that the terms
14 and provisions of the proposed contract are not unreasonable,
15 exorbitant or impracticable, would not impose an undue and
16 unnecessary financial burden on the citizens residing in or served
17 by the contracting unit, and will not materially impair the ability
18 of the contracting unit to punctually pay the principal and
19 interest on its outstanding indebtedness and to supply other
20 essential public improvements and services, except that the
21 division, in its review of the proposed contract, shall be bound by
22 any applicable findings or determinations of the Local Finance
23 Board made pursuant to the provisions of subsection d. of
24 N.J.S.40A:2-7 or section 7 of P.L.1983, c.313 (C.40A:5A-7). If
25 the division conditionally approves the proposed contract, it shall
26 state in writing the revisions which must be made to the proposed
27 contract to receive approval, and the contracting unit may
28 prepare and submit to the division a revised proposed contract. If
29 the division determines that revisions are substantial, the
30 contracting unit shall hold a public hearing on the revisions
31 pursuant to the provisions of section 26 and section 27 of [this
32 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161
33 and 13:1E-162).

34 c. (1) Within 30 days of receipt of the hearing report submitted
35 by a contracting unit pursuant to the provisions of subsection b.
36 of section 27 of [this amendatory and supplementary act]
37 P.L.1985, c.38 (C.13:1E-162), the Board of Public Utilities shall
38 approve or conditionally approve the proposed contract submitted
39 by the contracting unit pursuant to the provisions of [this
40 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-136
41 et al.). The board shall approve the proposed contract if it finds
42 in writing that the terms of the proposed contract are in the
43 public interest. If the board conditionally approves the proposed
44 contract it shall state in writing the revisions which must be
45 made to the proposed contract to receive approval, and the
46 contracting unit may prepare and submit to the board a revised
47 proposed contract. If the board determines that the revisions are
48 substantial, the contracting unit shall hold a public hearing on the
49 revisions pursuant to the provisions of section 26 and section 27

1 of [this amendatory and supplementary act] P.L.1985, c.38
 2 (C.13:1E-161 and 13:1E-162). In reviewing and approving the
 3 contract, the Board of Public Utilities shall not determine a rate
 4 base for, or otherwise regulate the tariffs or return of, the
 5 proposed resource recovery facility. [The] Except as otherwise
 6 provided in section 5 of P.L. . c. (C.) (now before the
 7 Legislature as this bill) or in paragraph (2) of this subsection, the
 8 board shall not, thereafter, conduct any further review of the
 9 contract.

10 (2) Within 30 days of receipt of a substantially revised or
 11 amended contract submitted by a contracting unit pursuant to the
 12 provisions of subsection c. of section 5 of P.L. , c. (C.)
 13 (now before the Legislature as this bill), the board shall approve
 14 the substantially revised or amended contract if it finds in
 15 writing that the terms of the contract are in the public interest.

16 d. Notwithstanding the provisions of subsection c. of this
 17 section, all parties to any contract may request the board to
 18 determine a rate base for the proposed resource recovery
 19 facility, in which case the board may make that determination
 20 and the terms of any contract so approved shall remain subject to
 21 the continuing jurisdiction of the board.

22 (cf: P.L.1985, c.38, s.28)

23 18. Section 29 of P.L.1985, c.38 (C.13:1E-164) is amended to
 24 read as follows:

25 29. Any contract to be awarded to a vendor pursuant to the
 26 provisions of [this amendatory and supplementary act] P.L.1985,
 27 c.38 (C.13:1E-136 et al.) or pursuant to the "Local Public
 28 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) or any
 29 other contracting procedure permitted by law for resource
 30 recovery facilities, shall include, where applicable, but need not
 31 be limited to, provisions concerning:

32 a. Allocation of the risks of financing and constructing a
 33 resource recovery facility, [such] which risks [to] shall include,
 34 but need not be limited to:

- 35 (1) Delays in project completion;
- 36 (2) Construction cost overruns and change orders;
- 37 (3) Changes necessitated by revisions in laws, rules or
 38 regulations;
- 39 (4) Failure to achieve the required operating performance;
- 40 (5) Loss of tax benefits; and
- 41 (6) The need for additional equity contributions;

42 b. Allocation of the risks of operating and maintaining a
 43 resource recovery facility, [such] which risks [to] shall include,
 44 but need not be limited to:

- 45 (1) Excess downtime or technical failure;
- 46 (2) Excess labor or materials costs due to underestimation;
- 47 (3) Changes in operating procedure necessitated by revisions in
 48 laws, rules or regulations;
- 49 (4) Changes in the amount or composition of the solid waste

- 1 delivered for disposal;
- 2 (5) Excess operation or maintenance costs due to poor
3 management;
- 4 (6) [Increased] The increased costs [of] associated with the
5 disposal of the residual ash generated at a resource recovery
6 facility [residue];
- 7 (7) The increased costs associated with the disposal of solid
8 waste delivered to a resource recovery facility which cannot be
9 processed at the facility; and
- 10 (8) The costs of disposal of recovered material which cannot be
11 sold;
- 12 c. Allocation of the risks associated with circumstances beyond
13 the control of any party to the contract;
- 14 d. Allocation of the revenues from the sale of energy or other
15 recovered metals and other materials for reuse;
- 16 e. Default and termination of the contract;
- 17 f. The periodic preparation by the vendor of an operating
18 performance report and an audited balance statement of the
19 facility which shall be submitted to the contracting unit, the
20 department and the Division of Local Government Services in the
21 Department of Community Affairs;
- 22 g. The intervals at which the contract shall be renegotiated;
- 23 h. Employment of current employees of the contracting unit
24 whose positions will be affected by the terms of the contract;
- 25 i. Competitive bidding procedures, or other methods of cost
26 control, to be utilized by the vendor in obtaining any goods or
27 services the cost of which will automatically be included,
28 pursuant to the terms of the contract, in the rates to be charged
29 at the resource recovery facility; and
- 30 j. The formulas to be used to determine the charges, rates, or
31 fees to be charged for the resource recovery services, and the
32 methodology or methodologies used to develop these formulas.
- 33 (cf: P.L.1985, c.38, s.29)
- 34 19. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
35 read as follows:
- 36 15. Duration of certain contracts. All purchases, contracts or
37 agreements for the performing of work or the furnishing of
38 materials, supplies or services shall be made for a period not to
39 exceed 12 consecutive months, except that contracts or
40 agreements may be entered into for longer periods of time as
41 follows:
- 42 (1) Supplying of:
- 43 (a) Fuel for heating purposes, for any term not exceeding in the
44 aggregate, two years;
- 45 (b) Fuel or oil for use of airplanes, automobiles, motor vehicles
46 or equipment for any term not exceeding in the aggregate, two
47 years;
- 48 (c) Thermal energy produced by a cogeneration facility, for use
49 for heating or air conditioning or both, for any term not

1 exceeding 40 years, when the contract is approved by the Board
2 of Public Utilities. For the purposes of this paragraph,
3 "cogeneration" means the simultaneous production in one facility
4 of electric power and other forms of useful energy such as
5 heating or process steam:

6 (2) (Deleted by amendment; P.L.1977, c.53.)

7 (3) The collection and disposal of [garbage and refuse]
8 municipal solid waste. [and] or the [barging and] disposal of
9 sewage sludge, for any term not exceeding in the aggregate, five
10 years:

11 (4) The [recycling of solid waste, including the] collection and
12 recycling of methane gas from a sanitary landfill facility, for any
13 term not exceeding 25 years, when such contract is in
14 conformance with a district solid waste management plan
15 approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with
16 the approval of the Division of Local Government Services and
17 the Department of Environmental Protection. The contracting
18 unit shall award the contract to the highest responsible bidder,
19 notwithstanding that the contract price may be in excess of the
20 amount of any necessarily related administrative expenses;
21 except that if the contract requires the contracting unit to
22 expend funds only, the contracting unit shall award the contract
23 to the lowest responsible bidder. The approval by the Division of
24 Local Government Services of public bidding requirements shall
25 not be required for those contracts exempted therefrom pursuant
26 to section 5 of P.L.1971, c.198 (C.40A:11-5);

27 (5) Data processing service, for any term of not more than
28 three years:

29 (6) Insurance, for any term of not more than three years:

30 (7) Leasing or servicing of automobiles, motor vehicles,
31 machinery and equipment of every nature and kind, for a period
32 not to exceed three years; provided, however, such contracts
33 shall be entered into only subject to and in accordance with the
34 rules and regulations promulgated by the Director of the Division
35 of Local Government Services of the Department of Community
36 Affairs:

37 (8) The supplying of any product or the rendering of any service
38 by a telephone company which is subject to the jurisdiction of the
39 Board of Public Utilities for a term not exceeding five years:

40 (9) Any single project for the construction, reconstruction or
41 rehabilitation of any public building, structure or facility, or any
42 public works project, including the retention of the services of
43 any architect or engineer in connection therewith, for the length
44 of time authorized and necessary for the completion of the actual
45 construction;

46 (10) The providing of food services for any term not exceeding
47 three years:

48 (11) On-site inspections undertaken by private agencies
49 pursuant to the "State Uniform Construction Code Act"

1 (P.L.1975, c.217; C.52:27D-119 et seq.) for any term of not more
2 than three years;

3 (12) The performance of work or services or the furnishing of
4 materials or supplies for the purpose of conserving energy in
5 buildings owned by, or operations conducted by, the contracting
6 unit, the entire price of which to be established as a percentage
7 of the resultant savings in energy costs, for a term not to exceed
8 10 years; provided, however, that such contracts shall be entered
9 into only subject to and in accordance with rules and regulations
10 promulgated by the Department of Energy establishing a
11 methodology for computing energy cost savings;

12 (13) The performance of work or services or the furnishing of
13 materials or supplies for the purpose of elevator maintenance for
14 any term not exceeding three years;

15 (14) Leasing or servicing of electronic communications
16 equipment for a period not to exceed five years; provided,
17 however, such contract shall be entered into only subject to and
18 in accordance with the rules and regulations promulgated by the
19 Director of the Division of Local Government Services of the
20 Department of Community Affairs;

21 (15) Leasing of motor vehicles, machinery and other equipment
22 primarily used to fight fires, for a term not to exceed seven
23 years, when the contract includes an option to purchase, subject
24 to and in accordance with rules and regulations promulgated by
25 the Director of the Division of Local Government Services of the
26 Department of Community Affairs;

27 (16) The provision of water supply services or the designing,
28 financing, construction, operation, or maintenance, or any
29 combination thereof, of a water supply facility, or any component
30 part or parts thereof, including a water filtration system, for a
31 period not to exceed 40 years, when the contract for these
32 services is approved by the Division of Local Government
33 Services in the Department of Community Affairs, the Board of
34 Public Utilities, and the Department of Environmental Protection
35 pursuant to P.L.1985, c.37 (C.58:26-1 et seq.). For the purposes
36 of this subsection, "water supply services" means any service
37 provided by a water supply facility; "water filtration system"
38 means any equipment, plants, structures, machinery, apparatus,
39 or land, or any combination thereof, acquired, used, constructed,
40 rehabilitated, or operated for the collection, impoundment,
41 storage, improvement, filtration, or other treatment of drinking
42 water for the purposes of purifying and enhancing water quality
43 and insuring its potability prior to the distribution of the drinking
44 water to the general public for human consumption, including
45 plants and works, and other personal property and appurtenances
46 necessary for their use or operation; and "water supply facility"
47 means and refers to the real property and the plants, structures,
48 interconnections between existing water supply facilities,
49 machinery and equipment and other property, real.

