

Public Hearing

before

SENATE JUDICIARY COMMITTEE

"State and Federal regulations
affecting the Pinelands area"

LOCATION: Atlantic County
Community College
Atlantic County, New Jersey

DATE: December 15, 1993
2:00 p.m.

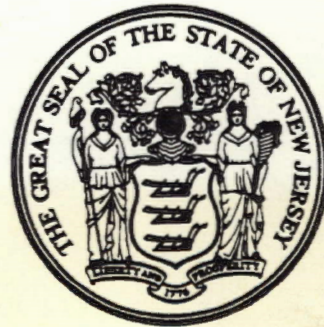
MEMBERS OF COMMITTEE PRESENT:

Senator William J. Gormley, Chairman
Senator James S. Cafiero, Vice Chairman

ALSO PRESENT:

Assemblyman John C. Gibson, District 1
Assemblyman Frank A. LoBiondo, District 1
Congressman William J. Hughes, District 2

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



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TRENTON, NEW JERSEY 08625-0068

ALBERT PORRONI
Executive Director
(609) 292-4625

GLENN E. MOORE, III
Director of Central Staff
(609) 984-4811

JOHN J. TUMULTY
Section Chief
(609) 292-5526

SENATE

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DATE AND TIME CHANGE

NOTICE OF PUBLIC HEARING

The Senate Judiciary Committee will hold a public hearing on **Wednesday, December 15, 1993 at 2:00 PM** at the **Walter Edge Theater, Atlantic County Community College, Hamilton Township, Atlantic County**. This public hearing was originally scheduled for **Friday, December 10, 1993**.

The hearing will be held on the following:

State and federal regulations affecting the Pinelands area.

The public may address comments and questions to John J. Tumulty, Committee Aide, or make bill status and scheduling inquiries to Karen M. De Marco, secretary, at (609) 292-5526. Those persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

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SENATOR WILLIAM L. GORMLEY, (Chairman): Thank you, I appreciate everyone attending today.

I'd like to read an initial statement. Congressman Hughes then will read a statement, Senator Cafiero will make comment, and Assemblyman Gibson will make comment. I'd also like to acknowledge the presence here today of Assemblyman LoBiondo, someone who, as we all know, has been very active in work for the agricultural community in this State, and someone who we are very proud of.

I'd like to make the initial statement:

On behalf of the Senate Judiciary Committee, I'd like to welcome you here today to this public hearing on Pinelands issues. It is a pleasure to be here, and I am delighted that so many of you took time to attend and participate in this public hearing, which is, I hope, the start of a serious discussion of Pinelands regulations and Pinelands protection.

The Pinelands Protection Act was enacted 14 years ago. As one who as a first-term Assemblyman voted against the Pinelands legislation in 1979, I can still recall the emotions that the legislation stirred up, and I remember the resentment that many of us from the southern part of the State felt over the passage of the Act. Today, more than a decade later -- almost a decade and a half later -- the emotions that fueled both sides of the debate still exist. They exist in the audience today. But as the old saying goes, "That was then, this is now."

I'm here today-- The Senate Judiciary Committee is here today not to reignite the fiery passions of the past, but to plan out a new path to the future; to see if there is a way to begin to equitably solve the disputes, the disagreements, the imagined and real slights, the misunderstandings on both sides, which have been generated by the implementation of the Pinelands Act. In this spirit, I would ask that each person who is here today, even as you argue your position, seek to understand the position of those who may disagree with you.

To those of you in the environmental community, I would ask that you understand that the strong criticism of the specific ways in which the Pinelands Act or the Comprehensive Management Plan have been implemented does not indicate any intent to return to the pre-1979 status quo. That cannot be done and, indeed, any talk on both sides of gutting the Pinelands Act -- a fear on one side, a desire on the other -- is a red herring. (applause)

Excuse me, do me a favor? No applause, please. No boos, no applause, and I mean it sincerely. Both sides have to listen to each other, because both sides are quite sincere.

The Pinelands regulatory scheme, however, has had a profound impact on many municipalities and thousands of property owners. This impact -- this extremely disruptive impact -- deserves recognition and, to the extent that it can be remedied, action to do so. I believe the environmental community has often failed to admit the legitimacy of this recognition. Similarly, I would ask those of you here today whose property and livelihood have been affected by the Pinelands to acknowledge the basic soundness of the principles and goals of the Pinelands Act and the Comprehensive Management Plan, and to understand that the regulatory system which was established over the last 14 years will not be overturned.

The goals and purposes of the Pinelands Act and the Plan are now part of the political and social landscape of New Jersey, supported by governors of both parties. This does not mean, of course, that every concept or provision in the Pinelands Act or the Plan is chiseled in stone. Indeed, I will tell you that in the 16 years I have been in Trenton, I have seen very few enactments that have not been fine-tuned and clarified in the course of implementing in the real world.

Many of you here today know that I am currently the sponsor of a piece of legislation that deals with enforcement. Some of you have expressed surprise that I, the Senator from

Atlantic County, an opponent 14 years ago of Pinelands legislation, would advocate such legislation. I do not, however, see any incongruity here. As a Senator, an attorney, and as Chairman of the State Senate Committee charged with overseeing the enforcement of the State's statutes, I believe that laws must be enforced with certainty and fairness. Laws which are not enforced become mockeries, an embarrassment to our system of law which is based on rule by law.

To those of you that are unhappy with certain aspects of the Pinelands Act or the Plan, I therefore say that the remedy is not to wink at violations or to hobble the ability of the Pinelands Commission to enforce the law. The remedy is to discuss those aspects of the system which you feel are unfair, unrealistic, or even irrational, and to recommend changes. To those who are strong supporters of the Pinelands Act, I would urge you to listen to the arguments of those who must live under the law, to see if there are any modifications that provide fairness in what we have. While we look for ways that ensure that those who knowingly and intentionally break the laws are penalized, I know that this will not be easy. But until we achieve this balance we will not have legislation at all.

I look forward to this hearing today, and I welcome the opportunity to find solutions to the problems which I suspect none of you would be hesitant to bring to my and the Committee's attention. Believe it or not, that is exactly what we want and it's what we expect. I really do appreciate you attending today.

Now, I would like to introduce to you the Congressman from this District. As you know, one of the purposes of the hearing is to work in conjunction with the Federal government to see what we can do to find common areas of agreement. No one is under a gun today. Nothing is moving, nothing is being rushed through, but it's important that we try and seek a way

to a consensus, because this division that has occurred since the Executive Order was signed, February 8, 1979-- I don't remember many dates, but I remember that date. We have to see what we can do to improve the lot of those people who live in the Pinelands and to increase understanding of the issue.

Congressman Hughes.

C O N G R E S S M A N W I L L I A M J . H U G H E S :
Thank you very much, Mr. Chairman. I wonder if I might defer to your colleague on the Judiciary Committee for any opening remarks that he would want to make. I'll do whatever you want, but it seems to me that Senator Cafiero--

UNIDENTIFIED MEMBER OF AUDIENCE: Louder, please.

SENATOR GORMLEY: Use this mike.

CONGRESSMAN HUGHES: I merely thanked the Chairman for recognizing me, and indicated that I would defer to his colleague on the Judiciary Committee for any opening remarks that he would make, then I would be very happy to proceed after that.

SENATOR CAFIERO: Congressman, I appreciate that and I'm going to take you up on it. My remarks are going to be brief and they can get to the meat--

UNIDENTIFIED MEMBER OF AUDIENCE: Can't hear.

SENATOR GORMLEY: You have to use this one.
(indicates microphone)

SENATOR CAFIERO: Congressman, I appreciate the offer and I'm going to accept it. My remarks are going to be very brief so you can get along to the good things that I'm sure you're going to state.

I attended a meeting approximately two months ago, I guess, in Buena, at which time there were perhaps 400 people present. The emotions, feelings, and sentiments at that time were running high. The crowd is probably doubled at this point. I don't know whether that's a good sign or a bad sign. I hope that the outcome of this meeting is going to be that it

will be productive of some meeting of the minds, and that we can leave here today with some of those fears and problems resolved. That's the reason I'm here: to listen to what the folks have to say and to find that solution.

I appreciate your offer to defer to me, Congressman, and I welcome your remarks.

CONGRESSMAN HUGHES: Thank you very much, Mr. Chairman, and my colleagues in State government.

I, too, want to extend a welcome to all those who have gathered today. I really am very pleased to see such a large turnout, but it is an important issue.

I would be remiss if I did not congratulate Senator Bill Gormley for convening this particular hearing. I believe it's the first effort of its kind in the some 15 years -- at least an effort that will look at the total protection plan, hopefully, and look at what needs to be done to try to make any midcourse corrections. So I congratulate you, Senator.

When our region first undertook the effort to protect the Pinelands in 1978, we were under fire from all directions. You may remember that the late Congressman Ed Forsythe, of the 6th District, and I convened a series of hearings around South Jersey to try to build some degree of consensus for Pinelands preservation.

We heard from builders who were adamantly opposed to any new restrictions on development. We heard from others who wanted to lock up the Pinelands entirely and throw away the key. We heard from local officials who feared the loss of home rule. We heard from farmers who were concerned that Pinelands restrictions would threaten their livelihood. We heard from senior citizens whose property was their major source of income security, and the list went on and on.

For months we took testimony, as the Senator indicated, from all those groups and many more in an attempt to develop a consensus for Federal legislation. From the start

there was never any question in most minds about the need to protect the Pinelands. Indeed, when you asked people in 1978 if they favored protecting the Pinelands or allowing them to be destroyed, the answer was overwhelmingly in favor of protection. That was the sentiment then, and it certainly is the sentiment today, especially when the issue is framed as if those are the only two issues.

The tougher questions then, as today, was not do we protect the Pinelands, but how do we do so? More specifically, how do we strike the proper balance between the many legitimate, yet often conflicting, environmental and economic concerns in this diverse 1.1 million-acre region?

We answered the question in '78 by enacting a Pinelands Protection Law, which was perhaps one of the most significant environment accomplishments of our time. Under this law, the Pinelands National Reserve was established, the first time such a national reserve was in fact established in the country. At the same time, we authorized some \$23 million in Federal funds to acquire those lands which were critical to the Pinelands ecosystem and which needed to be placed in public ownership to assure their protection.

This new Federal law provided for the establishment of a Pinelands Study Commission, which was to make recommendations to help local governments look beyond their own local boundaries and otherwise work together to carry out regional conservation goals.

I'm very proud of the role I played in helping to draft the Federal legislation, and just as importantly, in helping develop consensus amongst these various groups to get it enacted into law. But let me emphasize it was a plan based on a partnership with local government.

I think the Pinelands effort, for the most part, has been extraordinarily successful. It has protected much of that area from overdevelopment and established a regional planning

mechanism that has effectively protected some very fragile ecosystems. Regretfully, it has also inflicted needless pain on hundreds of landowners, and the broad consensus that once existed has been undermined by a Pinelands Commission that is often regarded as dogmatic, myopic, and uncaring.

I do not support those who would turn back the clock and retreat from this effort. However, there is such widespread discontent that if those concerned are not addressed, it will become a groundswell of opposition that will threaten to undo much of the good that has been accomplished. I would like to work with this Committee and the new administration in Trenton to change some aspects of the Pinelands Law, and offer what I hope are some constructive suggestions concerning the Pinelands Enforcement Act, Mr. Chairman, before your Committee.

Mr. Chairman, I think you know that during my many years in government I've worked hard to ensure that future generations will have the opportunity to experience firsthand the pleasures we enjoy and sometimes take for granted along our sandy beaches, the banks of rivers and streams, in the midst of cedar swamps and upland forests.

Whether it be the elimination of ocean dumping, the creation and expansion of a Cape May National Wildlife Refuge and other wildlife refuges in my District, the designation of Wild and Scenic Rivers, or any one of a number of other projects I have been involved in, I'm concerned about environmental protection, and have worked with you and others to ensure that we protect what we love about southern New Jersey. I mention this only as a frame of reference, so that what I'm about to say regarding the administration of the Pinelands Act will not be misconstrued.

Let me make it clear: I support Pinelands protection and agree wholeheartedly that this unique initiative must be maintained. However, over the years I have developed some very

serious reservations regarding the methods used to achieve results and the overall manner in which this grand experiment has been conducted.

Unfortunately, the concerns I have expressed to four successive administrations in Trenton -- Democratic and Republican -- those pleas I've made have fallen on deaf ears, just as my letters of concern to the Pinelands Commission yielded little relief for hundreds and hundreds of citizens caught up in that single-minded bureaucracy.

Permit me to give you a few examples of what I believe is an agency which has gone amuck, and which I believe support my conclusion that it is time to reassess some aspects of this noble effort.

Let me start with the Cape May County Landfill, which is located in the fringe of the Pinelands, not very far from where Senator Cafiero makes his home over in the Wildwoods. It's a fairly new facility, as he knows, built in the most exacting way with state-of-the-art standards and with full approval from all environmental regulatory bodies, including, I might say, the Pinelands Commission.

Originally, it was anticipated that this landfill would reach capacity in the near future, and Cape May County would need to identify an alternative means to handle its solid waste, including, perhaps, development of a mass burn facility on that same site, as allowed by its original permits. However, local environmental and other concerns led to the abandonment of any mass burn proposal. Cape May County instead adopted a very vigorous and successful recycling program. In a short time the recycling effort has become so successful that over 50 percent of the combined waste stream is now recycled.

As a result, the Cape May County Landfill now has a great deal of residual capacity, and it could very well effectively and economically serve County residents for up to 30 years. However, despite having granted Cape May County

permission to build this landfill and to follow it with a mass burn incinerator, the Pinelands Commission sought its closure long before it reached its capacity. Thus, rather than being rewarded for its switch to a more environmentally friendly way of handling solid waste, Cape May County was penalized and forced to undergo an effort to locate a site outside the Pinelands for development of a new facility.

As you know, Cape May County is a narrow peninsula blessed with an abundance of natural resources, and there are very few areas which can accommodate a landfill. In fact, the one viable site found was located literally across the street from the existing landfill. The site included undisturbed wetlands, woodlands, and is virtually identical in character to the adjacent Pinelands. Most importantly, that site is within the approved boundary of the Cape May National Wildlife Refuge.

That made no difference to the Pinelands Commission. There was little effort to cooperate with Cape May County and to discuss its problems. Rather, in their rather narrow view it is better to force the premature closure of an existing landfill on an already fully disturbed site and compel Cape May County to spend scarce public resources to despoil pristine land which was to be acquired for a national wildlife refuge.

The Borough of Buena in Atlantic County encountered a very similar problem with the Pinelands Commission. Buena lies almost entirely within the Pinelands Protection Area. The only exception is a small portion lying just west of the boundary formed by Route 40.

The Buena Municipal Utilities Authority operates a wastewater treatment facility which discharges into Deep Run, a Pinelands stream. In seeking to upgrade this facility and to improve the quality of the discharge, the Buena MUA was told by the Pinelands Commission to locate a new discharge point outside of the Pinelands.

Relocation would be an extremely expensive project and fraught with numerous siting problems. Further, the quality of the discharge would be improved to the point where it might be considered even cleaner than the receiving body of water. However, the Buena MUA had no choice but to comply with the Pinelands Commission's directive.

After undergoing a long and contentious feasibility and siting analysis, the Buena MUA had few choices within their tiny corner of non-Pinelands area. All possibilities would have generated significant environmental problems of their own, including: the taking of productive farmland, destruction of valuable woodlands, or discharge into adjacent New Jersey Green Acres open space in a tributary which feeds the Maurice River and its National Wild and Scenic River corridor.

However, these issues were of little concern to the Pinelands Commission. Regardless of the problems they would be creating elsewhere, they would have any discharge out of their area of jurisdiction. The fact that their actions would cause harm to important natural resources -- again, as in Cape May County, right across the street -- matters little.

This attitude suggests, in my judgement, that important natural resources which lie outside the Pinelands borders are not as worthy of protection as areas that lie within. Such a viewpoint is extremely troubling to me, for it results in decisions that are clearly not in the public interest. Additionally, it reveals that the Pinelands Commission has become one of New Jersey's biggest NIMBYs, since it shows little regard for the consequences of development activities outside the Pinelands as long as their own backyard remains unsullied. (applause)

Rather than putting blinders on, the Pinelands Commission should join other agencies and local officials with similar responsibilities in an effort to identify the most sensible way to address these problems while ensuring the

protection of important natural resources regardless of whether they lie within or without the Pinelands region. Indeed, that was always the intention of the Federal law which I helped write.

Another significant problem created by Pinelands restrictions is the loss suffered by individuals who are left with no economic use for their property.

Many of the people in this room today have faced, or are familiar with situations where a family has faced a situation where they've owned and paid taxes on property in the Pinelands for generations. Then, when they can no longer afford it or when they seek to build or sell to another, they find the property is essentially valueless as a result of Pinelands restrictions. For years, this has been one of the most frequently cited inequities of the Pinelands Protection Program.

To address this problem, I joined with my colleagues, Jim Saxton -- Congressman Saxton, of the neighboring district -- the 6th District -- Senator Bill Bradley, and Senator Frank Lautenberg to provide \$1 million so the Pinelands Commission and the State of New Jersey could begin purchasing such properties, representing hardship cases. This initiative, called the Hardship or Limited Practical Use Program, would provide some relief for certain qualified individuals, while allowing the Pinelands Commission to place this land in public ownership.

To this day, several years after this money was first made available by the Congress after hard work by myself and my colleagues, the Pinelands Commission has steadfastly refused to honor the intent of this program to assist small, hard-pressed landowners. It's just another example of the lack of sensitivity and regard for the people who are suffering within the confines of these restrictive conditions.

The treatment of small landowners has also given rise to a perception that the Pinelands Commission is not evenhanded in its permitting and enforcement activities. In what often seems to be an arbitrary process, the Pinelands Commission appears to go out of its way to find reasons to deny applications. Using criteria that often seems to lack any scientific basis, the Pinelands Commission seizes every excuse to delay, derail, and ultimately deny every application possible.

Over the last 15 years I have received literally hundreds of letters and phone calls from individuals who have been frustrated at every turn in the effort to receive Pinelands approval. Many of these hardworking citizens have spent thousands of dollars, and stand to lose thousands more, in futile pursuit of Pinelands permits.

Many give up, thoroughly disgusted and discouraged at the inconsistent application of standards and the inability to receive information on which they can depend. That basic due process seems to be lacking, and there is no practical recourse. There is also no effective check on the arbitrary decision-making or abuse of power that I have seen for many years coming out of the Pinelands Commission.

Whether deserved or not, the perception also exists that those who have substantial financial resources; who can hire attorneys, engineers, and other consultants; and who have the luxury of time can eventually prevail and negotiate a compromise with the Commission.

I am not sure that perception is accurate. Nevertheless, it persists, and the attitude and day-to-day operations of the Pinelands Commission do little to dispel such notions. In the long run, all of this undermines Pinelands protection, for it alienates those who call the Pinelands home and those who should form its natural constituency.

That brings me to my final example:

Every time I have sought to promote projects involving national wildlife refuges, Wild and Scenic River initiatives, or other environmental projects, the fear is expressed that they will become another Pinelands. There is rarely any disagreement over the desire for environmental protection. The vast majority of southern New Jersey's residents really care deeply for our environment. However, because of what Pinelands has come to represent, well-meaning and caring people feel forced to actively oppose projects designed to protect our natural resources.

Just a few months ago, a public meeting to discuss Buena Vista Township's support for the Maurice River Wild and Scenic River Project turned into a bitter and divisive dispute over the Pinelands Commission. I think one of the Councilmen, Chuck Chirarelli, is here today. Well, he knows because he helped to try to arbitrate that. They spent over three hours not arguing about Wild and Scenic, but over Pinelands. That was the issue before their governing body.

The exact same response I've just alluded to has been prompted by proposals for enactment of a New Jersey Coastal Commission, development of the State Development Guide Plan, creation of the Cape May National Wildlife Refuge -- I ran into the same thing -- and on and on I could go. Unfortunately, aspects of the Pinelands experience in southern New Jersey have poisoned the well. The fight to protect our majestic rivers, tens of thousands of acres of wetlands and woodlands, and miles of shoreline has been jeopardized because people in this region are fearful of being subjected to the kind of uncaring bureaucracy typified by the Pinelands Commission.

Indeed, I believe that the Pinelands Commission and the reputation it has developed has become the single largest obstacle that I can tell you I face in trying to further environmental protection in other areas outside Pinelands.
(applause)

Mr. Chairman, it wasn't meant to be that way. In 1978, as you know, Ed Forsythe, Jim Florio and I put together a coalition to move forward with Pinelands protection. It was based on a regional approach to decision-making that was to actively involve county and municipal governments, the people who live, work, and care about this region. In fact, the National Parks and Recreation Act of 1978 called for the establishment of "a program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve."

Federal legislation clearly provided for that partnership. However, the New Jersey Pinelands Protection Act and the Comprehensive Management Plan, which you voted against and which I would have voted against--

SENATOR GORMLEY: You went to Trenton with me to tell me that you would vote against it.

CONGRESSMAN HUGHES: --passed by the New Jersey Legislature, created a super planning agency that effectively ignored local needs and concerns. As a result, the broad consensus that carried the initiative to that point was abandoned. In the process, the ability to fashion a consensus and to make the decisions necessary for development of a fair and reasoned approach to Pinelands protection was seriously weakened.

Considering the history I've just recited, Mr. Chairman, I think you can understand why so many people have reacted so negatively to the proposed Pinelands Enforcement Act. They are not antienvironment. They simply fear the prospect of the Pinelands Commission being granted ever greater powers.

After 15 years, responsible public officials can no longer ignore the outcry of citizens who feel disenfranchised and defenseless before the Commission. After 15 years, it is time to review some aspects of the Pinelands protection effort,

and to see if we can't make some adjustments -- I don't mean gutting it. Nobody wants to gut it. I don't think that I know of -- to protect the rights of citizens while continuing to ensure that this marvelous resource we call Pinelands is not endangered.

In my view, this hearing could not be more timely, for this debate is seriously needed. I believe that it is not only possible to solve these problems and bridge the gap I've alluded to between the many factions who find themselves at odds where the Pinelands are concerned, it is absolutely essential.

I look forward to working with you, Mr. Chairman, and others on the Judiciary Committee in the days ahead in trying to decide how we can best put this back on track.

Now, Mr. Chairman, I'd like to take just a few minutes to talk about the Pinelands Enforcement Act.

In support of this initiative, the Pinelands Commission has stated that there are at least 175 serious, outstanding violations within the Pinelands, and they lack the ability to effectively enforce their regulations. I have no doubt that there are serious violations. However, when asked by myself and others to document the number and nature of these problems, the Pinelands Commission was unable or unwilling to provide me with a detailed report. I have seen information from the Office of the Attorney General -- I'm sure you have too -- indicating that after 15 years there are no more than 15 unresolved violations which warrant prosecution. If these numbers are accurate -- I don't know that they are -- it hardly suggests that this situation is out of control.

Nevertheless, before this effort moves forward, I would suggest, respectfully, it's essential that detailed information be provided to conclusively document the nature and extent of the problem. But regardless of the number of violations, I submit the critical question before you is: Just

what is the best way to ensure adequate protection of our Pinelands resources? I'd like to suggest that rather than creating a more powerful Pinelands Commission, perhaps the answer can be found closer to home.

Just two weeks ago, Senator Bill Bradley, a group of local officials, other environmentalists from Cumberland County, and I had the privilege of joining President Clinton in the Oval Office while he signed into law the Maurice River Wild and Scenic Rivers Bill which I helped write. That was the culmination of a six-year effort on the part of many citizens to assure the long-term protection of the Maurice River and its tributaries, which are among New Jersey's greatest environmental treasure. It followed by one year the enactment of a similar bill which we wrote, which adds some 129 miles of the Great Egg Harbor River Watershed to the Wild and Scenic Rivers System.

The National Wild and Scenic Rivers Program is similar to the Pinelands Act in that it attempts to achieve the same long-term goals. It just goes about it in a different way. Like Pinelands, the Wild and Scenic Rivers Program brings local governments together on a regional basis to carry out its goals. Indeed, local governments are required to enter into conformance agreements, or local River Management Plans, which are not unlike the conformance plans which every county and municipality in the Pinelands has already entered into.

Unlike the Pinelands, however, actual enforcement under the Wild and Scenic Rivers Program will be carried out entirely at the local levels. Rather than attempting to take over not only the zoning and decision-making process in the local communities, but enforcement powers as well -- as the Pinelands Commission would have you do -- the National Park Service will focus on providing scientific and technical support to help assure that the mandate of the Wild and Scenic Rivers Program is carried out locally.

This approach has a number of major advantages over the Pinelands proposal. First, local officials are already on the scene and thoroughly familiar with their areas of jurisdiction. They already have an existing body of legal remedies available, which enables them to move quickly against violators. By emphasizing local government, I believe we can expect fewer efforts to skirt regulatory authority, faster identification of violations would occur, and quicker enforcement action would occur. Just as importantly, citizens would have easier access to those charged with the administration of the Program, and can expect a speedier resolution of outstanding cases.

By using the National Wild and Scenic Rivers Program model, I believe it would be possible to develop an effective program for Pinelands protection; one which has the best chance for satisfying the many conflicting demands made of government, while still accomplishing the environmental and economic goals we all share. The crucial difference is that the local communities affected by both the Maurice River and Great Egg Harbor River Wild and Scenic River designations have enthusiastically and, indeed, unanimously adopted this approach, while the Pinelands Commission remains the object of distrust at the local level.

What I'm saying is that there might be a better and more innovative way of accomplishing our conservation goals, and that it is time to do an honest reappraisal of this effort. I believe it is time for the State of New Jersey, Mr. Chairman, to get off the dime and commit the matching funds which are needed to carry out the Hardship Acquisition Program to compensate small landowners who have suffered losses under the State Pinelands law.

It is time for the Pinelands Commission to recognize that they, like all of us who have the privilege of serving in government, are there to work for people as well. They must

become more sensitive to the very real problems people encounter, and become more balanced in the administration of Pinelands Protection Programs.

It is also time for the Pinelands Commission to take the blinders off and show a little more understanding and sensitivity to the total environment throughout our region, such as when it comes to siting decisions such as the Cape May County Landfill that I referred to earlier. It is time to look at other conservation models -- such as the Wild and Scenic Rivers Plan -- which have broad public support, are backed by sound enforcement mechanisms, and may well offer the best long-term opportunity for protecting this area which all of us love. I'm talking about the New Jersey Pinelands.

I would urge you to consider these requests, Mr. Chairman. I know I've been tough on the Pinelands Commission today, and let me just say in closing that they have a very great, extremely capable staff. I don't fault their work. We just haven't had balance in the decision-making. We need to put some balance into it and due process into it. That's the American way, and we can serve all of our interests by doing so.

Thank you very much, Mr. Chairman. (applause)

SENATOR GORMLEY: Thank you.

Assemblyman Gibson.

ASSEMBLYMAN GIBSON: Thank you, Mr. Chairman. Is this mike on?

SENATOR GORMLEY: Yes, it's on.

ASSEMBLYMAN GIBSON: Thank you, Mr. Chairman. I'm not a member of your Committee, and I appreciate the courtesy of sharing the platform this afternoon.

UNIDENTIFIED MEMBERS OF AUDIENCE: Can't hear him.

SENATOR GORMLEY: It should be working. Can you hear it?

UNIDENTIFIED MEMBER OF AUDIENCE: No. Try the speaker mike.

ASSEMBLYMAN GIBSON: I thanked the Chairman because he extended me the courtesy to be here this afternoon. I'm not a member of this Committee. It's an issue that's important to me, and he extended me this courtesy. I'm here to listen and I only have a few brief remarks, so I won't be very long.

I, too, believe there is a need to protect the vital resource -- the Pinelands' water/groundwater reservoir that's so large and so important to this entire region. But I believe strongly the taxpayers and constituents of our District have been paying a seriously disproportionate price through overregulation for protecting the resource far beyond our boundaries and deserve real relief. I welcome today's discussion, the attention being given to the subject, and I hope it will be the basis for revisions to both the Federal and the State legislation that has enacted this.

Thank you. I'm here to listen. (applause)

SENATOR GORMLEY: Just so you know, we have-- You can hear me, can't you?

UNIDENTIFIED MEMBERS OF AUDIENCE: Yes.

SENATOR GORMLEY: We have the theater until 7:00 p.m., so we'll go straight through, okay? (muttered comments in audience) That's the fun of it, okay? (laughter)

I really appreciate how everyone has conducted themselves so far. What I'd like people to stress is, after we get done saying what's wrong with each side -- there is no question about that, that will happen -- if there are any areas of common agreement, we'd like to hear them. If there are suggestions or ideas such as made by Congressman Hughes, Senator Cafiero, or Assemblyman Gibson, we would appreciate hearing them.

As I said, no one is under a gun with this process. Nothing is moving; nothing is going to happen. We have to find some levels of communication so it doesn't have to be done through the legislative process. That's why we're here today.

Now, I'd like to call the first three witnesses. We'll ask them to come up together. Peter Furey, New Jersey Farm Bureau. He'll be accompanied by Noble McNaughton, New Jersey State Board of Agriculture, and Peter Anderson, New Jersey Department of Agriculture.

Ask Mr. Furey to sit in the center, please.

P E T E R J. F U R E Y: Good afternoon, Mr. Chairman, Congressman Hughes, members of the panel.

UNIDENTIFIED MEMBERS OF AUDIENCE: Can't hear. Louder.

MR. FUREY: Good afternoon, Mr. Chairman, Congressman Hughes, members of the panel. My name is Peter Furey, and I serve as Executive Director of the New Jersey Farm Bureau. The Farm Bureau is the largest farmers organization in the State, and represents most of the commercial growers who have their business in the Pinelands region. I think in the interest of time I'll try to make my statement concise.

We would echo what has already been said by several of you, that this exercise today is not an attempt to overthrow, depose, or set aside entirely the Pinelands process. I think most of the people who live in the region accept the fact that there will be Pinelands preservation. However, the issues that rise to the surface over and over again, in our opinion, are basically three:

- 1) The concept of private property rights protection.
- 2) The excessive nature of the regulatory standards themselves.
- 3) The absence of any oversight or scrutiny to the Pinelands Commission process.

Now, in my statement I go into some more detail, but basically as far as the private property rights, we -- from the outset of this Program -- have never really seen a clear statement about the private property rights issue. It seems to be glossed over in the name of the public interest. I think a lot of this controversy is rooted in the fact that this issue

has never been pinned down. We would like to see the Commission adopt a policy on property rights, ~~on~~ on equity protection, whatever you want to call it, similar to what the State Planning Commission did upon adoption of the first statewide master plan.

With regard to the standards, we think this is an example of where the planning process is out of balance. If we, as a society -- as the New Jersey community -- want to have such stringent regulations, there has to be something offsetting for the local economic interests. It's been, in our opinion, too much of a one-way street.

Thirdly, the absence of scrutiny: The Governor has to work with the Legislature. The DEPE Commissioner has to have a budget reviewed. There have to be checks and balances. The Commission really has operated with a very strong mandate, but I think a lot of the controversy -- and the fact that we're here today -- is because there hasn't been a meaningful scrutiny. We would like to recommend that after today perhaps there be an independent review by an outside professional -- maybe even an out-of-state -- consulting firm to come in and interview people who have been affected by the process.

SENATOR GORMLEY: That's how you got the Plan in the first place.

MR. FUREY: The point of an independent review -- to go through these issues item by item and come up with a factual finding. Then perhaps some of the concrete action that has been alluded to by you in your opening statements could be based on that kind of a review.

Thank you very much for you considering our views today.

N O B L E F. M C N A U G H T O N: Congressman Hughes, Senator Gormley, and members of the New Jersey State Judiciary Committee, thank you for this opportunity to testify today

about the Pinelands Commission and its affect on landowners and farmers. My name is Noble McNaughton. I'm President of the State Board of Agriculture, Department of Agriculture.

First of all, let me state that we farmers were the original environmentalists, and still are. We are stewards of the land, and we recognize that we must maintain a reasonable use of the land to have land for future generations. But to protect our property rights, a basic right on which this country was founded, there must be a balanced use of the land.

The Pinelands exists today in its present form because of agriculture and the industry that has taken place in the Pinelands for the past 250 years. Oswego Lake exists today because Bill Haines' grandfather built it to supply water to his cranberry bogs. Harrisville Lake was created in the 1800s for a paper mill, with houses for hundreds of workers. They even had street lights. Batsto Lake was created to supply power to a lumber mill to supply wood for the iron furnace in the adjoining town.

Thousands of acres of abandoned cranberry bogs created during the cranberry boom in the early 1900s are now true wetlands. Towns and villages too numerous to mention here existed to support agriculture and the industry of the past, and regenerated into the Pinelands that most outside the Pinelands feel are virgin lands. The State now owns a vast majority of these lands.

The point I want to make is that there must be a proper balance between preservation and development. It should not all be one-sided. There must be an opportunity for those of us who live in the Pinelands to create agricultural and commercial enterprises that bring prosperity to and improve the quality of life of our communities. The Pinelands Commission set up the Comprehensive Management Plan, and had the CMP implemented by all the Pinelands municipalities. We felt that once our master plans and zoning laws were in compliance with

the CMP we could govern ourselves, but nothing could be further from the truth. Only after enduring an arduous process with the Pinelands Commission can you go to your town fathers for the proper permits.

The Pinelands program is a regulatory scheme that is excessive, duplicative, extremely costly, and time-consuming. Eleven years ago, I went to the Pinelands Commission to build my house on an 18-acre piece of farmland in Tabernacle. I went into my first preliminary conference with my case worker with my zoning map, my soils map, and other documents required. I sat down with her, and I explained to her that I owned this 18-acre piece of farmland, my brother owned an 82-acre piece of farmland next to me, and that we both rented that to the nursery and operated it as a nursery. I explained to her that there were no other houses on the properties.

As she looked at the maps for a few minutes, she finally pointed to a spot and said "That's the best spot for your house." I said, "That's well and good," I was kind of stunned because it was my brother's property. (laughter) I explained that to her and she said, "Well, that's the best spot for the house." I said, "But my land meets the criteria." Then she said, "But this land meets the criteria better. That's where you have to build the house."

After 10 minutes of frantic discussion on my part, she finally conceded to the fact that no one would probably lend any money to build my house on other land -- someone else's land -- and that she would allow me to apply -- to go for the application. But I knew that wasn't the end. For 10 months we quarreled and discussed about the location of this house on an 18-acre piece of land which I could never ever subdivide to build another house. At one point they wanted me to build the house in the middle of the 18-acre piece of farmland, and I said to them, "Well, I can't do that. It's going to disrupt all of my agricultural activities." They said, "Fine. Put

that in the form of a letter, send it to us, and we'll look at it." Finally, after 10 months, I was able to go to the town fathers and go through the normal permitting process.

One other small example: A friend of mine's grandmother in Tabernacle, whose husband had died within a few years, decided to subdivide her land and give it to her three grandchildren. As part of the process, they had to submit a sworn affidavit to the Pinelands Commission as to their cultural ties to the Pinelands. After waiting for a response for an inordinate amount of time, the Pinelands Commission finally wrote them back and said, "Everything is fine, but we want another sworn affidavit stating that the first affidavit was true." (laughter)

As I said, the Pinelands' regulatory scheme is excessive, duplicative, extremely costly, and time-consuming. The Pinelands Comprehensive Management Plan should strongly endorse the maintenance, promotion, and expansion of agriculture in the Pinelands. Water quality standards and wetlands standards greatly exceed DEPE standards, which in turn exceed Federal standards. In the Pinelands if certain plants are growing, it will cause your land to be classified wetlands no matter what the makeup of the soils are, or if there is any water present. What is the scientific reasoning, or are these just arbitrary standards to discourage growth?

Agriculture is constantly changing to meet the demands of processors and consumers. The CMP must be flexible enough to allow farmers to meet the demands of modern agriculture to make a profitable business. Therefore, the State Board of Agriculture recommends that a study be conducted under the auspices of the State Board of Agriculture and the Pinelands Commission to determine both the negative and positive impacts of the CMP and how it could affect and contribute to the future growth of the Pinelands agricultural industry.

Also, the State Board of Agriculture recommends that an advisory group be formed and made up of representatives of the seven county boards of agriculture and other agriculture experts that represent agriculture in the Pinelands. This group would advise the Pinelands Commission on regulations that affect agriculture in the Pinelands region.

Also, the State Board of Agriculture recommends that all the Pinelands Commissioners reside in the counties that are affected by the Pinelands Comprehensive Management Plan.

In addition, the State Board of Agriculture recommends that the Pinelands Commission incorporate the State Development and Redevelopment Plan's Policy on Equity into the Pinelands CMP, as this is the number one policy of that Plan which was created by the State of New Jersey as a guide for all land use plans in the State of New Jersey.

Again, I thank the members of the Judiciary Committee for this opportunity to testify. Thank you.

J. P E T E R A N D E R S O N: Good afternoon, my name is Pete Anderson. I'm an Executive Assistant up in the Office of the Secretary of Agriculture. I would like to maybe shorten up my testimony a bit by saying that the Department endorses, obviously, the recommendations made by the State Board of Agriculture and those, as well, made by the Farm Bureau.

I'd just like to briefly point out that the Pinelands area is nothing new. Those resources have been there for years. Farmers have been utilizing Pinelands resources for agricultural purposes for over 250 years. Now, during the course of that time they must have been doing something right, because both Federal and State authorities have recognized the area as ecologically sensitive and passed legislation for its protection.

I can also reiterate, very briefly, that the Department feels that many of the regulations enforced through the Comprehensive Management Plan are excessive, duplicative,

time-consuming, and expensive for applicants. There does exist an imbalance in the priorities of the enforcement of the regulations towards the "protection" of the environment in the Pinelands. Farmers, in particular, as major landowners within the Pinelands, bear a disproportionate cost of the benefits received by the public from the Pinelands Protection Act.

The agricultural industry in New Jersey, especially that located within the Pinelands, needs to have a greater flexibility to develop and greater support from the Commission itself in order for agriculture to change, grow, develop, compete, and remain a viable business, because that's what agriculture is. It's a business. There are men and ladies, or small, family-operated businesses.

The Department of Agriculture is in favor -- as well as many farmers throughout the State and those located within the Pinelands area -- of reasonable, justifiable efforts to protect and preserve the Pinelands, provided that such efforts protect and support the agricultural industry as well.

Because of the extremely restrictive, complex, and controlled conditions -- especially as exemplified in the Pinelands area -- the agricultural community in New Jersey has undertaken the development of a plan for the future of agriculture under the leadership of the Farms Commission. Many of the concerns and issues identified by the Commission, as well as recommendations made by that group, parallel issues and recommendations previously submitted to the Pinelands Commission over a number of years by the State Board of Agriculture and the Department of Agriculture.

In order for the agriculture industry to survive and thrive in the future, it must be allowed a climate which supports the growth and initiatives that will make it more competitive.

Some of the concerns discussed with the Pinelands Commission over the years, and which remain still unresolved and outstanding, include some of those that you've heard espoused by Mr. McNaughton and Peter Furey. I'll quickly reiterate some that we have listed; that being that there must be some policy incorporated within the CMP that provides equity to landowners who have lost equity within their land for resale purposes, or just the value of the farm.

I'll also reiterate what President McNaughton said: that we would call for a study or survey conducted jointly by the Commission and the Department, or the State Board of Agriculture, to study what the impact has been of the CMP on agriculture -- both positive and negative -- and that we take appropriate steps accordingly to correct what is wrong and to enhance those things that are right.

We also have recommended and discussed with the Commission that they strongly endorse the maintenance, promotion, and expansion of agriculture and horticulture within the CMP. That has been one of the goals of the Pinelands Protection Act, and as far as we're concerned it's been long overdue and neglected in its promotion.

Fourth, that the Commission evaluate its regulatory processes in conjunction with those of local governments to establish streamlined and understandable regulatory requirements and application procedures, as well as informational assistance programs that clearly illustrate and expedite the regulatory activities.

Fifth, that the Pinelands Commission utilize the expertise of the agricultural industry itself when considering the development, implementation, and review of standards, controls, and other regulatory limits placed on agriculture in the Pinelands.

Lastly, that the Pinelands Commission work with appropriate agricultural experts to review the need, as well as the justification for the regulations within the CMP, which are

more stringent than those enforced by the State DEPE and those Federal agencies which regulate wetlands. I'm specifically referring to the criteria that they use in delineation of wetlands, the evaluation -- the ecological evaluation of those wetlands delineated, and the manner in which they enforce buffering zones for those wetlands.

We also recommend that they review CMP standards specific to agriculture for farm subdivisions, vegetative composting, forestry management, and other activities that are integral, accessory, or ancillary to an agricultural operation.

As I've said, we've already entered into discussions with the Pinelands Commission on many issues, and the Department supports the concept of negotiation on these issues, even arbitration by a third party where issues cannot be readily resolved. It's our opinion that such cooperative efforts between the Commission and the Department should be exhausted prior to additional regulatory and enforcement authority being given to the Commission.

We also would reiterate the formation of an agricultural advisory group such as that outlined by Mr. McNaughton.

With that, I would like to thank you for the opportunity to address you.

SENATOR GORMLEY: Thank you for your testimony. Let me ask a few questions here.

First of all, what happens-- There is one thing that everybody always agrees about, so we might as well address that first of all, because it's a question that has lingered since 1979 and it's why I voted against the original Pinelands legislation. There was never any money. The original plan, done by the out-of-state consulting agency that was brought in, called for the landowners in the Pinelands to be reimbursed by a statewide property tax. There isn't a short enough straw in Trenton for somebody to introduce a statewide property tax, believe me. (laughter) I think everyone would agree with that.

When we talk about cost and whatever-- What I don't want to do, because I really want this to be as realistic as a hearing can be-- What would that cost be? What you have is a situation in 1979 -- a bill that we all opposed. We all said that if you do something like this, there has to be contribution, knowing that the numbers were so astronomical to compensate for the value that it would be impossible.

So the only thing I ask when people talk about money -- and I agree. I agree on this concept. I've agreed since 1979. I've been saying since 1979, "What will the cost be?" Because what I don't want people to think is that there is money to bring everybody to value in 1.1 million acres. Believe me, I'd like to have it, but I don't know where it would come from. So when we talk about suggestions like this, I'd like to see those dollar figures.

This is the discussion every year, at every annual meeting, and everybody agrees. The Pinelands Commission will say, "Yes, there should be reimbursement." But, you know, we're not just talking \$1 million or \$2 million, we're talking lots more than that. The question is, where is it going to come from?

But beyond that, the testimony was very interesting on the construction of your home. The attempted-- Well, did you eventually get it built? Let's find out if you ever moved in.

MR. McNAUGHTON: Yes, as I said, it took approximately 10 months. I finally got Pinelands approval, and then I was able to go through the town fathers and start to go to well permit approval, septic approval. But the house was built, yes.

SENATOR GORMLEY: Well, I think one of the questions that consistently has come up is the construction of the home by the farmer, or the individual whose had a life estate in property, or a family property. I think one thing we should look at is -- there will be two sides to this -- a survey in

some form or another about those persons who in 1979 or whatever had that family plot -- that 50 or 60 acres -- and the child or offspring who cannot build that home on the property that was set aside for the family. I think through your auspices, just a survey for members of the farm community to see who's left in that category, because I think that's one that is, quite frankly, far more achievable than the money that's necessary.

Oh, by the way, anybody who says they're for the money, I just want them to say what form of tax they're for. What we don't want is the singular John Wayne situation, where someone says they're for a large sum of money without saying where it's going to come from. Okay? That's really important to the process, because that's the nature of what we want to do today. The idea--

Let me ask you a question. Now, you brought up -- and it's a great idea -- you'll actually work with the Pinelands. What preliminary attempts have occurred, in your opinion, since 1979, when overtures had been made of this nature for joint efforts between the farm community and the Pinelands? It seems like a pretty good idea. It would appear that it should have happened sooner.

MR. McNAUGHTON: The State Board of Agriculture in the last two and a half years -- or a year and a half approximately -- has been writing to the Pinelands with suggestions. Now they're going over our draft of the revision of the CMP. Approximately eight months ago -- I forget the exact date, I believe it was last August -- the Land Use Committee of the State Board of Agriculture met with the Executive Director, the Chairman of the Pinelands Commission, and we did bring forth a lot of these ideas. At that time we did bring forth an idea of a joint study, and the feeling we got from them was, "We think it's a good idea. Why don't you find the funding and then we'll try to do it?" Basically, they just threw the ball back in our lap.

SENATOR GORMLEY: Well, beyond the survey or study, what about a process where both work together? I know these are crazy concepts to throw out, but--

MR. McNAUGHTON: Speaking on behalf of the State Board of Agriculture, we would meet with them tonight to work together.

SENATOR GORMLEY: But there has just not been an ongoing process? I'm not saying who's right or who's wrong, but there just has not been that ongoing process.

MR. ANDERSON: Senator, I think there has been an ongoing process. It may not have been as regularly as we had wished. We -- meaning the Department and the agricultural community -- have participated in every review of the Comprehensive Management Plan that has been held. It's a difficult and enduring process. The only problem we have with it is getting the Pinelands Commission to listen to our recommendations. We're always participating, but we don't get much in the way of response of implementation of our recommendations.

SENATOR GORMLEY: Thank you.

Senator Cafiero, questions?

SENATOR CAFIERO: Mr. Chairman, I understood you to say that this meeting may go on to 7:00 p.m. I get the feeling that all these folks testifying are under the Federal Witness Protection Act. I can't see them. Is there any way we can get some light down here so we can see who I'm talking to? (laughter)

SENATOR GORMLEY: Senator, I want you to know that they originally came in with bags over their heads, and we had them taken off. (laughter)

Just to reflect back how these hearings run. I'll never forget the first Pinelands hearing in 1979 at Stockton. It was theater in the round, and you couldn't see anybody. You could hear everybody, I'll tell you that.

SENATOR CAFIERO: They should be up here. We'll go down there.

SENATOR GORMLEY: Unfortunately, Senator, in finding a room that was the right size, on the right day, when people could be available, only took -- we only ran through 20 possible dates and places. So we're lucky enough to be here. The light is coming up a little bit, thank goodness.

Is there anything that you'd like to add?

MR. FUREY: Mr. Chairman, if I might on the point about costs. I think many of the people in the landowning community would say, "If you can't afford to buy it, why are you taking it in the first place?" I think this goes to the point about flexibility. Pinelands is perceived as very inflexible, very strict in the name of the public interest for protecting the Pinelands, so the costs are driven up by that very tight sense of preservation.

What we're looking for is some definable standard about where the rights of the individual end and meet with the public interest. We think the line has been drawn too far on the side of the public interest at the expense of landowners, economic interests, and so forth. I think that has to be laid down, and then you have this dialogue. I think the absence of the dialogue is that the local governments, foresters, builders, farmers, and so forth have felt disenfranchised because they've been told the way it was going to be.

So if there is some signal that we're going to move this back toward the center, then we can start talking about some creative techniques in land use that haven't been talked about, quite frankly, because--

SENATOR GORMLEY: Such as?

MR. FUREY: Well, in the State master plan, for example, we had a rerun of the debate in the Pinelands, and at the end there was this policy inequity. Now, the Senator's

designation process and the municipalities and counties are looking at ways to implement the broad goals of the State Plan.

What we think is the accommodation of a purchase program and some sort of density transfer: Either clustering or some way to have preservation in a large area, but allow for the exercise of development rights in a clustered pattern. This would protect some reasonable semblance of the property values, but also go a long way toward open space preservation. As far as the environmental protection of wetlands and sensitive environmental features, that's being regulated not only by Pinelands, but by the State DEPE, the Federal Fish and Wildlife, so forth and so on. So a lot of preservation already exists. Really where the fight is, is over the developable ground that has been regulated, taken off of the market, and the values crashed, etc., etc.

SENATOR GORMLEY: Congressman?

CONGRESSMAN HUGHES: I don't have any questions. Just to clarify something, we do have an acquisition program, as you may know. In fact, I believe that in addition to the \$23 million authorization in Federal law, there was an additional, I believe, \$17 million. Of that total of \$40 million, I believe all but \$9 million has been appropriated for land acquisition. That was to be a central part of-- The initiative was to buy land that was fragile and very sensitive, and in many instances they were the lucky ones. But obviously there was not sufficient resources to buy all the land that comprised that million acre line that was drawn representing the Pinelands.

I have no questions. Your testimony was very helpful to me, and I thank you. The farm community over the years has been very helpful in sharing concerns with my office, and I appreciate it.

MR. ANDERSON: Mr. Chairman, I just wanted to make one point of clarification on our recommendation to create an Ag Advisory Committee to the Commission. The purpose for that is to help increase dialogue both between the Commission and the agricultural community. An important component of that would be to educate the Commissioners who place restrictions and controls on agriculture. We get the feeling that some of the restrictions and controls being placed on the industry within the Pinelands are there out of a preconceived notion of what agriculture is and should be in New Jersey, rather than what is really out there.

For example, the one residential dwelling to 40 acres within the ag-production area: There is a caveat there that if you have a farm operation that qualifies for farmland assessment -- is actively operated -- once every five years you can subdivide and build a residential dwelling on your property at a density of one to ten acres. But a farmer's equity is all tied up in the value of his land. What happens if this man, or this woman, this family, is counting on the children to carry on the agricultural operation, and they cannot erect a place to live -- a house?

SENATOR GORMLEY: So let's cross-reference two State agencies here. You're saying that there are people who can afford to pay the mortgage, but they can't get the mortgage. Is that what you're saying?

MR. ANDERSON: Right, because of land use restrictions.

SENATOR GORMLEY: No. But what you're saying is, they are allowed to build a home after a certain period of years. But even though they're allowed to build it, they can't because they aren't able to get a loan from a bank.

MR. ANDERSON: No, I'm not saying that at all. I'm saying that the restriction of being allowed to develop one residential unit at a density of one to ten if you're a farmer

-- an active farmer -- restricts even within the capability of a farm family with children of age who become married and get into the continuation or partnership of the farm.

SENATOR GORMLEY: So what you're saying is, you should look to the number of children.

MR. ANDERSON: Not necessarily, no. (laughter)

SENATOR GORMLEY: In other words, if we're looking at the family farm, and obviously it's a very strong argument if there are offspring who want to stay involved in the family business--

MR. ANDERSON: That's one component. The requirement in the ag-production basically of one residential unit per 40 acres is based on their perception of what agricultural is, not what it is in New Jersey. There are many viable operations that have a land acreage of, say, 10 acres per parcel, make out very well, very nicely. A lot of nursery operations

SENATOR GORMLEY: Okay, so we're talking just a home. We're talking another facility.

MR. ANDERSON: So we're trying to participate in an exchange here of what agricultural we can be helped.

SENATOR GORMLEY: So what you're at a competitive disadvantage with as they might become more multidimensional in their operations, those same things can't be accomplished as readily in the

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ANDERSON: We'd have to look at it. I couldn't
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SENATOR GORMLEY: All I'm saying is, one of the
problems is they can't collateralize the loan because of the
diminished value, because of the Protection Act.

MR. ANDERSON: Right, correct.

SENATOR GORMLEY: Okay. Thank you.

The next three witnesses will be: John Huber, Atlantic
County Board of Realtors; Howard Davis, New Jersey Nursery
Landscape Association; William Cleary, New Jersey Concrete and
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John.

J O H N F. H U B E R, III : I thank you, Mr. Chairman,
Congressman Hughes. I appreciate the opportunity of being here
this afternoon. My name is John Huber. I'm a commercial real
estate broker with offices in Atlantic City. I am Vice
president of the Atlantic City and County Board of Realtors,
and Chairman of its Political and Legislative Committee.

I am here today as spokesperson for the Atlantic City
County Board of Realtors, also the Cape May and Ocean City
Boards of Realtors as it applies to these hearings. These three
organizations represent approximately 1500 Realtors and Realtor
associates.

Our Boards are always supportive of legislation that
is beneficial to the quality of life for our residents. We
recognize the need for certain rules and regulations as they
relate to the environment and development. We do believe that
legislation such as the DEPE, CAFRA, and the Pinelands Commission
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In my position, however, that on frequent occasion
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SENATOR GORMLEY: Okay, so we're talking more than just a home. We're talking another facility.

MR. ANDERSON: So we're trying to educate and participate in an exchange here of what agriculture is and how we can be helped.

SENATOR GORMLEY: So what you're saying is that you're at a competitive disadvantage with other farm regions, because as they might become more multidimensional with their farms and their operations, those same additions you're not able to accomplish as readily in the Pinelands. Is that--

MR. ANDERSON: That's it exactly, for many varying reasons: capital, the ability to build--

SENATOR GORMLEY: So what you're saying is, at least if there was a State form of collateral so that the loan could be taken in the Pinelands to offset the diminished property value in terms of projects of that nature, that would be of merit?

MR. ANDERSON: We'd have to look at it. I couldn't say right off the top of my head. I haven't thought of that one.

SENATOR GORMLEY: All I'm saying is, one of the problems is they can't collateralize the loan because of the diminished value, because of the Protection Act.

MR. ANDERSON: Right, correct.

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Our Boards are always supportive of legislation that is beneficial to the quality of life for our residents. We recognize the need for certain rules and regulations as they apply to the environment and development. We do believe that over the years the DEPE, CAFRA, and the Pinelands Commission have contributed to an orderly and sound development in many areas.

It is our position, however, that on frequent occasion all of the governmental agencies have overstepped their boundaries and have stifled many potentially viable projects;

projects that would not have had a negative impact on the environment, but would have had a positive economic impact. It is also the feeling of many that the Pinelands Commission has exceeded its original mandate on numerous occasions, and has applied onerous rules and regulations that have resulted in many fine projects being abandoned due to excess of soft cost, timing, and court battles.

It is our request that your Committee affect a thorough review of the Pinelands Commission and its future role in the development of South Jersey -- specifically in Cape May and Atlantic Counties -- with an eye toward making New Jersey more business friendly, and assist with reasonable development as opposed to setting up roadblocks.

In summary, Mr. Chairman, New Jersey does have the reputation of being one of the most difficult states in which to develop and/or expand because of its numerous agencies, rules, and regulations which frequently overlap each other, and discourages investment, development, expansion, and job creation. Mr. Chairman, if New Jersey wants to be a leader in economic expansion and opportunities, we must change our image, attitude, and the way we do business. Now, that's the end of the statement for the Boards of Realtors.

Let me just add a personal thing here that goes back a few weeks. Several months ago, Mr. Chairman, you and I met in your office along with several other Realtors to discuss the Pinelands issue. At that time I mentioned to you a project that has been delayed for almost three years by the Pinelands Commission and the DEPE. Though this project has received Federal Pinelands approval, county and municipal approval, plus two favorable Administrative Law Judge decisions, the DEPE and the Pinelands Commission still will not give it the go-ahead.