1 personal and mixed, acquired, constructed or operated, or to be
2 acquired, constructed or operated, in whole or in part by or on
3 behalf of a political subdivision of the State or any agency
4 thereof, for the purpose of augmenting the natural water
5 resources of the State and making available an increased supply
6 of water for all uses, or of conserving existing water resources,
7 and any and all appurtenances necessary, useful or convenient for
8 the collecting, impounding, storing, improving, treating, filtering,
9 conserving or transmitting of water and for the preservation and
10 protection of these resources and facilities and providing for the
11 conservation and development of future water supply resources;

12 (17) The provision of solid waste disposal services by a resource
13 recovery facility, the furnishing of products of a resource
14 recovery facility, the disposal of the solid waste delivered for
15 disposal which cannot be processed by a resource recovery
16 facility or the [waste products resulting from the operation of]
17 residual ash generated at a resource recovery facility, including
18 hazardous waste and recovered metals and other materials for
19 reuse, or the design, financing, construction, operation or
20 maintenance of a resource recovery facility for a period not to
21 exceed 40 years when the contract is approved by the Division of
22 Local Government Services in the Department of Community
23 Affairs, the Board of Public Utilities, and the Department of
24 Environmental Protection; and when the resource recovery
25 facility is in conformance with a district solid waste management
26 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For
27 the purposes of this subsection, "resource recovery facility"
28 means a solid waste facility constructed and operated for the
29 incineration of solid waste for energy production and the
30 recovery of metals and other materials for reuse; or a
31 mechanized composting facility, or any other solid waste facility
32 constructed or operated for the collection, separation, recycling,
33 and recovery of metals, glass, paper, and other materials for
34 reuse or for energy production;

35 (18) The sale of electricity or thermal energy, or both,
36 produced by a resource recovery facility for a period not to
37 exceed 40 years when the contract is approved by the Board of
38 Public Utilities, and when the facility is in conformance with a
39 district solid waste management plan approved pursuant to
40 P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this
41 subsection, "resource recovery facility" means a solid waste
42 facility constructed and operated for the incineration of solid
43 waste for energy production and the recovery of metals and other
44 materials for reuse; or a mechanized composting facility, or any
45 other solid waste facility constructed or operated for the
46 collection, separation, recycling, and recovery of metals, glass,
47 paper, and other materials for reuse or for energy production;

48 (19) The provision of wastewater treatment services or the
49 designing, financing, construction, operation, or maintenance, or

1 any combination thereof, of a wastewater treatment system, or
2 any component part or parts thereof, for a period not to exceed
3 40 years, when the contract for these services is approved by the
4 Division of Local Government Services in the Department of
5 Community Affairs and the Department of Environmental
6 Protection pursuant to P.L.1985, c.72 (C.58:27-1 et seq.). For
7 the purposes of this subsection, "wastewater treatment services"
8 means any service provided by a wastewater treatment system,
9 and "wastewater treatment system" means equipment, plants,
10 structures, machinery, apparatus, or land, or any combination
11 thereof, acquired, used, constructed, or operated for the storage,
12 collection, reduction, recycling, reclamation, disposal,
13 separation, or other treatment of wastewater or sewage sludge,
14 or for the final disposal of residues resulting from the treatment
15 of wastewater, including, but not limited to, pumping and
16 ventilating stations, facilities, plants and works, connections,
17 outfall sewers, interceptors, trunk lines, and other personal
18 property and appurtenances necessary for their operation:

19 (20) The supplying of materials or services for the purpose of
20 lighting public streets, for a term not to exceed five years,
21 provided that the rates, fares, tariffs or charges for the supplying
22 of electricity for that purpose are approved by the Board of
23 Public Utilities:

24 (21) In the case of a contracting unit which is a county or
25 municipality, the provision of emergency medical services by a
26 hospital to residents of a municipality or county as appropriate
27 for a term not to exceed five years.

28 All multi-year leases and contracts entered into pursuant to
29 this section, except contracts for the leasing or servicing of
30 equipment supplied by a telephone company which is subject to
31 the jurisdiction of the Board of Public Utilities, contracts
32 involving the supplying of electricity for the purpose of lighting
33 public streets and contracts for thermal energy authorized
34 pursuant to subsection (1) above, construction contracts
35 authorized pursuant to subsection (9) above, contracts and
36 agreements for the provision of work or the supplying of
37 equipment to promote energy conservation authorized pursuant to
38 subsection (12) above, contracts for water supply services or for a
39 water supply facility, or any component part or parts thereof
40 authorized pursuant to subsection (16) above, contracts for
41 [resource recovery services or] a resource recovery facility
42 authorized pursuant to subsection (17) above, contracts for the
43 sale of energy produced by a resource recovery facility
44 authorized pursuant to subsection (18) above, contracts for
45 wastewater treatment services or for a wastewater treatment
46 system or any component part or parts thereof authorized
47 pursuant to subsection (19) above, shall contain a clause making
48 them subject to the availability and appropriation annually of
49 sufficient funds as may be required to meet the extended

1 obligation, or contain an annual cancellation clause.

2 The Division of Local Government Services shall adopt and
3 promulgate rules and regulations concerning the methods of
4 accounting for all contracts that do not coincide with the fiscal
5 year.

6 (cf: P.L.1989, c.159, s.2)

7 20. This act shall take effect immediately.

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STATEMENT

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12 This bill would establish procedures to facilitate the
13 negotiation and adoption, and State agency approval of,
14 interdistrict agreements for the utilization of resource recovery
15 facilities on a regional basis.

16 Any owner or operator of a resource recovery facility may
17 enter into an interdistrict agreement with a designated agency
18 for the provision of resource recovery services under the
19 procedures set forth in this bill. "Resource recovery services" are
20 defined as the services provided by an owner or operator,
21 including the utilization of the resource recovery facility for the
22 disposal of out-of-district solid waste on a long-term basis, under
23 the terms of an interdistrict agreement.

24 An "owner or operator" would also include any vendor which
25 has been awarded a contract pursuant to the provisions of
26 P.L.1985, c.38 (C.13:1E-136 et al.); or any bistate authority,
27 county or public authority holding any equity in or debt liability
28 of that resource recovery facility.

29 A "designated agency" means the department, unit or
30 committee of the county government designated by the board of
31 chosen freeholders to supervise the implementation of the
32 district solid waste management plan; or any instrumentality of
33 the county which has jurisdiction over solid waste disposal,
34 including statutory power to enter into interdistrict agreements.

35 An owner or operator must submit any proposed interdistrict
36 agreement negotiated with a designated agency for the provision
37 of resource recovery services to the Division of Rate Counsel for
38 review, and to the Department of Environmental Protection, the
39 Board of Public Utilities, and the Division of Local Government
40 Services for review and approval.

41 The DEP would approve the proposed interdistrict agreement if
42 it finds that the terms of the proposed interdistrict agreement
43 are consistent with the district solid waste management plan
44 adopted pursuant to the provisions of the "Solid Waste
45 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) by each
46 district to be served under the terms of the proposed interdistrict
47 agreement.

48 However, if the department determines that the terms of the
49 proposed interdistrict agreement require substantial revisions or

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1 amendments to a contract previously approved by DEP pursuant
2 to section 28 of P.L.1985, c.38 (C.13:1E-163), the department
3 would require the owner or operator to hold a public hearing on
4 these revisions or amendments pursuant to the provisions of
5 section 26 and section 27 of P.L.1985, c.38 (C.13:1E-161 and
6 13:1E-162). The owner or operator would be considered to be a
7 contracting unit for the purposes of the public hearing. Following
8 the close of the public hearing, the owner or operator must
9 submit the substantially revised or amended contract to the
10 department and the Board of Public Utilities for review and
11 approval.

12 Within 30 days of receipt of a substantially revised or amended
13 contract submitted by the owner or operator, the department
14 would approve the substantially revised or amended contract if it
15 finds that the terms of the contract are consistent with the
16 district solid waste management plans of the districts to be
17 served under the terms of the contract.

18 The Division of Local Government Services would approve the
19 proposed interdistrict agreement submitted by an owner or
20 operator if it finds in writing that the terms of the proposed
21 interdistrict agreement are in compliance with the provisions of
22 section 6 of the bill, and that the terms of the proposed
23 interdistrict agreement will result in the provision of services or
24 facilities necessary for the health, safety, welfare, convenience
25 or betterment of the recipients or users of these services or
26 facilities, that the terms and provisions of the proposed
27 interdistrict agreement are not unreasonable, exorbitant or
28 impracticable, would not impose an undue and unnecessary
29 financial burden on the citizens served by the proposed
30 interdistrict agreement, and will not materially impair the ability
31 of the owner or operator or the designated agency to punctually
32 pay the principal and interest on its outstanding indebtedness and
33 to supply other essential public improvements and services. The
34 Division of Local Government Services would be bound by any
35 applicable findings or determinations of the Local Finance Board
36 made pursuant to the provisions of subsection d. of N.J.S.40A:2-7
37 or section 7 of P.L.1983, c.313 (C.40A:5A-7).

38 The Board of Public Utilities would approve the proposed
39 interdistrict agreement if it finds in writing that the terms of the
40 proposed interdistrict agreement are in the public interest.

41 However, if the board determines that the terms of the
42 proposed interdistrict agreement require substantial revisions or
43 amendments to a contract previously approved by the board
44 pursuant to section 28 of P.L.1985, c.38 (C.13:1E-163), the board
45 would require the owner or operator to hold a public hearing on
46 these revisions or amendments pursuant to the provisions of
47 section 26 and section 27 of P.L.1985, c.38 (C.13:1E-161 and
48 13:1E-162). The owner or operator would be considered to be a
49 contracting unit for the purposes of the public

1 hearing. Following the close of the public hearing, the owner or
2 operator must submit the substantially revised or amended
3 contract to the board and the Department of Environmental
4 Protection for review and approval.

5 Within 30 days of receipt of a substantially revised or amended
6 contract submitted by the owner or operator, the board would
7 approve the substantially revised or amended contract if it finds
8 in writing that the terms of the contract are in the public
9 interest.

10 Under section 6 of the bill, any proposed interdistrict
11 agreement must include provisions including:

12 Allocation of the risks of refinancing and expanding the
13 disposal capacity of a resource recovery facility, such risks to
14 include:

- 15 (1) Delays in project completion;
- 16 (2) Construction cost overruns and change orders;
- 17 (3) Changes necessitated by revisions in laws, rules or
18 regulations;
- 19 (4) Failure to achieve the required operating performance; and
- 20 (5) The need for additional equity contributions;

21 Allocation of the risks of providing resource recovery services,
22 such risks to include:

- 23 (1) Excess downtime or technical failure;
- 24 (2) Excess labor or materials costs due to underestimation;
- 25 (3) Changes in operating procedure necessitated by revisions in
26 laws, rules or regulations;
- 27 (4) Changes in the amount or composition of the solid waste or
28 out-of-district solid waste delivered for disposal;
- 29 (5) Excess operation or maintenance costs due to poor
30 management;
- 31 (6) The increased costs associated with the disposal of the
32 residual ash generated at a resource recovery facility;
- 33 (7) The increased costs associated with the disposal of solid
34 waste delivered to a resource recovery facility which cannot be
35 processed at the facility; and
- 36 (8) The costs of disposal of recovered material which cannot be
37 sold;

38 Allocation of the risks associated with circumstances beyond
39 the control of any party to the interdistrict agreement;

40 Allocation of the revenues from the sale of energy or other
41 recovered metals and other materials for reuse;

42 Default and termination of the interdistrict agreement;

43 The intervals at which the interdistrict agreement shall be
44 renegotiated; and

45 The formulas to be used to determine the charges, rates, or
46 fees to be charged for the provision of resource recovery
47 services, and the methodology or methodologies used to develop
48 these formulas.

WASTE MANAGEMENT

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4

Establishes procedures for State approval of agreements for use of resource recovery facilities on a regional basis.

Warren County was the first county to finance and cause to be constructed a resource recovery facility in New Jersey. As the first county to so proceed, we faced many obstacles which other counties will not have to face; i.e., the absence of regulations governing permits for RRF's, the lack of an established way to regulate the rate charged for disposal of waste such as garbage and ash, uncertainties in the financial community over N.J.'s resolve to implement an RRF scheme, and many, many others which are too numerous to mention here.

We also had many benefits which others did not have that were occasioned by the regulatory agencies' desire to have such a facility on line. The permitting process e.g. was remarkably short. The BPU cooperated in implementing the initial and interim rates and granted the PCFA a franchise in what can be characterized as record time.

The fireup at the facility was on July 3, 1988. Shakedown and start-up was completed and commercial operations begun on December 1, 1988.

The Warren County District Landfill began accepting ash for storage on or about September 15, 1990; a separate cell for non-processed waste will be completed on or about December 15, 1990 at which time Warren County will be self-sufficient in solid waste disposal for the next 18 years and beyond.

As part of its burden of pioneering, Warren County was the first county to experience the problems created by the Solid Waste Management Act as a result of the control it vests in the 22 Solid Waste Management Districts and the "cheap" (in the short term) out-of-state disposal options available to our sister counties.

The Warren County Facility was rated at 400 TPD with a reference fuel of 5,300 BTU/lb. At 85% boiler availability, this corresponded to 124,100 TPY of throughput. Warren County's waste projections were for 90,000 TPY and Warren Concluded an agreement with Hunterdon County for an additional 30,000 TPY and guaranteed the vendor that it would put or pay 116,800 tons per year at the facility.

When operations began at the facility, it became obvious

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that Warren County had only 60,000 TPY which, coupled with the 30,000 TPY from Hunterdon, was far short of the 116,800 or 124,100 TPY. The first response to this problem was to survey whether or not the shortfall represented an enforcement problem. Intensive enforcement revealed that there was virtually 100% compliance by the haulers and that the shortfall was an actual, as opposed to a paper, problem.

The second response was an attempt to obtain waste from other counties, but virtually every county in northern New Jersey told us that our \$98/ton was too expensive compared to the \$58 - \$68/ton at landfills in Pennsylvania and elsewhere.

We accelerated our existing Interdistrict Agreement with Hunterdon County so that for six months (Dec. '88 - June '89), we received all 30,000 tons of annual commitment during that 6-month period. During that time, we accelerated our efforts to obtain the additional necessary waste elsewhere. At the same time, we found out that the facility was capable (for technical reasons not germane here) of handling 500 tons per day making the shortfall and, hence, the potential economic impact on the rate payer much greater.

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By negotiating with Somerset County, we were able to convince them that there were broad areas in which Warren Somerset Counties' interests for the long term coincided. After six months of negotiation, we concluded that those areas are as follows: (1) present incineration of about 1/3 of their processible waste going to 1/2 in the year 2001; (2) recycling; (3) sludge disposal; (4) back-up landfill space in the Warren County District Landfill for a 3-year period if they are precluded from using an out-of-state landfill in the future. Moreover, the agreement eliminated the need for Somerset to build an incinerator and landfill, with the resultant savings going to it. The agreement provided that Somerset would commit to Warren and Warren would take control of 1,400 TPW of waste. Thus 72,800 tons were added to the waste system, bringing the total to 162,800 vs. the 90,000 from Warren and Hunterdon.

Simultaneously, we negotiated changes in the Service Agreement with the vendor which effectively removes the vendor's ability to secure waste from third parties by guaranteeing it enough waste (148,920 tons per year) from Warren County backed by Somerset and Hunterdon's put or pay agreements. These changes return well over \$1,000,000 per year escalating over the life of

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the agreement to our rate payers (\$7.85/ton in rate stabilization in the current year.)

When this agreement is finalized with the approval of the Board of Public Utilities and the Department of Environmental Protection, we will have concluded a win/win situation for both counties. The BPU and the DEP cooperated in cutting the red tape and implementing emergency flow orders which have made the plan a reality. All of this was accomplished within the existing statutory and regulatory framework and none of the proposed changes in A-10 would have facilitated them.

This restructuring was brought about as the result of the recognition of a basic flaw in the economic basis of projects completed during the early to mid-1980's. That philosophy was to have excess capacity available to offset future growth in waste generation rates. Thus, projects presently proposed by and large have an excess capacity over the amount of available waste. Aside from the fact that this discourages recycling, it has created a market for excess waste in this State which can be filled by other counties to the mutual benefit of all.

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It was this economic reality that led the Authority and Warren County into an agreement with Somerset and Hunterdon Counties and is now leading Morris to talk with Essex and many other counties to talk to each other. I believe that the reality of the market place will cause the agreements to take place and that the role of the Legislature is somewhat limited in causing these marriages. What is needed is not more legislation, but the implementation of the existing legislation. If the eight or nine projects presently in the pipeline are built, there will, as a matter of simple market economics, be interdistrict agreements. So long as the regulatory process remains as an impediment to implementation of the stated public policy of this State (i.e., that incineration plays an important role), adding more layers of bureaucracy to the interdistrict process will simply compound the failures already in place.

There is one striking area in which existing legislation has impeded agreements - the so-called McEnroe taxes. In 1988, the Authority asked the DEP for its position on the Solid Waste Importation Tax which will ultimately burden interdistrict waste shipments and, therefore, agreements by \$21/ton. The NJDEP took the position that the taxes should be imposed, at the landfill,

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in order to encourage the construction of resource recovery facilities even though Warren County had already built such a facility and vigorously opposed the tax. We are presently before the Supreme Court seeking relief from this burden which has been applied in an arbitrary and counterproductive manner.

P.2 - "Resource Recovery Services" needs to have added to it "including any sanitary landfill utilized to accept ash or unprocessed municipal solid waste from the waste stream supporting a RRF." Without a landfill, the RRF is not viable. This absence caused the Ironbound case in Essex County and is the prime cause of our pending case in the Supreme Court.

This amendment will clarify the provisions of N.J.S.A. 13:1E-138; solid waste services, solid waste importation and resource recovery investment taxes which are, or will be, levied upon unprocessed waste which finds its way to the landfill.

P. 2, Sec. 3 -Interdistrict agreements - should not be reviewed by the Rate Counsel or Division of Local Governmental Services separately since their input is sought in the context of plan amendments. To add a separate level of review will delay

the implementation of such agreements and add needless cost to the process. Existing BPU & DEP flow order and rate process are adequate and have been utilized satisfactorily in the past.

P.2, Sec. 4 - same comment.

P.2, Sec. 5(2) - Public hearing is not necessary. The regulatory process is sufficient to protect the public interest. Interdistrict agreements should improve the economics by solidifying the waste stream and making the per ton costs more reasonable. There is no need for extra layers of bureaucratic review which are costly and counterproductive. They are costly in the sense that there are huge out-of-pocket costs including review costs by some agencies and delays which have a direct impact on the cost of the project without any offsetting environmental benefits. What is needed is not more legislation but rather an implementation of existing legislation specifically those goals and objectives set forth in N.J.S.A. 13:1E-136. If the Legislature intends to retreat from these principles as one might infer from the changes to Sec. 6(a)(3) and 12(b)(2), then it ought to do so directly and modify the stated public policy as set forth in 1E-136 and not indirectly by smothering it in

another layer of bureaucracy. If you intend to retreat from 1E-136, you should step up to the issue directly and not send out conflicting and contradictory messages which will only hurt the process (e.g., the financial community has relied extensively on 1E-136 and any retreat will carry a price tag with it).

Same comment on Sec. c - no need for Division of Local Governmental Services' involvement in this.

P. 4 c(2) - No need for public hearing - Board has jurisdiction to approve or disapprove the agreement - why public hearing?

Need to separate expansion of existing facility and new financing from utilization of capacity in existing facility. If the latter, all regulatory approvals are appropriate.

P. 7 (c) - Shotgun marriages do not work.

(d) - Same.

(e) - Same.

While Warren County has been a leader in both resource

recovery and interdistrict relations, it will resist, vigorously, any attempt to expand its facilities or to force unwanted partners on it. That sentiment will probably be expressed by every other county as well.

There already exist sufficient regulatory powers to cover this - giving the DEP the power to mandate - the issue is matching capacity to supply - putting the DEP in this position will simply stiffen local opposition which, coupled with all the hearings, will create an atmosphere of delay and confusion - those districts prepared to move ahead should be permitted to do so and market conditions will solve the excess capacity issue.

If the provisions of (3) on P. 7 are designed to give the DEP the power to operate RRF's, that power is misplaced.

P. 11 b(1) - MUA, PCFA, etc.

P. 16 - Definition of "Public Authority" should be expanded to include the PCFA.

P. 22(b)(6) - Should require the DEP to have in place an ash

disposal policy within 60 days of adoption of the bill. This risk created by the absence of a State policy has cost the Warren rate payers millions of dollars and approximately \$10 - \$15/ton of garbage.

P. 25(17) - Fourth line down, the word "cannot" should be changed to "is not."

In conclusion, we applaud the Legislature's clear direction contained in 13:1E-136 as it is the vehicle which permitted us to persuade the financial community that these projects are viable in New Jersey. What is needed now is for the regulatory agencies to implement this policy, rather than the ambiguous message which is contained in A-10. The former will lead to interdistrict cooperation; the latter will not.

REMARKS OF WILLIAM E. GODFREY, EXECUTIVE
DIRECTOR OF THE SALEM COUNTY UTILITIES
AUTHORITY BEFORE THE ASSEMBLY WASTE MANAGEMENT
PLANNING AND RECYCLING COMMITTEE WITH COMMENTS
ON ASSEMBLY BILL NO. A-10 AND ON THE 60% RECYCLING
GOAL.

Chairman McEnroe and members of the Assembly Waste Management Planning and Recycling Committee, please permit me to express my personal appreciation and that of the Salem County Utilities Authority for your invitation and the opportunity to appear before you to provide comments on proposed Assembly Bill No. 10, and on the new 60.0% recycling goal.

My name is William E. Godfrey, and I am the Executive Director of the Salem County Utilities Authority which is the solid waste management plan implementation agency in the Salem County Solid Waste District.

It was previously my pleasure to be able to express opinions of the Salem County Utilities Authority during the course of the hearings conducted by the Governor's Emergency Task Force on Solid Waste Assessment.