As this case is now once again in the courts, I'm not permitted to be more specific. But suffice it to say that it is a good example of the type of problems referred to in my

earlier statements. This happens to be a multimillion dollar project that would be good for the environment -- would not hurt the environment -- and would certainly be good for the economy.

Mr. Chairman, again, thank you for the opportunity of being here.

SENATOR GORMLEY: Okay, thank you.

William Cleary, New Jersey Concrete and Aggregate Association.

W I L L I A M J. C L E A R Y: Thank you, Mr. Chairman. The format is a little different than what I anticipated, so let me just go through this very quickly with you.

John Tumulty is handing out booklets. There are enough for the entire Senate Judiciary Committee, but the Congressman is certainly welcome to one, and the Assemblyman. I'll resupply John tomorrow.

SENATOR GORMLEY: It is 67 pages. Are you going to read it?

MR: CLEARY: Just slowly. (laughter) On your left is an economic impact statement which basically gives you a snapshot of the sand and gravel industry in the seven Pinelands counties on any given day. The reason it's there is to give you an idea of what just one industry is faced with, and its impact on the South Jersey area. On the right, behind the white paper, is a more specific breakdown of very technical issues that are between the Association and the Pinelands Commission under their current rules. As you know, they're going through their current CMP revisions.

One of the most important aspects of that revision has been this concept of enforcement. I think that you will agree, and everyone will agree, that the Pinelands Commission is a planning agency. It is not an enforcement agency. It is not a regulatory body in the traditional sense. It is simply a

planning agency that the State, county, and municipal governments maintained enforcement authorities all ~~the~~ and down the spectrum of everything that we do, and we believe that it should remain that way.

I agree with many of the opening statements -- the statements made by the Farm Bureau and these gentlemen -- and particularly, to focus on what happens when a Commission of this type is given almost free reign without some kind of oversight. You will see come January the printing of the new regulations -- the new CMP changes. In there you will see a section in which the Pinelands Commission is attempting to grant itself enforcement powers. They have put a provision in there that they will have enforcement power. They will be able to walk into a mining operation and issue a cease and desist for any infraction, no matter how minor that might be.

I would perceive that as a slap at the Legislature. I think it's the Legislature's determination to decide how much enforcement power the Commission will or will not have.

In addition, it arbitrarily elects to prohibit any new mining in a forest area. I have not yet found where, in the enabling legislation, the Pinelands Commission can determine what businesses will be created in the Pinelands region, any more than they can determine that a Dairy Queen couldn't be created in the Pinelands.

I believe that a lot of these issues, particularly when they talked about the wetlands buffer-- Why does New Jersey, the State, have 50-foot buffers and the Pinelands require 300-foot buffers? There have never been, you know, those kind of justifications, that kind of oversight.

You asked the question about compensation for land that has been taken. One acre of land in the Pinelands, assuming that it has good construction grade sand underneath it, will generate about \$0.5 million in revenues. So I ask you, what is that land worth? We, 10 years ago, made a

decision to invest major amounts of capital and improvement to these kinds of operations, with the understanding that for the next-- When you invest in a mining operation, it's not for three to five years. It's a 40- to 60- to 80-year investment, and to arbitrarily say, "Well, you have no buffers. Now the State mandates 50-foot buffers. Now the Pinelands mandates 300-foot buffers," you're talking about millions and millions of dollars in revenues to people who are trying to play by the rules, but makes it very difficult when you continue to change the rules.

So we see that this effort -- a legislative effort-- Certainly, we'd like to see the Legislative Oversight Committee take a look at the CMP changes. We believe that their assumption of enforcement powers, their prohibition on new mining in the forest areas, are actions that they are taking outside of any jurisdiction that the original legislation granted to them.

The third piece of paper, which is two pages, I won't even read that. It is simply so that when you go back to your office and you want to know what does a simple small business like this -- or a medium-size business -- what kind of requirements do they have, you will be able to look through the material. It will take you right through it and will show you what kinds of permits we have. It will show you that the mining industry-- Just from the Pinelands alone, we get a permit every two years that costs us between anywhere from \$40,000 to \$60,000 to get. It will show you all the Federal requirements and the State requirements. I'm not going to go through them all now, but only to offer you the opportunity to look at the information. If you have any questions, please give me a call and we'll be able to discuss it later.

I applaud your efforts to finally-- Anything that is 12 years old needs to be looked at and refined a little better. We're not advocating the revocation of a law, but

simply a streamlining of the efforts to assist us to continue to provide the goods and services that are demanded by the citizens of New Jersey.

Thank you.

SENATOR GORMLEY: I had a call from one of the members of your organization, I believe, and they were frustrated in terms of when you go by all the rules -- and some don't, and you know the people that I'm talking about. They were frustrated. They said, "Don't perceive we're against some form of enforcement by another agency." Because they don't like the unlevel playing field of going by all the rules, paying the \$40,000 or the \$50,000, and certain people, shall we say, are not as attentive to the rules.

S. H O W A R D D A V I S: Chairman Gormley, and other members of the Senate Judiciary Committee, Congressman Hughes, my name is Howard Davis. I am Executive Director of the New Jersey Nursery and Landscape Association. We are headquartered in Bordentown, New Jersey.

I represent the New Jersey Nursery and Landscape Association, which was founded in 1915 and is currently comprised of over 600 nursery, landscape, and garden center firms throughout the Garden State. The production of nursery crops is the largest agricultural commodity group in the State of New Jersey. I thank you for the opportunity to share the concerns of the New Jersey Nursery and Landscape Association regarding the enforcement of the Pinelands regulations.

We, too, are not here to advocate ripping the regulations apart, or the Pinelands apart either. Our primary concern today is the provisions that grant a wide latitude for individual interpretation. What we're asking for is fairness in the regulations.

As an example, the current regulations regarding landscaping in the Pinelands provide that 80 percent of the plants used in foundation plantings -- that the small area

immediately adjacent to the building -- 80 percent of the plants in this small area must be native to the Pinelands. That's out of every 100 plants used, 80 must be native and 10 (sic) can be nonnative plants.

This is a clear and measurable standard that has worked well to serve all concerned interests. Either a plant is native or it is not. The 20 percent window enables landscape architects to specify a few additional plants that will enhance the architectural character of their design. It will enable the use of some nonnative plants to compensate for the low transplant success of many native species, and the 20 percent window simply permits the use of desired plants, such as dogwoods, popular perennials, and nonnative grasses. If we look around the landscape of our host facility here this afternoon, we'll see many nonnative plants that have been used to enhance the beauty of this facility.

The existing standard would be replaced by a regulation that is open for wide, individual interpretation. The proposed revision states that nonnative plant species may be used provided the species are adapted to sandy, acid, and nutrient-poor soil conditions characteristic of uncultivated Pinelands soil.

Our question is: Who would determine what is a sandy soil for this purpose, and what is an acid and nutrient-poor soil? There would be no standard stipulating what is a sandy soil, nor is there any standard stating which nonnative plant species are adapted to sandy soils. Is this determination to be left to the interpretation of whoever is making the decision on a given day? Likewise, there is no standard stipulating what constitutes an acid and nutrient-poor soil, or what nonnative plants are adapted to such soils. Is this to be determined by another individual interpretation?

The proposed revision reads that, "All landscaping shall be conducted with the objective of maximizing native tree and shrub cover, and minimizing the need for supplemental water

and applications of soil amendments." These terms are all very vague, Mr. Chairman, and we feel that when the regulations are developed -- as our predecessors here this afternoon have said -- that they should be clear, measurable, and workable.

We thank you for the opportunity to submit this testimony this afternoon, and if you and the Pinelands Commission-- If we can be of any assistance to you in drafting any regulations regarding landscaping, we will be happy to assist. Thank you.

SENATOR GORMLEY: Thank you.

Questions anyone? (no response)

Thank you very much.

The next three witnesses will be: Jack Ryan, Deputy Mayor of Galloway Township; Donald McCauley, the Mayor of Washington Township; and Chuck Chiarelli, Committeeman, Buena Vista Township. (additional lighting installed)

SENATOR CAFIERO: The Witness Protection Plan has been lifted.

SENATOR GORMLEY: But there are these dark shadows around the edges. (laughter)

We'll start with Mayor McCauley. Mayor.

MAYOR DONALD E. McCAULEY: Thank you, Mr. Chairman, Congressman Hughes, members of the Judiciary Committee.

SENATOR GORMLEY: Could you pull the mike closer, please?

MAYOR McCAULEY: Which one? Is this better?

UNIDENTIFIED MEMBERS OF AUDIENCE: The mike is not on. Can't hear.

MAYOR McCAULEY: Is this one on now?

SENATOR GORMLEY: You've got it.

MAYOR McCAULEY: Thank you, Mr. Chairman, Congressman Hughes, members of the Judiciary Committee. I thank you for the opportunity to be here today. On behalf of Washington

Township, I wish to present some facts to you. I know Washington Township is not a strange location to Congressman Hughes, nor to Senator Gormley. They have been there several times. However, for the enlightenment and possible enrichment of the rest of the folks present, I'd like to relate some pertinent facts, as I feel they relate to the Pinelands issues.

Washington Township is one of the two townships solely within the Pinelands preservation area. We are a geographic mass of 107 square miles, with a population -- from the 1990 census -- of 805. That is 805 people. That is up 2 from the 1980 census. (laughter) However -- don't be too happy yet -- of the 107 square miles which Washington Township is comprised of, the State owns 85 percent. (applause)

The 85 percent that the State owns prior to 1990, when former Governor Kean left office, we received 10 cents an acre in lieu of taxes per year for that land, which in today's economy is absurd. We are now in the process of trying to get up to speed. Legislation is already in effect. I'm sure most of you are aware of the fact that the \$1.00 an acre -- and we are striving to get that. It's very important to us.

If you are to believe -- and read -- what the Delaware Valley Regional Planning Commission has said, by the year 2020 the population of Washington Township may exceed 900. Now, this in itself is somewhat of a disparity -- the State owning 85 percent of the land, and we receiving the minimal amount of money that we do having 805 people all year round. On any given day during the season when it is pleasant for canoeing, hiking, boating, hunting, whatever you want, an affair at Batsto can draw anywhere up to 25,000 to 30,000 people in that area.

The resources that we have, being a nonindustrial area, are limited. Our tax base, because of State mandated school regulations, is quite high. The burden has become intolerable to some persons in those areas. I think most of

the facts that are really pertinent Congressman Hughes has already covered. He is quite a frequent visitor over to our area, and we welcome him at any time over there.

The fact that these people that come for recreation purposes place an undue burden on our emergency services-- We receive nothing from the State to offset the cost of operating an ambulance squad, a fire squad, or whatever it takes to take care of these people who are injured while they are in the Township. The State certainly receives fees for some of their recreational facilities and areas in which they have people that come in to enjoy the area. We do not share in any of those.

Regulations leave us no room for expansion, no room for growth, no room to allow us to solve any or even a few of the problems we have. There is also duplication of many regulations that we have. We in the Township do not plan or envision any large-scale development or growth of any size in the 15 square miles which we actually have control over. Actually, those 15 square miles-- In addition to the Comprehensive Management Plan, which we just finished working with the Pinelands on, we have an active and viable zoning/planning board who is on top of the issues that have to be addressed. They do a good job.

We do, however, want the opportunity to live our lives, run our businesses, build homes for our children and their children without harassment and without undue delays and red tape on the part of the Pinelands Commission. Every facet of our land use is controlled by the Pinelands Commission. While meetings have been courteous and ongoing for several years, there have been many attempts to solve several problems.

Let's take, for instance, a case where a person's home has burned down. They wish to reconstruct it with the same basic footprint, same basic design, except it would be a new

home. The Pinelands on a couple of occasions refused to acknowledge that the place was even there. The tax maps, the tax bills didn't seem to make much difference. These we view as being harassment and unnecessary taking of time, as well as an inconvenience to the people. Much of what Congressman Hughes covered I had in my notes.

An example of a catch-22, if you will: We have a church, which is located in one of our villages, that has land which is their own, and has applied to the Pinelands to extend the burial ground. This is now into its third year. The persons who have been down to investigate -- to look into this have stated that they do not feel that this expansion is environmentally or ecologically feasible.

SENATOR GORMLEY: How large of an expansion is it?

MAYOR McCAULEY: One hundred feet. (laughter) Any other questions of that, gentlemen, before I continue? (laughter)

SENATOR GORMLEY: I was going to ask how many sites, but, no, we'll leave it at 100 feet.

MAYOR McCAULEY: Basically, all of the people -- the names are well-known: Sooys, Cramers, Cavileers, Crowleys. These are people who were the founders and the basic part of the fabric of Washington Township.

SENATOR GORMLEY: In other words, you are not talking a commercial operation, you are talking--

MAYOR McCAULEY: A nonprofit church, and we find that to be absurd. It is still ongoing, and we have not yet reached a resolution.

We understood that when the Pinelands was initially created -- and we're going back to the Pinelands becoming teenagers very soon -- that they were to be of a cooperative nature along with the Federal, State, county, and local government officials. The Pinelands Commission would be a planning agency in which to assist us, rather than, in many

cases, hinder us. We have not found that to be so. It has taken inordinate amounts of time, correspondence, and, "Unless you send me this form, I can't send you that form," and so forth. We find that to be intolerable.

We find that people, because of the increased tax ratables -- excuse me, the decrease in tax ratables going down, and the increase in funding of school requirements required by the State-- We are of the philosophy that State mandate should be State pay. We would totally encourage that.

Senator, I don't mean to insult you by this, but the Township, as you know, has gone and opposed your enforcement bill.

SENATOR GORMLEY: You're not the only one. (laughter)

MAYOR McCAULEY: Well, Senator, on the basis that the State already owns 85 percent of the Township--

SENATOR GORMLEY: The criticism was noted in May. The criticism-- Before we even get to the bill-- We're not even talking about the bill. We're talking why, when you say the name "Pinelands," is there a reaction in which the people who are usually somewhat calm don't react that way?

MAYOR McCAULEY: Right.

SENATOR GORMLEY: The reason for the hearing today is that people from other areas of the State can be here today, listen to people who live in this area, and listen to examples such as yours that are sincere in nature -- they aren't motivated by profit -- to listen to those examples. It was taken in the spirit that people aren't against enforcement. One of the things that we've even gleaned in talking with the Pinelands Commission-- If the municipalities themselves would want to do the enforcement, as long as there is enforcement, no one is against not enforcing the law. I think we're all on that same page. So the reason for the hearing today is to go over why, when you say the name, there is that reaction, because we have got to start to address questions like this.

I think the comments so far have been excellent. They've been balanced, and they have been-- (hissing from audience)

Well, you see I want to be balanced in this. Senator Cafiero and I, about a week ago, went through a very long hearing in the Judiciary Committee. It related to the reappointment of a judge in the matrimonial division. What happens in the matrimonial division is, somebody is mad no matter what your decision might be.

Now, what we're trying to do is be balanced. I will tell you this: There has been a perception over the years of the people that I represent -- that they are the first to hiss. Let it be recorded that they were not. Okay? Continue.

UNIDENTIFIED MEMBER OF AUDIENCE: I hissed, and I'm from your area.

SENATOR GORMLEY: Okay, okay.

UNIDENTIFIED MEMBER OF AUDIENCE: Me, too. (applause)

MAYOR McCAULEY: Thank you, Senator.

SENATOR GORMLEY: People are going to testify. There isn't going to be hissing and there isn't going to be booing, or people can leave. People are going to be treated equally and fairly. If somebody doesn't like that, please leave.

Go ahead.

MAYOR McCAULEY: We envisioned the Pinelands Commission to be a partner; a partner in a working relationship that should be ongoing; one which would be meaningful and timely. Cost-effectiveness is something that we cannot discuss today, because, as you said, where does the money come from? Who reimburses Washington Township? How do we get increased ratables? If we were able to expand in any of the areas, if Pinelands would permit us, we could possibly generate 20 additional building lots. So I don't see how the Delaware Valley Regional Planning Commission can see us growing at the rate they propose.

statute said we are supposed to do: with proper regard for economic consequences, but where the main purpose of this statute is to provide protection with reasonable growth in this special ecological area.

Now, I hate intransigence in government -- when I'm the victim of it, when I'm associated with people who carry it out, outrageous delays and all those other horror stories you've heard referred to today. I would take the opportunity of the podium for just one minute, however, to point out the Cape May Landfill is not one of those horror stories, although it was described as one today. I think I attended 15 meetings myself in very nonbureaucratic attempts to work out the predicament that Cape May County found itself in, or more correctly, put itself in.

For 10 years everyone associated with the regulation of the Pinelands knew that landfills would close out to use in 1990. Prior to that date, however, Cape May constructed a landfill which met the then requirements of the statute, and which had sufficient capacity to carry it beyond 1990 even though they were continually notified of the deadline. Despite that record, we have worked out in the spirit of reasonable compromise -- keeping in mind that the citizens of Cape May pick up the tab for all of this -- such that the use of that landfill is permitted until 1996, even though everybody else in the Pinelands region closed their landfill out in 1990.

It was suggested that the Pinelands Commission is not subject to sufficient scrutiny. Well, I feel scrutinized all the time if you really want to know. All our actions are in public. We present the public budget. The Office of Administrative Law reviews contested decisions, and the courts are there to provide the ultimate review of anything that we do. I don't want to make our functions legalistic. I would like to invite anybody who has a serious interest in the work

violations that are out there now, among the 175, are also violations of local ordinances. But for one reason or another enforcement of them has not proceeded.

SENATOR GORMLEY: So for the record, which I think is very important for the position of the Commission, it would prefer a system through the local code enforcement official; that they enforce the violations. You're not looking-- That wasn't your first choice in terms of expansion of power or prerogative of the Commission.

MR. SULLIVAN: No, it was not. But my recommendation would be that the statute be equipped with effective enforcement measures that can be put into place in the event that the municipal enforcement is not adequate or not successful. We'd like to see the end result be reasonable compliance with the requirements of the Comprehensive Management Plan by everybody who is subject to it.

I would say-- Finally, these three statements: I compliment you, Senator, for your leadership in arranging this event. I hope that-- Well, obviously the event so far has benefits in its own right, although I can find the basis for disagreement with quite a few things that have been said so far today. Some of them, I think, are said in the wrong spirit and others are factually incorrect. This is not the forum in which we can deal with all of those. I hope that we will go beyond this with a productive outcome of this session.

On the overall philosophy that governs here, the word "balance" has been used several times today. I think we have an obligation in the Commission to administer this statute with proper regard for its effect upon the economy; the effect upon economic interests; its effect upon property values. But the statute was not adopted in order to protect the economy, it was adopted to protect the Pinelands. If the regulations that we adopt and the stances that we take in their administration have a tilt towards protection, then I think we're doing what the

Assemblyman Solomon turned out to be the lightning rod for this event. That, I think, is to our advantage.

SENATOR GORMLEY: I think it's a very accurate statement. (laughter)

MR. SULLIVAN: I think that's a hopeful result, as a matter of fact. The fact is, the current enforcement arrangement that we have is ineffective. The form of the arrangement that we have resembles the pollution control statutes adopted in New Jersey in the 1950s. That form was discarded because it didn't work then, and it doesn't work now. It is based on the assumption that every violation has to become a Superior Court case, and it is just not the way things work.

We know of 175 existing uncorrected violations. Someone earlier was searching for that number, someone who talked about 20 cases involving the Attorney General. That's a correct representation. They are where we have requested injunctive relief. A lot of these violations were called to our attention by neighbors who were complaining about their continued existence. They were wanting to know when the Commission was going to do something about them. I think not only is this system ineffective, it's not right. It's not fair to those property owners who obey the rules, as you said several times this afternoon, Senator.

Actually, speaking as a Commission member, I don't even want the enforcement. Ours is fundamentally a planning agency and a review agency.

SENATOR GORMLEY: Just for the record, in the meetings that we have had -- because we've obviously held the bill, because we said we would for months -- the Commission has related that they would prefer the municipalities do it.

MR. SULLIVAN: I would like to repeat that preference right here. We think that the municipality could be the principal enforcer. As a matter of fact, a lot of the

the authority to determine land use patterns within their borders, it would fragment the Pinelands and produce suburban-type development.

On the other hand, the Pinelands is not a museum. It's not even a State park. It's a living, thriving community of 500,000 people. In the 12 years that the Plan has been in effect, approval has been given for 27,000 dwellings to be constructed. This is a thriving community. However, the development that has proceeded has gone where the development belongs, on the basis of a careful analysis of the environmental characteristics of the Pinelands made when the Plan was first established. Now, some landowners who had their development expectations destroyed -- that they cannot be met under the terms of the Pinelands -- are hostile to the Pinelands Act, and perhaps they always will be whatever efforts we make to explain our position to them.

Also, I understand and sympathize with the view that people don't want to be burdened with slow or unnecessary regulation, and every bureaucracy has to continually deal with itself to reduce that to an absolute minimum. I think we have an obligation to listen to these people and make whatever changes are necessary that can be accommodated, keeping in mind the purposes of the statute.

I think, however, in conclusion on this part of the statement, the State and Federal statutes in their essential form are vital to the integrity of the Pinelands. It doesn't mean that changes cannot be made. This is a constantly changing process, especially in regard to the regulatory system. But those statutes are vital because they preserve the principle of treating this as an environment entity, which is what it is.

The second point is: The Pinelands Enforcement Bill -- which I understand is not the specific subject of the hearing -- that was sponsored by Senator Gormley and

nitty-gritty and really discuss the problems and vehicles to do away with those problems-- I think that needs to be done. I think-- I mean, my feeling is this isn't the way to do it. (applause)

Many of the problems that we've heard we heard at Assemblyman Solomon's hearing -- and the Commission has been hearing -- and certainly this process makes everybody realize the seriousness of it. It should turn now in a new direction, and there should be small roundtable discussions that correct some of the problems.

SENATOR GORMLEY: Thank you for your testimony.

MS. PRICE: Thank you. (applause and howls)

SENATOR GORMLEY: Well, it was a positive howl. That's okay.

Richard Sullivan. We have Bill Neil, New Jersey Audubon, and Derry Bennett.

MS. PRICE: Senator Gormley, there were two other names that you had called previously -- Richard Sullivan and Tim Dillingham.

SENATOR GORMLEY: Oh, and Tim. Okay.

R I C H A R D J. S U L L I V A N: Senator Gormley, and members of the Committee, I'm honored to be associated with these two environmental exponents, but I want it to be known that we have not rehearsed our lines.

I want to make several brief comments and then return to what I've been doing so far today; that is, listening very carefully to what people have to say about the Pinelands Commission and its work.

The first statement I would make is that the Pinelands are an ecological treasure that will slip away from us unless development in this area is managed under an environmental plan for the whole area. I think that lots of problems can best be solved close to home. But I think that if municipalities had

ally from your side of the aisle, if you will, would mean a lot to that mayor. "Now, wait a second, I'm for protection, but that is a little much." But that never seems-- There is never--

MS. PRICE: What are you asking us to do?

SENATOR GORMLEY: What I'm curious about is what members of the environmental community -- the preservation community-- How can we start interaction so we're not doing arbitration hearings? We have circumstances where people who are sincerely motivated can talk to a mayor about--

MS. PRICE: I think small roundtable discussions of 10 or 12 people.

SENATOR GORMLEY: Well, as I said--

MS. PRICE: I mean, I think where you can get down to some really substantial conversation.

SENATOR GORMLEY: What I'm asking people to focus on is, how do we have-- When the individual problem is called in, how do we work with an organization like yours or the Commission? I realize the problem with staffing or whatever, but what are we going to do in the future so that people, whether it be real or perceived, don't feel-- You say, "You know, Senator, that might be a small percentage." But it's the only area in the State where there was ever an Executive Order. Trust me. Everybody who is here today from other areas--

MS. PRICE: Obviously, it will work much better as a national plan if we can do away with some of the controversy that is in place.

SENATOR GORMLEY: Exactly.

MS. PRICE: I think it would be to everyone's benefit to be able to meet some of the objections that are out there. I think the environmental community is all in favor of that. I think hosting meetings where we can get down to the

Then you talked about the public relations. I don't mean public relations for the sake of public relations -- should be notified-- People should-- First of all, if there is a program, the town should be notified by whoever it is that there is such a program. One thing we talked about in terms of enforcement-- We've all said it from the beginning. I mean, under the din it gets overshadowed, and the Commission said this. We'd like the towns to do whatever level enforcement. The code enforcement officials should do it, and there shouldn't be duplication. The people who have brought that up from the municipalities are correct, and we've said that since April or May. However, it doesn't matter how we compromise the bill. There still is that basic distrust.

MS. PRICE: I guess my response to your question would be -- if I'm hearing it right -- how do we get people's concerns listened to or addressed? We have never found the Commission turning a deaf ear to us. We have always found them willing to listen. My answer, I guess, would be the people in the room that have had difficulty should be going to their mayors, making sure that the mayors make use of this Council and use the vehicles that are in place.

SENATOR GORMLEY: You see, you have to understand -- in defense of the mayors -- in '81 or '82, when the Council was put in, it was a very frustrating process. This Plan was going to be the-- There was an Executive Order. You have to remember the root of it. This only passed the Legislature because there was an Executive Order. No one voted for it down here. There was not-- You know, when you pass a controversial program you try for some form of bipartisanship. That didn't happen. It was done by Executive Order that all development in the area stop.

I'm throwing a heavy burden at you. Well, how do you solve it? You didn't sign the Executive Order. But what we have to do is look to build some bridges. Quite frankly, an

in a consumer-oriented way, not in a "You get what you want to call for" way. But so that people like the mayors who testified, who have no pecuniary interest whatsoever except serving their community, which is the type of service we like to see and like to encourage-- So that there is some way--

Listen, there are always going to be disputes, but it is unfair for the good things that they do to have that perception. At the same time, I have to be quite frank. If people do feel or some have legitimate gripes or whatever-- They do get magnified sometimes, but there are things that have to be addressed.

You have to remember. What happened in 1979 was, everyone agreed there should be a form of compensation. Everyone who told the truth knew there wouldn't be. You couldn't vote for that. They should have just been up front with it. It is a form similar to local zoning expanded to a regional agency, and you've lost value in your property. That's what happened, and there was never going to be-- I mean, I did the Pinelands bond issue, but if we ever did reimbursement, the dollar figures are astronomical. We can fight for it. We can call for it. It just hasn't happened, and I don't want to lend a belief that it will.

What we have to do is try to take the good will that exists on both sides and instead of saying, "Before we get to the next regulation, or next rule, or whatever it might be, what can we do to take a group like yours and make it interactive with the municipalities?" Maybe there are things, like I said, you agree about, but there just hasn't been that level build up of good will. So a municipal official will come forward and say, "Now wait a second. These people called me. They checked it out." As I said, I don't want to see anybody waive a particular interest or whatever, and if you're doing it--

MS. PRICE: We activate some of these programs.

SENATOR GORMLEY: We can have all the programs in the world. How do we have that one-on-one contact -- not so that a person gets told exactly what they want to hear, but so that if they're wrong, they're told they are wrong? It might be somebody who looks at options for them. The advocacy program that you talked about, how do we get to that point?

MR. KIRCHHOFFER: I think the advocacy program is probably the best way. Recent changes in the Plan set up this Local Review Officer that Ms. Lettman talked, which will allow the townships to approve -- I don't know -- probably 80 percent of the applications that come through that are clean; that conform to the Plan. So maybe then if that happens -- and I am not so predicting that that's going to happen -- the staff will have more time to deal with the individual. I know that they do at times deal with the individual.

At the last meeting -- to my concern, as a matter of fact -- a waiver that was being denied-- Mr. Harrison got up and said, "This is withdrawn because we found a way he could build on his lot without needing a waiver," and if I remember right, it was less than a half-acre lot. So that does happen in spite of you hearing all the complaints about the arrogance and uncaring. I don't know. I can't give you an overall, because I don't go through the application procedure. But I know just from listening that those kinds of things happen.

MS. PRICE: I mean, a lot of ideas are popping into my mind for grant proposals so we could host meetings all over the Pinelands, where the legislation would actually be explained to people.

SENATOR GORMLEY: You have to understand. I'm not saying that there shouldn't be studies. I'm not saying there shouldn't be a Commission. I'm not saying there shouldn't be plans, but what we have to do instead of-- We have to find a system to take all the money that's already been spent to focus

are so many fine people who have been involved with the Pinelands: Richard Sullivan, Franklin Parker. If they lived in Washington Township, they would be working to preserve that church and expand that cemetery. They would be the ones taking the cause up. There is something that has to be done here, because what is happening is, there are legitimate concerns from the local residents in terms--

MS. PRICE: We realize that.

SENATOR GORMLEY: How do we bridge that? Because what I don't want to do-- I don't want to leave this with, "Oh, we have to go get money." Then I put a bill in, and the bill doesn't move for the money.

MS. PRICE: Right.

SENATOR GORMLEY: Oh, I tried and I come back, and I say, "Here is the bill I tried to move, but there just wasn't money that year." We don't want to do that. That is not what this should be about. If we could start with just common levels of where people agree or link, we'd like to hear them.

MS. PRICE: I've got a couple of ideas.

SENATOR GORMLEY: Well, let's hear them.

MS. PRICE: Some of the Pinelands Commission meetings -- which are held the first Friday of every month -- are held at night so that people can attend, so I feel that is one accommodation. We go to those meetings. We go to all the Commission's Committee meetings. We don't see other people there. This Mayors' Council-- Mayors, I think, should be representing or are representing the people out there. They are not making use of this Mayors' Council. We feel that it's all in the legislation -- ways to address these concerns -- and the people aren't making use of them.

SENATOR GORMLEY: It's in the legislation. I don't know the last time the Mayors' Council met. There have been people unfamiliar with the legislation who will say, "Let's have an advisory council here or there," and those are good ideas. The point is, how do we demonstrate to the resident?

Another way to help small landowners who do not meet the requirements of the Limited Practical Use Program could be through an individual landowner advocacy program; an independent agency set up to help solve their problems.

If it is has not been evident before, it should be very evident now that the Pinelands Commission needs adequate staffing in their public relations, education, and development review departments. That means adequate funding so they can have adequate staff. Inadequate staff results in lengthy application processes.

We want to thank you for this opportunity. I know we covered a lot of information quickly. If anyone is interested in more detailed information, we'll be happy to provide it.

SENATOR GORMLEY: We would appreciate it. Let me ask you a question. What is frustrating from the perspective of one who would like to see higher levels of agreement is the fact that when-- You gave excellent testimony.

MS. PRICE: Thank you.

SENATOR GORMLEY: Your sincerity is real; your commitment is real. That's admirable. But how do we take someone like yourself-- By the way, your patience to go to all those hearings, I don't know how you do it. But let's assume somebody works from 8:00 to 6:00 everyday, or in the farming community from 5:00 in the morning on--

We just implemented a piece of legislation that has nothing to do with the Pinelands. It's called a Family and Children Initiative. What we discovered was that we had so many social service agencies, and it was so complex for the average layperson, or the average child, that what we eventually did was, we just put somebody in the school where the problem came in.

You know, you talked about the advocate-- How do we take the very real sincerity that you have to the issue and mesh it with those local officials who are just as real? There

rules now. There are two formal public hearing meetings which-- That will be the only thing that will be discussed -- is those things.

Plus, number two on their agenda after they get through these routes-- Number two on their agenda is the permitting process that's causing so much trouble.

Thank you.

MS. PRICE: In summary, Senator Gormley, I appreciated your comments. We, too, hope that something positive can come out of today. I hope that we can all agree once and for all that the Pinelands should continue to be protected. We have the vehicle in place to do that. We need to look for creative ways to solve problems through discussion, and not through misinformation. The legislation, the Commission, and the CMP are effective tools to be used.

The Pinelands Preservation Alliance would like to specifically ask that the Senate Judiciary Committee think about the following recommendations:

What should be done with violators of the CMP? I think we all admit that there is a problem. What should be done about it? PPA thanks Senator Gormley for recognizing this problem and for introducing the Enforcement Bill, because we need a solution.

Senator Gormley has also been a leader in getting infrastructure bond acts passed, which are critical to the success of a sound land use plan. We ask that he continue to make efforts to relieve the financial pressures that are placed on municipalities through continued infrastructure bonds.

The PDC Bank needs reauthorization if it is going to continue to be the PDC buyer of last resort.

Small landowners whose properties have limited use can be helped via the Limited Practical Use Program. It needs your support for dedicated funding.

I'd like to end with praise to the Commission in the openness in which they run their operation. They have certainly been subject to a lot of criticism today, and I many times am part of that criticism.

But let's look at what they do: They meet once a month. There are three unlimited opportunities for the public to speak at those meetings. I've never heard the Chairman cut anybody off in six and a half years. At the rear of the building, all the resolutions-- At the rear of the room, all the resolutions that are to be passed are available.

There is a description of what-- Their sometimes not understandable procedures, as to what they are going to do, are there so that somebody can read and understand it. For anyone who lives in the Pinelands -- we talk about Pinelands representatives -- each county has a representative, and each one of those representatives has a telephone. I know, because I call them.

Finally, the Plan review process: They are in the midst of it now, and it has been thorough, complete, and open. There were 10 all-day sessions in which people and experts on 10 major subjects sat, discussed, and made recommendations to the Pinelands Commission as to what kinds of changes should be made. Agriculture, forestry, and permitting were three of those subjects.

The Commission itself has been-- I wish I had kept track of the hours that they have set there. In spite of your criticism of them, they spend their-- As far as the time they spend is unimaginable. They had a two-days-in-a-row retreat on this campus last year, where they discussed and debated. All of those meetings were open to anybody, and debate was never cut off in those meetings.

So I say there is a vehicle for dealing with the problems that we're talking about today. I think that they're going through that process now. They're putting out a lot of

compensation for his selling his development rights, and it has channeled the development into the more appropriate regions of the regional growth areas.

The PDC Bank is also-- The Administrator of the Bank, Jack Ross, says that PDCs are now selling for between \$20,000 and \$25,000. The Bank is an effective way to guarantee the small PDC owner the right to sell, and the developer to buy these rights. The Bank is adequately funded now with \$3 million, and will turn a considerable profit on the 63 PDCs that it now owns. The Bank's legislative authority to purchase PDCs has expired.

Other programs that have been proposed and debated that would benefit the small landowner you've already talked about: the Limited Practical Use Program that Senator (sic) Hughes has been behind since the beginning. This money -- and I followed that very carefully -- has been caught in an unimaginable bureaucratic tangle, and has not had a person to lead the charge to get it through. I think that such bureaucratic tangles need somebody that is devoted to it to get it through, and that hasn't happened.

Several years ago, the Pinelands Commission considered an Individual Landowners Advocacy Group and studied it. There was a plan that was primarily designed to deal with the problems of the small landowner, and to be a land trust to buy and sell land, also. That was planted and never flowered.

There is a significant loophole in the plan, which is a lack of enforcement. I know that is very controversial, but it is a real problem and needs attention. There are-- If you could just deal with the repeat offenders-- There are those people who know that they cannot be punished. They can suffer no problems if they don't adhere to the Pinelands rules, and a lot of people -- not a lot, not 125, but plenty of people -- take advantage of that. Something needs to be done. We're disappointed that problem has been bogged down by a lot of misinformation.

They can also do this through an Infrastructure Bond Act. This 1985 bond issue provided for \$30 million for grants and loans for municipal governments for capital projects necessary to accommodate development in regional growth areas. These funds probably would have never been available if it were not for the Comprehensive Management Plan. This enabled the development of small lots in regional growth areas to occur, and this is thanks to Senator Gormley.

SENATOR GORMLEY: That bond issue was done independently of the Plan. Go ahead.

DONALD KIRCHHOFFER: My name is Don Kirchhoffer. I have been going to every Commission meeting for the last six and a half years and most of its Committee meetings for four years, and have an unknown tolerance for sitting through their long and sometimes boring deliberations. But I think that I can give you some experience that has not been brought out that is beneficial to the small landowners. That is the thrust of what I want to say.

First, there are the waiver provisions that have granted over 10,000 waivers since the Plan has been implemented. There is a grandfather provision that most people don't know about, that allows for individual landowners, under certain circumstances, with lots that are not large enough to develop their land-- The municipalities have a lot of input into how this works, and those things have worked and allowed the building of lots.

There are the Pinelands Development Credits, which I'm sure you know about, but just a couple of statistics:

Owners of over 5900 acres of land in the preservation area have sold their development rights. Owners of over 3900 acres in the two agricultural production areas have sold their development rights. The benefits of this are threefold. Obviously, first, 9800 acres have been permanently protected from future development. The landowner has received some

Preservation Alliance has complained on numerous occasions about those things. But it goes without saying that it is a significant public policy that has warranted major financial investment of both State and Federal governments.

Some of the components of how it actually is implemented I'm going to turn over to Theresa Lettman and Don Kirchhoffer. Both are Pinelands Preservation Alliance staff members, and they are going to comment on their experiences with the effective and ineffective programs of the Comprehensive Management Plan.

Terry.

T H E R E S A L E T T M A N: There are four opportunities for local governments to participate in the implementation of the Comprehensive Management Plan:

They can do this through the Conformance Committee meetings. Representatives from all levels of municipal governments, as well as individual landowners, have the opportunity to review their municipal ordinances with Commissioners on a monthly basis. This gives everyone the chance to address their municipality's individual needs.

They can do this through the Mayors' Council. The legislation and the CMP provide for a Mayors' Council intended to aid in keeping Commissioners sensitive to local problems. This Council recently met with Commission staff to review the implementation of the revised waiver provisions, to learn how it would effect their zoning.

Through an Administrative Officer, which the CMP presently provides for, an individual within each municipality can significantly simplify an individual's application process by performing certain functions that the Commission staff now does. During the present Plan review, this provision has been expanded to include a Local Review Officer, which will make it even easier for the applicant and even more authority to the municipality.

Council was organized, and during this period it grew and fell in importance and influence. The population in the Pine Barrens grew by 43 percent. A referendum that legalized gambling was passed and the first casino was built less than 10 miles from the Pinelands. At this time, David Bardin, then DEPE Commissioner, passed water quality standards and led a charge for a joint Federal and State initiative to protect the area. At the same time, John McPhee's book added to the cry for protection.

Many public hearings were held. Legislation was drafted. In '78 the Federal government passed the Pinelands National Reserve, the first in the country. In '79, the State followed suit and passed the Pinelands Protection Act. It was a unique law that set up a balanced 15-member Pinelands Commission.

Why all this special attention? Because it remained the largest piece of open space between Boston and Washington, D.C.; housing a huge freshwater aquifer -- one of the largest in the nation -- that was important to the entire State. Because it was an ecosystem supporting many rare and endangered plants and animals. Because of the history, folklore, and the unique communities within the Pinelands. Because of the recreation and the indigenous industries that were important to all of the residents of New Jersey. All of these reasons continue to be worthy of protection.

What was happening in other parts of New Jersey? Development was occurring; loss of farmland; difficulty in farming because of encroaching development; unplanned scattered growth resulting in financial pressure to develop infrastructure.

What were they trying to do here in the Pinelands? They were trying to make an effort to develop a plan that would protect it all while allowing growth. It has fallen short of completely protecting the environment, and the Pinelands

the value and importance of the Pinelands to the residents of New Jersey -- not only the residents that live in the Pinelands, but those also to the north, south, east, and west.

If you look back over the last 40 or 50 years -- and I promise I'll do this quickly -- you can trace the pressures and conflicts that affected the area.

In the '50s, New York and Philadelphia's populations expanded, and the postwar economic boom resulted in eyes turning towards the Pinelands. As pressures grew, so did the conservation interests. Then a major proposal for development was introduced: a new jetport that would encompass 16,000 acres in Lebanon State Forest. This was done by Burlington County.

In the '60s, the jetport idea took off. Nobody laughed? (laughter) Burlington County was joined by Ocean County, and they created a Pinelands Regional Planning Board to develop a plan for 950 square miles. It was to be the largest in the world. In addition, a new city was to be built on almost 11,000 acres that would house 250,000 people. It was to be the third largest city in the United States. All of this served as a catalyst in stimulating wide public interest in the Pinelands and in developing strong opposition to the jetport.

From this a new conservation effort was organized. First, a national park was considered, and then a national monument. Neither of those were feasible because they did not allow for continuation of native industries. A Citizens Advisory Committee was formed. The Executive Committee of that included representatives from counties, municipalities, from agricultural, sportsmen, and conservation groups. Everyone involved believed a regional planning approach was needed. During this period the population of New Jersey increased by 16 percent, in the Pine Barrens it was 36 percent.

The '70s was a decade of land use planning conflict. The Citizens Committee worked on a plan, and Governor Cahill was committed to no new jetport. The Pinelands Environmental

MS. PRICE: All on behalf of the Pinelands Preservation Alliance.

SENATOR GORMLEY: Okay. Who are part of the three?

MS. PRICE: Don Kirchhoffer and Theresa Lettman.

SENATOR GORMLEY: Okay.

MS. PRICE: I'd like to thank you very much for giving us this opportunity. My name is Sally Price, and I am Executive Director of the Pinelands Preservation Alliance. We're going to give you a three-person presentation today.

SENATOR GORMLEY: Good.

MS. PRICE: I'm going to present a little bit of history and some of the pressures that stimulated the '78 Federal and '79 State legislation. Theresa Lettman and Don Kirchhoffer, who work full-time with the Comprehensive Management Plan and its implementation throughout the Pinelands, are going to present programs that deal with local participation and that affect individual landowners.

The Pinelands Preservation Alliance is a 4-year-old nonprofit that is dedicated to the preservation of the New Jersey Pinelands. We serve as a watchdog organization to the Pinelands Commission.

I am then going to close our presentation with-- We have some very -- what I think are positive recommendations that we would love if the Committee would pick up on.

SENATOR GORMLEY: If everybody agrees to them, we'd be more than happy to pick up on them, believe me.

MS. PRICE: Great, okay. We think they're good ones.

We're here today to talk about the New Jersey Pinelands, and many people in the room that are here today came out 15 years ago. They were here then, and they are here now because we all agree on one thing: The Pinelands are a special place worthy of and in need of being protected. Our views may differ on how that should be accomplished, but we all recognize

dozens of local governments acting independently could never guarantee the preservation of this area with its nationally significant values. On the other hand, an approach where final decision devolve to Trenton or Washington, D.C. is a recipe for complete frustration.

Mr. Chairman, I'm certain you realize this is not a partisan issue. After all, the existing legislation was enacted during a Democratic administration and the laws were implemented during a Republican one. We've worked together in the past and can in the future. As you move forward, please keep me informed of your progress. I intend to stay fully involved in the preservation of this unique and beautiful area.

In Washington, most of my colleagues' views of our State are framed by what they see from the Turnpike. The simple presence of the Pinelands represents the strongest refutation imaginable of this narrow-mindedness. I look forward to our continued involvement together in this issue.

Sincerely, Bill Bradley.

Thank you. (applause)

SENATOR GORMLEY: Thank you very much for the testimony.

To all the people who took the time to send us testimony, just have all four check with one another for their mutual date for their hearing. We will set it up down here, okay, and it will be far more courteous than spotted owl hearings. So we would like to invite everybody down and listen firsthand. That's the experience I think people need.

Thank you very much.

The next three witnesses: Sally Price, Tim Dillingham, and Richard Sullivan.

S A L L Y B R E C H T P R I C E: Senator Gormley?

SENATOR GORMLEY: Yes.

MS. PRICE: We have, sort of, a three-person presentation.

SENATOR GORMLEY: You have a three-- Okay.

Third, while refinement should always be considered -- you have yourself introduced legislation to do so -- the basic framework for this success should remain intact.

These comments notwithstanding, please understand that I am not dismissing criticism of the Pinelands Plan or Commission. On the contrary, I have worked in the past on many occasions to assist in the resolution of various grievances. I have worked, and will continue to work, with the entire New Jersey Congressional delegation to address these issues.

As you know, Congressman Hughes and I strove to create funding to deal with financial hardships created by the Pinelands. In fact, we have already succeeded in securing \$1 million for hardship cases. Unfortunately, the money cannot be spent without a State match, and State funds have not yet been appropriated. If State funds are provided, this pool of money could do enormous good. Releasing these funds -- and, ideally, securing more -- should be given the highest priority.

It is easy to mischaracterize the Pinelands Commission. The Commission changes and evolves, just as it replaces Commissioners from year to year. I believe the Commission is aware of many concerns and will attempt to respond to them meaningfully. It has been reported to me that the present intensive review of the Pinelands Plan by the Commission will eliminate some of the bureaucratic burdens that have grown up over the past 12 years. One of the next issues that the Commission is scheduled to review is the permitting process, one of the major concerns of those that are now raising their voices against the Pinelands.

The Pinelands National Reserve represents a vast area encompassing many townships and counties. Some critics of the Pinelands will be content with nothing short of the effective dissolution of the Pinelands Commission. This will not happen. For better or worse, the Pinelands Reserve cannot exist without an operative and forceful Commission. Dozens and

SENATOR GORMLEY: Creighton Drury, from Senator Bradley's office.

C R E I G H T O N D R U R Y: Thank you, Mr. Chairman, Congressman Hughes, members of the Committee. I would like simply to read a letter on behalf of Senator Bradley.

Dear Mr. Chairman:

I understand you are today holding a public hearing of the Judiciary Committee on State and Federal regulations affecting the Pinelands area. Although I could not be with you to testify in person, I hope this letter conveys some of my deep, personal feelings about the Pinelands, which I consider a national treasure. I ask that you include my letter in the hearing record.

The New Jersey Pinelands National Reserve was created by Federal and State legislation in 1978 and 1979. As you know, these laws set aside 1.1 million acres -- more than 20 percent of the State -- for special consideration and protection. The Pinelands represented, then and now, a unique cooperative experiment involving Federal, State, and local governments. I emphasize the word experiment because the fact is that no one had done anything nearly as ambitious before, and as with any true experiment, some aspects perform better than others.

Many at your hearing will focus on perceived shortcomings of the Pinelands Plan and Commission. This is appropriate, and I encourage you to continue to reach out, discover the truth, and determine the potential remedy. But it is critical to recognize and acknowledge what I believe are the consensus views of most New Jerseyans; they are:

First, the Pinelands remains a critical part of our identity as New Jerseyans, and deserves continued protection and preservation.

Second, the implementation of these desires through the Comprehensive Management Plan and the Pinelands Commission has been remarkably successful.

N A N C Y B Y R N E: Thank you, I'm here on behalf of the Secretary, Bruce Babbitt, and his letter is as follows:

As your Committee reviews areas of State and Federal legislation concerning the Pinelands, let me share a national perspective of the New Jersey Pinelands area controlled by the Comprehensive Management Plan and the slightly larger New Jersey Pinelands National Reserve established by Federal law. In essence, we regard the New Jersey Pinelands legislation and regulation as a model that works.

It is an outstanding example of land use planning and ecosystem protection which successfully balances the interests of private property owners and environmental protection. Such balance is essential in avoiding environmental train wrecks. This New Jersey model is being considered for adaptation and adoption in other important areas.

An essential element of the New Jersey Pinelands approach is a provision for periodic reassessment and revision every five years. This approach acknowledges that any land use regulations will have rough spots that require attention. New Jersey's Pinelands Commission is well-advanced in its second five-year cycle of plan review, and a significant number of changes are in the process of being made in order to simplify procedures and adjust some of the requirements. I am also told that the Commission's process involves extensive public hearings and input that have resulted in impressive involvement from individuals and groups whose interests are at stake. We look forward to the outcome of the plan review process.

The pioneering approach taken by New Jersey is of great national importance, and New Jersey should be commended for its innovative solutions to tough problems. It must be a source of pride for the Legislature of New Jersey. Continued thoughtful implementation by the Pinelands Commission should be the public's priority concern.

Sincerely, Bruce Babbitt. (applause)

some of the uses of land that prevailed prior to the enactment of the Act and the adoption of the Plan were allowed to continue.

We would remind the Committee that the Pinelands Protection Program is a unique partnership in which all levels of government participate. This unique effort is without precedent, and therefore its execution has had to evolve over the last 13 years. The Plan has been repeatedly amended to accommodate perceived inequities and inefficiencies. In fact, the Commission is currently engaged in just such a review.

Complimentary programs have been enacted by the Legislature, such as the Tax Stabilization Act, which has not been mentioned today; the Pinelands Infrastructure Bond Act; and the Pinelands Development Credit Bank Act. This is not to mention the adoption of 59 local and county land use management plans.

It is our view that any material weakening of the existing pattern of regulation of activity in the Pinelands will only result in the ultimate large-scale destruction of the unique State and national resource. We submit that such a result would have tragic implications for the future of this State, and that it is not desired by the overwhelming majority of our residents.

We appreciate the opportunity to address these issues, and would welcome the opportunity to discuss them further if that would be helpful to the Committee.

That is from the former two governors -- Governor Byrne and Governor Kean.

SENATOR GORMLEY: I was speaking with Governor Kean today, and he indicated that you would be speaking on his behalf.

MR. PARKER: Thank you. (applause)

SENATOR GORMLEY: The next witness, representing the Department of the Interior, Nancy Byrne.

So this is a statement from both former Governors Byrne and Kean:

We both regret that because of prior commitments we are unable to testify in person. We have, however, asked that Franklin Parker present on our behalf this summary statement of our full statement presented at this hearing, and that such full statement be incorporated in the hearing record.

Our great interest stems from the fact that as Governors of New Jersey, we were instrumental in both the adoption of the Pinelands Protection Act and the implementation of the Comprehensive Management Plan.

Learning from the national experience that public lands need to be buffered from encroaching development, the Pinelands Act established a core preservation area and a surrounding protection area. This is perhaps the single most important theme of the Act; that the unique resources of the Pinelands core area shall be protected, while allowing for managed compatible development in the protection area. A second important theme is that compatible agriculture shall be protected and promoted. The third compelling mandate is the protection of surface and groundwaters.

In developing the Comprehensive Management Plan the Commission endeavored to meet these sometimes conflicting goals while still treating landowners fairly and equitably. The Plan that was finally adopted and has since been revised many times is considered by many persons to be an extraordinary national model that could be the starting point for similar efforts elsewhere in our nation. We both agree with that overall evaluation.

The courts have repeatedly held that the provisions of the Act and the Plan are justified, fair, and equitable to those affected. We believe it is essential to keep in mind that the resources of the Pinelands could not be protected if

assigned to municipalities or whatever-- Even though people have individual case assignments, is the sense or the feeling that it's like Abbott and Costello's "Who's On First?"

In other words, you might not be right -- and I am not saying that you are right on the issue -- but if somebody could walk you through it and say, "Well, maybe you could try it this way." Is the sense you'll get a, "No, come back and try again"? I'm going into an area that isn't a lot of money, but is that a general sense that municipalities feel; that they don't have the expertise or the back up that the Pinelands Commission has, and they would like to see more of a partnership?

COMMITTEEMAN CHIARELLI: Senator Gormley, if you would allow me to step out of turn a little bit. Another member of our Township Committee, Teresa Kelly, has some comments in her remarks that I think you will find would be perfect for your--

SENATOR GORMLEY: We'll be getting to her, but you have to understand--

COMMITTEEMAN CHIARELLI: The Abbott and Costello aspect of it is one of the points that she'll address later in reading just a typical statement that the Pinelands would make to an average consumer resident. They're just not geared towards dealing with the public on a consumer-oriented basis.

SENATOR GORMLEY: Thank you for your testimony.

The next three witnesses will be: Franklin Parker, Creighton Drury, and Nancy Byrne.

Mr. Parker.

F R A N K L I N E . P A R K E R: Yes, sir. Thank you very much, Senator Gormley, Congressman Hughes.

I am here today to present a statement on behalf of former Governors Kean and Byrne. They both regret they cannot be here, but I will just read a one-page statement that they have approved of me giving. I will leave with you a longer statement that they asked the Committee to consider, which I'll deliver. (distributes statement)

In closing, gentlemen, the majority of the people in this room are from the Pinelands. Let us determine our own destiny, or at least have more input in the process.

I thank you for your time very much. (applause)

SENATOR GORMLEY: Thank you.

Any questions from members of the Committee?

Congressman.

CONGRESSMAN HUGHES: I don't have any questions. I just want to congratulate the panel on excellent testimony -- Jack, Mayor McCauley, and Chuck Chiarelli. I just want to say that Chuck was very, very helpful in Buena Vista Township in putting down the insurrection that I referred to earlier, when we were trying to move the Wild and Scenic River designation for the Maurice River and its tributaries through the process.

Buena Vista Township was the last Township basically to come on board and agree that we would preserve some 35 miles of beautiful river. I just want to publicly thank you, Chuck, for your leadership in making that possible. I know that evening, when you faced a very hostile audience over Pinelands, not about Wild and Scenic, you were able to -- you, Rosario D'Amore, Teresa, and others on that governing body -- put that down, and I thank you for your leadership.

COMMITTEEMAN CHIARELLI: Thank you, Congressman Hughes, and I'd like to thank you also on behalf of the rest of the Township Committee which is here today.

SENATOR GORMLEY: One thing we're going to ask or bring up-- There is obviously a general sense-- Believe me, everybody agrees about the money. The question has always been, since 1979, where or who. As I said, anybody who wants to recommend a tax, please bring it up. We'd like to see the volunteer, okay.

Over and above that, there was a vaudeville skit-- Listen, part of this is perception, and sometimes you only hear the horror stories. But if there was somebody at the Pinelands

A Burger King was recently denied the right to build in the Buena area of our Township. They could have hooked into water and sewer lines of the Buena Borough Utilities Authority that Congressman Hughes spoke of earlier, which is our neighboring community. But they were denied because Buena Borough was not in compliance with certain standards that are not required to be in compliance until 1995. So they just denied them on the basis of what might happen in the future. Does this make sense? This is not Tilton Road in Northfield we're speaking of. This is Buena Vista Township, which does not have a single fast-food restaurant.

We have 1600 unbuildable properties in Buena Vista Township, in part due to the Pinelands Commission. Now, what are the answers?

The first thought that comes to my mind is cut out the double-talk and complications that plague common citizens who apply to the Pinelands.

The second is justly compensate those people who must be denied.

Third: Keep the Pinelands Commission intact, but balance it. Make it more equitable.

Fourth: Correct the errors that we have learned about since 1979.

Fifth: If you need enforcement powers, work with what you have and make some modifications, not another bureaucracy. Merge with another agency. Don't burden us any more.

Sixth: Just compensation should be required to property owners in some format.

Seventh: Just compensation should be required to municipalities whose tax base has been adversely affected by the Pinelands. Maybe undeveloped properties could be released from taxation in the towns that are heavily burdened by the Pinelands, such as Buena Vista Township. Let's stop ignoring the problems, because they're not going to go away.

Your Pinelands peers are here today; 1979 was not that long ago. We're here now, and we haven't forgotten how you changed our lives. Let me tell you that I own no other land than the 3.2 acres my home is built on. Let me tell you my original site was one acre until the Pinelands Commission got involved.

Let me tell you that I sympathize with the residents who can't build a home on a piece of land that would hold 12 houses somewhere else. I sympathize with the farmers whose land values are different because they live in the Pinelands. I sympathize with the farmer who lives on the borderline with the City of Vineland, and finds his land is worth half the value of the land across the street. I also sympathize with the farmer who has 30 acres and can't let his son build on just 10 of those acres.

I sympathize with the owners of the restaurant who can't expand on top of an asphalt parking lot without an ungodly amount of additional land being acquired at robber baron prices because you've got them over a barrel. I sympathize with the woman who has an office, that can't have a second story added to that office for living quarters for a family member on almost four acres of land. I sympathize with the thousands of property owners who had to make changes in their plans to accommodate the Pinelands Commission.

I sympathize to the taxpayers of Buena Vista Township who must pay more to live in an area that is unfairly burdened by the Pinelands. In Buena Vista Township, we lost a year's worth of time, spent an additional year's worth of engineering fees, and the cost of an environmental impact study to enable us to widen a road to State guidelines -- to 24 feet that was only 22 feet wide. For us to receive State municipal aid for Landis Avenue, we went through hell for two foot of additional asphalt -- one foot on each side of the road. It didn't even go off the roadbed. Does this make sense?

County Board of Freeholders, with the support of Senator Gormley, to take the initiative and form such an advisory board. This board should and will have the power to influence legislation, balance competing interests, formulate density control, or transfer development opportunities through information exchange or new programs to each municipality. This type of collaborative effort can only be beneficial to Atlantic County and the Pinelands Commission.

It is with this hope and enthusiasm that this goal can be accomplished. With your support and participation, such an advisory board can become a reality.

Thank you.

SENATOR GORMLEY: Chuck.

COMMITTEEMAN CHUCK CHIARELLI: Good afternoon, gentlemen. I'm very pleased to be able to speak before such a distinguished group of leaders in our area. My name is Chuck Chiarelli, and I'm a Township Committeeman and elected official in Buena Vista Township, which is 90 percent Pinelands. We are 44 square miles in size and have 7500 residents.

I represent our residents, which are home owners, farmers, and business people. I personally am a charter member of the Buena Vista Township Environmental Commission, and I still serve on the Commission as a member. I grew up in this area and the growth sometimes scares me. Regardless of my background, I have problems with the Pinelands laws and the enforcement powers they seek.

What could be said in a few minutes that could make a difference to everyone here today? Today is a call to action, and I'm glad to see this Committee has woken up and started listening. What is this hearing all about? Certainly, it's about the enforcement powers that the Pinelands Commission seeks, but it's more than that. It's about justice; it's about equity; it's about a good concept gone overboard.

Therefore, I call on Senator Gormley, from Atlantic County, to pull this bill from active consideration immediately so as to rewrite its intent and scope. But let us be proactive and propose another solution to the Pinelands dilemma facing officials and constituents of our County.

What we would support is legislation that mandates a level playing field for all interests and concerns. The many issues that confront the zealous environmentalist, the farmer, the developer, and the resident of the Pinelands must be balanced. For too long it has been lopsided on the side of limitation and neglect. As such, we would like to restore the scales of justice to the Pinelands and to the Commission that serves it. The mission of this authority should be not only to protect and conserve the environment, but to ensure that the Pinelands remains a viable and progressive place in which to live and prosper. This interest is irrevocable and should remain so. To flaunt the will of the people, like myself, who live in the Pinelands is to relinquish the trust of all our citizens.

But what is the answer or solution to finding this balance of interest here in Atlantic County? As one of many municipal officials and advocates here today, I would like to propose that we form a countywide Pinelands advisory board that would be comprised of both an environmental agent and an economic development officer from each municipality in Atlantic County. This type of cooperative effort can only make the Pinelands Commission more responsive to the needs of the community, and will affirm the rights and obligations of all concerned parties. Such a call for relief cannot remain unanswered, for the growth and preservation of Atlantic County is at stake.

To constantly be in an adversarial position or mode of thinking is to shortchange everyone affected by this Commission and its intended legislation. So I am asking the Atlantic

Finally, in summary, for those who hiss and for those who applaud, there are a few comments I have which I feel are meaningful and pertain to each and every one of us. There is nothing as important as the air that we breathe, the water that we drink, and the condition of the land on which we live and work. To that end, I pledge the cooperation of Washington Township to assist in any way we can.

Thank you for allowing me to testify. (applause)

SENATOR GORMLEY: Thank you.

The next speaker will be Jack Ryan, Deputy Mayor of Galloway Township.

DEPUTY MAYOR JOHN D. RYAN, JR.: Thank you, Senator. I have a statement on Senate Bill No. 1147.

As a concerned municipal official of a township that this proposed legislation will impact on, I would like to express my extreme dissatisfaction with the proposed bill. The police powers of the Pinelands Commission, as outlined in this bill -- namely criminal investigation and fine levying -- are much too broad and self-serving to remain unopposed. Moreover, the Pinelands master plan has never been reviewed or audited since its inception. So we are still in the dark as to its effectiveness, fairness, and administration of its mission.

Let's be clear. We are in support of environmental issues, but not at the extreme or radical expense of the population that resides or makes a living in the Pinelands. They are our natural flora and fauna, and should be protected from unreasonable search and seizure. To ignore the interests or concerns of the citizens of this area is to denigrate the importance of their contribution to this County, and as an elected official, I will not do so.

This bill is not only patently unfair, it is unethical. As such, we have a moral imperative to oppose its language and content. It is a dangerous piece of legislation, and I urge all county officials to join me in opposing it.

of the Pinelands to come to our monthly meetings, find out if it's true that we're arrogant, that we don't listen, that we don't pay attention, that we're uncaring.

Having said all that, however, I think that this statute is a remarkably successful document. Its administration has imperfections because those of us associated with its administration are imperfect as well. I think it has done what those who framed it hoped it would do. I think it's our responsibility as Commissioners to do everything we can to listen carefully to the complaints of the people, to the protests they make, to their definitions of unfairness and all the rest, and make whatever changes we can make consistent with the system in order to accommodate their needs. I hope that we can.

I agree with you completely that it would be helpful to all -- to those who want to protect and to those who are offended by some of the requirements -- if we could follow up this session with other contacts beyond those which we now have going on with groups that have interests in the effects of the regulations upon their economic or other kinds of welfare; to see if it isn't possible through that regularization to narrow the differences that we have. I think they will remain, but I think they can be narrowed. In that spirit, I welcome today's event and all the commentary that everybody makes.

Thank you. (applause)

SENATOR GORMLEY: I think-- Well, it's an academic question for today. It will be a major question in 1997. I think we'll be revisiting every landfill in 1997 in this State.

MR. SULLIVAN: I hope you're mistaken.

SENATOR GORMLEY: When the out-of-state charges come on, I think everybody is going to have to rethink all their positions. All the campaign promises are going to catch up.

Tim Dillingham.

TIMOTHY P. DILLINGHAM: Thank you, Senator.

For the record, my name is Tim Dillingham. I'm the Chapter Director for the New Jersey Chapter of the Sierra Club, representing 17,000 members in the State, 5000 of whom are South Jersey residents. I guess I want to start by commending you for your comments in the paper the other day. You were quoted as saying that you recognize that there was a deep division among the people in New Jersey about the perceptions or misperceptions about each other's motives.

SENATOR GORMLEY: I compared it to the Mideast, the way both sides react to this.

MR. DILLINGHAM: That's right. I think that's probably fair. I'm going to take hope from the progress that's being made in the Mideast right now that we might be able to move forward here. (applause)

I think that one thing that needs to be said is, the starting point for building those bridges and giving or creating an opportunity for common sense to come into play is recognizing that everybody has a legitimate interest in the Pinelands. Those interests vary. They have different ties, whether you're a landowner, whether you're somebody from North Jersey. I think that the Pinelands is a very special place, and people do have a sincere commitment and concern about the way that it is managed and its future.

I guess having said that, the task that's set out-- We all talk about protecting and managing the Pinelands and seeing its future be safe. I think we really have to recognize for ourselves how difficult a task that is. The ecology of the Pinelands is very sensitive, and we can't simply give lip service to environmental protection and then turn around and expect to have the same level of alteration of those ecological systems as we have in the rest of the State. I guess I would say that we ought to take a lesson from what a great many of

the other places in the State look like, as to how we proceed with the way we develop and promote economic development in this area.

I also think that we need to encourage that kind of appropriate development, though. As Mr. Sullivan said, it is a living place. There are people here who have been here a long time. Those interests need to be recognized, and I want to say that the Sierra Club, at least, is willing to recognize those and would like to try and find some way -- as you said earlier -- to work for it and solve some of these problems. I think common sense tells us that the way to start that is to look to the tools that are in place. Sally and others have gone through a long list of things which are already in the statute, which already exist, and which don't seem to be used to their greatest extent or their full effectiveness. So I think we need to go back to that.

I want to let you know that I was also at the hearing in Buena and I did listen. I heard basically four things:

One is that the regulatory process is too complicated. I believe that that is also true, because I think it's very difficult, very complex to deal with a biological and environmental questions that arise when you try and do sand and gravel excavation; when you try and farm it; when you try and build houses on it. I think those are all very complex and difficult things to do in a way that is balanced and that protects the environment.

There is a need to have people on the Commission staff whose sole role is to help people -- the public -- through that process. I think that it has been said a couple of times today. But historically, when the Commission has tried to do this, it's worked out very well. Congressman Hughes unfortunately is not here to carry on in this discussion, but he talked about the hundreds of complaints that he has gotten about things that have gone wrong with the Pinelands Commission.

Well, I know that there is also a stack of letters commending the staff and talking about how they were able to help people through the process, how they were able to help them find ways to do things. The unfortunate part about that is that whenever the Legislature goes to cut the budget for the Commission, those positions are the first ones to go. Maybe that's a wrong set of priorities for the Commission. Maybe now is the time to talk about establishing dedicated funds that can't be lost in budget changes to maintain those positions.

I think that one of the things that we have to do is, we have to talk about our concerns and the changes that we want to see in the Pinelands Program in terms of specifics and facts. There have been a lot of very broad statements made today; a lot of things, I think, which are philosophical in nature and don't necessarily pinpoint what the mechanical problems are with the process.

One of the other things we heard about is that the loss of ratables often hurts municipal tax bases and creates problems there. I think that if there are opportunities for accommodating more growth in the municipalities and in the various management areas in the Pinelands, they need to be identified. They need to be identified specifically, and they need to be brought to the Commission's attention. The growth has to be consistent with the overall objectives of the Pinelands Program in trying to protect the environment. But I think if we identify those things, put them on the table, then we can talk about them and debate whether they're appropriate or not.

I'm always concerned or confused, I guess, when I hear that the Commission is arrogant and doesn't listen to the public. Half the Commissioners are representatives of the counties. They're elected by the freeholders. If the people and the constituents of those freeholders aren't happy with the

Commissioners and the way that they're overseeing the Pinelands operation and making the decisions, then that is the place to go back to. We don't often hear that.

SENATOR GORMLEY: I think that the problem is that it is an eight to seven vote no matter how you cut it. You're always one vote short if you look at it from the regional perspective. It was the debate that we went through in '79. Obviously, I wanted to see everybody from the region. I wanted to see everybody from Atlantic County, okay, but it just didn't work out that way. The reality is, it is still an eight to seven vote in-- Maybe it's not that way all the time, but perception is that it is an eight to seven vote.

MR. DILLINGHAM: I think what you're saying to us today, though, is that we need to move beyond these perceptions. I would say that there probably are very few eight to seven votes. That's been my experience.

The last concern that I've heard in the area is that the impact on the development potential of property has been too great because of the regs that are in place now. As you said, in the absence of funding to compensate everybody, this is always going to be kind of a center issue in this. I guess the thing to do is that if there is an alternative proposal to what is an appropriate development standard -- the Farm Bureau and the Ag Board spoke about changing those density standards -- then let's look at that. But let's look at it based on science; let's look at it based on law. If it can be accommodated, then that is something that should form the basis of a discussion.

I think Sally also spoke about the failure of the State to provide funding for the Limited Practical Use Program. That's not the Commission's fault. That's a problem in the Legislature. We need to take that issue back there.

I guess I would also want to just close with some comments about the Enforcement Bill. That's just to say that I think Assemblyman Solomon -- for those people who haven't

touched base with him after that hearing -- did listen to the people and their comments there, because there has been a whole host of changes that have been raised. The bill -- he has it drafted in the Assembly now, at least -- does talk about concurrent municipal enforcement, so that provision is in there.

It talks about clarifying specifically the agricultural activities which are exempt from the fine portions of the bill, and that was a concern. There is a limitation on new staff for the Pinelands Commission, so the fear about an unchecked bureaucracy can be addressed. There is a proposed revenue sharing process for the municipalities to help them out with their problems in enforcement and code enforcement. There has been a Citizens Advisory Committee recommended, which would help the Pinelands Commission and its staff develop the Enforcement Program. Then last but not least is that there has been a proposed notice period to landowners prior to inspection violations -- or violation inspections.

Those are all a direct response to concerns that were raised. So I think that shows that this process can move forward; that people are willing to negotiate that. I know that the Pinelands Commission staff obviously was involved with Assemblyman Solomon in discussing those changes. I think that is a great jumping-off spot to go forward from this meeting.

SENATOR GORMLEY: Thank you.

Derry.

D E R I C K S O N W. B E N N E T T: My name is Derry Bennett. I am Executive Director of the American Littoral Society. I also have with me a statement from Clean Ocean Action -- Cindy Zipf, who couldn't be here because she is in Washington. I'll read them both. They are somewhat similar, but just a note that both of our organizations are members of the Pinelands Protection Alliance and neither one of us is an expert on the Pinelands, but would work with the Alliance along the lines that you've suggested.

But I wanted to point out that in addition to the Pinelands being a national resource, our concerns are primarily with coastal and ocean issues. In this specific instance, our concern is with the water quality impact, because the water from the Pinelands gets to the coastal zone and is vital to protect the finfish and shellfish resources of the bays and estuaries of southern New Jersey. Those are vital economic resources for the State also, and need to be protected.

Cindy's last statement says that she wanted to commend the work of the Pinelands Commission. It is a national model, and New Jersey should be proud of its accomplishments. We support your attempts to introduce Senate Bill No. 1147 and get it through with the amendments and the changes that Tim has suggested. I would second Richard Sullivan's comments that if that bill is changed somewhat, it still served a purpose: We're all here.

SENATOR GORMLEY: As long as there is enforcement and if the local one is preferable, that can be worked out.

MR. BENNETT: I think that-- We had this same discussion when we talked about the coastal commission and "Do you delegate those authorities down to the local level?" Our concern is always, "Well, okay, but we want to make sure that there is somebody around to make sure that they do their job." I don't know how you answer this, except that if the Commission itself feels that this can be delegated down, we would go along with their ideas.

That's it.

SENATOR GORMLEY: I appreciate your testimony.
(lights dimmed)

It's after 5:00. It's the mood. They turn the lights down. It's the economy. (laughter)

I appreciate this testimony. I appreciate former Commissioner Sullivan and now the Head of -- now the Chairman of the Commission being here. I would appreciate whatever we

could do. Maybe these things will only start as gestures, but if they are honest gestures I think we can make some headway. I think working on a viable program in which we reach out for the mayors -- in terms of mayors of your township committees-- handling these things, or problems, or enforcement problems, which are common in nature--

Some of the complaints I've had have come from businesses. I mean there is that resentment regarding the Pinelands, but they don't want somebody to get a competitive advantage on them. They would like to see something done about some of these violations. So if we can affectuate a reasonable procedure for the towns not only on enforcement, but on other matters, on the things that are piled up because of your lack of funding, okay. If we could do that, I think that begins the dialogue that unfortunately has been curtailed from time to time since the original bill took place.

Thank you very much for staying, and thank you for listening.

We are going to take a brief five-minute break. (applause) We are going to take a five-minute break, and when we come back-- Let me see here. When we come back, Julie Hirsch, Roger Hansen, and Penni Wild will testify.

(RECESS)

AFTER RECESS:

SENATOR GORMLEY: Okay. We had Julie Hirsch, Roger Hansen--

UNIDENTIFIED MEMBER OF AUDIENCE: Turn the mike back on. It's not working, Senator.

SENATOR GORMLEY: Oh, I'm sorry. Can you hear me? (no response) Hello. Hello. (mike turned back on)

We have Julie Hirsch, Roger Hansen, and Penni Wild.

UNIDENTIFIED MEMBER OF AUDIENCE: How about Bill Neil?

W I L L I A M R. N E I L: New Jersey Audubon would, in the spirit of the meeting, like to yield time to any local resident or county resident with an obligation. You have our written statements. (applause)

SENATOR GORMLEY: Well, thank you. Thank you for getting it. I appreciate the comment very much. Thank you. It was very nice of you to do that.

Okay. Mr. Hansen isn't here. Why don't we start with Julie Hirsch?

G U L I E T D. H I R S C H: Good evening. I'd like to thank Mr. Neil for yielding his time to me, but I suspect if he knew who I was, he probably wouldn't have yielded it so willingly.

I am General Counsel to H. Hovnanian Industries. A related company, Hovsons Inc., has been building homes, nursing homes, shopping centers, and other types of facilities in Ocean County for over 30 years. We feel that we have contributed substantially to the economy there.

Our interest in the Pinelands is related to a piece of property that was purchased by the company in 1986. The property is about 7000 acres in size. It is divided between the Pinelands area proper. Another 4000 acres are located outside of the Pinelands area, in an area that has been called by a series of agencies as an overlap area. It is an overlap area because the Federal Pinelands legislation included it within the area possibly to be regulated, although the State Legislature did not include it within the Pinelands area. The area is regulated under the Coastal Area Facilities Review Act. It is in the coastal area proper.

When the company purchased the property it said, "Okay, we have 3000 acres in the Pinelands. We understand what that means. We have another 4000 acres that are not in the

Pinelands that are regulated under the Coastal Act," and they evaluated it that way. The problems that we have encountered are a little different than some of what you've heard discussed here. I don't know how common they are. I don't think developers are that willing to come forward and discuss some of these problems -- those developers that may still be around.

Our problems are threefold:

* Regulation through the Pinelands Commission and its staff through unofficial means; that is, other than regulatory channels.

* Attempts to regulate land located outside of the Pinelands area, as designated by the State Legislature over 10 years ago.

SENATOR GORMLEY: That's really in CAFRA.

MS. HIRSCH: Yes.

SENATOR GORMLEY: Let me ask you a question. What is the-- What does CAFRA say about that?

MS. HIRSCH: Over time the views of the DEPE have changed. I'd like to just run through, if I may--

SENATOR GORMLEY: Go ahead. I'm sorry.

MS. HIRSCH: --a little bit of history of the regulations, and the attempt to regulate this property and related property. We're not really an isolated case, although we seem to always be on the forefront on this issue with this piece of property in Manchester Township. Virtually the entire coastal area is also in the Pinelands National Reserve, and any piece of property in that area is really potentially subject to the same types of duplicative regulation, and conflicting regulation.

In 1973, the CAFRA regulations -- I'm sorry, the CAFRA Bill -- was passed, and at that time it was clear what area of the State was to be regulated through DEPE. In 1978, Section 502 of the National Parks and Recreation Act -- the legislation designated approximately a million acres to be the Pinelands

National Reserve. In 1979, when the Pinelands Protection Act was finally passed by the State Legislature, approximately 212,000 acres were left out of the regulatory area. That was the area primarily regulated by CAFRA.

In 1980, the Pinelands Comprehensive Management Plan was passed, and that did include recommendations for the so-called CAFRA overlap area. At the end of 1980, then Commissioner English of DEPE produced a report -- it was a report required by the Pinelands Protection Act -- in which-- It was a rather lengthy report, but the bottom-line conclusion was that there is substantial consistency between the Pinelands Program and the coastal program, and that there was an ability to enforce the Pinelands Program through the coastal regulations. In 1986, the State Planning Act indicated that a third agency in this area -- the State Planning Commission -- should rely upon the CAFRA plans.

In 1988, the DEPE and the Pinelands Commission signed a Memorandum of Agreement in which they purported to shift regulatory responsibility, to some extent, from CAFRA to the Pinelands Commission. In 1988, the State Planning Commission adopted a resolution saying that they did intend to adopt a new plan for the CAFRA area.

In 1992, the State Plan was adopted, and lo and behold it did, in fact, have planning designations for the coastal area, although it did not for Hackensack, Meadowlands, and Pinelands areas. All three of those areas were supposed to be treated the same way, but the coastal area was called out for some special regulatory recommendations.

In 1993, just last year-- This year -- July -- an amendment was adopted to the CAFRA legislation. In that amendment, I believe, the Legislature again indicated that it wanted DEPE, as opposed to the State Planning Commission, to regulate the coastal area. Within two weeks of that

legislation being signed into law, the State Planning Commission and the CAFRA Agency signed a Memorandum of Understanding indicated that DEPE would, in fact, use the State Plan.

I know that this is a little bit dizzying, and it is for us, too.

SENATOR GORMLEY: Yes, could we just do-- We're not saying we shouldn't reform everything else, but if we could stick to the Pinelands.

MS. HIRSCH: \Yes. The problems in this overlap area, which are what we are talking about, are primarily-- They are problems for municipalities. Municipalities in these overlapped areas are sometimes told that they should bring their zoning into compliance with the Pinelands Comprehensive Management Plan, and sometimes not.

SENATOR GORMLEY: Let me ask you a question. Do you have a list of those towns?

MS. HIRSCH: Yes, I do, and I'd be glad to supply them.

SENATOR GORMLEY: If you don't mind, I'll be a little more specific and direct. Why don't we get a list of those towns and take a survey of the towns? I mean, this is a case of no one knows who is in charge. Apparently, we have designated CAFRA in certain areas, and what you're saying is that the legislative intent -- the bills as have been signed -- has not been fulfilled.

MS. HIRSCH: That would be how I would summarize the situation. We do, in fact, have a listing, and there are approximately 30 towns who have some substantial acreage in the overlap area.

SENATOR GORMLEY: Some form of overlap. Okay.

MS. HIRSCH: No town, to our knowledge, was ever told that they had to come in with a plan for their overlap area in order to get their master plan in zoning certified by the Pinelands Commission, except Manchester Township was being told that they really should do that.

SENATOR GORMLEY: Well, that's been a special township over the years.

MS. HIRSCH: I understand that.

SENATOR GORMLEY: They've gotten some special grants, as I remember. In fact, I remember in 1989 Chuck Hardwick was adamant to get them a grant. In the spring of 1989--

I'm sorry, just reflecting on my political career. Go ahead.

MS. HIRSCH: So the difficulty is that there -- as you described it -- is an indefinite and inconsistent treatment of municipalities by the Pinelands Commission with regard to the overlap area.

My second and last point: the problem for developers who have property located in this overlap area. They have to obtain approval from the CAFRA Agency, obviously, before they build anything. The Pinelands Commission is a review agency, but sometimes the Pinelands Commission is consulted and sometimes they're not.

We have also done a study of CAFRA applications in the overlap area since the start of the Pinelands Commission. What we have discovered is a great deal of inconsistency; primarily, that DEPE has not referred these applications to the Pinelands Commission. It's only the controversial ones, or something jumps out and it's brought to the Commission's attention. Frequently the question is: Which standards apply?

If you are in a far Pinelands forest area like our property is, the density under the Pinelands Comprehensive Management Plan is one unit per 15.8 acres of upland. Under CAFRA, in an extension region you can develop between -- I'll just say a range -- 4 to 20 units per acres depending on certain qualifications of the land.

SENATOR GORMLEY: I think I can get to a conclusion that I think you might like to hear. What you're saying in terms of the overlap areas is: You would be asking that the

Governor, or Governor-elect, direct the two agencies to talk to one another and report back to her as to who is in control of what area.

MS. HIRSCH: Well, Senator--

SENATOR GORMLEY: That would seem to be a very-- That's overly simplistic for government, but that is the ideal that you are looking for so you know who is in charge.

MS. HIRSCH: I don't think it's simplistic, but I think that it's not exactly what we would look for. We would like the existing regulatory system to be properly enforced the way it was meant by the Legislature, with the rules in place and not subject to change constantly. We want to develop some plans for this property and know what the rules are going to be, at least for the short-term horizon.

SENATOR GORMLEY: So what you're saying--

MS. HIRSCH: It seems like every year something new happens.

SENATOR GORMLEY: The Legislature has directed that the zone that you're in -- the area that you're in -- be CAFRA. You would just like to know that it's CAFRA all the way through?

MS. HIRSCH: At least for a little while we would like to see the rules remain constant.

SENATOR GORMLEY: Till after it's built. Okay, I'm sorry.

ASSEMBLYMAN GIBSON: Senator?

SENATOR GORMLEY: Assemblyman Gibson.

ASSEMBLYMAN GIBSON: Thank you, Senator.

I am familiar with this problem. There are some areas in my legislative district where this has come up, and I have draft legislation ready to introduce to try and correct it, hopefully not inconsistent with the Federal regulations -- or the Federal legislation. So if you would like to take a look at that, I haven't dropped it yet. If you would like to take a look at that, I'd be interested in your comments.

MS. HIRSCH: Thank you. I would appreciate that.

That's the end of my comments. Thank you.

SENATOR GORMLEY: Well, thank you very much.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Excuse me, Senator Gormley? I know I'm not registered to speak. I'd just like to make an observation.

SENATOR GORMLEY: No. Excuse me, no.

UNIDENTIFIED SPEAKER FROM AUDIENCE: But it's--

SENATOR GORMLEY: No! No. Okay?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Thank you, Senator.

SENATOR GORMLEY: Thank you.

P E N N I W I L D: Good afternoon, Mr. Chairman, Mr. honorable Senator, and Assemblymen. My name is Penni Wild, and I am State Director of the National Federation of Independent Business, which in New Jersey represents about 10,500 small businesses that employ between 1 and 100 workers.

But more importantly, for today's purpose I'm here on behalf of small business owners who couldn't break away to attend this important hearing. There are approximately 1500 NFIB members in this region, and together their enterprises represent about 7000 jobs.

Their message to you is this:

First of all, thank you so much for looking into the regulations that govern this area and the lives of these people.

Second, as you explore these regulations to determine what does and doesn't work, what is too stringent or lenient, or what is outdated, please remember to talk with the small business owners.

Please talk to people like Ida Anderson of Indian Mills, who had to lay off her employees and close down a fledgling upholstery business. She reports that even though she was starting a business in an existing building, and even though she already had a three-quarters of an acre deed

restriction, the Pinelands Commission required her to deed more than an additional half-acre of land just to use the second floor of the same building.

Please talk to the owner of Rodio Tractor Sales in Hammonton. He learned in 1986, as he was putting the finishing touches on a newly constructed building in a commercial zone, that he was subject to Pinelands regulations because what he thought was the commercial zone really was now zoned in Pinelands agriculture. He was never notified.

Please talk to Raymond Witthauer, President of Alpha 1 Studio in Shamong. He is so conscientious about safe environmental practices that he was nominated for the Governor's Award for Outstanding Achievement in Pollution Prevention. He has documented the loss of more than 300 jobs in the industrial park where he is located. He would be happy to meet with you to share the many reasons that he believes companies move outside the Pinelands region.

These are just a few of the many people who own viable businesses that are committed to this region, and who are willing to talk openly about the problems. I'm sorry to say that there are many others who are afraid to come forward because when they do talk about this, they find that there are new fines levied against them or their business. But this is their backyard too. They want to protect it as much as anyone, but they also want actively to create jobs and improve the local economy. They believe that a balance can be struck.

In recent weeks, since you've tried to schedule and reschedule this hearing, small business owners have shared with me some of their confusion, frustration, sadness, and outright anger over the Pinelands Commission's rules and regulations. I would ask that the study that was suggested earlier by the Farm Bureau -- if that is pursued -- also include an evaluation of the small businesses and the economic impact on jobs in this area as a result.

Again, on behalf of the NFIB members in this region who asked me to convey their frustrations to you, please meet with them as you explore the economic burdens and hurdles posed by the Pinelands Commission's regulations. We look forward to working with this Committee and the new administration if needed to review and revise the Pinelands protection effort.

Thank you very much.

SENATOR GORMLEY: Thank you. (applause)

Now I'm going to bring up the -- what I think will be our youngest witness, Jack Peters. (applause)

J A C K P E T E R S: Ladies and gentlemen, my name is Jack Peters. I am an 11-year-old sixth grader at Laurel Springs Elementary. I would like your attention for a few minutes.

Last summer I went hiking and canoeing down in the Pine Barrens. On the same river as I went canoeing they want to clear land for a development. My family and I had a wonderful time exploring the wilderness. I don't want to be driving down to the shore and have to tell my children that this highway was once a river I went canoeing on as a child. Instead, I want to take my children on the very same river and be able to say, "I went canoeing on the very same spot when I was little."

We kids are people, too, so please take this seriously. Remember, this is our future. We care very much about the cutting down of even one tree. One tree is one too many. Wouldn't you be mad if someone knocked down your house? Of course you would. That is exactly how the animals feel.

Do you ever remember driving in the car with your children and saying, "This mall, this highway, this parking lot, this supermarket was once open fields" when you were small -- a place where you played ball, a place where you fed horses, or maybe even went sledding? If we all had to tell our children these stories, eventually there would be no more land for our children.

There is more to be learned from our environment than any books could teach. I have an older brother who is blind and mentally retarded. It is a lot easier to take Roy and show him what the wilderness is all about. I don't know if I could think of enough descriptive words to explain the nature that once existed if removed. Once it is gone, we can never get it back.

Please think this over. I am speaking to you on behalf of all the children. Remember, this is our future.

Thank you for your time and consideration. Happy holidays to all of you. (applause)

SENATOR GORMLEY: Edward Graham, Dave Rizzotte, and Jack Tomasello.

Mr. Graham.

E D W A R D R. G R A H A M, JR.: Good evening. I appreciate this opportunity to speak with you. I hope you'll excuse my voice. I've had quite a cold.

As you said, my name is Edward Graham. I live in Shamong Township, Burlington County. I was on the Planning Board of Shamong Township for 17 years, Chairman for 14 years. I had to work with the Pinelands staff and try to deal with them since their inception. Now, since their inception, we've had many, many meetings with them. We were told by the Director who was in charge of the meetings that our recently developed master plan would become not part of the Plan, but they would take it into consideration and try to use the good parts of that master plan in theirs. This never happened.

As I said, we've had many, many meetings and never once did they take into consideration anything that our Township Committee or our Planning Board told them, or take into consideration any provision that we had developed in our recently updated master plan.

Their dissemination became so bad and so obvious to everyone that they had an amendment added to the Pinelands Act which says that they cannot be held responsible for anything

they do or say -- even if it is in writing -- during the course of any negotiations; that the only thing that counts is when you finally get approval from the Pinelands Commission. I want to make it clear that the Pinelands Commission is an organization that most people do not have much contact with. We have contact with the Pinelands staff and the Executive Director of that staff.

The people of our Township and the private landowners, they all want to preserve their land. No one more than a property owner is more interested in the preservation and the safety of their own land. There have been some recent pamphlets put out that describe all property owners as being greedy and ready to exploit the land. This is not so. We do not need a Big Brother to tell us when, where, and how to live and work on our property or in our own townships.

The object of the Pinelands staff -- and forgive me, I'm talking about the staff because they are the people we've had contact with -- doesn't ever seem to have been to plan or to manage. The sole thrust of all of their operations and their contacts with us have been to deter and try to stop any kind of development.

I'm also connected with an engineering firm in Medford, New Jersey; as such, I have quite a bit of contact with engineers, architects, lawyers, surveyors, and other people who are in communication because of their business with the Pinelands staff. Without an exception, every one of those people that I know have very, very low regard for the staff. In fact, the Pinelands staff seems to be one of the most hated organizations in our area. To give this arrogant, bloated, overpaid, and redundant bureaucracy the right to exact tribute from the property owners to fund their oppressive and, in my view, unconstitutional activities is unthinkable and must not pass.

The Pinelands Act is so restrictive that virtually every property within their control could be found to contain some violation of some sort. Even if it's only a few drops of oil dripping from your automobile onto the driveway, this is a violation. If they wanted to they could come in, perhaps, and fine people for that.

Their power that they have usurped from the local planning boards, I think, should be returned to the planning boards. When we were dealing with them and bringing our master plan into conformance with the Pinelands Comprehensive Act, we were told that when we came into conformance that the job of the planning and approvals would be turned over to the Planning Board as long as we conformed to their Act, and as long as we did not do anything that would be in contravention to that Act. This has never happened. The people -- the applicants -- that come before the Planning Board in our Township still have to go through the complete approval process with the Pinelands.

The Planning Board has become no more than a rubber stamp, for whatever the Pinelands says is approved. This is the main reason that I quit the Pinelands -- or quit the Shamong Township Planning Board, because I just could not see wasting my time just rubber-stamping the Pinelands' approvals. I strongly urge that this bill giving them the power to fine people without -- coming into your property without a warrant to fine without due process of law must be rejected.

Thank you.

SENATOR GORMLEY: Just for the record, there is no such thing as--

MR. GRAHAM: What's that?

SENATOR GORMLEY: There is no such thing as a warrantless search. I can understand how things got heated on either side, and I think you know how I've addressed this.

Please don't-- Excuse me, I just want to make one point. There is the United State Constitution. There is no such thing as a warrantless search. I just--

MR. GRAHAM: Article--

SENATOR GORMLEY: No. Please, that's all I wanted to say. We're going to go on, but believe me, there is no such thing. I can understand--

MR. GRAHAM: Article 4 in the United States Constitution says that the people are protected and secure in their homes and persons from unreasonable search.

SENATOR GORMLEY: Yes, exactly. Consequently, a State law can't do that. I don't mind people having problems with the bill or whatever, but what happens is it gets so heated that there are certain simplistic distortions because it tends to infuriate people a little bit more.

For the record, you couldn't pass a bill that usurps the United States Constitution, believe me. It's just not possible. There is no such thing as a warrantless search in America. That was a simplistic approach for radio ads. I just want to correct that. Okay?

MR. GRAHAM: This is what the Fourth Amendment of the Constitution says.

SENATOR GORMLEY: And I'm agreeing with you in the Fourth Amendment. That's the law, and nobody can change it. You're right.

Dave Rizzotte.

D A V I D M. R I Z Z O T T E: Senator Gormley, members of the Committee:

First of all, I'd like to compliment that youngster for getting up here. He's got a lot of nerve. I give him a lot of credit. Also, I'd like to say that it's nice to get on towards the end of these hearings, because nothing has been said that you have in front of you.

My name is Dave Rizzotte, and I'm part owner and operator of Glossy Fruit Farms in Hammonton, in the middle of the protected area of the Pinelands. I am presenting both my own personal views and those of the Atlantic County Board of Agriculture.

There are many vital areas regarding the Pinelands Plan which could be discussed at this hearing -- and most of them have been -- but for time's sake, I'll deal with only four which I consider major issues.

The first key issue and the original impetus behind this hearing deals with Assembly Bill No. 1910 and Senate Bill No. 1147, namely the Enforcement Act. The Atlantic County Board of Agriculture -- even though in the original form agriculture was exempt -- totally opposes these bills. The bills give an already rather autonomous State agency further inspection authority; ability to cite violators; a capacity to levy fines upwards of \$5000 to \$10,000; and in the case of an appeal by a violator, hear and rule on that appeal. This agency then has the authority to collect and utilize the fine in its own budget.

I myself and our Board totally disagree with this concept. We see this scenario -- setting up a scenario -- where the Commission would like to perpetuate itself financially through the issuance of citations and subsequent collection of fines. This is a job which should be left to the municipalities -- and I was glad to hear some of the comments before that this apparently may take place -- and to the Attorney General's Office. No State agency should have these all-inclusive powers, and that includes the DEPE.

The second major issue deals with payments to municipalities for the loss in tax ratables. There was much discussion prior to this Plan's implementation on this topic, but still today many municipal governments are suffering from the loss of new ratables because of the Plan's restricting of

new development. This situation is becoming even worse since many property owners are just abandoning their parcels after 13 years of restrictions and giving them back to the towns, therefore, further eroding the tax base.

The third major issue deals with the section in the Plan -- and it hasn't been mentioned here before -- a section which was promoted by agricultural interests prior to the Plan's inception, which states that no water from the Pinelands aquifer should be exported outside the boundaries of the Pinelands area. However, it is my personal opinion that when water needs in other areas in New Jersey and surrounding states become so great, the existing legislation will be changed to satisfy the existing water need. The Pinelands Plan and its zoning were based on the nitrate dilution model, which was to keep Pinelands aquifers pristine for future generations. Those who believe this concept are being duped, for when the State needs the water, it will be taken. You will see this fragile ecosystem, which is so reliant on its water-carrying capacity, degenerate and die.

The fourth, final, and definitely the most important issue for Pinelands landowners is the failure of our regulators to appropriately address the equity issue. As the Senator has mentioned it earlier today, on various occasions in the late '70 and early '80s a group of concerned property owners banded to halt what they considered a major land grab, namely the Pinelands Plan. This coalition gave volumes of testimony to the Commission stating that this Program would have a major negative impact on property values in the Pinelands area. The Commission responded in an economic impact statement some two to three years after Plan implementation that this would not happen, and that some farm property may even increase in value.

The Commission also at this time gave farm owners the now famous Pinelands Development Credit. This system, based on private market transactions between PDC holders and those

needing credits for development, has failed miserably. At the Plan's inception there were approximately 6500 PDCs available for allocation in agricultural districts. As of a June 30, 1993 Commission report, only 885 PDCs -- and this came out of their own report -- have been allocated; of these, 135 Pinelands Development Credits have been purchased by developers. More importantly, the average purchase price of a PDC equates to \$756 per acre.

The system of PDCs has been a complete failure; however, this system's failure is compounded to a greater degree when compared to the Farmland Preservation Easement Purchase Program. This Program has permanently preserved 18,163 acres of farmland on 125 farms throughout the State of New Jersey.

Now, to point out my major disagreement with the administration of the Pinelands Program and its detrimental effect on property values, I have to take a look at the easement purchase value of farms under the Farmland Preservation Program by county. In the essence to save time, I'll just pick out a few. I won't go through the whole list. These are all values outside the Pinelands area. You members up there have the report in front of you.

We go from Burlington County, with an average easement purchase price per acre of \$4571, all the way up to an average easement purchase price per acre in Morris County of \$12,479. Now, the easement purchase value is the difference between development potential versus farm potential. That's what an easement purchase price is. So those were some of the ranges. The actual range was from \$1913 in Salem County, to \$12,479 for the values outside the Pinelands area.

Now, to get to the point of the values inside the Pinelands area, there have been two transactions within the Farmland Preservation Program with the sale of development easements. We had one in Cape May which came in at \$850, and

we had one in Atlantic which came in at \$1089. One can easily see that the Pinelands Plan has had a seriously detrimental effect on property values over the years. The overall State easement purchase price on 123 farms outside the Pinelands area is \$5679 per acre; whereas, within the Pinelands area the average price is \$996 per acre.

In conclusion, it is time for our legislators to correct the massive injustice done to property owners in the Pinelands. If necessary, to correct the 13-year neglect of our property rights, the Legislature may have to look to a legislative Constitutional Amendment or a voter initiative to allow Pinelands landowners to use a statewide development easement if they choose to enter -- and that's the key point -- if a property owner chooses to enter the Farmland Preservation Program. Injustice ongoing for 13 years cannot be corrected overnight, but these suggestions may only be a legitimate starting point.

Thanks for this opportunity to speak on a subject that has been festering within the agricultural community since the inception of the Pinelands Program.

Thank you. (applause)

SENATOR GORMLEY: Thank you.

J O H N K. T O M A S E L L O: Senator, my name is John Tomasello. Senator Gormley, members of the Judiciary Committee, I would like to thank you for the opportunity to speak with you today regarding landowners and agriculture in the Pinelands.

First, I would like to give a brief history of what New Jersey agriculture means to our State. Agriculture's total contribution to New Jersey's economy a year ago was over \$15 billion. There are 20,000 directly employed, and they earn more than \$105 million. If you consider the economic impact of New Jersey's entire food and agriculture complex, you will come up with an industry that generates more than \$36 billion in

sales, employs more than 300,000 people, and pays more than \$3 billion in wages. This translates into 13 percent of the total sales in New Jersey, 12 percent of the total employment, and 8 percent of the total wages.

In addition, agriculture contributes a tremendous amount of quality of life to all New Jerseyans. This is done by taxpaying open space, preserving the wildlife habitat and groundwater quality, not to mention providing the citizens of New Jersey with farm fresh products throughout the year.

There are 9000 farms in New Jersey. The total farm land approximately is 900,000 acres. Agriculture accounts for 18 percent of the total land in New Jersey.

In the past 40 years, New Jersey's rural areas have experienced the most rapid rate of suburbanization in the Northeast, as a result of a massive population shift from urban areas. New Jersey is now the most densely populated and suburbanized state in the nation.

As New Jersey farmlands have diminished, agriculture in the Garden State has fragmented into smaller units, which puts New Jersey farmers at a competitive disadvantage against neighboring states. In addition to having the highest minimum wage in the nation, as well as numerous regulations, the farmers in the New Jersey Pinelands have another major problem to overcome: the loss of his or her equity.

Back in 1978, Pinelands farmers were told that their land would be worth more than any other farmland in the State because of its location in the nation's first national reserve. As a consequence of implementing the Comprehensive Management Plan by downzoning farmland, a taking of private property for all but the single purpose use of the land has occurred at the financial expense of the landowners. In attempts to correct the loss of equity in land values through the PDC Program has failed to meet its promised goals.

According to the Commission, through 1992 only 111.75 PDCs -- which is 1.8 percent -- have been sold out of approximately 6100 available for allocation since the Program's inception 12 years ago.

Now, keep in mind that many farmers in the Pinelands and throughout New Jersey are third- and fourth-generation farmers. Many of the farms in the Pinelands have been owned by the same family for over 100 years. I often hear stories that farmers in New Jersey only want to farm long enough and sell out to developers. This is truly a false statement. Over the years farmers have had to make many changes in order to survive.

Many farmers and agriculture businesses in New Jersey have been forced to diversify their operations in one way or another. In many cases, farm management experts have increased their operations by constructing buildings for retail sales. In dealing with the regulatory processes and procedures of the Pinelands Commission, I can only say from experience that their regulatory scheme is extremely excessive, costly, and time-consuming.

I can say, looking back when my family diversified our business, the regulatory process was stressful to everyone. This should never be for any small business that works hard, pays taxes, and provides jobs and health care for its employees.

Our 60-year-old business was in the hands of a few Commissioners, many of whom do not reside in the Pinelands. Our application was difficult, mostly due to the Commission's system of correspondence. One letter we received early on from a specialist told us not to call if we had any questions, just wait our 30 days for their response, then send another letter. I understand that there are problems with the volume of applications the Commission receives and that some are very time-consuming. This, however, does not excuse the harsh response one receives when dealing with their personnel. A single phone call should not slow down an application process.

I believe that some of the pressure can be relieved by allowing the local municipalities to have the authority to give approvals for minor projects, such as minor subdivisions and single family dwellings, as long as the applicant complies. I understand that certain criteria are essential in every application, but there is no reason that the local planning boards cannot grant approvals. I also believe that if an applicant does not receive approval from the Pinelands Commission within 60 days, the Directors of the Pinelands should schedule an informal meeting with the applicant and try to resolve any problems that have occurred.

The average person and landowners do not understand the regulatory system of the Pinelands Commission. There have been violations that have occurred because some landowners were not aware that they had to submit an application to the Commission first. While every case is different, it is important that the Commission make every effort to help landowners in the Pinelands as much as possible in their application process. No landowner should feel penalized further because he or she lives in the Pinelands and wants to do things that are legally allowed; nor should an applicant feel as if he or she is dealing with unreasonable, nonresponsive bureaucracy that hasn't the time for his or her application.

Finally, I believe that all of us here today share the same common goal. The preservation of this land is vital to our future. The same is true for the farmers and the people who live and work in the Pinelands. A farmer's number one asset is his land. We need to address the equity issue through the State Plan's Policy on Equity. Streamlining the application process and developing better methods in dealing directly with landowners are vital for everyone. Direct involvement with the Department of Agriculture is equally important to protect the agriculture industry. After a

legislator defines a fairness standard for private property rights, I suggest that the Pinelands Commissioners and the State Board of Agriculture form a subcommittee comprised of farmers from the seven county Boards to discuss any major changes affecting agriculture.

All of us need to develop a good working relationship. In reference to proposed legislation that would give Pinelands Commissioners enforcement powers, I have to point out that giving this government agency additional enforcement powers will only hinder any chance for a good, solid working relationship and create even more ill feelings towards the Commission. At present the Pinelands Commission is, at best, ineffective and frustrating to an applicant. Granting this Commission enforcement powers effectively makes them judge, jury, and executioner without due process.

I understand that land conservation is the key component that drives the Commission. There is no time like the present for the Commission to direct its focus in helping the landowners in their dreams to live, work, and grow in the Pinelands. I hope that all of us in the future can work together.

This is not in my written speech, but I would just like to say that next month I plan on submitting an application of filing to the Pinelands Commission to build my home on my farm in Hammonton. If you look at my letterhead, I live in New Brooklyn, which is in Camden County. But I grew up in Hammonton, and I want to go back and live on the farm. I hope that my application will not be as stressful as the last one. I just wanted to make note of that.

Thank you very much, Senator Gormley, for this opportunity. (applause)

SENATOR GORMLEY: Thank you.

The next three witnesses are: Diane Leonik, Maria Bohle, and Teresa Kelly.

Diane.

D I A N E M. L E O N I K: Thank you.

Senator Gormley, Senator Cafiero, other members of the panel, I'd like to thank you very much for this opportunity to briefly present a letter from the Executive Director of the Cape May County Municipal Utilities Authority, George Marinakis, as well as briefly read a resolution from the full Authority Board. Unfortunately, they had wanted to be here today, but they had a conflict. Today was their regularly scheduled Board meeting. The letter from Mr. Marinakis reads:

Dear Senator Gormley:

The Cape May County Municipal Utilities Authority provides regional wastewater treatment and solid waste management services within Cape May County. In this capacity, the CCMUA has located certain solid waste facilities within the Pinelands Protection Area pursuant to approvals previously granted by the Pinelands Commission. Although we understand and respect the important objectives of the Pinelands Commission, the CCMUA has, unfortunately, not always found that the determinations made by the Pinelands Commission and/or its staff give full recognition to the equally important responsibilities of other public agencies.

In this regard, past decisions have been made by the Pinelands Commission with respect to the operations and services provided by the CCMUA that have, and will continue to have, long-term, significant economic impacts on the citizens of Cape May County. Representatives of this Authority would be pleased to have an opportunity to discuss the specific experiences the CCMUA has encountered in fulfilling its waste management obligations in light of the requirements of the Pinelands Comprehensive Management Plan. Unfortunately, such a presentation would not be feasible during the Judiciary Committee's public hearing today.

The CCMUA does, however, request that the enclosed resolution setting forth this Authority's opposition to the proposed legislation granting enforcement powers to the

Pinelands Commission be included in the record of the December 15th meeting of the Senate Judiciary Committee.

Please note that the enclosed resolution was unanimously adopted today by the members of the Cape May County Municipal Utilities Authority at its regularly scheduled meeting.

Then it's signed, George Marinakis.

If I could just briefly read the resolution, and then I would like to make one comment regarding comments that have been previously stated.

SENATOR GORMLEY: Sure, go ahead.

MS. LEONIK: Resolution of the Cape May County Municipal Utilities Authority opposing the conferring of enforcement powers to the Pinelands Commission as proposed in Assembly Bill No. 1910 and Senate Bill No. 1147.

Whereas, in 1987 -- excuse me.

Whereas, in 1978 the Congress and the President of the United States of America through the enactment of Section 502 of the National Parks and Recreation Act of 1978 designated a section of New Jersey to be known as the Pinelands National Reserve; and

Whereas, a significant area of the County of Cape May is within the Pinelands National Reserve.

Whereas, said Federal Act provided for the establishment of a planning entity to prepare a Comprehensive Management Plan for the Pinelands National Reserve; and

Whereas, in 1979 the State of New Jersey pursuant to said Federal Act adopted the Pinelands Protection Act, which created the Pinelands Commission as the planning entity authorized in the Federal Act and defined its powers and duties, including the directive to prepare and adopt a Comprehensive Management Plan as the planning document for the Pinelands National Reserve as authorized in the Federal Act; and

Whereas, pursuant to the statutory authority, the Pinelands Commission adopted a Comprehensive Management Plan, which contains the regulations and standards designed to promote orderly development of the Pinelands area in such a way to encourage appropriate patterns of compatible residential, commercial, and industrial development in an orderly way while protecting the Pinelands environment from the individual and cumulative adverse impacts thereof; and

Whereas, the penal enforcement powers of the Federal and State statutes and the Comprehensive Management Plan requires an adjudication of a Court of competent jurisdiction; and

Whereas, the Assembly and Senate bills referred to radically alter the original Federal and State statutory purpose of establishing the Pinelands Commission as a planning entity and recasts its function as an enforcement agency with the power to penalize independent of the judiciary; and

Whereas, specifically the Assembly and Senate Bills confer enforcement and penalty powers on the Pinelands Commission or its Executive Director without court approval to assess fine and penalties up to \$10,000 per day and in some instances with treble damages; and

Whereas, said assessment powers offends the spirit and purpose of the Federal Act and existing State Act relating to the powers of the Pinelands Commission.

Now, therefore be it resolved by the Cape May County Municipal Utilities Authority that this Authority opposes the adoption and enactment of Assembly Bill No. 1910 and Senate Bill No. 1174 (sic) as said Bills contravene the expressed and implied powers and duties of the Pinelands Commission and are in derogation of the planning purposes enunciated in said Federal and State Acts relating to regulating and developing the Pinelands National Reserve.

Be it further resolved that copies of this--
Obviously, it goes on.

The last comment that I would like to make is regarding Mr. Sullivan's comments on the Cape May Landfill. I don't want to get into a dispute or an argument regarding that today. That's obviously something that is not going to get resolved today, or a matter that we want to take up the time of this panel or the audience. There are many other speakers to be heard from.

I would just like to briefly say that, in my opinion, the case and facts presented by Congressman Hughes were, in fact, a realistic and factual assessment of what has happened with the Cape May County Landfill. That, in fact, when-- Excuse me, in 1981, the Pinelands Commission granted a waiver of strict compliance to the Authority to develop that landfill. One of the several conditions of that waiver was that, in fact, the landfill would be allowed to remain open after the August 8, 1990 ban; in fact, that it would be allowed to have a useful life of approximately 25 years.

As I said, there is a long chronology of back and forth of a variety of details in that waiver that we can't take the time today to address. But I did want to make that point regarding Mr. Sullivan's comments, as well as those of Congressman Hughes.

Finally, I just would like to thank this panel and again reemphasize the fact that the Authority is more than willing to meet with this panel, as well as Congressman Hughes and Assemblyman Gibson, at any time to further discuss a matter we feel is very important.

SENATOR GORMLEY: Thank you. Would you ask your solicitor who prepared that to forward that to Senator Adler, because he represented Senator Adler this summer when they sued the Senate?

MS. LEONIK: I'm sorry, I didn't hear the beginning.

SENATOR GORMLEY: Would you ask the solicitor who prepared the resolution to forward a copy of the resolution to Senator Adler?

MS. LEONIK: Yes, I will.

SENATOR GORMLEY: He was his attorney this summer.

MS. LEONIK: Okay.

SENATOR GORMLEY: Okay. A little irony there.

Maria.

M A Y O R M A R I A T. B O H L E: Yes. Thank you, Senator Gormley, Senator Cafiero.

First, if I may, Assemblyman-elect Tom Foley was scheduled to speak this evening, but since he was scheduled to work also in Atlantic City as a Fire Chief, he had to leave.

His comments were that as a new Assemblyman he plans to work for the reform of the Pinelands Commission to have an equal share in protecting the environment, as well as protecting the rights of farmers, residents, and property owners of the 2nd Legislative District. He will submit written comments to the Committee. He thanks the Chairman for the forum and encourages more forums.

As for myself, I'm Maria Bohle. I'm the Mayor of Egg Harbor Township. Frankly, tonight I'm having somewhat of an identity crisis. As you well know, Senator Gormley, I'm an active environmentalist -- Congressman Hughes. I'm an active environmentalist and have been responsible for major legislation in Egg Harbor Township protecting the environment. I've been working on wellhead protection for the past two and a half years.

At the same time, as the Mayor of Egg Harbor Township-- Egg Harbor Township is a high-density growth community expected to house an additional 30,000 homes within 25 square miles of Egg Harbor Township.

I'm also the designated member of the Atlantic County League of Township Officials, in which I have a resolution from them in opposition to Senate Bill No. 1147.

Finally, I am a Pinelands landowner and a Pinelands farmer.

I think we all agree that the Pinelands must be protected. It is essential. But I think we all disagree that the current methods of protecting the Pinelands are not working -- not properly anyway.

Senate Bill No. 1147 is not environmental legislation. It's going to allow a police action. It will allow the Pinelands to fuel itself with the economic reserves of the Pinelands to perpetuate its own bureaucracy. It will allow the right to enter any property during reasonable hours -- and, yes, they can go get a search warrant. It can put clouds on titles. It will hold hearings held by the charging authority, and any fines that are imposed will help to support the Pinelands bureaucracy.

Egg Harbor Township is a high-density growth zone. I want to know where our Pinelands protection is. We have a school sitting on the headwater recharge area of Mirey Run. This was once an active wildlife. It had wetlands -- very rich wetlands -- and it was a very pristine, beautiful area. Well, now it's nothing but a school, some grass, and some ball fields. We have drainage retention basins on properties as small as five acres, with no consideration at all to the proper drainage patterns of the land. The developer has to put a drainage basin in. He slopes the land wherever he wants, scoops out the ground, and now you have drainage basins that have to be maintained.

We have a high-density growth zone plan for the headwater regions of the Patcong Creek. Twenty-five square miles of Egg Harbor Township will soon be houses, asphalt, and blacktop. Most of it will be monoclimatic terrain. We will

have grass; we'll have a few ornamental trees. That's about it. Air quality will be terrible in Egg Harbor Township. Pinelands species will be nonexistent, and the traffic will be impossible. Is there a solution? Yes, I think there are solutions to this.