The Salem County Utilities Authority was opposed to the direction that the Governor's Task Force appeared to be taking as it approached the formulation of its final position. Specifically, the Salem County Utilities Authority is opposed to the general conclusions and recommendations of the Task Force Report.

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For essentially the same reasons, the Salem County Utilities Authority is generally opposed to the direction of Assembly Bill No. 10.

GENERAL COMMENTS

First, one of my Authority's immediate concerns is the speed with which Assembly Bill A-10 has appeared on the scene, and the speed at which you are proceeding to conduct hearings.

The public is largely dependant on the broadcast and print media to inform it of the nature and scope of the activities of government. The Emergency Task Force Report was delivered to the press only this past August, and the focus of the Task Force was on the laudatory 60% recycling goal established in the Task Force Report, and now embraced by the Governor.

However, beneath that attractive goal, and submerged within the report, is a much more substantive and insidious set of procedures which totally alter the manner in which the solid waste districts will do future business in the State of New Jersey --- if such concepts are implemented by this legislation (A-10).

As you know, the second Paragraph under Section 1 on Page 50 of the August 6, Emergency Task Force Report states as follows:

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At the same time it should be recognized that some counties have developed their own disposal solutions and these counties should not be penalized for solving their own solid waste needs.

The Salem County Utilities Authority believes that Salem County has solved its own solid waste needs. It should not now be penalized by becoming a waste disposal solution for some other part of the State of New Jersey.

The Salem County Utilities Authority, and Salem County for that matter, believe that the concepts within A-10 would constitute a substantial penalty to Salem County.

Under the current Solid Waste Management Act, there are 22 solid waste districts, each of which is a comparatively autonomous entity permitted to establish, under the authority of the Legislation, its own solid waste management plan. The role of the DEP and BPU under current legislation is that of a benign reviewing agency whose job essentially is to assure that each district's solid waste management plan and its amendments, from time to time, remain within the scope, authority and framework of the State Solid Waste Management Act.

The recommendations of the Governor's Emergency Task Force and the clear signal of A-10 is that the role of the DEP will be one that is no longer a benign reviewing process, but vastly expanded role in which it becomes an aggressive, adversarial and dictatorial super power whose authority pre-empts that of the sovereign counties.

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Not only is this proposal an emasculation of local governmental control, it places in the hands of non-elected officials in Trenton the consummate authority to redirect solid waste within the State of New Jersey. The result is unfavorable to those areas or counties where DEP deems that a substantial or excess capacity to deal with solid waste exists.

In short, this bill would give to the DEP the power to make dumps out of South Jersey counties for those North Jersey counties who have been negligent or who have been unable or unwilling to cope with or resolve their own solid waste problems.

To say the least, this is totally unacceptable to the citizens of Salem County.

The landfill in Salem County, which is only 40 acres, is at the present time capable of dealing with Salem County solid waste for a period of at least 20 years, perhaps longer if the ambitious recycling goals are achieved in the coming years. The idea that others may now decide that Salem County should be the receptacle for waste generated in other counties penalizes Salem County by consuming its valuable landfill space and by shortening the life of its landfill and Salem County's own self-sufficiency.

A-10 speaks in terms of "resource recovery" as if that term had the limited meaning of being a mass-burn incineration. The fact of the matter is that neither the DEP nor any one of the 22 solid waste districts uses the term "resource recovery"

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in such a limited context. Resource recovery has the contemporaneous meaning which includes recycling, reuse, and any activity which constitutes non-disposal.

From the perspective of Salem County, A-10 heads in the wrong direction. The concept of regionalization is not automatically suspect. Salem County certainly would not oppose any opportunity to deal with a problem on a regional basis so long as the County's participation was voluntary and involved the County's mutual consent. Inter-governmental agreements are a great device for governments to share resources and divide costs and other burdens. The key word, however, is that these are agreements meaning that there is a complete consent by all the participants.

A-10 leaves out this critical element in addressing the concept of regionalization. Moreover, A-10 presumes the infinite wisdom of government bureaucrats in Trenton, and the capacity of a central state government to not only comprehend the scope of a problem, but to have the sole capacity for perfect insight on the solution of such a problem. That totally emasculates the concept of home rule at a county level and essentially replaces the will of citizens of a sovereign county. A-10 gives to the DEP and BPU broad sovereign super powers to override the interests of local communities and county governments. The Salem County Utilities Authority opposes such a transfer. That is unnecessary and improper.

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The idea that the DEP or BPU could now dictate, for example, that Salem County is part of the Essex County or Morris County solid waste solution would be incredibly offensive to the citizens of Salem County. Furthermore, the apparent powers being given to the DEP and BPU under A-10 to take property by condemnation to establish facilities without involvement of the counties themselves is unacceptable. Such a power in a State agency under the guise of serving a "greater interest" is nothing more than an undisguised power of a State agency to make determinations as to which property in the State can be developed to its highest and best use, and which property will be allowed to be directed to its lowest possible and least advantageous use as a dump pot for the refuse of humanity.

One of the reasons why we strongly oppose the speed with which you are proceeding with this kind of legislation is that the effects of public information about recycling and solid waste disposal are only now manifesting themselves with a high level of public awareness. As the costs of solid waste disposal have vastly increased over the past five years, the signal has gone out to the inventive and ingenious minds of private citizens, corporations, scientists and governments to devise new ways to deal with waste disposal in an environmentally sound fashion. We are now on the cutting edge of a technology change which has the potential to be able to allow for solid waste disposal in ways not contemplated a mere few months ago.

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To summarize:

* While this legislation proposes to implement interdistrict, intradistrict, and interstate flow of solid waste as it pertains to "resource recovery", the fact remains that it has not explained the role of those counties, such as Salem, which have eliminated mass burn "resource recovery" as a disposal option.

* The NJDEP/BPU's ability to acquire land by purchase, grant, contract, or condemnation without consideration of either county or municipal government is excessive, unnecessary and alarming.

* The suggested continual development of new solid waste management plans is unrealistic. Amending existing plans as the need arises, as under the current system, appears to be a more prudent avenue to follow.

* The authorization given to the State by A-10 to require any solid waste district to provide either capacity or sites to other solid waste districts is simply unacceptable and penalizes those counties which have adequately planned for their solid waste disposal needs.

* From our perspective, the counties which have eliminated mass burn resource recovery as a disposal alternative should be exempt from this legislation (A-10).

* Finally, a county like Salem should not be forced to enter into any agreement which is not mutually beneficial. The fact that A-10 provides for NJDEP/BPU intervention in spite of a

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county's expressed desire to be uninvolved reeks of centralization of power and removes the right of the people to freely follow their selected course.

* * *

COMMENTS ON RECYCLING

With respect to achieving a 60% goal of recycling, I believe there are a number of global changes that need to occur. Although there was technology available during World War II to use every bit of scrap metal that could be gathered in the United States, we now permit vast amounts of scrap metal to be thrown into our landfills. Federal and State governments need to do something which provides an incentive to manufacturers to reuse scrap metal more than occurs at present, and to induce the manufacturers to produce metallic parts that are made of reusable alloys.

In fact, the most significant thing we could do to achieve maximum recycling is to enforce a concept which is already prevalent in the market place among private citizens. When individuals are prepared to purchase a new appliance such as a washer, dryer or refrigerator, they now typically insist upon dealing only with someone who will take the old appliance away and not leave that chore to them. This concept could be made applicable to most of industry.

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Almost every picture of a solid waste facility or landfill that appears on television shows old television sets and other electronics equipment that is being dumped into a landfill. Manufacturers ought to be required to assemble their products out of reusable plastic and metal parts that could be readily broken down for reuse or remanufacture. Companies selling television sets should be required to take back an old television set at some point in time.

I am sure that you are already aware of the prevailing concept that the way to achieve recycling is to compel manufacturers to reduce the use of non-recyclable materials in packaging.

New Jersey State government should urge the Federal Postal system to impose additional costs on bulk mailing permits in an effort to prevent one of the largest generic waste generators in the world from continuing, namely, the direct mail industry which sends to each home in America unwanted brochures, letters and solicitations and test products.

The use of windows on envelopes may be cost effective in that the address does not have to be typed twice, but the glassine windows in envelopes makes the envelopes unrecyclable unless the glassine is completely removed. Very few Americans even in a State like New Jersey that is well tuned to the need to recycle are willing to spend the amount of time necessary to peel away the glassine envelopes to make the rest of the

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envelope recyclable. Hence, the entire envelope ends up in the solid waste stream.

Many paper, metal and glass products are made unusable and undegradable by the application of a plastic film. Obviously, that should cease and the State of New Jersey has the clout to force the issue.

If we could somehow impose a requirement that prevents manufacturers from selling a product that manufacturers are unwilling to take back when its intended use is completed, would be a remarkable job at reducing solid waste.

Huge amounts of bulky items such as mattresses, box springs and sofas end up in landfills when they are finally soiled beyond reasonable use. How much better it would be if the manufacturers were forced to strip down these bulky items or pay to have them stripped down by a government entity so that the only thing remaining to be disposed of in the solid waste stream would be soiled fabrics rather than the wood and metal that compose the frames of those bulky items.

Finally, educating our children so that they grow up conscious of the need to recycle and the benefits of recycling is the most effective way to force changes in the market, in products, and in habits.

I am afraid my comments on recycling offer no new concepts. The incentive of cash offered to local governments to enhance recycling efforts works effectively. Despite budget constraints, cash incentives through grants, use of Resource

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Recovery Investment Tax (RRIT) funds for recycling, and programs like Clean Communities which taxes waste generators should be continued.

* * *

My sincere thanks to the Committee for allowing Salem County to participate in the legislative process through these remarks.

While we may not share common ideas on how to increase recycling or on how to dispose of waste, I sincerely believe we all share a common interest in protecting and preserving our environment and our respective communities from the burdens of solid waste disposal.

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1 November 1990

Testimony on Assembly Bill A10

Melvin S. Finstein, Ph.D.

Professor of Environmental Science

Cook College, Rutgers University

New Brunswick, New Jersey

.....

Assembly Bill A10 concerns municipal solid waste (MSW) management. In testifying today on this Bill, I rely heavily on a book published by the United States Congress, Office of Technology Assessment ("Facing America's Trash: What Next for Municipal Solid Waste?" OTA-O-424 Washington, DC, U.S. Government Printing Office, October, 1989). This OTA publication is comprehensive and partly succeeds in bringing order out of a very disorderly subject. As such, I would use its definitions and characterizations.

OTA defines the MSW stream as follows:

"MSW is solid waste generated at residences, commercial establishments (e.g., offices, retail shops, restaurants) and institutions (e.g., hospitals and schools)."

The nominal composition of MSW is given as follows (percent by weight as received): paper/paperboard, 36; yard waste, 20; food waste, 9; textile/wood, 6; rubber/leather, 3; plastics, 7; metals, 9; glass, 8; miscellaneous inorganics, 2.

Defined and characterized thusly, it is seen that approximately 40% of the material could be recycled in the sense of conversion to secondary raw materials (e.g., metals, glass, plastic and suitable paper). Another 40% could be transformed through composting to a smaller volume and weight of sanitized, stabilized process residue usable as a compost. This refers to materials such as leaves, brush, grass, and other yard waste; food waste, food tainted paper, paper that intrinsically is not usable as secondary raw material or lacks markets; whole disposable diapers with contents (plastic sheet separates during processing), pet litter. This would leave approximately 20% of the waste stream to be landfilled or possibly incinerated prior to landfilling.