In the first place, I think for environmental protection we need proper checks and balances in the Pinelands protection. We need the prosecutor, judge, jury, and fines all going to different offices and agencies which aren't interdependent on each other, which can give us the true, proper checks and balances that environmental protection should demand.

We need a streamlining of the permitting process. It should take less time and certainly a lot less dollars. We want more home rule for the municipalities. Who knows better than the municipalities where the sensitive ground is, where the water table is supposed to be, where the drainage patterns are, and what problems can occur if improper development takes place?

We need protection of our land equity, and we have to do this by balancing development according to land-load ability, not one to seven homes per acres or one home per 50 acres. Let's look at a land-load ability. How much developing can take place within this Pinelands ground? Where can it be accommodated? Let's share some of this development with our neighbors that would like a little bit more, and a little bit less for Egg Harbor Township, Hamilton Township, and Galloway Township, which, frankly, are being sacrificed for the rest of the body of the Pinelands.

The Pinelands Plan is a demographic plan, not an environmental plan. I would like to see a little more of an environmental plan to protect all of the Pinelands, not just part of the Pinelands.

Some Commissioners should come from all areas, and I believe they should all live within the Pinelands. They should be landowners and farmers within the Pinelands, not people coming from somewhere else who have no idea what our lands can hold, what our property is about, and what a farm is about, short of what they've seen looking out the window of an automobile.

Home rule is claimed to be happening with the Pinelands Plan. In reality, Egg Harbor Township was bullied, coerced, threatened, and then Pinelands overruled our zoning until we did go into compliance. We have as many as 10 homes per acre scheduled in certain areas. We didn't want it all. We did not mind accommodating a certain amount of homes. We do not mind doing our share to help protect the Pinelands. But we don't want to become the sacrificial lamb so that 30,000 homes can be put in our area, and then other people get none.

Yes, we're in compliance now. Millions of dollars have been spent to accommodate the Pinelands Plan, to shove it in a corner. Millions of dollars on sewer lines that are going to empty water that could have been recycled -- and was recycled when it was put in septic systems -- that is now being flushed out into the ocean.

Senate Bill No. 1147 does not allow fairness; it does not allow Pinelands protection. I request that it be withdrawn and the whole Pinelands Plan be revisited.

I have a resolution, as I said, from the Atlantic County League of Township Officials. That League represents the largest contiguous parcel of ground within the Pinelands in Atlantic County.

We all agree for Pinelands protection, yes. But we ask you to eliminate the dictatorial, demanding organization that has removed equity and home rule from the Pinelands, its residents, its farmers, and its municipalities.

Thank you for this opportunity to testify. (applause)

SENATOR GORMLEY: Thank you.

C O M M I T T E E P E R S O N T E R E S A K E L L Y:
Hello. Senator Gormley, Congressman Hughes, gentlemen, I appreciate your time. I am Teresa Kelly. I'm a Township Official from Buena Vista Township, and also a concerned resident. I am personally concerned with the environment and its future, and have always been behind environmental causes. I have belonged to many organizations -- Greenpeace, etc. I won't name them all. So I am not here to condemn the Pinelands.

When I became a Township Official that's when I became aware of the administration of the Pinelands, how it affected our constituents in our area, and the hardships they had to endure. Let me read you an example of an interpretation in the Pinelands Commission's own words that was given to a resident who proposed to build a house in our Township. I'll just read a paragraph of this seven-page answer:

"There is vacant land adjoining this parcel. The applicant has submitted no information to demonstrate that the parcel is incapable of having a beneficial use if utilized as authorized by the provisions of the Plan. The applicant has submitted no information to demonstrate that any inability of the parcel to have a beneficial use results from unique circumstances peculiar to the subject property which do not affect other property in the immediate vicinity. The applicant has also not submitted information to demonstrate that any inability to have a beneficial use arises out of the characteristics of the subject parcel, rather than the personal circumstances of the applicant or the actions or inactions of the applicant, the owner of any predecessor in title."

This is just a small portion to give you an example of what we're dealing with when we get an answer from the Pinelands. This is like dealing with a foreign government to a lot of our constituents, I can tell you that. (applause)

Every day citizens are asked to interpret legal style documents that may or may not grant approvals. This is typical of the bureaucratic nightmare when dealing with the Pinelands. In this day of spiraling government costs, why are we creating more bureaucracy? Let's look to streamline government -- its efficiency. We do not need another DEPE. Why not have the Pinelands come under the DEPE and streamline it into one bureaucracy instead of two?

SENATOR GORMLEY: I put that bill in five years ago, and you cannot believe the outpouring that I -- especially from governors -- opposing it. But I said merge the two. I brought that up five years ago. That one really went over like a lead balloon. I said, "If both staffs do the same--"

COMMITTEEPERSON KELLY: This was five years ago, but maybe we're ready now for a change of streamlining government. (applause)

SENATOR GORMLEY: All the suggestions that are being made, in terms of membership or whatever-- I have to be very frank in terms of: Would I have liked to have seen these things happen? Yes. That's why I brought it up. The bottom line is, in terms of legislation like this moving -- in terms of massive change of membership, as Maria brought up-- Maria knows that we have been doing this--

Since when, Maria, the mid-'70s? (no response)

It is something that we would like to see; that we've brought up over the years. As I said, I liked the suggestion because I made the suggestion also.

But those are the kinds of things I don't-- I appreciate the time and thought process that went into them, and obviously that was what we looked for in other years. What we have to do, and what I appreciate, is the approach that you're taking on this in terms of the fact that there is a common concern for the environment. This is not-- What I think is important about your testimony -- beyond the thoughts

and the ideas that showed the great importance of it -- is that people who both live here and people who have a concern for the environment who don't live here, but are people who give a lot of volunteer time are getting to hear one another and hear what a local official goes through.

Whatever it is they typed out for you is just an excellent example. We mentioned earlier about "Who's on first". Maybe somebody who does it 10 hours a day understands exactly what it means, but to the municipality having to pay the attorney, to the council or Committeeperson who gets some enormous salary of \$2500 to \$3000 a year for 40 hours a week of work, deciphering sentences like that can be difficult. It should be a question of, "If I'm wrong, tell me why, but could you explain how you could help not--" "Don't send me to the next letter, because everybody--" "God, this is another letter with another sentence."

So I am sorry for interjecting, but I think your example was an excellent one. Go ahead, I'm sorry.

COMMITTEEPERSON KELLY: Thank you. I would propose, really, on top of what you just said -- and proposed five years ago -- maybe streamlining all the government agencies that would affect the development; having them come up with one set of rules and everyone would know. That might be a good Committee discussion to get them together to streamline and combine them -- one set for everyone.

In closing, I'd just like to say I have one more example: In Folsom, they recently had a 70-acre site that they needed 10 acres to be used to provide a training center on, and this took them 10 years. This was quoted in The Press. The union official who finally said that after 10 years, "This is the Pinelands' example of bureaucracy."

In closing, I just want to say that I agree with the Pinelands Commission's goal of protecting our environment, and

I want to continue that. But I think we can eliminate the Pinelands administration and their administration of their bureaucracy.

Thank you.

SENATOR GORMLEY: Thank you.

MS. LEONIK: Senator Gormley, if I could just follow up on one of the points made; that is, that as far as I believe that there does not need to be some sort of coordination or oversight between the DEPE and also the Pinelands Commission, there are not only inconsistent regulations and policies which have been brought out--

SENATOR GORMLEY: You are the prime example.

MS. LEONIK: Which have been brought out today.

SENATOR GORMLEY: You are the prime example. What you went through is the prime example.

MS. LEONIK: In fact, there are absolute conflicting policies and regulations, where you either are in compliance with DEPE or in compliance with the Pinelands, and you're not in compliance with the other. There is no way out.

SENATOR GORMLEY: I don't disagree with you on that at all. Yours is an example of not getting to the merits of the case -- that strain between the two agencies. Then again, we get back to that local official who works for that enormous salary for 40 hours a week, who has to hear that the State-- That's a different section of the State. That section of the State doesn't agree with the other section of the State. That is a problem. At least if the State would say yes or no in a unified voice, it would give better direction. You make a good point.

Thank you.

David Moore? Not here? (no response) Michael W. Huber, Nan Hunter Walnut, and Mike McCloskey.

UNIDENTIFIED SPEAKER FROM AUDIENCE: They both had to leave.

M I C H A E L W. H U B E R: I'll try to handle it by myself, Senator Gormley.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Could you call the next two names on our list?

SENATOR GORMLEY: Excuse me.

Go ahead with your testimony.

MR. HUBER: Thank you. Senator Gormley, Congressman Hughes, other members of the panel, my name is Michael Huber. I'm speaking as a current Director and retired Chairman of the J. M. Huber Corporation. Our company, which operates nationwide and internationally, has its headquarters in New Jersey, and employs about 300 people in this State. As such, my remarks will be somewhat generic, addressing interests of New Jersey citizens in general, as opposed to the problems the people in the Pinelands seem to be facing.

We moved our headquarters here from New York about 25 years ago because many of our people had chosen to live in New Jersey, attracted by the quality of life that we enjoy in our State.

The people of New Jersey recognize the need to preserve open space, and particularly open space in environmentally sensitive areas like the Pinelands, because this contributes in large measure to the quality of life that people in New Jersey prize. Recognition of that need is exemplified by the overwhelming majority vote in favor of several recent open-space bond issues.

The New Jersey Pinelands are recognized as an irreplaceable, ecologically important resource not only at the State level, but nationally and internationally. Their continued contribution to maintaining the quality of life that New Jerseyans value in this, the most highly populated State, is worthy of protection. I'm glad to hear that the sense of this meeting today seems to be that this area does deserve protection.

The Comprehensive Management Plan for the region, which provides for protection as well as economic development, is viewed as a model for other regions here and abroad. Once again, it puts New Jersey in a leadership position in the land use planning and environmental arenas. By focusing growth and development into appropriate areas it achieves protection of the most sensitive environmental values of the Pinelands.

Economic support for the Plan-- Economic development of the area has been supported through the Infrastructure Bond Act of 1985, which you, Senator Gormley, ably sponsored, and for which we thank you.

By having a land use plan for the Pinelands region we have avoided the beggar-thy-neighbor piecemeal approach to land use so evident in other parts of the county, and even in other parts of New Jersey, that results in unrestrained sprawl and infrastructure problems. The Pinelands Comprehensive Management Plan and the mechanisms that make it work must be retained and strengthened as necessary; for example, by providing a better mechanism to address violations of the Plan or permits granted under it.

Many of the issues that could be anticipated were addressed when the Plan was developed. An example is the PDC Program and the PDC Bank, with a State-supported floor on PDC value. Other issues, such as extreme hardship, can be addressed -- as they indeed are being addressed -- as they are identified, by measures such as Congressman Hughes' Limited Practical Use legislation, appropriation, and the Plan review presently in progress.

In conclusion, on behalf of the people of New Jersey, including our company's employees, I ask you, Mr. Chairman, and the members of your Committee to make sure that nothing is done to weaken the Pinelands Protection Act. If any actions are taken, they should reinforce it and strengthen this important regional land use plan, and provide for means to enforce it to protect the Pinelands.

I commend you, Senator Gormley, for convening this hearing and initiating a process to address some of the problems people have with the way the Plan is administered and the way the Plan is currently constructed.

Thank you for the opportunity to express my views.

SENATOR GORMLEY: Thank you. (applause)

We have Tom Brown, Mary Ann Reinhart, Julie Augustyn.

J A M E S E. C U M M I N G S: Sir, I will be speaking in the place of Julie Augustyn.

SENATOR GORMLEY: You're representing the--

MR. CUMMINGS: I'm representing Stockton College.

SENATOR GORMLEY: Okay.

C O M M. W O M A N M A R Y A N N E R E I N H A R T:
Good evening, Senator Gormley, and the Senate Judiciary Committee.

SENATOR GORMLEY: I'm sorry. Would you identify yourself?

COMMITTEEWOMAN REINHART: I'm Mary Anne Reinhart.

SENATOR GORMLEY: Okay.

COMMITTEEWOMAN REINHART: I'm from Shamong Township. I am also a Committeewoman in Shamong Township, but I am here in the capacity as a resident and a concerned environmentalist.

Senator Gormley, you stated earlier that you had thought -- and I was under the impression -- that this meeting here this evening was for enforcement powers for the Pinelands Commission, but that's neither here nor there. I will touch base on that and a couple of other topics concerning the Environmental Commission.

SENATOR GORMLEY: Okay, go right ahead.

COMMITTEEWOMAN REINHART: You stated that perhaps the enforcement powers should come from the local level, and just what I have experienced in my own Township, I feel that that would be frowned upon, because people do not like to be the enforcer. They always try to shy away from a police state, so to speak.

I'm in Shamong Township, which is a very sensitive environmental area. We are in the Wharton State Forest. I know you had other people here today speaking from Shamong Township. I have six clear examples as to why there needs to be enforcement. We have the Pinelands Commission; we have laws; we have regulations, but we really have no mechanism in force for enforcement.

This is just in a very short period of time what I have experienced. I experienced these situations before I became involved as a political figure. I am not a politician. The reason I got involved is because I have a toxic waste site behind my home in Shamong Township. It took me seven years to get it on the list for cleanup. They are now in the process of a \$42 million cleanup -- a 12-year time frame to be cleaned up. So I will just touch base with the different areas:

The Ewan Site: It's located in Shamong Township, no enforcement. There is no power. These types of situations are allowed to exist. I went to my Township Committee, who told me to go home and mind my own business. I went to the Pinelands; there wasn't anything they could do. I went to Burlington County; there was nothing they could do. I went to the DEPE; there was nothing they could do. Finally, the EPA -- and the only reason they listened after seven years is because of going to the newspapers.

The other thing in Shamong Township which is current and is happening right now: There is a dam that was just built in Shamong Township by the Township Committee. We went through the entire permitting process as required by law and completed the project. Low and behold, two months ago a private owner of a piece of property and a lake constructed an illegal dam which is larger than the dam in our Township, has two overflows, and has increased the water level. But there are no enforcement powers. The Pinelands Commission is aware of it. DEPE is

aware of it. My understanding is they have been cited, but it's the same old story. They keep citing and citing and doing nothing.

The other problem I have in Shamong Township -- and believe me, it's a lovely place to live. It's a great place, and I hope it doesn't come across as negative as to what I'm pointing out to you in examples. Shamong Township Planning Board: We have a member of the Planning Board, since the inception -- at least it seems to be -- who has received numerous violations from the Pinelands Commission -- major violations. Once again, there is no enforcement power, so nothing is done.

Also, Shamong Township has a lake that is polluted -- had been polluted -- by sewerage discharge -- pumping of septic systems directly into this lake. It went to the County, went to the DEPE, went to the State Police, and to date nothing has ever happened with the situation.

Tabernacle Township: I'm sure you're all aware of, or read about the Noble Oil situation. Directly involved in that was an elected official of that Township. It took one very courageous woman to battle lawyers, Township government, DEPE, and then, as she had gotten the publicity from the newspapers, she got the support rallied behind her to win the case.

Tabernacle Township drum dump site: The local governments fail to act on these types of situations. Then when you go to the Pinelands Commission, you have got to be the PI. You've got to provide them with the lot and block number, when did it happen. You have to submit all the information. Most people don't have this time, don't have this energy, and don't have the moneys.

Basically, what I guess I would be saying to you is, in listening to your reasoning for this meeting here this evening -- or today, rather -- was to find out why people shudder when anyone says "Pinelands," why they fly off the

handle. I think they have a misconception of what the Pinelands Commission is really all about. I've dealt with the Pinelands. I've attended meetings.

My recommendation to them -- and I think Terrence Moore can concur with this -- is that they have got to soften the way they do business. They have to educate local officials. In turn, local officials have got to educate the residents and assist them in the process. What has happened -- and the Pinelands Commission has allowed it to happen -- is, when the media gets a hold of one situation that's a negative against the Commission, it's full-blown in the newspapers and it sticks. They don't counter these remarks in the newspapers.

Also, I truly believe that the timing process has to be cut down for permitting. Also, I truly believe that we have high technology today. We have fax machines. We have Federal Express. We have a lot of good things in place that can make things happen tomorrow, instead of the 30, 60, 90 days.

I also believe that any case that any one is put on, and they're running that case, they should follow through with the people at the local level and not just disregard them once it gets to another level.

I also believe that there should be more moneys allocated from the State level to allow more people to be on the Commission, in order to get all these different things taken care of that need to be addressed.

You have to take into consideration that Shamong Township is a very small town. I have just pointed out six very critical situations. If you would multiply that by towns that are in the Pinelands and then compound that by all the towns in the State of New Jersey, we have serious problems.

The other thing is dealing at a local level for enforcement. Familiarity breeds contempt, particularly when you get into towns that have been generation after generation of elected officials and people who sit on boards. People like

to do their friends favors. It's not malicious, but it's just the nature of the beast and they like to be liked. I think you should consider removing it from the local-level enforcement and have it -- whether it be within the Pinelands Commission or an enforcement agency of its own--

Thank you. (applause)

SENATOR GORMLEY: Thank you.

MR. CUMMINGS: My name is Jim Cummings. Again, I'm speaking on behalf of Julie Augustyn, and we are speaking on behalf of Stockton Action Volunteers for the Environment, the largest college environmental group in the State of New Jersey.

We signed up to speak to you today for the obvious reason that we care about the fate of the Pinelands. But I'd like to stray away from the environmental and political rhetoric that we're hearing today. I'm sure we're all tired of it. Instead, I'd like to point out who will benefit if this bill is not passed.

First of all, environmentalists will obviously not benefit because development is not one of our goals. At the same time the small landowner, who is so well-represented here today, will also not benefit if this bill is shot down. So then we have to ask ourselves: Who will benefit? Who is going to benefit if this bill is not passed?

Well, sir, it is not the majority of the folks in here, or for that matter, within or around the Pinelands itself. It is simply the rich, the developers, the corporations, and the large landowners who are going to benefit if this bill is shot down.

The environmentalists and the small landowners -- and even the environmentalists and the hunters themselves -- have been pitted against one another for no reason but to create dissent among us. Our goals are the same: to protect the Pinelands. I doubt there is anyone in here who is going to disagree with me at all.

But the goals of opposition to this bill are money and greed. The testimony of a few of the gentlemen here who first spoke clearly attests to that. They mentioned multimillion dollar mining and development projects that cannot go through if this bill is passed. The money would not go to the blue-collar worker or the economy of the surrounding district. It would go into the pockets of a few rich businessmen and developers.

Now, we can look at many of the examples given here today and how the Pinelands regulations can be absurd. I agree and I can sympathize. But all these examples are minor compared to the huge development projects that were given the okay by the Pinelands Commission. Let it be known that development has not stopped in the Pine Barrens by any means whatsoever. It has continued regardless of laws and regulations, and this is a fact.

There are problems with this bill that are obvious on both sides of the issue. But all in all, it is a good bill. The small landowners are being cheated, and that's a fact. But it is a fact throughout history that small landowners have always been cheated. So let's sit down with them. Let the environmentalists, politicians, and the landowners sit down. Let us discuss the problems, rather than in forums like this.

But above and beyond, sir, let's please consider the plight of future generations of Americans that will depend on this natural ecosystem. Let us put the future of our children and grandchildren before immediate economic gain, like we have so often.

Thank you. (applause)

SENATOR GORMLEY: Thank you.

Kerry Jennings, Jane Tousman? (no response) Bill Neal?

MR. NEAL: (from audience) I've waived my time, Senator.

SENATOR GORMLEY: Oh, okay.

George Mancywoda? I'm sorry, I hope I'm pronouncing that correctly. Danielle (sic) -- oh, God.

M. D I A N E L L D R E I B E L B I S: Dreibelbis.
(indicating pronunciation)

SENATOR GORMLEY: From Save America's Forests.

MS. DREIBELBIS: Here.

SENATOR GORMLEY: Great.

Drew Kodjak, Philip Iapalucci? (no response)

W I L L I A M C. S U L L I V A N, JR., ESQ.: Mr. Chairman, I was further down on this list. I'm Bill Sullivan. I think Drew Kodjak is going to waive his time.

SENATOR GORMLEY: Okay, fine.

Mr.--

G E O R G E M A N C Y W O D A: Mancywoda. (indicating pronunciation)

SENATOR GORMLEY: Okay, thank you.

MR. MANCYWODA: Everybody gets it wrong. Don't worry about it.

SENATOR GORMLEY: Thank you.

MR. MANCYWODA: I really don't have that much to say, other than everything the environmentalists have said I agree with. I think the little boy said it the best. He really had everything to say that I would have said.

I'm originally from up North Jersey, so I've seen what greed, development, and that kind of stuff can do. I've seen all the farm fields disappear and turn into parking lots, malls, traffic, congestion, people, everything. In fact, that is one of the reasons I ended up moving down here. Me and my wife moved down here six years ago, and immediately we-- We always were in love with the place, and finally we moved down here. It was really-- Economically, it didn't work out, you know. We had higher paying jobs and everything up North, but we wanted to be down here in the Pinelands.

I guess my position is, you can't have both. You have to have conservation and preservation first. I believe that's why the Pinelands Act was passed. When I began living down here, I thought it was a sure thing that everything would be protected. But in the six years I've lived down here, I've slowly seen things chipped away.

I believe that Enforcement Bill has to be passed. In my experiences in life, the only people afraid of enforcement are the lawbreakers. That's just been my observation in life.

There are more issues here and it's late. That's really all I have to say. (applause)

SENATOR CAFIERO: Thank you, sir.

MS. DREIBELBIS: I want to thank you for allowing me the opportunity to testify before you. I'm particularly happy that Representative Hughes returned.

My name is Dianell Dreibelbis. On behalf of Save America's Forests and its many New Jersey members, I would like to express our strong support for the continued protection of the Pinelands National Reserve, as well as the Pinelands Commission.

In the past, Save America's Forests has continuously worked with the United States Congress to pass laws that looked for new and innovative ways of managing our public lands. Recently, the concerns with the current management of the New Jersey Pinelands have come to our attention. Subsequently, the issue has been of particular interest to me.

I am a New Jerseyan. I have spent much of my life -- actually 23 of my 24 years here in New Jersey -- living close to or in the Pinelands itself. New Jersey is often judged by other based upon what they can see from their car window on their way up the Turnpike. But they've never taken the opportunity to witness the mysterious surroundings firsthand. We New Jerseyans should be proud of the irreplaceable natural beauty that is in our Pinelands.

I will skip through the majority of my testimony because you have copies of it. But I wanted to say that it is because of my experiences as a youth, discovering the wondrous biodiversity in the New Jersey Pinelands, that I chose to pursue a career in wilderness and environmental protection.

In college I got involved with an environmental group called the Student Environmental Action Coalition. Actually, Stockton State SAVE and several of the students here are members of it. It is the nation's leading student environmental organization. I was very proud to serve as their representative to the national council of that organization -- representing New Jersey issues. New Jersey has always been seen by SEAC as the top -- one of the top chapters, because the students here are just so united behind issues.

Some of the testimony today may focus on what may be thought of as deficiencies of the Comprehensive Management Plan and the Pinelands Commission, but we feel that there is another important issue that should be addressed.

In Fiscal Year 1990-'91, Senator Bill Bradley and Representative Bill Hughes were able to acquire \$1 million to assist those in the Pinelands whose lands, because of legislation, have limited practical use. Most of the affected sites are small -- less than 50 acres. Unfortunately, this assistance has not been put to use because the Federal funds require a \$1 million match from the State. To date, the necessary State funds have not been appropriated. This is particularly due to legal complications within the designation of the Green Acres Fund.

Through all the most recent complications one thing cannot be denied, that the New Jersey Pinelands is not only the first national reserve, but a working model of a land use plan created to protect a unique ecosystem. This Plan serves as a model for other areas of our country facing similar difficulties between development and preservation. Of course,

preservation has its unintended consequences. In this instance local farmers and other landowners should receive compensation for their part in protecting this area of global significance.

Mr. Chairman, we urge you to work with all interested parties to act expeditiously to locate State funds in order to match the allocated Federal moneys.

When the Pinelands National Reserve was created, it was a cohesive plan between Federal, State, and local authorities working along with national and local environmental organizations, as well as local landowners. Save America's Forests urges you to continue the strong protection of the Pinelands National Reserve in the unifying manner in which it was originally designated.

Now, it's kind of hypocritical for me to stand up here and say to you, "You should find the \$1 million." I have spent my own time. I have taken off from work and have spent my own money to come up to testify before you because I really believe in this. I've gone to your staff, Representative Hughes, and spoke to your staff person on this issue several times; spoke to him at least once a day for the last three weeks; met with him at least twice a week on this; encouraged by him to circulate a letter through the New Jersey delegation asking them to ask for the \$1 million from you, Senator Gormley, which I left your copy for you.

SENATOR GORMLEY: From me? Should we share this with the other 119 legislators? No, I appreciate that.

MS. DREIBELBIS: I left a copy for you of Senator Kline's letter to you -- I mean, Congressman Kline's letter to you.

SENATOR GORMLEY: Congressman Kline.

MS. DREIBELBIS: I was told by-- I don't mean to target you, and I don't mean to target your staff.

SENATOR GORMLEY: No, I appreciate it. I enjoy it.

MS. DREIBELBIS: I was told by--

SENATOR GORMLEY: I enjoy it. Look out. He's fading quick.

What we'll do is, we obviously have to undertake to get the million dollars. What we'll do is, if perchance-- I think what we have to do is target resources. First of all, if we target just human beings just talking to one another-- Basic civility, that's number one. That's the basic goal. I think this hearing has been excellent from both sides in terms of their courteousness to one side or the other. We have to work at that.

Your goal of a million dollars, when there is a million dollars in match, addresses-- One of the really sad problems that the Congressman has addressed is a fine place to focus, because no one can dispute that those lot owners-- You want to see their interests protected.

MS. DREIBELBIS: I'll tell you, I've been called by my former Representative's staff person -- Representative Pallone's staff person, Jed Brown, and told that, "I can't believe you look so hypocritical by doing this, Dianell. You look like you're supporting takings."

SENATOR GORMLEY: Can I tell you something now? I don't know what--

Ah, Jed Brown, he used to be with, hmm -- then he went with Pallone.

MS. DREIBELBIS: Anyway, the whole thing is that urging me--

SENATOR GORMLEY: Anyway, okay. I remember that combination, too. I used to sit next to Senator Pallone -- Congressman Pallone. I understand Congressman Pallone.

MS. DREIBELBIS: I definitely see the views of the farmers. My family has had a farm in our family for over 125 years that we recently lost because of large corporations who can sell milk cheaper.

SENATOR GORMLEY: No, no. Now listen. You've made your point. You are very real and very sincere. You make a very good point, and you bring an enormous amount of sincerity to the table. That's acknowledged.

We will work with the Congressman on sources of funding for it. That's not an idle comment. It's an amount that you can make a good argument for because it's 50/50. So we will work at it, and we will focus on that. We've talked to the Congressman about it. We talked to Congressman Saxton about it, who is a major supporter of this assistance, and we're going to work on it.

Thank you for your testimony. (applause)

MR. SULLIVAN: Good evening, Mr. Chairman, Congressman Hughes, members of the Committee. My name is Bill Sullivan. I am a staff attorney at the Rutgers Environmental Law Clinic and a native of Burlington County. I still have a lot of family who live in the Pine Barrens.

I am here today on behalf of the Environmental Defense Fund and the Natural Resources Defense Council. I am also testifying on behalf of New Jersey PIRG, who -- Drew graciously waived his time.

The Environmental Defense Fund and Natural Resources Defense Council are national organizations with over 300,000 members who work on important environmental issues throughout the world. In addition, these organizations represent over 10,000 New Jersey residents who are very concerned about the quality of our environment, including the protection of the priceless natural resource known as the New Jersey Pinelands.

I have a copy of written testimony I will just summarize, and then provide Mr. Tumulty with a copy of the written testimony.

The designation of the New Jersey Pine Barrens as the nation's first national reserve represented the application of a new concept in land preservation and protection. This is why

my clients and people throughout the country regard the New Jersey Pine Barrens model as a national model that is being considered in a lot of other places.

While the reserve involves sizeable land acquisition, the concept differs from a more traditional park concept in that it seeks to direct, regulate, and mitigate the effects of an increasing human population on a regional ecosystem basis, rather than affording absolute protection in a designated park area with no controls outside the park boundaries. This approach represented a fundamental change from traditional natural resource protection efforts. This approach has become a model across the nation for balancing the interests of environmental protection and economic growth.

Another part of the Pinelands approach that is a national model is the transfer of a development rights program, which provides value for use-restricted land while focusing development in areas where it is appropriate.

The incorporation of an ecosystem approach into the strategy for the preservation of a significant portion of the Pinelands is particularly important. This makes control of water quality more feasible and also protects the estuarine and nearshore waters, which are important fish and shellfish resources.

Pinelands planning and management today accomplishes these objectives while recognizing the critical importance of agriculture, recreation, and tourism to the economic survival of the region. For all these regions, Pinelands management is a model for similar regions nationwide, and we should be proud of it.

The New Jersey Pinelands comprises a mosaic of upland, aquatic, and wetland environments. The high sand content in the soil allows for rapid nutrient movement to plants. Tidal rivers, shallow lakes, and swamps enhance the diversity of the region. Both Federal and State legislation cited the expanse

of the forest, pristine water and air, and rare species as features of the Pine Barrens worthy of preservation. The Pinelands is a unique and priceless ecosystem which must be protected.

Now, discussing the issue of economic viability in the region. The Federal and State legislation sought to maintain the economic viability of the Pine Barrens. Thus, the Federal and State laws did not restrict overall development in the Pinelands region. However, all economic activities must be compatible with the unique ecology of the Pine Barrens. Both Acts encouraged economic activities -- especially agriculture, horticulture, and recreation -- by requiring the protection and enhancement of those indigenous industries and commercial and residential development which are consistent with the purposes and provisions of the Act.

The State legislation also recognized pressures for residential, commercial, and industrial development as threats to natural resources. Nevertheless, the State legislation made special allowances for those who owned land prior to the effective date, for construction of single-family residences meeting certain criteria. Thus, the Act recognized the right of individuals to use their land, within guidelines, for their own purposes.

Because of the unique and fragile ecosystem in the Pines, inappropriate development on a property can adversely affect not only adjacent properties, but the entire ecosystem in the Pines. The loss of the ecosystem through contamination or overloading can destroy the value of all property in the Pines. It is also noteworthy that the public investment in the purchase of lands in the Pines enhances the values of adjacent and nearby lands. In addition, Pinelands preservation has protected the economic vitality of the cranberry and blueberry farms in the region, which depend upon the unique ecosystem.

Finally, the preservation of open space and natural resources promotes tourism in the area. Ecotourism -- or travel and entertainment by those seeking to protect the environment -- is one of the fastest growing sectors of the tourism industry in this country.

In summary, Pinelands preservation promotes economic as well as environmental values. Both should be enhanced by continuing to protect the unique ecosystem that is New Jersey's Pinelands. It is one of the jobs of good government to determine when legitimate property rights must be limited to some extent for the greater social good. Almost 15 years ago the government of this State made the difficult but responsible decision to apply that kind of regulation to New Jersey's most unique asset, the Pinelands. Nothing has changed since 1979 to warrant any major revision of that regulatory framework.

Thank you. (applause)

SENATOR GORMLEY: We have run into a minor technical problem now. They were to start the rehearsal for the college play at 7:00 p.m. where I'm sitting. What we will do is, I've asked to check for another room.

We're not leaving, okay? Anybody who wishes to submit written testimony can submit it if they choose to leave. I've asked the Committee Aide to look for another location in the building. I will continue. I will go straight through and listen to anybody's comment, take their testimony, or whatever. You just have to excuse me. This is a unique situation. We went basically for five hours, but we didn't limit people who signed up, and we don't want to limit those people who were patient enough to wait. I will do whatever it takes to accommodate their schedules or time frames. So I'll be here.

We're just going to-- I appreciate anybody who would submit a written statement, fine. If they would, in the alternative, prefer that I individually contact them, I will do

that. But we are not going to be leaving. We'll just be at some other location. The Committee Aide is now looking for it.

So we will take a brief adjournment. I will be right out in the hallway, and maybe we'll bump into some characters from the play.

Thank you. (applause)

**(HEARING RECESSED AT 7:00 P.M. AND MOVED TO
ANOTHER LOCATION WITHIN THE BUILDING)**

(This represents a partial transcript of the hearing.
There was no recording of the hearing after recess.)

APPENDIX



TESTIMONY PRESENTED BY
U. S. REPRESENTATIVE WILLIAM J. HUGHES
BEFORE THE NEW JERSEY SENATE JUDICIARY COMMITTEE
CONCERNING THE PINELANDS ENFORCEMENT ACT

DECEMBER 15, 1993

New Jersey State Library

Thank you very much, Mr. Chairman. I am William J. Hughes, Member of Congress, representing New Jersey's Second Congressional District. I greatly appreciate the opportunity to appear before this distinguished committee today, to share my views generally on Pinelands protection and some observations concerning the Pinelands Enforcement Act.

When our region first undertook the effort to protect the Pinelands in 1978, we were under fire from all directions. We heard from builders, who were adamantly opposed to any new restrictions on development. We heard from others who wanted to lock up the Pinelands and throw away the key.

We heard from local officials, who feared the loss of home rule and we heard from farmers, who were concerned that Pinelands restrictions would threaten their livelihood, and we heard from senior citizens, whose property was their major source of income security. And the list went on and on.

For months, we took testimony from all of these groups and many more, in an attempt to develop a consensus for federal legislation. From the start, there was never any question about the need to protect the Pinelands.

Indeed, when you asked people in 1978 if they favored protecting the Pinelands or allowing them to be destroyed, the answer was overwhelmingly in favor of protection. That was the sentiment then, and it certainly is the sentiment today, especially when the issue is framed as if those are the only choices.

The tougher question then, as today, was not do we protect the Pinelands, but how do we do so? More specifically, how do we strike the proper balance between the many legitimate, yet often conflicting, environmental and economic concerns in this diverse 1.1 million acre region.

We answered that question in 1978 by enacting a Pinelands Protection Law which was perhaps one of the most significant environmental accomplishments of our time. Under this law, the Pinelands National Reserve was established, the first such national reserve of its kind.

At the same time, we authorized some twenty three million dollars in federal funds to acquire those lands which were critical to the Pinelands ecosystem, and which needed to be placed in public ownership to assure their protection.

This new federal law provided for the establishment of a Pinelands Study Commission which was to make recommendations to help local governments look beyond their own boundaries and otherwise work together to carry out regional conservation goals.

I am very proud of the role I played in helping to draft the federal legislation, and just as importantly, in helping to develop a consensus among these various groups to get it enacted into law.

I think the Pinelands effort has, for the most part, been successful. It has protected much of that area from over development and established a regional planning mechanism that has effectively protected some fragile ecosystems.

Regretfully, it has also inflicted needless pain on hundreds of landowners and the broad consensus that once existed has been undermined by a Pinelands Commission that is often regarded as dogmatic, myopic and uncaring.

I do not support those who would turn back the clock and retreat from this effort. However, there is such widespread discontent that if these legitimate concerns are not addressed, it will become a groundswell of opposition that will threaten to undo much of the good that has been accomplished. I would like to work with this committee and the new administration to change some aspects of the Pinelands law and offer some suggestions concerning the Pinelands Enforcement Act.

Mr. Chairman, I think you know that during my career I have worked hard to insure that future generations will have the opportunity to experience firsthand the pleasures we enjoy, and sometimes take for granted, along our sandy beaches, the banks of rivers and streams and in the midst of cedar swamps and upland forests.

Whether it be the elimination of ocean dumping, the creation and expansion of National Wildlife Refuges, the designation of Wild and Scenic Rivers, or any one of a number of other projects, I have been in the forefront of environmental protection.

I mention this to establish a frame of reference, so what I am about to say regarding the administration of the Pinelands Act will not be misconstrued.

Let me be clear, I support Pinelands protection and agree

wholeheartedly that this unique initiative must be maintained. However, over the years I have developed serious reservations regarding the methods used to achieve results and the overall manner in which this grand experiment has been conducted.

Unfortunately, the concerns I have expressed to four successive administrations in Trenton have fallen on deaf ears, just as my letters of concern to the Pinelands Commission yielded little relief for hundreds of citizens caught up in that single minded bureaucracy.

Permit me to give you just a few examples of what I believe is an agency which has run amuck, and which I believe support my conclusion that it is time to reassess some aspects of this noble effort.

Let me start with the Cape May County landfill which is located in the fringe of the Pinelands. It's a fairly new facility built to the most exacting standards and with full approval from all environmental regulatory bodies, including the Pinelands Commission.

Originally, it was anticipated that this landfill would reach capacity in the near future and Cape May County would need to identify an alternative means to handle its solid waste, including, perhaps, development of a mass burn facility on that same site, as allowed by its original permits.

However, local environmental and other concerns led to the abandonment of any mass burn proposal, and Cape May County instead adopted a very vigorous recycling program. In a short

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time, the recycling effort has become so successful that over fifty per cent of the combined waste stream is now recycled.

As a result, the Cape May County landfill now has a great deal of residual capacity and it could very effectively and economically serve county residents for up to thirty years.

However, despite having granted Cape May County permission to build this landfill and to follow it with a mass burn incinerator, the Pinelands Commission sought its closure long before it reached capacity.

Thus, rather than being rewarded for its switch to a more environmentally friendly way of handling solid waste, Cape May County was penalized and forced to undergo an effort to locate a site, outside the Pinelands, for development of a new facility.

As you know, Cape May County is a narrow peninsula, blessed with an abundance of natural resources, and there are very few areas which can accommodate a landfill. In fact, the one viable site found was located literally across the street from the existing landfill. This site includes undisturbed woodlands, wetlands and is virtually identical in character to the adjacent Pinelands.

Most importantly, that site is within the approved boundary of the Cape May National Wildlife Refuge.

That made no difference to the Pinelands Commission. There was little effort made to cooperate with Cape May County and to discuss this problem. Rather, in their rather narrow view it is better to force the premature closure of an existing landfill on

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an already fully disturbed site and compel Cape May County to spend scarce public resources to despoil pristine land which was to be acquired for a National Wildlife Refuge.

The Borough of Buena in Atlantic County encountered a very similar problem with the Pinelands Commission.

Buena lies almost entirely within the Pinelands Protection Area. The only exception is a small portion lying just west of the boundary formed by Route 40.

The Buena Municipal Utilities Authority operates a wastewater treatment facility which discharges into Deep Run, a Pinelands stream. In seeking to upgrade this facility and to improve the quality of the discharge, the Buena MUA was told by the Pinelands Commission to locate a new discharge point outside of the Pinelands.

Relocation would be an extremely expensive project and fraught with numerous siting problems. Further, the quality of the discharge would be improved to the point where it might be considered even cleaner than the receiving body of water. However, the Buena MUA had no choice but to comply with the Pinelands Commission's directive.

After undergoing a long and contentious feasibility and siting analysis, the Buena MUA had few choices within their tiny corner of non-Pinelands area. And all possibilities would have generated significant environmental problems of their own including the taking of productive farmland, destruction of valuable woodlands, or discharge adjacent to New Jersey Green

Acres open space in a tributary which feeds the Maurice River and its National Wild and Scenic River corridor.

However, these issues were of little concern to the Pinelands Commission. Regardless of the problems they would be creating elsewhere, they would have any discharge out of their area of jurisdiction. The fact that their actions would cause harm to important natural resources, again, as in Cape May County, "right across the street", mattered little.

This attitude suggests that important natural resources which lie outside the Pinelands' borders are not as worthy of protection as areas that lie within. Such a viewpoint is extremely troubling, for it results in decisions that are clearly not in the public interest.

Additionally, it reveals that the Pinelands Commission has become one of New Jersey's biggest NIMBY's, since it shows little regard for the consequences of development activities outside the Pinelands as long as their own backyard remains unsullied.

Rather than putting blinders on, the Pinelands Commission should join other agencies and local officials with similar responsibilities in an effort to identify the most sensible way to address such problems, while insuring the protection of important natural resources regardless of whether they lie within or outside the Pinelands. Indeed, that was always the intention of the federal law which I helped write.

Another significant problem created by Pinelands restrictions is the loss suffered by individuals who are left

with no economic use for their property.

Many of the people in this room have faced or are familiar with situations where a family has owned and paid taxes on property in the Pinelands for generations. Then, when they can no longer afford it or when they seek to build or sell to another, they find the property is essentially valueless as a result of Pinelands restrictions.

For years, this has been one of the most frequently cited inequities of the Pinelands protection program.

To address this problem, I joined with Congressman Saxton and Senators Bradley and Lautenberg to provide one million dollars so the Pinelands Commission and the state of New Jersey could begin purchasing such properties.

This initiative - called the Hardship or Limited Practical Use Program - would provide some relief for certain qualified individuals, while allowing the Pinelands Commission to place this land in public ownership.

To this day, several years after this money was first made available, the Pinelands Commission has steadfastly refused to honor the intent of this program to assist small, hard pressed landowners.

This is yet another example of the lack of sensitivity and regard for the people who are suffering within the confines of these restrictive conditions.

The treatment of small landowners has also given rise to a perception that the Pinelands Commission is not evenhanded in its

permitting and enforcement activities.

In what often seems to be an arbitrary process, the Pinelands Commission appears to go out of its way to find reasons to deny applications. Using criteria that often seems to lack any scientific basis, the Pinelands Commission seizes every excuse to delay, derail and ultimately deny every application possible.

Over the last fifteen years I have received hundreds of letters and phone calls from individuals who have been frustrated at every turn in the effort to receive Pinelands approval. Many of these hard working citizens have spent thousands of dollars, and stand to lose thousands more, in futile pursuit of Pinelands permits.

Many give up, thoroughly disgusted and discouraged at the inconsistent application of standards and the inability to receive information on which they can depend. Basic due process seems to be lacking and there is no practical recourse. There is also no effective check on the arbitrary decision making or abuse of power.

Whether deserved or not, the perception also exists that those who have substantial financial resources, who can hire attorneys, engineers and other consultants, and who have the luxury of time, can eventually prevail and negotiate a compromise with the Commission.

I am not sure that this perception is accurate. Nevertheless, it persists, and the attitude and day to day operations of the Pinelands Commission does little to dispel such

notions. In the long run all of this undermines Pinelands protection, for it alienates those who call the Pinelands home and those who should form its natural constituency.

That brings me to my final example.

Every time I have sought to promote projects involving National Wildlife Refuges, Wild and Scenic Rivers or similar activities, the fear is expressed that they will become "another Pinelands".

There is rarely any disagreement over the desire for environmental protection. The vast majority of southern New Jersey's residents care deeply for the environment.

However, because of what Pinelands has come to represent, well meaning and caring people feel forced to actively oppose projects designed to protect our natural resources.

Just a few months ago, a public meeting to discuss Buena Vista Township's support for the Maurice River Wild and Scenic River project turned into a bitter and divisive dispute over the Pinelands Commission.

The exact same response has been prompted by proposals for establishment of a New Jersey Coastal Commission, development of the State Development Guide Plan, creation of the Cape May National Wildlife Refuge and other such initiatives.

The Pinelands experience in southern New Jersey has poisoned the well. The fight to protect our majestic rivers, tens of thousands of acres of wetlands and woodlands and miles of shoreline has been in jeopardy because people in this region are

fearful of being subjected to the kind of uncaring bureaucracy typified by the Pinelands Commission.

Indeed, I believe that the Pinelands Commission and the reputation it has developed have become the single largest obstacles to further environmental protection in this region.

It was not meant to be this way. In 1978, when Ed Forsythe, Jim Florio and I finally put together a coalition to move forward with Pinelands protection, it was based on a regional approach to decision making that was to actively involve county and municipal governments.

In fact, the National Parks and Recreation Act of 1978 called for the establishment of "a program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve".

Federal legislation clearly provided for that partnership. However, the New Jersey Pinelands Protection Act and the Comprehensive Management Plan passed by the New Jersey Legislature created a super planning agency that effectively ignored local needs and concerns.

As a result, the broad coalition which carried the initiative to that point was abandoned. In the process, the ability to fashion a consensus and to make the decisions necessary for development of a fair and reasonable approach to Pinelands protection was seriously weakened.

Considering the history I have just recited, I think you can understand why so many people have reacted so negatively to the

proposed Pinelands Enforcement Act.

They are not anti-environment. They simply fear the prospect of the Pinelands Commission being granted even greater powers.

After fifteen years, responsible public officials can no longer ignore the outcry of citizens who feel disenfranchised and defenseless before the Pinelands Commission.

After fifteen years, it is time to review some aspects of the Pinelands protection effort, and see if we can't make some adjustments to protect the rights of citizens while continuing to insure that this marvelous resource is not endangered.

In my view, this hearing could not be more timely, for this debate is seriously needed. I believe that it is not only possible to solve these problems and bridge the gap between the many factions who find themselves at odds where the Pinelands are concerned, it is essential.

I look forward to working with you and many others in the days ahead as all of these issues are examined.

Now, Mr. Chairman, I would like to take a few minutes to talk about the Pinelands Enforcement Act.

In support of this initiative, the Pinelands Commission has stated that there are at least one hundred seventy five serious outstanding violations within the Pinelands, and they lack the ability to effectively enforce their regulations.

I have no doubt that there are serious violations. However, when asked, by myself and others, to document the number and

nature of these problems, the Pinelands Commission was unable or unwilling to provide a detailed report.

I have seen information from the office of the Attorney General indicating that after fifteen years there are no more than fifteen unresolved violations which warrant prosecution. If these numbers are accurate, it hardly suggests that this situation is out of control.

Nevertheless, before this effort moves forward, I would suggest it is essential that detailed information be provided to conclusively document the nature and extent of this problem.

Regardless of the number of violations, I submit that the critical question before you is just what is the best way to insure adequate protection of our Pinelands resources. I would like to suggest that rather than creating a more powerful Pinelands Commission, perhaps the answer can be found closer to home.

Just two weeks ago, Senator Bill Bradley, a group of local officials from Cumberland County and I had the privilege of joining President Clinton in the Oval Office, while he signed into law the Maurice River Wild and Scenic Rivers bill which we wrote.

That was the culmination of a six year effort on our part to assure the long term protection of the Maurice River and its tributaries, which are among new Jersey's greatest environmental treasures.

It followed by one year the enactment of a similar bill

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which we wrote, which adds some one hundred twenty nine miles of the Great Egg Harbor River watershed to the Wild and Scenic Rivers system.

The National Wild and Scenic Rivers program is similar to the Pinelands Act, in that it attempts to achieve the same long term goals. However, the way they go about achieving that end is considerably different.

Like Pinelands, the Wild and Scenic Rivers program brings local governments together on a regional basis to carry out its goals. Indeed, local governments are required to enter into conformance agreements, or Local River Management Plans, which are not unlike the conformance plans which every county and municipality in the Pinelands has already entered into.

Unlike Pinelands, however, actual enforcement under the Wild and Scenic Rivers program will be carried out entirely at the local levels. Rather than attempting to take over the zoning and decision-making process in the local communities, as the Pinelands Commission has done, the National Park Service will focus on providing scientific and technical support, to help assure that the mandate of the Wild and Scenic program is carried out.

This approach has a number of major advantages over the Pinelands law. First, local officials are already on the scene and thoroughly familiar with their areas of jurisdiction. They already have an existing body of legal remedies available, which enable them to move quickly against violators.

By emphasizing local enforcement, I believe we can expect fewer efforts to skirt regulatory authority, faster identification of violations which occur, and quicker enforcement action. Just as importantly, citizens would have easier access to those charged with the administration of the program, and can expect a speedier resolution of outstanding cases.

By using the National Wild and Scenic Rivers program as a model, I believe it would be possible to develop an effective program for Pinelands protection which has the best chance for satisfying the many conflicting demands made of government, while still accomplishing the environmental and economic goals we all share.

The crucial difference is that the local communities affected by both the Maurice River and Great Egg Harbor River Wild and Scenic designations have enthusiastically, and indeed unanimously, adopted this approach, while the Pinelands Commission remains the object of scorn and distrust at the local level.

Again, let me emphasize that I am not talking about abandoning the Pinelands conservation effort. Far from it. What I am saying is that there might be better and more innovative ways of accomplishing this goal, and that it is time to do an honest reappraisal of this effort.

I believe it is time for the State of New Jersey to get off the dime and commit the matching funds which are needed to carry out the Hardship acquisition program, to compensate small

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landowners who have suffered losses under the State Pinelands law.

It is time for the Pinelands Commission to recognize that they, like all who have the privilege of serving in government, are there to work for the people as well. They must become more sensitive to the very real problems people encounter, and become more balanced in the administration of Pinelands protection programs.

It is also time for the Pinelands Commission to take the blinders off and show a little more understanding and sensitivity to the total environment throughout our region, such as when it comes to siting decisions such as the Cape May County landfill.

And it is time to look at other conservation models, such as the Wild and Scenic Rivers plan, which have broad public support, are backed by sound enforcement mechanisms, and may well offer the best long term opportunity for protecting this area which all of us cherish -- the New Jersey Pinelands.

I would urge you to carefully consider these requests, and look forward to working with you in this regard.

Thank you.

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State of New Jersey
BOARD OF AGRICULTURE

TESTIMONY BY

**NOBLE F. MC NAUGHTON, PRESIDENT
NEW JERSEY STATE BOARD OF AGRICULTURE**

**BEFORE THE
SENATE JUDICIARY COMMITTEE**

MAYS LANDING, NEW JERSEY

December 15, 1993

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SENATOR WILLIAM L. GORMLEY, AND MEMBERS OF THE NEW JERSEY SENATE JUDICIARY COMMITTEE, THANK YOU FOR THIS OPPORTUNITY TO TESTIFY TODAY ABOUT THE PINELANDS COMMISSION AND ITS EFFECT ON LANDOWNERS AND FARMERS.

FIRST OF ALL LET ME STATE THAT WE FARMERS WERE THE ORIGINAL ENVIRONMENTALISTS AND STILL ARE. WE ARE STEWARDS OF THE LAND. WE RECOGNIZE THAT WE MUST MAINTAIN A REASONABLE USE OF THE LAND TO HAVE LAND FOR FUTURE GENERATIONS, BUT TO PROTECT OUR PROPERTY RIGHTS, A BASIC RIGHT ON WHICH THIS COUNTRY WAS FOUNDED, THERE MUST BE A BALANCED USE OF THE LAND.

THE PINELANDS EXISTS TODAY IN ITS PRESENT FORM BECAUSE OF AGRICULTURE AND THE INDUSTRY THAT HAS TAKEN PLACE IN THE PINELANDS FOR THE LAST 250 YEARS. OSWEGO LAKE EXISTS TODAY BECAUSE BILL HAINES' GRANDFATHER BUILT IT TO SUPPLY WATER FOR HIS CRANBERRY BOGS. HARRISVILLE LAKE WAS CREATED IN THE 1800'S FOR A PAPER MILL WITH HOUSES FOR HUNDREDS OF WORKERS. THEY EVEN HAD GAS LIGHTS IN THE STREETS. BATSTO LAKE WAS CREATED TO SUPPLY POWER TO A LUMBER MILL TO SUPPLY WOOD FOR THE IRON FURNACE AND ADJOINING TOWN. THOUSANDS OF ACRES OF ABANDONED CRANBERRY BOGS, CREATED DURING THE CRANBERRY BOOM IN THE EARLY 1900'S ARE NOW TRUE WETLANDS. TOWNS AND VILLAGES TOO NUMEROUS TO MENTION HERE, EXISTED TO SUPPORT AGRICULTURE AND THE INDUSTRY OF THE PAST AND REGENERATED INTO THE PINELANDS THAT MOST OUTSIDE OF THE PINELANDS FEEL ARE VIRGIN LANDS. THE STATE NOW OWNS A VAST MAJORITY OF THESE LANDS. THE POINT I WANT TO MAKE IS THAT THERE MUST BE A PROPER BALANCE BETWEEN PRESERVATION AND DEVELOPMENT, IT SHOULD

NOT BE ALL ONE-SIDED. THERE MUST BE AN OPPORTUNITY FOR THOSE OF US THAT LIVE IN THE PINELANDS, TO CREATE AGRICULTURAL AND COMMERCIAL ENTERPRISES THAT BRING PROSPERITY AND IMPROVE THE QUALITY OF LIFE OF OUR COMMUNITIES.

THE PINELANDS COMMISSION SET UP THE COMPREHENSIVE MANAGEMENT PLAN AND HAD THE CMP IMPLEMENTED BY ALL OF THE PINELANDS MUNICIPALITIES. WE FELT THAT ONCE OUR MASTERPLANS AND ZONING LAWS WERE IN COMPLIANCE WITH THE CMP WE COULD GOVERN OURSELVES, BUT NOTHING COULD BE FURTHER FROM THE TRUTH. ONLY AFTER ENDURING AN ARDUOUS PROCESS WITH THE PINELANDS COMMISSION CAN YOU GO TO YOUR TOWN FATHERS FOR THE PROPER PERMITS. THE PINELANDS PROGRAM IS A REGULATORY SCHEME THAT IS EXCESSIVE, DUPLICATIVE, EXTREMELY COSTLY, AND TIME CONSUMING.

ELEVEN YEARS AGO I WENT TO THE PINELANDS COMMISSION TO OBTAIN APPROVAL TO BUILD MY HOUSE ON MY FARM IN TABERNACLE THAT HAD NO OTHER HOUSE ON THE PROPERTY. I WENT FOR A PRELIMINARY MEETING WITH MY CASE WORKER. I HAD MY SOILS MAP, MY ZONING MAP AND OTHER REQUIRED PAPERS. I EXPLAINED TO HER THAT I OWNED THIS 18 ACRE LOT AND MY BROTHER OWNED THE 82 ACRE LOT NEXT TO IT, AND WE BOTH RENTED OUR LANDS TO THE NURSERY. SHE STUDIED THE MAPS FOR A FEW MINUTES, POINTED TO THE MAP, AND THEN PROCLAIMED THAT THIS WAS THE BEST SPOT FOR MY HOUSE. STUNNED I SAID "THAT'S NICE BUT THAT'S MY BROTHER'S LAND" TO WHICH SHE ANSWERED, "BUT IT'S ALL PART OF THE NURSERY." I SAID "BUT MY LAND MEETS THE CRITERIA FOR BUILDING." SHE SAID "BUT THIS LAND MEETS THE CRITERIA BETTER AND THAT'S WHERE YOU MUST BUILD." AND I SAID "BUT I DON'T OWN IT -- MY BROTHER DOES." AND SHE SAID "BUT IT'S ALL PART OF THE

NURSERY." AFTER TEN MINUTES OF FRANTIC DISCUSSION SHE FINALLY AGREED TO LET ME APPLY TO BUILD A HOUSE ON MY PROPERTY. RIGHT THEN AND THERE I KNEW THERE WAS TROUBLE AHEAD. AFTER 10 MONTHS OF DISCUSSION OVER WHERE I WOULD PLACE THIS HOUSE ON THE 18 ACRES THAT I WOULD NEVER BE ABLE TO SUBDIVIDE, I FINALLY GOT MY PINELANDS APPROVAL AND COULD THEN START THE NORMAL PERMITTING PROCESS. ONE OTHER EXAMPLE. ONE OF MY FRIEND'S GRANDMOTHER DECIDED TO SUBDIVIDE HER LAND AND GIVE IT TO HER THREE GRANDCHILDREN. THEY HAD TO SUMMIT A SWORN AFFIDAVIT TO THE PINELANDS COMMISSION AS TO THEIR CULTURAL TIES TO THE PINELANDS. AFTER WAITING FOR A RESPONSE FOR AN INORDINATE AMOUNT OF TIME, THE PINELANDS COMMISSION SENT THEM A LETTER STATING THAT THEY WANTED ANOTHER SWORN AFFIDAVIT STATING THAT THE FIRST AFFIDAVIT WAS TRUE. AS I SAID, THE PINELANDS REGULATORY SCHEME IS EXCESSIVE, DUPLICATIVE, EXTREMELY COSTLY AND TIME CONSUMING.

THE PINELANDS COMPREHENSIVE MANAGEMENT PLAN SHOULD STRONGLY ENDORSE THE MAINTENANCE, PROMOTION, AND EXPANSION OF AGRICULTURE IN THE PINELANDS. WATER QUALITY STANDARDS AND WETLAND STANDARDS GREATLY EXCEED DEPE STANDARDS WHICH IN TURN EXCEED FEDERAL STANDARDS. IN THE PINELANDS, IF CERTAIN PLANTS ARE GROWING IT WILL CAUSE YOUR LAND TO BE CLASSIFIED AS WETLANDS, NO MATTER WHAT THE MAKE UP OF THE SOILS ARE OR IF THERE IS WATER PRESENT. WHAT IS THE SCIENTIFIC REASONING OR ARE THESE JUST ARBITRARY STANDARDS TO DISCOURAGE GROWTH.

AGRICULTURE IS CONSTANTLY CHANGING TO MEET THE DEMANDS OF PROCESSORS AND CONSUMERS. THE CMP MUST BE FLEXIBLE ENOUGH TO ALLOW FARMERS TO MEET THE DEMANDS AND MODERN AGRICULTURE TO

MAINTAIN A PROFITABLE BUSINESS.

THE STATE BOARD OF AGRICULTURE RECOMMENDS THAT A STUDY BE CONDUCTED UNDER THE AUSPICES OF THE STATE BOARD OF AGRICULTURE AND THE PINELANDS COMMISSION TO DETERMINE BOTH THE NEGATIVE AND POSITIVE IMPACTS OF THE CMP AND HOW IT COULD AFFECT AND CONTRIBUTE TO THE FUTURE GROWTH OF THE PINELANDS AGRICULTURAL INDUSTRY.

ALSO, THE STATE BOARD OF AGRICULTURE RECOMMENDS THAT AN ADVISORY GROUP BE FORMED AND MADE UP OF REPRESENTATIVES OF THE 7 COUNTY BOARDS OF AGRICULTURE, AND OTHER AGRICULTURAL EXPERTS THAT REPRESENT AGRICULTURE IN THE PINELANDS. THIS GROUP WOULD ADVISE THE PINELANDS COMMISSION ON REGULATIONS THAT AFFECT AGRICULTURE IN THE PINELANDS REGION.

ALSO THE STATE BOARD OF AGRICULTURE RECOMMENDS THAT ALL OF THE PINELANDS COMMISSIONERS RESIDE IN THE COUNTIES THAT ARE AFFECTED BY THE PINELANDS COMPREHENSIVE MANAGEMENT PLAN.

IN ADDITION, THE STATE BOARD OF AGRICULTURE RECOMMENDS THAT THE PINELANDS COMMISSION INCORPORATE THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN'S "POLICY ON EQUITY" INTO THE PINELANDS CMP. AS THIS IS THE NUMBER ONE POLICY OF THAT PLAN WHICH WAS CREATED AS A GUIDE FOR ALL LAND USE PLANS IN THE STATE OF NEW JERSEY.

AGAIN, I THANK THE MEMBERS OF THE JUDICIARY COMMITTEE FOR THIS OPPORTUNITY TO TESTIFY.

NEW JERSEY DEPARTMENT OF AGRICULTURE
TESTIMONY ON PINELANDS ISSUES

BEFORE THE SENATE JUDICIARY COMMITTEE
DECEMBER 15, 1993

PRESENTED BY: PETE ANDERSON
EXECUTIVE ASSISTANT

GOOD AFTERNOON SENATOR GORMLEY, MEMBERS OF THE JUDICIARY COMMITTEE, AND LADIES AND GENTLEMEN.

I AM PETE ANDERSON, EXECUTIVE ASSISTANT IN THE OFFICE OF THE SECRETARY OF AGRICULTURE, TESTIFYING ON BEHALF OF THE DEPARTMENT OF AGRICULTURE.

FOR MORE THAN 250 YEARS, A VIABLE, DYNAMIC AGRICULTURE, WITH A STRONG FARM COMMITMENT HAS EXISTED IN THE AREA, NOW OFFICIALLY DESIGNATED AS THE PINELANDS; WORKING TO MAKE A LIVING THROUGH THE DEVELOPMENT AND USE OF PINELANDS NATURAL RESOURCES AS WELL AS DEDICATED TO THEIR PROTECTION. FARMERS HAVE HISTORICALLY BEEN THE STEWARDS OF MUCH OF THE FARMLAND, FORESTS AND WATER RESOURCES IN THE PINELANDS. FEDERAL AND STATE RECOGNITION OF THE SIGNIFICANCE OF THE PINELANDS ENVIRONMENT CONFIRMS THE EXCEPTIONAL JOB THAT FARMERS HAVE DONE OVER THE PAST 2 AND 1/2 CENTURIES IN MANAGING AND PRESERVING THE PINELANDS RESOURCES.

THE PASSAGE OF THE PINELANDS PROTECTION ACT IN 1979 VESTED THE PINELANDS COMMISSION WITH THE THE AUTHORITY TO PRESERVE AND PROTECT PINELANDS RESOURCES. SINCE THEN, THROUGH THE ADOPTION OF THE COMPREHENSIVE MANAGEMENT PLAN(CMP), THE COMMISSION HAS INCREASINGLY RESTRICTED LAND USE ACTIVITIES IN AN EFFORT TO PROTECT THE ENVIRONMENT. SOME OF THESE REGULATORY RESTRICTIONS HAVE CREATED AN IMBALANCE, LEAVING LANDOWNERS, IN PARTICULAR FARMERS, A DISPROPORTIONATE SHARE OF THE COSTS ASSOCIATED WITH THE BENEFITS THAT THE STATE'S RESIDENTS RECEIVE. THE COMMISSION'S EFFORTS TO PROTECT THE PINELANDS NATURAL RESOURCES HAS RESTRICTED MANY PINELANDS ACTIVITIES, TO INCLUDE FARMING, WITHOUT AMPLE CONSIDERATION OF THE FINANCIAL IMPACTS TO THOSE BEING REGULATED.

THE AGRICULTURAL INDUSTRY IN NEW JERSEY, ESPECIALLY IN THE PINELANDS, NEEDS TO HAVE GREATER FLEXIBILITY TO DEVELOP AND GREATER SUPPORT FROM THE COMMISSION IN ORDER FOR AGRICULTURE TO CHANGE, GROW, DEVELOP AND COMPETE.

THE DEPARTMENT OF AGRICULTURE, AS WELL AS MANY FARMERS AND THE AGRICULTURAL INDUSTRY IN THE PINELANDS, HAS FAVORED REASONABLE AND JUSTIFIABLE EFFORTS TO PROTECT AND PRESERVE THE PINELANDS, PROVIDED SUCH EFFORTS PROTECT AND SUPPORT THE AGRICULTURAL INDUSTRY.

BECAUSE OF THE EXTREMELY RESTRICTIVE, COMPLEX AND CONTROLLED CONDITIONS, AND ESPECIALLY AS EXEMPLIFIED IN THE PINELANDS, THE AGRICULTURAL COMMUNITY HAS UNDERTAKEN THE DEVELOPMENT OF A PLAN FOR THE FUTURE OF AGRICULTURE UNDER THE LEADERSHIP OF THE FARMS COMMISSION. SOME OF THE CONCERNS AND ISSUES IDENTIFIED AND RECOMMENDATIONS MADE THUS FAR BY THAT GROUP PARALLEL ISSUES AND RECOMMENDATIONS PREVIOUSLY SUBMITTED TO THE PINELANDS COMMISSION, OVER THE YEARS, BY THE STATE BOARD OF AGRICULTURE. IN ORDER FOR AGRICULTURE TO SURVIVE AND THRIVE IN THE FUTURE, IT MUST BE ALLOWED A CLIMATE WHICH SUPPORTS THE GROWTH AND INITIATIVES THAT WILL MAKE IT COMPETITIVE.

SOME OF THE CONCERNS DISCUSSED WITH THE PINELANDS COMMISSION, OVER THE YEARS, AND WHICH REMAIN OUTSTANDING INCLUDE THE FOLLOWING:

1. THAT THE PINELANDS COMMISSION ADDRESS THE LOSS OF EQUITY WHICH LANDOWNERS IN THE PINELANDS HAVE EXPERIENCED AS A RESULT OF THE IMPLEMENTATION OF THE CMP, BY INCORPORATING THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN'S "POLICY ON EQUITY" INTO THE CMP. THIS WOULD HELP BALANCE THE SCALES CONCERNING WHO PAYS FOR THE BENEFITS ACCRUED TO THE PUBLIC.

2. THAT A STUDY OR SURVEY UNDER THE JOINT AUSPICES OF THE PINELANDS COMMISSION AND THE STATE BOARD OF AGRICULTURE BE CONDUCTED TO DETERMINE BOTH THE POSITIVE AND NEGATIVE IMPACTS OF THE CMP TO DATE; AND, HOW THE CMP COULD AFFECT AND CONTRIBUTE TO THE FUTURE GROWTH OF THE AGRICULTURE INDUSTRY IN THE PINELANDS. IT IS OUR UNDERSTANDING THAT THERE HAVE BEEN OTHER PROPOSALS TO UNDERTAKE A STUDY TO DETERMINE THE OVERALL IMPACT OF THE PINELANDS. WE ENCOURAGE THEIR CONSIDERATION.

3. THAT THE PINELANDS COMMISSION STRONGLY ENDORSE THE MAINTENANCE, PROMOTION AND EXPANSION OF AGRICULTURE AND HORTICULTURE IN THE CMP; AND, THAT THE COMMISSION ADMINISTER POLICIES AND PROCEDURES THAT WILL ENCOURAGE THE CONTINUATION AND EXPANSION OF AGRICULTURE WITHOUT UNREASONABLE OR UNJUSTIFIED REGULATORY OR ADMINISTRATIVE DEMANDS ON THE TIME AND FINANCIAL RESOURCES OF FARMERS.

4. THAT THE PINELANDS COMMISSION EVALUATE ITS REGULATORY PROCESSES, IN CONJUNCTION WITH THOSE OF LOCAL GOVERNMENT, TO ESTABLISH STREAMLINED AND UNDERSTANDABLE REGULATORY REQUIREMENTS AND APPLICATION PROCEDURES, AS WELL AS INFORMATIONAL ASSISTANCE PROGRAMS TO MORE CLEARLY ILLUSTRATE AND EXPEDITE REGULATORY ACTIVITIES.

5. THAT THE PINELANDS COMMISSION UTILIZE THE EXPERTISE OF THE AGRICULTURAL INDUSTRY WHEN CONSIDERING THE DEVELOPMENT, IMPLEMENTATION AND REVIEW OF STANDARDS, CONTROLS AND OTHER REGULATORY LIMITATIONS ON AGRICULTURE.

6. THAT THE PINELANDS COMMISSION WORK WITH APPROPRIATE AGRICULTURAL EXPERTS, TO REVIEW THE NEED FOR AND THE JUSTIFICATION FOR, THE MORE RESTRICTIVE THAN STATE AND FEDERAL, CMP STANDARDS CONCERNED WITH THE DELINEATION, EVALUATION AND BUFFERING OF WETLANDS; AND, CMP STANDARDS FOR FARM SUBDIVISIONS, VEGETATIVE COMPOSTING, FORESTRY MANAGEMENT, AND OTHER ACTIVITIES INTEGRAL, ACCESSORY, OR ANCILLARY TO A ACTIVE AGRICULTURAL OPERATION.

THERE ARE NUMEROUS ISSUES WHICH THE DEPARTMENT AND THE STATE BOARD OF AGRICULTURE HAVE IDENTIFIED AND ALREADY ENTERED INTO DISCUSSIONS WITH THE PINELANDS COMMISSION THAT SHOULD BE CONTINUED TO BE ADDRESSED. THE DEPARTMENT SUPPORTS THE CONCEPT OF NEGOTIATION, EVEN ARBITRATION BY A THIRD PARTY WHERE ISSUES CANNOT BE READILY RESOLVED. SUCH COOPERATIVE EFFORTS BETWEEN STATE INTERESTS SHOULD BE EXHAUSTED BEFORE ADDITIONAL REGULATORY AND ENFORCEMENT AUTHORITY IS SOUGHT.

WITH THAT GOAL IN MIND, THE DEPARTMENT RECOMMENDS THE ESTABLISHMENT OF AN AGRICULTURAL ADVISORY GROUP TO THE PINELANDS COMMISSION, COMPRISED OF A FARMER REPRESENTATIVE FROM EACH PINELANDS COUNTY AND OTHER AGRICULTURAL EXPERTS RECOMMENDED BY THE STATE BOARD OF AGRICULTURE, TO CONSIDER AND RESOLVE PINELANDS AGRICULTURAL ISSUES AND TO ADVISE THE COMMISSION ACCORDINGLY.

ON BEHALF OF THE DEPARTMENT, I OFFER OUR ASSISTANCE IN RESOLVING THESE ISSUES, AND THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR CONCERNS TO THE COMMITTEE.

December 15, 1993

To: Senator William L. Gormley
Chairman, Senate Judiciary Committee

From: Former Governors Brendan T. Byrne and Thomas H. Kean

Re: Senate Judiciary Committee Hearing to be held on December 15, 1993
on "State and federal regulations affecting the Pinelands area"

We both regret that because of prior commitments we are unable to testify today at the Hearing to be held on State and federal regulations affecting the Pinelands area. This subject is of great interest to both of us because we both played a major role in the framing of a reasonable proposal for the effective protection of the pinelands. While serving as Governor we were involved in varying degrees with both the enactment of the Pinelands Protection Act of 1979 (the "Act") and the implementation of the Comprehensive Management Plan that was adopted by the Pinelands Commission in 1980 pursuant to the Act. We request that the following statement be incorporated in the record of the Committee Hearing.

The Pinelands Protection Act was enacted by the Legislature in June 1979 to implement Section 502 of the National Parks and Recreation Act of 1978 (the "Federal Act") that had previously been enacted by the United States Congress. The State Act was enacted after many months of extended debate within the Legislature. It followed several decades of proposals to develop a rational approach that would result in the effective protection of the invaluable natural resources that lie within the pinelands area.

Several of the findings of the Legislature included in Section 2 of the Act (13:18A-2) are of key significance and extremely relevant to any consideration by the current Legislature of any amendment of the Act. Among the findings are the following:

(a) "the pinelands area comprises pine-oak forests, cedar swamps, and extensive surface and ground water resources of high quality which provide a unique habitat for a wide diversity of rare, threatened and endangered plant and animal species and contains many other significant and unique natural, ecological, agricultural, scenic, cultural and recreational resources";

(b) "the continued viability of such area and resources is threatened by pressures for residential, commercial and industrial development";

(c) "the protection of such area and resources is in the interests of the people of this State and of the Nation"; and

(d) "such protection will require the coordinated efforts of all relevant municipal, county, State and Federal agencies".

The Act provides in Section 11 (13:18A-11) that the entire pinelands area shall be divided into a protection area and a preservation area and Section 8 (13:18A-9) sets forth specific goals of the Comprehensive Management Plan in each area, as follows:

Protection Area "(1) Preserve and maintain the essential character of the existing pinelands environment, including the plant and animal species indigenous thereto and the habitat therefor; (2) Protect and maintain the quality of surface and ground waters; (3) Promote the continuation and expansion of agricultural and horticultural uses; (4) Discourage piecemeal and scattered development; and (5) encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the pinelands environment from the individual and cumulative adverse impacts thereof".

Preservation Area "(1) Preserve an extensive and contiguous area of land in its natural state, thereby insuring the continuation of a pinelands environment which contains the unique and significant ecological and other resources representative of the pinelands area: (2) Promote compatible agricultural, horticultural and recreational uses, including hunting, fishing and trapping, within the framework of maintaining a pinelands environment; (3) Prohibit any construction or development which is incompatible with the preservation of this unique area; (4) Provide a specific amount of undeveloped land to accommodate specific wilderness management practices, such as selective burning, which are necessary to maintain the special ecology of the preservation area: and (5) Protect and preserve the quantity and quality of existing surface and ground waters".

It is very clear from these stated goals that the Act sought to maintain a delicate balance between total preservation of the pinelands core area while managing projected new growth in the protection area. This is perhaps the single most important theme of the Act: that the unique resources of the pinelands shall be protected while allowing for compatible residential, commercial and industrial development. A second important theme is that compatible agricultural uses shall be promoted and expanded. A third is the mandate to protect and preserve surface and ground waters, which are clearly the single most important resource in the pinelands.

In Section 8 (13:18A-8) the Act directed the Pinelands Commission to adopt a Comprehensive Management Plan. We doubt that any commission of the State has ever been given a more demanding assignment

in seeking to achieve all of the goals specified in the Act, some of which appear to be in direct conflict with others.

In developing the plan the Pinelands Commission worked to meet the goals set forth in the Act and simultaneously treat all landowners and others in a way that would be fair and equitable. The Commission was thoroughly indoctrinated in the thorny Federal and State constitutional issues that had to be addressed in the process of developing a management plan that would effectively protect the resources of the pinelands. The Commission was assisted by the work of over twenty consultants who provided expertise in many different areas.

In its deliberations throughout the development of the plan the Commission listened at great length to the concerns of those who would be most impacted by the plan's provisions. Many amendments to the original draft, and indeed a number of compromises, were adopted in direct response to those concerns.

The plan that the Commission finally adopted is considered by many persons who are involved with planning and similar issues to be an extraordinary work, well thought out and an exceptional model of regional planning that should be the starting point for similar regional protection efforts in other parts of the United States. We both agree with that overall evaluation.

At the Hearing that the Judiciary Committee is now holding there will undoubtedly be testimony from some who feel that they have been treated unfairly, either by the specific provisions of the plan or by the actions taken by the Commission in its administration of the plan. Some will undoubtedly allege that the plan has affected the uses that they may make of their land in a way that cannot be justified from a scientific or any other viewpoint. We believe it is essential to keep in mind that the resources of the pinelands could not be effectively protected if some of the uses of land that prevailed prior to the enactment of the Act and the adoption of the plan were allowed to continue. We further believe it is important to note that many of the major provisions of the plan and of the Act have been reviewed by the courts over the years and in each case a justification for the actions taken has been found under both the Federal and State constitutions and otherwise. In short, there has been a series of holdings that the Act and the plan are justified and fair and equitable to those affected thereby.

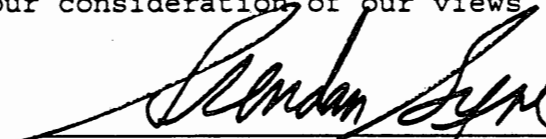
We would remind the Committee that the pinelands protection program is a unique partnership project in which all levels of government participate. This unique regional effort is without precedent in the United States and therefore its execution has evolved over the thirteen years since it was adopted. The Comprehensive Management Plan has been repeatedly amended to accommodate perceived inequities. Complimentary programs have been enacted by the Legislature such as the Tax Stabilization Act, the Pinelands Infrastructure Bond Act and the Pinelands Development Credit Bank Act. This is not to

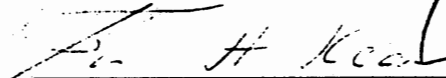
mention the fifty-nine municipal and county land use management plans that have been adopted locally.

We assume that there will be requests at this time for consideration by the Legislature of amendments to the Act that would in general weaken its provisions in order to accommodate more development and more uses of property of the kind that existed prior to the Act and the Plan. Every survey has indicated that the vast majority of the residents of New Jersey, both within and outside of the pinelands, believe that appropriate protection has been achieved under the exiting Act and that they want that form of protection tom continue. It is our view that any material weakening of the existing pattern of regulation of activity in the pinelands will only result in the ultimate large scale destruction of the invaluable and unique natural resources of that area. We submit that such a result would have tragic implications for the future of this State and that it is not desired by an overwhelming majority of our residents.

We appreciate the opportunity to address the issues that are the subject of this Hearing. We would welcome the opportunity to address these issues in greater detail at ny time if that would appear helpful to the Judiciary Committee or the entire Legislature.

We thank you for your consideration of our views


Brendan T. Byrne, Former Governor


Thomas H. Kean, Former Governor



Pinelands
Preservation Alliance

114 Hanover Street Pemberton, New Jersey 08068 Phone 609.894.8000 Facsimile 609.894.9455

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**Pinelands Preservation Alliance
Statement before the Senate Judiciary Committee
on December 15, 1993**

Introduction and Preface

(Sally Price)

I am Sally Price, Executive Director of the Pinelands Preservation Alliance. P.P.A. is a non-profit dedicated to the preservation of the New Jersey Pinelands set up to monitor the activities of the Pinelands Commission. P.P.A. will be presenting a three person presentation covering the following: I will review the history and pressures that stimulated the 1978 federal and 1979 state legislation that created the present protection of the N.J. Pinelands, Theresa Lettman and Don Kirchhoffer, who work full time with the Comprehensive Management Plan (C.M.P.) and its implementation throughout the Pinelands, will review the many programs that deal with local participation and those that affect individual landowners. I will then close with P.P.A.'s specific recommendations for action with the hope that you, Senator Gormley, will lead in developing the actions needed to address these recommendations.

We are here today to talk about the New Jersey Pinelands and many of the people in this room who came out today also came out fifteen years ago. They

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were here then and are here now because they, we, can all agree on one thing ... the Pinelands are worthy of and should be protected. Our views on how that should be accomplished may differ but we all recognize the value of this important part of New Jersey. It is valuable not only to the residents of the Pinelands, but also to the people that live to the east, west, north and south.

History

If we look back at the last forty to fifty years we can trace the pressures and conflicts that effected the area.

In the 1950's New York and Philadelphia populations expanded. The postwar economic boom resulted in an increase of more than 1 million people in the state and eyes turned towards the Pinelands. As the pressures grew so did conservation interests.

Then a major proposal for development of a new jetport that would encompass 16,000 acres in Lebanon State Forest was proposed by Burlington County.

In the '60's the jetport idea took off, Burlington County was joined by Ocean County. They created the Pinelands Regional Planning Board and charged it to develop a plan for 950 square miles. The plan called for a jetport that would be the largest in the world. In addition, the "New City" would be built on 10,800 acres designed to house 250,000 people. It was to become the third largest city in the United States. The actions of this Planning Board served as a catalyst in stimulating wide public interest in the Pinelands, which in turn led to development of strong opposition to the jetport.



Pinelands
Preservation Alliance

114 Hanover Street Pemberton, New Jersey 08068 Phone 609.894.8000 Facsimile 609.894.9455

From this a new conservation effort was organized. First, a National Park and then a National Monument were considered but neither were feasible because they would not have allowed the continuation of native industries. A Citizens Advisory Committee was formed. Their executive committee included county and municipal representatives, agriculture representatives, sportsman and conservationists. Everyone involved believed that a regional planning approach was needed.

During this period the population of N.J. increased by 16%, although inside the Pine Barrens it grew by 36%.

The '70's became the decade of land use planning conflicts. The Citizens Advisory Committee worked on a plan. Governor Cahill was committed to no new airport in the Pinelands. The Pinelands Environmental Council was organized, grew and fell in importance and influence. The population in the Pine Barrens grew by 43%. The referendum that legalized gambling passed and the first casino opened less than ten miles from the Pinelands. David Bardin, then DEP Commissioner set water quality standards for the Pinelands and led the charge for a joint federal/state initiative to preserve the area. McPhee's book came out and added to the cry for protection.

Many public hearings were held, legislation was drafted and finally in 1978 federal legislation passed creating the Pinelands National Reserve. It was followed in 1979 by the state's Pinelands Protection Act, a unique land use law which created the 15-member Pinelands Commission.

Why all the attention? What is so special?

The Pinelands are the largest piece of open space between Boston and Washington, D.C., containing a huge fresh water aquifer, one of the largest in the nation, a natural resource that is important to the entire state. It is an ecosystem that supports many unusual, rare and endangered plants and animals. Its history and folklore and the character of Pinelands' communities is unique. Recreation and indigenous industries are important to all the residents of N.J. For all these reasons, it was and continues to be worth maintaining and protecting.

And, what was happening in other parts of New Jersey outside the Pinelands? Development was occurring and with it a loss of farmland and the growing difficulty in maintaining farming activities because of encroaching development. Unplanned, scattered development was taking place which resulted in financial pressure to develop infrastructure. Urban sprawl.

What were they trying to do here in the Pinelands?

The effort was to develop a plan that would protect it all while allowing for growth. It has fallen short of completely protecting the environment, for which we have complained on numerous occasions. But it is a significant public policy that has warranted major financial investments of both state and federal governments.

Has it worked? Theresa and Don will comment on their experiences with the effective and ineffective programs of the C.M.P.

(Theresa Lettman)

Four of the opportunities local governments have to participate in the implementation of the C.M.P are:



Through Conformance Committee Meetings. Representatives from all levels of municipal governments, as well as individual landowners, have the opportunity to review their municipal ordinances with Commissioners. This gives everyone the chance to address their municipalities' individual needs.

2. Through the Mayors' Council. The legislation and the C.M.P. provide for a Mayors' Council intended to aid in keeping the Commissioners sensitive to local problems. This Council recently met with Commission staff to review the implementation of the revised waiver provisions to learn how it would effect their zoning laws.
3. Through an Administrative Officer which the C.M.P. presently provides for. An individual within each municipality can significantly simplify an individual's application process by performing certain functions that the Commission staff now has. During the present Plan Review this provision has been expanded to include a Local Review Officer which will make it even easier for the applicant.
4. Through the Infrastructure Bond Act. This 1985 Bond Issue provided for \$30M for grants and loans for municipal governments for capital projects necessary to accommodate development in regional growth areas. All this money has been spent or allocated. These funds probably would never have been available were it not for the C.M.P. This has enabled the development of small lots in Regional Growth Areas to occur. Thanks to Senator Gormley's support.

(Don Kirchhoffer)

One of the major reasons for this meeting is to address the problems of the small landowner. The provisions in the Plan that benefit small landowners include:

1. Waivers. The Plan provides for waivers of its standards. Over 10,000 have been granted.
2. The Grandfather provision, paragraph 5:31. This says a municipality may exempt certain owners of small lots from lot size requirements. There are over 10,000 such lots.
3. Pinelands Development Credits (P.D.C.s). The statistics of the P.D.C. program are:
 - * Landowners of over 5,900 acres in the Preservation Area have sold their development rights.
 - * Owners of over 3,900 acres in the Agricultural Production Areas have sold their rights.
 - * This means these landowners have received compensation and over 9,800 acres of land in the Pinelands have been permanently protected from development, encouraging continued farming. In addition, it has lead to higher density development in the more appropriately designated areas.

This program is being used as a national model.

4. P.D.C. Bank. The Administrator of the Bank, Jack Ross, says that P.D.C.'s are now selling for \$20,000 to \$25,000. The Bank is an effective way to guarantee the small landowner a buyer. The Bank is adequately funded at \$3M and will turn a



profit when it sells the 63 P.D.C.s it now owns. The Bank's legislative authority to purchase P.D.C.'s however has expired.

5. Transfer of Developments (T.D.R.) Program. The T.D.R. program in the Pinelands Forest and Rural Development Areas encourages clustering. This provides small landowners with yet another opportunity to develop or sell their land.

Two other programs that have been proposed and debated that would also benefit small landowners but have not yet been implemented are:

1. Limited Practical Use. This is a win-win program. In 1989 Congress appropriated \$1M for the acquisition of land in the Pinelands with "limited practical use". This money required a state match. Unfortunately, through bureaucratic complications and lack of anyone's leading the charge the program has not been implemented.
2. Individual Landowner Advocacy. Several years ago there were discussions about establishing an independent agency to be an advocate for the individual, to identify problems and solutions. It was to serve as an ombudsman and a land trust. It never flowered.

In addition to all that's been said, there is a significant loophole in the C.M.P. It has no administrative powers to enforce its regulations. Our real concern regarding this is the increase in repeat offenders. Some people have learned how to take advantage of the Commission's inability to address violations. This is a real problem that needs a real solution.

We saw the Enforcement Bill as the solution. We are disappointed that it has gotten bogged down by misinformation.

I will end with praise to the Commissioners and the C.M.P. on the openness of the process. The Commissioners provide extraordinary opportunity for public participation:

- * At their monthly meetings there are three separate times for the public to speak, copies of all resolutions to be voted on are made available, a two page explanation of the meeting process welcomes newcomers, and for a small fee you can get on the Commission's mailing list.
- * All committee meetings are open to the public and are much less formal and a place for the public to be heard on important Commission decisions. One of these committees is the Public Participation committee whose responsibility is to seek all possible ways to keep the public involved in all the Commission's activities.
- * For anyone who lives in the Pinelands, your County has a Commissioner appointed by your freeholders.
- * And finally, the Plan Review process. The C.M.P. requires that there be a full review of the Plan every five years. It is the chance to review and amend the Plan. The thoroughness of this process and the opportunity for the public to be heard are more than anyone could hope for and even make use of. Let me give two examples:
 1. They held ten full day meetings, each on a different subject. At these meetings experts on the subject being discussed created proposals for the Commission to consider during the Plan Review process; these were open to the public and participation was encouraged.



Pinelands
Preservation Alliance

114 Hanover Street Pemberton, New Jersey 08068 Phone 609.894.8000 Facsimile 609.894.9455

2. The Commissioners spent countless hours discussing and deliberating on proposed changes, including a two day retreat. During all this time the public was invited to speak.

The point of all this is the vehicle exists to modify the Plan. The process is available to any group or individual who is faced with a problem.

In summary ... what more do we need?

(Sally Price)

I hope that something positive can come out of today. I hope that we can all agree, once and for all, that the Pinelands should continue to be protected. We have the vehicle in place to do that. We need to look for creative ways to solve problems through discussion, not through misinformation and anger. The legislation, the Commission, the C.M.P. are effective tools to be used.

The Pinelands Preservation Alliance would like to specifically ask that the Senate Judiciary Committee address the following problems and programs:

1. What should be done with violators of the C.M.P.? I think we all will admit there is a problem. What should be done about it? P.P.A. thanks Senator Gormley for recognizing this problem and for introducing the Enforcement Bill because we need a solution.

2. Senator Gormley has been a leader in getting infrastructure bond acts passed which is critical to the success of a sound land use plan. We ask that he continue to make efforts to relieve the financial pressures placed on municipalities through continued infrastructure bonds.
3. The P.D.C. bank needs reauthorization if it is going to continue to be the P.D.C. buyer of last resort.
4. Small landowners whose properties have limited use can be helped via the "Limited Practical Use" program, Congressman Hughes' program. It needs your support for dedicated funding.
5. Another way to help small landowners who do not meet the requirements of the "L.P.U." program could be through an Individual Landowner Advocacy program, an independent agency set up to help solve their problems.
6. And if it has not been evident before, it should be evident now, that the Pinelands Commission needs adequate staffing in their public relations, education and development review departments. That means adequate funding so they can have adequate staff. Inadequate staff results in lengthy application processes.

Thank you for this opportunity. I know we covered a lot of information quickly. If anyone is interested in more detailed information we will be happy to provide it.

PARTICIPATING ORGANIZATIONS

- Alliance for the Chesapeake
- Alliance for a Living Ocean
- American Association of University Women
- American Littoral Society
- ANJEC
- Arts Guild, St. Augustine Episcopal Church
- Asbury Park Fishing Club
- Bayberry Garden Club
- Belford Seafood Co-op
- Belmar Chamber of Commerce
- Central Jersey Anglers
- Citizens Conservation Council
- Clean Sledge Coalition
- Coalition Against Toxics
- Concerned Citizens of N.J.
- C.W.A. Local 1034
- Dezil's Sea Roamers
- Eastern Surfing Association
- Education Services Commission/MAECOM
- Environmental Defense Fund
- Environmental Response Network
- Garden Club of Fair Haven
- Garden Club of Long Beach Island
- Greater Long Branch Chamber of Commerce
- Greenspace, U.S.A.
- Group for the South Fork
- Hi-Mar Striper Club
- Hudson River Fishermen's Association, N.J. Chapter
- I.U.E., District Three
- Institute of Marine and Coastal Sciences
- Interstate Sanitation Commission
- Ironbound Committee Against Toxic Waste
- Jersey Coast Anglers Association
- Jersey Coast Shark Anglers
- Jersey Shore Audubon Society
- Jersey Shore Captain's Association
- Jersey Shore Chef's Association
- Junior League of Milton
- Junior League of Monmouth County
- Junior League of N.Y.C.
- Junior League of Summit
- Junior Women's Club of Westwood
- Keansburg Women's Club
- Kiwanis Club of Manasquan
- Kiwanis Club of Shrewsbury
- League of Women Voters, Monmouth County
- Little Silver Garden Club
- Manomet Bird Observatory
- Marine Academy of Science and Technology
- Marine Mammal Stranding Center
- Marine Trades Association
- Middlesex County Board of Realtors
- Middletown Area Chamber of Commerce
- Monmouth Conservation Foundation
- Monmouth Council of Girl Scouts
- Monmouth County Board of Realtors
- Monmouth County Citizens for Clean Air and Water
- Monmouth County Friends of Clearwater
- Monmouth County Race Meet Association
- Monmouth County Superintendent's Office
- Monmouth/Ocean Development Council
- National Coalition for Marine Conservation
- Natural Resources Protective Association
- Newcomers Club of Monmouth County
- N.J. Beach Buggy Association
- N.J. Commercial Fishermen's Association
- N.J. Council of Diving Clubs
- N.J. Environmental Federation
- N.J. Environmental Lobby
- N.J. Licensed Beverage Association, Inc.
- N.J. Marine Educators Association
- N.J. Marine Sciences Consortium/Sea Grant
- N.J. Public Interest Research Group
- N.J. Sierra Club
- N.Y.C. Sea Gypsies
- N.Y./N.J. Harbor Baykeeper
- N.Y. State Marine Educators Assoc.
- Ocean Advocates
- Ocean County Board of Realtors
- Ocean County Citizens for Clean Water
- Ocean County Coastal Zone Environmental Coalition
- Ocean County Izaak Walton League
- Outreach Commission of United Methodist Church
- Piscataway Saltwater Fishing Club
- Point Pleasant Fishing Club
- Rainforest Relief Network
- Red's Surf Devils
- River Rats
- Rumson Garden Club
- Rutgers Cooperative Extension
- Saint George's By-The-River Episcopal Church
- Saltwater Sportsman's Club
- Sandy Hook Bay Catamaran Club
- Sandy Hook Sailing Club
- Save Our Ocean Committee
- Sea Girl Women's Club
- Shark River Surf Anglers
- Shore Surf Club
- South Monmouth Board of Realtors
- Staten Island Federation of Sportsmen's Clubs
- Staten Island Sport Divers
- Surfer's Medical Association
- Surfrider Foundation - N.J. Chapter
- Tampon Applicator Creative Klubs International
- Thousand Fathom Club
- Tri-State Metro Naturalists
- Tri-State Sun Club
- United Boatmen of N.J. and N.Y.
- United Fishermen's Association of N.Y. State, Inc.
- United Bowhunters of N.J.
- Village Women's Club
- Wall Area Chamber of Commerce
- Women's Club of Keyport
- Women's Club of Little Silver
- Women's Club of Middletown
- Women's Club of Red Bank



CLEAN OCEAN ACTION

PO Box 505 • Highlands, NJ 07732 • (908) 872-0111

**Statement to the New Jersey State Senate
Judiciary Committee regarding the
Pinelands Reserve. December 14, 1993.**

Clean Ocean Action is a coalition dedicated to protecting the marine environment from pollution. The existence of the Pinelands Reserve of N.J. is a major factor in the relatively pristine condition of the marine ecosystem in South Jersey. The entire pinelands area is in our coastal watershed. The protection of this natural system has controlled and limited non-point source pollution from contaminating the our rivers, back-bays, and ocean. Recall that the marine ecosystem is the basis for multi-million dollar industries such as fishing, clamming, boating, and tourism. If you compromise protection of the pinelands, you will compromise the marine environment and threaten the lifeblood of the shore's economy. It is that simple.

For a clean, healthy, viable marine environment, advocates strong legislative support for environmental protection of the Pinelands. For starters, Clean Ocean Action urges passage of the Pinelands Enforcement Act S.1147.

COA also takes this opportunity to commend the work of the Pinelands Commission. It is a national model and New Jersey should be proud of its accomplishments.

Action Now • Earthwatchers • Environmental Awareness Group • Glassboro Environmental Organization • H2O Club • HOPE • Kids Against Pollution • Red Bank Interact • SAVE • Student Environmental Action Committee

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AMERICAN LITTORAL SOCIETY

SANDY HOOK • HIGHLANDS, NEW JERSEY 07732 • 908-291-0055

Statement of D. W. Bennett, Executive Director,
American Littoral Society, at public hearing
before NJ Senate Judiciary Coimmittee on the
Pinelands, Atlantic County Community College,
Mays Landing, NJ., December 15, 1993.

I speak on behalf of the Littoral Society's 12,000 New Jersey members and supporters to urge the passage of Senate Bill 1147, The Pinelands Enforcement Act.

It goes without saying that New Jersey's 1.1-million acre green heartland deserves protection. This message has been delivered over the years by federal, state, county, and municipal law and regulation. It is now time to put enforcement teeth in Pinelands preservation regulations. That's what S. 1147 does, and we support its passage.

The Littoral Society's interest is primarily coastal. Thus our concern about the water quality of the streams that course from the Pinelands to the State's coastal bays. Good water here means good water at the coast, especially in the southern part of New Jersey.

Uncontrolled development in the Pinelands will increase stormwater damage to Pinelands streams and, eventually, to the productive shellfish and finfish resources downstream.

It is time to support and strengthen the laws that protect the Pinelands. Senate Bill 1147 is the wise way to go.

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11 Hardscrabble Road, P.O. Box 693, Bernardsville, NJ 07924 (908) 766-5787 / Fax: (908) 766-7775

NEW JERSEY
AUDUBON
SOCIETY

December 15, 1993

COMMENTS OF THE NEW JERSEY AUDUBON SOCIETY BEFORE THE HEARING OF THE SENATE JUDICIARY COMMITTEE ON THE PURPOSE OF THE PINELANDS COMMISSION AND THE CONFLICT BETWEEN ENVIRONMENTAL REGULATIONS AND ECONOMIC DEVELOPMENT, AND OTHER RELEVANT MATTERS.

GOOD AFTERNOON SENATORS. NEW JERSEY AUDUBON SOCIETY, WITH OVER 14,000 MEMBERS, SOME OF WHOM LIVE AND WORK WITHIN THE PINELANDS, WANTS YOU TO KNOW THAT WE SPEAK ALSO AS A PINELANDS' LANDOWNER OF OVER 500 ACRES AT SEVERAL DIFFERENT SITES.

BUT WE COME TO SPEAK TO YOU PRIMARILY ABOUT SOME FUNDAMENTAL VALUES, AND THE CONFLICTS THAT HAVE ARISEN BECAUSE OF THE MISUNDERSTANDINGS ABOUT THE BASIC MISSION OF THE FEDERAL AND STATE LAWS THAT LED TO THE REGULATIONS THAT MANY ECONOMIC INTERESTS FIND SO ONEROUS. WE CONCEDE THE EXISTENCE OF REGULATORY COMPLEXITY, BUT NOT THAT ITS OBJECTIVES ARE UNWORTHY. WE PLEDGE TO WORK TO FIND WAYS TO GAIN GREATER COMPENSATION FOR LAND-OWNERS WHO CANNOT BUILD OR HAVE SEVERE RESTRICTIONS, BUT ONLY IN WAYS THAT WILL NOT COMPROMISE THE ECOLOGICAL GOALS OF PROTECTING INTACT ECOSYSTEMS AND THE WATER RESOURCES THAT LIE AMIDST AND BENEATH THEM.

YET NJAS DOES NOT EXPECT EVER TO BE ABLE TO FULLY SATISFY THE NATURE OF SOME OF THE COMPLAINTS YOU ARE GOING TO HEAR TODAY, AND HAVE BEEN HEARING FOR OVER A DECADE. THOSE VOICES SPEAK FIRST AS ENTREPRENEURS AND RESOURCE EXTRACTORS, AND DESPITE MANY OF THEM SAYING PUBLICLY THAT THEY DON'T WANT THE COMMISSION TO DISAPPEAR, IT DOES NOT APPEAR TO US THAT THEY REALIZE THAT THE FIVE GOALS ON PAGES 193-194 OF THE COMPREHENSIVE MANAGEMENT PLAN OCCUR UNDER THE STIPULATIONS TO "PRESERVE, PROTECT, AND ENHANCE THE OVERALL ECOLOGICAL VALUES OF THE PINELAND..."

EVEN UNDER THE AGRICULTURAL AND HORTICULTURAL GOALS, USES MUST BE "COMPATIBLE WITH THE PRESERVATION AND PROTECTION OF THE OVERALL ECOLOGICAL VALUES OF THE PINELANDS." NOW IF THE DESIRES OF MINING INTERESTS, FORESTRY INTERESTS, FARMING INTERESTS AND

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BUILDING INTERESTS ALL SEEK TO PHYSICALLY EXPAND DECADE AFTER DECADE, IT IS ONLY COMMON SENSE TO EXPECT A COLLISION OF VALUES, AND GIVEN ENOUGH TIME, THE UNDERMINING OF THE ESSENTIAL MISSION OF THE COMMISSION IN THE FIRST PLACE. THAT WE CAN NEVER ENDORSE.

WE ARE SORRY TO PERHAPS RESTATE THE OBVIOUS, BUT SOME NEED TO BE REMINDED THAT IN MOST OF NEW JERSEY, AS WELL AS MOST OF AMERICA, AS WELL AS IN THE OLDER WORLDS OUR ANCESTORS LEFT, OUR LIVES AND LANDSCAPES ARE PHYSICALLY DOMINATED BY ECONOMIC DEVELOPMENT VALUES AND GOALS. TRY AND FIND A REMAINING INTACT FOREST GREATER THAN 100 ACRES IN SIZE ANYWHERE NORTH OF THE PINELANDS AND SOUTH OF RT. 78. THAT'S WITNESS ENOUGH TO THE "SUCCESS" OF ECONOMICS OVER ALL OTHER ECOLOGICAL VALUES OUTSIDE THE PINELANDS BOUNDARIES. WE, AS A NATION, AND AS CITIZENS OF NEW JERSEY, NOT JUST A REGION OF OUR STATE, CONSCIOUSLY CHOSE TO CHANGE THE TERMS OF "BUSINESS AS USUAL" - AND EVEN THIS PHRASE BETRAYS THE BIAS IN OUR ULTIMATE VALUE SYSTEM - WITHIN SELECTED AREAS OF THE PINELANDS. NOTICE WE DIDN'T SAY THE WHOLE PINELANDS. AND THAT BRINGS TO MIND SOME CONTRARY EVIDENCE WE DON'T SEE QUOTED OR WRITTEN ABOUT. IT'S TIME YOU HEARD IT.

ACCORDING TO THE DEC. 1991 SECOND PROGRESS REPORT PUT OUT BY THE PINELANDS COMMISSION, BETWEEN 1980 AND 1991, 4,150 RESIDENTIAL APPLICATION FOR DEVELOPMENT HAVE BEEN APPROVED, FOR A TOTAL OF 15,637 DEVELOPMENT UNITS. DURING THE SAME TIME PERIOD, 1,681 COMMERCIAL/INDUSTRIAL APPLICATIONS HAVE BEEN APPROVED (TABLE 2.4, PAGE II-11). DURING THE SAME TIME PERIOD, 950 WAIVERS OF STRICT COMPLIANCE WERE APPROVED FOR A TOTAL POTENTIAL OF 13,665 DEVELOPMENT UNITS THAT MIGHT BE BUILT. BASED ON THE REGULATIONS IN PLACE NOW, IT WOULD SEEM THAT UP TO 175,200 NEW RESIDENCES MIGHT BE BUILT IN THE PINELANDS. THAT'S HARDLY WHAT WE CALL GROWTH STRANGULATION; AND THANKS TO THE THOUGHT THAT'S GONE INTO THE REGULATIONS AND PLANNING, MOST OF THESE UNITS WILL BE BUILT OUTSIDE THE MOST SENSITIVE INTERIOR AREAS. AS TO WHAT ACTUALLY GOT BUILT, AS CONTRASTED TO APPROVALS, AS OF 1991 THE ANSWER IS 22,000 HOMES AND 500 COMMERCIAL AND INDUSTRIAL PROJECTS.

NOW AS TO SOME SPECIFIC COMPLAINTS. WE HEAR, THROUGH THE PRESS, REAL ANGER ABOUT LOSING THE RATEABLE BASE AND GROWING TAX BURDENS BECAUSE OF RESTRICTED DEVELOPMENT. WE DON'T HEAR ABOUT THE LAW THE NJ LEGISLATURE PASSED IN 1984 CALLED THE "PINELANDS PROPERTY TAX STABILIZATION ACT." THIS LAW WAS PASSED DESPITE THE FACT THAT IN THOSE 28 MUNICIPALITIES (OUT OF A UNIVERSE OF 52) WHERE THE TAX BASE DECLINED, 25 OF 28 HAD A DECLINE OF 1.5 PERCENT OR LESS. AS FOR THOSE WHO CLING FANATICALLY TO THE RATEABLE CHASE MYTH - THAT RATEABLE GROWTH SUCCESS KEEPS THE TAX RATE OR RATE OF INCREASE LOW, WE OFFER IN REPLY THE GRAPH SUPPLIED BY THE ASSEMBLY REPUBLICAN TASK FORCE ON OPEN SPACE & FARMLAND PRESERVATION WHICH SHOWS THAT AVERAGE PROPERTY TAXES IN NEW JERSEY HAD THEIR STEEPEST RATE OF INCREASE DURING THE PEAK REAL ESTATE BOOM TIME (AGENDA FOR ACTION, DEC. 1990, PAGE 9, FIG.

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4), INCREASING FROM ABOUT \$2200 PER FAMILY TO \$3300 FROM 1985-89. AS FOR RESIDENTIAL PROPERTY TAX INCREASES IN THE PINELANDS ITSELF, ACCORDING TO THE AUTHORS OF THE BOOK PROTECTING THE NEW JERSEY PINELANDS (COLLINS AND RUSSELL, EDITORS, 1988, RUTGERS UNIV. PRESS), "AVERAGE RESIDENTIAL PROPERTY TAX RATES DID INCREASE IN PINELANDS MUNICIPALITIES BETWEEN 1978 AND 1984, BUT THEY DID NOT RISE AS FAST AS RESIDENTIAL PROPERTY TAX RATES FOR THE STATE AS A WHOLE. (PAGE 249).

WE THINK THE VERY NATURE OF THE COMPLAINING PARTIES DESERVES SOMEWHAT CLOSER ATTENTION FROM THE COMMITTEE. IT GOES TO THE HEART OF OUR USE OF THE TERMS "PUBLIC" AND "SPECIAL INTEREST." WE THINK THAT THE COMPLAINTS ABOUT THE COMMISSION ARE RISING FROM A MUCH MORE SPECIFIC SEGMENT OF THE PUBLIC THAN IS GENERALLY CONCEDED. OUR EVIDENCE? THREE POLL RESULTS, STARTING WITH ONE FROM MARCH 12, 1979, CONDUCTED BY THE BURLINGTON COUNTY TIMES AMONG 367 BURLINGTON COUNTY RESIDENTS AT A TIME OF TREMENDOUS PUBLIC INTEREST AND CONFLICT OVER THE PENDING STATE PINELAND LEGISLATION WHICH PASSED ON MAY 21, 1979. THE POLL FOUND THAT OF THESE 367 RESIDENTS, 70 PERCENT FAVORED THE BUILDING MORATORIUM, AND THAT "60 PERCENT SUPPORTED THE MORATORIUM FOR ONE OF THREE REASONS: THAT THE 'ECOLOGY SHOULD BE SAVED, THAT RECREATIONAL NEEDS DEMANDED IT, OR THAT THE AREA WAS TOO BUILT UP ALREADY.'" (COLLINS AND RUSSELL, PAGE 76). IT'S NOT SO SURPRISING THEN AMIDST THE CURRENT UPROAR AND THE CONTROVERSY-COURTING HEADLINES RUN BY THE COURIER-POST BETWEEN OCTOBER 17, 1993 AND OCTOBER 20, 1993, THAT THEIR POLL RESULTS PUBLISHED ON OCT. 18 SHOWED "BY A RATIO OF MORE THAN 4-1, COURIER-POST READERS FAVORED STRICTER DEVELOPMENT STANDARDS TO PROTECT THE PINELANDS NATIONAL RESERVE." JUST A BIT INCONGRUOUS, DON'T YOU THINK, IF THE PUBLIC MOOD IS SO ONE SIDED AGAINST THIS AWFUL REGULATORY COMMISSION?

BUT THIS RESULT IS NOT OUT OF STEP WITH EVEN A MORE PERTINENT QUESTION FOR THE MATTERS AT HAND TODAY - ECONOMICS VS. THE ENVIRONMENT - ASKED BY THE STAR LEDGER/EAGLETON POLL RELEASED JULY 11, 1993, BUT NOW SEEMINGLY FORGOTTEN. IT SHOWED THAT "...64 PERCENT SAY THAT STRICT ANTI-POLLUTION LAWS SHOULD BE MAINTAINED EVEN THOUGH THOSE LAWS MIGHT DISCOURAGE THE GROWTH OF JOBS AND INDUSTRY, COMPARED TO 28 PERCENT WHO FAVOR RELAXING THOSE LAWS TO CREATE MORE JOBS." THAT WAS SAID BY A STATE-WIDE POLL ABOUT STATE-WIDE CONSEQUENCES - NOT, WE NOTE BY "OUTSIDERS" HAPPY TO SEE SOME OTHER REGION SUFFER FOR THE ENVIRONMENT. SO WE NEED TO BE CAREFUL WHEN TALKING ABOUT THE "PUBLIC" MOOD; WHICH PUBLIC DO YOU MEAN, AND RATHER THAN ASK WHICH ONE ARE YOU GOING TO LISTEN TO, THE BETTER QUESTION IS HOW DO YOU WEIGH THE "WEIGHT" GIVEN TO THESE DIFFERENT PUBLICS?

WE WANT THE COMMITTEE MEMBERS TO KNOW THAT WE ALSO HEAR THE COMPLAINTS FROM LAND-OWNERS, ESPECIALLY FARMERS, ABOUT RESTRICTIONS ON THEIR LAND WHICH HAVE REDUCED ITS VALUE - ASKING FOR DIRECT PUBLIC PURCHASE TO MAKE UP THEIR PERCEIVED LOSSES. WE COULD WRITE A BOOK ABOUT THE COMPLEXITIES INVOLVED IN THIS, BUT

WE'LL LIMIT OUR COMMENTS TO A FEW OBSERVATIONS. ONE IS THAT THE BEST WAY TO OBTAIN ADDITIONAL FUNDS FOR RESTRICTED LAND-OWNERS IS TO IMPROVE THE DEGREE OF ACCEPTANCE OF THE TDR PROGRAM IN THE PINELANDS. ACCORDING TO SOME OF ITS INVENTORS, LIKE BUDD CHAVOOSHIAN, THE GREATER ACCEPTANCE IT GETS, THE MORE THE VALUE OF ITS CREDITS OUGHT TO RISE TO APPROACH A "PURE" FREE-MARKET PRICE. BUT THE PERSUASION HERE HAS TO BE DIRECTED TO THE DEVELOPERS WHO ARE NOT SUPPORTING IT, HOPING THE COMMISSION GOES AWAY, OR HAS ITS ESSENTIAL LAND USE POWERS ELIMINATED - AND SURPRISINGLY, TO THE FARM BUREAU ITSELF. NJAS WAS SHOCKED TO LEARN FROM DAVE MOORE'S NEWSLETTER OF DEC. 1, 1993 (THIS STATE WE'RE IN) THAT THE FARM BUREAU DOES NOT SUPPORT ASSEMBLYMAN BOB SHINN'S TDR SYSTEM IN BURLINGTON COUNTY. NOW IF THEY WON'T SUPPORT SOMEONE WHO HAS BENT OVER BACKWARDS OVER THE YEARS, IS NOT AN OUTSIDER... THEN WE THINK THE PROBLEMS LIE AT A VERY DEEP LEVEL OF VALUE CONFLICT INDEED. AND THAT BRINGS US TO SOME FURTHER THOUGHTS ON VALUES.

WE DON'T THINK, GIVEN THE POLITICAL AND PHILOSOPHICAL CLIMATE OF THE TIMES - ANTI-REGULATORY, ANTI-GOVERNMENT, ANTI-TAX - THAT IT SHOULD SURPRISE ANYONE THAT THE CRIES AGAINST THIS COMMISSION SHOULD BE PEAKING NOW, FOR AFTER ALL - ISN'T IT THE VERY EPITOME OF WHAT THOSE WHO CREATE THIS CLIMATE/MOVEMENT HATE SO MUCH? BUT THIS MOOD - OR MOVEMENT, IF YOU WILL, HAS AN ONGOING WAY OF UNDERCUTTING THE DESIRES OF LAND-OWNERS IN THE PINELANDS WHO SEEK GREATER COMPENSATION FOR THEIR USE-RESTRICTIONS. WE SAY THAT BECAUSE IN THE SPRING OF 1990, NJAS - ME, IN PARTICULAR, TRIED UNSUCCESSFULLY A NUMBER OF TIMES TO GET THE NEW YORK TIMES OP-ED PAGE TO PUBLISH AN ARTICLE CALLING FOR SUPPORT FOR THE AMERICAN HERITAGE TRUST LEGISLATION, WHICH WOULD HAVE MADE AVAILABLE UP TO ALMOST A BILLION DOLLARS A YEAR FOR FIVE YEARS FROM EXISTING OIL AND GAS REVENUES - NOT NEW MONEY, WE STRESSED (AND STRESS, BECAUSE THE MONEY STILL EXISTS). ONE OF THE PRIMARY USES WOULD HAVE BEEN TO HELP PURCHASE LAND UNDER EXACTLY THE CIRCUMSTANCES LAND-OWNERS NOW CRY OUT ABOUT IN THE PINELANDS.