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Note that the second 40% consists of materials that are both combustable and biologically degradable. That is, these materials could be either incinerated or composted. To return to the U.S. Office of Technology Assessment again for a moment, OTA favors the composting alternative because it leads to the reuse of material. Given source reduction, OTA's philosophical cornerstone is materials reuse.

The 20% of the material that does not lend itself to recycling or composting can be landfilled directly, in that it is relatively inert biologically. If it is to be incinerated, New Jersey already has sufficient incinerator capacity for this fraction.

This leads to the main points of my testimony.

- There is no justification for the construction of additional incinerators for MSW or expansion of existing ones.

- Interdistrict agreements involving incineration should exclude materials that are compostable.

- The development of a waste management infrastructure comprised of effective separation systems (completes job started in the household) and *well-designed* composting systems should be encouraged.

(See accompanying handout "Comparative Evaluation of Composting Systems in the Waste and Mushroom Industries.")

I would urge that Assembly Bill A10 be structured to bring about these goals.

Thank you for the opportunity to testify on this important matter.

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COMPARATIVE EVALUATION OF COMPOSTING SYSTEMS OFFERED
IN THE WASTE AND MUSHROOM INDUSTRIES

M.S. Finstein, Ph.D.

Professor of Environmental Science

November 1990

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SUMMARY

The highly politicized nature of the solid waste field has, not surprisingly, encouraged amateurism in the design of composting systems. Of the many deficiencies in the systems offered in this field, the most basic is inadequate or mediocre biological process control. There is a danger that immature and inferior, yet costly, systems will be sited in New Jersey. The current permitting review process of the NJDEP does not protect against this outcome.

In contrast, certain "tunnel" systems offered in the mushroom growing industry, which relies on composting, are technologically mature, conform to settled scientific understanding of composting, and are well-proven in the routine processing of a variety of demanding agricultural residues. This situation reflects the highly competitive nature of the mushroom business, which encourages excellence in composting system design. For *waste management* purposes, such systems are distinctly superior to those originating in the waste field.

Facilities based on available, excellent composting technology, in conjunction with up-front separation and size reduction/homogenization, would provide a sound basis for cost effective, implementable solid waste management.

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MAJOR FACILITY ELEMENTS

A solid waste management facility for recycling and composting consists of three major elements (unit processes). The first completes the job of separation started in the household, to yield fractions for recycling, landfilling, and composting. The second element size-reduces and homogenizes the fraction to be composted. The third element is the composting system itself, in which the waste is transformed through biological action to a lesser weight and volume of stabilized, sanitized process residue that is storable, transportable and usable as a compost.

Whereas the first and second elements involve physical processes (e.g., sorting, chopping), the third involves the management of a microbial ecosystem. This can be accomplished through the considered use of ambient air to remove heat and supply oxygen. The present evaluation addresses the composting element exclusively.

COMPARATIVE EVALUATION

A number of companies in the waste industry are actively vying to have their solid waste management systems adopted by New Jersey communities. Although such systems typically include all three elements described above, they are commonly labeled "composting systems." This loose terminology, which lumps together noncomposting unit processes with the biological process itself, further obscures an already thoroughly confused public discussion and decision-making process. Again, only composting *per se* is addressed here.

The highly politicized nature of the solid waste field has, not surprisingly, encouraged amateurism in the design of composting systems. There are many deficiencies in the systems offered in this field, but the most basic of these is inadequate or mediocre biological process control. There is a danger that immature and inferior, yet costly, systems will be sited in New Jersey. The current permitting review process of the NJDEP does not protect against this outcome.

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A recent development is that at least two companies in the mushroom industry, which relies on composting, now offer their composting "tunnel" systems to serve as the biological (composting) element of waste management facilities. These systems are technologically mature, conform to settled scientific understanding of composting, and are well-proven in the routine processing of a variety of demanding waste materials. This situation reflects the highly competitive nature of the mushroom business, which, unlike the waste field, encourages excellence in composting system design. The unexpected origin of such systems need not inhibit a critical comparative evaluation based on factors predictive of success in waste management (Table 1).

As indicated in this tabulation, in all particulars the composting tunnels are distinctly superior to systems offered in the waste industry. These tunnel systems have been successfully tested with municipal solid waste. They routinely process a range of agricultural residues, such as various combinations of horse manure, chicken manure, wheat straw, chopped corn cobs, cotton seed meal, etc. In terms of physical and biological properties, these are demanding materials. A thorough search was made for contraindications to the use in municipal waste management of systems originating in a different industry. No scientific, technical, or operational contraindication was found.

It is concluded that for *waste management* purposes such systems are distinctly superior to those originating in the waste field. Facilities based on available, excellent composting technology, in conjunction with up-front separation and size reduction/homogenization, would provide a sound basis for cost effective, implementable, solid waste management.

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Table 1. Comparison of Composting Systems Offered in the Waste and Mushroom Industries

<u>Aspect compared</u>	<u>Waste Industry System^a</u>	<u>Mushroom Industry Tunnel^b</u>
Enclosure	<p>Large "blimp-hanger" bldg encloses entire composting operation, including workplace</p> <p><u>Advantages:</u> none</p> <p><u>Disadvantages:</u> ventilative process control restricted to "air-once-thru;" spent air mixes with bldg air; worker safety issue raised (OSHA); rains or snows in bldg in season; bldg corrodes; volume of air needing final scrub very large (spent + bldg)</p>	<p>Composting material only (not operation) enclosed</p> <p><u>Advantages:</u> permits use of air recirculation in ventilative process control; other advantages noted below</p> <p><u>Disadvantages:</u> none</p>
Materials handling	<p>Various: overhead crane; agitator/translocator; front-end loader; indexing conveyer</p> <p><u>Advantages/disadvantages:</u> compare to tunnel</p>	<p>Tunnel filled using telescoping conveyer with swiveling head; emptied via moving floor above plenum</p> <p><u>Advantages:</u> filling and emptying highly mechanized, as designed for specific purpose; filling homogeneous (swivel); composting inventory neatly sequestered out of sight.</p> <p><u>Disadvantages:</u> none</p>
Biological process control	<p>Assume skillful implementation of Rutgers process control strategy based on temperature feedback^c (most companies have started down this road)</p> <p><u>Advantages:</u> high decomposition rate; good odor prevention</p> <p><u>Disadvantages:</u> air-once-thru (relative volume = 1); steep temperature gradient</p>	<p>Assume nothing; base on existing offered systems employing integrated temp + O₂-feedback, in conjunction with air recirculation^d</p> <p><u>Advantages:</u> very high decomposition rate; excellent odor prevention; relative air volume ≈0.3; shallow temp gradient</p> <p><u>Disadvantages:</u> none</p>

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Table 1 Continuation - Comparison of systems

<u>Aspect compared</u>	<u>Waste Industry System</u>	<u>Mushroom Industry Tunnel</u>
Exhaust air final scrubbing (presumably thru biological filter) ^e	Air volume large (1 + bldg air) <u>Advantages:</u> none <u>Disadvantages:</u> Major operation difficult to sustain	Air volume small ≈ 0.3 <u>Advantages:</u> modest sustainable operation <u>Disadvantages:</u> none
Monitoring progress of Composting	Measurement of decomposition rate not feasible; only indirect parameters monitored	Decomposition rate measured; readout of instantaneous rate available on demand
System track record	Sales brochures, video tapes, and presentations to inexperienced political and managerial decision-makers notwithstanding, the track record is spotty at best	Excellent track record with variety of demanding waste materials

a Based on a composite of systems currently offered in this industry.

b Tunnel is the jargon used to describe the particular type of technology offered by several different companies.

c Finstein, M.S., Miller, F.C., MacGregor, S.T., Psarianos, K.M. 1985. The Rutgers Strategy: Composting Process Design and Control. EPA/600/2-85/059.

d Miller, F.C., Macauley, B.J., Gulliver, A. 1990. Composting Based on Moderate Thermophilic and Aerobic Conditions for the Production of Commercial Mushroom Growing Composts. Australian J. Exp. Agric. Res. 30:287-296

^eThe filter would presumably consist of a bed of highly stabilized, nitrified compost outside of building and extrinsic to tunnel. The size of the bed depends on the volume of air that needs scrubbing.

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TESTIMONY OF THE
INSTITUTE OF RESOURCE RECOVERY

TO THE
ASSEMBLY WASTE MANAGEMENT COMMITTEE

ON
ASSEMBLY BILL 10

NOVEMBER 1, 1992

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Good morning. My name is Margaret Ann Charles and I am the State Affairs Representative for the Institute of Resource Recovery (IRR), the waste-to-energy component of the National Solid Wastes Management Association (NSWMA). I'm here to present the views of the IRR members, the vendors who are planning, building and operating the 12 planned waste-to-energy facilities that will handle the solid waste disposal needs of New Jersey. We appreciate this opportunity to present comments before the Assembly Waste Management Committee concerning A-10, the regionalization bill.

Mr. Chairman, the IRR supports regionalization of resource recovery facilities in the state of New Jersey. We believe regionalization is an important part of the solution to the state's solid waste disposal crisis and we look to the Legislature to install the appropriate mechanisms that will encourage regionalization. The following mechanisms should be included in any legislative proposals that would codify what has evidently become new state policy from the Governor's Task Force Final Report. Without that codification counties are paralyzed; they anticipate review of their solid waste plans under this new state policy, but they must act to develop their plans under existing law of the Solid Waste Management Act.

To encourage regionalization, counties must be given incentives for hosting or participating in a regional project. Specific economic incentives which would achieve this goal include tax

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breaks, waived or reduced permit fees, reimbursement of sunk planning and development costs, and disbursement of the allocated state bond funds.

Furthermore, the permit review and approval process must be amended to expedite the processes and to eliminate ongoing modifications in what is required for approval. Both regulatory agencies should devise a checklist of "permit criteria" which, if satisfied, would lead to expedited approval. The members of IRR want to help New Jersey reach solid waste solutions but we must know in advance what is required for permit approval in order to bring on-line the needed facilities in an expedited and least cost fashion.

Finally, counties should be allowed to identify their solid waste disposal solutions in the ways they see as appropriate. Market forces should determine the balance between the size and location of resource recovery facilities in the state. Counties should be given the latitude to negotiate agreements for their solid waste disposal needs and not be overruled by a state agency otherwise. By allowing market forces to predominate, the difficulties of the siting process will be reduced.

The IRR understands that the sponsor seeks to establish mechanisms to encourage regionalization through the language of Assembly Bill 10. However, there are many areas where this bill actually presents roadblocks to regionalization.

Indeed, instead of receiving economic incentives through A-10, counties would be forced to admit that previously spent funds would have been spent in vain. Regionalization implies that potentially some projects will be abandoned, yet there is no plan for reimbursing counties for the investments they have made in siting projects to comply with the Solid Waste Management Act. Furthermore, additional money would need to be expended to comply with new policy.

Similarly, A-10 represents the opposite of a simplified permit and approval process. New Jersey arguably has the country's most complicated, inefficient and longest permit process. The proposals contained in A-10 would only add additional layers and, therefore, further add to the current problems in the system.