SO WHO STOPPED THIS LEGISLATION THAT HAD OVER 200 HOUSE CO-SPONSORS? (BY COMPARISON, CURRENT WETLAND BILLS IN CONGRESS, GOOD AND BAD, AREN'T EVEN CLOSE TO THIS NUMBER OF CO-SPONSORS). WELL, LET ME TELL YOU WHO, BECAUSE I DID SOME DIGGING TO FIND OUT. THE INTERESTS THAT STOPPED IT WERE SOME CONSERVATIVE THINK TANKS, MINING, RANCHING AND TIMBER INTERESTS, AND ALL IN ALL, A PRETTY GOOD PREVIEW OF THE INSTITUTIONAL MAKE-UP OF THE CURRENT WISE-USE BACKLASH MOVEMENT. SO IN OTHER WORDS, SENATORS, WHAT I'M SUGGESTING IS THAT THE SAME PHILOSOPHICAL ALLIES IN WASHINGTON THAT MIRROR MANY OF THE COMPLAINING INTERESTS BEFORE YOU TODAY AT THE STATE LEVEL, NOT ONLY DISLIKE REGULATIONS, THEY DON'T WANT ANY MORE SPENDING FOR OPEN SPACE, EVEN IF IT MEANS INCREASING THE FINANCIAL PAIN OF THE RESTRICTED LAND-OWNERS THEMSELVES.

I WOULD BE REMISS IN MY DUTIES IF I DID NOT POINT OUT TO

YOU THE SIMILARITIES BETWEEN THE BLOCKAGE OF THE AMERICAN HERITAGE TRUST IN WASHINGTON IN 1990 AND SENATOR ROBERT LITTELL'S GREEN ACRES' "HOSTAGE-TAKING" IN TRENTON IN 1993. IT'S VERY RELEVANT BECAUSE HE DOESN'T HAVE EVEN A SHRED OF A MANDATE TO CITE FOR HIS ACTIONS; STATEWIDE AND IN SUSSEX COUNTY, VOTERS SAID, BY 3-1, SAVE THAT OPEN SPACE. SO ARE YOU REALLY LISTENING TO THE VOICE OF THE PEOPLE, FLAWED AS ARE THE WAYS WE MEASURE IT - OR TO THE VOICES OF THE SPECIAL INTERESTS?

WE ALSO THINK IT WOULD BE USEFUL, AS A "WHAT IF" EXERCISE, TO REVIEW WHAT HAPPENED WHEN THE WISHES OF THE ANTI-REGULATORY CROWD ACTUALLY CAME TRUE. AFTER ALL, IT'S IMPLICIT AND AT TIMES, EXPLICIT THAT WHEN THE REGULATIONS ARE REMOVED, A THOUSAND ECONOMIC FLOWERS BLOSSOM, ISN'T IT? FUNNY HOW THE SUPPORTERS OF THIS VIEW NEVER TALK MUCH ABOUT HOW THE MOST RECENT FLAMING EXAMPLE/DEBACLE OF SUCH REASONING WORKED OUT - THE DE-REGULATION OF THE SAVINGS AND LOAN INDUSTRY. PERHAPS THAT'S BECAUSE THE CHAIRMAN OF THE FEDERAL RESERVE HIMSELF CITES THE 5-10 YEAR OVERSUPPLY OF UNNEEDED OFFICE SPACE AS A MAJOR DRAG ON THE NATION'S, AND ESPECIALLY THIS STATE'S ECONOMY AND LACK OF RECOVERY. DO EACH OF US REALIZE THAT WE'RE PAYING ABOUT 1200-1300 DOLLARS EACH TO PAY FOR DAMAGE CAUSED BY THIS DE-REGULATORY NIGHTMARE? ANY LEGISLATIVE HEARINGS HELD ABOUT THAT IN ONE OF THE STATES THAT HAS SUFFERED THE MOST?

AND LET'S GO A BIT FURTHER BACK INTO TIME FOR THE PRE-REGULATORY RELATIONSHIP BETWEEN GOVERNMENT AND THE BUSINESS CYCLE. MAY I QUOTE FROM A BRIEF PASSAGE IN THE OXFORD COMPANION TO AMERICAN HISTORY (THOMAS JOHNSON, OXFORD UNIV. PRESS, 1966), UNDER THE ENTRY CALLED "BUSINESS CYCLES":

BUSINESS CYCLES ARE PERIODIC FLUCTUATIONS OR RECURRING PHASES OF DEPRESSION, REVIVAL, PROSPERITY, AND RECESSION IN BUSINESS.... THE FIRST MAJOR DEPRESSION IN AMERICA, LARGELY THE RESULT OF A CURRENCY FAMINE AND INADEQUATE BANKING CONTROLS AFTER THE REVOLUTION, RESULTED IN THE PANIC OF 1785...CYCLIC PERIODS OF DEPRESSION RESULTED IN THE PANICS OF (1819), 1837, 1857, 1873, 1883, 1893, 1907, 1920, AND 1929.

NOW MY POINT IS THAT ALL THESE PANICS AND DEPRESSIONS PREDATED THE REGULATORY STATE, HOWEVER DEFINED, AND CERTAINLY PRECEDED THE ENVIRONMENTAL REGULATIONS NOW SO WIDELY DECRIED. SO IN THIS PRE-REGULATORY UTOPIA ... THINGS ECONOMIC STILL OFTEN WENT AWRY . . . AND PROFOUNDLY SO IN THE 1930'S. THAT'S FIFTY YEARS BEFORE THE PINELANDS COMMISSION.

WE THINK THAT THE BEST CHANCES FOR COMPROMISE LIE IN THE GREATER ACCEPTANCE OF THE TDR SYSTEM, AND PERHAPS GREATER FUNDING FOR ITS BANK. OUR NEW GOVERNOR WOULD SEEM TO AGREE, BASED ON HER

POSITION PAPER OF LATE OCTOBER. AS TO MEETING THE EXPANSION NEEDS OF BLUEBERRY AND CRANBERRY GROWERS, WE FEEL IT CAN'T TAKE PLACE AT THE EXPENSE OF GOOD EXISTING HABIT, ESPECIALLY WETLANDS. IS THERE A WAY TO CREATE THE PROPER GROWING CONDITIONS FROM THE CONVERSION OF LESS ECOLOGICALLY IMPORTANT UPLANDS? IT'S WORTH EXPLORING. DO THESE GROWERS HAVE A MAP OF HOW MUCH THEY WOULD LIKE - A MAP OF ASSURANCE SO THAT CONSERVATIONISTS ARE AWARE OF SOME LIMITS ... JUST AS WE HAVE HAD TO CAREFULLY MAP IN THE PINELANDS JUST WHAT IT IS WE HAVE TO PROTECT (AND RIGHTLY SO; ITS BASED ON SCIENCE, NOT ON ANY PLEASURE IN THE REGULATIONS THEMSELVES.) NJAS CAN'T MAKE ANY PROMISES THAT THESE COMPETING INTERESTS CAN BE WORKED OUT IN THE ABSENCE OF A BETTER AND MORE WIDELY ACCEPTED TDR SYSTEM, BUT CERTAINLY THE DISCUSSIONS WOULD BE MORE FOCUSED IF THE ECONOMIC INTERESTS COMPLAINING THE LOUDEST BROUGHT SPECIFIC PROPOSALS AND LIMITS TO THE TABLE.

AND OF COURSE, SUCCESSFULLY SEPARATING OWNERSHIP OF THE LAND FROM DEVELOPMENT RIGHTS MEANS THAT SOME AREAS NEED TO TAKE MORE DEVELOPMENT. SO IF YOU'RE A NIMBY IN A GROWTH ZONE, CITIZEN OR ELECTED OFFICIAL, GENUINE HOPES FOR COMPROMISE CAN GO DOWN THE TUBES WITH SUCH OPPOSITION, THEREBY ALSO TAKING DOWN WITH THEM THE CHANCE TO PREVENT THE FRAGMENTATION OF OUR BEST NATURAL RESOURCES.

AND FINALLY, WE WANT TO ANSWER THE LONG-STANDING FEELING THAT THE PINELANDS COMMISSION IS SOMETHING "OUTSIDERS" HAVE DONE TO THIS REGION, THAT IT'S A FORM OF COLONIALISM, THAT LOCAL OFFICIALS DON'T KNOW WHAT TO DO WITHOUT HELP. WE THINK THAT'S A BIT AHISTORICAL. THE SAME THINGS WERE SAID DURING THE DEBATES OVER THE ALASKAN WILDERNESS IN THE MID AND LATE 1970'S: AFTER MUCKING UP THE ENVIRONMENT IN THE LOWER 49 STATES, LEGISLATORS WERE ANXIOUS TO SAVE SOMEONE ELSE'S STATE AT THE ALLEGED PRICE OF THAT STATE'S ECONOMIC WELFARE.

BUT MAYBE CONSERVATIONISTS, ACADEMICS, AND LEGISLATORS WHO WORKED UP THE PINELANDS MODEL WERE REALLY SAYING SOMETHING QUITE DIFFERENT. PERHAPS THEY WERE SAYING THAT THERE WAS NO DIFFERENCE IN HUMAN NATURE AND ITS WORKS, CIVILIZED AND UNCIVILIZED ... BETWEEN THEIR OWN OLD BEHAVIOR AND WHAT THEY EXPECTED FROM OTHERS ... AND THAT'S PRECISELY WHY THOSE REMAINING AREAS OF OUR BEST NATURAL RESOURCES CAN'T BE TREATED WITH THE SAME CONTEMPT WE'VE SHOWN IN THE REST OF OUR STATE AND HISTORY. HYPOCRITICAL FROM SOME WHO HAVE ALREADY MADE THEIR FORTUNE? YOU BET. BUT TO ACCEPT THAT REASONING ALONE ALSO MEANS REJECTING THE HUMAN CAPACITY TO LEARN FROM EXPERIENCE AND PREVIOUS MISTAKES - THE ESSENCE OF HOW WE LEARN. WE CERTAINLY THINK THAT NEW JERSEY RESIDENTS, IN 1993, IF THEY HAD THE CHANCE TO START OVER, MIGHT DO IT VERY DIFFERENTLY... IN MANY PLACES OUTSIDE THE PINELANDS. BUT WE DON'T HAVE THAT CHANCE EXCEPT IN OUR LAST REMAINING UNDEVELOPED AREAS AND BEST REMAINING ECOSYSTEMS, WHERE MANY COMPLEX FACTORS OTHER THAN COLONIALISM HAVE MEANT THAT GOOD NATURAL RESOURCES HAVE SURVIVED, INCLUDING SOME VERY GOOD LOCAL CONSERVATION INSTINCTS.

GOOD, BUT NOT ENOUGH.

BUT DON'T DECEIVE YOURSELVES: THE COMMISSION WOULD HAPPILY DISAPPEAR TOMORROW IF PURELY LOCAL MUNICIPAL AND COUNTY OFFICIALS COULD OR WOULD EVER COME UP WITH AN EQUALLY PROTECTIVE PLAN ...WITHOUT OUTSIDE HELP. BUT YOU AND I KNOW THAT BEHIND ALL THE TALK OF OUTSIDE INTERFERENCE, IT ISN'T JUST THAT. IT'S ALSO A REFUSAL TO RECOGNIZE THAT FOR ALL THE MIXTURE OF HUMAN MOTIVES, THERE REALLY IS A NEW ECOLOGICALLY REALISTIC PERSPECTIVE THAT PUTS ITS VALUES, WIDELY SUPPORTED BY CITIZENS, ABOVE AND AROUND PURELY ECONOMIC MOTIVES. AND AROUND A HUMAN NATURE THAT DOES NOT LIKE CONSTRAINTS, BUT BADLY NEEDS WELL-THOUGHT OUT ONES, UNLESS WE WOULD TEAR OURSELVES ALL TO SHREDS IN THE COMPETITION, AND TAKE WHAT IS LEFT OF NATURE WITH US.

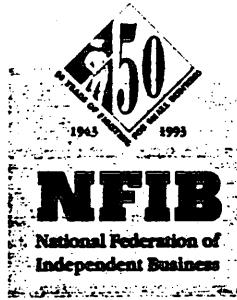
SENATORS, THE PINELANDS REGULATIONS ARE A NECESSARY, IF IMPERFECT ANSWER TO PREVENT WHAT FITZGERALD'S JAY GATSBY (AND OUR CULTURE) BELIEVED IN, "THE ORGIASTIC FUTURE THAT YEAR BY YEAR RECEDES BEFORE US. IT ELUDED US THEN, (JUST THE REGULATIONS KEEP IT OUT OF REACH), BUT THAT'S NO MATTER - TOMORROW, AFTER THE COMMISSION GOES AWAY, WE WILL BE ABLE TO RUN FASTER, BUILD MORE IN TEMPTING PLACES, STRETCH OUT OUR ARMS FURTHER... AND ONE FINE MORNING WE'LL REALIZE WHAT THE NARRATOR DID ... THAT THE PINELANDS AND ... WE INVITE YOU, SENATOR GORMLEY, TO TREAT THE HIGHLANDS AS AN ENVIRONMENTAL COLONY IF YOU LIKE... REALIZE THAT IT REPRESENTS ONE LAST CHANCE TO BECOME AWARE "OF THE OLD ISLAND HERE THAT FLOWERED ONCE FOR DUTCH SAILORS' EYES - A FRESH, GREEN BREAST OF THE NEW WORLD."

IT'S NO DREAM THOUGH SENATORS, IT'S PRUDENCE AND SELF-PROTECTION TOO, OF WATER THAT WE MAY ONE DAY REALLY HAVE TO DEPEND UPON, BUT THAT WHICH NON-HUMAN NATURE ALREADY IS. THERE IS NO CIVILIZATION, AND PERHAPS NO NATURE AS WE ONCE KNEW IT, WITHOUT RESTRAINTS UPON OUR ECONOMIC APPETITES. WHEN EVERY OWNER OF LAND IS ALSO FIRST A LAND ENTREPRENEUR, THERE IS NO ENVIRONMENTAL PROTECTION. ENOUGH OF THE ILLUSIONS.

RESPECTFULLY SUBMITTED,

William R. Neil

WILLIAM R. NEIL
ASSISTANT DIRECTOR
OF CONSERVATION



**PINELANDS COMMISSION REGULATIONS
AND THEIR EFFECT ON SMALL BUSINESS**

presented to
the Senate Judiciary Committee
Walter Edge Theater, Atlantic County Comm. College
Wednesday, December 15, 1993

My name is Penni Wild. I'm state director of the National Federation of Independent Business, which represents owners of small businesses that employ between one and one hundred workers each.

More importantly, for today's purposes, I'm here on behalf of small business owners who couldn't break away from their businesses today to attend this important hearing. There are approximately 1,500 NFIB members in the area governed by the Pinelands Commission. Together, their enterprises represent about 7,000 jobs in this region.

Their message to you is this: First of all, thank you for looking into the regulations that govern this area and the lives of these people. Second, as you explore these regulations to determine what does and doesn't work, what is too stringent or lenient or what is outdated, please talk with the small business owners.

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Please talk to people like Ida Anderson of Indian Mills who had to lay off her employees and close down a fledgling upholstery business. She reports that even though she was starting the business in an existing building and even though she already had a 3/4 of an acre deed restriction, the Pinelands Commission required her to deed more than a half acre of land just to use the second floor of the same building.

Please talk to the owner of Rodio Tractor Sales in Hammonton. He learned in 1986 as he was putting the finishing touches on a newly constructed building in a commercial zone...that he was subject to Pinelands regulations because the commercial zone really was zoned Pinelands Agriculture.

Please talk to Raymond Witthauer, President of Alpha 1 Studio in Shamong. He is so conscientious about safe environmental practices, that he was nominated for the Governor's Award for outstanding achievement in pollution prevention. He has documented the loss of more than 300 jobs in the industrial park where he is located. He would be happy to meet with you to share the many reasons that companies move outside the Pinelands region.

These are just a few of the many people who own businesses and are committed to this region. This is their backyard too. They want to protect it as much as anyone. But they also want actively to create jobs and improve the local economy.

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Page three

In recent weeks, small business owners have shared with me some of their confusion, frustration, sadness and outright anger over Pinelands Commission rules and regulations.

Again, on behalf of the NFIB members in this region who asked me to convey their frustrations to you, please meet with them as you explore the economic burdens and hurdles posed by the Pinelands Commission regulations.

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GLOSSY FRUIT FARMS, INC.
Route 206
Hammonton, New Jersey 08037
(609) 561 8050
(609) 561 6470

December 15, 1993

Congressman Hughes, Senator Gormley and members of the Judiciary Committee:

My name is David M. Rizzotte part owner and operator of Glossy Fruit Farms, Inc. in Hammonton in the Protected Area of the Pinelands. I am presenting both my own personal views and those of the Atlantic County Board of Agriculture.

There are many vital areas regarding the Pinelands plan which could be discussed at this hearing but for times sake I will deal with only four major issues.

The first key issue, and the original impetus behind this hearing deals with bill A-1910 and S-1147, namely the Pineland Enforcement Act. The Atlantic County Board of Agriculture - even though agriculture is exempt - totally oppose these bills. The bills give an already rather autonomous state agency:

1. inspection authority
2. ability to cite violators
3. a capacity to levy fines upwards of \$5,000 to \$10,000
4. in the case of an appeal, hear and rule on this appeal
5. this agency has the authority to collect and utilize the fine in its own budget

I, myself, and our board totally disagree with this concept. We see this scenario, setting up a situation, where the commission would like to perpetuate itself financially through the issuance of citations and subsequent fines and collections. This is a job which should be left to the municipalities and attorney general office. No state agency should have these all inclusive powers including D.E.P.E.

The second major issue deals with payments to municipalities for the loss in tax ratables. There was much discussion, prior to plan implementation, on this topic, but still today, many municipal governments are suffering from the loss of new ratables because of the plans restricting of new development. This situation is becoming even worse since many property owners are just abandoning their parcels, after 13 years of restrictions, and giving them back to towns, therefore, further eroding the tax base.

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The third major issue deals with the section in the plan (promoted by agriculture interests) which states that "no water from Pineland aquifer should be exported outside the boundaries of the Pinelands area". However, it is my personal opinion that when water needs, in other areas of New Jersey, become so great the existing legislation will be changed to satisfy this existing water need. The Pinelands Plan and its zoning was based on the nitrate dilution model which was to keep Pineland aquifers pristine for future generations. These who believe this concept are being duped, for when the state needs this water, it will be taken, and you will see this fragile ecosystem, so reliant on its water carrying capacity degenerate and die.

The fourth and final and definitely the most important, issue for Pineland land owners, is the failure of our regulators to appropriately address the equity issue. In the late 1970's and early 1980's a group of concerned property owners banded together to halt what they considered a major land grab, namely this Pineland Plan. This coalition gave volumes of testimony to the commission, stating that this program would have a major negative impact on property values in the Pinelands. The commission responded, in an economic impact statement some two years after plan implementation, that this would not happen and that some farm property may even increase in value.

The commission, also, at this time, gave farm owners the now famous Pineland Development Credit. This system based on private market transactions between P.D.C. holders and those needing credits for development, has failed miserably. At the plans inception there were approximately 6500 PDC's available for allocation in the agriculture districts. As of a June 30, 1993 commission report only 885 PDC's have been allocated, of these, 113 credits have been purchased by developers, more importantly, the average purchase price of the PDC's equates to \$756 per acre. This system of PDC's has been a complete failure, however this system's failure is compounded to a greater degree, when compared to the Farmland Preservation Easement Purchase Program.

This program has permanently preserved 18,163 acres of farmland on 125 farms throughout New Jersey. Now, to point out my major disagreement with the administration of the Pinelands program and its detrimental effect on property values, let's look at the average easement purchase value of these farms under Farmland Preservation by county:

VALUES OUTSIDE PINELAND AREA:

<u>County</u>	<u>Easement Purchase Price per Acre</u>
Salem	\$ 1,913.00
Cumberland	2,294.00
Gloucester	2,532.00
Burlington	4,571.00
Warren	5,030.00
Hunterdon	5,887.00
Sussex	6,133.00
Ocean	6,332.00
Monmouth	6,827.00
Mercer	9,811.00
Somerset	10,520.00
Middlesex	11,760.00
Morris	12,479.00

VALUES INSIDE PINELAND AREA

Cape May	\$ 850.00
Atlantic	1,089.00

One can easily see the Pinelands plan has had a seriously detrimental effect on property values over the years. The overall state easement purchase price on 123 farms, outside the pines is \$5,679 per acre whereas within the pines the average price is \$996 per acre.

In conclusion, it is time for you, our legislators, to correct this massive injustice done to property owners in the Pinelands. If necessary, to correct this 13 year neglect of our property rights, the legislature may have to look at a legislative constitutional amendment or a voter initiative to allow Pineland land owners to use "statewide average development easement value" if they chose to enter the Farmland Preservation Program. Injustice, ongoing for thirteen years, cannot be corrected overnight, but these suggestions may be our only legitimate starting point.

Thanks for this opportunity to speak on a subject that has been festering within the agricultural community since the inception of the Pinelands Plan.

Dec. 16, 1993

Senator William L. Gormley, Jr.
Senate Judiciary Committee
Legislative Office Building
CN-068, Trenton, N.J., 08625

Attn. Mr. John Tumulty

Dear sir:

I want to thank you for allowing me the opportunity to speak at the hearing held at the Atlantic County Community College, Dec. 15th.

I want to apologize for my lack of eloquence at that time. I am in my seventies and was experiencing angina pains during my talk.

There were other points I would like to have brought out but I had to cut my talk short.

As I said, nearly all the contact the public has with the Pinelands Commission is through their staff.

For the most part the Commission only acts on the recommendations of the staff.

The staff are all appointed or hired salaried people who are not answerable to the electorate and use their positions to make arbitrary and capricious decisions and requirements without regard to their effect upon the people.

Shamong Township contains somewhat over 29,000 acres of which over 16,000 acres are Wharton State Forest and many more acres are occupied by paved roads and highways.

The staff, using their interpretation of the powers granted to them by the Comprehensive Management Plan, treat the remaining privately owned lands no differently than the state owned Wharton State Forest.

When the Indian Mills lake dam was failing and the township wanted to make repairs, the staff made them obtain an unnecessary \$25,000 archeological study that disclosed nothing.

Other townships and private landowners have also been forced to spend large amounts for this same type of study, studies that have disclosed nothing of importance and that the staff had no reason to suspect would be fruitful.

Required environmental impact studies, that are by nature conjecture, are still another method by which the staff tries to make it so expensive for the applicant that he will be forced to forego any construction or improvement program.

No matter how small the proposed work is, the staff demands very expensive engineering studies and plans, again to deter people from even applying for permission.

Shamong Township had a short stretch of narrow blacktop road with no shoulders and cars and trucks were frequently falling off the paved area during two way passing onto their sides into the ditch. when we wanted to add only five foot shoulders, the staff would not give permission. They ruled the ditches to be wetlands.

The staff has closed most townships dumps and it has resulted in uncontrolled dumping in the forest areas.

I am a member of an engineering firm in Medford and have first hand knowledge of the excesses of the Pinelands staff.

In the course of my work I have occasion to be in contact with

many engineers, architects, lawyers, surveyors and other profession people who deal with the Pinelands staff. Almost without exception they have extremely negative feelings about the staff.

The universal hatred felt for these staff "professionals" certainly indicates that they are out of control and out of touch with the people they are supposed to serve.

The planning boards of the various townships were told by the staff executive director that when they came into compliance with the Comprehensive Management Plan control of the planning and permit process would be returned to the various boards.

This never happened.

I would never have voted to come into compliance if I had known it would be this way.

The staff still retains as much or more control as ever and the planning boards have become nothing more than a rubber stamp for their arbitrary decisions.

Those who abuse power must have that power taken from them.

Return that power to its rightful owners, the local planning boards. Only in this way will the electorate regain control of their own lives.

Again I implore you not to pass the bills that would give this arrogant bureaucratic staff the right to exact tribute from private property owners to fund their oppressive and, in my opinion, unconstitutional activities.

Thank you for giving me the opportunity to respond to those who would deny the citizens of the so-called pinelands their individual property rights.



Edward R. Graham, Jr.
Chairman of the Shamong Planning
board, 1974 to 1988
385 Stokes Road
Shamong, N.J., 08088
Phone- 609-268-1829

**PINELANDS HEARING
ATLANTIC COMMUNITY COLLEGE
DECEMBER 15, 1993**

Testimony of Maria T. Bohle
Mayor of the Township of Egg Harbor

Good evening, Congressman Hughes, Senator Gormley, Senator Cafiero, and the New Jersey State Judiciary Committee.

My name is Maria Bohle, Mayor of Egg Harbor Township, a Pinelands high density growth community. We are expected to accommodate 30,000 additional homes in 25 square miles of Pinelands District.

Today I must wear five different hats: 1) as Mayor and Committeewoman in Egg Harbor Township; 2) as an active environmentalist (Throughout my Committee term, I have written and sponsored major environmental legislation for my community which included a comprehensive soil mining ordinance, a tree cutting ordinance, and others involved in environmental protection. For the past three years, I have been working on wellhead protection, wildlife preserves, an environmental learning center, a marine science and wildlife education center, an arboretum, as well as many other projects); 3) I am a Pinelands landowner; the land has been in the Bohle (aka Boehly) family since the turn of the century; 4) I am a Pinelands farmer, a 20 acre organic farm, where I raise several hundred varieties of herbs, many in naturalized settings. My stock also includes rare and endangered Pinelands species, native selections of wildflowers, trees, and other natural and indigenous shrubbery; 5) I am also the designated spokesperson for the Atlantic County Association of Township Officials. This group represents the largest land mass in Atlantic County.

Everyone is in agreement that the New Jersey Pinelands must be protected. We all believe that the current methods of Pinelands protection is overbearing and is inadequate to protect the Pinelands. More legislation atop the current legislation is not the answer.

The Senate Bill S-1147 is NOT Environmental Legislation. It allows Police action. It will allow the Pinelands Agency to fuel itself with the economic resources of Pinelands landowners to perpetuate its own bureaucracy! This bill will allow a right to enter any Pinelands property during "reasonable" (??? define please!) hours. A search warrant can be obtained, clouds on titles allowed, and hearings would be held by the policing, investigating, and charging authority. Any fines levied would be then kept by the same agency to pay personnel involved. This is a conflict of interest and the tendencies to self serve and abuse are inherent in these closed circuit systems.

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Egg Harbor Township is a high density growth zone. Where is our Pinelands protection? We have a school that was placed on the headwater recharge area of the Mirey Run tributary of the Great Egg Harbor River. Once an active, wildlife rich wetlands, it is now acres of concrete playgrounds and lawn type grass. This scenario is being repeated over and over in Egg Harbor Township and other 'growth communities'.

Drainage and retention basins now speckle our landscape. Normal and natural groundwater flow in Egg Harbor Township has been altered. High density growth has been planned for the entire headwater region of the Patcong Creek. Yes, 25 square miles of asphalt and blacktop will cover most of our community. Air quality, now bad, will be unlivable as we add 40,000 more vehicles. Indigenous Pinelands species cannot live on postage stamp sized house lots (three to eight homes per acre).

THE SOLUTION:

1. Checks and balances in a true Pinelands Protection Plan. We want a prosecutor, judge, jury, and fines each in the hands of a DIFFERENT agency. No self perpetuating bureaucracy please!!!!
2. Streamline the permitting process; Less time less money.
3. More Municipal Home Rule. Who knows our sensitive areas better than the people who live near them?
Note: This is the KEY to a successful environmental plan.
4. Land Load Determination - How much building would the land support without a harmful impact? Development should be allowed only on this determination. This will allow the ability to share growth and ratables without sacrificing areas to high density destruction and at the same time, protect landowner equity.
5. Pinelands Commissioners should live within the Pinelands area. A balance should be made with persons who live in high density areas, low or no density areas, and with Pinelands farmers who depend on proper environment to stay alive.

Home rule is claimed by this Pinelands Plan. In reality, Egg Harbor Township was bullied, coerced, threatened, and then our zoning was overruled by Pinelands in an effort to gain high density in our Township. Yes, we are in compliance, now. Millions of dollars have been spent to accommodate Pinelands and the 30,000 additional homes WE DID NOT WANT. It amounted to sacrificing Pinelands high density areas, like Egg Harbor Township, Hamilton

Township, and Galloway Township, to 'protect' the rest of the Pinelands. The Pinelands has environmentally amputated three communities to do what??? Economically strip the landowners in the rest of the Pinelands area?

S-1147 does not allow fairness, and it does not afford true protection to our sensitive environment. I request that the bill be withdrawn and that the whole Pinelands Plan be revisited. We want true protection for the Pinelands; for all the Pinelands, and that includes the growth zones.

I also submit a resolution from the Atlantic County League of Township Officials requesting withdrawal of S-1147, as well as, a request to revisit the entire Pinelands Plan.

We all agree, *protect the Pinelands, YES!!!* But we ask you to eliminate the dictatorial and demanding organization that has removed Equity and Home Rule from the Pinelands, its residents, its farmers, and its municipalities.

Thank you for this opportunity to testify.

Maria T. Bohle
Mayor 1993
Egg Harbor Township

MTB/jec

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TESTIMONY OF
ATLANTIC COUNTY FREEHOLDER TOM FOLEY
BEFORE THE SENATE JUDICIARY COMMITTEE
ON STATE AND FEDERAL REGULATIONS
AFFECTING THE PINELANDS
DECEMBER 15, 1993

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to express my thoughts and observations on the state and federal regulations affecting the Pinelands region in Atlantic County.

Mr. Chairman, in the 14 years since the federal and state pinelands protection laws were enacted, we've all heard the horror stories that property owners in the Pinelands have experienced in dealing with the Pinelands Commission. And in my opinion, Mr. Chairman, their views, needs, and, quite frankly, rights have been dismissed and ignored by the bureaucratic czars of the Pinelands Commission.

Mr. Chairman, these property owners feelings can be summed up in one word: frustration. They're frustrated that they must receive regulatory approval to make any use or improvements of their land, they're frustrated when they can't get answers out of the commission as to what usage is permitted and they're frustrated when their applications are denied. But more importantly, these landowners are frustrated by the simple fact that a system is in place that denies them any property rights without compensation for the loss usage of their land.

I have submitted for the record, Mr. Chairman, resolutions adopted by both the Freeholder Board of Atlantic County and the Township of Buena Vista opposing efforts, such as S-1147, to increase the regulatory powers of the Pinelands Commission.

The essence of the problem, Mr. Chairman, is that the Pinelands Commission is not a responsive public body. Property owners rights and needs are ignored and local communities abilities to plan and grow are frustrated by Pinelands Commission regulations and inaction. In my view, these problems need to be solved by reducing pinelands regulations, not expanding such powers. For that reason, I cannot support S-1147. Allowing the Pinelands Commission to levy fines would only worsen the problems that municipalities and landowners currently face in dealing with pinelands regulations. If anything, Mr. Chairman, you should be promoting legislation that mandates greater, not lesser, cooperation on the part of the Pinelands Commission, with landowners and

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Testimony of Freeholder Tom Foley on S-1147
Senate Judiciary Committee
December 17, 1993
Page 2

local officials. If the Legislature will not pass laws that mandate such cooperation, Mr. Chairman, then a law must be enacted to compensate these landowners for what amounts to the public taking of their land.

I'm sure today, Mr. Chairman, your committee will hear scores of horror stories from individuals about dealing with the Pinelands Commission. Please, Mr. Chairman, hear their pleas and reconsider your push to increase the powers of the already overbear, uncaring and arbitrary bureaucracy of the Pinelands Commission. Abandon your efforts to pass S-1147 and join in my call for greater property rights for landowners in the Pinelands.

Thank you, Mr. Chairman and members of the Judiciary Committee for your time and consideration.

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RESOLUTION REQUESTING SENATOR WILLIAM GORMLEY, THE PRINCIPAL SPONSOR OF SENATE BILL S.1147 AMENDING THE PINELANDS PROTECTION ACT (NJSA 13:18A-1 et seq.), TO WITHDRAW THE BILL BECAUSE THE BILL, IF ENACTED, WILL STIFLE DEVELOPMENT, ENACT PUNITIVE PENALTIES AND VIOLATE THE DUE PROCESS OF THE RESIDENTS, FARMERS, DEVELOPERS, AND PROPERTY OWNERS OF BUENA VISTA TOWNSHIP.

WHEREAS, Atlantic County Senator William Gormley is the prime sponsor of Senate Bill S-1147; and

WHEREAS, the Pinelands Protection Act, P.L. C111, imposed a complicated regulatory process on development in the Pinelands Area; and

WHEREAS, as a result of the Pinelands Act the farmers, developers, residents and the property owners of Buena Vista Township have been subject to a complicated, time consuming, expensive and authoritative regulatory process; and

WHEREAS, Senate Bill S-1174 will further stifle development and impose additional burdensome regulatory process upon Buena Vista Township, its farmers, developers, residents and property owners; and

WHEREAS, the Township Committee finds, among others, the following provisions detrimental to the Township and its residents.

Section 1-3b: Application for Development - Duplicates Existing Township Enforcement Development Authority.

Section 2a(3): Administrative Penalties - Permits Commission or Executive Director to impose civil administrative penalties of 5,000 per day for any violation of the Pinelands Protection Act, the comprehensive management, order or regulation promulgated thereunder.

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Section 2b: Notice of Violation - Provides only 20 days to file an Answer to Notice of Violation before Administrative Penalty become final.

Section 2C: Permit the Commissioner or Executive Director Authority to institute Civil Action to Enforce PL 1979.

Section 2G: Permits warrantless search by the Commissioner or Executive Director of any property, without judicial approval, to conduct inspections and determine compliance with PL 1979, C.111, the Comprehensive Management Plan, or any order or regulation pursuant thereto.

Section 2H: Permits Commission or Executive Director to create cloud on title to property by a filing of the Notice of Violation in the Deed Book of the County Recording Office, thereby making the property unmarketable and uninsurable without any hearing or adjudication of liability.

Section 3(a)(4): Permits Commission or Executive Director to withhold final action on an application for development of a project if any director, officer, key employee or investor owning over 5% of the project involved in the development was a director, officer, key employee or investor in any other project in which the Commissioner issued a final order finding a violation of the provisions of PL 1979, C.111, the Comprehensive Management Act, Order or approval thereunder.

Section 5: Creates a non-lapsing fund into which all fines, penalties and costs recovered are placed for use by Commission to implement or enforce PL 1979, C.111. In essence, this fund insures that the inmates will run the asylum and provide a funding

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mechanism to insure its perpetuation; and

WHEREAS, by reason of the above provisions Senate Bill 1147 will have an adverse impact upon the development in the Township and, in particular, will create a hostile regulatory atmosphere against the farmers, developers, residents and property owners of the Township of Buena Vista.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Buena Vista that Senator William Gormley is herein requested to withdraw Senate Bill S-1147.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to Senator William Gormley; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the League of Township Officials, the League of Municipalities, the Atlantic County Freeholder Board, and the County Executive.

Rosario D'Amore, Mayor

Laverne Gunter, Clerk

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ATLANTIC COUNTY LEAGUE OF TOWNSHIP OFFICIALS

RESOLUTION

RESOLUTION REQUESTING REVIEW OF THE PINELANDS PROTECTION ACT AND REQUESTING BILL GORMLEY, THE PRINCIPAL SPONSOR OF SENATE BILL S.1147 AMENDING THE PINELANDS PROTECTION ACT (NJSA 13:18A-1 ET SEQ.) TO WITHDRAW THE BILL BECAUSE THE BILL, IF ENACTED, WILL FURTHER STIFLE DEVELOPMENT, ENACT PUNITIVE PENALTIES AND VIOLATE THE DUE PROCESS OF THE RESIDENTS, FARMERS, DEVELOPERS, AND PROPERTY OWNERS WITHIN THE PINELANDS.

WHEREAS, The purpose of the Pinelands Protection Act is to protect the nature and the environment of the Pinelands Lands; and

WHEREAS, The Pinelands Protection Act is far more of a regulatory body, masquerading as an environmental protection; and

WHEREAS, Said environmental protection takes the form more of a taking and a prohibition of personal use of private property; and

WHEREAS, this regulation of the use, sale, zoning and development of private property does not adequately take into account Pinelands Protection, but Pinelands regulation dependant more on location than the ability of the Pinelands lands to accommodate development; and

WHEREAS, The Pinelands Protection Act, P.L. C111, imposed a complicated regulatory process on development in the Pinelands Area;

WHEREAS, as a result of the Pinelands Act the farmers, developers, residents and the property owners of the Pinelands Areas of New Jersey have been subject to a complicated, time consuming, expensive and authoritative regulatory process; and

WHEREAS, Pinelands regulations and environmental restrictions must be re-studied,

WHEREAS, Pinelands approvals must be streamlined to be more cost effective, less complicated, less time consuming and allow less restrictions and still be within strict environmental protection guidelines; and

WHEREAS, Senate Bill S-1174 will further stifle development and impose additional burdensome regulatory process upon the landowners in the Pinelands Areas of Atlantic County, its farmers, developers, and residents.

WHEREAS, Senate Bill S-1174 is not a bill concerned with environmental protection, but a bill that can be used for punitive purposes, imposing fines, without the normal checks and balances built into our governmental system; and

WHEREAS, this bill permits warrantless searches, permits the Pinelands Commission or executive director to create clouds on property titles, and a beurocracy to be established that will be self perpetuating with fines collected.

NOW THEREFORE, BE IT RESOLVED, by the Atlantic County Board of Township Officials, that Senator Bill Gormley is herein requested to withdraw Senate Bill S-1147 and

BE IT FURTHER RESOLVED, that The Atlantic County League of Township Officials requests that the Pinelands Protection Plan be revisited in its entirety.

Rossio D'Amore
PRESIDENT
ASSOCIATION TOWNSHIP
OFFICIALS

**Statement of Michael W. Huber
Before the Senate Judiciary Committee
December 15, 1993**

My name is Michael Huber. I am speaking as a current Director and retired Chairman of J. M. Huber Corporation. Our company, which operates nationwide and internationally, has its headquarters in New Jersey, and employs about 300 people in this state.

We moved our headquarters here from New York about 25 years ago because many of our people had chosen to live in New Jersey, attracted by the quality of life that we enjoy in our state.

The people of New Jersey recognize the need to preserve open space and particularly open space in environmentally sensitive areas like the Pinelands because this contributes in large measure to the quality of life that people in New Jersey prize. Recognition of that need is exemplified by the overwhelming majority vote in favor of the several recent open space bond issues.

The New Jersey Pinelands are recognized as an irreplaceable, ecologically important resource not only at the state level, but nationally through their designation as a National Reserve under the 1978 legislation, and internationally through the UN's designation of the region as an International Biosphere Reserve. Their continued existence as a protected, largely wild forest area is an important contribution to maintaining the quality of life we New Jerseyans value in this, the most highly populated state in the nation.

The Comprehensive Management Plan for the region, which provides for protection as well as economic development, is viewed as a model for other regions here and abroad. Once again, it puts New Jersey in a leadership position in the land use planning and environmental arenas. By focusing growth and development into appropriate areas it achieves protection of the most sensitive environmental values of the Pinelands. These have been well documented, so I will not reemphasize them here.

Economic support for the planned economic development in the area has been supported through the Infrastructure Bond Act of 1985 which you, Senator Gormley, I believe, sponsored and for which we thank you.

By having a land use Plan for the Pinelands' region we have avoided the beggar-thy-neighbor piecemeal approach to land use so evident in other parts of the country and even in other parts of New Jersey that results in unrestrained sprawl and infrastructure problems. The Pinelands Comprehensive

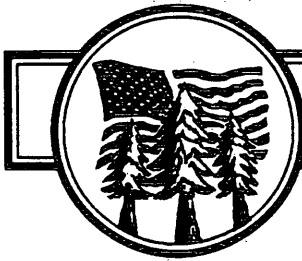
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Management Plan, and the mechanisms that make it work must be retained, and strengthened as necessary; for example, by providing a better mechanism to address violations of the Plan or permits granted under it.

Many of the issues that could be anticipated were addressed when the Plan was developed. An example is the PDC program and the PDC Bank with a state supported floor on PDC value. Other issues, such as extreme hardship, can be addressed, as they indeed are being addressed as they are identified, by measures such as Congressman Hughes's Limited Practical Use legislation and appropriation, and the Plan Review presently in progress.

In conclusion, on behalf of the people of New Jersey, including our company's employees, I ask you, Mr. Chairman and the members of your Committee to make sure that nothing is done to weaken the Pinelands Protection Act, or the Comprehensive Management Plan and regulations that exist under it because this region is such an important resource to the state, the nation, the world. If any actions are taken, they must reinforce and strengthen this important regional land use Plan and provide for means to enforce it to protect the Pinelands.

Thank you for the opportunity to present my views.



SAVE AMERICA'S FORESTS

4 Library Court, SE
Washington, DC 20003
202-544-9219

December 15, 1993

Honorable William L. Gormley
Chairman
Judiciary Committee
New Jersey Senate
1333 Atlantic Avenue
Suite 303
Atlantic City, New Jersey 08401

Dear Mr. Chairman,

I want to thank you for the opportunity to testify today before your Senate Judiciary Committee on this important environmental issue.

On behalf of Save America's Forests, its many New Jersey members, and its over 400 group and business coalition members representing over 3 million members nationally, I would like to express our strong support for the continued protection of the Pinelands National Reserve as well as the Pinelands Commission.

In the past Save America's Forests has continuously worked with the United States Congress to pass laws that looked for new and innovative ways to manage our public lands. Recently the concerns with the current management of the New Jersey Pinelands have come to our attention. Subsequently, this issue has become of particular interest to me.

I am a native New Jerseyan. I have spent much of my life, 23 years, close to the Pinelands, awed by its quiet, delicate wilderness covering 1.1 million acres of open space. New Jersey is often judged by others based upon what they can see from their car window on their way up the Turnpike, but they have not taken the opportunity to witness this mysterious surrounding first-hand. We New Jerseyans should be proud of the irreplaceable natural beauty that is in our Pinelands. The Pinelands National Reserve is inhabited by many rare and endangered species of plants and animals including curly grass ferns, Pine Barrens tree frogs, corn snakes, and pine snakes. It is a biological mixing zone between the northern and southern portions of our country. Pitch pine and oak forests, dotted with sweet gum and red maple, are also a part of this unique biological system where cedar swamps and tea-colored streams of unpolluted, fresh, potable waters abound. It is because of my experiences as a youth discovering the wondrous biodiversity of these areas that I have chosen to pursue a career in wilderness and environmental protection.

The New Jersey Pinelands is the home of the Kirkwood/Cohansey Aquifer which holds an estimated seventeen trillion gallons -- one of the largest aquifers on the continent. This aquifer

must remain protected from uncontrolled industrial development which could pollute this pure ground water. In 1983, UNESCO (United Nations Educational, Scientific, and Cultural Organization) designated the Pinelands an International "Biosphere Reserve."

In 1978, the National Parks and Recreation Act created the Pinelands National Reserve, the country's first National Reserve. State legislation followed in 1979 which provided for the implementation of the federal bill and endorsed the establishment of the State Pinelands Commission. The Commission regulates land-use of the 1.1 million acres through the Comprehensive Management Plan (CMP), designed to preserve the pristine conditions found within the Pinelands while accommodating a limited amount of economic activity.

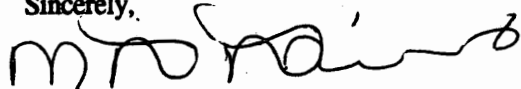
Some of the testimony today may focus on what may be thought of as deficiencies of the Comprehensive Management Plan and the Pinelands Commission, but we feel that there is another important issue that should be addressed.

In fiscal year 1990-91, Senator Bill Bradley and Representative Bill Hughes were able to acquire \$1 million to assist those in the Pinelands whose lands, because of legislation, have limited practical use. Most of the affected sites are small; less than 50 acres. Unfortunately, this assistance has not been put to use because the federal funds require a \$1 million match from the state. To date, the necessary state funds have not been appropriated. This is partially due to legal complication within the designation of the Green Acres Fund.

Through all the most recent complications one thing cannot be denied, that the New Jersey Pinelands is not only the first National Reserve, but a working model of a land-use plan created to protect a unique ecosystem. This plan serves as a model for other areas of our country facing similar difficulties between development and preservation. Of course, preservation has its unintended consequences. In this instance local farmers and other landowners should receive compensation for their part in protecting this area of global significance. Mr. Chairman, we urge you to work with all interested parties to act expeditiously to locate state funds in order to match the allocated federal monies. We feel that releasing these funds and securing sufficient additional funds should be given the highest priority.

When the Pinelands National Reserve was created it was a cohesive plan between federal, state, and local authorities working along with national and local environmental organizations and local land owners. Save America's Forests urges you to continue the strong protection of the Pinelands National Reserve in the unifying manner in which it was originally designated, without weakening the Pinelands Commission.

Sincerely,



M. Dianell Dreibelbis

RUTGERS ENVIRONMENTAL LAW CLINIC

15 Washington Street
Newark, New Jersey 07102-3192
Room 334
(201) 648-5695
(201) 648-1249 (FAX)

Rutgers, The State University of New Jersey
School of Law-Newark

T E S T I M O N Y

of

William C. Sullivan, Jr.

**Public Hearing Regarding Implementation of the Pinelands
Protection Act of 1979;**

December 15, 1993; Mays Landing, New Jersey

Good afternoon. My name is Bill Sullivan. I am a staff attorney at the Rutgers Environmental Law Clinic and a native of Burlington County. I am here today on behalf of the Environmental Defense Fund (EDF) and the Natural Resources Defense Council (NRDC). These national organizations, with over 300,000 members, work on important environmental issues throughout the world. In addition, these organizations represent over 10,000 New Jersey residents who are very concerned about the quality of our environment, including the protection of the priceless natural resource known as the New Jersey Pinelands.

I. THE PINELANDS ARE A NATIONAL MODEL FOR APPROPRIATE LAND USE PRESERVATION.

The National Parks and Recreation Act of 1978, which created the Pinelands National Reserve, and the state Pinelands Protection Act established the Pinelands Commission, which developed land-use

Edward Lloyd, Esq.
Director

Margaret M. Hayden, Esq.
Staff Attorney

William C. Sullivan, Esq.
Staff Attorney

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regulations in its Comprehensive Management Plan. Designation of the New Jersey Pine Barrens as the nation's first National Reserve represented the application of a new concept in land preservation and protection.

While the reserve involves sizable land acquisition, the concept differs from a more traditional park concept in that it seeks to direct, regulate, and mitigate the effects of an increasing human population on a regional ecosystem basis rather than affording absolute protection in a designated park area with no controls outside the park boundaries. This approach represented a fundamental change from traditional natural resource protection efforts. This approach has become a model across the nation for balancing the interests of environmental protection and economic growth. Another part of the Pinelands approach that is a national model is the transfer of development rights program, which provides value for use-restricted land while focusing development in areas where it is appropriate.

The basic strategy of the Comprehensive Management Plan is to create various categories of land use based on existing natural features, cultural features, existing land use, and projected needs. Each land use type has a distinct set of rules governing the types of land use allowed. Permissible density of housing units is quite variable, whereas maintenance of high water quality standards is rather strict, regardless of land use type. The Preservation Area District, which forms the core of the Preservation Area, has the most restricted allowable land uses.

The incorporation of an ecosystem approach into the strategy

for the preservation of a significant portion of the Pinelands is particularly important. This makes control of water quality more feasible and also protects the estuarine and nearshore waters of the river, which are important fish and shellfish resources.

Another reason for a large-scale, regional approach is that the units of land which are protected must be sufficiently large to include genetic diversity of the populations and to allow for gene flow between populations.

Pinelands planning and management today accomplishes these objectives, while recognizing the critical importance of agriculture, recreation and tourism to the economic survival of the region. For all these reasons, Pinelands management is a model for similar regions nationwide and we should be proud of it.

II. THE PINELANDS HAVE UNIQUE ECOLOGICAL VALUE.

The New Jersey Pinelands comprise a mosaic of upland, aquatic and wetland environments. The high sand content in the soil allows for rapid nutrient movement to plants. Tidal rivers, shallow lakes, and swamps enhance the diversity of the region. Many species found in the Pinelands are considered to be rare, endangered, or threatened. Both Federal and State legislation cited the expanse of the forest, pristine water and air, and rare species as features of the Pine Barrens worthy of preservation. The Pinelands are a unique and priceless ecosystem which must be protected.

III. THE PINELANDS LEGISLATION AND PLAN PROTECT ECONOMIC RIGHTS OF

PRIVATE OWNERS.

The federal and state legislation sought to maintain the economic viability of the Pine Barrens. Thus, the federal and state laws did not restrict overall development in the Pinelands region. However, all economic activities must be compatible with the unique ecology of the Pine Barrens. Both acts encouraged economic activities, especially agriculture, horticulture, and recreation, by requiring the "protection and enhancement" of "those indigenous industries and commercial and residential development which are consistent with... the purposes and provisions" of the act.

The state legislation recognized "pressures for residential, commercial, and industrial development" as threats to natural resources. Nevertheless, the state legislation made special allowances for those who owned land prior to February 7, 1979, for construction of single-family residences meeting certain criteria. Thus the act recognized the right of individuals to use their land, within guidelines, for their own purposes. The TDR program also compensates landowners for restrictions on the use of their land, while focusing development to the growth centers in the region.

Pinelands preservation has protected property values as well as environmental values in the pines. Because of the unique and fragile ecosystem in the pines, inappropriate development on a property can adversely affect not only adjacent properties but the entire ecosystem in the pines. The loss of the ecosystem through contamination or overloading can destroy the value of all property in the pines. It is also noteworthy that the public investment in

the purchase of lands in the pines enhances the values of adjacent and nearby lands. The proximity of preserved and protected natural areas increases the value of property. In addition, pinelands preservation has protected the economic vitality of the cranberry and blueberry farms in the region which depend upon the unique ecosystem in the pines. Finally, the preservation of open space and natural resources promotes tourism in the area. Ecotourism, or travel and entertainment by those seeking to protect the environment, is one of the fastest growing sectors of the tourism industry. In summary, pinelands preservation promotes economic as well as environmental values. Both should be enhanced by continuing to protect the unique ecosystem that is New Jersey's Pinelands.

There will always be those who say that any government regulation unfairly penalizes their property rights. It is one of the jobs of good government to determine when those legitimate rights must be limited to some extent for the greater social good. Almost 15 years ago, the government of this State made the difficult, but responsible decision to apply that kind of regulation to New Jersey's most unique asset, the Pinelands. Nothing has changed since 1979 to warrant any major revision of that regulatory framework.



NEW JERSEY STATE LEGISLATURE

SENATOR
JAMES S. CAFIERO
3319 NEW JERSEY AVENUE,
SECOND FLOOR
P.O. Box 789
WILDWOOD, NJ 08260
(609) 522-0462
FAX (609) 522-0428

LEGISLATIVE OFFICES
1ST DISTRICT
CAPE MAY-PARTS OF ATLANTIC
AND CUMBERLAND COUNTIES

ASSEMBLYMAN
FRANK A. LOBIONDO
SUN NATIONAL BANK BUILDING
226 WEST LANDIS AVENUE,
THIRD FLOOR
VINELAND, NJ 08360
(609) 691-3004
FAX (609) 691-3234

ASSEMBLYMAN
JOHN C. GIBSON
2087 SOUTH SHORE ROAD
SEAVILLE, NJ 08230
(609) 624-1222
FAX (609) 624-0244

January 21, 1994

The Honorable William L. Gormley
1333 Atlantic Avenue
Suite 303
Atlantic City, New Jersey 08401

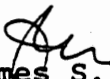
Dear Senator Gormley:


As previously discussed with Ida of your staff, enclosed please find a copy of a letter we recently received from Mr. Barry O. Horner of Waretown, New Jersey.

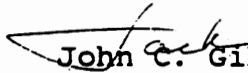
As you will read, Mr. Horner is requesting that his letter be included in the minutes of the Pinelands hearing held on December 15, 1993, at Atlantic Community College.

Thanking you in advance for your time and consideration in this matter, we are,

Sincerely,


James S. Cafiero
State Senator


Frank A. LoBiondo
Assemblyman


John C. Gibson
Assemblyman

JSC/FAL/JCG:tn

Enclosure



12/27/93

Senator Wm. Hornley
1333 Atlantic Ave.
Suite 303
Atlantic City, N.J. 08401

Dear Sir:

I am hereby asking that the following facts and figures, be made a part of the Pinelands hearing, held 12/15/93 at the Atlantic Community College. I was unable to address the hearing.

The following facts, which can be documented by letters and court transcripts, will show how the Pinelands Comm., and specifically Mr. Wm. Havis Assistant Dir., have nearly bankrupted and in other personal ways, have tried to steal our family's property, by destroying our family:

1. 1978/1979, Wm. Havis, under the Pinelands interim Comm., tried to have our building per for our new home revoked, then held up sale of (3) 5.5 acre parcels, that had already been subdivided and approved prior to the Comm. existence. Nearly 2 yrs were lost, we had to redo our septic system and environmental case

ments were imposed on our ③ parcels we had contracts on and we lost thousands of dollars in having to renegotiate with buyers.

2. 11/23/83 - Tup. Police Dept., under the request of the Tax Assessor, issue a summons against our family farm, for cutting trees, without a permit, which was exempted under their ordinance when a Mgmt Plan was involved, and later thrown out of court.

3. 1983/1984 - State Tax appeal, for Founland Assessment, under our Forestry Mgmt. Plan, which was originally done by the NS Forestry Dept, under B.F.P. Tup. Assessor brings Mr. Van. Harrison, Polds Comm. in to testify against us once again, but the judge rules in our favor, stating the Polds Comm.'s letter said our Mgmt Plan was received by them and approved.

4. 1985 thru 1991 - constant harassment by Tup. Assessor, Tup. Police Dept, and Polds Comm. (1991-1992, constant plane and helicopter low flights over our property by Tup. Police Chief, Polds Comm., DEPF, Army

structure. We only received orders again to tear down the dike holding the irrigation pond.

11. October, 1991, our farm is raided by a party of 14 people, with a search warrant with State Police, armed, Mr. Howell, Paldi Comm. Army Core, DEPE, Mr. John Higgins who claimed he is heading the search. They finally leave after issuing us a summons for putting broken concrete in state waters. Also in the party was NDEPE, dam safety. I asked while they were here, to investigate the deplorable condition of the dam on the now County Park property, just upstream from our farm, that I have been complaining about for years, since it held back 60 acres of lake and was held together on the dike with old carpet, bags, boards, tin, etc. During the record rain of the summer of 1991, we received nearly 14" of rain in 3 1/2 hours, and the care taken at the County park property, for the 2nd time in 5 years, pulled the boards, without even calling us, to save their failing dam and caused extensive damage to our dam, but our dam held and saved a bridge on 532, another

Core of Engineers, U.S. Fish and Wildlife Service, etc. During the years 1985 to 1989 we tried to obtain approval for a Campgrounds on a small portion of our farm property, but every time we met new Bnlds requirements (such as a prehistoric study, where there was no state or Bnlds documentation), Mr. Harrison and the Bnlds Comm. imposed new restrictions and requirements, to the point that most Eng. firms would not work on the project, and the ones that would wanted over 1,000,000. plus, just for the engineering part. We dropped the plans.

5/2/91
5. The Jup. code enforcement officer, ordered by the powers to be, puts a stop work order on our new barn, for not having a permit, while we had thousands of dollars in materials exposed to the weather, all done while the regular Bldg. inspector was on Vac. We showed our Bldg. permit and our lawyer had to threaten legal action; they removed Stop Work Order.

6. May, 1991, code enforce. officer along with Sgt Howell, Bnlds Comm. field inspector, enter onto our posted property, without a call, letter,

- notice or request. My wife is very upset, she alone, threatens to call Police, they leave, stating they think there is a violation of broke small pcs of concrete on the sides of our dike of the farm irrigation pond.
7. 6/17/91, letter from Mr. Wm. Harrison, Orlds Comm. telling us to destroy the dam holding our irrigation pond on our farm.
8. June-July, 1991, we start receiving threatened letters from every state and federal agency you could think of, all copied to Mr. Harrison Orlds Comm.
9. July thru Oct, Mr. Harrison, Orlds Comm, continue releasing Press articles with lies about our property and our family.
10. Our attorney write letters to Orlds, Mr Harrison and Army Corp, stating that our deeds and other info, show that our pro-ported newly constructed 100 acre lake is actually 25 acres and was maintained as a Cranberry bog and water driven, sawmill, by our family in the 17' and 1800's and that we only repaired the pre-existing

evacuation route for the Oyster Creek Nuclear Gen. station. I was told by members of the raiding party, that was none of my business, they were only here to check on violations.

12. 7/24/92, Certified letter received from Wm. Harrison, stating our Forestry Mgmt Plan is in violation and we are not to do another thing on it.

(Docket No. L-165-92)

13. 7/26/92 Trial starts on fake charges, In 1st 3 hrs., of trial Judge Barbara Villaro, Superior Court, Toms River, reprimands the state for obtaining a speedy trial, by giving false info, i.e. (our dam was eminent Public Safety and Danger) and having a restraining order filed against us. Judge Villaro orders D A B to have withdrawal on consent on her desk by noon, that day. Trial goes on for ② plus weeks, ③ times the judge stops the trial, suggests to the state, that it be settled, each time, Mr. Harrison responds through D A B, we the Olds Comm., will settle for nothing. During the trial Mr. Wm Harrison and Mr. John Heggins perjure themselves, a number of times before the judge with outright lies, to push the case forward.

Mr. Harrison, under oath, "he knew nothing about our farm assessment or our property, he had taken part, in testimony, against our farm assessment state tax appeal 10 yrs prior or (3) days before the trial, sent a cert. lett stating our Forestry Mgmt. Plan was in violation. Mr. Higgins lied to the court and stated he did not order the state Maine Police to issue a summons against us on the day of the raid, by the secret party, for placing concrete in state water. This false charge was also withdrawn by the state, during the early part of the trial.

14. Trial ends, Judge rules against the Public Comm. on charges brought, and against DEP with the exception of D item. She orders DEP to provide an inexpensive, not lengthly avenue, for us to register our repaired dam with the state, then present, D A C, Gaur Shirali, said she sees no problem, after months past and the state refuses to act in fact, D A C James Murphy, under pressure from Wm Harrison, is ordered to file motion with Judge Villano, requesting she reconsider all of her decisions and directives and that they were not correct. The Judge denies the

states motion and under final ruling, states "since the state refuses to act on her (D) small request, there is nothing left, totally ruling in our favor.

15. D A B tells our attorney, the state will not appeal, he has been assured, Dec., 1992

16. April, 1993, under pressure again, from Wm. Harrison, state files a late appeal, (31) days past the (15) day grace period for filing.

17. May 13, 1993 - appeal is granted to state in lieu of only (1) day late filings ever shown in test cases.

18. May 12, 1993 - Our attorney receives a letter from Army Corps, Mr. Michael Hayduk, stating that even though they had early on turned the case over to the state to handle, and since the state had lost the case, that they now intend to file a federal case against us.

(July, 1993)
19. Meeting held in Phila, Army Corps office, with myself and our attorney, stating that

we will show under court transcripts, that a top DEPE official, testified that our irrigation pond pre-existed and that our repairs pre-dated any statute violations and that the New Jersey Farm Bureau, the NJ Agric Dept. and a Federal Organization, will be supporting our case. To date no further action has been taken.

20. Awaiting appeals case, which may be ③ to ⑤ years, charges by the state, still hanging over our property,

21. Between June and Dec., 1993, Wm. Harrison directs, local officials to rezone, the Pond zoning, all around our farm property, but under Mr. Harrison's orders to exclude our property. I protest in open public meetings and I am told by top attorney, Mr. Jerry Waste, to contact the Ponds Comm., that the Comm. demanded that it be done the way and there is nothing the top can do.

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The state, to date, has spent nearly 1 million dollars in this most recent witch hunt against us, mainly orchestrated by Wm. Harrison, Pauls Comm, and John Higgins, DEPE, Pomona office. Our family has been strapped with over \$50,000. in legal bills and has caused 2 of our sons to drop out of college and nearly caused my wife to have a nervous breakdown. Our family has been in this region, since the 1600's and we have lived war dead, in Wartown, that we still live in, from the Civil War all the way up to my dead brother from the Vietnam War. We are not about to stand still and not fight back against violations of our Constitutional rights by arrogant tyrants, like Wm. Harrison, John Higgins and the Pauls Comm.

We respectfully ask that these facts be made a part of the Pauls Hearing and we further ask that an investigation be initiated into the great waste of the taxpayer funds and the near Communist actions by the Pauls Comm., and very specifically Mr. Wm. Harrison.

All of that information and facts

contained in this letter can be backed up by court transcripts, letters, etc.

In closing, we respectfully, again, request that action be taken in this and related cases and please contact our family if any additional information is needed or if a meeting is necessary.

Sincerely,

The Holner Family
 Barry O. Holner
 713 Wells Mill Rd.
 Wauatona, N.J. 08758

CC: Congressman Vm. Hughes
 Cert. Mail - John Tammaly, Off. of Legislative Services
 Steve George, Pres. N.J. Farm Bureau
 Senator Bill Bradley
 Senator Frank Lautenberg
 Congressman James Seston
 Senator Jim Caserio
 Assemblyman Jack Gibson
 Assemblyman Frank Lofredo
 Art Brown, Sec'y of Ag Dept Agric.
 Press

HERB KLEIN
8TH DISTRICT NEW JERSEY
1726 LONGWORTH BUILDING
WASHINGTON DC 20518
(202) 225-6781
200 FEDERAL PLAZA
SUITE 800
PATERSON, NJ 07806
(201) 523-6152

Congress of the United States

House of Representatives

Washington, DC 20515-3008

December 14, 1993

COMMITTEE
BANKING
SUBCOMMITTEE
HOUSING AND COMMUNITY DEVELOPMENT
FEDERAL RESERVE SUPERVISION
REGULATION AND REPORTS
ECONOMIC GROWTH AND CREDIT FORMATION
SCIENCE, SPACE, AND
TECHNOLOGY COMMITTEE
SUBCOMMITTEE
TECHNOLOGY, ENVIRONMENT
AND AVIATION
ENERGY

The Honorable William Gormley
133 Atlantic Avenue
Suite 303
Atlantic City, New Jersey 08401

Dear Senator Gormley:

I am writing to express my concern over the fate of one of our state's most valuable natural resources, the New Jersey Pinelands.

As you know, the Pinelands are inhabited by many rare and endangered species of plant and animal life and are home to the Kirkwood/Cohansey Aquifer which holds an estimated seventeen trillion gallons--one of the largest aquifers on the continent. In 1983, UNESCO (United Nations Educational, Scientific, and Cultural Organization) designated the Pinelands an International "Biosphere Reserve"--an area of unique ecological and cultural importance.

In 1978, the National Parks and Recreation Act created the Pinelands National Reserve, the country's first National Reserve. State legislation followed in 1979, which provided for the implementation of the federal bill and endorsed the establishment of the State Pinelands Commission. The Commission regulates land-use of the Pinelands' 1.1 million acres through the Comprehensive Management Plan (CMP), designed to preserve the pristine conditions found within the Pinelands while accommodating increased human use and a regulated amount of growth.

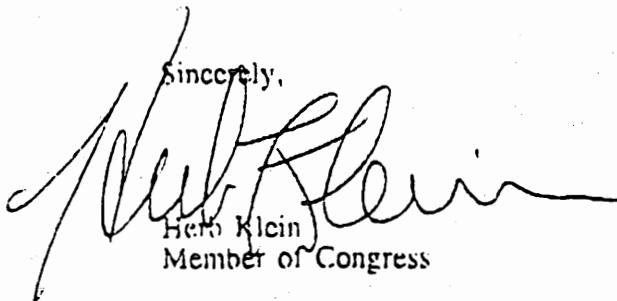
In fiscal year 1990-91, Senator Bill Bradley and Representative Bill Hughes were able to acquire \$1 million to assist those in the Pinelands whose lands, because of legislation, have limited practical use. Most of the affected sites are small; less than 50 acres. Unfortunately, this assistance has not been put to use because the federal funds require a \$1 million match from the state. To date, the necessary state funds have not been appropriated.

The New Jersey Pinelands National Reserve is a working model of a land-use plan created to protect a unique ecosystem. This plan serves as a model for other areas of our country facing similar difficulties between development and preservation. Of course, preservation has its costs. Local farmers and other landowners deserve just compensation for their part in protecting this area of global significance. I urge you to work with all interested parties to act expeditiously to locate state funds in order to match the allocated federal monies.

The Honorable William Gormley

Hopefully, we can continue to work in the cooperative spirit in which the Pinclands National Reserve was created.

Sincerely,

A handwritten signature in cursive script, appearing to read "Herb Klein".

Herb Klein
Member of Congress

HCK:pmc

93X

THE BOARD OF FREEHOLDERS

COUNTY OF MONMOUTH
NEW JERSEY

MONMOUTH COUNTY
WATER RESOURCES ASSOCIATION

Post Office Box 162
Eatontown, New Jersey 07724
Telephone (908) 542-3630
FAX (908) 542-3267

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STATEMENT IN SUPPORT OF S-1147
PRESENTED BY VINCENT DOMIDION, II, VICE CHAIRMAN OF
THE MONMOUTH COUNTY WATER RESOURCES ASSOCIATION

Senator Gormley, members of the Judiciary Committee, I come before you today on behalf of the Monmouth County Water Resources Association, a statutorily authorized body of government appointed by the Monmouth County Board of Chosen Freeholders. The Association has sixteen members. These include the Director of Public Works and Engineering, the Superintendent of the Mosquito Extermination Commission, the Director of the Monmouth County Planning Office, the County Engineer, the Public Health Coordinator, the Superintendent of the Shade Tree Commission, the Secretary/Director of the Monmouth County Park System, a representative of the Freehold Soil Conservation District and a member of the Board of Chosen Freeholders. In addition there are seven citizen members ranging from the Chairman of the Monmouth County Planning Board to a representative of a major water purveyor to a municipal health officer along with members of municipal governing bodies and representatives of environmental and civic organizations.

As you can see, there is great diversity and a high degree of professional expertise represented in our membership. And such a range is necessary to address all of the issues that arise relating to water resources. Working collectively from our diverse backgrounds we recognize that one of the most important functions of government at all levels is the responsible stewardship of essential and irreplaceable natural resources. We further recognize that there are certain times when equally legitimate environmental and economic interests may both focus on the same resource with conflicting and even mutually exclusive objectives. We do not believe that this is the case in the Pinelands.

It is widely recognized that the Pinelands sit atop New Jersey's greatest potable water reserve in the Cohansey aquifer. In a county where saltwater has intruded into the highest yielding potable water aquifer that supported a number of municipal water systems, we are well aware of the importance of protecting groundwater resources as not only environment resources but the essential resource base on

MCWRA



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MONMOUTH COUNTY WATER RESOURCES ASSOCIATION

which future growth in the state will depend.

Just like the beautiful beaches and clean ocean waters provide the base for a vigorous resort economy in Monmouth County, the Pinelands represent a major recreational resource providing substantial opportunities for development of a native industry throughout southern New Jersey that will not be subject to shifting market forces in the evolving global economy. Industries based on the benign use and preservation of a natural resource will have a lasting value for the state as opposed to transient economic activities that have a finite life-span and leave a degraded resource behind them. The ongoing efforts of many of our constituent members, and many others inside government and out, to clean and preserve the waters of Monmouth County and the resurgent shore economy that has resulted should provide ample testimony to the potential for natural resources to contribute to sustainable prosperity.

This brings us to the specific merits of the proposed legislation before you. Just as it is clear that natural resources are not limited by national, state, county or municipal boundaries, it is clear that there is a need for consistent jurisdictional responsibilities that can guarantee the even-handed application of law that is particular to a given resource. The Pinelands Protection Act and the Pinelands Commission's Comprehensive Management Plan are designed to address the needs of a particular resource that ranges across jurisdictional boundaries. Placing responsibility and authority for the enforcement of these regulations in the hands of the Pinelands Commission makes very simple sense. The Pinelands are a vast and diverse resource that are beneficial to people living within and without them and there is a clear need to have a single unified body in which enforcement is vested and to which all citizens can look for timely and equal justice. When the same body that makes the rules also enforces them and there is appropriate opportunity for public involvement in the making of these rules, then the greatest degree of consistency should be possible. That is in the interest of the public.

In conclusion, the Monmouth County Water Resources Association supports S-1147 as being in the interest of the people of New Jersey. Thank you.

December 15, 1993

To: Members of Senate Judiciary Committee
Public Hearing 12/15/93

From: Julie Akers
P.O. Box 975, Ninth St.
Newtonville, NJ 08846
Buena Vista Township, Atlantic County
(609) 697-3479

RE: PINELANDS PROTECTION NEEDED

Dear Honorable Senator Corrado
Honorable Members of Senate Judiciary Committee;

I work with the Great Egg Harbor Watershed Association, the South Jersey Chapter of the Sierra Club, Pinelands Preservation Alliance, and chair my township's Environmental Commission. I do not speak for all members of any one of these groups. I am also a self-employed remodeling contractor and live and work in the Pinelands.

I feel privileged to live in the Pinelands. This area is a unique area that will stay this way only if it continues to be protected. "Protection", however, is the concept that will always have different versions of interpretation. I feel the following points need to be addressed to guarantee that the Pinelands will remain an irreplaceable treasure for people, wildlife, and all the other unique resources.

1. The Pinelands Comprehensive Management Plan has laid out protection measures which are periodically reviewed. If studies are needed to determine how a specific use may or may not affect the Pinelands, they should be given priority for funding and changes incorporated.

2. People want to be treated fairly. "Fairness" includes equal and timely enforcement of the regulations (to eliminate those violators that continue their violations for years). It also means that individuals have applications processed or questions answered as efficiently as possible. And means for compensation for loss of use of one's land should be ~~x~~ made a priority for funding and availability.

3. Through my experience with the Wild and Scenic River studies of the Great Egg Harbor and Maurice Rivers, I feel that many local people like the area we live in and want to "keep it that way". Regulations are in many ways only as good as people's commitment to follow them. Some control for adherence presently in Pinelands Commission hands could be turned over to municipalities for more local control and responsibility. However, the Commission still should maintain comprehensive overview of the entire region.

Thank you for your concern for our Pinelands.

96X
Put on ^{State} ballot : referendum for 7% tax to purchase lands and/or devel^{use} rights.
(esp. Highlands area, Pinelands small properties)

The Allegheny Society of American Foresters

NEW JERSEY DIVISION



December 15, 1993

N.J. Div. Society of American Foresters
Craig Kane, Vice-Chairman
310 Ernest Garton Road
Bridgeton, NJ 08302
(609)453-8696

William L. Gormley
1333 Atlantic Avenue
Atlantic City, NJ 08401

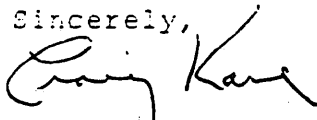
Dear Senator Gormley:

The Society of American Foresters (SAF), New Jersey Division represents the forestry profession in New Jersey and has an interest in the development of a solution to forest management issues in the Pinelands. Decisions regarding policy and management of the Pinelands are recognized by SAF as issues of regional importance.

The New Jersey Society of American Foresters put its members' talents to use in the Pinelands review process and respectfully submits the following comments.

We will be glad to help should you have questions or require follow-up information.

Sincerely,



Craig Kane
Vice-Chairman



Alliance for a Living Ocean

P.O. Box 95, Ship Bottom, New Jersey 08008

December 13, 1993

Senator William Gormley
133 Atlantic Avenue
Atlantic City NJ 08401

Suite 303

Dear Senator:

The Alliance for a Living Ocean, based on Long Beach Island, supports completely the Enforcement Bill and the Pinelands Protection Act.

Only with a protected Aquifer can clean water quality be maintained throughout the watershed.

We look for your support on this issue.

Thank you,

Joan Koons, President
Board of Trustees
Alliance for a Living Ocean

98X



By telecopy to 609-340-8349

December 14, 1993

David J. Bardin
Tel: 202/857-6089
Fax: 202/857-6395

Honorable William L. Gormley
Chairman
Senate Judiciary Committee
The State House
Trenton, NJ 08625

Dear Mr. Chairman:

I am writing in my individual capacity and as a former Commissioner of Environmental Protection, and not on behalf of anyone else, including the Pinelands Preservation Alliance which I have the honor to serve as a Trustee. Although it has not proven possible for me to attend your Committee's December 15, 1993, hearing at Atlantic County Community College, as I would have wished, this is to request inclusion of my letter in the Committee hearing record.

The hearing addresses "State and federal regulations affecting the Pinelands." This refers, as my Attachment sketches, to a carefully balanced and intricate set of provisions developed at the state and federal levels after intense controversy, extensive lobbying, public debates among sincere, conscientious people that involved all interested segments and led to true legislative compromise in the finest bi-partisan spirit. These are laws in which the Legislature and the New Jersey delegation to the Congress of the United States may justly take pride.

At the outset, let me compliment you, Senator Gormley, for your interest in assuring that these existing laws are working. I believe that the record will convince you and other fair minded observers that they are, notwithstanding loud, sweeping contentions to the contrary by a few.

One of the reasons the present structure works is the fit between the Comprehensive Management Plan ("CMP") and other federal and state elements.

- Thus the Pinelands Infrastructure Trust Bond Act which you sponsored supported funding for development of areas the CMP determined should be developed.
- Thus federal funding, authorized at \$40 million (and all but \$9 million already appropriated), supported the acquisition programs called for by the CMP to the benefit of all the people of New Jersey. These federal funds were made available as part of the intricate *quid pro quo*. The Legislature owes it to the taxpayers of New Jersey to be particularly careful to eschew new state laws that might possibly require New Jersey to forego any such sums or, even, repay them to the federal government.

Prudent Legislative review is mindful of the wise maxim: "If it ain't broke, don't fix it." The regulations governing the Pinelands are working, and the few

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Arent Fox

Honorable William L. Gormley

December 14, 1993

Page 2

"kinks" are being ironed out pursuant to existing legislation, further evidence that the statutes and rules which regulate the Pinelands do work.

They are widely admired throughout the country and held up as a model outside of New Jersey. They are flexible, with a CMP that provides for periodic review and revision by the Pinelands Commission. Indeed, the Pinelands Commission is well advanced in its second five-year cycle of Plan Review. A significant number of changes are in the process of being made in order to simplify procedures and adjust some of the requirements and get the "kinks" out of the CMP. The Commission's process involves extensive public hearings and input -- and there has been an impressive turn out in fact of individuals and groups whose interests are at stake. The Legislature has every reason to await and look forward to the outcome of this Plan Review Process.

One area which the Pinelands Commission is not able to handle right now is that of the Limited Practical Use ("LPU") program already provided for by federal law and state Pinelands rules and backed by a federal appropriation of one million dollars. It appears that we need some extra push to get the legislated LPU concept to perform as intended in hardship cases. I am uncertain to what extent that push requires a matching appropriation of New Jersey funds, or some other solution at the state or federal level, but where there is a will, there must be a way. I am therefore delighted to learn that Congressman Bill Hughes, the Dean of the New Jersey Congressional Delegation, will be participating in your hearing. He has been in the forefront as to the LPU concept. I feel confident he will be able to enlist any necessary support from New Jersey's Senators and its other Representatives with respect to federal actions, as you will with respect to any needed state measures. 1994 seems the right year to make sure the LPU program works.

In the past, the Legislature has also considered proposals concerning more effective enforcement of Pinelands Commission decisions. Although the issue has not finally been resolved, there are a number of ways of approaching it and the Committee may do well to defer that matter until after Governor Whitman and her new Attorney General take office and examine the best administrative and judicial solutions to this practical problem.

Continued balanced and conscientious implementation of the New Jersey statute by the Pinelands Commission should be the public's priority concern. That offers the best way to carry out the objectives of state and federal law, protecting the interests of the citizens and taxpayers of New Jersey.

Best personal wishes
Faithfully,

David J. Bardin
David J. Bardin

cc: Honorable William J. Hughes
(by telecopy to 609-927-9339 and 202-225-8530)

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ATTACHMENT:
BRIEF HISTORY OF FEDERAL AND STATE LEGISLATION
REGARDING THE NEW JERSEY PINELANDS *

The New Jersey Senate Judiciary Committee is reviewing areas of state and federal legislation concerning the Pinelands. This attachment summarizes the origins of the state and federal laws as to the New Jersey Pinelands Area controlled by the Comprehensive Management Plan (CMP) and the slightly larger New Jersey Pinelands National Reserve established by federal law. It is a history of debates and disagreements among sincere and conscientious people combined with compromise and consensus building to achieve balanced, public interest goals.

Today, these laws and their implementation are widely regarded as a model of what works. This was not always so, under the preceding body of legislation.

The first New Jersey legislation did not provide a sound balance; it consequently led to confrontation and impasse, and it did not work. The Pinelands Environmental Council created under P.L. 1971, c. 417 (N.J.S.A. 13:18 *et seq.*) produced an excessively permissive Plan, in the judgment of the Commissioner (giving municipalities a free hand to permit, among other things, unlimited 1-acre spacing residential development anywhere in the Pinelands). The Commissioner vetoed that Plan in 1975. That veto was followed by several studies and measures, including: studies (by the U.S. Department of the Interior in 1976 and its National Park Service in 1978), water quality regulations (by the N.J. Department of Environmental Protection in 1977 setting a nitrate-nitrogen point source discharge standard), and a Gubernatorial Pinelands Review Committee (in 1977), which was followed by an Executive Order (in 1979).

At the federal level, three proposals (by Congressman Florio, by Congressmen Hughes and Forsythe, and by Senators Case and Williams) stimulated enactment of framework legislation. On November 10, 1978, the President signed into law the National Parks and Recreation Act of 1978 (PL95-625; 16 U.S.C. 46i *et seq.*) section 502 of which established the Pinelands National Reserve. That law represented a bi-partisan compromise and a bi-partisan commitment. Three alternative proposals were resolved. Representatives of local governments and of the agricultural, development and environmental communities were heard. And a federal framework law, coupled with the promise of extensive federal funding of acquisitions by the State of New Jersey, was put in place. The New Jersey Legislature responded the next year, after intense lobbying and compromise. The Pinelands Protection Act, P.L. 1979, c. 211 (N.J.S.A. 13:18A *et seq.*) created the present, 15-member Pinelands Commission, balanced between seven gubernatorial appointments, seven county appointments (by the County Executive or the Board of Chosen Freeholders, as the case may be), and one federal appointment (by the Secretary of the Interior).

Related provisions and appropriations funded local planning in harmony with the CMP. And the first CMP itself created a periodic Plan Review Process, recognizing that kinks would be identified and a need for changes would become evident with experience. The first CMP was adopted in 1981. The Pinelands Commission is now completing its second, five-year Plan Review Process.

* See Catania, "The Pinelands Plan at Ten," in New Jersey Reporter (Jan/Feb 1991) at 18; Collins & Russell, PROTECTING THE NEW JERSEY PINELANDS (Rutgers 1988).

December 15, 1993

Statement for Senate Judiciary Committee

Sally Dudley, Executive Director, Association of New Jersey
Environmental Commissions

State and federal legislation affecting the Pinelands

I am here today to support the Pinelands Protection Act and
its implementation.

It is in the public interest of New Jersey to protect the
natural resources of New Jersey's only National Reserve.
Polls have consistently shown that the people of New Jersey
support Pinelands Protection. The most recent survey shows
that 80 percent of the public favors stricter standards for
the Pinelands.

The Pinelands Protection Act exemplifies a rational approach
to how we use our land: it guides us to build what needs to
be built, save what needs to be saved. The Pinelands
Protection Act has steered development away from sensitive
wetlands and valuable forests. It has encouraged development
in areas where there are sewers and roads to support
population and employment. The net result is economically
beneficial for the residents of the Pines and for the
citizens of New Jersey.

The Pinelands Protection Act benefits municipalities by
providing consistent standards among municipalities and
between municipalities and higher levels of government. It
preserves municipal equity by preventing higher levels of
government from building projects that violate local goals.
Public development projects like roads and landfills, for
example have to meet the same kinds of planning standards as
municipalities. Local governments have a forum to discuss
these projects and an opportunity for some measure of control
when these large scale and often unwanted projects are
proposed for their towns.

The Pinelands Protection Act also has helped municipalities
preserve a rural life style that many NJ citizens envy. It
has preserved the special qualities of the Pines against the
onslaught of suburban sameness that has engulfed so much of
the rest of New Jersey. Towns in the Pines have a character
and sense of place that too many municipalities lack. And in
the words of one local official, "The Pinelands Protection

Act has kept development from running away with the Pines."

Protecting the natural resources of the Pinelands also supports jobs in the tourism industry. The Pines is one of New Jersey's major tourist attractions because of its forests, streams plant and animal habitat. If those natural resources are allowed to deteriorate, the canoes, the hikers, the birders won't come to the Pines anymore. Jobs and revenues from recreation and tourism will decline.

In closing I would like to request that the Committee keep the record open for 30 days. The timing and location of this hearing has made it difficult for many interested citizens to attend. We believe it is important for the Committee to obtain as much information as possible on this critical issue and believe that keeping the record open will give all interested parties opportunity to get their data on the record.

The Association of NJ Environmental Commissions (ANJEC) is a state-wide educational organization with more than 2100 members and Trustees representing all 21 counties. Our mission is to promote the public interest in long term natural resource protection and sustainable development. We have supported the Pinelands Protection Act in the past and support it today as a model for the state and nation.

21 Killow-Hay
Aiso, N.J. 08004
Dec. 15, 1993

To: The New Jersey Senate Judiciary Committee

From: Marilyn Beard, above address,
Present at the Judiciary Committee Hearing

I am a member of a So. Jersey Hiking Club of 2,500 people. We enjoy the peace and serenity of the Pinelands trails and waterways, and believe that the Pinelands belongs to everyone, not special interests.

It seems to me that you have little choice but to protect the Pinelands since it has been designated a NATIONAL, and I emphasize NATIONAL, reserve. A representative of the U.S. Dept. of the Interior attends Pinelands Commission meetings. Since the purpose of the Pinelands National Reserve Act and its agent, the Pinelands Commission, is to protect the Pinelands, it appears that there should be immediate passage of the Enforcement Act giving the Pinelands Commission enforcement powers to quickly respond to and punish violations. Here again, in my opinion, you have little choice but to pass the Enforcement ^{§ 1147} Act to help the Pinelands efficiently carry out its mandate to protect the Pinelands through the Comprehensive ^{Management} ~~Plan~~ Plan.

It is true that the Pinelands Commission re-evaluates the Comprehensive ^{Management} ~~Master~~ Plan periodically and makes revisions when necessary, but this can be likened to making alterations on a suit of clothes or adding a porch to a home, changing the paint color, etc. The suit is the same suit, the house is the same house.

Ultimately, the goal remains the same. Let the Pinelands Commission do its work, which it is conscientiously trying to do - protecting + preserving the Pinelands for us and for posterity. Period.

Marilyn D. Beard

104X

Good afternoon, my name is Christian Bethmann and I am the Superintendent of Lebanon State Forest. I work for the Division of Parks and Forestry, the agency which has preserved some of the best the Pine Barrens has to offer while allowing for appropriate public use for almost 90 years. I believe that regulation of the Pinelands is appropriate if implementation of the regulations can achieve the goals stated in the original Pinelands Comprehensive Management Plan.

The original Comprehensive Management Plan (CMP) stresses the need for coordination of policies and programs of local, State, and Federal government with the Commission. It provides for review of all public sector development unless the agency has entered into a memorandum of agreement with the Commission. The Division of Parks and Forestry submitted a Pinelands Regional Recreational Management Plan to the Pinelands Commission in 1982 in an attempt to establish a memorandum of agreement. It was not until last year that they agreed to provide one, along with a list of requirements for environmental assessments. We are still waiting.

The Division has recently applied to Pinelands for a waiver for wetlands in order to restore the Double Trouble Sawmill. This waiver was requested in order to underpin the existing foundation by increasing the size of the existing footing by 6 inches. In order to do this the Pinelands staff advised that the Division must buy one half a Pinelands Development Credit at a cost of approximately \$10,000. The Division balked at this request citing the fact that A. we are trying to preserve an existing historic building in the Pinelands in accordance with the goals of the CMP, and B. the Division would possess more than 4700 development credits were it not for the fact that credits for State owned land are either severed by the owner prior to sale or are automatically severed upon acquisition. It is inherently unfair to give away credits which the State must then buy at a later date. Pinelands staff acknowledged that we had a good argument, and that they would try to come up with legislation that would enable them to loan us credits and then take them back when the project is completed. This issue has not yet been resolved.

Projects which are proposed on State owned lands are held to a higher standard than private lands. This is proper, as long as the test used is substantial compliance once every reasonable effort has been made to comply, not absolute compliance. I cite two examples to prove this point.

The Division of Parks and Forestry requested permission to build a new office/maintenance complex at Atsion, to remove intrusions from an historic building and better serve the public. Pinelands advised that the original site we chose was home to and endangered plant. Pinelands staff then suggested an alternate site which had previously been disturbed. When an application was submitted for that site we were told it was too close to wetlands. We then designed an adaptive reuse of an existing historic structure with the approval of the Historic Preservation Office and all other State agencies. This was turned down since the depth to the water table at this site was 4'-11" where 5' is required. When we offered to build a raised septic bed, similar to those approved elsewhere in the Pinelands, we were told that would not be acceptable. To date the State has spent \$125,000. and we are no closer to a solution.

Burlington County has criticized the canoe access point at Evans Bridge on Rt. 563 as a traffic hazard. Canoeists frequently walk across the road, and vehicles park very close to passing traffic. The Division applied to Pinelands to move the parking area to an existing clearing a few hundred yards from Rt. 563 on an existing road. During the on-site review by Pinelands staff they agreed with this concept. The project involved only minor improvement of the existing gravel road and parking area, which would be done by Wharton Forest employees. A site plan was prepared by our own licensed landscape architect and provided to Pinelands. We received a letter from them requesting a survey by a licensed surveyor along with plans by a licensed engineer. Lacking the funds to do this the project died.

It should be noted that these projects and many others were never formally denied by the Pinelands Commission. Many public and private applications are delayed by repeated requests for incremental bits of additional information, before the application can be deemed complete. Alternatively the Pinelands staff advises that they cannot recommend the application to the Commission for approval. The end result is identical, as no action is taken. The application either was never complete or withdrawn with no denial. Until Pinelands is held accountable for all applications, formal action is required on all applications, guidelines for application requirements are provided to applicants, and an absolute deadline established the true effect of Pinelands regulation can never be known. The existing system seems intentionally designed to frustrate applicants who are provided minimal information, and are warned that questions or phone calls will delay action on their application.

Forestry is one of the least understood sections in the CMP. The original CMP called for forestry review to be performed by the State Bureau of Forestry. Pinelands has added another layer of review - theirs. Applications for forestry activities made by the Division of Parks and Forestry are reviewed by the Office of Natural Lands Management, the Historic Preservation Office, and the Division of Fish, Game and Wildlife. They are then reviewed by the Pinelands staff with the assistance of volunteers who frequently raise issues which the Division review has already addressed. Nothing can be done until we attempt to educate everyone involved and explain in detail our rationale. If Pinelands chooses to disagree, permission is denied.

It becomes obvious that forestry activities in the Pinelands are over-regulated. Forestry is considered under both agriculture and major development in the CMP. Forestry for the sole purpose of harvesting trees and regenerating a new forest is NOT MAJOR DEVELOPMENT. Review of major development is not scrutinized as closely as forestry. I quote the fall 1993 PINELANDER, the newsletter of the Pinelands Commission. "Stafford Township has designated a municipal official to process Pinelands applications for most single family homes through its own zoning department. Based on applications submitted in recent years, several hundred applications for single family dwellings in Stafford Township will no longer need to submit applications to the Pinelands Commission." Cutting trees to plant a house will come under local review in Stafford Township. Cutting trees to plant trees will still come under Pinelands review. Which activity has more lasting effects? What are the priorities?

Newly proposed amendments to the CMP seek to require that forestry applicants, and only forestry applicants provide legal proof that they can use existing public roads for access to their own property. Pinelands staff have been requiring this in certain applications for two years prior to introduction of this amendment. State land use law guarantees access on existing roads, but Pinelands seeks to void this right for forestry applicants. All this for an activity which has shaped the Pinelands as we know it today. The CMP states that "the natural resources of the Pinelands must be preserved, protected, and enhanced, and that opportunities for traditional lifestyles that are related to and compatible with the overall ecological values of the Pinelands must be maintained." It further states that this will be accomplished by amongst other things "exploring possible incentives which encourage the use of appropriate management techniques and through public education." The existing and proposed Pinelands regulation of forestry activities provides a major disincentive to the use of appropriate management techniques. Most of the traditional wood industry has ceased to operate in the Pinelands for this very reason. If this continues, all private forestry activities in the

Pinelands area shall eventually cease, and the Commission will have failed to meet one of the goals set forth in the CMP.

I would suggest that we examine closely the goals of the original Pinelands legislation, and those stated in the original CMP to determine if they are being met. The Division of Parks and Forestry has a long standing stake in protection of the Pine Barrens and other lands throughout the State of New Jersey. We are more than willing to work with the Pinelands Commission in doing so, and hope that cooperation between our agencies can be mutually beneficial.

108X

Charles M. Chapin
Cold Brook Farm, Box 56
Oldwick, New Jersey 08858

December 11, 1993

Senator William Gormley
133 Atlantic Avenue, Suite 303
Atlantic City, NJ 08401


Dear Senator Gormley:

While a conflict prevents my attending the Enforcement Bill Public Hearing on December 15, I wanted to let you know of my strong support of this legislation and of the role of the Pinelands Commission.

Protection of the Pinelands, as put into effect in 1979, was a courageous and pioneering move. In recognizing the overarching natural and environmental importance of the pinelands area, it also recognized and sought to protect the indigenous cultural and economic landscape as well.

We should by all means try to provide the Commission with the tools it ought to have to get its valuable work done. Not to do so would really constitute a step backward, which, in my mind, would be a tragedy.

Sincerely,



109X

COALITION AGAINST TOXICS

223 Park Avenue
Atco, New Jersey 08004
(609) 767-1110

December 15, 1993

RE: **Support for Pinelands Enforcement Act**

Chairman Gormley, Senate Judiciary Committee Members:

WYNNE FALKOWSKI
CHAIRPERSON
DAVID C. COPELAND
VICE-CHAIRMAN
JANE NOGAKI
SECRETARY-TREASURER

Thank you for the opportunity to testify on the merits of the Pinelands Protection Act and the Pinelands Enforcement Act. Coalition Against Toxics, a citizens group of about 100 members in Burlington, Camden, and Gloucester Counties, strongly supports both the existing law and the proposed enforcement act so that the work of the Pinelands Commission be made more efficient, consistent, and effective.

Many of our members live on the edge of the Pinelands Protection Zone in Medford and Evesham Townships. The curtailment of development that resulted from the Management Plan, and the resulting maintenance of high water quality in our streams and lakes, has protected the land values in our towns and enabled residents to enjoy fishable and swimmable recreational lakes. The prohibition against water export has maintained groundwater at a level that sustains the unique vegetation that grows in the Pinelands - the short needle and pitchpine, the swamp maple and blackjack oak, the swamp pink and the bog asphodel. Our streams and lakes are the headwaters of the Rancocas River, which is pristine in our area but is heavily degraded by the time it meanders through 30 or more miles of Burlington County and empties into the Delaware River. Because of the Pinelands regulations, our lakes and streams have not been adversely affected by sewage treatment plant discharges or septic systems built too close to the water's edge. Our groundwater is good, although a small percentage of well owners have experienced climbing nitrate levels in their well water, caused by on site septic systems being too close to each other for adequate dilution.

In my town, Evesham Township, the southern portion of the township falls into the Protection Zone, and the northern part does not. Therefore our master plan for development, approved and accepted by the Pinelands Commission, concentrates development of all kinds of housing, office space, and commercial buildings in the northern portion of town, and limits residential development in the southern portion of the township. Agricultural use is also protected in the southern portion, which is good because every last bit of farmland in the northern part of town has been zoned and approved for development of some sort. It is amazing to me that within the confines of our town, endangered species such as the pine barren tree frog and the rattle snake are surviving very nicely because of "greenway" habitat protection, yet our town has grown from 30,000 to 50,000 in population over the last 20 years in a surge of development in the northern part of town, where the infrastructure of two major highways (route 70 and route 73) and three sewage treatment plants support such growth.

In talking to our local planning board and zoning board officials, I've learned that the Pinelands regulations have had the most effect in the planning stages, but that enforcement in the actual building stages of a development project is lacking. The effectiveness of the rules are hampered by this inability to enforce except by going to court. We therefore urge the passage of the Pinelands Enforcement Act which will enable the Commission to effectively and evenly enforce its regulations.

Sincerely,

Wynne Falkowski, Chairperson

Jane Nogaki, Secretary

110X

RE: Judiciary Committee Public Hearing on Pinelands

Cohansey Area River Preservation Board of Directors Statement, Dec. 15, 1993

Cohansey Area River Preservation (CARP), located in Cumberland County, New Jersey, is a diverse group of over 350 members dedicated to the protection of the Cohansey River and Watershed. CARP leadership, through working with citizens, legislators and environmental groups, through legal action and public comment on development proposals, has taken strong positions on projects that would adversely effect the health of the estuary, projects that were seen as ill-advised in terms of both public benefit and resource protection.

CARP's Board of Directors is particularly concerned about the pitting of development rights, of vocal mining and agricultural interests against the ecology. Perhaps our group and others have operated for too long under the assumption that actions of earlier administrations which validated the importance of the Pinelands as a resource would continue to be upheld and strengthened. This is obviously not the case. Time and again we see the whittling down of our remaining water resources, indigenous forests, and natural habitats of all descriptions. Attempts at planning, compromise, balance, and the catch word of the '90's, "wise use", have not stopped the loss of critical resources from an ever-diminishing pie. And now, again, we are confronted with a potential weakening of Pinelands protection.

It is an odd dichotomy in the most populous state in the nation that there exists a wilderness area which surpasses in size, water quality, and diversity of habitats, many of the prime wilderness areas of the American West. The Pinelands is not only pristine, but possesses an absolutely unique character, unlike any other region on the North American continent. It contains one of the largest aquifers which is the future water source for our urbanized state, and therefore has a public interest exceeding the concerns of agriculture or business developments. The attack upon the Pinelands is indicative of a concerted effort for the degradation and development of the last great wilderness tract in the state, a return to private interests over public good. Our contention is that the public good needs to be served by legislators and citizens willing to develop innovative policies which help to compensate individuals for potential development losses and restrictions related to these lands. We need a DEPE not dependent upon permit fees for funding. We need strong resource protection strategies---not a reversion to business as usual. CARP supports the Pinelands regulations, both in content and purpose, and urges our legislators to do nothing that would weaken these protections.

Fifty years ago, Harold Ickes, President Franklin Roosevelt's Sec'y of the Interior stated that he believed that the liaison between business-people and politicians would inevitably jeopardize the public welfare. He saw the rapid deterioration of the land and its resources. As he explained, "In the early days our forefathers could cut down a forest or exhaust the fertility of a farm and then blithely move on to a new forest and a new farm....The highest concept of statesmanship was to make it possible for the aggressive pioneer to possess, despoil, and then repeat the process indefinitely." This resulted in "denuded forests, floods, droughts, a disappearing water table, erosion, a less stable and equable climate, a vanishing wildlife." Half a century has passed as we're still trying to slow the process---and our concept of statesmanship has not changed.

CARP believes the Pinelands is an inestimable resource to all the citizens of the state. It needs to be recognized as such and accorded the continuing protection it deserves.

Belva Prycl: CARP Board of Directors

BERYL ROBICHAUD COLLINS
112 FAIRWAY DRIVE
PRINCETON, NEW JERSEY 08540
609-924-7118

Statement for Senator William Gormley's Hearing, December 15, 1993

In recent months you have received numerous criticisms of the activities of the Pinelands Commission and of the Pinelands Management Plan itself, particularly in relation to the regulation of development. It is important that you and all New Jersey legislators recognize that the voices of these criticisms now, as in the past, represent a small minority of the voters of New Jersey. At present, as has been true through the last four decades, New Jerseyans overwhelmingly support the actions being taken to protect the resources of the Pinelands.

A historical perspective of the evolution of development regulation in the Pinelands is necessary to evaluate properly current criticisms of the Pinelands Commission.⁽¹⁾ The existing Pinelands development regulations have their seed in the 1950 and 1960 pressures to establish a jetport in the Pine Barrens. Against almost overwhelming odds, these development pressures were resisted simply by the counter force of public opinion which did not want the Pine Barrens disturbed.

In the 1970's public opinion again rose to resist the destructive development plan put forth by the Pinelands Environmental Council. And toward the end of this decade the passage of federal and state legislation protecting the Pinelands came into being because it was strongly supported by a majority of New Jersey residents. Again, in the 1980s overcoming strong and vocal opposition from agricultural and development interests, public support won the adoption of the Pinelands Comprehensive Management Plan. It is the implementation of this plan that opponents of Pinelands protection once more are trying to undermine.

Thus, we now face in the 1990s the same demands to weaken protection of the Pinelands resources that have been with us for the last four decades. We ask that you remember that these represent only a minority voice in the state; an overwhelming majority of your voters still supports protection of the Pinelands.

Beryl Robichaud Collins

(1) This history has been completely documented in the book published by Rutgers University Press entitled: PROTECTING THE NEW JERSEY PINELANDS. The writer is an author of this book.

112X

Statement on behalf of the 500 farm families who are members of the Cumberland County Board of Agriculture.

Presented December 15, 1993.

Bills A1910, and S1147, "The Pinelands Enhancement (Enforcement) Bill", will authorize the Pinelands Commission to impose fines and penalties of up to \$10,000 per day, every day, on "violators" of its regulations and to take other actions.

The bill will greatly increase the operating budget of the Pinelands Commission, totally outside of the control of the elected representatives of the people by imposing fines and penalties on farmers and other residents of the pinelands.

The bill provides this non-elected Commission with the incentive to impose as many fines and penalties as possible on pinelands residents in order to increase its operating budget.

Violators of the Pinelands regulations are already subject to the full power of the NJ State Attorney General's division of environmental enforcement, with fines of up to \$20,000 and prison terms of up to 5 years available for flagrant violators. This seems to be more than adequate enforcement power.

Over 65% of the Violations cited by the Pinelands Commissions (1991 - 1992) were against Individual private land owners, not corporations or other large groups.

The only recourse these individuals will have against rulings by this autonomous body is legal action against the state since they can have no effect in the voting booth. The expense of this kind of legal action and environmental studies to back it up (over \$10,000 just to start) is way beyond the means of most residents. This cost precludes any effective redress of grievances that arise, since payment of the fine will be cheaper than litigating the landowners rights.

This legislation is not only not needed, it breaks the pledge that the Federal and State Governments made to the residents of the Pinelands when the Pinelands enabling Legislation was proposed and passed, that "residents in the Pinelands would not be adversely affected by the act and that they would not be harassed by government bureaucracy". Again, so much for government promises.

R. Denny Blew
President, Cumberland County Board of Agriculture

455-0926

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Doyle & Doyle
Est. 1946
New Lisbon, NJ 08064

Good afternoon members of the committee and Chairperson Gormley. Thank you for the opportunity to address you today.

My name is Dennis Doyle. I am President of the Burlington County Board of Agriculture and spokesperson for the Presidents of the County Boards of Agriculture in South Jersey. I am also General Manager of Tru-Blu Blueberry Cooperative as well as a fourth generation Pine Barrens farmer/landowner.

In a letter to the editor of the Burlington County Times of November 17, 1993, I read that "our Pinelands" must be protected and preserved. "Our Pinelands" is a concept which I have heard repeated numerous times. Resource protection in "our Pinelands" is an issue which concerns everybody who lives, works, or plays in the NJ Pine Barrens.

Even though agriculture has a few representatives who are, at least in name, included in policy making discussions their voices seem to have been "squeezed out" when the results of those discussions are unveiled. Criticisms of the Commission have gone unanswered leaving farmers in the position of being dictated to. We feel that both policy discussions and day to day business of the staff is dominated by environmental extremists. I sincerely hope that today we can start a process in which agriculture will not only be heard but also one which will allow us to prosper as a true participant in the process of protecting the natural resources of the Pine Barrens.

Agriculture in the Pine Barrens consists, to a large degree, of blueberry and cranberry growing. These crops have been cultivated in the Pine Barrens on a commercial basis since the 1850's. Cranberry and blueberry growing has profitable years and unprofitable years like any business. There are times when replacing blueberry fields with cranberry bogs would be a sound business decision. The reverse also holds true. Cropping flexibility can be a key to financial success in berry agriculture.

Cropping flexibility has been effectively done away with because of excessively strict environmental rules. The bureaucratic red tape would take years, literally, before an answer were arrived at. Only then could a farmer change the crops assuming he got "yes" for an answer. Far more likely, he would receive a request for more information leading to another

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drawn out exchange of letters, consultants fees, and professional fees. In this type of situation we have been alienated by the decision making process of how to use our privately owned land.

On a day to day basis, it's almost as if there is a feeling that farmers are not able to take care of the land. If such were the case, crop yields would not sustain the farm business, and the business would close. It is in our best interest to be good stewards of the land, to care for the natural resources-it's our livelihood!

Some farmers have chosen to abandon farming and the land due to the regulatory burden of the Pinelands Commission. The abandoned land becomes a location for illegal dumping and for other crime problems because no one is occupying that land. Taxes are raised for the remaining township residents to make up for the lost tax revenue. The extra financial burden comes on top of lack of operational flexibility-as I've already outlined. The result is economic strangulation of a town due to regulations-not by the town-but by a well-intentioned though misdirected agency. We are being squeezed out. We are being squeezed out even though we are a long standing historical, cultural, and yes, environmental part of the Pine Barrens.

When we are squeezed out the result is that "our Pinelands becomes "their Pinelands." Individuals who do not have to live by the regulations and bureaucracy in the National Preserve call the shots while local residents suffer economical impact.

I am as much a part of "our Pinelands" as someone whose sole stated goal is to protect "our Pinelands." I am an environmentalist because I have to protect natural renewable resources-that's how I make my living. I don't want to be squeezed out and have "our Pinelands" become "their Pinelands." I and others like me have too much at stake to be squeezed out of the process. Professionally and-after four generations-personally-we want to be included in "our Pinelands." Thank you.

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December 10, 1993

Senator William Gormley
133 Atlantic Avenue
Suite 303
Atlantic City, New Jersey
08401

Dear Senator Gormley,

Once upon a time the Connecticut forests were cut to provide wood for the iron smelters in the Northwest part of the State. If it was not for Senator Thompson and Mr. Edward Childs around the 1920's devoting their lives to the restoration of these forest lands today's generations would not be able to enjoy the majesty of a New England forest.

Today, you are in a position to be remembered for generations to come because of your commitment to the Pine Forests of New Jersey.

I grew up in New Jersey and one of our great treasures is the Pinelands. We can build highways and buildings forever, but we can not magically create what has taken nature eons of time to fashion. New Jersey is called the Garden State because of the many "truck" gardens that dotted the landscape. Many of those New Jersey farms are gone today.

However, you and your colleagues are in a position to preserve part of our State's National heritage. Granted pressures continue to mount to develop lands previously deemed of value because of their natural flora and fauna. Now is not the time to de-value this large segment of the Garden State of New Jersey.

I can not be home for the December 15 hearing, however, as an environmental educator in the state of California I am familiar with similar proceedings and I hope that the resolve of the few to strengthen the protection of the Pinelands National Reserve can offset the power, influence, money, and paid lobbyists of the many.

Thank you and may your efforts continue to be appreciated.

Peter Gwillim Kreidler

Peter Gwillim Kreidler
cc. Pinelands Preservation Alliance

Earth Service Inc.
M G M Plaza
2401 Colorado #170
Santa Monica, Ca. 90404

10.829.9190 fax 310.828.4203

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The Pinelands Commission was originally set up to provide technical advice and guidance to local municipalities located in the Pinelands protection area. The goal of insuring that their land use plans incorporated the very best environmental science data available to protect the character of the Pinelands and the ground water supply under the area was a noble one.

The original goal was later expanded by the New Jersey Legislature to have the Pinelands Commission develop a Pinelands Management Plan. This plan was to insure that the actual use of the lands in the preservation area and also in the protection area would provide protection for the ground water under the area and also preserve the existing ecosystems of the area.

This goal was a whole new ball game. The rules and regulations that were generated, micro-managed activity in the Pinelands area down to minutia like the Genus and species and even the varieties of grass, bushes, trees and flowers that a homeowner can plant around his home. It dictated the number of trees that can be removed from a wooded lot when building a new home. It set the size of the tree-free "fire protection buffer" area around the house. It became a personal behavior mandate for every citizen who lives in the Pinelands area controlling almost everything they do with or on their land.

This part of the program was not very noble.

It turned out to be based not on sound environmental science, but rather, on a set of arbitrary rules and regulations imposed by a non-elected commission and it's staff with minimal or no chance for citizen input or recourse.

Now we hear that the NJ Legislature is considering granting law enforcement powers to the Pinelands Commission through the "Pinelands Enhancement (Enforcement) Act", (S1147, A1910).

Is it wise to grant law enforcement powers to a commission staff made up of environmental specialist and land use planners with no background or training in law enforcement or constitutional law? Or will there need to be additions of qualified, trained, law enforcement officers and special prosecutors to insure that the enforcement actions are constitutional and do not open the state to million dollar law suits? (Add \$300,000 for legal counsel and another \$150,000 for law enforcement officers to the Commissions yearly budget.)

Will these law enforcement officers carry side arms? The proposed legislation permits the Commission staff to enter onto any land owners property at any reasonable hour of the day without getting a court ordered search warrant, permission of the owner or providing any warning to the property owner, in order to conduct "visual inspections for possible violations "of the Commission's regulations and rules.

They will probably need side arms.

Is it legal to put law enforcement powers in the hands of a non-elected Commission that is not accountable to the citizens or the State Legislature? Don't police states start this way?

Does it make any sense to duplicate the existing enforcement powers of the local zoning boards and municipalities and the powers of the New Jersey State Attorney general's division of environmental law enforcement that provides for fines up to \$20,000 per incident and Jail sentences up to 5 years that already exist?

To duplicate existing enforcement powers just to provide the Pinelands Commission with a source of non-controlled operating funds from the fines and fees they collect makes little sense. The added cost to provide police power to the Commission would in itself stimulate the need to generate more fines and fees just to pay for the added cost. This would subject citizens to increased harassment as the commission sought to fund it's ever expanding activities.

Does adding more power to the Pinelands Commission and it's staff make any sense at this time when it's performance is already under question for it's arbitrary, indifferent and heavy handed administration of it's current rules and regulations?

Harry Fries
3404 South West Boulevard
Vineland New Jersey 08360-7405
609-825-4128

119X

GREAT SWAMP WATERSHED ASSOCIATION

P.O. Box 300

New Vernon, New Jersey 07976

(201) 701-0709

December 14, 1993

Senator William Gormley
133 Atlantic Avenue -- Suite 303
Atlantic City, NJ 08401

Dear Senator Gormley:

RE: PINELANDS PROTECTION ACT/PINELANDS ENHANCEMENT BILL

Like all environmentally-concerned organizations, the Great Swamp Watershed Association is alarmed by the well-organized attack on the Pinelands Protection Act and on effective protection for all of New Jersey's natural resources.

At the national level, there is an overwhelming movement toward watershed planning and protection led by EPA and generating tremendous interest and support from many states. Why? Because our surface waters and rivers can never be kept clean if the good planning on one river bank are canceled out by the careless acts on the other. Our drinking water supplies and aquifers will not be safe from pollution and degradation if we do not work together to protect each contributing region or watershed.

You probably need not be reminded that a major resource being protected in the Pinelands is the Kirkwood-Cohansey Aquifer which contains 17 trillion gallons of pure, clean water. It is one of the largest aquifers on this continent and supplies all of the drinking water for South Jersey. The economic costs of cleaning such a resource, once degraded, will be astronomic.

Clearly, conservation alone cannot protect the aquifer from degradation. New Jersey's Green Acres Program, while effective, is not designed to permit conservation on the scale that would be needed here. The Pinelands Protection Act has shown, over the past 14 years, that it is possible to regulate land use in a way that preserves the aquifer and the pristine conditions still found in the Pinelands, while accommodating increased human use and allowing sustainable growth. And, contrary to what you may have been hearing, an independent survey recently completed found that over 80% of the residents of the Pinelands support the efforts of the Pinelands Commission and the Comprehensive Management Plan.