The bill contains areas of inconsistency. The McEnroe Process states that resource recovery should play a principal part in solid waste management planning, yet A-10 removes it as a technique in the state and district solid waste plan strategies. Although A-10 is a regionalization bill, it contains provisions reflecting policy from the Solid Waste Management Act. A-10 cannot be effective as a regionalization bill if it does not identify resource recovery as a viable disposal option. Resource recovery is still a necessary part of the state solid waste plan and must be addressed in the priority list of options.

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Lastly, the counties are left with conflicting messages and neither authority nor leadership from the state. The guidelines, approvals and other aspects of the system need to be made explicit so each group can establish the best solution for its needs.

In conclusion, the IRR supports regionalization of resource recovery facilities in New Jersey. However, we believe there are certain provisions that are not in A-10 but must be contained in a bill that would encourage regionalization. Counties must be given incentives to host or participate in a regional project. The permitting process must be expedited and specific criteria for permit approval must be identified. Counties' efforts in regionalization must not be impeded by not allowing market forces to prevail.

The current language of Assembly Bill 10 contains provisions which are essentially roadblocks to effective implementation of regionalization. Mr. Chairman, the IRR asks that the Committee consider the areas of improvement we have suggested in this testimony.

63x

November 8, 1990

Honorable Harry A. McEnroe
Chairman,
Assembly Waste Management Committee
12 Sloan Street
South Orange, NJ 07079

Dear Assemblyman McEnroe:

Thank you for taking the time last week to conduct a hearing before the Assembly Waste Management Committee on Assembly Bill 10, your bill to encourage regionalization of resource recovery facilities. I appreciated having an opportunity to present comments on behalf of the Institute of Resource Recovery. As you know, the IRR is the waste-to-energy component of the National Solid Wastes Management Association (NSWMA), the trade group representing the private sector solid waste industry. The IRR's members are the vendors who are planning, building and operating the 12 planned waste-to-energy facilities that will safely manage a significant percentage of New Jersey's solid waste. These comments expand upon the oral testimony I delivered to the Committee last Thursday.

Mr. Chairman, the IRR supports regionalization of resource recovery facilities in the State of New Jersey. We believe regionalization is an important part of the solution to the state's solid waste disposal crisis and we look to the Legislature to install the appropriate mechanisms that will encourage regionalization. The recommendations that follow should be included in any legislative proposals that would codify what has evidently become new state policy from the Governor's Task Force Final Report. Without that codification, counties are paralyzed; they anticipate review of their solid waste plans under this new state policy (Task Force Report), yet must act to develop their plans under existing law, the Solid Waste Management Act.

To encourage regionalization, counties must be given incentives for hosting or participating in a regional project. Specific economic incentives which would achieve this goal include tax breaks, waived or reduced permit fees, reimbursement of sunk planning and development costs, and disbursement of allocated state bond funds.

Furthermore, the permit review and approval process must be amended to expedite the processes and to eliminate ongoing modifications in requirements for approval. Changing the rules

midstream does nothing to promote development of responsible projects. In provisions on page 20 (section 2) and page 21 (section 2), there is no identified enforcement for the deadlines set for action by the DEP and BPU for review processes. On page 4 (section 6, 6a and 6b), the proposed interdistrict agreement identifies criteria which "shall include but not be limited to..."; this same clause is included in requirements for contract provisions on pages 21 (section 29) and page 22 (sections 29 (a) and (b)). This clause is problematic and should be deleted as it empowers the agencies with the authority to make ongoing changes in the requirements.

The IRR recommends that both regulatory agencies devise a checklist of "permit criteria" which, if satisfied, would lead to expedited approval. The members of IRR want to help New Jersey reach solid waste solutions but we must know in advance what is required for permit approval in order to bring on-line the needed facilities in an expedited and least-cost fashion.

Finally, counties should be allowed to identify their solid waste disposal solutions in the ways they see as appropriate. Market forces should determine the balance between the size and location of resource recovery facilities in the state. Counties should be given the abilities to negotiate agreements for their solid waste disposal needs in the manner they view as most optimal and not be overruled by a state agency otherwise. The authority given to the DEP on page 7 (section 5b(c)) is inappropriate and this section should be deleted. By allowing market forces to predominate, the difficulties in planning and implementing regional solutions will be reduced.

The IRR understands that the sponsor seeks to establish mechanisms to encourage regionalization through the language of Assembly Bill 10. However, we believe there are many areas where this bill actually presents roadblocks to regionalization.

Instead of receiving economic incentives through A-10, counties would lose prudent investments and be forced to spend additional tax dollars to go through yet another planning process. By the Board of Public Utilities own estimate, more than \$130 million has already been spent in total by county governments on the proposed resource recovery facilities that are still in the permitting stages. Regionalization implies that some proposed (sited) projects will be abandoned. Yet this investment, made by the counties in an effort to comply with the mandate they were given by current law to develop their own solid waste management plans, would represent "abandoned capital outlay" if those projects don't move forward.

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For example, in testimony delivered before this Committee on November 1, 1990, Hudson County has expended at least \$40 million in planning and implementing its solid waste strategy. No specific plan has been offered that would prevent this loss of taxpayers' money or provide for its reimbursement if projects are cancelled. Furthermore, counties must commit additional funds to revise and resubmit county solid waste management plans to concur with new policy set out in the Task Force Report.

In IRR's opinion, A-10 represents the opposite of a simplified permit and approval process. New Jersey arguably has the country's most complicated, inefficient and longest permit process. The proposals contained in A-10 would only add additional layers of bureaucracy and add to the current problems in the system. Carefully planned strategies that are capable of addressing the State's solid waste crisis will be further delayed. The result is escalating construction and materials costs as well as continued reliance on exporting waste at increasing costs. Many counties already pay an average of \$120.00 per ton to send their waste out-of-state.

The IRR believes that the same type of review and approval processes that currently exist under the McEnroe process should be used in approving regionalization agreements. It is important to preserve the obligation of the counties to deal with their contractual terms in the termination clauses of their contracts, when a contract may likely be abolished through regionalization.

Additionally, the bill contains areas of inconsistency which must be corrected. The McEnroe process states that resource recovery should play a principal part in solid waste management planning, yet provisions of A-10 on page 6 (subsection 3) and page 11 (subsection 2) remove resource recovery as a disposal technique in the state and district solid waste plans. Although A-10 is a regionalization bill, there are provisions on pages 12 (section 12b(3)a) and 13 (section 12b(3)b) which reflect the policy of the Solid Waste Management Act suggesting each county plan for its own waste disposal to be handled within its county limits. Section 12b(3)a should be deleted. In section 12b(3)b, the word "district" in lines 4, 6, 9 and 10 should be replaced with the word region or regional, as appropriate.

To correct these inconsistencies on pages 6 and 11 in the bill, the plan strategy language should be modified to read, "the maximum practical use of source reduction, recycling and reuse, and the utilization of resource recovery on a regional basis." Resource recovery is still a necessary part of the state solid waste plan and must be addressed in the priority list of options. A-10 cannot be effective as a regionalization bill if it does not identify resource recovery as a viable disposal option.

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The bill unfairly and without support singles out the resource recovery industry on page 13 (section 4) by mandating the transportation routes to be utilized. The clause "in the case of resource recovery facilities" should be deleted. In addition, subjective language used in several provisions in the bill provides no means for verification. For example, on page 4 (section c(1)) and on page 21, (section c(2)), the statement "are in the public interest" is a broad statement that cannot be validated. By specifying what is in the public interest, whether it be safer, cheaper, etc., would clarify the meaning a great deal.

Lastly, the counties are left with conflicting messages and neither authority nor leadership from the state. The guidelines, approvals and other aspects of the regionalization system need to be made explicit so each group can establish the best solution for its needs.

In conclusion, the IRR supports regionalization of resource recovery facilities in New Jersey. However, we believe there are certain provisions that must be contained in a bill that would encourage regionalization. Counties must be given incentives to host a project. The permitting process must be expedited and specific criteria for permit approval must be identified. Counties' efforts in regionalization must not be impeded by not allowing market forces to prevail.

The current language of Assembly Bill 10 contains provisions which are essentially roadblocks to effective implementation of regionalization. Mr. Chairman, the IRR respectfully requests that the Committee consider the areas of improvement we have suggested to improve the execution of a bill to encourage regionalization.

Again, we sincerely appreciate your demonstrated foresight in organizing the regionalization hearing. Please do not hesitate to contact me if I may be of further assistance to you. You may reach me at (202) 659-4613.

Best regards,



Margaret Ann Charles
State Affairs Representative,
Institute of Resource Recovery

encl.

cc: Paul Bontempo

67x

Environmental Research Foundation

231 Nassau Street
P.O. Box 3541
Princeton, NJ 08543-3541

(609) 683-0707

November 1, 1990

Comments on Bill A-10

My name is Peter Montague. I live in Princeton, NJ, where I serve as director of Environmental Research Foundation. Our organization has a long-standing interest in problems of solid and hazardous waste in New Jersey; specifically, we have been working on these issues since 1980.

I appreciate the invitation to testify today on A-10, an act concerning the regionalization of solid waste incinerators. My comments are keyed to page numbers of a draft of the bill that bears the designation "DOC ID 652" in the upper right hand corner.

Comment 1: This bill does not provide adequate opportunity for public comment on any proposed actions. This is a serious flaw in the bill because the history of solid waste over the last 10 years reveals that it is the public that has been providing the cutting-edge ideas for managing solid waste, and government has been bringing up the rear. The government was long an advocate for landfilling. Then the public came to understand that landfilling contaminated water supplies, and the public turned against landfilling. Then the government (often reluctantly) turned against landfilling.

Next the government supported incineration. Now the public has come to understand that incineration is very costly, makes the landfilling problem worse and not better, and, furthermore, creates very substantial public health hazards through the release of carcinogenic air pollutants (including fine particles less than 10 micrometers in diameter; toxic heavy metals; and a witches brew of hydrocarbon compounds) which are not regulated--or are not adequately regulated--by federal, state or local agencies.

It must be obvious that the public is ready for alternatives to both landfilling and incineration. This bill would allow government to largely establish a solid waste agenda without opportunity for substantial comment from the public. This will leave the public, once again, on the outside looking in--and the public will respond, as it has in the past, with demonstrations and campaigns of opposition. It does not have to be this way. Trust the public. Make many

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opportunities for public discussion and comment, and you will go a long way toward guaranteeing that the public will support, and not oppose, whatever plans evolve. The bill as it stands today essentially guarantees that you will have a continuously dissatisfied and vocal public that doesn't trust its government and doesn't like what its government is doing.

Examples: On page 3, this bill would require the operator of the proposed facility to hold a public hearing. Following the public hearing, the operator is to send its proposal to the DEP and the BPU. This is an entirely inappropriate way to proceed, and it is **guaranteed** to create an unhappy citizenry who will thenceforth neither trust their government nor support its programs.

Here are some suggestions about how to proceed in any public hearing:

The **government** should hold all hearings and should provide an opportunity for the proponents of a project, and the opponents of a project, to be heard, however long it takes. The government should then provide responses in writing to the stated concerns of the public. Those written responses should be circulated among those who want to participate in the process, and then a second public hearing should be held. By this means, people can be assured that the government heard and understood their concerns, and the government can be assured that it has provided substantial opportunity for the public to be heard. If **every public hearing on solid waste** followed this format, there would be substantial agreement on the various positions taken by various parties, and the areas of disagreement would be easy to highlight, to understand, and, possibly, even to reach agreement on.