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GREAT SWAMP WATERSHED ASSOCIATION

P.O. Box 300

New Vernon, New Jersey 07976

(201) 701-0709

Senator William Gormley

December 14, 1993

Page 2

Regional planning is the wave of the future. There are many mechanisms at our disposal to make sure no one constituency is penalized unfairly while encouraging protection of the public interest and investment. Some are already being utilized by the Commission. Study after study have identified overwhelming economic costs incurred by the lack of an inter-local planning process. Just ask the municipalities of Bergen County who are now struggling with enormous replacement costs for aging infrastructure, plummeting property values and serious quality of life issues.

Here in Great Swamp, the Great Swamp Watershed Advisory Committee, created in 1989 by then-Governor Thomas Kean, held more than 40 meetings over three and one-half years. The end result was a series of recommendations to the N.J. Department of Environmental Protection & Energy, and they received strong local support. Their goal is long-term protection of the Great Swamp National Wildlife Refuge and Wilderness, a national, natural landmark. Every municipality within the watershed was represented on the Committee which reached a unanimous conclusion that only a regional approach to planning and permitting will protect this public resource.

In closing, the Great Swamp Watershed Association strongly supports the Pinelands Commission, its Comprehensive Management Plan and the Pinelands Enhancement (Enforcement) Bill. By permitting them to be weakened or emasculated, you are making the statement that promotion of private interests are paramount -- even though the Commission has effectively and appropriately protected them. Both the Commission and the Bill deserve your strong and unwavering support. Your lack of support will send the public an unmistakable message that the public's interest in clean, inexpensive water is secondary to that of a few well-organized and vociferous groups.

Please give your swift and clear backing to these efforts for effective and efficient protection of the Pinelands and the public interest.

Sincerely,

Julia M. Somers
Executive Director



RECYCLED PAPER

121X

501C-3 Tax Exempt Organization

Statement to Senate Judiciary Committee Hearing
Wednesday, December 15, 1993
Atlantic County Community College

I. Thank you for the opportunity to testify here today. My name is Janet Jackson-Gould. I own 87 acres in Tabernacle Township on which I raise horses. Much of my land is covered with forest and laced with wetlands, and falls within the Pinelands Preservation Area.

A. When I bought this property, I went to the township zoning/construction officer with some appropriate-use questions. He was not helpful -- in fact, quite the opposite. His understanding of the CMP and its provisions seemed quite limited. I received much more help from the Pinelands Commission staff, who answered my queries fully and promptly.

B. While the Pinelands Plan enables such zoning decisions to be made on the local level, I believe local officials such as mine often duck these issues, referring residents to the Commission while moaning about its big, bad bureaucracy and affront to home rule. Thus, a totally unnecessary climate of discontent is nourished and perpetuated by those who have the power to do otherwise.

C. My woodlands are used by hikers and birdwatchers, horseback riders, fishermen and hunters. Neighborhood kids find space and adventure in them. Although I cannot build houses on this land, it is far from empty and useless. Indeed, it plays an important role in the quality of life for many people. I am grateful that this use is protected and that the land which we treasure will pass down to future generations.

D. In addition, The Pinelands Development Credits provided for by the CMP enable farmers and other landowners like me to realize cash returns on open space that is protected from development.

II. The stream that winds through my property is one of the headwaters of the pristine Batsto River. The swamps and marshlands that it passes through help to filter out impurities carried by the runoff from neighboring rowcrop farms. Its banks serve as important corridors for the abundant wildlife which inhabits the woodlands.

A. The woodlands, water and wildlife do not recognize the political boundaries drawn by people. They do not know it when they pass from my land to my neighbors, or from my township to the next. They do not argue about home rule or bicker about restrictive bureaucracy. Their health and well-being depend on large tracts of contiguous land. Protection of such land cannot be accomplished by small municipalities whose jurisdiction ends at their boundaries. A comprehensive, regional method of land use planning and management is essential.

B. Farming is an important economic land use in my township. Farm markets draw the dollars of many from outside our boundaries. Hunting and other outdoor recreational activities likewise attract people who pour money into the local economy. These activities are

directly dependent on the natural resources of the Pinelands, the clean soil, pure water and abundant woodlands and wetlands.

C. Therefore, I support the Pinelands Protection Act and the plan which has sprung from it. The natural resources of the Pinelands are unique and valuable and should be protected. By directing development away from ecologically sensitive areas and into regions that can sustain intensive use the CMP presents a workable model that can and should be adapted to other regions where long-term, regional protection is necessary.

III. Enforcement of the CMP's provisions has been an issue from the start. I know personally of several violations which have gone uncorrected. The current method of referring violations to the Administrative Law Judge is cumbersome and covers only a small percentage of potential cases. The Commission staff who are charged with regulating land use should have enforcement powers similar to those of local zoning officers. The Pinelands Enforcement Bills (S-1147 and A-1910) deserve our support.

IV. Recent polls taken by the Star Ledger-Eagleton Institute (July 1993) and the Courier Post (October 1993) showed overwhelming public support for the sort of environmental protection afforded by the Pinelands Protection Act. It is time local officials caught up with their constituents and changed their attitudes towards the Pinelands Protection Act. Regarding the Commission as a partner rather than an adversary and the CMP as a useful tool for local decision-making would go a long way towards improving regulatory practices for all concerned.

Thank you.



**Jackson-Gould
Bear's Meadow Farm
1 Bozarthtown Road
Tabernacle, NJ 08088**

Addendum: In response to those who have called for balance, may I point out that in the first 10 years of CMP enforcement, 90.7% of applications have been approved, only 9.3% have been denied. The rate of approvals has risen in succeeding years, with 97.5% being approved in 1991. This sounds like Pinelands Development, not preservation.

123X

THE LEAGUE
OF WOMEN VOTERS

OF NEW JERSEY



204 West State Street
Trenton, New Jersey 08608
(800) 792-VOTE

December 15, 1993

Senate Judiciary Committee
The Honorable William L. Gormley, Chairperson

Dear Sirs:

The League of Women Voters of New Jersey wishes to formally go on record as having supported protection of the New Jersey Pinelands and the work of the New Jersey Pinelands Commission since its inception. Our League's Natural Resource Committee has as its goal to promote the wise management of resources in the public interest and an environment beneficial to life. The Natural Resource Committee recently reaffirmed the League's land use position regarding the Pinelands as follows: ". . . the League supports the Pinelands Comprehensive Management Plan which delineates land use categories and specifies management programs, development standards, and methods of preserving the essential character of the Pinelands. Because the Pinelands is a contiguous ecosystem and watershed with an easily disrupted composition, the League endorses a regional approach to its land use planning and favors a strong regional planning agency with power to implement standards and to monitor their effectiveness."

With each new human impact on the New Jersey Pinelands, survival prospects for the earth's other species decline. Thus, the League pledges its strength of some 5,000 persons from throughout New Jersey to do what ever is necessary to promote these goals.

Thank you for the opportunity to comment on this vital topic.

Sincerely,

Katherine Becker

Katherine Becker, President

jnl/KB

124X

LOANTAKA VALLEY GREENWAY COMMITTEE

25 Vinton Road
Madison, NJ 07940
(201) 822-8008

Good afternoon. My name is Anne Leahy and I am chair of the Loantaka Valley Greenway Committee. The Loantaka Valley Greenway Committee is a citizens group dedicated to preserving open space in the Loantaka Valley, part of the Great Swamp Watershed basin in southeast Morris County.

I am here today to express my concern over the threat facing the integrity of the Pinelands. Any efforts to minimize the power and control of the Pinelands Commission is of grave concern to all of us interested in preserving what is unique and valuable to the future of NJ, no matter where we live in NJ.

As we continue to be a country of more and more special interests, we are unable to view issues from the broader perspective and instead just see them from a limited point of view.

I believe this is what is happening in the Pinelands. Special interest groups are challenging the status quo for their needs only without any vision for what the Pinelands Commission has offered NJ.

Beyond the clear benefit of preserving an invaluable aquifer, we are protecting an ecosystem that is unique. This aquifer is a significant contributor to the water supply of southern NJ. Its protection, viability and potability necessitates ongoing measures to preserve it.

ALL the citizens of NJ made a commitment to preserve the Pinelands in 1979, just as they continue to vote for preservation of open space through Green Acres bond approvals.

Another issue concerns me as well about this attack on the Pinelands. The new State Master Plan has as its basic premise the focus of development around existing infrastructure NOT the creation of new infrastructure. Our cities are crumbling, older communities falling and yet we promote

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nothing but new growth and rampant destruction of open space. That which was once the hallmark of NJ will no longer be the case if we do not stand firm on our commitments of the past.

Providing the Pinelands Commission with regulatory "teeth" is a wise and long overdue measure. The Pinelands, like the Great Swamp, is a public trust for all the taxpayers of NJ. Commissions, like the Pinelands Commission, need to be given the authority to protect our public trust.

The Loantaka Valley and Great Swamp Wildlife Refuge and Wilderness are also unique ecosystems vulnerable to special interest attacks such as those occurring here in the Pinelands. Like the Pinelands, our open space efforts have evolved around many concerns:

- aquifer protection
- recreational needs for our part of Morris County
- soil conservation
- quality of life
- protection of a public trust - the Great Swamp Wildlife Refuge and Wilderness.

I am pleased to say that both citizen and local government efforts have resulted in Green Acres funding towards the purchase of 23 key acres in the Loantaka Valley.

We are justifiably proud of our accomplishments but recognize that ongoing efforts will be needed to preserve the Loantaka Valley and the Great Swamp.

I urge you, as public officials, to take the visionary, long term approach to the preservation of the Pinelands and ultimately to other unique ecosystems in NJ. Don't allow a few special interest groups to destroy what has long been a hallmark of NJ.

Thank you very much.

126X

National Audubon Society



666 Pennsylvania Avenue, SE
Washington, DC 20003
(202) 547-9009
(202) 547-9022 fax

December 8, 1993

Senator William Gormley
Chairman, Senate Judiciary Committee
133 Atlantic Avenue, Suite 303
Atlantic City, NJ 08401

Dear Senator Gormley:

On behalf of the one-half million members of the National Audubon Society, I am writing to request continued strong protection of the Pinelands National Reserve. Further, we urge you to work with Governor-Elect Christine Todd Whitman to acquire \$1 million in matching funds for their protection.

The Pinelands are a national heritage and an important part of New Jersey's culture. The federal government has appropriated \$1 million for their protection, and we urge you to secure matching state funds to ensure the security of this area.

The over one million acres of forest in the Pine Barrens and its clean waters are of national value and must receive the maximum amount of protection possible. As one of the many people who frequently visit this lush and beautiful area, I am very concerned about potential abuses and development of this wilderness. The ability to levy strong fines on abusers of this land is an important protection tool and we hope that this law will not be weakened. Because I took part in the long history of protecting this area, I understand the importance of being able to enforce the laws that we wrote fifteen years ago to protect this wonderful, rich, and endangered area.

The Pine Barrens are a unique ecosystem, invaluable to many rare and endangered species, to the culture of the area, and to the American people. On behalf of the National Audubon Society, I would like to thank you for all you can do to assure their continued protection and existence.

Sincerely,

A handwritten signature in black ink that reads "Brock Evans". The signature is written in a cursive, somewhat stylized font.

Brock Evans,
Vice President for
National Issues

cc: Christie Todd Whitman

New Jersey Conservation Foundation

300 Mendham Road, Morristown, N. J. 07960

201-539-7540

December 15, 1993

Statement for the New Jersey Senate Judiciary Committee
Atlantic County College, December 15, 1993

Mr. Chairman:

My name is David F. Moore, I am testifying on behalf of the New Jersey Conservation Foundation, which I direct. The Foundation is a member supported organization with over 5000 contributors, primarily concerned with land conservation and growth management advocacy, headquartered in Morristown, New Jersey. We have been directly responsible for the permanent protection of over 60,000 acres statewide, most of which is now in the stewardship of state and local government.

Much of the land preservation activity in which we have been involved has been in the Pines. As a result of grants from philanthropists, we have a program which offers to acquire small properties in which landowners have either not been eligible for waivers, or have chosen not to pursue development options or sales to neighbors. Given the rhetoric, we have been surprised to find that only two landowners have taken advantage of this program in the last half dozen years.

We strongly support the Pinelands Protection Act, and the Comprehensive Management Plan implementing it. We urge its strengthening by reinstating programs no longer in force, like purchase authorization for the Pinelands Credit Bank, and reauthorization of infrastructure bonds for the growth areas in the Pines. Senator Gormley's sponsorship of the first infrastructure bonding worked exceedingly well, promoting growth in high priority areas, and creating beneficial economic climate in the Pinelands as compared to the rest of the state.

We see the need for fairness in the way regulations are enforced in the Pinelands. Residents of the Pines are frequently penalized for following the rules, inasmuch as their neighbors who are regulation violators are either gaining a competitive advantage by not taking the time to follow the application process in the case of businesses or construction, or are depreciating neighborhood property values, or in a few cases are polluting water supplies. The lack of even-handed rule enforcement punishes the good guys. It would seem appropriate for this committee to establish a task force or citizens advisory group to recommend a method of dealing with this problem.

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The New Jersey Conservation Foundation has been actively involved in farmland preservation throughout the State, working with County Agriculture Boards, the State Agriculture Development Committee, the Department of Agriculture and farmland owners. Despite the best efforts of all of us, the loss of agricultural land in the State is staggering. That is not true in the Pinelands, it is the one place in the State where the loss has been stemmed in a logical way. Elsewhere in the state, where farmland has been protected by the easement purchase program, unprotected neighboring lands have increased in price simply as a result of being next to protected open space. Thus the Agricultural Preservation Program is promoting development adjacent to protected farmland, an unfortunate unintended consequence of a major state financial investment. Not so in the Pines, which provides an excellent business climate for farmers who want to farm, and provides stability for long-term farm investments.

We have also strongly supported the right to farm in the Garden State, and continue to support the absolute right to farm provision in the Pinelands Comprehensive Management Plan, which affords the strongest protection for agriculture anywhere in the state. (see Subchapter 6, Part 5, 6.54).

We thank you for the opportunity to present this statement to you, and offer our assistance to work toward protecting the environment of the Pinelands.



ENVIRONMENTAL FEDERATION

Winner of the NJ Governor's Award for Outstanding Achievement in Pollution Prevention

December 15, 1993

Chairman Gormley and Members of the Senate Judiciary Committee:

The New Jersey Environmental Federation thanks the Judiciary Committee for taking public input on the performance of the Pinelands Commission and the protection the regulations have afforded the precious natural resource that we know as the Pinelands.

The New Jersey Environmental Federation, comprised of 65 citizen, labor and environmental groups and over 70,000 individual members, supports the Pinelands Enforcement Act and the work of the Pinelands Commission in implementing regulations to protect a unique ecosystem. We are proud that a regional plan protects the plant and animal species of the Pinelands and the 17 trillion gallons of water in the Cohansey Aquifer which underlies the Pinelands. Fifteen years ago when the enabling legislation was passed creating the Commission, environmental preservation history was made because a regional regulatory framework for planned, sustainable development was created. It provided a framework that would protect a "biosphere" system that has been recognized internationally as a unique habitat.

The performance of the Commission over time has proven to be a protective force in the region. Working hand in hand with local municipalities, the Commission has helped control the residential, commercial and industrial development within its jurisdiction's borders; as a result, the purity and the quantity of water in the Cohansey Aquifer has been maintained. Endangered species have been protected through buffer regulations so that their habitat has not been fragmented or destroyed by piecemeal development. We have only to look to the west of the Pinelands, to the booming development in Camden, Burlington, and Gloucester Counties, to see the effects of overdevelopment on the Raritan Magothy Aquifer, which is suffering from salt water intrusion due to overpumping, and to Cape May County in the south, where overpumping and lack of recharge of wastewater or stormwater have caused salt water intrusion in the Cohansey that has advanced yearly northward from Cape May City to Rio Grande and Wildwood. We can't keep using up aquifers and then throwing them away in favor of newer sources, because we are running out of back-ups.

If there have been problems or disagreements over enforcing the regulations, those problems may be alleviated through the provisions of the Enforcement Act, which would provide a uniform method of enforcing the law. We feel that the lack of enforcement authority has hindered the effectiveness and the efficiency of the Commission, and the fairness as well. Providing a structure of penalties through administrative procedures would insure evenhanded enforcement with known outcomes.

We strongly urge the Senate Judiciary Committee to support the Pinelands Enforcement Act, and to use the review process built into the Pinelands Protection Act and Comprehensive Management Plan to fine tune problem areas.

Dorothy Wirth, Chairperson
New Jersey Environmental Federation

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New Jersey Chapter of Clean Water Action, Washington, DC

- State Office 94 Church Street, Suite 201
New Brunswick, NJ 08901
(908) 846-4224
- Legislative Office 1 Lower Ferry Road
Trenton, NJ 08628
(609) 530-1515
- Jersey Shore Office 808 Belmar Plaza
Belmar, NJ 07719
(908) 280-8988
- South Jersey Office 425 Bloomfield Avenue
Montclair, NJ 07042
(201) 783-5112
- National Office 1320 18th St. NW, Ste. 300
Washington, DC 20036
(202) 457-1286



New Jersey Environmental Lobby

204 West State Street, Trenton, NJ 08608 (609) 396-3774

Comments on the PINELANDS PRESERVATION AREA AND COMMISSION

The New Jersey Environmental Lobby is an organization representing almost 200 local and regional environmental groups in this state, as well as some 1,000 individuals. We were active in the fight to preserve and protect the Pinelands area and its attendant water supply some 12 years ago and our concern continues today.

The absolute necessity of protecting pristine water supplies in New Jersey is even more pressing today than when the Pinelands Preservation Act was originally passed. The pressures of development have rendered wells in central and south Jersey inoperable due to salt water intrusion, as in the Manasquan area. We cannot afford to lose any supply source to contamination or to drainage. In the Pinelands, we recognized this and took steps to protect this most precious and necessary resource.

The Pinelands Commission has not stopped growth and development in the area. It has, however, channeled it to locations capable of sustaining such activity without harm to the natural resources of the area. It has done this without even minimal enforcement powers.

As to the overall economy of the area, here, too, the Pinelands have triumphed. While the rest of the state experienced a frenzy of unplanned development with subsequent empty office space and unfinished projects, the Pinelands area experienced a slow and steady growth pattern. Stability now seems to be the major characteristic of the area's economy. This, too, is a desirable result of the Pinelands Protection efforts.

The Pinelands are unique. There is more than water quality and water quantity at stake here from an environmental viewpoint. There are species of plant and animal life found rarely elsewhere. And there are the pines themselves that serve a major function in air purification. Protecting the Pinelands is protecting bio-diversity, the food chain and the water supply for all of us human animals.

We have heard the Pinelands Preserve referred to on a national level as a model for others to emulate. Let us continue to be in the forefront of preservation for future generations. Let us work with the Pinelands Commission and give them the enforcement powers necessary to preserve this resource. And let us also commend the legislators and government entities for their foresight in this effort. New Jersey has a right to be proud of the Pinelands effort.

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NEW JERSEY FORESTRY ASSOCIATION, INC.

RONALD J. SHEAY, SECRETARY
1628 PROSPECT ST. • TRENTON, NJ 08638

December 15, 1993

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Senator William L. Gormley, Chairman
Senate Judiciary Committee

Dear Senator Gormley:

Re: Forestry recommendations to CMP

Attached are comments presented by the New Jersey Forestry Association to your committee on December 15, 1993 at the Atlantic County Community College.

You will also find a resolution passed by the NJFA Board of Directors on June 24, 1992 that was sent to appropriate officials concerning the same matters.

The New Jersey Forestry Association formed in 1975 with a current membership of 875 and is dedicated to the wise use and management of the State's forest resources. This is accomplished through the publication of a quarterly newsletter, workshops, forestry field tours, seminars and by continually working towards an economic climate favorable to the preservation of woodlands and represent the owners of woodlands before legislative bodies and administrative agencies.

Should you have any questions about our organization or our recommendations, please do not hesitate to contact me at the above address or by phone (609) 771-8301.

Respectfully submitted,

Ronald J. Sheay
Secretary

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NEW JERSEY FORESTRY ASSOCIATION

RESOLUTION

WHEREAS, the New Jersey Pinelands Commission has solicited public review and comment on their present policies and requirements regarding forestry activities within their area of jurisdiction, and

WHEREAS, their current regulations and procedures require forestry practices such as timber harvesting to undergo the same application and approval procedures as is applied to major subdivisions and other developments, and

WHEREAS, we believe these requirements are illogical, unreasonable and unfair; and very burdensome to the landowner wishing to practice forestry by necessitating considerable expense, time and effort, and

WHEREAS, these requirements constitute a significant disincentive to the practice of sound forest management, and are in direct opposition to many of the federal and state agencies and programs which are directed to encourage and promote responsible forest stewardship and silvicultural practice by providing incentives for so doing, and

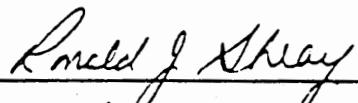
WHEREAS, forestry is an agricultural activity which does not cause a change in land use and should be treated as such, not as a development;

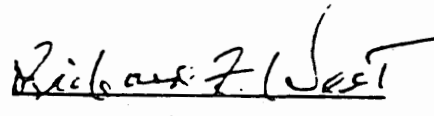
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the 900-member New Jersey Forestry Association that the Pinelands Commission exempt forestry from the requirements of Pinelands regulations subject only to the requirement of a forest management plan approved by the Office of the State Forester, and

BE IT FURTHER RESOLVED that the State Forestry Services is the singular public agency in New Jersey with professional expertise and experience to supervise and administer forestry activities in the Pinelands, and should be delegated that responsibility by cooperative agreement with the Pinelands Commission, and

BE IT FURTHER RESOLVED that copies of this Resolution be sent to members of the Pinelands Commission and appropriate State officials.

APPROVED by the Board of Directors of the New Jersey Forestry Association at its regular meeting on June 24, 1992.


Executive Secretary


President

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To: Senator William L. Gormely, Chairman
Senate Judiciary Committee

From: Ronald J. Sheay, Secretary
New Jersey Forestry Association

Date: December 15, 1993

Subject: Forestry recommendations to CMP

According to the CMP, the character of the Pinelands has been shaped for over 300 years by both natural and man-related factors and the region has a long history of human use. The Pinelands Protection Act was passed to preserve, protect and enhance the significant values of land and water resources of the Pinelands as they were developed by the inhabitants of the area over those 300 years. The concept and act is enthusiastically endorsed and supported by the NJFA.

Forestry is a permitted and encouraged use in all the Pinelands region. Forestry is briefly defined as the scientific management of woodlands for the continuous production of its goods and services and implemented forest management practices help preserve the integrity of the Pinelands. Forestry is an agricultural activity and does not cause a change in land use and should be treated as such.

We ask that the Pinelands Commission consider removing the permit application for landowners trying to improve the health and vigor of their woodlands through harvesting of trees from the application procedure for approval of a minor development. Fashion a permit process more applicable to forestry.

Secondly, we recommend using the experience of the DEPE's Forestry Services to help develop an appropriate permit application for forest management activities. This agency has over 50 years experience in managing the state's forest resources on both public and privately owned lands.

Thirdly, we ask that Forestry Services be the singular public agency to supervise and administer the forestry permit application procedure and process in the Pinelands area by cooperative agreement with the Pinelands Commission.

By making these recommended changes in the CMP, forestry will be a permitted use but enthusiastically encouraged throughout the Pinelands region and the forestry part of the CMP will be administered by a professional staff trained and experienced in forestry activities.

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11 North Willow Street
Trenton, NJ 08608
(609) 394-8155 telephone
(609) 989-9013 fax

119 Somerset Street
New Brunswick, NJ 08901
(908) 247-4606 telephone
(908) 220-1179 fax

December 9, 1993

Senator William Gormley
133 Atlantic Avenue
Suite 303
Atlantic City, NJ 08401

Dear Senator Gormley:

I am writing in response to the Senate Judiciary Committee's notice of a public hearing on the Pinelands Commission scheduled for December 15, 1993.

The New Jersey Pinelands are an ecological treasure recognized by this state, the nation and the world. The federal legislation establishing the Pinelands National Preserve (1978) and the state legislation establishing the Pinelands Protection Area (1979) are viewed as national models of innovative land management policies. NJPIRG is proud of our state's reputation as an environmental leader and we strongly support the continued preservation and protection of the New Jersey Pinelands.

NJPIRG also supports the Pinelands Enforcement Bill (S-1147 / A-1910) as a way of correcting a legislative oversight in the creation of the Pinelands Commission. The bill has been significantly amended in response to criticism from the regulated community. We feel the passage of this compromise piece of legislation will be a positive step forward and we thank you for your sponsorship and continued support.

Very Truly Yours,

Drew Kodjak, Esq.
Environmental Attorney
NJPIRG

PARTNERS FOR ENVIRONMENTAL QUALITY, INC.

Fax to John Tumulty
609-799-4606

11 Berta Place, Basking Ridge, NJ 07920
Phone: 908-766-2055

Statement prepared for the New Jersey Senate Judiciary Committee's Public Hearing December 15, 1993 on the Pinelands Protection Act on December 15, 1993 prepared by Betty A. Little, Ph.D., President Partners for Environmental Quality, Inc.

Partners for Environmental Quality was incorporated in May 1991 based on conferences and activities dating back to 1984. It is a network designed to assist the faith community in its role in environmental protection and restoration. Our current concerns are: environmental education; citizen participation in environmental decision-making; and the establishment of New Jersey Global Forum to debate environmental issues, discuss priorities and develop consensus.

From ancient times, people have had codes that control and use of water. Water was considered a precious resource to be protected by all. In a modern era we have often acted as if water was 'owned' by individuals rather than as the basic to human life and a 'gift'. It is important both scientifically and spiritually that we rethink and revalue this resource. It is no accident that water carries with it great significance in most religions, from the water of Christian baptism to Hinduism's sacred water of life.

In July 1993, the Board of Directors of Partners for Environmental Quality, Inc. developed a list of "Principles for Desirable Environmental Protection Programs." The first of these is that PEQ "Favors solutions to environmental problems which are environmentally sound/safe/acceptable, particularly those which enhance or restore the natural habitat."

The Pinelands Protection Act was designed for that purpose and deserves the active support of the citizens of New Jersey. This Act provides protection for fresh water resources for people of

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Church World Services/Crop

ALL economic levels and works for the physical and economic well being of future generations. The Act is concerned with that what theologian/philosopher Wendell Berry calls the 'Great Economics'.

The Pinelands of New Jersey are considered a critical national resource by experts in the field of water resource management. In recognition of this, the Pinelands are governed through federal programs. Many early federal environmental laws have and are being rewritten---most recently the Clean Air Act and shortly the Clean Water Act. In the light of our current knowledge about the environment and a growing need for pure water, we urge the Judiciary Committee to make recommendations that will strengthen this legislation.

PARTNERS ENVIRONMENTAL QUALITY, INC. assisted in the development of legislation signed in January 1991 that creates a New Jersey Council on Environmental Quality. It was our expectation that this Council would close the gaps in government and the gaps between government and the people on environmental protection. We expect when the Council is fully operating to make recommendations for its agenda and to listen to and support its recommendations.

It is timely to review legislation such as the Pinelands Protection Act. There are sections of libraries devoted to this act and its implementations and short comings. These documents are not generally available to the public nor does the public have the time and knowledge to do the research. It was our vision that the New Jersey Council on Environmental Quality, as a creditable and long term citizen advisory to government and to the public, would establish a task force. A NJ-CEQ established task force on the Pinelands Protection Act could make recommendations for changes that reflect public concerns.

We urge the Governor-Elect to appoint the final member of the Council on Environmental Quality seeking a person who has knowledge of the issues and the capacity to work for reconciliation and consensus and for the Judiciary Committee and the Senate work for acceptance of this candidate so that the Council on Environmental Quality can be formed. We request that the CEQ through its own task force be asked to review the Pinelands Protection Act and made make recommendations.

The World Commission on Environmental and Development (a United Nations special committee) in its 1984 report OUR COMMON FUTURE urged that the guiding principle for environmental quality be SUSTAINABLE DEVELOPMENT. This ethical principle was accepted by member of the United Nations, including the United States at the EARTH SUMMIT in Rio, Brazil in 1991 and is being worked out

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annually through the UN Commission on Sustainable Development. No nation or part of a nation should undertake a major action without reference to this ethic. A revised Pinelands Protection Act should include sustainable development as one of its goals.

Sustainable development in New Jersey means that as far as is possible this area should maintain and protect the fresh clean water needed by its people and its industry. Environmental protection is undertaken so that the public regardless of economic level is given a minimum of dependable resources---in that respect it is an important component of 'social justice'.

Sustainable development requires the people act as a community to protect common resources for the COMMON GOOD. The common good should include the needs of future generations and not to be guided solely by the immediate needs based on economic and political interests.

This does not mean that individual people will not suffer hardship or individual corporations difficulties. For this reason sustainable development must include participate in the decision-making process. The dissenting voices and the victims must always be heard and the decisions made must reflect their concerns.

Usually our Board of Trustees meets to discuss potential hearings and develop a statement and recommendations to our Board of Advisors. The notice on this hearings has been so short that this has not been possible. As the President of Partners for Environmental Quality, Inc. and a scholar in environmental ethics, I have presented some of the concerns of this constituency and am urging each member of all PEQ, Inc. boards, who are leaders in New Jersey in their faith communities, to submit their own statements.

Many of the Partners of Environmental Quality, Inc. are celebrating a sacred time of spiritual renewal and are unable to respond to this December hearing. On their behalf, we urge you to keep the record of this first hearing be kept open for public comment through January 1994.

The water systems for New Jersey will be linked, if they are not now, so that the resources of one area become the resources of all areas. For this reason we urge the Judiciary Committee to hold two additional hearings in Central and Northern New Jersey so that all the citizens of State have an opportunity to participate.

11 Berta Place, Basking Ridge, N.J. 07920 (1-908-766-2055)

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December 11, 1993

State of New Jersey
Senate Judiciary Committee Public Meeting
Atlantic County Community College
December 15, 1993

Members of the New Jersey State Senate Judiciary Committee:

On behalf of the Board of Trustees of the Rancocas Conservancy, I would like to testify in support of the proposed Gormley (S-1147) and Solomon (A-1910) legislation in particular, and in support of the Pinelands Commission in general.

The Gormley and Solomon bills would give the Pinelands Commission the power to directly levy fines against violators of the Pinelands Comprehensive Management Plan. Presently, the Commission has two indirect, inefficient and incomplete methods of attempting enforcement of the Plan. Firstly, if the violators do not respond to the Commission's notification of violation, the Commission can request that pinelands municipalities levy fines against violators of the Plan. The municipalities, however, are lacking in the staff necessary to enforce these violations. Secondly, the Pinelands Commission can file suit against violators of the Plan in Superior Court. This process is lengthy and expensive.

The Gormley and Solomon bills would allow the Pinelands Commission to assess the fines in a manner similar to other state regulatory agencies. The legislation does provide for a venue of appeal of fines to the Office of Administrative Law. The process created by these laws will be efficient and uniform, and it would eliminate the expensive, cumbersome and ineffective system employed presently.



RANCOCAS WATERSHED CONSERVATION FOUNDATION, INC.
P.O. Box 4109 • Mount Holly, New Jersey 08060 • 609-894-4746

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The Rancocas Creek watershed covers 370 square miles in Burlington and adjacent Camden and Ocean counties. Seventy percent of the watershed, including the entire headwaters area, lies within the Pinelands. A large portion lies within the Preservation Area district, i.e., environmentally sensitive lands that require rigorous stewardship to maintain their ecological integrity. The Pinelands Commission was created to develop public policy that would protect this environmentally distinct area from deterioration. One need only look at the portion of the Rancocas Creek watershed outside the Pinelands to see the environmental results of less stringent land use regulations. If the Pinelands are to escape the slow ecological demise that results from thousands of thoughtless individual actions, they must have a protector with power to effectively address assaults upon their integrity.

From colonial times onward, Americans have treasured their right to do as they pleased with their own property. Over the last thirty years we have come to realize that we are the caretakers of an ecological treasure: the Pinelands. We have a responsibility to tend this resource carefully. Each landowner in the Pinelands must discharge this responsibility if the area is to avoid the fate of large areas of New Jersey. Where this duty is not discharged, individuals must be willing to accept the consequences of their actions.

The health of the Rancocas Creek watershed depends upon wise stewardship of the Pine Barrens. The Pinelands Commission must survive and be able to effectively carry out its mission if the Pinelands, and hence, the Rancocas, is to survive.

Mark S. Thomas (Signature)

Mark S. Thomas
President

RPA

Regional Plan Association

**Testimony of Linda P. Morgan,
Director, Regional Plan Association/NJ
Before the Senate Judiciary Committee
Regarding Protection of New Jersey's Pinelands
December 15, 1993**

My name is Linda Morgan. I am Director of the New Jersey Office of Regional Plan Association (RPA), the oldest regional planning organization in the United States. RPA advocates a balance between economic development and environmental conservation in the Tri-State Region.

RPA has long been a supporter of open space protection initiatives in New Jersey, including the Pinelands Comprehensive Management Plan, the Gateway National Recreation Area Citizens' Committee, the NY/NJ Harbor Estuary program, Hudson River Waterfront Walkway, and Highlands preservation efforts. Each of these initiatives is important to protecting our natural resources, water supply, and quality of life in New Jersey. At the same time, what is good for the environment is of economic importance as well, as it affects the livability of our region, and often influences personal and corporate decisions to remain in New Jersey.

I am here to register concern on behalf of RPA regarding potential weakening of the Pinelands Comprehensive Management Plan (CMP) and the Pinelands Commission. The Pinelands Protection Act is a national model for growth management. The Act and the work of the Commission to implement the Act should be supported and vigorously enforced, not diluted in the interest of speculation and personal profit.

The Pinelands serves as a critical resource not only for its environmental benefits--as one of the greatest natural recharging areas in the world, for the excellent potability of its water supply, and for its rare plant species and vast cranberry and blueberry harvests--but also for economic reasons. Studies by planners and economists since implementation of the CMP in 1981 have found that claims of economic hardship associated with the CMP are in large part unfounded. In particular findings show that:

- * While land values within the Pinelands Preservation Area have declined, the CMP had little effect on the selling prices of vacant land in the Protection Area, which constitutes 68% of the total Pinelands area. (Economic and Fiscal Impacts of the Pinelands CMP: First Biennial Update, 1985.) The CMP has not been a wipeout to local property owners.

- * Vacant land values were not substantially reduced after the Pinelands regulations came into effect. Land values for small, vacant and sewerred lots have shown a substantial increase in market valuation in the post-CMP period through 1984. (Neumann, James E. The Land Market in New Jersey's Pinelands: Past and Present Trends in Land Use and Transfer, 1987.)

* Land purchases are occurring to a greater extent for building rather than for speculation purposes, and housing markets have been positively affected by the adoption of the Pinelands regulations. (Between 1981-1991, residential land values have increased by 10% compared to surrounding southern Jersey markets.) In addition, land use controls of the CMP have not adversely affected municipal tax bases in Pinelands communities. (Beaton, W. Patrick, The Impact of Regional Land-Use Controls on Property Values: The Case of the New Jersey Pinelands, 1991).

* With respect to the economic impact of the CMP on the farming community, this year cranberry harvesters had one of their most fruitful seasons in many years, with crop yields way up.

* According to research done for the National Parks Service subsequent to implementation of the CMP, there has been little, if any effect on the appraised value of farmland for lending purposes, because farm lenders typically base their appraisals on the value of land for farming and not on the value for development. Similarly, farm loans policies have not been significantly affected by the CMP, since loans are based on the ability of the farmer to repay, and not on zoning. (Coughlin, Robert E. The Effects of Agricultural Zoning on the Ability of Farmers to Borrow Money, May 1984.)

In summary, RPA today registers its support for the efforts to date of the Pinelands Commission in their implementation of the Comprehensive Management Plan, to rationally manage growth in the Pinelands area. RPA urges the Senate Judiciary Committee to strengthen, rather than diminish Pinelands protection efforts, by passing the Pinelands Enforcement Act (S-1147 and A-1910) and by making every possible effort to stave off attempts to weaken the existing legislation.

Thank you very much.

pineland.doc

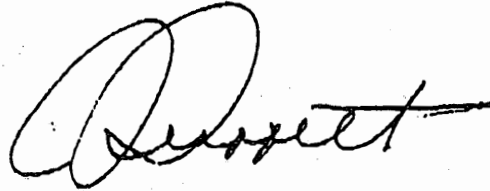
December 9, 1993

William Gormley
133 Atlantic Avenue - Suite 303
Atlantic City, NJ 08401

Since our beginning some years ago, we have had one, and only one, principal goal in our approach to life in Medford Township. Our constitution and by-laws speak to it, and our every publication and meeting has it as its central theme; the maintenance and preservation of a thoughtful, environmentally and ecologically sound policy for the future development of our town. The State of New Jersey has recognized and attempted to deal with these same issues on behalf of all of South Jersey in the establishment of the Pinelands Commission. While many municipalities have adopted the guidelines and recommendations of the Commission, it has no present powers of enforcement against those who would subvert or ignore those guidelines.

Residents for a Better Medford has not always agreed with the Commission, but we believe it is in the best interests of Medford, and other affected areas, to actively support and work for the legislative changes which are presently being considered by the Senate Judiciary Committee. Those changes include arming the Commission with enforcement powers not available before. It is naive in the extreme to expect those economic interests in Medford, and elsewhere, who benefit from the inability of the present structure to enforce their recommendations, to voluntarily adopt the precepts of environmental and ecologically sensitive development.

RBM urges the voters and Council of Medford to aggressively support these legislative changes.



J. J. Duffett
President
Residents for a Better Medford

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**PINELANDS CMP TESTIMONY
GIVEN AT THE SENATE JUDICIARY COMMITTEE
PUBLIC HEARING
ON WEDNESDAY, DECEMBER 15, 1993**

Good afternoon,

My name is Fred Stine and I am a Volunteer Coordinator for the Delaware Riverkeeper, a non-profit organization working with volunteers to protect and restore the water quality of the Delaware River and its tributaries. Many of those tributaries flow through or have their headwaters in the Pinelands.

I am very concerned that an increase in development, agriculture and mining activities in the Pinelands area will result in an increase in nonpoint source pollution throughout the South Jersey area and in the Delaware Bay. An increase in nonpoint source pollution will result in reduced surface and ground water quality.

Much of the pollution currently found in New Jersey's surface water comes from nonpoint source. Nonpoint source pollution is runoff that originates not from a factory discharge pipe, but from nonporous surfaces, such as parking lots, roadways and roof tops. The number of these types of surfaces will likely increase with new development. As rainwater and snowmelt runs off these nonporous surfaces it takes with it increased amount of sediment from erosion, nutrients from

609-397-4410

DELAWARE RIVERKEEPER NETWORK, P.O. BOX 753, LAMBERTVILLE, NEW JERSEY 08530

An American Littoral Society Project

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Delaware Riverkeeper testimony continued,

fertilizers, toxins, bacterial contamination, road salt, motor oils, and litter into the stream. With each new roadway or parking lot the runoff volume, velocity, and toxic content increases.

Soil erosion and sediment that finds its way into local streams smothers the stream bottoms making them uninhabitable for many species of aquatic plants and animals. Agricultural and residential lawn chemicals and fertilizers bind with soil particles and are transported to the waterways. The cost of treating surface water supplies is increased by sediment pollution. Sediment that does not become embedded in the stream bottom is flushed down to the Delaware River and Bay or the Atlantic Ocean. Toxic laden sediments must be dredged from shipping channels and stored on the land. Sediments that reach the bay cause an increase of toxicity and turbidity.

In conclusion, thanks in part to the over development protection given the Pinelands as a result of the Pinelands CMP, the Pinelands area acts as a hugh filtering system to filter out nonpoint pollution. If that protection is allowed to erode away, I believe the impacts will be seen and felt in reduced surface and ground water quality within the Pineland streams and rivers and the Delaware River and Bay.

Thank You.

145X

George A. Scelso
246 Hays Mill Road
Atco, New Jersey 08004
(609) 767-4559
December 17, 1993

Attention: John Tumelty
Senate Judiciary Committee
Room 210
Legislature Office Building
CN-068
Trenton, NJ 08625

Dear Senator Bill Grambly, Chairman:

On 12/15/93 I attended the meeting of the Pineland Commission at Atlantic County College and intended to speak, but due to a prior committment, I had to leave at 5:00 p.m. My testimony was not taken and I am writing to you so that I may express my concerns and have them made part of the record.

It is my firm belief that the Pinelands Commission has too much control and is not very sensitive to our local areas, and the people who in many cases, have owned property and lived in the areas for generations.

I live at and own two plus acres of land that has been in my family since the 1920's. It is zoned R-4 and zoned for senior citizen housing. This land has city sewer and city water.

I started over 3 years ago to get variances to build a 24 unit senior citizen housing on this land. I now have approvals from the township.

When my application was sent to the Pinelands Commissions for their approval they told me I have to buy 4.75 Pineland Development Credits, among many other enviromental classifications. After making some inquiring phone calls to credit holders, I find the cost to be close to \$5,000.00 per 1/4 credit, which is approxiamately \$90,000.00 for the credits.

There is a tremendous need for senior citizen housing in Camden County which is over 8,000 units. Since I am a past president of our local senior citizen group, I saw the need first hand, that is why I am interested and wanted to do a community service by helping meet this need. There is a very low impact on any community with this kind of housing - much less than single family homes or townhouses would be.

146X

December 17, 1993
page 2 (con't)

To date I have spent approximately \$12,000.00 on lawyers, surveyors and engineers, and to date I estimate the unit cost including the Pinelands Development credits to be approximately \$5,500.00 what I don't know yet is what the architect, roads, permits and the building it self expenses will be. At this rate the unnecessary costs like the Pineland Development Credits are escalating and is getting to be too expensive to build such housing.

I am a veteran of this fine United States and in my opinion the Pinelands Development Credits, which is a form of tax, "should be abolished" especially for the people who live in the Pinelands districts; we are restricted enough.

The cost of preservation should be borne by everyone in this state not by just the people who have owned property for generations in the "now" Pineland Districts. I firmly believe the Pinelands Commission can be a contributor and maybe responsible for creating Pineland slums.

Senator, at the meeting you asked if any one had a suggestion how to raise the money to buy the vital properties that make up the Pinelands - why not take a tax on recreational equipment like boats, tents, motor cycles, camping equipment, bicycles, dune buggies and special tires, etc.

Please reply, thank you.

Respectfully yours,



George Scelso

cc: Senator Bill Grambly
1333 Atlantic Avenue
Suite 303
Atlantic City, NJ 08401

147X

December 14, 1993

Senate Judiciary Committee
Public Hearing

Re: Inforcement Bill

Please accept this letter on behalf of Patricia Schaefer whose residence is 79 Richter road , Tabernacle N.J. I can not be at the hearing on December 15, due to a prior committment . I am a property owner who's property abut's the Noble Oil Hazardous waste facility. I have actively been seeking to shut this facility down for twelve years. In 1980 I saw this facility expand with- out any permits form Township, State or Pinelands permission.

I went to township committee meeting, and ask questions to no avail. In 1990 more expansion was done at the site and then more people in the neighborhood got involved. Noble Oil is now closed down sitting in our township a supper fund site because the owners chose to vacate the property the township and it's tax payers are left to foot the bill. If the pinelands had teeth in the beginning Tabernacle would not have the problem it has to day.

My family is left with no value to our property as we have been dump on too, One D.E.P.E. Report says "The Soil excavated from this area appeared to resemble fudge swirl ice crean, with the fudge being oil". Yes mr. Gromlry
PASS THIS BILL Please!!!!!!!

Sincerely,

Patricia P. Schaefer

Patricia Schaefer

79 Richter Road

Tabernacle N.J. 08088

609-268-3471

Sworn to before me Dec 14, 1993
Wendy Marshall
NOTARY PUBLIC
My Comm. Expires 12/31/97

148X

Lori Volpe
101 Forrest Hills Drive
Voorhees, New Jersey

December 9, 1993

Judiciary Committee
New Jersey Senate
State House
Trenton, NJ 08625

Re: Pinelands Preservation

Dear Senators:

Please consider the scope of the issue as you hear testimony and make decisions concerning the fate of the NJ Pinelands.

Grave mistakes have been made in the promotion of industrial growth and economic development. Actions were taken when consequences were not fully known. Our haste in seeking to improve living conditions has caused such serious problems as toxic waste sites, depletion of the ozone layer, air pollution due to auto and industrial emissions, contaminated waterways, beach closings and fish kills due to ocean dumping, virtual elimination of certain animal species through the use of DDT, and a host of other environmental maladies. These mistakes are costing billions of dollars and will never be fully remedied. Let us learn our lesson and not tamper with the Pinelands.

There are rare plant and animal species found only in the NJ Pinelands. This land is important in relation to the water system on which we depend. There is immeasurable aesthetic and recreational value held by this land. It is essential that this space be preserved. We cannot afford any more environmental tragedies.

When given the opportunity, the people of New Jersey have consistently voted for candidates and referendums that favor environmental protection, *recognizing the tax and indirect costs of such programs, but electing to pay them.* Please to not be misled by the lobbying efforts of special interest groups: the farmers, miners, developers, real estate speculators and other businesspersons who may want to gain economically due to Pinelands Regulations. The plight of these individuals must be considered in relation to the needs of all citizens of New Jersey. First and foremost is the need to protect a critical public resource. If the Pinelands Preservation Act imposes unfair costs on certain individuals, it is a problem to be addressed by public funding not by weakened Pinelands protection.

149X

I am grateful to Gov. Byrne and the legislators who enacted the Pinelands Preservation Act. And I support and respect Sen. Gormley who introduced the Pinelands Enforcement Act. Stringent measures must be taken to discourage those who would violate environmental laws. Please use the authority vested in you by your constituents to protect and preserve New Jersey's irreplaceable Pinelands.

Sincerely,
Lori Volpe
Lori Volpe

150X

STATEMENT BEFORE THE SENATE JUDICIARY COMMITTEE - DEC. 16, 1993

My name is Richard Walnut and I am a landowner in the Pinelands. Listening to all of those who have been complaining about the Pinelands Commission, the CMP, and the enforcement bills, you would think no one in the Pinelands supports them. I am here to tell you that is not so.

For the life of me I cannot understand the opposition to A-1910 and S-1147. Why should the Pinelands Commission not have the same ability to enforce their regulations as any other agency? All the cries about confiscatory fines and the Commission enriching itself are pure hogwash. Fines would presumably be commensurate with the seriousness of the violation. But if you're worried about the fines, the solution is simple: just abide by the regulations. So why all the fuss? The fuss does not really seem to be about the enforcement bills. They are just a smokescreen for getting at the whole CMP. I have been involved in the effort to preserve the Pinelands in one way or another since the mid-seventies and right now I have a profound sense of deja-vu. We are hearing the same arguments we heard back in 1979 and 1980, along with the same distortions. And, just as back then, all of the people who are so vociferously complaining have a vested financial interest. The bottom line is that they are upset because they are unable to maximize their profits. If we were to leave it to these people, however, in 20 years or so there wouldn't be any Pinelands.

When Governor Byrne led the fight to pass the Pinelands Protection Act, he cited the example of Central Park in New York City. Very likely there was opposition to that when it was set aside for preservation 100 years or so ago, but surely everyone nowadays would agree the effort was well worth-while. We must continue to take a similarly long view with the Pinelands. Are we going to allow this unique resource to be exploited for the short-term financial benefit of a few, or are we going to preserve it for the benefit of present and future generations?

151X.



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW

RICHARD J. HUGHES JUSTICE COMPLEX
CN 093
TRENTON 08625

JACK H. SABATINO
~~XXXXXXXXXXXX~~
ASSISTANT ATTORNEY GENERAL
DIRECTOR

FRED DEVESSA ACTING
~~XXXXXXXXXXXX~~
ATTORNEY GENERAL

(609) 633-0943

September 1, 1993

Mark Antones
24 Holly Lane
Belleplaine, New Jersey 08270

Dear Mr. Antones:

This will follow-up on our telephone conversation today during which you asked for information regarding certain issues that were raised at a public meeting on Assembly Bill 1910 that was held in Buena Vista Township. In particular, you stated that at the public hearing it was represented that there were 180 "long term" Pinelands Act violations pending on which the Attorney General's Office had not taken any action. I explained to you on the phone that according to the most recent information I had there were approximately twelve to fifteen Pinelands enforcement cases open and assigned to Deputy Attorneys General for prosecution, that I was not aware of any additional cases that had been referred and that I would make inquiries as to the 180 violation figure that you received at the legislative hearing.

I have discussed your question with Pinelands Commission staff who have notified me that they have record of approximately 175 violations of the Pinelands Protection Act where compliance has not yet been achieved. These violations are of varying severity, from technical violations to cases involving significant environmental harm. The 175 number includes the more serious cases that have been referred to the Attorney General's Office for action, as well as cases that have been referred to municipal prosecutors' offices. Finally, the 175 number includes matters that the Pinelands Commission has attempted to resolve without yet taking any formal legal action.

With regard to these latter cases, the Commission may send a letter notifying the party of the alleged violation and seeking voluntary compliance. If the unauthorized action is

stopped and remediation is undertaken, there is no reason to pursue the matter further. The problem arises where the party does not resolve the violation to the satisfaction of the Commission. Because of finite resources and the lack of enforcement tools the Pinelands Protection Act presently provides, it may not be reasonable to pursue time consuming and costly legal action. Take as an example the case where a violator has stopped an unauthorized disturbance of wetlands but refuses to take any remedial action. Under the Pinelands Protection Act as it now exists, the Commission is only authorized to seek injunctive relief and no penalties. By the time a complaint is filed and is heard by a court, the site may have revegetated and any remedial action may result in further environmental harm. In that case, a lawsuit would serve little purpose; injunctive relief is no longer necessary and the Commission can seek no penalty.

In a case like this, given the statutory enforcement options now available to the Pinelands Commission, it clearly makes little sense to initiate litigation. On the other hand, violators are given very little incentive to comply with the law if, even after a violation is documented, they know they will not be penalized. Over time this can seriously erode the ability of the law to protect the Pinelands resources as it was intended to do. Administrative order and penalty assessment authority could provide an efficient and effective way to handle the less serious violations and deter future violations.

Please be assured that where there is a continuing violation with the potential for serious environmental harm neither the Pinelands Commission nor this office has hesitated to seek an injunction to enforce the law. My understanding, after discussing this matter with Pinelands staff, is that all cases like this have been referred to and are being actively pursued by this office.

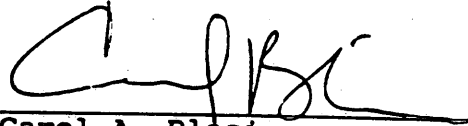
153X

Thank you for your inquiry. Additional information regarding this matter may be requested in writing from the Pinelands Commission.

Yours very truly,

FRED DeVESA
ACTING ATTORNEY GENERAL OF
NEW JERSEY

By:



Carol A. Blasi
Deputy Attorney General

cc: William Harrison, Executive Director,
Pinelands Commission
Ronald Heksch, SDAG
Stephen Brower, SDAG
Helene Chudzik, DAG

154X



The Pinelands Commission

P.O. Box 7, New Lisbon, N. J. 08064 (609) 894-9342

March 25, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph Sahl
422 W. Pestalozzi St.
Egg Harbor, NJ 08215

Re: Application #82-3267
Block 501, Lot 8
Galloway Township
James Wilson

Dear Mr. Sahl:

The Pinelands Commission has been informed that you are not willing to sell Block 501, Lot 9 in Galloway Township to the above applicant for its fair market value. This information will be considered in evaluating Mr. Wilson's request for a Waiver of Strict Compliance. If you are interested in selling some or all of your parcel to Mr. Wilson for its fair market value or in purchasing his lot for its fair market value, please contact the Pinelands Commission by April 22, 1983.

Please be advised that if in the future or any subsequent owners of your parcel apply to the Pinelands Commission for a Waiver of Strict Compliance to allow for the development of your lot, your refusal to sell the lot to Mr. Wilson at its fair market value or to purchase his lot will be taken into consideration.

If the Pinelands Commission does not hear from you by April 22, 1983, we will assume that you are not willing to sell the lot.

Your lot is located in an Agricultural Production Area. I have enclosed a copy of the provisions of the Comprehensive Management Plan relating to the development in an Agricultural Production Area. Any development of the parcel would have to meet the environmental requirements of the Plan.

If you have any questions, please call me.

Sincerely,

William Harrison
William Harrison, Esquire
Assistant Director

WH:mw

cc: James Wilson
Susan Vercheak, DAG
enclosure

The Pinelands - Our ~~Crown~~ ^{155X} First National Reserve



The Pinelands Commission

P.O. Box 7, New Lisbon, N.J. 08064 (609) 894-9342

March 10, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William Noe III
RD 1, Box 18211
Woodbine, NJ 08270

Re: Hannah Riley
App. No. 88-1170
Block 81, Lot 12
Maurice River Township

Dear Mr. Noe:

The Pinelands Commission has been informed that you have not responded to Ms. Riley's offer to either buy your parcel (Block 81, Lot 11) or to sell her parcel to you. This information will be considered in evaluating her request for a Waiver of Strict Compliance to allow development of a single family dwelling on her lot. If you are interested in either selling your parcel for its fair market value or in buying her parcel for its fair market value, please contact the Pinelands Commission by April 14, 1989.

If we do not hear from you by April 14, 1989, we will assume that you are not willing to sell your parcel or buy her parcel. Please be advised that if you decide not to sell your parcel or to buy her parcel, that if in the future you or any subsequent owner of your parcel should apply for a Waiver of Strict Compliance, your refusal to sell your parcel or to buy her lot will be one of the factors taken into consideration. If any future development of your lot would be consistent with the requirements of the Comprehensive Management Plan, then no Waiver of Strict Compliance would be necessary and any decision not to buy her lot or to sell your lot would be irrelevant.

Your lot is located in a Forest Area. The minimum lot size in this portion of the Forest Area is 25 acres unless you meet the requirements contained in Section 9.11A and Section 9.11B of Maurice River Township's certified land use ordinances. Any development of your lot would also have to meet the environmental requirements of those ordinances. In particular, any development of your parcel would have to meet the seasonal high water table and wetlands protection

156X

Black MAIL letter S

requirements of those ordinances. I have included the relevant provisions of those ordinances for your information.

If you have any questions, please call me.

Sincerely,


William F. Harrison, Esq.
Assistant Director

WFH/mm

cc: Hannah Riley
Mark J. Garvey
Bob Watson

Encl.

157X