Comment 2: On page 4, the list of items that must be included in any interdistrict agreement, should include specific language on ownership of the ash to be produced by an incinerator and record-keeping procedures for maintaining public awareness of the physical location of the ash for at least 100 years (and, with that ownership, the long-term liability for the consequences of creating that ash). The producers of ash (and people whose work is funded by the producers of ash) today are making claims in the state's newspapers (one such claim is attached) that the ash is essentially inert and can be buried safely in the ground and can even be re-used as a construction material. If the producers of such ash are confident of their claims, they should not mind maintaining ownership of that ash in a legal sense, and they should not mind record-keeping procedures that will allow the public to track the location of that ash for at least 100 years.

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Comment 3: Throughout the bill, the concept of "recycling" should be modified to include composting. If compost is properly made from organic materials that do not contain toxins, that compost can be land-disposed (on parks, forests, highway rights-of-way, golf courses, gardens, and so forth) without adverse effect on human or environmental health. Thus even if compost had to be given away free, it would be preferable to many alternatives. Please revise your definition of recycling to include composting.

Comment 4: The stated definitions of a party "qualified" to enter into a solid waste contract should explicitly include the requirement that such a party is not "qualified" unless he or she has been screened by the A-901 process and has been given a clean bill of health.

There is substantial evidence (some of which I have attached to this testimony) that the country's largest waste haulers (which operate at many locations in New Jersey, both in the landfilling business and in the incineration business) have participated in a national conspiracy to rig bids and fix prices. There is substantial evidence that this has led to inflated prices being paid by the public for solid waste management services. In times of tight budgets, rising public debt, higher taxes and cutbacks in social services, it would be especially inappropriate to allow unscrupulous solid waste operators to inflate our solid waste prices unreasonably and by illegal collusion. The A-901 process was intended to exclude this kind of criminal from participating in any aspect of the solid waste business in New Jersey, and we urge you to incorporate A-901 explicitly into this bill and to require the DEP to put some real teeth, and some substantial resources, into the A-901 review process.

Comment 5: According to data presented in Appendices by the Governor's Emergency Solid Waste Assessment Task Force, about 80% of the waste stream can be recycled (or composted), or it can be incinerated, but it cannot be both recycled-(or composted) and incinerated. The Governor's Task Force recommended that the state shoot for a goal of 60% recycling-composting. **But some counties are already approaching this figure today.** For example, at public meetings I have attended within the past two weeks, Freeholder Prunetti of Mercer County has said that Mercer County is already recycling 52% of its solid waste. It must be obvious to everyone that even Mercer County can do better, and that as time passes, Mercer County will do better unless its forward progress is stopped by an artificial barrier, such as a contract requiring that Mercer County provide some incinerator project with its garbage to fulfill a contractual obligation.

70 x

Everyone seems to agree that there is a hierarchy of desirable solid waste management practices, starting with most desirable, and ending with least desirable:

- Waste avoidance
- Re-use
- Recycling (including composting)
- Landfilling of material containing no toxins
- Incineration
- Landfilling of material containing toxins

In light of this already-established hierarchy for handling the state's solid waste, we urge you to incorporate language into A-10 requiring that any contract covering solid waste disposal must include language that says that the contracting party providing the waste is free at any time to provide less waste to the waste disposal facility--without penalty of any kind--if the reason for providing less waste is to recycle (or compost) more waste, or if the reason is that the population of the district has decreased, or if the reason is that the population of the district has decreased its per-capita production of solid waste.

Comment 6: Bottom of page 6. The state should be free to establish standards and criteria that are stricter than those set by the federal government. It is a serious mistake to restrict the state of New Jersey to standards that are set by the federal government. New Jersey has the highest population per square mile of any state in the union. Half our people drink water derived from underground water supplies. These circumstances alone dictate that New Jersey may have to take measures to protect public health when such measures might appear ridiculous or unworkable in, say, Nebraska, or Oklahoma. Federal standards are often designed to protect people in an average situation--but so far as waste production and disposal goes, New Jersey is definitely not in an average situation.

Comment 7: The phrase "solid waste management facility" could be substituted for "resource recovery facility" throughout A-10 with a consequent improvement in the scope of the bill (and, therefore, an improvement in the way solid waste is regulated in New Jersey).

Comment 8: The facilities mentioned at the bottom of page 8 could be contracted out to public universities within New Jersey (e.g., Rutgers) and I would suggest phrasing the language to permit such an arrangement explicitly.

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Comment 9: First paragraph that begins on page 12: "Upon the receipt....". This section should include requirements for public hearings, in the form I suggested earlier.

Comment 10: Page 13, 6 lines from the top of the page: the concept of "full cost" should be elaborated and specifically should include the cost-analysis techniques and concepts described in the Environmental Defense Fund's recent book, *Recycling and Incineration; Evaluating the Choices* (Washington, DC: Island Press, 1990). Reaching agreement on how to do these cost analyses would go a long way toward resolving conflicts over solid waste management in New Jersey (and elsewhere). A-10 could incorporate language and concepts from this book that would help us all agree on what costs should be considered in any analysis of a solid waste management project.

Comment 11: Often in A-10 there are no stated requirements for a public hearing unless "substantial revisions" have been made in a plan or a contract (e.g., at pg. 19, 6 lines from the bottom, and pg. 20, 5 lines from the bottom). Public hearings (in the form I described earlier) should be required when a contract or plan is established, not only when it is revised substantially.

Thank you for this opportunity to testify.

72x

STATEMENT OF OGDEN-MARTIN SYSTEMS, INC.
ASSEMBLY WASTE MANAGEMENT, PLANNING & RECYCLING
COMMITTEE, NOVEMBER 1, 1990

GOOD MORNING, MR. CHAIRMAN:

MY NAME IS MATTHEW L. ROOT AND I RUN THE STATE GOVERNMENT
RELATIONS OF OGDEN MARTIN SYSTEMS, INC.

WE ARE PLEASED TO HAVE THIS OPPORTUNITY TO OFFER OUR COMMENTS
ON A-10 AND SUGGESTIONS TO ASSIST IN YOUR EFFORT TO OVERHAUL
EXISTING STATUTES SO THAT NEW JERSEY CAN GET ON WITH MAKING THE
LONG OVERDUE DECISIONS NECESSARY TO DEAL WITH ITS SOLID WASTE
DISPOSAL CRISIS IN THE MONTHS AHEAD.

CRISIS IS THE WORD WE THINK BEST DESCRIBES THE SOLID WASTE
SITUATION TODAY. AS WE SIT HERE IN TRENTON, NEW JERSEY LACKS
SUFFICIENT DISPOSAL CAPACITY. MUCH OF THE WASTE IS BEING HAULED IN
TRUCKS TO PENNSYLVANIA, INDIANA AND OTHER DISTANT POINTS AT COSTS
WHICH OUR TAXPAYERS SIMPLY CANNOT AFFORD. FOR EXAMPLE, IN PART OF
UNION COUNTY, IT NOW COSTS \$144 TO DISPOSE OF A TON OF GARBAGE BY
HAVING IT TRUCKED TO PENNSYLVANIA. JUST LAST YEAR, THAT COST WAS
\$132, A FIGURE WAY BEYOND ANY COST THAT COULD BE IMAGINED JUST 3-4

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YEARS AGO. IN MANY NEW JERSEY COMMUNITIES, SOLID WASTE DISPOSAL IS THE LARGEST EXPENDITURES IN THE MUNICIPAL BUDGET, OR IS JUST BEHIND SCHOOL COSTS.

GOVERNOR CASEY OF PENNSYLVANIA IS THREATENING TO SHRINK THE AVAILABILITY OF HIS STATE'S LANDFILLS TO OUR WASTE; THE CONGRESS OF THE UNITED STATES CAME CLOSE THIS PAST SESSION TO ADOPTING A MEASURE SPONSORED BY INDIANA'S SENATOR COATS THAT WOULD HAVE ALLOWED--AND EVEN ENCOURAGED--STATES TO CLOSE THEIR BORDERS TO OTHER STATES' TRASH. THESE ARE THE ACTIONS OF OFFICIALS WHO ARE NOT RESPONSIBLE TO NEW JERSEY VOTERS AND, WORSE, FLASHING WARNING SIGNALS OF EVENTS TO COME.

OGDEN-MARTIN SYSTEMS, INC. IS A LEADER IN THE WASTE-TO-ENERGY FIELD WITH EXPERIENCE AT 15 OPERATING RESOURCE RECOVERY FACILITIES IN 15 STATES. OUR HOME OFFICE IS HERE IN FAIRFIELD, NEW JERSEY WHERE 200 PROFESSIONALS AND SUPPORT STAFF ARE CREATING AND INSTALLING STATE-OF-THE-ART TECHNOLOGY THAT MEETS EMERGING ENVIRONMENTAL REGULATIONS AND DISPOSES OF WASTE AT AN AFFORDABLE PRICE. WE ARE CURRENTLY DEVELOPING WASTE-TO-ENERGY PROJECTS IN NEW

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JERSEY FOR UNION AND HUDSON COUNTIES.

RECYCLING IS ANOTHER ELEMENT OF OUR BUSINESS AND WE HAVE MADE A SUBSTANTIAL INVESTMENT IN THE DESIGN AND ENGINEERING OF SYSTEMS THAT WE HOPE WILL ASSIST NEW JERSEY COUNTIES IN MEETING THE 60% GOAL PROJECTED BY THE TASK FORCE FOR IMPLEMENTATION BY 1995. WE HAVE EXPERIENCE IN THE REGULATORY REALM AS WELL--HAVING PARTICIPATED IN THE TORTUOUS PROCESS NEW JERSEY FOLLOWS IN MAKING SOLID WASTE DECISIONS. AS I INDICATED ABOVE, WE HAVE FACILITIES ON LINE IN 13 OTHER STATES; NONE IMPOSES THE COMPLEX MULTI-AGENCY REVIEW SYSTEM OUR INDUSTRY CONFRONTS HERE IN NEW JERSEY.

WE VIEW AS POSITIVE THE RECENT FINAL REPORT OF GOVERNOR FLORIO'S EMERGENCY SOLID WASTE ASSESSMENT TASK FORCE AND ITS RECOMMENDATIONS THAT THE STATE ACHIEVE 60% RECYCLING BY 1995 AND FOSTER MULTI-COUNTY REGIONAL SOLUTIONS RATHER THAN 21 SEPARATE SOLID WASTE DISPOSAL PLANS. WE WELCOME YOUR INITIATIVE TO ENCOURAGE REGIONAL SOLUTIONS BY FOSTERING INTER-DISTRICT AGREEMENTS THAT WILL INCLUDE RESOURCE RECOVERY FACILITIES AS TOOLS TO ELIMINATE THE 40% OF NEW JERSEY WASTE THAT WILL NOT BE DEALT WITH

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THROUGH RECYCLING.

THIS IS THE FIRST SIGNIFICANT LEGISLATIVE PROPOSAL TO EMERGE SINCE THE RELEASE OF THE REPORT. REGIONALIZATION IS A SENSIBLE IDEA. THERE ARE OBVIOUS ECONOMIES OF SCALE TO BE REALIZED BY COMBINING THE WASTE OF TWO OR MORE COUNTIES THAT WE KEEP THE COST OF DISPOSAL DOWN TO LEVELS THAT ARE AFFORDABLE.

WHILE A-10 SEEMS TO PROVIDE SOME NEW STANDARDS FOR THE REVIEW OF INTERDISTRICT AGREEMENTS, THERE IS NOTHING IN THE EXISTING OR PROPOSED LAW THAT CREATES INCENTIVES FOR SUCH AGREEMENTS. THE TASK FORCE REPORT EXPRESSES A POLICY OF FAVORING MULTI-COUNTY SOLUTIONS; NOW, THE LEGISLATURE SHOULD MAKE IT CLEAR THAT THE POLICY IS TO BECOME THE PRACTICE.

IF WE WANT TO FOSTER INTER-DISTRICT AGREEMENTS, WE SHOULD OVERHAUL THE EXISTING SYSTEM OF REVIEW--IN ORDER TO EXPEDITE THE IMPLEMENTATION OF SUCH AGREEMENTS--AND SEND A CLEAR SIGNAL THAT NEW JERSEY WANTS TO PUT REGIONAL SOLUTIONS IN PLACE AS SOON AS POSSIBLE. THE PRESENT SYSTEM SUFFERS FROM BUILT-IN DELAYS THAT ADD SUBSTANTIAL COST TO NEW FACILITIES AND KEEP OUR TAXPAYERS VIRTUAL

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HOSTAGES TO THE TERRIBLE COST OF OUT-OF-STATE DUMPING.

A-10 APPEARS TO EXTEND THE PROCESS FURTHER AND SENDS A SIGNAL THAT THERE IS NO URGENT INTENTION ON THE PART OF THE LEGISLATURE TO GET CONTROL OF EVER-SPIRALLING MUNICIPAL TAXES--AND SOLID WASTE DISPOSAL COSTS ARE DIRECTLY RESPONSIBLE FOR A LARGE PORTION OF OUR INCREASED TAX BILLS--BY MOVING NEW JERSEY TO SOLUTIONS WE CAN BOTH CONTROL AND AFFORD. AT A TIME WHEN TAXPAYERS ACROSS THE STATE ARE SCREAMING FOR HELP, YOU SHOULD FIND WAYS TO EXPEDITE DECISIONS THAT WILL LEAD TO TAX RELIEF.

DELAY ADDS COST. PRICES FOR HARDWARE CONTINUE TO RISE AND THE COST OF OUT-OF-STATE SOLUTIONS IS SKYROCKETING. SHOULDN'T COUNTIES BE REWARDED FOR COMPLYING WITH THE REGIONALIZATION POLICY? WHY NOT AT LEAST PROVIDE FOR EXPEDITED REVIEW OF SUCH APPLICATIONS AND PROVIDE SOME PLANNING ASSISTANCE AND OTHER FINANCIAL BENEFITS?

WE FEEL STRONGLY THAT ANY LEGISLATIVE CHANGE OF THE SYSTEM SHOULD REDUCE THE TIME IT TAKES TO GET A SOLID WASTE SOLUTION IN PLACE.

WE URGE THAT A-10 BECOME A VEHICLE FOR SIMPLIFYING AND

77 x

SPEEDING THE PROCESS. THE LENGTHY SYSTEM OF ADMINISTRATIVE REVIEW BY NO LESS THAN 4 STATE AGENCIES NEEDS TIGHTENING--NOT FURTHER EXTENSION. EACH AGENCY HAS A DIFFERENT STANDARD OF REVIEW AND NONE IS DESIGNATED THE "LEAD AGENCY" WITH RESPONSIBILITY FOR PRESSING THE OTHERS TO MAKE EXPEDITIOUS DECISIONS.

THE TASK FORCE REPORT RECOGNIZED THAT RESOURCE RECOVERY HAS A ROLE TO PLAY WHERE MULTI-COUNTY REGIONAL PLANS, HAVING FACTORED IN THE ACHIEVEMENT OF 60% RECYCLING, REQUIRE SUCH TECHNOLOGY FOR DEALING WITH THE WASTE STREAM REMAINDER. A-10 SHOULD CONFIRM THAT POLICY TOO. OUR INDUSTRY IS READY TO INVEST SIGNIFICANT CAPITAL IN HELPING NEW JERSEY DEVELOP LONG TERM AFFORDABLE SOLUTIONS TO THE STATE'S SOLID WASTE DISPOSAL CRISIS. BUT THE CLOCK CONTINUES TO TICK AND THE EXISTING SYSTEM OF REVIEW ADDS DELAY AND COST TO THE PROCESS.

BY PROVIDING A STATUTORY SCHEME THAT WILL EXPEDITE THE REVIEW OF INTER-DISTRICT AGREEMENTS, YOU CAN GO A LONG WAY TOWARD MAKING THE TASK FORCE'S POLICY RECOMMENDATIONS REAL--AND YOU SAVE THE TAXPAYERS SUBSTANTIAL SUMS OF MONEY ALONG THE WAY.

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THANK YOU.

79X

SHARPE JAMES
MAYOR
NEWARK, NEW JERSEY
07102

November 1, 1990

Comments to the Assembly
Waste Management, Planning and
Recycling Committee on Assembly Bill #A-10

Good morning.

Thank you for inviting me to testify today on Assembly Bill A-10. Due to a long standing prior commitment, I was unable to attend. However, I do want to reinforce Newark's position, with submission of this written testimony, as presented at your hearing by my representative Frank Sudol, Manager of Newark's Division of Engineering and Contracts Administration.

While we concur with and support the concept of regionalization of resource recovery facilities as presented in A-10, we do have eight concerns, which we believe need to be addressed.

Specifically-

1. It's important that the host municipality and host county, for any resource recovery facility, be invited to participate in all negotiating sessions.

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2. Any agreement between an owner or operator of a resource recovery facility should be expressly prohibited from setting aside any host municipality agreement already in place.
3. It should be specified that out-of-district tipping fee should not be less than that of the tipping fee for the host county's MSW.
4. Out-of-district waste should be required to have as high a recycling rate as that of the receiving county. The agreement should also require a provision to ensure that the recycling goals of both the federal and state government are met.
5. The bill should also provide direction for regionalization of recycling and not just resource recovery.
6. Interdistrict contracts should provide specific requirements, suitable to the DEP for the removal of batteries (both household and lead acid), as well as for household hazardous waste.

Additionally, every district plan should be required to be modified to incorporate a plan for the removal and recycling of batteries and household hazardous waste.

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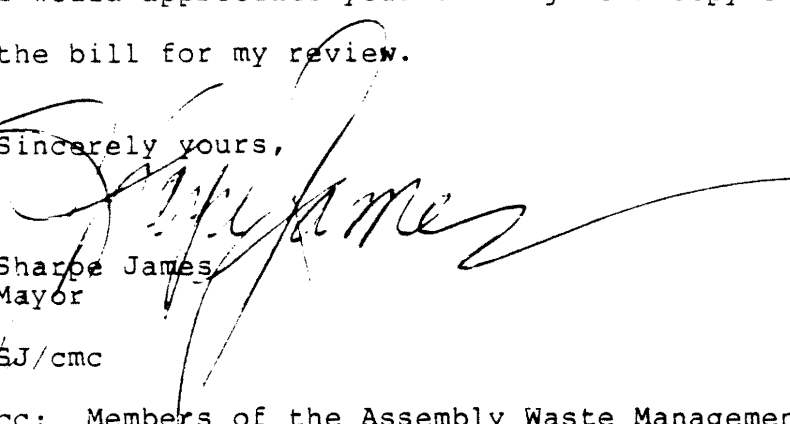
7. The language on page 10 - item 12.b. is vague as to when the solid waste management plan will require amendments for inclusion of source reduction, recycling and reuse techniques. Specific deadlines should be incorporated into the bill.
8. The language on page 12 - item #4 should require that route designation be developed in conjunction with the host municipality.
9. Another item, which subsequently surfaced, since Mr. Sudol's testimony, is the need to address the previously agreed to BPU approved Essex County tipping fee under the McEnroe process. The bill should include language to open-up the rate, established through the BPU approved McEnroe process, to allow for adjustments to provide funding for such items as a county sponsored and implemented battery and household hazardous waste recycling program.

Again, thank you for the opportunity to address this important legislative bill.

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I would appreciate your sending me a copy of all future drafts of the bill for my review.

Sincerely yours,



Sharpe James
Mayor

SJ/cmc

cc: Members of the Assembly Waste Management, Planning and Recycling Committee

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Assembly Solid Waste Management,
Planning and Recycling Committee

Thursday, November 1, 1990

Chairman McEnroe and members of the Assembly Solid Waste Management, Planning and Recycling Committee, the New Jersey State Chamber of Commerce appreciates the opportunity to offer some initial comments on A-10, recently introduced legislation regarding regionalization of resource recovery facilities.

As it is our understanding that additional hearings will be held on this legislation, the State Chamber would appreciate an the opportunity to offer additional comments. Currently, we are in the process of soliciting such comments from our affiliated local chambers of commerce, businesses, and other members around the state.

We believe both this committee in particular and the Legislature as a whole are well aware of the State Chamber's longstanding concern over the issue of solid waste management. It is an issue of importance to all of us, both as citizens and as businesspeople.

Properly managing our solid waste is something all of us should be constantly thinking about. As an organization, we've tried to better inform our members of their solid waste responsibilities. We have also encouraged educating employees about those responsibilities as part of their normal workday.

As you also know, the State Chamber has been a frequent participant in public solid waste forums. This past July, we offered comments on the Emergency Solid Waste Assessment Task Force report. At that time, we reiterated our support for a continued four-part approach to solid waste management.

The State Chamber believes that only a comprehensive plan including resource recovery, recycling, reduction at the source and residual landfilling can provide for effective solid waste management in New Jersey. It's our continued belief in that approach that spurs our deep interest in Assembly bill A-10.

The State Chamber believes the premise of this bill is a good one: the incentive for regionalization of resource recovery facilities. Resource recovery, in our estimation, will continue to be the largest single component in the state's overall solid waste management plan.

While we will encourage residents and businesses to do everything they can to recycle and reduce the volume of our solid waste stream, the State Chamber believes that the goal of 60% recycling outlined by the Governor's Task Force, while laudable, is, at best, overly optimistic.

Even accepting a 60% recycling scenario, there are still several million tons of solid waste that will require disposal. Resource recovery remains the only real prospect for addressing that part of the waste stream.

Upon our initial review, we're concerned that the bill might actually hinder the hoped for regionalization process, since it outlines a process wherein four separate state entities; the Board of Public Utilities, the Department of Environmental Protection, the Department of Community Affairs, and the Division of Rate Counsel, have the ability to void a solid waste inter-district agreement. In our view, that's just too much government involvement to give us confidence of any meaningful result.

That particular process, if adopted, could have a negative impact on the negotiations already undertaken by counties throughout the state.

The State Chamber believes that it's necessary to provide additional financial incentives to bring about the regionalization of resource recovery facilities. At your next hearing, we would hope to offer more specific suggestions for such incentives.

We truly look forward to working closely with this committee to hasten the goal of resource recovery regionalization and deeply appreciate the opportunity to offer comments at this and subsequent hearings.

On behalf of the New Jersey State Chamber of Commerce, thank you for that opportunity.

